

IN THE HIGH COURT OF SINDH, AT KARACHI

C.P No D 1851 of 2024

(Dr Feroz Alam Jafferri V/S Province of Sindh & others)

- 1. For orders on office objection*
- 2. For hearing of CMA No 8289 of 2024*
- 3. For hearing of main case*

PRESENT:

MR. JUSTICE MUHAMMAD FAISAL KAMAL ALAM

MR. JUSTICE NISAR AHMED BHANBHRO

Petitioner:	Dr Feroz Alam Jaffer Through Mr. Abdul Moiz Jafferri, Advocate
Respondents No 2 to 6:	University of Karachi Through M/S Shoaib Mohiuddin Ashraf, Ameeruddin, Dr Sharukh Shahnawaz and Samina Advocate(s)
Respondents No 7 and 8:	Dr Muhammad Abdul Haq Dr Muhammad Ghufraan Saeed Through Mr Naeem Mehmood, Advocate
Respondent No 9:	Dr Tahira Mohsin Ali Through Mr Taha Mohsin Ali, Advocate
Federation of Pakistan	Through Mr. Sibtain Mehmood Learned DAG
Province of Sindh	Through Mr Abdul Jaleel Zubaidi Learned AAG
Date of hearing	: 20.02.2025, 27.02.2025, 06.03.2025 & 14.04.2025
Date of Order	: 13.06.2025

JUDGMENT

Nisar Ahmed Bhanbhro, J. Through instant Petition, Petitioner Dr. Feroz Alam Jafri has challenged the recommendations dated 27-06-2022 and 21-12-2023 of Selection Board of University of Karachi, wherein his selection to the post of Associate Professor and Professor in the Department of Food Science Technology was declined and Respondents No 7 to 9 were recommended for appointment.

2. The facts in brief as contained in the Petition are that Petitioner is working as Assistant Professor BS 19 in Food Science and Technology Department University of Karachi since year 2011. University of Karachi issued an advertisement dated 26.12.2014 for appointment to the post of Professor and Associate professor in different departments. Pursuant to the said advertisement, petitioner applied for the post of Associate Professor in Food Science and Technology Department in the month of March 2015. The appointment process regarding the advertisement published in 2014 remained under abeyance for the reasons best known to the University and after lapse of about four years on 12.04.2018, Petitioner received a letter from University that he was not eligible for the post of Associate Professor due to shortage of research publications to his credit. Petitioner replied to the letter and informed University that there were 12 research publications to his credit as against requirement of 10 publications, but said letter was not responded. Finally, Petitioner by letter dated 25-04-2019 informed Vice-Chancellor of the University about anomalies in the scrutiny process and requested for a review of the decision taken against him. Finally, after the Petitioner's persistent efforts, his application was accepted and he was called for an interview for the Post of Associate Professor, by a notice dated 25-01-2022 to appear before the Selection Board on 27-06-2022.

Petitioner appeared in the interview but the Selection Board malafidely recommended a junior member of the faculty namely Dr. Abdul Haq for the post of Associate Professor. Petitioner filed an appeal against the decision of Selection Board with Vice-Chancellor of University specifying anomalies and illegalities committed by Selection Board but to no avail and recommendation for appointment was approved by Syndicate in its meeting dated 27.10.2022. Later on Syndicate of University realizing its mistake issued a correction in the minutes of meeting dated 27.10.2022 to the effect that names of all the candidates of concerned Department were not listed, therefore referred the case of petitioner to Selection Board for consideration again. Petitioner requested Respondent No 2 for providing a copy of referee reports which was not approved, Petitioner presented representation to Syndicate to review the decision of Selection Board but remained unheeded. Petitioner felt aggrieved from the presence of Dr Shahina Naz member of Scrutiny Committee as she disqualified Petitioner out of personal grudge, he moved applications to high ups but to no avail. On 13.02.2019 Respondent University posted another advertisement for recruitment to the post of Professor and Associate Professor. Petitioner applied for both positions, his application was accepted and placed before Selection Board in its meeting dated 21.12.2023 but Selection Board did not recommend Petitioner for the Post of Professor and Associate Professor. Petitioner filed representations dated 26.12.2023, 09.01.2024, 29.03.2024 to the Syndicate of University highlighting anomalies in the Selection Process. The appeals of Petitioner were presented in Syndicate meeting dated 05.04.2024 and were rejected summarily. Syndicate approved the recommendations of Selection Board despite of note of dissent by Dr Riaz Hussain member of Syndicate. Petitioner alleged discrimination and prayed to set aside the recommendations of Selection Board and directions for his appointment as Professor and Associate Professor.

