

**IN THE HIGH COURT OF SINDH, KARACHI**

**Constitutional Petition No.D-5160 of 2024**

*(Dr. Nadeem Naeem versus Jinnah Sindh Medical University & others)*

Before:

**Justice Muhammad Karim Khan Agha**

**Justice Adnan-ul-Karim Memon**

**Date of hearing & Judgment: 17.10.2025**

Mr. Ahmed Ali Ghumro advocate for the petitioners

Mr. Zeeshan Abdullah advocate for respondent No.5

Nemo for respondent No.6.

Malik Naeem Iqbal advocate for Respondent No.7.

Ms. Saima Imdad, Assistant Advocate General

Mr. Bhuromal, Director Legal, JPMC (Respondents Nos. 1, 3, and 4.

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**J U D G M E N T**

**Muhammad Karim Khan Agha, J.** The Petitioner prays that this Court may:

- i. *Declare appointments of Respondents 6 & 7 illegal, unlawful, void, and in violation of PM&DC regulations.*
- ii. *Suspend the impugned Notification dated 11.9.2024 and Memorandum dated 12.9.2024.*
- iii. *Set aside appointments of Respondents 6 & 7 and appoint the Petitioner as Assistant Professor of Endocrinology at JSMU.*
- iv. *Direct Respondent 1 to consider the Petitioner for the post based on merit.*

2. The case of the Petitioner is that he obtained a Bachelor of Medicine, Bachelor of Surgery (MBBS) Degree in 2008 from The Liaquat University of Medical and Health Sciences, Jamshoro, (LUMHS), Fellow of the College of Physicians and Surgeons (FCPS) in Medicine in 2016, FCPS (Endocrinology) in 2020, and is a specialist in Endocrinology & Diabetes from the United Kingdom (UK) with 12 publications, i.e., 9 in Endocrinology, applied for the post of Assistant Professor of Endocrinology at Jinnah Sindh Medical University (JSMU), Karachi. Despite fulfilling all PM&DC eligibility criteria as disclosed in the advertisement, private Respondents 6 & 7 were appointed without the required two years' post degree clinical experience, after Level-III qualification, due to excursion of political influence. The Petitioner objected to this appointment via emails on 07.09.2024 and 12.09.2024, but received no response, compelling him to file the captioned petition, seeking the annulment of the appointment of the private respondents.

3. Learned counsel for the Petitioner submitted that appointments of Respondents 6 & 7 violate Pakistan Medical and Dental Council (PM&DC) criteria as provided in regulations, principles of merit, transparency, natural

justice, and Articles 4, 9, 18 & 25 of the Constitution. As per counsel, Respondents 6 & 7 were underqualified, and their appointments deprived the Petitioner, who met all criteria, of a lawful opportunity. Learned counsel emphasized that the appointments of Respondents 6 and 7 to the position of Assistant Professor of Endocrinology at JSMU, Karachi, contravened the eligibility criteria stipulated by the Pakistan Medical & Dental Council (PM&DC) regulations, specifically PM&DC regulations mandate that candidates must possess two years of post-degree clinical experience in the relevant specialty post-Level-III qualification, a requirement not met by Respondents 6 and 7. He emphasized that on scrutiny of documents of the private respondent, she was found deficient in the post qualification experience. The university's claim to count her experience prior to degree of 2023 was erroneously accepted and his representation was not replied by the respondent university. He argued that "Experience" means, experience gained in a regular full-time paid job after obtaining the required qualification, which the private respondents lacked. Their appointments, therefore, may be deemed illegal, void ab initio, and without jurisdiction. He argued that the petitioner, who fulfills all requisite qualifications, experience, and research criteria, has been deprived of a lawful opportunity for appointment. This situation raises concerns regarding the principles of merit, transparency, and natural justice, as enshrined in Articles 4, 9, 18, and 25 of the Constitution of Pakistan. He further argued that appointments must adhere to established rules and regulations, and any deviation from these norms can be challenged on grounds of legality and fairness. He submitted that failure to consider a candidate's eligibility based on established criteria constitutes a violation of the principles of natural justice. He argued that the respondent-University has exercised its powers illegally, malafidely with malicious intent to sabotage legal rights of the Petitioner, by selecting their blue-eyed individuals i.e. private respondents, who even do not fulfill eligibility criteria for the post. In support of his contentions he relied upon the case of Federal Public Service Commission case reported as **2023 SCMR 448**. The Petitioner's counsel prayed that the impugned Notification dated 11.09.2024 and office Memorandum dated 12.09.2024 be set aside and that he be appointed to the subject post. For convenience sake an excerpt of the Judgment is reproduced as under: -

*"11. The main reason of rejecting the candidature of the respondent by the Federal Public Service Commission was lack of post qualification experience by 10 years 01 month and 25 days because he acquired MBBS degree in the year 1989 and FCPS/Postgraduate Higher Diploma in Public Health on 10.12.2004, which facts were unveiled on scrutiny of his documents. Even in the impugned judgment of the learned High Court in paragraph No.4, this fact has been admitted but the bone of contention was the interpretation of the Rules framed for the appointment of the Executive Director in terms of SRO No. 1138(I)/2014. The genus of Post qualification experience deduces the experience and proficiency which is gained after achieving the specific degree/education in order to meet the*

