

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD**

C.P No. D-1758 of 2024

[Miss Somia Usman v. Province of Sindh and others]

Before:

***JUSTICE ADNAN-UL-KARIM MEMON
JUSTICE RIAZAT ALI SAHAR***

Petitioner: Miss. Somia Usman through
Mr.Meer Ahmed Mangrio,
Advocate

Respondents: Province of Sindh and others
through Mr. Rafique Ahmed
Dahri, Assistant A.A.G. Sindh
along with Mashooque Ali
Gopang AD (Legal)

Date of Hearing: 13.11.2025.

Date of Judgment: 13.11.2025.

JUDGMENT

RIAZAT ALI SAHAR, J: - Through this Constitutional Petition, the Petitioner seeks the protection of her fundamental rights, as she has been unlawfully denied consideration for the post of Consultant (BPS-17) despite fully meeting the eligibility criteria prescribed in the advertisement and recognized by the Higher Education Commission. The Petitioner successfully qualified the written test, submitted all requisite documents and fulfilled the standards set by the Respondents, yet was arbitrarily refused an interview. Having no other adequate or efficacious remedy available, the Petitioner is constrained to invoke the constitutional jurisdiction of this Court for redressal. Thus, seeking following reliefs:

*“a) That this Honourable Court may kindly be pleased
to declare the respondents' actions as illegal, arbitrary,
and in violation of the petitioner's fundamental rights.*

b) That this Honourable Court may be pleased to direct the respondents to consider the petitioner's appeal and application and allow the petitioner successful in the said post.

c) That this Honourable Court may be pleased to direct to respondents to nominate well qualified person in office who look after the HEC educational policies.

d) That this Honourable Court may be pleased to direct the respondents to consider the petitioner degree as master degree for (BPS-17) Recruitment as per HEC Policy.

e) Any other relief which may deem fit, just and proper be awarded to the Petitioner.”

2. The learned counsel for the Petitioner contended that the impugned actions of the Respondents are not only arbitrary and discriminatory but also in stark violation of the constitutional guarantees enshrined under Articles 4, 18, 25 and 27 of the Constitution of the Islamic Republic of Pakistan, 1973. He contended that the Petitioner had duly fulfilled all eligibility criteria prescribed in the advertisement and in fact possessed an 8-semester LLB (Honours) degree which, under the Higher Education Commission's Notification and policy dated 10.02.2025, stands duly recognized as equivalent to a Master's degree in the general stream for the purposes of 16 years schooling. Despite such clear recognition, the Respondents failed to appreciate the Petitioner's educational qualification and without lawful justification, rejected her candidature on the misconceived ground of non-submission of an LLM degree when the advertisement itself provided three alternative qualifications: LLB, LLM or Bar-at-Law. Learned counsel further contended that the Petitioner successfully qualified the written examination conducted by SPSC, yet was unlawfully restrained from appearing in the interview, thereby depriving her of a fair and transparent recruitment process. He contended that such refusal not only violates the Petitioner's right to be treated in accordance with law, but also reflects a misuse of authority by acting contrary to the Respondents' own stated

criteria and HEC policies. It was thus pressed that the Petitioner, having no alternate, efficacious or adequate remedy, is compelled to invoke the constitutional jurisdiction of this Court to ensure a fair, just, and merit-based consideration of her candidature.

3. Upon notices, the relevant Respondents No. 2 and 3 submitted their comments wherein it was, at the outset, admitted that the Sindh Public Service Commission (SPSC) had advertised various posts vide Advertisement No. 03/2023 dated 03-03-2023, including the post of Consultant (BPS-17) in the Law, Parliamentary Affairs and Criminal Prosecution Department, for which the Petitioner had duly applied. The Respondents contended that the prescribed qualification under the Recruitment Rules required an LL.B, LL.M or Bar-at-Law degree from an HEC-recognized University, along with four years of relevant legal experience and proficiency in MS Office. It was asserted that, upon scrutiny, the Petitioner was found to possess only LL.B degree and did not meet the “critical requirement” of holding LL.M or Bar-at-Law degree; therefore, her candidature was rejected through a letter dated 10.05.2024. The Respondents further contended that SPSC is neither the rule-framing authority nor empowered to amend or relax recruitment rules, which fall within the exclusive domain of the administrative department. It was also highlighted that the Petitioner had earlier approached this Court at Karachi in C.P. No. D-2546/2024, wherein the Court directed the Chairman SPSC to decide her appeal. Pursuant thereto, the Petitioner was heard by the Member (Appeals), who vide order dated 16.01.2025 upheld the rejection on the ground that the HEC Notification of 2007 merely equated 16-year Bachelor’s degrees with Master’s degrees during a transitional period and did not dispense with the requirement of LL.M where explicitly mandated in recruitment rules. The Respondents therefore maintained that the instant petition, being a repetition of the same cause already adjudicated and complied with, is a futile

exercise aimed at misleading the Court and deserves outright dismissal.

