

IN THE HIGH COURT OF SINDH AT KARACHI

CP. No. D-3230 of 2022

(Dr. Kamran Zakria & others v Executive Director Higher Education Commission of Pakistan & others)

Date	Order with signature of Judge
	Before: Mr. Justice Muhammad Karim Khan Agha Mr. Justice Adnan-ul_Karim Memon

Date of hearing and Order: 26.05.2025

Mr. Muhammad Ali Soomro advocate for the petitioners.

Mr. Abdul Samad Memon advocate for the respondents.

Ms. Wajiha Mehdi, Assistant Attorney General.

O R D E R

Adnan-ul-Karim Memon, J: The petitioners are requesting the court to:

Declare the respondents' actions unconstitutional, arbitrary, and a severe breach of natural justice, equity, and fairness.

Order the respondents to fulfill their legal duties and obligations as outlined in the meeting dated March 10, 2022, and the notification dated March 11, 2022, under the law.

Grant any other relief the court deems just and appropriate, given the circumstances.

2. Assistant Professors at NED University Karachi and members of the All Pakistan University BPS Teachers Association (APUBTA) are petitioning the court because the Higher Education Commission (HEC) has allegedly failed to implement a promotion policy for teachers under the Basic Pay Scale (BPS) system since 2002. Despite federal government directives, they claimed this failure has unfairly denied them promotions, while less experienced Tenure Track System (TTS) faculty members have been advanced. The petitioners highlighted a March 10, 2022, agreement with the HEC to resolve this issue and finalize a promotion statute for BPS teachers by mid-May 2022. However, they asserted that the HEC has not upheld this agreement or a related notification despite issuing a notification dated 11.3.2022 and letter dated 8.5.2022 in terms of references of the committee (TORs), they were obligated to finalize the existing draft policy for recruitment and promotion of BPS Faculty and recommend the final draft, including statement of principle of Policy and an executive summary. This, they averred, constitutes an ongoing deprivation of their promotion rights as agreed upon, which are guaranteed by law and Articles 4 and 25 of the Constitution. The petitioners accused the Higher Education Commission of Pakistan of acting with malicious intent and are seeking a declaration that the HEC's actions are unconstitutional, along with a court order compelling the HEC to fulfill its obligations.

3. The respondents' counsel argued that the petition is not maintainable, stating that the HEC's role, under the 2002 Ordinance, is limited to setting minimum criteria for appointments and promotions in consultation with the Finance Division, which individual institutions then adopt. He acknowledged introducing the Tenure Track System (TTS) in 2008, which was/is based on market salaries and performance, and establishing eligibility criteria for Basic Pay Scale (BPS) faculty in 2008, covering qualifications, experience, and research. He maintained that BPS faculty terms are aligned with government rules, including pension benefits, and denied that rules were framed solely for TTS recruitment. While admitting that a committee was formed to address BPS faculty grievances and subsequent meetings took place, the learned counsel stated that a comprehensive proposal is still under deliberation by the Commission and has been shared with universities for broader consultation. However, he denied any discrimination, asserting that BPS and TTS are "drastically different" categories, with TTS appointments involving a more rigorous quality assurance process. He also contended that petitioners are free to compete under the TTS scheme if they meet the eligibility requirements. He prayed for the dismissal of the petition.

4. We have heard the learned counsel for the parties and perused the record with their assistance.

5. BPS teachers allege discriminatory treatment and violation of their legal rights under Article 4 of the Constitution. The Higher Education Commission (HEC), established in 2002, sets faculty guidelines. In 2008, HEC introduced the Tenure Track System (TTS) with market-based salaries and rigorous evaluations, while 2005 saw the establishment of Basic Pay Scale (BPS) faculty criteria, which universities adopted. Following a September 7, 2022, Commission meeting where BPS faculty concerns were raised, a proposal was requested. On October 5, 2022, a committee offered solutions, shared with universities for consultation, and to be further discussed with BPS faculty and stakeholders before being presented to the Commission. HEC, however, asserts that the petitioners have no grievance against them, as the committee engaged with APUBTA and relayed their concerns. They argue there's no discrimination, as BPS faculty can apply for the more demanding TTS. Furthermore, HEC highlights that BPS employees receive government-like benefits, including pensions, and therefore requested that the petition be dismissed. The court found the HEC's proposal reasonable and, direct the competent authority at HEC to resolve the subject issue at their end first within three months, in accordance with the law, after hearing the petitioners.

6. The petition is now disposed of under these terms.

JUDGE

Head of the Const. Benches