3. The Respondents No 2 to 6 (Vice Chancellor, Registrar, Selection Board, Syndicate of University of Karachi) filed joint reply. In their reply they attacked the maintainability of petition asserting that University of Karachi had its own rules for selection of faculty members which were non-statutory, Petition was not maintainable on the said account. The Petitioner failed to point out infringement of his fundamental rights or violation of laws and rules in appointment process. Petitioner was found ineligible for appointment by Scrutiny Committee; he filed appeals which were placed twice before Scrutiny Committee. On removal of deficiencies Petitioner was found eligible, his case was referred to Selection Board for consideration. Petitioner was found not suitable for selection to the Post of Associate Professor and Professor by the Selection Board. University has no role to play in the selection process and Selection Board is only competent to recommend the suitable candidates for appointment. The recommendations of Selection Board were placed before Syndicate for consideration, which were approved by majority. The Petition involves factual controversy thus not maintainable under writ jurisdiction of this Court.

4. The Respondents No 7 and 8, in their joint reply denied the assertions of Petitioner and submitted that Petitioner was found ineligible for appointment to the Post of Associate Professor by Scrutiny Committee twice, as he was having 08 research publications in BASR and only 01 article in HEC approved journal, 01 research article in International Impact Factor, as against the required 10 articles in HEC approved Journals. The Respondents No 7 and 8 possessed required qualification of PhD and had required research papers of 10 articles in HEC approved journals, therefore, they were better qualified from Petitioner and rightly recommended. They prayed for dismissal of Petition.

5. Respondent No 9, Dr Tahira Mohsin Ali in her reply has denied the assertions of Petitioner and placed on record the material to demonstrate that she was better qualified to

that of the Petitioner, having a strong meritorious academic record of winning Gold Medals, research publications in HEC approved Journals and Impact Factor Journals. She asserted that Petitioner was placed at Serial No 291 in Seniority List and Respondent No 9 stood at Serial No 242, she prayed for dismissal of Petition.

6. Mr. Abdul Moiz Jafferri Learned Counsel for Petitioner contended that Petitioner has been denied the right of appointment to the post of Professor and Associate Professor with mala fide intentions and ulterior motives since year 2014, at present he is the Senior Most Faculty Member having experience of more than 20 years. He has more than 20 research publications to his credit and was qualified for appointment to the post of Professor but denied appointment even to the post of Associate Professor. He contended that Ex – Chairman of Department Dr Shahina Naz had personal grudge against Petitioner, therefore, obstructed his appointment right from the stage of scrutiny, which is evident from conduct of Scrutiny Committee that his dozier was rejected for twice and same dozier was found correct when examined third time. He contended that per Rule 6 of the First Statutes of University, Selection Board is required to co-opt or consult three experts in the subject concerned to recommend appointment for the post of Professor and Associate Professor. In the case of Petitioner and Respondents No 7 to 9, the Report of one of the Referee/Expert was found deficient and recommendation was tendered by Selection Board on the reports of the two Referees/Experts, which violated Rule 6(5) of the First Statutes, thus entire selection process in the Department of Food Science and Technology was illegal and liable to be struck down. He contended that recommendation of Selection Board for appointment of Respondents No 7 to 9 in Food Science and Technology Department was illegal, and such selection process has been dissented by one of the Members of Syndicate. His appeal has not been decided by Syndicate of University and without giving him a right of hearing the recommendations for appointment were approved, which offended the fundamental rights of Petitioner. He prayed for allowing petition. He placed reliance on the unreported judgments of this Court in the case of Dr Muhammad Ehsanuddin Versus University of Karachi (CPD 5353 / 2023), Dr Shahista Parveen Versus university of Karachi (CPD 5727 / 2018), Dr Imran Ali Hashmi versus University of Karachi (CPD 5776/2018), Dr Zahid Hussain versus University of Karachi (CPD 3001/2019).

