

ORDER SHEET  
IN THE HIGH COURT OF SINDH,  
CIRCUIT COURT, HYDERABAD.  
C.P No.D-342 of 2013

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. FOR ORDER ON MA NO.10661/2013.
2. FOR KATCHA PESHI.
3. FOR HEARING OF MA NO.1909/2013.
4. FOR HEARING OF MA NO.2760/2013.
5. FOR HEARING OF MA NO.2763/2013.
6. FOR HEARING OF MA NO.9636/2013.

10-12-2013

Mr. Jhamat Jethanand, Advocate for petitioner.

Mr. Kamaluddin, Advocate for respondents.

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During course of arguments, Mr. Jhamat Jethanand, learned counsel for the petitioner invited our attention to section 35 of the Peoples University of Medical and Health Sciences for Women, Shaheed Benazirabad Act, 2009. For the sake of convenience Section 35 of the Act is reproduced as under: -

***"35. An employee of the university shall retire from service-***

- (i) *on such date, after he has completed twenty five years of service qualifying for pension or other retirement benefits as the competent authority may direct.*

*Provided that no employee shall be retired unless he has been informed in writing of the grounds of the action proposed to be taken against him and has been given reasonable opportunity of showing cause against the action; or*

- (ii) *where no direction is given under clause (i), on the completion of sixty years of his age."*

Per learned counsel neither the provisions of above section have been adhered to nor petitioner was provided an opportunity of hearing before passing the impugned order.

Conversely, Mr. Kamaluddin, counsel for respondents though supported the impugned order but could not controvert the contentions advanced at bar by Mr. Jhamat Jethanand regarding the non-compliance of provisions of section 35 of the Act. However, learned counsel for the respondents questioned the very maintainability of instant petition on the



ground that petitioner has alternate and efficacious remedy in terms of section 37 of the Act, hence, she could not invoke the extra-ordinary constitutional jurisdiction of this Court.

We have heard learned counsel for the parties, scanned the record and perused the relevant provisions of the Act.

A bare perusal of section 35 of the Act reflects that no employee of University shall be retired unless he is informed in writing of the grounds of the action proposed to be taken against him and reasonable opportunity of hearing is provided, which has not been done in the case in hand. Since, the mandatory provisions of section 35 of the Act have been violated by the respondents. In view of above, without dilating upon merits of case, we set aside the notification dated 18-03-2013 and remand back the matter to the concerned authorities/respondents with direction to initiate a fresh departmental proceeding against the petitioner strictly in terms of section 35 of the Act. Till the departmental proceedings are completed, the petitioner shall be deemed to be in service.

Petition stands disposed of in the above terms along with listed applications.

10.12.2013  
JUDGE

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JUDGE