

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Constitutional Petition No. D-8499 of 2017

(Haris Hamid v Port Qasim Authority & others)

Date	Order with signature of Judge(s)
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Before:

Mr. Justice Muhammad Karim Khan Agha

Mr. Justice Adnan-ul-Karim Memon

Date of hearing and order:- 28.01.2025

Mr. Khalid Mehboob advocate for the petitioner

Mr. Ali T. Ebrahim advocate for the respondent / Port Qasim Authority

ORDER

Adnan-ul Karim Memon, J: Petitioner Haris Hamid seeks to have the orders dated 24.03.2017 and 14.05.2014, issued by respondents No.3 and No.2 respectively, removing him from service, declared illegal.

2. Petitioner was appointed as Manager (Marketing, Tariff & Statistics) BS-19 at Port Qasim Authority (PQA) on 19.04.2010, after being selected through a process advertised on 19.03.2010. He holds an MBA (Marketing) Degree from the University of EAST, Hyderabad. In the intervening period, the Supreme Court in CP No. 04/2013 ordered PQA to review appointments made in the last five years, including petitioner. PQA's investigation revealed that the Higher Education Commission of Pakistan (HEC) had withdrawn the attestation of degrees from the University of EAST, Hyderabad, rendering the petitioner's MBA (Marketing) degree invalid. PQA issued a Show Cause Notice to the petitioner on April 18, 2014, citing his invalid degree and raising concerns about his experience certificates. Petitioner submitted a reply to the Show Cause Notice on April 28, 2014, however, the Chairman of PQA removed him from service vide impugned order. Petitioner appealed this decision to the Secretary (Ports & Shipping), then he filed a petition (CP No. D-1251/2015) before this court, which directed the Appellate Authority to decide his appeal. The Appellate Authority rejected the appeal of the petitioner and upheld the petitioner's removal from service on the premise that the HEC found that one degree of the petitioner was not recognized. Furthermore, the petitioner failed to explain inconsistencies in his work experience.

3. The learned counsel for the petitioner contended that the grounds for the petitioner's removal are based on assumptions and perceptions, not on facts. The petitioner claims to have a valid MBA Marketing degree attested by the HEC in 2011 and 2012. The HEC letter states that the University ceased operations in January 2011, and the status of students with degrees after that date was/is still pending. The petitioner denies the

charges and submits that a regular departmental inquiry was/is necessary to resolve the disputed facts. The counsel contends that the removal from service was unlawful and based on an abuse of power by the Chairman of PQA. Learned counsel argued that the petitioner was appointed on 19.04.2010 after a proper selection process, including verification of credentials. He added that the notice issued on 18.04.2014 was not a proper show cause notice, but merely a memo referencing the Supreme Court order of 19.12.2013. he argued that the Supreme Court order was based on the Abdul Jabbar Memon case, reported as (1996 SCMR 1349), which dealt with illegal backdoor appointments, which did not apply to the petitioner's appointment. The petitioner submits that if there were any irregularities in the petitioner's selection, the previous management was/is responsible. However, the PQA has not taken action against those involved in the petitioner's appointment. He added that Judgments reported in **2004 SCMR 1662** and **2009 PSC 1111** support his submissions in cases of irregular appointments, as such the employer, not the employee, should face consequences. However, the petitioner was removed from service, which is considered an unjust action. He argued that the petitioner was serving as a Manager (BS-19) in PQA, while the removal order was issued by a BS-20 officer. This is considered unlawful and arbitrary action on the part of PQA. He argued that there is no evidence against the petitioner that he ever tendered fake or bogus degrees and fake experience certificates and all such credentials had already been verified by the then Management before his appointment in PQA against the advertised post. He argued that the PQA's actions, including the issuance of a memo of explanation and subsequent removal from service, are unlawful and misinterpret the Supreme Court order. He prayed that the order of removal from service dated 14.05.2014 passed by the Chairman PQA (BS-20 Officer) in his colorable exercise of power in respect of Manager (BS-19) be set aside and the petitioner may be reinstated with all back benefits.