7. Mr. Shoaib Mohiuddin Ashraf and Mr. Ameenuddin Advocates, representing Respondents No 2 to 6 (University of Karachi) contended that Petition was not maintainable as Petitioner has failed to demonstrate any illegality or infirmity in the appointment process, he has leveled allegations of mala fide, personal grudge and vested interest against Dr Shahina Naz Chairman of the Department and member of Selection Board, he alleged influence of Dr Shahina Naz over appointment process, which required evidence as it involved a factual controversy and cannot be thrashed out under writ jurisdiction of this Court. He contended that Petitioner has failed to demonstrate that how his fundamental rights were infringed by selection of Respondents No 7 to 9 whose qualifications and research stood at better footing to that of Petitioner. He contended that Petitioner was not found suitable for appointment by Selection Board and Syndicate of University approved recommendations of Selection Board by majority, pursuant thereto appointment orders were issued to the recommended candidates and they have joined services. The job is not a vested right of Petitioner, since he was not found suitable by Selection Board, any order on the part of this Court would amount to assume the role of appointing authority, such action cannot be done under the constitutional jurisdiction. He relied upon the case of Asif Hussain Versus Sabir Hussain reported in 2019 SCMR 1720, Arshad Ali Tabsaum Versus Registrar Lahore High Court, Dr Mir Alam Jan

Versus Dr Muhammad Shahzad 2008 SCMR 960 and PLD 2006 SC 564, he prayed for dismissal of Petition.

8. Learned Counsel for Respondents No 7 and 8, vehemently opposed this Petition, he contended that Petition is not maintainable, as University of Karachi does not have statutory rules and relationship between the employees (Petitioner and Respondents No 7 and 8) and employer (University of Karachi) is that of Master and Servant. He contended that Respondents No 7 and 8 possess PhD qualification and they have required research publications to their credit, which Petitioner lacked, their dozier were examined by the scrutiny committee and they were found eligible for appointment to the Post of Associate Professor. Petitioner was not found eligible for appointment to the post of Associate Professor as he did not conduct research and publish articles in HEC approved journals which was a mandatory requirement for appointment to the Post of Professor and Associate Professor. He contended that matter involved factual controversy which cannot be resolved under writ jurisdiction of this Court. He prayed for dismissal of Petition.

9. Learned Counsel for Respondent No 9 contended that Petition is not maintainable as it involved questions of fact as to the eligibility of candidates for appointment and required evidence. He contended that Respondent No 9 was a Gold Medalist throughout her career and was better qualified in terms of research, therefore rightly appointed. He contended that Selection Board made recommendation for appointment of Respondent No 9 per University laws and Higher Education Commission Criteria, there was no violation of law during appointment process, petition is misconceived, he prayed for dismissal of this Petition.

10. Learned Deputy Attorney General for Pakistan and Assistant Advocate General Sindh supported the stance of Learned Counsel for Respondents No 2 to 6 and prayed for dismissal of Petition.

11. Heard arguments, perused material on record.

12. Addressing the issue of maintainability of Petition, as raised by Respondents that Petition is not maintainable and involves factual controversy, needless to say that this Court believes in autonomy of educational institutions and believes that institutes dealing with higher education like University in the present case should decide the matters of appointment of teaching faculty at internal level in accordance with law, leaving no room for any candidate in the competition to raise objections on merit in selection process. The issue involved in the instant *Lis* relates to the appointment process, wherein Petitioner who is a PhD scholar has raised serious questions of violation of rules and regulations in appointment process, and such questions can be addressed by this Court under its writ jurisdiction. The issue that University does not have statutory rules of service is without force, as instant petition does not involve the question of terms and conditions of service of its employees, but challenges the appointment of teaching faculty in a public sector University in violation of law and rules, which can be inquired by this Court under its writ jurisdiction and if appointment is found in violation of law or rules a writ can be issued to rectify the wrong, The University is expected to make appointment process crystal clean, transparent and within the bounds of laws and rules, without favoring any particular group of people, objection of Respondents on maintainability of this Petition thus does not sustain, Petition is held maintainable.

13. Petitioner has challenged the appointment of Respondents No 7 to 9 for the post of Associate Professor on the grounds that Petitioner was more experienced than Respondents

and Rule 6 of the First Statutes has been violated in the selection process as the mandatory requirement of co-opting three experts/ consultants was condoned and Selection Board recommended the appointment on the reports of two experts, one of the members of the Syndicate put a dissenting note on the recommendations of Selection Board, Professor Dr Shahina Naz was candidate for the post of Professor but she acted as the member of Selection Board, as such the appointment of Respondent No 7 to 9 was not sustainable.

