

IN THE SUPREME COURT OF PAKISTAN

PRESENT:

MR. JUSTICE EJAZ AFZAL KHAN
MR. JUSTICE MAQBOOL BAQAR
MR. JUSTICE FAISAL ARAB

CIVIL PETITION NO.536 OF 2015

(Against judgment dated 04.2.2015 of the Peshawar High Court, Peshawar passed in Writ Petition No.1012 of 2014)

Dr. Ikramullah Khan ... Petitioner

Versus

Khyber Pakhtunkhwa Agricultural University,
Peshawar and others ... Respondents

For the petitioner: Mr. M.Shoaib Shaheen, ASC

For respondent Nos.1-5: Mr. Khalid Khan, ASC

For respondent Nos.6-7: Mr. Tanvirul Islam, ASC
Raja Abdul Ghafoor, AOR.

Respondent No.8. Not represented

On Court's Call: Dr.M.Mukhtar, Chairman HEC
Professor Khan Bahadur
Professor M.Ismail.

Date of hearing 08.3.2018

ORDER

MAQBOOL BAQAR, J. - The grievance of the petitioner is that though he has achieved his Doctor of Philosophy (**PhD**) degree, in “Weed Sciences”, and also possess the requisite length of ten (10) year experience, as prescribed for the post of Associate Professor (BS-20) but he has not been selected for the said post, and instead respondent No.6 and 7, who have neither been conferred doctorate in “Weed Science” nor do they possess the requisite experience, have been selected for such appointment.

2. Applications were invited, inter alia, for the post of Associate Professor (BS-20) in Weed Science Department by respondent No.2. According to the petitioner, he along with respondent No.6 and 7, applied for the said post. However he was the only candidate who has earned PhD in Weed Science, as the doctorate conferred on respondent No.6 was in “Bio Technology”, whereas respondent No.7 has earned his Doctorate in “Agricultural Sciences”. The petitioner further submitted that having been appointed as a Lecturer in the Weed Science Department on regular basis on 17.2.2003, he, at the relevant time possessed the requisite teaching experience of ten (10), years whereas respondents No.6 and 7 lacked such experience as it was through order dated 03.2.2005, that the appointments of said respondents as Lecturers were regularised with effect from 18.1.2005 and thus their experience comes to eight (8) years 4 months and 27 days only.

3. On the other hand respondent No.6 denied the petitioner self-professed exclusivity, and claimed that her PhD also is in the field of “Weed Science”, which fact according to her, is evident from the title of her thesis, and has also been verified by Professor Hiroshi Matumoto, of the Faculty of Life and Environment Sciences, who remained her principal supervisor during her pursuit of the degree, through his letter dated 15.4.2014, by, inter alia, stating that “There is no doubt that her degree is in Weed Science.” She claimed that her research papers have been published in various national and international reputable weed science journals like the “Journal of

the Weed Science Society of America.” She stated that after being awarded Master of Science (Honours) in Weed Science by NWFP Agriculture University, she was, on 01.2.2003 appointed as a Lecturer in the Weed Science Department of the University, which appointment was, through order dated 03.2.2005, regularised with effect from 01.1.2005. In 2006 she proceeded to pursue her PhD study and research programme in Weed Science, and was conferred a Doctorate in Weed Science in 2010, whereafter she resumed teaching in the respondent University, and was through order dated 17.9.2010 appointed as an Assistant Professor (BS-19), in the Department of Weed Science. In April 2011 she proceeded for her Post-doctorate in Weed Science. Respondent No.6 further stated that her teaching experience at the time of the closing date for the submission of the application was over 10 years. She claimed that being an HEC approved supervisor in the subject of weed science she is competent to supervise the students in pursuit of their PhD degree in Weed Science.

4. Whereas respondent No.7 claimed that after obtaining his Masters of Science (Honours) in Weed Science from NWFP University, on 16.9.2002, he joined the University, as a Lecturer on contract basis in the department of Weed Science, which appointment was, through order dated 03.2.2005 regularised with effect from 18.2.2005. He being a Lecturer in the department of Weed Science, HEC awarded to him a scholarship for a PhD programme in Weed Science, of the School of Agriculture and Food Sciences,

University of Queensland, Brisbane, Australia in 2006, and after being conferred a doctorate degree in Weed Science, he came back to Pakistan in 2011. According to respondent No.7, it was on the basis of the said degree that HEC, through letter dated 17.4.2014, accredited him to supervise the students/candidates pursuing their PhD studies and research in Weed Science. Respondent No.7 also claimed that by the closing date, he has earned eleven (11) years of experience which was one year in excess of the required experience.

