

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH AT KARACHI**

Constitutional Petition No. D-6139 of 2019  
(Prof. Asal Khan Tareen v National Institute of Cardiovascular Diseases & others)

Date	Order with signature of Judge(s)
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**Before:-**  
**Justice Mohammad Karim Khan Agha**  
**Justice Adnan-ul-Karim Memon**

**Date of hearing and order:- 15.5.2025**

Malik Naeem Iqbal advocate for the petitioner  
Mr. Muhammad Zeeshan Abdullah, advocate, and Mr. Saalim Salam Ansari,  
advocate, for the respondent / NICVD  
Mr. Ali Safdar Depar, Assistant AG

**ORDER**

**Adnan-ul-Karim Memon, J**    The Petitioner requests that this Court pass the following order:

1. *Issue a declaration stating that Respondent No. 2, being a contractual employee, is ineligible for any executive position.*
2. *Issue a directive to Respondents 3 and 4 to appoint the Petitioner as Executive Director of NICVD and to update the Petitioner's personal file with their academic certificates and CHIC.*
3. *Issue a directive to Respondents 3 and 4 to promptly initiate an inquiry into the conduct of Respondents 1 and 2, considering the letter/charge sheet from Prof. Syed Nadeem Hassan Rizvi dated November 21, 2018, due to the significant risk to patient lives.*
4. *Issue a directive to the Respondents to immediately pay the Petitioner all outstanding professional fees for the Pathology Lab, PhD allowance, and arrears of Satellite allowance, consistent with the payment structure for other Heads of Departments, and to ensure the continuation of these payments without obstruction.*
5. *Issue a declaration stating that the Advertisement (Annexure I) is a deceptive measure, created without consulting the Head of the Department and with malicious intent, rendering it void from its inception and without legal validity.*
6. *Issue an injunction restraining the Respondents from acting on the Advertisement (Annexure I) and from making any appointments based on it.*
7. *Issue an injunction restraining the Respondents from subjecting the Petitioner to any harassment, including the harassment described in the letter dated January 4, 2019.*
8. *Grant any further relief that this Honorable Court deems just, proper, and appropriate in this case.*

2.     The Petitioner, a qualified Senior Professor (BPS-20 since 2011, till his retirement in 2020), with M.Phil and PhD in Biochemistry and Head of Pathology at NICVD, seeks a court order (limited to prayer clause 4) directing NICVD management to pay his outstanding professional fee for the Pathology Lab, PhD

allowance, and satellite allowance arrears, consistent with the payment method used for other heads of department before its termination.

3. The petitioner's counsel argued that the NICVD Board of Governors established the Pathology Laboratory Professional fee in July 1995, with its distribution implemented that same month. He submitted that in February 2016, the petitioner identified errors in the professional fee distribution. Counsel further stated that NICVD has nine operational satellite centers across Sindh, where the Pathology department plays a crucial role in cardiac patient diagnostics and treatment. He emphasized the petitioner's active service at NICVD from July 2018 until his retirement, asserting his entitlement to satellite allowance commensurate with his position within NICVD. Additionally, the counsel highlighted that the Sindh government increased the PhD allowance from Rs. 10,000/- to Rs. 25,000/- effective January 8, 2018, yet the petitioner did not receive this enhanced rate from July 2017 until his retirement on January 3, 2020. Consequently, he requested the court to direct the respondents to settle the petitioner's outstanding payments based on his calculations.

4. The respondent's counsel countered the petition, arguing for its dismissal based on legal limitations set forth by the NICVD Employees (Service) Regulations 1997 and the Sindh Civil Service Act 1973 and its associated rules. He further contended that the principle of estoppel applies due to the petitioner's delayed claim. The counsel characterized the petition as a spiteful effort to harm the reputation of NICVD and asserted that it involves contested factual matters unsuitable for writ jurisdiction under Article 199 of the Constitution. Addressing the petitioner's professional status, the respondent's counsel stated that he was initially an ad hoc "Biochemist" who benefited from preferential treatment and was never a fully confirmed or the most senior professor, nor the Head of Pathology. Regarding the financial claims, the counsel clarified that professional fees were discontinued due to salary revisions. He argued that the enhanced PhD allowance under the 2018 government notification does not apply because NICVD is not a public sector university to which the notification is applicable. As for the satellite allowance, the counsel explained that the petitioner is not entitled to it based on a decision made at the 75th Governing Body Meeting, which stipulated the establishment of separate laboratories for satellite centers. Since the petitioner worked at the Karachi NICVD laboratory, his claim is invalid. Moreover, the counsel highlighted the petitioner's establishment of a private laboratory named National Laboratory, which he argued is a violation of professional norms and represents a conflict of interest. In conclusion, the respondent's counsel urged the court to dismiss the petition.

5. In exercising the right of rebuttal, learned counsel for the petitioner referred to various documents attached with the pleading of the parties and submitted that the petitioner cannot be discriminated on the subject allowances as the head of the NICVD and others are getting the allowances on very enhanced rates whereas the petitioner has been left out.

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

7. It appears from the minutes of the Governing Body of NICVD for establishing the Satellite Centers of NICVD in Sindh with the understanding that NICVD will engage a senior doctor as Director Satellite centre and for operation management a Head of Project will also be engaged from NICVD. Whereas the respondent disputed the official position of the petitioner as Head of the Project, as such the Court cannot give declaration to that effect, whether the petitioner is entitled for the satellite allowance, so far as PhD allowance is concerned, petitioner is getting the said allowance but not on enhanced rate in terms of Notification dated 08.02.2018 for which the respondents dispute to the entitlement of the petitioner which is permissible to all PhD faculty members of the public sector university, whereas the NICVD has not been declared as teaching hospital, therefore this Court cannot direct the respondents to implement the Notification dated 08.02.2018, if not earlier implemented in NICVD employees case. Since the petitioner has already been retired in 2020 and rotation of posting of the office staff of Satellite centre was undertaken by the petitioner does not mean that he was Head of Project to claim benefit of the minutes of the meeting. These all are disputed facts needs through examination which is to be done by the court of plenary jurisdiction and not under Article 199 of the Constitution. Besides as per statement of the respondents No. 1 & 2, there was final settlement with regard to service benefits of the petitioner, as such this case cannot stretch further, which is accordingly dismissed.

8. This petition is dismissed along with ending application(s).

HEAD OF CONST. BENCHES

JUDGE