4. We have heard learned counsel for the parties and examined the record. The pivotal issue for determination is whether the Petitioner, holding an eight-semester LL.B (Hons.) degree, can claim eligibility for the post of Consultant (BPS-17) in the presence of recruitment rules prescribing LL.B, LL.M or Bar-at-Law as a required qualification and whether the subsequent clarification issued by the Higher Education Commission vide letter dated 10.02.2025 can override the qualifications specifically mandated under the statutory rules.

5. It is not disputed that the recruitment criteria, as advertised by SPSC, required the candidate to possess either LL.B, LL.M or Bar-at-Law, in addition to relevant legal experience. While the Petitioner claims that she possessed an LL.B (Hons.) degree and thus fulfilled the eligibility threshold, the Respondents have categorically stated that upon scrutiny, the Petitioner was found to lack the specialized professional qualification of LL.M or Bar-at-Law, which according to the department constituted the essential qualification for the post of Consultant (BPS-17). The Petitioner's candidature was, therefore, rejected accordingly. Much importance has been placed by the Petitioner on the HEC letter dated 10.02.2025, asserting that her LL.B (Hons.) degree stands recognized as equivalent to a **“Bachelor/Master degree in the general stream involving 16 years of schooling.”** However, a careful reading of the said clarification reveals that the recognition pertains only to the level of schooling, equivalence to a 16-year general education qualification. The letter does not, by any stretch, equate LL.B (Hons.) with the specialized postgraduate legal qualification of LL.M, nor does it state that such equivalence is applicable for posts requiring higher or professional specialization in law. It is further clarified that there are two separate required qualifications (i) LL.B and (ii)

LL.M or Bar-atLaw; however as per clarification made by the HEC the LL.B (Hons.) will define the equivalence of Master degree for the purpose of 16-years schooling but it does not relax the petitioner from the requirement of LL.M.

6. We are the humble view that the distinction is significant as LL.B degree whether 5-year or 3-year is the basic professional qualification in law while LL.M is a postgraduate, advanced and specialized qualification, which the competent rule-making authority may legitimately prescribe for higher legal posts such as Consultant (BPS-17). The recognition of LL.B (Hons.) as a 16-year degree does not elevate it to LL.M nor does it obliterate the differentiation between undergraduate and postgraduate legal education. Therefore, the Petitioner's reliance on the HEC clarification is misconceived and misplaced.

7. The contention that the advertisement provided "alternative qualifications" (LL.B, LL.M or Bar-at-Law) is equally untenable. The term "alternative" cannot be read in isolation or in abstraction. It must be interpreted in the backdrop of the recruitment rules and the nature of the post. The Respondents have consistently maintained that the Consultant post requires higher legal expertise, and thus the internal departmental criteria on the basis of rules mandated the possession of LL.M or Bar-at-Law as the appropriate qualification. SPSC, being only a recruiting agency, is bound by the rules framed by the competent authority and cannot dilute, amend or reinterpret the prescribed qualifications.

8. Moreover, a C.P. No.D-2546/2024 filed by the petitioner before this Court at Karachi was decided with direction to the Chairman, SPSC to decide the appeal of the petitioner. The Member (Appeals), after due hearing, rejected her request through a detailed order dated 16.01.2025 and that order has attained finality. The Petitioner cannot now invoke the constitutional jurisdiction afresh on the basis of a certificate

that does not alter the essential qualification required under the rules.

9. It is a settled principle of law that recruitment rules framed under statutory authority override all executive instructions, departmental interpretations and external equivalence letters, hence, neither SPSC nor this Court can ignore the mandatory qualification of LL.M/Bar-at-Law where the rule-making authority has specifically required the same.

10. In view of the above, the Petitioner has failed to establish that she possessed the qualification required for the post in terms of the relevant recruitment rules. The HEC letter does not advance her case nor does it operate as a substitute for the specialized postgraduate qualification of LL.M. The Respondents, therefore, acted strictly in accordance with the prescribed rules while rejecting her candidature. No arbitrariness, malice, discrimination or violation of constitutional rights has been demonstrated. The Petition is accordingly devoid of merit. Consequently, this Constitutional Petition stands dismissed along with pending application.

JUDGE

JUDGE