5. In order to resolve the controversy regarding the field and scope of the subject degrees, this Court through order dated 30.10.2017, directed the petitioner, and respondents No. 6 & 7, to submit copies of their dissertation, and also desired to hear the Chairman, Higher Education Commission (HEC), along with an expert in Weed and Agriculture Sciences. In compliance with the said order, the Chairman HEC, along with an expert appeared before the Court. He submitted that in order to determine as to which particular field of Agriculture Science, the doctorate degrees conferred upon respondents No. 6 & 7 pertains to, a thorough perusal of the dissertation submitted by them would be required. He thus constituted a Committee comprising Dr. Professor Khan Bahadar Marwar, Pioneer chairman, Weed Science (Retd), University of Agricultural, Peshawar, and Dr. Professor Zahid Ata Cheema, Ex-Chairman, Department of Agronomy, University of Agriculture, Faisalabad. On 15.02.2018 the Chairman HEC submitted his report regarding the appraisal of the dissertations of the petitioner and the

respondents undertaken by the aforesaid experts Committee. From the minutes of the meeting of the said Committee, held on 11th January, 2018, a copy whereof is annexed to the Chairman's report, it can be seen that the Committee upon examining the dissertations, and after due deliberation has come to the conclusion that the dissertations/thesis of all three of them, pertain to the field of Weed Science. Through their "general remarks" as incorporated in the said minutes, the Professors seem to have conveyed that normally in relation to foreign degrees conferring a doctorate on a candidate it is not the text of the degree, but the research conducted by the candidates (which certainly is reflected through their dissertations) which is determinative of the specific area or specialization of/in a particular subject the doctorate has been conferred.

6. As regards the thesis submitted by respondent No. 6, which is titled "Mechanism of Trifluralin Resistance in *Alopecurus Aequalis*", it is submitted that the same delves into the Resistance Mechanism of "Trifluralin (Treflan) in a renowned weed known as "*alopecurus aequalis*", the degree, in the words of the said experts therefore irrefutably pertains to the field of Weed Science. The contents of the thesis highlighted in the minutes leave no manner of doubt that the focus of the thesis, all the way, is on resistance of herbicide in Weeds and the matters related thereto. However, for a better comprehension of the issue, the contents of the thesis as mentioned in the report are reproduced hereunder:

- i. Bioassay to confirm the resistance of herbicide in weeds
- ii. Absorption and translocation of ¹⁴C (Labelled Carbon) Trifluralin in concerned weed
- iii. Cloning and isolation of tubulin genes
- iv. Cloning of AaTUA genes from Trifluralin resistance types of concerned weed
- v. Tubulin genes expression in concerned weed.

7. Similarly, as per the minutes, the thesis submitted by respondent No. 7, titled “Long Term Sustainable Management of Parthenium Weed, using Suppressive Pasture Plants” pertains to “one of the most noxious weeds of the world, namely, Parthenium, particularly its management, and use of suppressive plants for the purpose. The contents of the respondent No. 7’s thesis are as follow:

- i. The general introduction to the weed Parthenium and its menace
- ii. Management options for concerned weed
- iii. Selection of suppressive plants through glass house study
- iv. Suppression of Parthenium through field study
- v. Suppression of Parthenium weed through simulated grazing
- vi. Suppression of Parthenium under elevated Carbon Dioxide (conditions)
- vii. It includes the general discussion in conclusion of the study.

The above makes it abundantly clear that the degree of respondent No. 7 also is conferred on the basis of research and dissertation/thesis in the field of Weed Science.

8. In his report the Chairman, HEC fully endorsed the opinion and findings expressed by the experts Committee. He pointed out that the petitioner and the respondent No. 7 both were conferred their doctorates by the University on Queensland Australia, and conducted their studies and research at the said University under one and the same Professor, namely, Steve Adkins. However, as per the University’s practice, as reflected from an e-mail addressed to

respondent No. 7 upon his successfully completing the PhD Program, the University requested him to inform it, as to what title he would prefer to be incorporated in his PhD degree, and it was thus on the choosing of respondent No. 7 that his degree was described as that in “the field of Agriculture Science”. However this Court by way of an abundant caution sought a further input in the matter, by also keeping in view the academic history of the petitioner and the aforesaid respondents, and on 15.02.2018 ordered accordingly.

