

THE HIGH COURT OF SINDH, KARACHI

Before:

Justice Mohammad Karim Khan Agha
Justice Adnan-ul-Karim Memon

CP No D-4517 of 2019

[Dr. Komal Jan v. Province of Sindh and others]

Petitioners : through Mr. Talha Abbasi holds brief for
Mr. Imtiaz Ahmed Solangi advocate.

Respondent No.4 : through Mr. Muhammad Wasiq Mirza
Advocate

Respondents No.1 to 3 : through Mr. Ali Safdar Depar, Assistant
Advocate General

Dates of hearing : 07-05-2025

Date of order : 07-05-2025

ORDER

Adnan-ul-Karim Memon, J. The petitioner, Dr. Komal Jan, seeks to set aside an order dated 29.6.2019 issued by Respondent No. 4 (Dow University of Health Sciences, Karachi - DUHS). This order directed her to reapply for a Lecturer BPS-17 position, despite her having been appointed as a Lecturer/Registrar BPS-18 at Bibi Aseefa Dental College, Larkana, on 28.11.2016 and joining on 01.12.2016.

2. Learned counsel for the petitioner argued that petitioner was initially appointed through a proper procedure after securing 3rd position in a written test conducted by Sukkur IBA. Subsequently, she applied for a transfer to DUHS, for which both Bibi Aseefa Dental College and DUHS issued No Objection Certificates. The Chief Minister of Sindh approved her transfer on 30.1.2019, and she joined DUHS on 7.2.2019 as a Lecturer BPS-18. The impugned order arose from a DUHS Syndicate meeting that decided to refer her transfer for post-facto approval to the Selection Board and directed her to apply for a BPS-17 post. The petitioner's counsel contended that this order is unilateral, arbitrary, violates the principle of Audi Alteram Partem, and is against the law, infringing upon her vested rights. He argued that the Syndicate lacked the authority to issue this order, as the initial transfer was approved by the competent authority of the Sindh Universities and Boards i.e. Chief Minister. He prayed to allow the petition.

3. The counsel for the Respondents No. 4 and 5 (DUHS) states that the petition has become infructuous as petitioner was subsequently appointed as a Lecturer BPS-18 at DUHS on 25th July, 2019, and is currently working and

receiving salary in that position. However, he agreed that the previous service of the petitioner rendered in Aseefa Dental College shall be counted towards her pensionary benefits and not in seniority.

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

5. After extensive arguments, both sides reached a consensus to resolve the case with the understanding that Dr. Komal Jan's prior service at Bibi Aseefa Dental College, Larkana, commencing on December 1, 2016, and her subsequent transfer to DUHS on February 7, 2019, as a Lecturer BPS-18, will be taken into account when calculating her pension benefits after her retirement from service. Finding this proposal fair and consistent with the Civil Services Regulations, this court accepts it. Consequently, this petition is hereby disposed of according to the terms outlined above.

JUDGE

HEAD OF CONST. BENCHES

SHAFI