

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

C. P. No. D – 1755 of 2023

(Masroor Ali Soomro versus Chancellor Sukkur IBA University and others)

Present:

Mr. Muhammad Iqbal Kalhoro, J.

Mr. Arbab Ali Hakro, J.

Date of hearing : **28.03.2024**

Date of decision : **28.03.2024**

Mr. Kashif Hussain Shaikh, Advocate for petitioner.

Mr. Muhammad Uzair Shaikh, Advocate for respondents No.2 & 3.

Mr. Zulfiqar Ali Naich, Assistant Advocate General Sindh.

ORDER

Muhammad Iqbal Kalhoro, J. – Petitioner, already working as a Lecturer in IBA University, Sukkur, applied for the post of Deputy Director, Talent Acquisition and HR Services (BPS-18). He went through requisite tests along with 08 other candidates, and was shortlisted with two other candidates. His number was at serial No.2 of the merit list however. In 40th meeting of the Selection Board held on 28.12.2020, the case for appointment was accordingly recommended to be put up before the Syndicate, which, in 15th meeting held on 30.01.2021, approved the appointment of candidates as recommended by the Selection Board.

2. Petitioner's case is that although he qualified the test and his case was approved for appointment by the Section Board, and finally sanctioned by the Syndicate, he has not been issued the appointment order. According to his Counsel, the petitioner has approached the respondent-University for redressal of his grievance, but to no avail; hence, he has filed this petition requesting to issue directions to respondent-University to issue him offer order for the post of Deputy Director, Talent Acquisition and HR Services.

3. Learned Counsel for the University has submitted the objections and has stated that petitioner has not come with clean hands as he has not revealed the true facts. According to him, there was only one post of Deputy Director, Talent Acquisition and HR Services. The name of petitioner was at serial No.2 in the merit list. The one Hussain Ahmed Siddiqui, whose name was at serial No.1 of the merit list, was appointed on 11.02.2021. He continued to serve and finally was terminated on account of some disciplinary proceedings on 25.05.2021. Petitioner, finding the seat having fallen vacant due to above fact has filed this petition, otherwise he never approached the University for redressal of his grievance, if any.

4. We have heard the parties and perused material available on record. In view of undisputed factual position, highlighted by learned Counsel for the University that there was only one post of Deputy Director in the subject faculty, and on which the candidate who stood at serial No.1 was appointed, the petitioner has no case on merits. Petitioner and his Counsel have tried to contest this factual position by stating that said Hussain Ahmed Siddiqui was not appointed as Deputy Director, Talent Acquisition and HR Services but was already employed as Deputy Director in the University in some other discipline. But their assertion is not borne out of any record. On the contrary, the offer letter dated 11.02.2021, filed by learned Counsel for the University along with legal objections to this petition indicates that the said Hussain Ahmed Siddiqui was appointed on the position in the said discipline on 11.02.2021, and thereafter, was terminated and his contract was withdrawn. No document before us is placed by the petitioner that there was more than one vacant post of Deputy Director, Talent Acquisition and HR Services in the University, against which he had qualified but was not appointed.

5. It is not disputed either that in the merit list, he was at serial No.2, and the person who stood at serial No.1 was appointed and who continued in the service for a considerable period of time and was terminated due to some disciplinary proceedings. The seat falling vacant in the wake of termination of selected candidate would not create a right of appointment in favour of the petitioner or anyone who could not qualify the same, being the only one, on merits being at serial No.2 of the merit list. After the seat falling vacant as such, in our view, a new process has to be issued by the University for appointment of a suitable candidate.

6. This being the position, we find this petition meritless and accordingly **dismiss** it along with pending application(s), if any. However, as and when the said post is advertised by the University, the petitioner would be entitled to apply for the same in accordance with law.

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Abdul Basit