

IN HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

CP No. D-1553 of 2025

[Dr. Rahim Bux Khokhar v. Province of Sindh & others]

Before:

Mr. Justice Adnan-ul-Karim Memon

Mr. Justice Riazat Ali Sahar

Petitioner :	Dr. Rahim Bux Khokhar through Mr. Faizan Hussain Memon, Advocate.
Respondents No.1&2:	Through Mr. Rafique Ahmed Dahri, A.A.G. Sindh.
Respondent No.3:	Through Mr. Sajjad Hussain Memon, Advocate.
Date of Hearing :	<u>11.11.2025</u>
Date of Decision :	<u>11.11.2025</u>

JUDGMENT

RIAZAT ALI SAHAR J: - Through this judgment, we propose to decide the instant constitutional petition filed by the petitioner, with the following prayers:-

- i. Declare that the Impugned Dismissal Order dated 30.05.2024 and Impugned Letter dated 07.08.2025 are arbitrary, capricious, discriminatory, harsh, illegal, mala fide, unconstitutional, unjust, unlawful, whimsical, against the principles of natural justice, and of no legal effect;*
- ii. Direct Respondent No.3 to reinstate the Petitioner to his in service, forthwith, with all consequential benefits, including but not limited to salary, allowances, seniority, and all other privileges and benefits, as it the petitioner had never been dismissed;*

- iii. Suspend the operation of the Impugned Dismissal Order dated 30.05.2024 and Impugned Letter dated 07.08.2025 and/or restrain the Respondent No.3, its officers, employees, representatives, assigns or anyone acting for and on its behalf from taking any adverse action against the petitioner;*
- iv. Any other relief this Honorable court may deem appropriate and proper in the circumstances of the case; and*
- v. Grant cost of this petition.*

2. The petitioner in his petition has stated that he was working as a Lecturer (BPS-18) in the Department of Basic Sciences & Related Studies at Respondent No.3 University, impugning the Dismissal Order dated 30.05.2024 and Letter dated 07.08.2025 whereby his Review Application was rejected, alleging that both actions are arbitrary, discriminatory, and violative of the principles of natural justice. He was initially appointed in 1998 and later awarded a full University Scholarship in 2007 for Ph.D. studies abroad. During the course of his studies, Respondent No.3 abruptly discontinued funding in violation of the scholarship terms, resulting in disruption of his academic program. Despite his subsequent completion of Ph.D. requirements and award of degree by the University of Hertfordshire in 2017, Respondent No.3 dismissed him from service retrospectively, without awaiting the result or affording due process. The petitioner challenged his dismissal and, pursuant to directions of the Chief Minister of Sindh dated 18.04.2019 and judgment dated 24.05.2022 passed in C.P. No.D-1770/2019, he was reinstated. Thereafter, due to his medical condition (diagnosed with Follicular Lymphoma, Stage-3), he sought medical leave and treatment abroad, which the University allegedly withheld. When the petitioner filed C.P. No.D-1426/2023 for redressal, Respondent No.3 initiated a fresh

inquiry in disregard of E&D Statutes, conducted ex parte, and again dismissed him vide impugned order dated 30.05.2024. His Review Application was later dismissed vide letter dated 07.08.2025 without considering his legal objections or providing a fair hearing.

3. In his petition, the petitioner has alleged bias on the part of the Vice Chancellor, who was earlier purportedly involved in the disciplinary proceedings in different capacities and influenced the Syndicate's decision. He contended that the entire process is tainted with *mala fide* and procedural irregularities, and having no other efficacious remedy, he has approached this Court seeking reinstatement in service with all consequential benefits.

4. In response to the Court's notice, Respondent No.3 filed preliminary objections, contending that the petitioner is in the habit of instituting repeated litigations against the University. It is further stated that the present petition is not maintainable as the petitioner has approached this Court with unclean hands, without exhausting the alternate legal remedies available to him under the law. According to Respondent No.3, the petition is founded upon false, manipulated, and concocted assertions, lacking any factual basis and tainted with malice. It is further stated that the petitioner has merely reiterated the same facts and grounds earlier agitated in C.P. No.D-1661 of 2024, which was decided by this Court vide judgment dated 23.05.2025, directing Respondent No.3 to decide his Review Application. The said Review Application was duly considered and decided by the Syndicate in its meeting held on 09.07.2025, culminating in order dated 07.08.2025. Instead of availing the statutory remedy of appeal under Section 14 of the E&D Rules of the University, which provides an equally efficacious alternative, the petitioner has directly invoked the

constitutional jurisdiction of this Court under Article 199 of the Constitution. Respondent No.3 stated that since an adequate remedy is available by way of appeal, this petition is not maintainable.