14. The challenge by Petitioner against the appointment process through Advertisement published in year 2014 through instant petition is concerned, it transpires from record that Selection Board of University made recommendation for appointment against the post of Associate Professor in its meeting held on 27.06.2022, which were accepted by Syndicate of University in its meeting held on 27.10.2022. Petitioner brought this Petition in the month of April 2024, for intervening period he remained silent, and indolent and cannot claim any relief against the recommendations of Selection Board Meeting held on 27.06.2022. When confronted to this legal position, Learned Counsel for the Petitioner could not account for delay in approaching this Court and failed to dispel the impression as created by Respondents No 2 to 6 that at the time of selection in year 2022, he had applied for the position of Associate Professor in terms of advertisement published in year 2014, Petitioner at that time did not fulfil the required criteria, this Petition to the extent of challenge against appointment process of 2014 Advertisement suffered from laches, which is accordingly dismissed.

15. The conclusion arrived at by this Court regarding laches finds support from the Dicta laid down by Honorable Supreme Court in the case of National Bank of Pakistan through its President Versus Sajjad Ali Khaskhelli and another reported in **2024 S C M R 12**, wherein it has been held as under:

“3. Having heard the learned counsel for the parties and going through the record, it is clear and obvious that the respondent had been superseded in 2010 which supersession was not challenged within a reasonable time. The constitutional petition filed by the respondent before the High Court suffered from laches.”

16. Adverting to the issue of appointment respecting advertisement wherein the Selection Board in its meeting held on 21.12.2023 recommended the appointment of Respondents No 7 to 9 for the post of Associate Professor in Department of Food Science and Technology, wherein 8 candidates including Petitioner were in competition. The selection of teaching faculty in University of Karachi is done on the basis of recommendation of Selection Board. Rule 6 of the First Statutes (University Code) provides for constitution of Selection Board for appointment of members of teaching faculty in the following manner:

- 6. Selection Board: (1) The Selection Board shall consist of:**
- (i) the Vice Chancellor***
 - (ii) the chairman, or a member of the Sindh Public Service Commission to be nominated by the Chairman;***
 - (iii) the Dean of the Faculty concerned;***
 - (iv) the Chairman of the Teaching Department concerned and***
 - (v) one member of the Syndicate and two other men of eminence, to be appointed by the Syndicate, provided that none of the three are employees of the University.***
- (2) The members mentioned in sub clause (v) of clause (1) shall hold office for two years.***
- (3) (a) Four members shall form the quorum for the selection of a Professor or an Associate Professor, and three members for the selection of other Teachers.***

(b) In case of Officers other than teachers, the Selection Board shall consist only of members at sub-clauses (i), (ii) and (v) of clause (1)

(4) No member who is a candidate for the post to which appointment is to be made shall take part in the proceedings of the Board.

(5) In selecting candidates for the posts of Professors and Associate Professors, the Selection Board shall co-opt or consult three experts in the subject concerned, and in selecting candidates for other teaching posts, two experts in the subject concerned, to be nominated by the Vice Chancellor, from a standing list of experts for each subject approved by the syndicate on the recommendation of the Selection Board and revised from time to time.

