

# IN THE HIGH COURT OF SINDH KARACHI

Before :

Mr. Justice Muhammad Iqbal Kalhoro

Mr. Justice Adnan-ul-Karim Memon

## Constitutional Petition No.D-3236 of 2022

**Mehrun Nisa Khaskheli**

Petitioner: Through Mr. Imtiaz Ali Solangi, advocate

Respondents No.1&2: Through Mr. Abdul Jalil Zubedi, AAG

Respondent No.3: Through Ms. Wajiha Mehdi, DAG

Date of hearing  
& Decision: 02.02.2023.

## ORDER

The petitioner has filed the instant petition on the premise that her M.A Education Degree has equivalence with her M.Ed., as both the degrees have similar entrance requirements as well as the duration and in principle, a professional degree duly recognized by the Higher Education Commission of Pakistan (HEC) vide letter dated 14.04.2015.

2. Mr. Imtiaz Ali Solangi, learned counsel for the petitioner, has briefed us on the subject issue and submitted that respondent No.2 issued an advertisement dated 19.04.2012 for vacant posts of Teachers in the Sindh Education Department for the Post of HST. Thereafter, per learned counsel, the petitioner as per the terms and conditions of the advertisement submitted the required Educational documents and applied for the post of HST. Learned counsel further submitted that the petitioner obtained 72 marks in NTS and as per Teachers Recruitment Policy 2012 she was allowed 20 more marks which become 92 marks, thus was declared as a successful candidate by the District Recruitment Policy for the post of HST and the name of the petitioner appeared at Serial No.5 in the merit list. It has been further contended that the petitioner is fully competent and eligible to be appointed to the post of HST as her name appeared on the top five candidates of the merit list of successful candidates. However, according to learned counsel, instead of issuing the appointment order her candidature was rejected on the premise that the petitioner is no B.ED qualification, however, other candidates who admittedly secured fewer marks were recommended for the subject post. Per learned counsel, the petitioner's

candidature has been deliberately and malafidely rejected by the respondents on a flimsy ground that the petitioner lacks the academic qualification of a B.Ed., whereas, according to learned counsel, the petitioner acquired an M.A (Education) Degree, which has equivalence with M.Ed., as both the degrees having the similar entrance requirements as well as the duration and in principle is a professional degree duly recognized by Higher Education Commission of Pakistan (HEC) vide letter dated 14.04. 2015. He has further argued that the petitioner has been running from pillar to post, but all in vain, therefore, the petitioner was left with no option but to approach this Court by filing a petition bearing No.D-298/2014, which was disposed of vide order dated 25.09.2014 with certain observation and contempt application was also disposed of vide order dated 13.4.2022 with direction to file a fresh petition for redressal of her grievance. Hence this petition. For convenience's sake, an excerpt of the order dated 25.09.2014 is reproduced as under:-

"3. We have heard learned counsel from both sides. Counsel from both sides unanimously agreed for disposal of all these petitions with the direction that the concerned Complaint Redressal Committee shall follow the procedure laid down in the Teachers Recruitment Policy, 2012 Round-III while scrutinizing case of all these petitioners and decide their case individually within 60 days, while preparing the revised merit list. In doing so and while preparing revised list of the candidates/petitioners only those who would be considered eligible shall be re-listed and all appointments made contrary to this policy shall be nullified. Needless to mention that while nullifying the appointment of any candidate or petitioner reasonable notice of hearing shall be given to the candidate who would likely to be affected by such order. This exercise shall be completed within 60 days from the date of this order with detailed report to this Court through Additional Registrar.

4. With these observations the petitions are disposed of. We may however, observe that despite the cases of aggrieved candidates were decided by District Recruitment Committee those candidates were not satisfied and they moved their complaints and for their disposal, the Complaint Redressal Committee was constituted but regrettably it appears that Complaint Redressal Committee is still not following the mandate of Teachers Recruitment Policy, 2012 Round-III. We may observe that in case while preparing revised list, if the Complaint Redressal Committee still commits any violation or act in derogation of policy, appropriate action against the delinquents shall be initiated which may include contempt proceedings."

3. Learned Additional Advocate General Sindh has submitted that the petitioner's grievance, if any, was triggered in the year 2013 when the alleged recruitment was denied and now it is too late to ask for the appointment for the post of High School Teacher (HST). Learned AAG further submitted that the courts are not required to interfere with the policy matters of educational

institutions. He next submitted that mere selection in the written test could not, by itself, vest a candidate with a fundamental right for enforcement through the Constitutional jurisdiction of this Court. He next argued that the authorities had not issued any offer of appointment to the candidates and appointment to the post is subject to the Teachers Recruitment Policy 2012. He lastly submitted that to maintain a Constitution Petition it is the duty and obligation of the petitioner to point out that the action of the respondents violated their rules and regulations, which the petitioner has failed to point out and failed to make out her discrimination case as well. He prayed for the dismissal of the petition.

