JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P.No.1634 of 2020
Rashid Mehmood Chaudhry
Versus
Ministry of Science and Technology and another

Date of Hearing:	04.11.2020
Petitioner by:	Mr. Muhammad Shahzad Siddiq, Advocate
Respondents by:	Mr. Muhammad Nadeem Khan Khakwani, learned Assistant-Attorney General Mr. Akhtar Ali Boghio, Director General, Pakistan Halal Authority Mr. Muhammad Ahmed Iqbal, Law Officer, Ministry of Science and Technology

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MIANGUL HASSAN AURANGZEB, J:- Through the instant writ petition, the petitioner, Rashid Mehmood Chaudhry, seeks a direction to the respondents to issue him an appointment letter for the post of Director (Admin and Finance) (BS-19) against the Punjab quota in the Pakistan Halal Authority (**"P.H.A."**).

2. Learned counsel for the petitioner submitted that in response to an advertisement issued on 15.01.2019, the petitioner participated in the competitive process for the said post; that the petitioner was interviewed and thereafter, he waited for the issuance of the appointment letter but the entire appointment process was scraped and a fresh advertisement has now been issued; and that the scraping of the earlier appointment process and issuance of the fresh advertisement is without any rational basis. Learned counsel for the petitioner prayed for the writ petition to be allowed in terms of the relief sought therein.

3. On the other hand, learned Assistant Attorney-General submitted that the recruitment process in which the petitioner participated was not completed within the prescribed time limit of 120 days; that the Establishment Division's office memorandum dated 04.03.2019 provided *inter alia* that autonomous bodies etc. are required to finalize the recruitment within 120 days from the date

of the advertisement; that the Departmental Selection Committee was chaired by the Director General, P.H.A. who was holding the said post on *"look after charge basis"*; that the Establishment Division, vide office memorandum dated 20.03.2020, clarified that since making appointments did not fall in the category of day to day business of the organization, hence the head of an organization entrusted with a lookafter charge cannot chair the meeting of the Departmental Selection Committee or make any recommendations as the chairman of such Committee; that the Establishment Division had also clarified that the recommendations of the Director General, P.H.A. holding the post on acting charge basis had no value in the eyes of law being against the government policy; that the Cabinet in its decision dated 09.07.2019 had deprecated the practice of entrusting additional charge to officers and had ordered for such a practice to be discontinued; that the entire recruitment process was scrapped and a fresh recruitment process has been initiated by the issuance of an advertisement dated 31.05.2020; and that the petitioner has also re-applied for appointment in the fresh recruitment process. Learned Assistant attorney General prayed for the writ petition to be dismissed.

4. I have heard the contentions of the learned counsel for the petitioner as well as the learned Assistant Attorney General and have perused the record with their able assistance.

5. In response to the advertisement published by the P.H.A. on 15.01.2019, the petitioner participated in the competitive process for appointment as Director (Administration/Finance) (BPS-19) in the P.H.A. against the quota for the province of Punjab. The petitioner was amongst the shortlisted candidates who were interviewed. Thereafter, the entire recruitment process was scrapped. Aggrieved by the decision to scrap the recruitment process, the petitioner filed the instant writ petition seeking a direction to the respondents to issue him an appointment letter against the said post.

6. It is an admitted position that no person was appointed pursuant to the recruitment process initiated through advertisement dated 15.01.2019. Since various posts, including the one for which the petitioner had earlier applied, have been re-advertised by the

P.H.A. on 31.05.2020, and since the petitioner has re-applied for appointment in response to the said advertisement, I am of the view that the petitioner's fundamental rights have not been transgressed by the decision of the P.H.A. to initiate a fresh recruitment process. It may be mentioned that in the earlier advertisement dated 15.01.2019, it was clearly mentioned that P.H.A. reserves the right to stop the recruitment process at any stage.

7. It ought to be mentioned that a recruitment process can be scrapped for reasons which would be justiciable. In the case at hand, the reasons put forth by the respondents for scrapping the earlier recruitment process were that (i) the earlier recruitment process had not been completed within a period of 120 days from the date of the advertisement as required in the Establishment Division's office memorandum dated 04.03.2019, and (ii) the Director General, P.H.A. who had chaired the Departmental Selection Committee had been performing his duties on lookafter charge basis.

8. Indeed, the Establishment Division's office memorandum dated 04.03.2019 provides *inter alia* that Ministries / Divisions / Departments / Attached Departments / Sub-ordinate offices / Autonomous bodies / Semi-autonomous bodies / Corporations / Authorities etc. are required to finalize the recruitment within 120 days from the date of the advertisement. Since the P.H.A. is the creature of the Pakistan Halal Authority Act, 2016 (Act VIII of 2016), it ought to have shown compliance with the requirements of administrative instruction or policy contained in the said office memorandum by ensuring that the recruitment process was completed in 120 days. Where such a process is not completed within the said period, the head of the concerned organization and/or the head of the Ministry who has administrative control over the organization ought to take action against the delinquent officers who cause delay in the completion of the recruitment process beyond 120 days. It would amount to adding a premium to a wrong by upholding the scraping of the recruitment process only on the ground that it was not completed within 120 days of the

advertisement. Therefore, this could be a valid ground for scrapping the recruitment process.

9. As regards the second ground on which the earlier recruitment process was scrapped *viz* the Director General, P.H.A. holding the said office on lookafter charge basis, indeed, in the Establishment Division's office memorandum No.8/3/2020-R-3, dated 20.03.2020 on the subject of *"exercise of administrative / financial powers while holding look after charge"* it was explained that the lookafter charge had not been defined in the Civil Servants (Appointment, Promotion and Transfer) Rules, 1973, and that it is a temporary stopgap arrangement to cater for the day to day affairs of the organization on honorary basis. It was also explained that the officers entrusted with lookafter charge are not empowered to take policy decisions. It was also clarified that appointments and promotions do not fall in the category of day to day business of the organization and therefore the head of an organization entrusted with lookafter charge cannot chair the meeting of a Departmental Promotion Committee or a Departmental Selection Committee and make recommendations as a Chairman of such committees.

10. Since in the case at hand, the Director General, P.H.A. who was holding the said post on lookafter charge basis had chaired the Departmental Selection Committee and had also made recommendations for making appointments, this was contrary to the administrative instructions or policy contained in the said office memorandum No.8/3/2020-R-3, dated 20.03.2020.

11. In view of the above, I do not find any merit in this petition, which is accordingly dismissed with no order as to costs.

(MIANGUL HASSAN AURANGZEB)
JUDGE

ANNOUNCED IN AN OPEN COURT ON _____/2020

*Qamar Khan**

(JUDGE)

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