

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Constitution Petition No.D-587 of 2025.

*(Dr. Imamuddin Vs M/s Shaheed Mohtarma Benazir Bhutto
Medical University Larkana and others)*

Before:-

*Mr. Justice Amjad Ali Bohio,
Mr. Justice Ali Haider 'Ada'.*

Date of Hearing : 26.02.2026.

Date of Decision : 15.04.2026.

Mr. Sarfraz A. Akhund, Advocate for the Petitioner.

Mr. Jam Zuhaib Ahmed, Advocate for Respondent-University.
M/s. Mehfooz Ahmed Awan and Zulfiqar Ali Channa,
Advocate for Respondent No.5

Mr. Muhammad Uzair Shaikh, Associate of Mr. Qurban Ali
Malano, Advocate for the Respondent No.6.

Mr. Ali Raza Balouch, Additional Advocate General.

Ali Haider 'Ada', J:- The petitioner is working as Associate Professor in the Department of Surgery, and his name was placed at Serial No.1 in the merit list; however, he feels aggrieved by the action of the Respondent-University in appointing Respondents No.5 and 6 through Notification dated 28.03.2025, while ignoring the petitioner, which, according to him, is illegal, unlawful, and in violation of the directions of the Courts. The record reflects that on 26.12.2019, a notification was issued by the Respondent-University whereby the petitioner, along with others, was recommended for the posts of Associate Professor. It is the case of the petitioner that Respondents No.5 and 6 were appointed subsequently and, being blue-eyed candidates, were favored by the Selection Board. As such, the process was challenged, though it was carried out through advertisement and a competitive procedure.

2. Learned counsel for the petitioner submitted that, without assigning any reason, the impugned notification was issued in favour of Respondents No.5 and 6, whereby they were appointed as

Professors without considering all relevant aspects, whereas the petitioner is more entitled as compared to Respondents No.5 and 6; therefore, the said notification is liable to be set aside. On the other hand, learned counsel for Respondent No.5, while relying upon the comments already filed, supported the Notification dated 28.03.2025 and submitted that, after fulfillment of all prescribed criteria, the appointment was made, and as such, the same is not contrary to law. In support of his contention, certain documents have been placed on record. Learned associate counsel for Respondent No.6, under instructions, has adopted the same arguments as advanced by learned counsel for Respondent No.5. Learned counsel for the Respondent-University submitted that the impugned notification is based upon the minutes of the 44th Selection Board meeting held on 25.03.2025, whereby, through Resolution No.3, Respondents No.5 and 6 were recommended and thereafter approved by the Syndicate for appointment to the post of Professor; however, the petitioner did not complete the competitive process, therefore he was not appointed as Professor, and no interference is warranted in the decision of the Selection Board. Learned Additional Advocate General submitted that the competitive process, advertisement, and promotion fall within the exclusive domain of the Selection Board, and since the petitioner was not successful before the Selection Board, such domain ought not to be disturbed at this stage; thus, he supported the stance of the University.

3. Heard and perused the material available on record.

4. The petitioner has taken the stance in his pleadings that he was issued an interview call letter to appear and participate in the open competitive process for the position of Professor of General Surgery; however, the record does not indicate as to under what reasons or justification the case of the petitioner was not considered. The only material available is the minutes of the 44th Selection Board meeting held on 25.03.2025, wherein Resolution No.3 reflects

that Respondents No.5 and 6, namely Dr. Shahid Hussain and Dr. Saira Fatima, were recommended to the Syndicate for appointment to the post of Professor of General Surgery against two vacant positions. Notwithstanding the above, there is nothing on record to demonstrate the criteria adopted for such recommendation, nor has any material been produced to show the basis or manner in which Respondents No.5 and 6 were adjudged suitable through the competitive process. The record is noticeably silent regarding the evaluation mechanism, comparative assessment, or reasons forming the basis of such recommendation, though the same squarely falls within the functions of the Selection Board, as per the decision of the Syndicate passed in its 38th meeting.

5. The Selection Board, no doubt, enjoys exclusive domain in matters of appointment; however, such domain necessarily entails a duty to undertake thorough and meaningful consideration of all relevant factors, including seniority, suitability, treatment of periods of absence, and a comprehensive evaluation of candidates through proper scrutiny and interview. These matters lie within the competence of the relevant authorities and are to be determined after careful examination, involving the exercise of discretion in a fair, transparent, and unbiased manner, free from arbitrariness or injustice. In this regard, guidance can be drawn from the case of *The State of Pakistan and another versus Mehrajuddin* (PLD 1959 SC 147).

