

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

C. P. No. D – 1356 of 2022

(Abdul Basit Solangi versus Province of Sindh and others)

Present:

Mr. Muhammad Iqbal Kalhoro, J.

Mr. Arbab Ali Hakro, J.

Date of hearing : **14.03.2024**

Date of decision : **14.03.2024**

Mr. Manzoor Hussain N. Larik, Advocate for petitioner.

Mrs. Rizwana Parveen Memon, Advocate for respondent No.6 / Higher Education Commission.

Mr. Ali Raza Baloch, Assistant Advocate General Sindh.

Learned Counsel for the University has chosen to remain absent.

ORDER

Muhammad Iqbal Kalhoro, J. – Petitioner, having requisite qualification, applied for a post of Assistant Professor in the Department of Pakistan Studies, Shah Abdul Latif University, Khairpur in terms of an advertisement dated 26.03.2021, published in various newspapers, inviting applications in various disciplines including the one applied for by the petitioner.

2. The case of petitioner is that he qualified all the necessary tests and his case was therefore submitted before the Selection Board for a consideration in a meeting held from 2nd July to 4th July 2022. However, the Selection Board while transgressing its mandate of making recommendation only against the posts of Assistant Professors in various disciplines in the University, decided that the candidates, who had applied for the posts of Assistant Professors, were interviewed, and not recommended for the said posts, were nonetheless found suitable, and hence, recommended to be appointed as lecturers, keeping in view the acute shortage and dire need of the Junior Faculty (Lecturers) in the University etc. His Counsel has insisted that this was not the mandate of Selection Board, and by making such observations, an unscrupulous opportunity was extended to the University Management to appoint the near and dear ones against such posts on the basis of favouritism and nepotism in violation of fair and transparent process of selection through competitive exams. Under the garb of such observations by the Selection Board, various posts have been filled by the University Management by appointing unqualified and inexperienced persons in violation of Higher Education Commission requirements; some were

appointed against the vacancies which did not exist even. In this backdrop, he has prayed for declaring formation of Selection Board and its recommendations as illegal, and directions to respondent-University to appoint the petitioner as Assistant Professor in the Department of Pakistan Studies on the basis of his eligibility and qualification.

3. We have heard learned Counsel for the petitioner, Counsel for HEC and AAG Sindh, and perused the comments filed by respondents No.2 to 5 and respondent No.6 / HEC. As far as petitioner's own entitlement to be appointed as Assistant Professor in the Department of Pakistan Studies in the University is, the decision of the Selection Board articulated in the meeting as above shows that he was not found fit to be appointed against such post and instead was recommended for appointment as Lecturer. In absence of any tangible evidence indicating that petitioner had qualified the interview before the Selection Board for the said post and yet was discriminated against on the basis of grounds irrelevant and founded on *mala fide*, we cannot proceed to substitute our opinion with the opinion of the Selection Board deciding against his candidature and issue directions to the University for appointing him as Assistant Professor in the Department of Pakistan Studies.

4. The next leg of his case is that on various posts the appointments have been made by the University Management in violation of the rules and qualification(s) prescribed by HEC by indulging in favouritism and nepotism. Suffice it to say that petitioner has not made anyone so appointed as respondent or to place any record in this regard and necessary detail about the process through which and when such appointment was made. In absence of relevant record and on the basis of bald allegations, we cannot proceed and declare the appointments, if any, is made in violation of relevant rules etc. regulating working of University or in violation of qualification(s) prescribed by the HEC. We, while sitting on constitutional jurisdiction, cannot make an enquiry in this respect, invite the relevant persons, record their evidence and make a conclusion on the issue, which is factual in nature.

5. The grievance of the petitioner basically pertains to refusal of the University to appoint him as Assistant Professor in the Department of Pakistan Studies. The other prayers for declaring recommendation of the Selection Board for appointment of Lecturers, as beyond its mandate, are rooted in such grievance and only ancillary in nature made in order to maintain this petition. Furthermore, in absence of relevant documents submitted by the petitioner in this regard showing that in compliance of recommendations of the Board

someone was appointed as a lecturer, his prayer is beyond the scope of Article 199 of the Constitution.

6. We, therefore, find no merit in this petition and **dismiss** it. However, if petitioner has any evidence regarding illegal appointments in the University on the grounds as above, he may approach the Higher Education Commission of Pakistan for initiating an enquiry against such appointments.

The petition is accordingly **disposed of** along with pending application.

J U D G E

J U D G E

Abdul Basit