

IN THE HIGH COURT OF SINDH AT KARACHI

CP. No. D-4810 of 2020

(*Tanveer Ahmed Siddiqui v Province of Sindh & others*)

Date

Order with signature of Judge

Before:

Mr. Justice Muhammad Karim Khan Agha

Mr. Justice Adnan-ul-Karim Memon

Date of hearing and Order: 26.05.2025

Mr. Muhammad Nishat Warsi advocate for the petitioner.

Mr. Rashid Mureed advocate for respondents 3 to 19.

Mr. Ali Safdar Depar Assistant Advocate General.

O R D E R

Adnan-ul-Karim Memon, J: Petitioner seeking the following Relief(s):-

- (i) Call comments from the respondents;
- (ii) Declare that issuance of notification at annexures 'B,' C', C/1, 'D' & 'D/1 and so also termination notification at annexure 'F' all are against the provisions of the Act, byelaws and the dictum of the Hon'ble Supreme Court of Pakistan in the Mustafa Impax Case;
- (iii) Declare that the advertisement as published on 10.09.2020 is not only illegal, unwarranted, without lawful authority, but also based on malafide considerations;
- (iv) Declare the termination order dated 30.09.2020 at annexure 'F' as issued is without lawful authority, illegal, based on malafide consideration, and coram non-judice, as the Members who have given consent for issuance of such termination letter have already been challenged;
- (v) Set aside the impugned termination letter and direct the respondent to reinstate the petitioner with continuation and with all consequential back benefits;
- (vi) Suspend the operation of the notifications/ publication and termination letter dated 30.09.2020, as per attached application till the disposal of this petition;
- (vii) Award cost;
- (viii) Any other relief(s) which may be deemed fit and proper under the circumstances of the case.

2. The Petitioner, who was the Pharmacy Council's Secretary and reached the age of superannuation in 2022, had previously contested both the formation of the Sindh Pharmacy Council and the job advertisement for the Secretary role. However during his tenure of service, his contract was terminated with immediate effect vide Notification dated 30.09.2020 on the premise that the majority of council members in the council meeting held on 13.08.2020 and 09.09.2020 ordered his termination. However later on the respondent council advertised the post of Secretary, which was challenged on the premise that this was flawed one.

3. Counsel for the petitioner argued that there were no ongoing disciplinary actions against him. The Petitioner's counsel argued that only the Provincial Government (specifically the Chief Minister and Cabinet) was/is legally empowered to form the Council under Section 5 of the Pharmacy Act, 1967. However, Respondent No. 2 (Secretary of Health) unlawfully established a "search" committee under this same section, which was then improperly converted into the Council. This action, he contended, violated both the Act and the Supreme Court's ruling in *Mustafa Impax's Case*. Furthermore, the counsel asserted that subsequent appointments to the Council, which increased member numbers and included individuals lacking proper qualifications (e.g., not registered pharmacists, not professors, or not nominated by recognized associations), were/are illegal and contradicted the Council's by-laws. He argued that the Petitioner's termination from service in terms of Section 6 of the Act in September 30, 2020, was presented as an act of bad faith, carried out without due process (such as a show cause notice or inquiry), and occurring specifically *after* he challenged the Council members' appointments and the court issued notices in his prior petition. The Petitioner's counsel sought to have all these notifications, the job advertisement for the Secretary position, and his termination declared illegal, and to be reinstated with full back benefits.

4. We pointed out to the counsel that the petitioner reached the age of superannuation in 2022, and his service was contractual and in 2025, making his re-accommodation in his previous post almost impossible. He countered that if his service were restored, his service benefits could be disbursed. This argument is untenable. However, the Respondents' counsel contended that the petition lacks merit. He asserted that the Council members were properly nominated by the Pharmacy Council of Sindh By-Laws, 2011, and Section 5 of the Pharmacy Act, 1967. He clarified that the Petitioner's initial appointment as Registrar in 2007 was a three-year contract, carrying no right to regular employment. His subsequent "promotion" to Secretary was illegitimate, as that position was not a promotional one and was a one-year renewable contract according to the By-laws. The Respondents highlighted a history of numerous complaints against the Petitioner since 2015, citing poor performance, negligence, disobedience, and financial irregularities, which a committee reiterated in 2019. Consequently, on August 13, 2020, the Council voted by majority to remove him due to his inefficiency and the illegitimate nature of his post. Furthermore, the Respondents alleged that the Petitioner's dishonesty and concealment of facts, specifically that he deliberately omitted crucial points from the meeting minutes (like his age and the vote for his removal) and failed to circulate them correctly. He pointed out to the Petitioner's past legal challenges, including a Supreme Court appeal dismissed for his failure to submit By-laws, and another corruption-related petition, as evidence of his "unclean hands." He refuted the claim that only professors can be Council members, clarifying that the By-laws merely required members to be

Registered Pharmacists with the Pharmacy Council of Sindh in Register A, a criterion all appointed members meet. The committee was formed under Section 5 with the Chief Minister's approval precisely because the Council was non-functional. The Respondent's counsel maintained that the Petitioner's termination on August 13, 2020, resulted from the Council members' consensus vote due to his poor performance. Crucially, he emphasized that the Petitioner's challenge to the members' appointments occurred *after* he had already been voted out of office. Therefore, the Respondents' counsel requests the petition's dismissal.

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

6. It is established law that long or satisfactory service alone does not grant a right to reinstatement of contractual service once expired or terminated, nor can High Courts revive such expired/terminated contracts or alter the terms of contract as held by the Supreme Court in the cases of Deputy Commissioner Upper Dir v. Nusrat Begum (2022 SCMR 964), Government of Khyber Pakhtunkhwa v. Saeed ul Hasan (2021 SCMR 1376), Province of Punjab v. Prof. Dr. Javed Iqbal (2022 SCMR 897), Khushal Khan Khattak University v. Jabran Ali Khan (2021 SCMR 977).

7. It is well settled that contractual appointments ended with contract expiration/termination, and a temporary/contract employee cannot claim permanent status as a matter of right, nor can he /she be reinstated merely for continuing service beyond his/her term after reaching superannuation age.

8. This Court, under Article 199 of the Constitution, cannot order reinstatement of temporary, contract, or ad-hoc employees whose terms had ended with the termination of their contract with allegations. Here the petitioners' contract was terminated by the order of the majority of the council members in the meeting held on 13.08.2020 and 09.09.2020, as such his contractual period cannot be extended after reaching the age of superannuation. Consequently, this petition is dismissed, with no order regarding costs.

JUDGE

Head of the Const. Benches