

Order Sheet

HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD

CP No. D- 1757 of 2024

[Syed Sajjad Hussain Shah and another v. Province of Sindh & others]

Before :

Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Riazat Ali Sahar

Mr. Ayaz Hussain Tunio, Advocate for petitioners
Syed Muhammad Saulat Rizvi, Advocate for V.C. Sindh University
Mr. Unaib Kamal, Advocate for Registrar University
Mr. K.B. Leghari, Advocate for private respondents
Mr. Javed Ali Buriro, Advocate for HEC
Mr. Rafiq Ahmed Dahri, Asstt: A.G.

Date of Hearing
& Decision: 09.12.2025

ORDER

ADNAN-UL-KARIM MEMON, J.- Through this Constitutional Petition, the petitioners have prayed for the following relief(s):-

- a) That this Honorable court may be pleased to direct the respondents No.3 & 4 to remove the respondents No.7 to 40 (Faculty members/Ph.D Holders) posted on Administrative posts in violation of the verdict of the Honorable Supreme Court of Pakistan.
- b) That, this Honourable court may be pleased to direct the respondents No.1 to 6 that the Additional Charges, Assigned Work charge, Administrative Charges (budgetary and non-budgetary posts), and Experience of Faculty Members may not be counted for the post of Vice Chancellor and Pro-Vice Chancellor on Administrative posts.
- c) That the Honorable court may be pleased to direct the respondents not to take any adverse/coercive action against the petitioners, as they have raised their voice against the favoritism and nepotism.
- d) That the Honorable court may be pleased to direct the respondent No.3 Vice Chancellor to constitute a Selection Board for the promotions of all General Cadre and Ex-Cadre officers from BPS-17 and above as per their Seniority from the due date.
- e) Any other relief which this Honourable court deems fit and proper may be awarded to the applicant.

2. The petitioner seeks issuance of writs of mandamus under Article 199(1)(a)(i), prohibition under Article 199(1)(a)(ii), and certiorari under Article 199(1)(b)(ii) of the Constitution of Islamic Republic of Pakistan, directing the respondent Sindh University to

act in accordance with law and the judgments of Supreme Court, to refrain from any unlawful actions, and to rectify illegal administrative postings and promotions.

2. The petitioners' case is that Petitioner No.1 has served the University of Sindh for almost 13 years in various positions and is currently working as Press Manager. Petitioner No.2 has served the University of Sindh for nearly 40 years in different departments and is presently posted as Assistant Controller (Semester). Petitioner No.2 has been serving in BPS-17 for the last 13 years without receiving any promotion, as administrative positions have allegedly been illegally occupied by faculty members/Ph.D. holders/Respondents No.7 to 40. The petitioners submitted that they, along with many other employees of the University, have remained in the same grade or post for decades, with no promotions granted, thereby violating their constitutional rights. They further assert that the primary duty of faculty members/Ph.D, Ph.D. holders is to educate students and produce Ph.D. scholars. However, due to their influence, these faculty members have occupied administrative posts illegally, resulting in significant financial loss to the Government Exchequer through dual or additional allowances and POLs.

3. The petitioners' counsel argue that there is no justification for appointing or deputing teaching staff/professors to administrative positions when other eligible officers are awaiting their rightful promotions. They pointed out that clear directions in C.P.No.D-59 of 2017 prohibited the appointment of Ph.D. holders to administrative posts. Additionally, in C.P.No.1569/2023, vide order dated 02.05.2024, this Court directed that administrative positions should be filled by administrative cadre officers. This order was implemented by the Registrar of Shah Abdul Latif University, Khairpur, who relieved faculty members from administrative posts. Similarly, a notification dated 05.04.2021, issued by the Registrar of Sindh University in compliance with orders dated 16.03.2021 passed in C.P.Nos.D-4434 of 2020 and D-5842 of 2020, canceled/withdrew all additional charges assigned to faculty members with immediate effect. However, this notification has not been implemented. The petitioners' counsel also submitted that all public and private universities have complied with the order dated 11.07.2024 passed by the Supreme Court of Pakistan in C.P.No.7 of 2024, as well as the order dated 16.09.2024 issued by the Government of Sindh for universities and boards. An excerpt whereof is reproduced as follows:-

"However, the Chief Minister has approved that all Universities must restrict/stop further employment of non-teaching staff unless necessary. In case of any need for the appointment of non-academic staff, the same will be made with prior approval of the Chief Minister of Sindh. It has also been directed to immediately initiate the process for filling tenure position, such as Registrars, Controllers of Examination, Deans of faculties, and Department Chairpersons (wherever vacant), within two(2) months, subject to the fulfilment of all required codal formalities as per the universities Acts, Statutes and rules and ensure timely conduct of the statutory body meetings (Senate, Syndicate, Academic Council and Finance and Planning Committee) as per provisions of the respective Acts of the universities without fail otherwise strict disciplinary action will be taken against the Vice Chancellors and Registrars of the non-compliant universities".