6. The record, however, reflects that the Selection Board has recorded only a general finding without ascertaining the relevant facts with any degree of accuracy or due application of mind in the case of the petitioner. The finding contained in Resolution No.03, as relied upon by the University, appears to have been recorded without disclosing any criteria, comparative assessment, or reasons, which constitutes a failure to exercise jurisdiction in accordance with law and also reflects lack of transparency. Such an action squarely attracts judicial review of administrative action by this Court, which

forms the very foundation and hallmark of the jurisdiction of the High Court under Article 199 of the Constitution. In this context, reliance may be placed on the case of *Dr. Iqrar Ahmad Khan versus Dr. Muhammad Ashraf and others* (2021 SCMR 1509), wherein it has been held that:

25. *We are therefore of the view that, the Appellant was not "required" to hold a certain number of syndicate meetings and the Appellant could not have been denied appointment for his failure to do what he was not required by law to do.*

26. *The learned Division Bench has erroneously and for reasons best known to it held that the Court cannot adjudicate upon the reasons given by the Chief Minister. This finding in our humble view constitutes abdication of jurisdiction and power of judicial review of administrative actions by the High Court which is the foundation and hallmark of the jurisdiction of the High Court under Article 199 of the Constitution. Further, we had clearly and categorically held in our order dated 22.04.2018 that the reasons recorded by the appointing authority will be justiciable. In the presence of such clear and categorical findings recorded by this Court, we are unable to comprehend how a finding of this nature could be recorded by the learned High Court. We have been unable to find the basis, logic, reason or rationale behind the view taken by the learned Division Bench that the reasons recorded by the appointing authority do not have to undergo judicial scrutiny. The order of this Court was clearly on a question of law, enunciated a principle of law and was binding on the learned Division Bench in terms of Article 189 of the Constitution. This fact has unfortunately escaped the notice of the learned Division Bench of the High Court. Further, it is settled law that, even the obiter dicta of this Court is binding on the High Court. Reliance in this regard is placed on Justice Khurshid Anwar Bhinder v. Federation of Pakistan (PLD 2010 Supreme Court 483) the relevant part of which is reproduced as under:-*

"Even obiter dictam of the Supreme Court, clue to the high place which the Court holds in the hierarchy of courts in the country, enjoy a highly respected position as if it contains a definite expression of the Court's view on a legal principle, or the meaning of a law. (M. Ismail and Sons v. Trans-Oceanic Steamship Co., Ltd PLD 1966 Dacca 296, Nagappa v. Ramchandra AIR 1946 Bombay 365, K.C. Venkata Chalamayya v. Mad. State AIR 1958 Andh-Par. 173, K.P. Doctor v. State of Bombay AIR 1955 Bom. 220, Bimla Devi v. Chaturvedi AIR 1953 All. 613)." (Emphasis supplied)

27. *The aforementioned principle of law was further highlighted in the case of Muhammad Ali Abbasi and 2 others v. Pakistan Bar Council (PLD 2009 Karachi 392) the relevant paragraph of which is reproduces as under:-*

"Indeed, it is too well-settled of a principle of law, requiring no reconsideration, that even obiter dicta of the Supreme Court are binding on the High Courts, irrespective of the latter's strength (see M. Ismail and Sons v. Trans-Oceanic Steamship Co. Ltd. PLD 1966. Dacca 296, Ghaus Muhammad v. The State PLD 1978 Lah. 1235, Afaquz Zubair v. Muhammad Idrees PLD 1978 Kar. 984, Faiz Bakhsh v. Muhammad Munir 1986 CLC 507, Ghulam Mustafa Mughal v. Azad Government of the State of Jammu and Kashmir 1992 MLD 2083, Abdul Razzak v. The Collector of Customs 1995 CLC 1453, Mian Manzoor Ahmed Wattoo v. The State 2002 YLR 3433, Hafeez-ud-Din v. Badar-ud-Din PLD 2003 Kar. 444, Azad J & K Government v. Ch. Muhammad Saeed, Stenographer 2003 PLC (C.S.) SC (AJ&K) 789 and Watan Party v. FOP 2005 YLR 388).

7. So, keeping in view the above facts and circumstances, the Respondent-University is directed to convene a meeting of the Selection Board within a period of fifteen (15) days and to re-visit the case of the petitioner in light of a comprehensive assessment, including interview, seniority, suitability, and all other relevant criteria as may be applicable. The Selection Board shall pass a speaking and well-reasoned order, even if the decision is recorded through a specific item and resolution, ensuring that reasons are clearly reflected. Such exercise shall be completed within a period of one (1) month from the date of convening the meeting. In the meantime, Notification No. SMBBM/MU/REG-/538 dated 28.03.2025, issued by the Registrar in favour of Respondents No.5 and 6, shall remain suspended only to the extent of Respondent No.5 (shown at Serial No.3) and Respondent No.6 (shown at Serial No.4), and shall not affect the rights of any other candidates. Upon completion of the aforesaid exercise, the Respondent-University shall issue a fresh notification strictly in accordance with the recommendations so made. It is clarified that the remand of the matter to the Selection Board is not intended to fill any lacuna or gap, but rather to ensure transparency, fairness, and proper justification in the decision-making process concerning the petitioner and other competing candidates, including Respondents

No.5 and 6. With these observations, the instant petition stands disposed of, along with all pending applications.

JUDGE

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