

HIGH COURT OF SINDH CIRCUIT COURT, HYDERABAD

C.P. No.D-1490 of 2024

[Dr. Rani Abro v. Province of Sindh & others]

BEFORE:

JUSTICE ADNAN-UL-KARIM MEMON
JUSTICE RIAZAT ALI SAHAR

Mr. Ishrat Ali Lohar, advocate for petitioner

M/s. Muhammad Arshad S. Pathan & Safdar Hussain Leghari,
Advocate for the University, along with Riaz Ali from Tando Jam
University

Mr. Rafiq Ahmed Dahri, Asstt: A.G.

Date of hearing & decision: 25.11.2025

ORDER

ADNAN-UL-KARIM MEMON J - The petitioner, through the
captioned petition, has sought the following relief(s):-

- a) That this Honourable Court may be pleased to declare Item No.26, in the Minutes of 74th Meeting of Selection Board held on May 04, 2024, as null and void, illegal from the beginning, and goes against the advertisement and the budget book.
- b) This Honourable Court may be pleased to declare the Resolution No. 116 of the Syndicate Committee as null & void because it had approved the Minutes of the Selection Board's 74th Meeting on 4th & 5th of May, 2024, without any detailed discussion as well as consideration of the Petitioner being a qualified candidate.
- c) That the Selection Board and Syndicate committee meeting may kindly be declared as null & void up to item No.26, as the Selection Board.

2. The case of the petitioner is that she was appointed as Lecturer (BPS-17) under the Tenure Track System at Sindh Agriculture University (SAU) on 12.04.2006, regularized on 23.12.2006, upgraded to BPS-18 on 01.06.2007, appointed as Assistant Professor (BPS-19) on 06.11.2015, and subsequently as Associate Professor (BPS-20) on 16.02.2017. The University later advertised several posts of Professor (BPS-21), including one in Animal Nutrition. Being eligible, the petitioner applied and appeared before the Selection Board on 05.05.2024. However, in its meeting held on 03/04 May 2024, the Selection Board of the respondent university recorded that due to "shortage of vacancies,"

the petitioner would be considered “in the next turn,” and resolved to re-advertise the post when available. Aggrieved, the petitioner filed a representation on 06.09.2024, which was not properly considered, leading to the present petition.

3. Learned counsel for the petitioner argues that the advertisement for Professorships in Animal Nutrition, Physiology & Biochemistry, and Poultry Husbandry was lawful, as these departments had vacant positions per Budget Book 2023/2024. However, advertisements for several other departments were unlawful because no vacancies existed. Therefore, candidates from the department having non-vacant positions should not have been considered. The petitioner counsel claims that she was the only eligible candidate for Professor in Animal Nutrition and was unanimously recommended by external experts, yet the Vice Chancellor misled the Selection Board by falsely claiming that no vacancy existed, despite the Budget Book confirming one. This, along with selections in various departments lacking sanctioned vacancies, demonstrates manipulation and mala fide by the Vice Chancellor and Registrar, violating transparency, Rules and the petitioner’s constitutional rights. He prayed to allow the petition.

4. The counsel for respondents 2 to 5 denies these allegations. He contends that the petition is not maintainable, the petitioner lacks locus standi, and the decision of Selection Board and Syndicate are final and not challengeable. He asserts that the petitioner was found ineligible; the process was transparent; and her representation only sought “reconsideration,” not a challenge to the selection process. He argued that references to selections of other candidates or other departments are irrelevant, as those individuals are not parties, and no discrepancy has been shown in the petitioner’s own case. He submits that the petitioner has made baseless allegations due to her non-selection and prays for dismissal of the petition.

5. After hearing learned counsel for the parties and examining available documents, the following legal questions arise:

- i. Whether the Selection Board and Syndicate acted in accordance with law while declining the petitioner’s candidature on the ground of non-availability of vacancy.
- ii. Whether the petitioner has demonstrated mala fide, arbitrariness, or violation of statutory rules sufficient to warrant interference under constitutional jurisdiction.
- iii. Whether the decisions recorded in Item No. 26 of the 74th Selection Board Meeting and Resolution No. 116 of the Syndicate are sustainable.