Learned counsel contended that, despite the Government of Sindh Universities and Boards Department's order dated 16.09.2024, the University of Sindh has not yet announced the posts of Registrar BPS-20, full-time officer, Controller of Examinations BPS-20 officer, and Dean, Faculty of Law, the charge of which is currently held by the Vice-Chancellor. He further submitted that this Court at Sukkur Bench, in C.P. No.D-1569 of 2023, addressed a grievance regarding key administrative posts at Shah Abdul Latif University being assigned to teaching cadre professors/teachers on additional charge or on OPS basis, without being filled through a competitive process, i.e., via the Selection Board and the Syndicate. He argued that in compliance with the above judgment, the Registrar of Shah Abdul Latif University, Khairpur, issued an order dated 25.10.2024, whereby officers and officials serving on additional charge, look-after duties, OPS positions, other cadre assignments, or temporary roles were discontinued/relieved from these assignments with immediate effect. Furthermore, the Additional Chief Secretary, in compliance with this Court's order dated 16.03.2021, passed in C.P. Nos. D-4434 of 2020 and D-5842 of 2020, issued a notification dated 31.03.2021, canceling/withdrawing the own pay and scale, additional charges, and look-after charges previously vested in officers and officials under the administrative control of the Universities and Boards Department, Government of Sindh, with immediate effect. Subsequently, the then Registrar of the University of Sindh issued a notification dated 05.04.2021 directing all faculty members, officers, and officials holding their own pay and scale, additional charges/assignments, and look-after charges to report to their respective departments against their actual positions/posts. He added that this Court, in C.P. No.D-59 of 2017, passed an order dated 26.09.2017 directing the Vice-Chancellor, University of Sindh, to ensure that no Ph.D. holders are appointed to administrative posts. Additionally, in Rao Abdul Razik & Another v. University of Sindh in C.P. No.D-656 of 2019, para 19, it was reiterated that appointments in government service must be made strictly under the relevant rules and codal formalities, as upheld by the Supreme Court in Muhammad Ali v. Province of KPK (2012 SCMR 673), Syed Mubashir Raza Jaffari v. Employees Old-Age Benefits Institution (2014 SCMR 949), and Dr. Shamim Tariq v. International Islamic University, Islamabad (2020 PLC (C.S) 499). As per the University of Sindh Code 2013, administrative posts and the required qualifications for BPS-17 and above are clearly defined in Part VI of the Code. There is no provision allowing the appointment of any faculty member or Ph.D. holder to non-teaching administrative posts. Since faculty members/Ph.D. holders have been assigned additional charges, they are unable to fulfill their primary responsibilities of teaching, research, and producing M.Phil and Ph.D. scholars, despite significant investment by the Higher Education Commission in each Ph.D. In the meantime, approximately 250 Teaching Assistants, each receiving Rs. 40,000 per month, have been appointed to handle teaching responsibilities in place of the faculty members/Ph.D. holders occupying administrative posts. In light of the foregoing, the petitioner, being an aggrieved person, has filed the instant constitutional petition and prays to allow this Petition.

