

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Constitutional Petition No. D-4060 of 2023
(Rizwan Aziz Siddiqui v Federation of Pakistan & 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 : 03.09.2025

Syed Nadeem ul Haque, advocate for the petitioner

ORDER

Adnan-ul-Karim Memon, J. – 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. Declare that the petitioner had fulfilled all the requirements of terms and conditions for appointment as Additional Directors as required under the Advertisement dated 13.11.2011, and in the alternative.*
- II. Declare that the Notification dated 10.01.2018 repatriating the petitioner was discriminatory, repugnant to the spirit of equality provided in the Constitution of the Islamic Republic of Pakistan, 1973*
- III. Set aside the impugned order dated 30.12.2022, along with Notification dated 10.01.2018, and the recommendation of the committee be set aside on account of biased and arbitrary findings against the petitioner*
- IV. That the petitioner's services may be restored with the respondent No.2, with all back benefits*

2. The petitioner was appointed as a Lecturer at Quaid-e-Awam University. He was promoted to Assistant Professor (BPS-18) in November 1997 and then to BPS-19 in February 2007. The petitioner applied for the position of Additional Director (BPS-19) at the National Accountability Bureau (NAB) in 2011. He was the second-highest scorer nationwide and was hired in 2013 after completing all required tests and interviews. In 2017, the Supreme Court of Pakistan ordered an inquiry into the appointments of 96 NAB officers, including the petitioner. A committee was formed and recommended the repatriation of the petitioner and three other Additional Directors, claiming they lacked the required "12 years of research experience." Finally, the committee found him not eligible for the subject post and he was repatriated to his parent department vide Notification dated 10.01.2018.

3. The petitioner's counsel argues this finding is flawed. He met the eligibility criteria of over 12 years of combined BPS-17 and BPS-18 experience. His in-person and written representations to NAB were

ignored. The NAB Chairman failed to provide clear findings or a reason for his decision; instead simply agreeing with the committee's recommendation without considering the petitioner's specific arguments. The petitioner counsel alleges that he was discriminated against and that other employees who also did not meet the criteria were allowed to remain in their positions.

4. We have heard learned counsel for the petitioner on the maintainability of this petition and have perused the material available on record with his assistance.

5. The petitioner's application was rejected by the NAB and ordered his repatriation to parent department because a committee found he lacked the required 12 years of post-qualification experience in investigation and discarded his experience certificate issued by the University on 04.5.2017. This type of experience is defined as the proficiency and skills gained after earning a specific degree as required for the post, demonstrating a person's ability and suitability for a particular job. The authority creating the job has the sole discretion to set these qualifications and experience standards, and no one, including the petitioner, can claim a right to any relaxation in these criteria. As admittedly, the petitioner has a Degree in Engineering Discipline however, with no investigation experience. On the aforesaid proposition, we are guided by the decision of the Supreme Court in the case of *Federal Public Service Commission v. Dr. Shahid Hanif* (2023 SCMR 848).

6. The "experience" for the Additional Director (BPS-19) position means full-time, paid experience gained after obtaining the required educational qualification. It states that the petitioner did not meet these specific post-qualification experience criteria, a fact confirmed by a committee that reviewed his documents; however, experience in criminal investigation is altogether different as such the analogy so put forward by the petitioner is of no avail. This deficiency was the reason his assertion was rejected, by the committee.

7. The government has the authority to set appointment policies and qualifications for jobs. To be appointed to a specific post, a candidate must meet these criteria and possess the required qualifications and experience as outlined in the recruitment rules. In such circumstances, since the petitioner also cited various instances whereby other candidates were allowed to continue having been lacking the experience for the subject post as such the competent authority of NAB must scrutinize the candidatures of those candidates who lacked the experience for the subject

post and take concrete decision after hearing them. The competent authority of NAB must determine if the hiring authority followed the official recruitment rules for these posts, in terms of the Supreme Court judgment without discrimination.

8. Under Article 199 of the Constitution, the High Court has a discretionary power to act in support of the law and protect constitutional rights. This power is reserved for extraordinary situations to ensure justice is served, not to allow injustice to continue. If it is determined that substantial justice has already been achieved between the parties, the Court may choose not to use this discretionary jurisdiction.

9. Since the petitioner has repeatedly challenged the decision before the various forums and the Supreme Court vide order dated 12.3.2020 in S.M.C. No.13/2016 directed him to agitate his claim before the appropriate forum and his representations / appeals have consistently been rejected by all competent authorities, there is no reason to interfere with the findings under Article 199 of the Constitution.

10. This petition lacks merit and is accordingly dismissed in limine along with pending application(s), if any.

JUDGE

Head of Const. Benches