4. Learned DAG referred to the comments filed by respondent No.3 and submitted that the petitioner holds academic education i.e. 3 years BA (Hons) Education degree awarded by Riphah International University Islamabad during the academic session Fall 2005-Spring 2008 with admission requirements of 12 years schooling and 2 years MA Education degree awarded by Riphah International University Islamabad during academic session Fall 2008 to Spring 2010 with admission requirements of 14 years schooling. Learned DAG contended that the total length of education of the petitioner is 16 years based on the provided facts mentioned as 15 years of BA (Hons) Education plus 2 years of MA education based on BA/B.Com involving 14 years of education. The employer requirement for this post was BA+BEd (1 year) totaling 15 years of education. Per learned DAG, the petitioner has already been issued equivalence letters against BA (Hons) Education and MA Education degrees vide letters dated April 14, 2015, and April 15, 2015, respectively. It is contended by learned DAG that as far as the eligibility of the petitioner is concerned, it is the prerogative of the employer i.e. Respondent No. 02 to determine the eligibility of the petitioner keeping in view the service rules, qualification, merit, quota, age, etc.

5. We have heard the learned counsel for the parties and perused the record with their assistance.

6. The question involved in the present proceedings is whether the petitioner qualified for the post of HST in the recruitment process initiated in the year 2012-13 by the respondents and has the requisite academic qualification for the subject post.

7. There is no denial of the fact that the petitioner appeared in the Aptitude Test conducted by the NTS and was declared successful by obtaining 92 aggregated marks in terms of Teachers Recruitment Policy 2012, but later on her candidature was rejected based on lack of academic qualification i.e. B.Ed degree. The finding of DRC for the post of HST General (Female) regarding the petitioner is based on the premise that she did not possess a B.Ed degree, however, her BA (Honor) and MA (Education) degrees were verified and found correct. Primarily, the petitioner throughout the proceedings maintained that she fulfilled the threshold of academic qualification and while allowing her to sit in the Aptitude Test as well as call for the interview, her academic qualifications were properly considered and verified, otherwise she could not have been allowed to join the recruitment process having requisite qualification of BA (Honor), MA (Education) degrees, which is equivalent to B.Ed degree as per the ratio of the decision made by the HEC vide letter dated 14.04.2015 which is extracted as under:-

“With reference to your application dated February 2, 2015 on the subject, it is informed that a similar decision has already been taken regarding equivalence of the degrees awarded by the Institute of Education and Research, University of the Punjab, Lahore in the 25th meeting of the Equivalence Committee of erstwhile UGC held on 1.3.1990 which is resolved as under:

"The Committee considered the request of the Director, Institute of Education and Research, University of the Punjab, Lahore and observed that the University of the Punjab has launched Master of Science Education (MS.Ed), M.Ed (Science) & B.S.Ed Courses for Science graduates on the pattern of M.A Education, M.Ed. having the similar entrance requirements as well as duration. It was, therefore, decided to recognize the degree of B.S. Ed, M.S Ed, M.Ed (Sciences) as equivalent to B.Ed, M.Ed, M.A (Education) MBE, M.A. Tech. Edu (Industrial Arts) for the purposes of appointment to the post(s) in the Ministries/Departments of Education/Universities in the related fields of education".

In light of the above decision, 2-year Master of Arts in Education degree held by you from Riphah International University, Islamabad with a minimum admission requirement of a Bachelor's degree/14-year schooling' may be recognized as equivalent to Master of Education (M.Ed) degree involving 16-year of schooling.

It may also be noted that admission in a university for further education and determination of suitability in relation to job requirements rests with the concerned university and employing agency, respectively and this Commission has no role in such issues.

8. In the light of the above facts and circumstances of the case coupled with the decision of the Higher Education Commission of Pakistan dated 14.04.2015,

we are of the considered view that the case of the petitioner has erroneously been rejected by the DRC, which order is set aside, by directing the DRC to reconsider its decision in terms of qualification of the petitioner, keeping in view the letter dated 14.04.2015 issued by HEC within two weeks and if she fulfills all the codal formalities under the law, the competent authority shall issue offer letter to the petitioner for the post of HST within three weeks without fail. The findings recorded in earlier petition shall not come in the way of petitioner.

Let a copy of this order be communicated to the Secretary Education for compliance.

**JUDGE**

**JUDGE**

Nadir\*