JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P. No.3204/2017
Mohammad Raza Chohan
Versus.
Federation of Pakistan through Secretary Establishment Division and others

Date of Hearing:	30.11.2017
Petitioners by:	Mr. Muhammad Shoaib Shaheen and Mirza Waqas Qayyum, Advocates.
Respondent by:	Mr. Shahid Habib, Advocate for H.E.C. along with Mr. Shahid Khalid, Director Law, H.E.C.

MIANGUL HASSAN AURANGZEB, J:-Through the instant writ petition, the petitioner, Muhammad Raza Chohan, who is presently serving as Director General (Academics) in the Higher Education Commission ("H.E.C.") questions the legality of the appointment process against the post of an Advisor (BPS-21) in the H.E.C. initiated through a fresh advertisement dated 24.07.2016. Furthermore, the petitioner seeks a direction to respondents No.3 to 5 to complete the appointment process against the post of an Advisor initiated by the H.E.C. through the initial advertisement published in October 2014.

2. Learned counsel for the petitioner drew the attention of the Court to the advertisement published in October 2014 (annexed at page-13 of this petition), and submitted that the H.E.C. had invited applications for appointments against several posts including two posts of Advisors (BPS-21); that the qualifications and experience required by the H.E.C. to be possessed by the applicants was also set out in the said advertisement; that the last date for submission of applications was 15.11.2014; that under the H.E.C. Employees (Recruitment) Rules, 2009 ("the 2009 Rules"), the required qualifications and experience for an applicant for the post of an Advisor (BPS-21) was *inter-alia* M.Phil with 20 years experience in the relevant field in BPS-17 and above; that the 2009 Rules also clarify that the experience prescribed for initial appointment shall be post-qualification experience; that the petitioner possessed the said qualifications and applied for the post of Advisor (BPS-21) in response to the said advertisement; that vide letter dated

08.05.2015, the H.E.C. called the petitioner for an interview before the Selection Board scheduled to be held on 25.05.2015; that vide letter dated 14.05.2015, H.E.C. informed the petitioner that the said interview had been re-scheduled for 26.05.2015; that vide letter dated 22.05.2016, H.E.C. informed the petitioner that the meeting of the H.E.C. Selection Board scheduled to be held on 26.05.2015, had been postponed; and that since a fresh date for the interview was not scheduled by the H.E.C., the petitioner, vide letter dated 25.11.2015 requested the H.E.C. to resume the selection process for the post of Advisor.

3. Learned counsel for the petitioner further submitted that after a long period of silence, the H.E.C. through advertisement dated 24.07.2016 invited applications for *inter-alia* two posts of Advisors (BPS-21); that the last date for the submissions of applications was 15.08.2016; that the H.E.C. could not have re-advertised the posts of Advisors without completing the appointment process which had been initiated through the advertisement published by the H.E.C. in October 2014; that by applying for the post of Advisor (BPS-21) in the process initiated through the advertisement in October 2014, strong vested rights had been created in the petitioner's favour for the appointment process so initiated to be duly completed; that the postponement and subsequent cancellation of the appointment process initiated in October 2014 smacks of *malafides* on H.E.C.'s part; and that a fresh appointment process was initiated by the H.E.C. through advertisement dated 24.07.2016 only to accommodate its blue eyed pre-selected persons. Learned counsel for the petitioner prayed for the writ petition to be allowed, and for the appointment process initiated through an advertisement dated 24.07.2016 to be nullified. Furthermore, learned counsel for the petitioner prayed for a direction to be issued to the H.E.C. to complete the appointment process for the two posts of Advisors (BPS-21) initiated through the advertisement in October 2014.

4. On the other hand, learned counsel for respondents No.3 to 5 submitted that the petitioner had refused to attend the interview before the Selection Board for the appointment of the post of Advisor (BPS-21), initiated through the advertisement dated 24.07.2016; that the reason why the appointment process initiated

through advertisement published in October 2014 was cancelled because the said advertisement was issued in ignorance of the amendment made in the 2009 Rules through SRO No.14(I)/2014, dated 06.01.2012; that by reason of the said amendment, the experience required for the post of Advisor (BPS-21) in H.E.C. was experience in BPS-17 and above or equivalent in a Government/Semi-Government, Public Sector Organization/Autonomous body/Corporation; that since the advertisement published in October 2014 did not carry the words "*or equivalent in a Government/Semi-Government, Public Sector Organization/Autonomous body/corporation"* in the column of qualification/experience, that is why a fresh advertisement was issued on 24.07.2016; that the petitioner did apply in response to the said advertisement dated 24.07.2016 and was also short listed, but for reasons best known to him, he did not appear in the interview; and that the initiation of an appointment process through advertisement dated 24.07.2016 was not for any *malafide* purpose, but to clear an anomaly in the earlier advertisement. Learned counsel for respondents No.3 to 5 prayed for the writ petition to be dismissed.