4. Learned counsel for the respondent contends that degrees issued by the International University of Missouri are unlawful and unrecognized, as the university was never authorized to operate there and was not recognized by respondents No. 5 to 8 (HEC). He has further contended the Supreme Court in Civil Appeal No. 47 of 2010 nullified degrees issued by the University of EAST Hyderabad in a 2010 case. Subsequently, HEC banned the university and withdrew the attestation of its degrees, rendering them invalid. He has added that due to the Supreme Court's judgment, degree attestations from the University of EAST, Hyderabad, were withdrawn, and therefore, the petition is liable to be dismissed on the

sole ground of unverified degrees and insufficient subject matter experience.

5. We have heard learned counsel for the parties and have perused the material available on record with their assistance.

6. Respondents Nos. 5 to 8 have filed para-wise comments with the narration that the International University of Massuri was never allowed to operate in Pakistan and therefore its degrees issued from Pakistan stand unlawful and not recognized. It is averred by the HEC that degrees issued by the University of East Hyderabad were banned by HEC to stop its operation w.e.f. Jan 2011 and HEC had withdrawn the attestation of the degree awarded by the University of EAadsst Hyderabad.

7. This stance of HEC has been disputed by the petitioner on the premise that he submitted his original issued by the University of East Hyderabad which was attested by HEC on 18.02.2011 and 14.05.2012, however on 31.12.2010 the HEC through its publication in Daily Jang Karachi informed the parents and students regarding University of East Hyderabad that degree of student admitted after 31.12.2010 will not be recognized by the HEC and the decision of the Supreme Court came later on in the year 2013, as such the petitioner's degree cannot be said to be fake and/or without attestation by the HEC. He emphasized that the petitioner cannot be non-suited based on non-recognition of the University of East Hyderabad after 31.12.2010 as his degree had already been attested by the HEC before the advertisement as the petitioner applied for the subject post based on his MBA degree obtained in the year 2005 from University of East Hyderabad.

8. A university degree signifies a student's academic achievement. Conversely, counterfeit degrees pose a serious threat, undermining the value of legitimate degrees and damaging the reputations of both students and institutions. Combating this practice is crucial for maintaining the integrity of education. However, in the present case, the petitioner, who bears the burden of proof, has failed to provide supporting evidence for his claim of genuine degree. Besides, PQA and the HEC's denials contradict the petitioner's claims, creating a disputed question of fact. A disputed question of fact exists, requiring the court to weigh conflicting claims. However, this writ petition is not the proper avenue for resolving such factual disputes, and a different legal process may be required.

9. HEC's rules and regulations are applied impartially to all candidates who acquire academic degrees. They are best suited to interpret their own rules, and courts typically intervene only in cases of severe injustice, to avoid disrupting such operations. This principle is illustrated

in the case of *Muhammad Ilyas v. Bahauddin Zakariya University, Multan, and another* (2005 SCMR 961). The Supreme Court ruled that courts should refrain from interpreting these unless a case of severe injustice is demonstrated.

10. This Court cannot validate the degrees or documents in question in writ jurisdiction, determining their authenticity, along with related claims and counterclaims, is the responsibility of the competent authority of PQA/HEC, therefore judicial propriety demand that the academic MBA degree of the petitioner be sent to the HEC to ascertain whether petitioner obtained his degree in the year 2005, which is a valid degree or invalid degree under the law and the PQA shall also ascertain and that the petitioner applied for the subject post based on his subject MBA degree issued by University of East Hyderabad.

11. The Chairman of the Higher Education Commission of Pakistan is directed to investigate the authenticity of the petitioner's degrees based on the allegations in this petition. The Chairman will provide all parties a hearing and, if the degrees are found valid the same shall be communicated to PQA for appropriate orders, after hearing the petitioner; and if found invalid, shall hold the petitioner responsible and accountable according to law. The PQA shall forward all the relevant documents to the Chairman of the Higher Education Commission of Pakistan for such verification. A report must be submitted to this Court within 90 days.

12. This constitutional petition is disposed of in the above terms.

JUDGE

JUDGE