5. Learned counsel for the petitioner argued that the impugned dismissal order dated 30.05.2024 and the review order dated 07.08.2025 are illegal, arbitrary, and in violation of the principles of natural justice, fairness, and equity enshrined in Article 10-A of the Constitution and the MUET (Efficiency & Discipline) Statutes, 1978. He argued that the mandatory provisions of Clauses 7(4), 7(4)(b), 8(1), 8(3) and 8(6)(b) were ignored during the inquiry proceedings and that under Clause 5(h), absence from duty or overstaying leave without sufficient cause may attract penalty, yet the petitioner's absence stood justified due to stoppage of funding by respondent No.3 without HEC's approval; the demise of his mother and major corrections required in his Ph.D. thesis. He argued that the overstay, being for only one year, was neither willful nor *mala fide*, as the petitioner had been granted an extension up to 25.09.2016 and resumed duty on 30.10.2017 after obtaining his Ph.D. on 27.10.2017. He further argued that the inquiry proceedings were *void ab initio* as the inquiry committee was constituted without Syndicate approval, the petitioner's objections against a member were ignored and he was denied fair opportunity being he was called only once out of fourteen meetings, not confronted with witnesses or documents, nor served a final show-cause notice or afforded personal hearing, contrary to Clause 8 of the Statutes and such violations, as held by superior courts, vitiate disciplinary proceedings. Learned counsel further argued that the University's unilateral stoppage of tuition fee allowance contrary to the scholarship award order providing full tuition support and extension facility caused delay in completion of the

Ph.D., thereby negating any misconduct. He further argued that the impugned orders are tainted with *mala fides*, given their retrospective effect and disregard of statutory procedure, and are therefore liable to be set aside.

6. Conversely, learned A.A.G. Sindh submitted that the respondents should have decided the petitioner's Review Application strictly in accordance with law and after providing a fair hearing.

7. Learned counsel for respondent No.3 (University) argued that the petitioner is a habitual litigant who has repeatedly filed petitions on identical grounds. He argued that this petition is not maintainable as the petitioner has bypassed the statutory remedy of appeal under Section 14 of the E&D Rules. He argued that the inquiry was lawfully constituted, all procedural requirements were fulfilled, and the petitioner's absence from duty constituted grave misconduct under Clause 5(h) of the Statutes. He further argued that sufficient cause for overstay was never substantiated and that the impugned orders were passed by the competent authority after due consideration by the Syndicate, leaving no illegality or procedural defect warranting interference by this Court.

8. After careful examination of the record, pleadings, and relevant law, it is obvious that the impugned Dismissal Order dated 30.05.2024 and Review Order dated 07.08.2025 are tainted with procedural impropriety. The disciplinary proceedings culminating in the petitioner's removal were conducted *prima facie* in clear violation of the mandatory provisions of the Mehran University of Engineering and Technology Act, 1977 (Sindh Act IV of 1977), "the Act", particularly Sections 35 and 36, which guarantee a reasonable opportunity of showing cause and the right of review or appeal

before the competent authority. These statutory protections are not mere formalities but substantive safeguards that ensure fairness and transparency in disciplinary administration. Under Section 35 of the Act, no permanent officer, teacher, or employee of the University can be removed, dismissed, or reduced in rank without being allowed to show cause against the proposed action. Furthermore, Section 36 provides a mandatory right of *appeal and review* to the Syndicate, which, under Section 16, is the supreme executive body of the University. The record clearly shows that these statutory guarantees were ignored, the inquiry committee was constituted without prior Syndicate approval; the petitioner's objections to a biased member were summarily brushed aside; material documents were withheld; no witnesses were produced or confronted; and neither a final show-cause notice nor a personal hearing was afforded before imposing the major penalty of dismissal in violation of the reported judgment of the Honourable Supreme Court on the subject issue. Such acts constitute an obvious violation of the principles of natural justice and the constitutional guarantee of fair trial and due process under Article 10-A of the Constitution.

9. In the instant petition, the petitioner also alleged that the entire process was tainted with bias, as the Vice-Chancellor, who chaired the Syndicate meeting deciding his Review Application, had previously acted as Registrar and Pro-Vice-Chancellor during earlier disciplinary proceedings and had been a direct party to the actions forming the subject matter of prior contempt proceedings. The note of dissent recorded by the nominee of Respondent No.2, the Additional Secretary, substantiates such apprehensions. For the sake of convenience, apart from other contents of the letter the paragraphs 6 and 7 of the letter dated 23.07.2025 sent to the Registrar, Mehran University of Engineering & Technology (MUET) Jamshoro by

the Additional Secretary/Member (Nominee) Universities & Boards Department, Government of Sindh (available at page-729 of the court file) is reproduced as under:-

“6. Second Dismissal and Non-Compliance with Review Procedure.

A fresh dismissal was issued on 30.05.2024, again retrospectively applied from 09.08.2015 and before the next court date 05.06.2024, where the matter was sub judice. No final show cause or personal hearing was given. These facts are well established in the Court’s judgment dated 23.05.2025.

Mr. Khokhar filed his Review Application on 23.06.2024, as permitted by statute and under the court’s directions. However, the Review Application placed before the Syndicate in the 160th meeting was an earlier interim version dated 20.06.2024, and not the final version. No annexures were provided to the Syndicate.

7. Conclusion

It is further observed for record that the members of the syndicate were actively discouraged by the Chair from putting questions to Mr. Khokhar, and also were encouraged to vote against him, which is against the spirit of personal hearing and contributed to an atmosphere inconsistent with neutrality and fairness as expected in statutory proceedings guided by court directives.