5. I have heard the contentions of the learned counsel for the contesting parties, and have perused the record with their able assistance.

6. The record shows that through an advertisement published by the H.E.C. in October 2014, applications for appointment against several posts in the H.E.C. were invited from the applicants with the required qualifications and experience. For the two posts of Advisors (BPS-21), the qualifications and experience required as per the said advertisement were as follows:

3	Advisor (BPS-21) Pay Scale (Rs.40000-2600-76400	(2 Positions) Merit = 1 Punjab = 1	PhD degree with 18 years experience in the relevant field in BPS-17 and above OR MPhil with 20 years experience in the relevant filed in BPS-17 and above OR Masters degree with 22 years experience in the relevant field in BPS-17 and	40-55 years

			above Candidate having research publications in journals of international repute will be preferred. **(Detail on HEC website / Job Portal)**	

7 The last date for submission of applications was 15.11.2014. Under the H.E.C. Employees (Recruitment) Rules, 2009 ("the 2009 Rules"), the required qualifications and experience for an applicant for the post of an Advisor (BPS-21) was the same as given in the said advertisement. The 2009 Rules were amended by notification (SRO No.14(I)/2014, dated 06.01.2012) due to which the experience required for the post of Advisor (BPS-21) in H.E.C. was experience in BPS-17 and above or equivalent in a Government/Semi-Government, Public Sector Organization/Autonomous body/corporation. The post of an Advisor is at serial No.7 of schedule-III to the 2009 Rules. The amendment in the 2009 Rules made through the said notification dated 06.01.2012 was applicable to the experience required for appointments against various posts including the post of an Advisor, which is at serial No.7 of schedule-III of the said Rules.

8. Since the advertisement published in October 2014 did not carry the words "*or equivalent in a Government/Semi-Government, Public Sector Organization/Autonomous body/corporation"* in the column of qualification/experience, that is why a fresh advertisement was issued on 24.07.2016. In the said advertisement dated 24.07.2016, the requirements of notification dated 06.01.2012 have been fulfilled. The qualifications and experience required for the post of Advisor (BPS-21) in the fresh advertisement was as follows:-

Advisor (BPS-21) Regular	Merit (1 Position) Punjab (1 Position)	PhD degree with 18 years experience in the relevant field in BPS-17 and above or equivalent in a Government /Semi-Government/Public Sector organization/Autonomous body/corporation. OR MPhil with 20 years experience in the relevant filed in BPS-17 and above or equivalent in a Government /Semi-Government/Public	40-55 years

		Sector organization/Autonomous body/corporation. **OR** **Masters degree with 22 years experience in the relevant field in BPS-17 and above or equivalent in a Government /Semi-Government/Public Sector organization/Autonomous body/corporation.** **Candidate having research publications in journals of international repute will be preferred.** **(Detail on HEC website / Job Portal)**	

(Emphasis added)

9. That the petitioner applied for the post of Advisor (BPS-21) in response to the said advertisement dated 24.07.2016 but did not participate in the interview before the H.E.C. Selection Board. Learned counsel for the petitioner submitted that since the petitioner had applied for the said post in response to an advertisement by H.E.C. in October, 2014, the appointment process so initiated should have been duly completed, instead of reinitiating the appointment process through a fresh advertisement.

10. In response to the earlier advertisement published in October 2014, the petitioner had applied for the post of Advisor, but the interview process was initially rescheduled and later postponed by the H.E.C. Since the petitioner was not interviewed in the process initiated through advertisement published in October, 2014, the petitioner had no vested right to seek an issuance of a writ of mandamus to the H.E.C. to complete the initial appointment process and to annul the appointment process initiated through advertisement dated 24.07.2016. The reason put forth by the respondents for issuing a fresh advertisement *viz* the inclusion of the requirements for the experience as mandated by notification dated 06.01.2012 is reasonable, rationale and does not suffer from any legal infirmity. Since the petitioner has chosen not to attend the interview before the Selection Board of the H.E.C. in response to the fresh advertisement, he has only himself to thank for the unsavory situation he presently finds himself in.

11. Since I find this petition to be devoid of merit, the same is dismissed with no order as to costs.

(MIANGUL HASSAN AURANGZEB)
JUDGE

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