17. Rule 6 referred (Supra) envisaged the constitution of Selection Board for appointment of Professors and other members of teaching faculty, wherein clause 5 of Rule 6 binds the Selection Board to co-opt or consult three experts in the subject concerned when appointment of Professor and Associate Professor is to be made. Per claim of the petitioner that Chairperson of the Department Dr. Shahina Naz had personal grudge against the Petitioner over the award of PhD Degree to her husband, in this regard Petitioner had moved applications against her to the University Authorities, but no action was taken. Dr. Shahina Naz as Chairperson of the Food Science and Technology Department was head of the Scrutiny Committee and Member of Selection Board which prejudiced the case of Petitioner; this contention of the Petitioner finds support from the record, as the Minutes of the Meeting dated 21.12.2023 of Selection Board (available at page 31 of memo of Petition) revealed that Petitioner was a candidate for the post of Professor and Associate Professor. For the post of Professor, Selection Board considered names of four candidates which included Petitioner Dr. Feroz Alam, Dr. Rehmatullah Siddiqi, Dr. Saqib Arif and Dr. Shahina Naz. Selection Board recommended the name of Dr. Shahina Niaz for the post of Professor. Minutes of Meeting of Selection Board manifested that such recommendations were based upon the reports of two Experts / Referees, which violated the mandatory requirement of consultation with three experts/referees provided under clause 5 of Rule 6 of First Statutes. In the similar circumstances while dilating upon the appointment of Professor in Analytical Chemistry, the same Selection Board in its meeting held on 05.03.2024 deferred the appointment of Professor (BS – 21) on account of conflicting reports of one of the Referees. But in the case of appointment of Dr. Shahina Naz, this mandatory requirement was overlooked, which lends support to the contention of Petitioner that Dr. Shahina Naz exercised her influence in the selection process. It has also been informed that Dr Shahina Naz soon after her recommendation to the post of Professor resigned and left country. The above position from the record shows that the Petitioner was discriminated against impinging his fundamental rights guaranteed under Article 25 and 27 of the Constitution of Pakistan.

18. Propriety demanded that Dr Shahina Naz against whom there were serious allegations of personal grudge and nepotism by Petitioner, should have abstained herself from attending the meeting of Selection Board as member wherein recommendations for the post of Associate Professor were to be made. Record further fortified the stance of Petitioner because the University of Karachi (Respondents No 2 to 6) in its Reply have not specifically denied allegations leveled by Petitioner against Dr Shahina Naz, such evasive denial amounted to admission. The Petitioner raised such assertion before Syndicate which were not considered. The Minutes of the Meeting of Selection Board manifested that name of Petitioner was placed before Selection Board for consideration against the post of Professor and Associate Professor but he was not selected. The careful perusal of minutes of recommendation for appointment revealed that no reasoning was assigned by the Selection Board for non-consideration of

Petitioner for both positions when admittedly he fulfilled the required conditions of eligibility criteria. Dr. Riaz Ahmed one of the members of Syndicate raised serious objections about the conduct of Selection Board for its recommendations before the Syndicate of University in its meeting dated 05.04.2024 but such objections were overruled without any discussion in the meeting. He put his dissenting note, the Syndicate of the University was required to take into consideration the objections raised by Dr Riaz Ahmed in accordance with law and should have taken it to a logical conclusion. The Syndicate is an authority established to consider and approve the recommendations of Selections Board. Syndicate, which is the appointing authority for teaching faculty positions from grade 17 and above under section 23 (r) of the University of Karachi Act 1972, was required to examine the correctness of recommendations of Selection Board as pointed out by Dr Riaz Ahmed but it did not.

19. The process of appointment can only be interfered with by this Court under its writ jurisdiction, when it prima facie established that there was flagrant violation of rules and laws, process lacked transparency and recruitment was done under extraneous consideration to accommodate favorite persons. Transparency and high standards of merits are expected in appointment process when it pertains to the selection of teachers in higher education institutions like Karachi University (in the present case). In the case of the Petitioner, it appears that merit has been compromised and he has not been dealt with in accordance with law and he remained unheeded and his juniors were given preference over him.

20. Honorable Supreme Court of Pakistan in the case of All Public Universities BPS Teachers Association (APUBTA) through its president versus The Federation of Pakistan through Secretary Federal Education and Professional Training, Islamabad and others reported in 2025 SCMR 322 has been pleased to hold as under:

37. Properly run universities have manifold benefits. They provide educated, trained and competent persons who may be inducted into the service of Pakistan or render service in the private sector. Having good universities in the country means that students who may go abroad for higher education may not do so, and resultantly valuable foreign exchange is saved, and good local universities attract foreign students and earn foreign exchange for the universities and for the country. And, most of all, education instills the ability of educated discourse and debate and contributes in stemming extremism, which often results in violence perpetuated by the uneducated easily impressionable mob.

38. We want to make it clear that this Court does not in any manner want to substitute itself with public sector universities' governing bodies and curtail their autonomy. However, since the Association drew our attention to the prevailing state of affairs which was found to be most unsatisfactory and as many public sector universities were not compliant with their applicable laws, this Court had no option but to ensure compliance therewith, and in cases of gross transgressions.