3. The counsel for the respondent university and private respondents raised the question of maintainability of the petition and argued unequivocally that this court, in exercising its writ jurisdiction, must first determine whether the petitioner has made out a case for Mandamus, Certiorari, or Quo warranto, or whether the petition is motivated by mala fide intent to secure an undue advantage for others. However, they added that in the present case, the petitioner's primary submission was that the private respondents should not have been assigned a look-after charge. However, the petitioners have not demonstrated that the stopgap look-after arrangement violated any law or service rules, nor that the person given charge was/is incompetent to hold it. The petitioners have no legal right to ask if the competent authority chooses otherwise. Furthermore, due to non-appointment of officers on the subject posts, the private respondents have been appointed, rendering stopgap arrangement until completion of the recruitment process on the subject posts. They further submitted that Petitioner No.2 was promoted over time, initially from Clerk (BPS- 05) to Officer, and then upgraded to BPS- 17 as Office Superintendent on 18.07.2012, and later promoted to Officer (BPS- 17) effective from 04.10.2022 through the Selection Board and Syndicate. They also stated that some Ph. D. faculty members have been assigned duties of vacant administrative posts temporarily, until such positions are permanently filled, and are provided a nominal honorarium, mostly Rs. 5,000/- per month, in addition to their substantive posts. None of the Ph. D. faculty members has been appointed illegally, and the allegations in the petition are wholly misconceived, false, and baseless. They added that some faculty members have been assigned non-budgetary posts, while others hold budgetary posts, in addition to their substantive positions, on a "look-after" basis until such posts are filled. The university has both budgetary (regular and tenured) and non-budgetary posts, the latter primarily being tenure-based. Budgetary posts are filled on regular or tenured basis, while non-budgetary positions carry no salary under the BPS scale and are paid a fixed honorarium for a specified period. These arrangements are made to ensure smooth university administration under the powers granted to the Vice-Chancellor under Sections 14(1), 14(3), 14(4)(vi), and 14(4)(ix) of the University of Sindh Act, 1972. It is emphasized that Ph. D. faculty members continue to actively perform their teaching duties within their departments, including guiding Ph.D., M.Phil Phil., and MS students, as well as supervising undergraduates. These duties highlight their strong academic foundation and their contribution to the intellectual growth of students and the university's academic progress. Their dual roles as teachers and administrators reinforce the academic core of their positions. Additionally, they have successfully obtained various research projects under SRSP 2020–2023 scheme by HEC Sindh, along with multiple NRPU projects funded by HEC Islamabad. The administrative assignments were made on a nominal honorarium basis with POL allowances. Finally, they argued that the petitioners are not "aggrieved persons" within the meaning of Article 199 of the Constitution of Pakistan; thus, the petition should be dismissed.

4. Heard learned counsel for the parties at considerable length, examined the pleadings, relevant documents, statutory provisions, and the case law cited at the bar.

5. Foremost question is the maintainability of this Petition. This petition centers on the posting of faculty members/Ph.D. holders to administrative positions at University of Sindh, allegedly in violation of the University of Sindh Act, University Code 2013, service laws, and Supreme Court judgments. The petitioners claim that such postings have caused stagnation in their career progression, disregarded judicial directions prohibiting faculty members from holding administrative posts, failed to fill statutory positions through competitive process, and misused administrative powers by granting additional/OPS charges to faculty members. The respondents, however, contend that these assignments are temporary, stop-gap arrangements made under the Vice-Chancellor's statutory authority and that the faculty continue performing their academic duties; therefore, this petition is maintainable under Article 199 of the Constitution, as it seeks enforcement of statutory provisions, challenges actions taken in violation of the decision of Supreme Court.

6. The Supreme Court has clearly held that administrative posts must be filled from the administrative cadre through a transparent, competitive process, and that stopgap, OPS, or out-of-cadre postings cannot continue indefinitely. These directives, binding under Article 189 of the Constitution, were reaffirmed in *Contempt Proceedings against Chief Secretary Sindh (2013 SCMR 1752)* and *Ali Azhar Baloch (2015 SCMR 456)*. In allowing the petition, the Supreme Court ordered the universities to fill administrative positions strictly under the recruitment rules, prohibited all stopgap and out-of-cadre postings, and directed the Syndicate to decide the petitioners' claims on merit within 30 days after due hearing, ensuring full compliance with Supreme Court judgments. Despite repeated judicial pronouncements and government notifications, the University of Sindh has continued assigning administrative responsibilities to teaching faculty on temporary arrangements. This constitutes non-compliance with the binding obligations imposed by law and judicial precedent.

7. Accordingly, and in view of the above, this petition stands disposed of in the following terms:

- i. The competent authority of the University and Boards Sindh is directed to initiate and complete the competitive process for filling all vacant statutory/administrative posts, including Registrar, Controller of Examinations, and Dean of Faculty, strictly in accordance with the University Act, Statutes, and Rules, within a period of sixty (60) days.
- ii. No faculty member/Ph.D., holder shall be appointed, posted, or allowed to continue on non-teaching administrative posts, whether on additional charge, look-after basis, OPS, or any other arrangement, contrary to the law laid down by the Supreme Court. Any such existing arrangements shall stand discontinued. In the intervening period Vice Chancelloer shall endeavor to assign certain charges to the most senior officers of the Admin

Cadre of the University in terms of the ratio of the judgment of the Supreme court in the case of Province of Sindh v. Ghulam Fareed and others 2014 SCMR 1189) and Khan Muhammad v. Chief Secretary Balouchistan and others (2018 SCMR 1411).

The compliance report shall be submitted to the Additional Registrar of this Court within the stipulated period.

JUDGE

JUDGE

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