In view of the above, it is placed on record that considering the factual position of the case and taking into account all the records made available, the undersigned is of the considered opinion that Mr. Khokhar should be reinstated into service with consequential back benefits admissible as per rules.

The dissent of the representative of the Universities & Boards Department regarding the handling of the matter, including the decision taken in the 160th Syndicate meeting, is already on record.

These observations are respectfully submitted for the record.”

10. It is well settled that a dismissal/removal/termination order cannot be applied retrospectively, unless a specific statutory rule expressly authorizes it. As punishment takes effect from the date the order is passed. A dismissal order becomes effective only from the date of issuance. Making it effective from an earlier date (retrospective) is illegal and void.

11. It has been observed that the alleged conduct of the Vice-Chancellor, in personally directing the deliberations of the Syndicate and in overriding the considered views of other members who had favoured reinstatement, has materially compromised the fairness and impartiality of the proceedings. Such participation, whereby the disciplinary authority assumes a determinative role in a matter connected with its own prior stance, offends the settled principle of natural justice embodied in the maxim ‘*nemo judex in causa sua*’. On this ground alone, the proceedings stand vitiated, being tainted with bias and rendered void for having been conducted in derogation of fundamental procedural safeguards.

12. It further transpires that the clear and unambiguous directions issued by this Court in C.P. No. D-1661 of 2024—mandating the respondents to adjudicate upon the petitioner’s Review Application strictly in accordance with law and only after affording him a meaningful and fair opportunity of hearing—were not complied with. The subsequent review order dated 07.08.2025, upon examination, again reflects a departure from the binding mandate of this Court, thereby demonstrating willful disregard of judicial directions and undermining the sanctity of the rule of law. Such conduct on the part of the departmental authorities not only defeats the very purpose for

which the earlier petition was disposed of but also validates the petitioner's approach to invoke this Court's constitutional jurisdiction under Article 199 of the Constitution. It is a well-entrenched principle that where administrative or departmental authorities act in patent violation of statutory obligations, disregard binding court orders, or exhibit conduct indicative of bias, this Court is fully empowered to intervene in order to forestall miscarriage of justice and to uphold constitutional guarantees.

13. The petitioner's brief overstay abroad was *prima facie* adequately explained and supported by sufficient cause, i.e., the unilateral stoppage of scholarship funding by the University without HEC's approval, the demise of his mother, and the substantial revisions required by his Ph.D. supervisor. The penalty of dismissal with retrospective effect is thus wholly uneven and random. The Honourable Supreme Court in the case of **DIRECTORATE GENERAL EMERGENCY RESCUE SERVICE 1122 KHYBER PAKHTUNKHWA, PESHAWAR v. NIZAKAT ULLAH (2019 SCMR 640)**, has laid down that where removal from service entails stigma, the employee must be afforded full due process, including the right to defend, cross-examine witnesses and be confronted with the material relied upon; failure to do so vitiates the entire proceedings. The process adopted by the University was/is one-sided and inconsistent with its own governing statutes.

14. Nonetheless to add here that the petitioner is not an ordinary employee but a highly qualified academic, having earned a Ph.D. from the University of Hertfordshire in the specialized field of *Numerical Modelling of Mixing and Separating of Fluid Flows through Porous Media*. His scholarly achievements, international research exposure and advanced expertise constitute a valuable asset for any institution of

higher learning, including the respondent-University. Instead of benefiting from his hard-earned qualifications and contributing positively to the academic and research environment of the University, he was subjected to an unfair and protracted disciplinary process. Such treatment not only discourages academic excellence but also runs contrary to the University's statutory mandate to promote higher education, research and intellectual growth. The restoration of the petitioner, therefore, is not only a matter of legal correctness but also aligns with the broader interest of the institution and the academic community at large.

15. In view of the above facts and circumstances of the case, we hold that the impugned orders are without lawful justification, having been passed in contravention of the Mehran University Act, 1977, the E&D Statutes, 1978, and the constitutional protection under Article 10-A of the Constitution of the Islamic Republic of Pakistan, 1973. The proceedings are found to be based on procedural impropriety, thus incapable of sustaining judicial approval. Accordingly, the petition is **allowed**. The impugned dismissal order dated 30.05.2024 and review order dated 07.08.2025 are hereby set aside. The petitioner shall be reinstated in service forthwith, with all consequential benefits.

16. Before parting, this Court observes that under Section 28 (i) of the Mehran University Act, it is the statutory duty of the Vice-Chancellor to ensure strict observance of the provisions of the Act, Statutes, and Regulations. Any deviation therefrom undermines institutional integrity and public trust in academic governance. The University is therefore directed to take remedial steps to align its disciplinary procedures with the requirements of Sections 35 and 36 of the Act and the E&D Statutes, ensuring that future inquiries are conducted

transparently, impartially, and in accordance with the principles of natural justice and the dicta laid down by the Supreme Court on the subject issue.

17. The petition stands **allowed** in the above terms.

JUDGE

JUDGE

Abdullahchanna/PS