6. To appreciate the aforesaid proposition, it is expedient to evaluate the assertion of the petitioner that a sanctioned vacancy for Professor (BPS-21) existed in the Department of Animal Nutrition as reflected in the Budget Book

2023–24 and the advertisement. She claims to be the only eligible candidate, duly recommended by external experts. If a vacancy was indeed available and advertised, refusal of her candidature on the ground of “non-availability of posts” amounts, *prima facie*, to a violation of legitimate expectation, lack of transparency, and an action contrary to record constituting *mala fide* in law. Courts have consistently held that once a vacancy is advertised, the authority cannot later deny its existence without lawful justification, and must act fairly and strictly in accordance with statutory rules. The petitioner further alleges that the Vice Chancellor and Registrar misrepresented the availability of the post. While allegations of *mala fide* require clear pleadings, if the Budget Book clearly shows a vacancy and appointments were simultaneously made in other departments despite absence of sanctioned posts, arbitrariness becomes evident. Jurisprudence holds that when administrative decisions contradict the record, *mala fide* in law may be inferred even without proof of personal ill-will. The petitioner also claims discriminatory treatment, as candidates in other departments were appointed despite no vacancies, whereas her case was rejected despite availability of a sanctioned post. Courts have held that discretion must be exercised consistently, and unequal or selective application of Rules is unconstitutional.

7. The respondents' submissions are that the petitioner lacks locus standi and that the petition is not maintainable. This contention is unpersuasive for the reason that the petitioner seeks enforcement of her fundamental rights under Articles 4, 18, and 25 of the Constitution, alleging arbitrary denial of an advertised and sanctioned post; such matters fall within Article 199 jurisdiction. It is settled law that an applicant has locus standi to challenge irregularities in the selection process for a post she has applied for. The respondents' claim that the Selection Board found the petitioner ineligible is unsupported, particularly when she states she was recommended by the experts. No material has been produced to show why she was considered ineligible, and such bare assertions cannot exclude judicial scrutiny. The plea that the decisions of the Selection Board and Syndicate are “final” is also untenable. Finality clauses do not bar constitutional review where the action is arbitrary, contrary to record, ignores relevant considerations, or infringes fundamental rights. Courts have consistently held that finality cannot validate an illegal or tainted decision. Although candidates from other departments are not parties, the petitioner's reference to their selections is relevant to assessing the discriminatory and inconsistent application of rules. Courts may consider such contextual inconsistencies when evaluating arbitrariness or *mala fide*.

8. Based on the material available on record, it appears that the post of Professor in the Department of Animal Nutrition was both sanctioned and duly advertised. *Prima facie*, the petitioner met the eligibility criteria, and the

respondents have failed to produce any substantive basis for declaring her ineligible. The Selection Board's reliance on "non-availability of vacancy" is inconsistent with the advertisement as well as the Budget Book. Moreover, the respondents have not explained making appointments in other departments where no sanctioned vacancies existed, while simultaneously refusing consideration to the petitioner despite the presence of an available post. Such conduct appears arbitrary, discriminatory, and contrary to the record, thereby warranting judicial interference. The Syndicate's approval of the Selection Board's minutes without addressing these inconsistencies demonstrates mechanical approval and violates the settled requirement that public authorities must exercise an independent mind. Consequently, the impugned action amounts to *mala fide* in law, even if not *mala fide* in fact.

9. In view of the foregoing, Item No. 26 of the 74th Selection Board Meeting and Resolution No.116 of the Syndicate are *prima facie* unlawful, having been made on an incorrect assumption of non-availability of vacancy. The petitioner has established that the impugned decisions were based on an erroneous factual premise, arbitrary and discriminatory, conflicted with the advertisement and Budget Book, and were mechanically endorsed by the Syndicate. Petitioner is therefore entitled to the relief to the extent that Item No. 26 and the corresponding Syndicate Resolution are set aside, with a direction for fresh consideration of her candidature strictly in accordance with law. This exercise must be completed within two months.

10. This petition stands disposed of in the above terms.

JUDGE

JUDGE

Karar Hussain/PS*