*qualifying standards for the selected vacancy or job with the characteristics and attributes of ability, suitability and fitness of a person to perform a particular job or task with excellence. In fact it depends on the fine sense of judgment of requisitioning authority to structure the yardstick of required qualification for the post and no relaxation can be claimed in the criteria fixed for the post qualification experience. The learned High Court discarded the condition of post experience qualification as mentioned in Rule 12 of the APT Rules, 1973 as well as the advertisement published for inviting applications mainly on the ground that in SRO No.1138(I)/2014, no such condition was mentioned in the schedule for post qualification experience which was not correct advertence and appreciation to the applicable rules, on the contrary, it is clearly manifesting while appreciating the relevant rules in entirety or in conjunction, it is clear beyond any shadow of doubt that the required qualifying experience was (22) years post qualification experience in the field of Public Health in BPS-17 and above including three (03) years' experience (not as head of Hospital) of Administration and Management in a post of BS-19 and above. It was further held by the learned High Court that the proviso to Rule 12 will only come in field where the method of appointment does not provide the qualification and other conditions and since in the year 2014 the Rules were promulgated but through the aforesaid SRO with specific qualification and experience, hence the proviso attached to the schedule of the APT Rules, 1973 will not be applicable. In fact, the learned High Court mainly focused on the schedule appended to Rules in the aforesaid SRO of 2014 but failed to consider that this schedule is corresponding to the requirement of qualification, experience and age limit for initial appointment as prescribed in Rule 4 ibid in which experience means the "experience gained in a regular full-time paid job after obtaining the required qualification". The general conditions to apply premeditated by the Federal Public Service Commission also articulates post qualification experience. It is also an admitted position that respondent does not fulfill the required criteria for the post applied by him in response to the advertisement published by the Federal Public Service Commission and this aspect was not properly adverted to by the learned High Court while setting aside the impugned orders passed by the Federal Public Service Commission on the representation of respondent as well as the order passed on the review petition.*

*12. As a result of the above discussion, the civil appeal is allowed, the impugned judgment of the learned High Court is set aside, the appellants are directed to re-advertise the post and in order to avoid any misperception and perplexity in the mind of potential candidates, all the terms and conditions for applying the post shall be jotted down in the advertisement in accordance with the applicable Rules."*

4. Learned counsel for respondent No.5 stated that the Pakistan Medical and Dental Council Act 2022 (PMDC Act), regulates medical education and appointments. He submitted that although updated regulations were framed on 27.02.2025, the relevant standards for the present grievance are the PMDC Teaching Regulations 2018, which specify qualifications for Assistant Professors based on the subject area. He argued that the Petitioner does not fulfill the criteria for appointment as Assistant Professor due to a lack of recognized clinical experience. He emphasized that Respondents 6 and 7 meet the relevant Level-III qualifications and experience requirements per PM&DC Teaching Regulations, 2018. He submitted that there is no illegality or violation of PM&DC regulations in the appointment process. The petition is, therefore, misconceived, meritless, and liable to be dismissed with costs.

5. Learned counsel for the respondent No.7 argued that the captioned petition is not maintainable as the petitioner has approached this Court with unclean hands, challenging the appointment process merely because he failed to secure the post. He next submitted that the petition is motivated by personal grievance and coercion, not genuine legal grievance. The petition is misconceived as it misstates the qualifications of the respondent No.7. He added that the petitioner incorrectly claims her second FCPS (Endocrinology) is a Level-III qualification; in fact, her Level-III qualification is FCPS in Medicine 2019, after which she gained approximately five years' relevant experience, exceeding the PMDC 2018 requirements. He submitted that the respondent No.7 has over five years of clinical experience in Endocrinology after Level-III qualification, including establishing the first Endocrine Clinic at Dr. Ruth K. M. Pfau Civil Hospital, Karachi. Her appointment was based on merit, following evaluation by a competent selection panel and approval by the University Syndicate. The petitioner's allegations of political influence, ineligibility, or violation of PMDC regulations are false, misleading, and self-serving. He emphasized that petitioners' eligibility and suitability were duly considered, but he did not secure the post on merit. The petitioner has also not challenged similar appointments at Dow University of Health Sciences (DUHS), indicating ulterior motives. He argued that there is no violation of Articles 18 or 25 of the Constitution, 1973, or any PMDC regulations. In view of the foregoing, he prayed to dismiss the captioned petition as being devoid of merit.