39. Therefore, for the aforesaid reasons, this petition is allowed and in addition to the specific orders and directions (as noted above) all Federal and Provincial public sector universities ('the universities'), the Federal Ministries of Education, Science and Technology and Defense, the Provincial Ministries of Education, the HEC and the Provincial Higher Education Departments ('HEDs') are directed as under:

(a) Governing bodies of the universities, respectively referred to in their respective laws whether as board of governors, board of trustees, syndicates, senates and academic councils, must meet (at least) the minimum prescribed times.

(b) Appointments be made to all tenured positions in the universities as prescribed in their respective laws, including those of Vice-Chancellors, Registrars, Directors-General, Deans, Treasurers/ Directors of Finance, Controllers of Examinations, Chairpersons and others specified therein, and this must be done transparently and

on merit, by stipulating their respective criteria and inviting appointments through their respective websites and advertisements.

(c) Vacant tenured positions must not be held for more than six months on acting-charge-basis and such temporary charge be given to that person who is specified in the applicable law and, in the absence thereof to a person of equivalent seniority, failing which to the person next in seniority.

21. The Case Laws relied upon by Learned Counsel for the parties are on different premise thus are distinguishable from the facts of the present case.

22. Petitioner throughout Selection Process raised objections regarding the biasness of University Administration, right from the time when he sent dozier for scrutiny, he even moved application to the Selection Board complaining the appointment of Dr Shahina Naz as its member but he remained unheeded. Record further reflects that petitioner moved application dated 26.12.2023, 09.01.2024, 28.03.2024 and 09.04.2024 to the Chairman of Syndicate/ Vice Chancellor agitating serious grievances against the recommendation of Selection Board for the post of Professor and Associate Professor which were not decided by the Syndicate by providing an opportunity of hearing to the Petitioner. We fail to comprehend what prevailed over the Selection Board for refusing to recommend the name of Petitioner for either of the two positions, when three positions of Professor and Four Positions of Associate Professor were lying vacant. Selection Board recommended one candidate for the post of Professor and Three candidates for the post of Associate Professor, by now all three positions of Professor and One Position of Associate Professor were lying vacant. The Selection Board if recommends the appointment of a person for any position, it is not mandatory to describe the reasons for his selection but if Selection Board terms a person unsuitable for selection, the propriety demands that a proper reasoning to that account be rendered so that aspiring candidate could understand the reasons for his rejection, particularly in the selection process where only interview and Referee/ Experts Reports are found sufficient for appointment. The applications filed by the Petitioner were even not placed before Syndicate in its meeting held on 05.04.2024, meaning thereby that the Petitioner was condemned unheard and he was not informed of the reasons for his unsuitability to appointment as Professor and Associate Professor in Food Science and Technology Department, which in our view is contrary to law, inter alia, as the Selection Process did not remain up to the mark.

23. Respondent University of Karachi shall undertake a Study about the best practices in place in various well reputed and internationally recognized Universities within and outside Pakistan, in order to forestall litigation between the academia and the University Administration. It is mandatory for the University to operate with a Faculty comprising of most competent persons in the field, so that in due course of time, our Educational Institutions should be able to compete with the other top International Institutions.

24. For what has been discussed hereinabove, a case for issuance of writ against University of Karachi is made out, therefore, We partly allow this petition, set aside the recommendations of Selection Board meeting dated 21.12.2023 and Decision of Syndicate meeting dated 05.04.2024 only to the extent of Food Science and Technology Department, directing the Respondents No 2 to 6 to convene the meeting of Selection Board of University within a period of Two Months from the date of this Decision and consider the cases for appointment of Professor and Associate Professor afresh. It has been apprised that Selection Board has sought the services of new referee for analyzing the suitability of candidates for the post of Professor in Food Science and Technology Department, which shall be done by the University within a period of Four Weeks and dozier of all the candidates shall be sent to three

Consultants/ Referees/ Experts. In the meanwhile, the Respondents No 7 to 9 shall continue working as Associate Professor and their appointments shall be subject to fresh recommendations by Selection Board, the benefits availed by them during the intervening period shall not be affected. It is clarified that if any of the candidates who is aspirant for appointment against any position shall not sit as member of Selection Board.

The Petition stands disposed of in above terms, along with listed applications if any.

JUDGE

JUDGE