

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Constitutional Petition No. D-5648 of 2022
(Azmat Khan & another v Appellate Board of Bahria University & others)

Date	Order with signature of Judge(s)
	Before: Mr. Justice Muhammad Karim Khan Agha Mr. Justice Adnan-ul-Karim Memon

Date of hearing and order: 28.08.2025

Mr. Abdul Baqi Lone advocate for the petitioners
Ms. Wajiha M. Mehdi, Assistant Attorney General

ORDER

Adnan-ul-Karim Memon, The petitioner has filed this
Constitutional Petition under Article 199 of the Constitution of the Islamic
Republic of Pakistan, 1973, with the following prayer: -

- I. *To set aside the order dated 25.03.2022 passed by the respondent No.1, being illegal, void ab initio, and against the law/statutes/regulations and policies of the respondent No.2, hence liable to be set aside.*
- II. *To direct the respondents to cancel the termination letter dated 28.08.2019 with immediate effect without any hesitation.*
- III. *To direct the Respondent Nos. 2 & 3 to restrain the respondents Nos. 9 to 13 to expose/present the project and outcomes of the project titled “**Eye Gaze Movement as Remote Control**” and specifically restrain to solicit funding and grants from anywhere.*
- IV. *To direct the Respondent No. 2 & 3 to reinstate the petitioners on their original position which they seized before termination dated 28.08.2019.*
- V. *To direct the Respondent No. 2&3 to pay monthly salary from the month of August, 2019 along with all back benefits to the petitioners till the date of reinstatement.*
- VI. *To direct the Respondents No. 2 & 3 to execute the IP documents between the petitioners, respondents Nos. 9 to 13 and respondent No.2 regarding Research projects conducted under the supervision of petitioners.*
- VII. *To direct the respondent Nos. 2 & 3 to take disciplinary action against the respondents Nos. 9 to 13 for violating the IP policy of respondent No.1 and for defaming the petitioners.*

- VIII. *To direct the respondent No. 6 & 14 to provide the legal document mentioned in IP policy regarding safeguard of research innovation to petitioners.*
- IX. *To direct the respondent No.8 to provide the participation agreement regarding the ownership of innovations/research funded by the respondent No.8 between the petitioners, respondent No. 9 to 13, and respondent No.2.*
- X. *To direct the respondent No.8 to take legal action against the respondents to violate the contract dated 17.05.2018 for Financial Assistance under the Startup Research Grant program.*

2. The petitioners, a confirmed Assistant Professor (since 2011) and a Senior Assistant Professor (since 2017) at Bahria University, were terminated on August 28, 2019. The termination stemmed from a dispute over a student research project titled "Eye Gaze Movement as a Remote Control," which was funded by the Higher Education Commission (HEC). The petitioners claim the students, who were working on the project, violated the university's Intellectual Property (IP) policy by publicly presenting the work without permission and refusing to provide their software code. Their appeals were also dismissed vide impugned order dated 25.3.2022.

3. The petitioners' primary complaint is that the university failed to conduct a proper inquiry according to its own rules. Specifically, they allege violations of Bahria University Statutes 2016, rules 11.4, 11.7, and 11.8. According to rule **11.4**, the university was required to give the petitioners a written charge sheet that detailed the allegations against them. They were not given this, nor were they given a reasonable amount of time (between 7 and 14 days) to prepare a written defense and state whether they wanted a personal hearing. The petitioners claim that under Rule **11.4.5**, they had a right to cross-examine any witnesses or complainants, but they were not given this opportunity. The university was required to provide the petitioners with a copy of the final inquiry report, which they were not given. They only saw the report for the first time when the university submitted it to the court. The petitioners submitted that the university's appellate committee did not properly review their case as required by rules **11.7** and **11.8**. They allege that the committee issued an "illegal" and "capricious" order without considering the violations of their due process rights. The university's failure to follow its own statutes, the petitioners argue, makes the entire termination process unlawful.

4. The petitioners' counsel argued that their termination was illegal and unjust. He claims that the university's inquiry was flawed and violated its own statutes by failing to provide the petitioners with a written charge sheet, a fair opportunity to respond, or the chance to cross-examine witnesses. He also argues that the termination letters were issued by an unauthorized person. He contends that the university's appellate authority failed to conduct a proper review, issuing a "capricious" and "illegal" order. The counsel further submits that the university's failure to enforce its own intellectual property policies against students who allegedly exposed their joint research project on external forums was a contributing factor. The petitioners, who consider themselves permanent employees, believe their fundamental rights were violated by the university's "malicious" and "unlawful" actions. They are requesting reinstatement, back pay since their 2019 termination, and a declaration that their dismissal was unlawful. This new petition was filed after they withdrew a previous one to challenge the university's latest order.

5. The university's appellate committee dismissed the appeal of the petitioner, stating the petitioner was guilty of "academic dishonesty and intellectual corruption" for creating his own IP form for the students. The committee concluded that because the petitioners were on contract, they were not entitled to the protections they claimed, and their termination was valid. The university offered to pay them a one-time salary instead of notice, as per their contracts.

6. We have heard the counsel for the petitioners on the maintainability of the petition and perused the material available on record, including the appellate order dated 25.3.2022.

7. This court has already directed the petitioners to challenge the appellate order. The current proceedings will therefore focus solely on any legal flaws within that specific appellate order, as a previous petition was dismissed to allow for this challenge.

8. We have noticed that after reviewing the case and hearing the petitioners before the appellate committee, the appellate committee upheld the termination. The committee found that the petitioners were guilty of academic dishonesty and intellectual corruption for attempting to take advantage of their students' work by creating an unauthorized intellectual property (IP) form. The committee also noted that the petitioners' justification for their actions, an alleged agreement with the HEC, and a

lack of response from the HOD, was baseless. Prima facie, the committee's final decision was based on the contractual nature of the petitioner's employment. According to their contracts, signed on September 7, 2010, and September 1, 2017, the university had the right to terminate their services with or without notice for ill discipline or misconduct. As a result, the appeals of petitioner Azmat Khan and Dr. Bilal Hameed were dismissed. The university, however, agreed to pay petitioner Azmat Khan three months' basic salary and Dr. Bilal Hameed one month's basic salary instead of notice.

9. The appellate order shows that the petitioner's employment was governed by a specific contract, not by general government rules, regardless of whether the organization is government-controlled. When a special contract outlines all terms, including termination, it overrides any general policies. The law requires contracts to be honored as they were intended, and since the petitioners had already benefited from the contract, they could not now challenge its terms under Article 199 of the Constitution, through an appeal order. Therefore, this court without touching the merits of the case leave the petitioners to challenge the appellate order before the competent forum as this petition is held to be not maintainable and is liable to be dismissed.

JUDGE

Head of the Constitution Bench