

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

C.P. No.D-178 of 2019

[Sultan Ali Panhwar v. Vice Chancellor, University of
Sindh, Jamshoro & others]

P r e s e n t:

**Mr. Justice Muhammad Faisal Kamal Alam
Mr. Justice Yousuf Ali Sayeed**

Petitioner : Sultan Ali Panhwar S/o Imam Bux,
Through Syed Muhammad Saulat Rizvi,
Advocate.

Respondents-University : Through Mr. Kamaluddin,
Advocate.

Respondent No.6 : Waheed Akbar Khaskheli,
Through Mr. Inam Ali Malik,
Advocate.

Govt. of Sindh. : Through Mr. Rafique Ahmed Dahri,
Assistant Advocate General.

Date of Hearing : 24.10.2024.
Date of Decision : 24.10.2024.

ORDER

Muhammad Faisal Kamal Alam, J.- The Petitioner has challenged the non-appointment as Lecturer in Social Work Department in Respondents-University. Learned Counsel for the Petitioner has referred to various documents starting from the result sheet in which his name is appearing at Sr. No.16 and he has obtained 30 marks, *whereas* the Respondent No.6 obtained 25 marks in Written Test. However, in Interview the latter obtained higher marks and got admission. Contended that the Decision dated 19.07.2014 of the Syndicate of University, which has a binding effect,

has also given approval of the Two Candidates [for the above Post], viz. the Petitioner and Respondent No.6, but till date the Petitioner has not been given the Appointment Letter, rather worked in the University on adhoc basis, which shows that a position is still vacant; that he was discriminated against and favoritism was shown towards Respondent No.6; Learned Counsel for Petitioner has also referred to Page-35, a Correspondence of 02.02.2017 by the Incharge Department of Social Work of Respondents-University, that there is a requirement of the Lecturer and hence the appointment order of the Petitioner as Lecturer in Social Work Department be issued. He has cited the following Decisions in support of his arguments, inter alia, that the Decision of the Syndicate is binding.

- i) 2020 PLC (C.S.) 1156 [*Muhammad Saleem Shaikh & Others Versus Province of Sindh & others*]
- ii) 2020 PLC (C.S.) 1553 [*Asif Ali Versus Secretary Board of Revenue, Government of Sindh & 04 others*]
- iii) 2021 PLC (C.S.) 921 [*Khushal Khan Khattak University, through Vice-Chancellor & others Versus Jabran Ali Khan & others*]

2. The above line of argument is opposed by Mr. Kamaluddin, the learned Counsel representing the Respondent-University. He has referred to "Annexure R/1", which is the Advertisement itself (undisputed), that only one post of Lecturer was advertised, in response to which interesting candidates appeared and eventually the Respondent No.6 was selected, who obtained the highest marks (written and interview combined). Contended that the Selection Board in its 160th Meeting dated 16.02.2014, under Resolution No.9 had given recommendation of Respondent No.6, *whereas*, for the Petitioner it was observed that he can be accommodated subject to need against any vacant position in the

Department; that Appeal was preferred by the Petitioner, which was decided against him, by the Syndicate in its Meeting of 09.04.2015 under Item No.21, and the Decision was duly communicated to Petitioner vide Correspondence of 30.04.2015 [Annexure R/6 of the Para-wise Comments]; thus, the Petitioner was aware of the entire facts from 30.04.2015, but he preferred the Petition on 24.01.2019, after around four years, which is also hit by laches.

3. Mr. Inam Ali Malik, Advocate appearing for the Respondent No.6, has questioned the maintainability of the Petition, so also adopted the arguments of Mr. Kamaluddin, *whereas* learned Assistant Advocate General has also opposed this Petition and has relied upon a reported Judgment of the Hon'ble Supreme Court - 2023 SCMR 1442 [*Special Secretary-II, (Law and Order), Home and Tribal Affairs Department, Government of Khyber Pakhtunkhwa, Peshawar & others Versus Fayyaz Dawar*], that the issue of laches is to be considered by the Courts to see whether the impugned action was challenged within a reasonable time or not.

4. Arguments heard and Record perused.

5. The undisputed scenario is that the subject Advertisement dated 21.12.2012 has clearly mentioned that one post of Lecturer in Social Work Department of Respondents-University is available for which the process was initiated. Petitioner, Respondent No.6 and other four persons were selected for Interview and the Marks Sheet has been filed under Statement of Respondents' Counsel (at Page 201 onwards of the Court file). The Respondent No.6 has secured 70.91 marks, *whereas* Petitioner secured

64.32 marks. Consequently, the Selection Board in its above Meeting recommended the selection of Respondent No.6 and for Petitioner it has made an observation which is mentioned in the foregoing paragraph. The Syndicate in its Meeting [*supra*] has endorsed the Decision of the Selection Board in the following words_

“SBR No.4(9) Resolved that on the recommendation of 160th meeting of the Selection Board held on 15.02.2014 and 16.02.2014, the following be appointed as Lecturer BPS-18 in the Department of Social Work, University of Sindh against the vacant post of Lecturers there w.e.f the date of Syndicate i.e. 19.07.2014.

1. *Mr. Waheed Akbar S/o Ali Akbar Khaskheli.*
2. *Mr. Sultan Ali S/o Imam Bux Panhwar.”*

6. A bona fide error crept in the phraseology of the above Decision of the Syndicate, which is, that instead of using the term ‘Lecturer’ [as admittedly One Post was advertised], ‘Lecturers’ [in plural] is used; which the Petitioner attempted to use to his advantage; thus, it is argued that this Decision will prevail upon the Decision of the Selection Board. Careful scrutiny of the Record does not support the case of the Petitioner, for the reasons; *firstly*, the Syndicate endorsed the Decision of the Selection Board as it is and has not modified the same, which means that only Candidature of the Respondent No.6 was approved for the Post of Lecturer in the Department of Social Work; *secondly*, the Appeal filed by the Petitioner against the above Decision was turned down by the Syndicate in its 191st Meeting dated 09.04.2015, which was duly communicated to the Petitioner (as mentioned above). Had the Syndicate differed with the Recommendation of the Selection Board, then the Appeal [of the Petitioner] would have been allowed and not declined.

7. The subsequent development is that in response to another Advertisement published in 2017 (Page-37 and Page-113), the Petitioner again applied; however, it is stated by the University Counsel, that Posts would be re-advertised.

8. The other aspect is of laches. Once the Order dated 30-4-2015 [*ibid*], declining the Appeal, was communicated to the Petitioner, he should have invoked the jurisdiction within a reasonable time **and not after four years**. The Decision cited by the learned Counsel to overcome the issue of laches, we are afraid, is of no help to him, *inter alia*, because in the *Asif Ali case* [supra], the defence of laches was discarded, as there was apparent contradiction in the stance of the official Respondents with the object to mislead the Court, whereas, no such contradiction exists in the stance of present Respondents, therefore, present Petition is also hit by laches.

9. The upshot of the above discussion is that this Petition is dismissed. However, if the Petitioner applies afresh or his Application is already pending in response to some subsequent Advertisement, the Respondents-University can consider the same in accordance with University Code, Statutes, Rules and Regulations.

JUDGE

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