6. Learned AAG assisted by the representative of the official respondents argued that the Teaching Regulations, 2018, require clinical subjects like Endocrinology: MBBS recognized by PM&DC, Level-III postgraduate qualification (e.g., FCPS/MD/MS), two years' clinical experience in a recognized institute post-Level-III, and 2 research publications. Level-III refers to primary FCPS/MD/MS, while sub-specialty qualifications like FCPS Endocrinology are Level-IV; only post-Level-III experience counts. She submitted that PM&DC informed the Petitioner that his experience at Memon Medical Institute Hospital is unrecognized, making him eligible only for Senior Registrar, though his research publications are credited. On the issue of qualification and experience of private respondent / Dr. Paras Jamal's certificate dated 01.3.2025, confirms eligibility for Assistant Professor, but reapplication with recognized experience is required for Associate Professor. So far as the Recognition of Dr. Erum Sohail's experience, issue is pending verification.

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

8. It is a settled principle of law that merit includes prescribed qualifications for posts in statutory or public sector universities. The power to set or amend such criteria lies with the Selection Board and the competent authority of the university under the Code. Fixing criteria for the appointment of Assistant Professors is primarily the responsibility of the competent authority, syndicate, or chancellor, subject to law. Courts generally avoid interfering in the policymaking functions of public universities unless such actions violate fundamental rights. However, in the present case, Jinnah Sindh Medical University, Karachi invited applications for faculty posts in Clinical, Basic, and Oral Health Sciences, including the post of Assistant Professor Endocrinology. For that, the Pakistan Medical and Dental Council regulations stipulates that candidates for the position of Assistant Professor in clinical subjects must meet the Basic Qualification. The candidate must hold an MBBS or equivalent medical degree recognized and registered by the PM&DC (now PMC), ensuring that the applicant has completed a standard, accredited medical education program. Postgraduate (Additional) Qualification. Candidates must possess a Level-III postgraduate qualification in the relevant specialty, such as FCPS (Fellow of the College of Physicians and Surgeons). MD (Doctor of Medicine). MS (Master of Surgery). Alternatively an equivalent postgraduate qualification recognized and approved by the PM&DC / Specialty Recognition Committee (SRC) is acceptable. A Level-III qualification represents a primary specialization, whereas additional sub-specialty training (e.g., FCPS in Endocrinology following FCPS in Medicine) is categorized as Level-IV. Candidates must have a minimum of two (02) years of clinical experience in the relevant subject after obtaining their Level-III qualification. This experience must be acquired from a recognized teaching or clinical institution. Any experience gained prior to completing the Level-III qualification does not count toward eligibility. Applicants must have at least two (02) research publications in the relevant specialty, published after December 31, 2018, in recognized, peer-reviewed medical journals.

9. The Selection Board for Assistant Professor (Endocrinology) held on 22 August 2024 found 5 candidates eligible, selecting Dr. Paras Jamal, Rank 1 and Dr. Erum Aziz Rank 2, based on academic and interview performance. However the petitioner was not selected. It is urged that Endocrinology, a subspecialty of Medicine, is managed under General Medicine (Ward 6, JPMC). Both selected candidates met PM&DC criteria; the petitioner was not selected for lacking eligibility. The petitioner contested, claiming Respondents 6 and 7 lacked the required **two years' post-Level III clinical experience**. Under PM&DC Teaching Regulations 2018, which provides that Assistant Professors must hold MBBS, Level-III qualification (FCPS/MD/MS), two years' post-Level III clinical experience, and two research papers. It is also urged that Level-III and Level-IV,

subspecialty qualifications are distinct; experience after Level-III counts toward eligibility. In this regard, PM&DC clarified on 02 October 2024 that the petitioner's experience at Memon Medical Institute was not recognized, limiting eligibility to Senior Registrar. However, the private respondent's certificate dated 11 March 2025 confirmed eligibility for Assistant Professor, requiring further recognized experience for Associate Professor.

10. In view of the judgment in FPSC Case (2023 SCMR 448) as discussed supra, which emphasized that post-qualification experience must be acquired after obtaining the required degree and that no relaxation can be granted in prescribed criteria, judicial propriety demands that the competent authority first determine the qualifications and experience of the parties for the subject post. At this stage, this Court cannot issue a writ of *quo warranto* unless it is established that the private respondents lack the requisite qualification or experience, particularly as both parties are in dispute on these factual issues. Additionally, this Court also cannot assess the authenticity of the eligibility documents, credentials, or experience of the petitioner and private respondents under Article 199 of the Constitution. Accordingly, the matter is remanded to the competent authority of the Vice Chancellor of respondent university to determine afresh whether the candidates possessed the required qualifications and experience as per the applicable criteria at the cutoff date as disclosed in the advertisement i.e. March 2024. The competent authority shall forward the original academic and experience documents of all candidates to the Higher Education Commission of Pakistan (HEC) for verification. The HEC shall verify and submit its report to the University Syndicate within one month, after which the competent authority shall issue fresh, reasoned recommendations for the appointments on the subject post within one week of receiving the report.

11. The caption petition is disposed of in the above terms along with the pending application(s) with no order as to costs.

Let a copy of this order be transmitted to the Higher Education Commission of Pakistan and the respondent-University for compliance in time.

HEAD OF CONST. BENCHES

JUDGE