9. In pursuance of the said order, the Chairman HEC constituted a fresh Committee by adding two more experts to the earlier Committee, namely, Dr. Tariq Mehmood, Professor, PMAS Arid Agriculture University, Peshawar and Dr. Sikander Khan Tanveer, Weed Program Leader/Principal Scientific Officer, Crop Scientist Institute, National Agriculture Research Centre (NARC), Islamabad. As per the report submitted by the Chairman HEC the said experts, after reviewing and analyzing the subject dissertations thoroughly, firmly expressed that the thesis/dissertations of all the three candidates pertain to Weed Science. The minutes of the deliberation of the Committee, which also contains a brief resume of the subject dissertations reinforces their opinion that the dissertation forming basis of the degrees in question relates to the field of Weed Science. Analyzing the dissertation/thesis of respondent No. 7 the Committee submitted that he has studied the management options of the Parathenium weed, suppression of Parthenium through suppressive plants in glass house as well as in the field and that he also studied

weed suppression through simulated grazing of animals, and under elevated Co2 conditions and has also recommended suppressive plants for such management. As regards the dissertation/thesis of respondent No.6, the committee stated that she had conducted bioassay studies to confirm herbicide resistance and used C14 trifurcation for absorption and translocation in the same weed and that she also conducted molecular study to clone and isolate tubulin genes and further studied expression of AaTUA genes in Alopecurus aequalis, which is a common weed. The subject, scope and the focus of respondents in their doctorate program was therefore evidently and clearly relating to the management of weeds which falls within the ambit of Weed Science. It may also be beneficial to note here that Weed Science is the discipline concerned with plants that may be considered weeds, their effects on human activities and their management. It is the study of vegetation in agriculture, aquatics and horticulture.

10. The minutes also contain information about the academic history of the petitioner and the said respondents as follows:

Degree	Dr. Ikramullah Khan, petitioner	Dr. Saima Hashim, respondent No. 6	Dr. Naeem Khan, respondent No. 7
Graduation	<ul style="list-style-type: none">BSC-2 yearGomal University, DIK (14 years of schooling)	<ul style="list-style-type: none">BSC (Hons) Agriculture (4 years)NWFP Agricultural University Peshawar, 16 years of schooling	<ul style="list-style-type: none">BSC (Hons) Agriculture (4 years)NWFP Agricultural University Peshawar, 16 years of schooling
MSC	<ul style="list-style-type: none">MSC (Botany)- 2 yearsDepartment of	<ul style="list-style-type: none">Already covered in BSC (Hons) ProgramTranscript/Detailed	Already covered in BSC (Hons) Program

	Botany University of Peshawar ▪ Transcript/Detailed Marks certificate (DMC) not provided therefore cannot comment on relevancy of courses taken ▪ (16 years of schooling)	Marks Certificate (DMC) ascertain the relevancy of courses in the area of Weed Science	▪ Transcript/Detailed Marks Certificate (DMC) ascertain the relevancy of courses in the area of Weed Science
MPhil	▪ MPhil (Botany) ▪ Department of Botany University of Peshawar, Peshawar ▪ Field of Specialization: Botany (Invasive Weeds) ▪ Transcript detailed Marks Certificate (DMC) not provided therefore cannot comment on relevancy of courses taken ▪ 18 years of schooling	▪ M.Sc (Hons) Agriculture ▪ Department of Weed Science, NWFP Agricultural University Peshawar ▪ MPhil in Weed Science with courses and dissertation in Weed Science ▪ 18 years of schooling	▪ M.Sc (Hons) Agriculture ▪ Department of Weed Science, NWFP Agricultural University Peshawar ▪ MPhil in Weed Science with courses and dissertation in Weed Science ▪ 18 years of schooling
PhD	▪ Dissertation title: Spread of Weed Seeds and its Prevention	▪ Dissertation title: Mechanism of Trifluralin Resistance in Alopecurus aequalis	▪ Dissertation title: Long Term, Sustainable Management of Parthenium Weed (Parthenium Hysterophorus L.) Using suppressive Pasture Plants

From the above it can be seen that the petitioner did his MSc in Botany, however since he has not furnished his detailed marks sheet the specific field of such degree is not known. He however did MPhil in Botany with specialization in invasive weeds. On the other hand respondent No. 6 & 7 have done their BSc (Honors), in Agriculture, and their MSc (Honors), as well as MPhil in Weed Science, and their dissertation/thesis also was in Weed Science, and therefore Weed Science has remained the subject of their academic pursuit since earlier than that of the petitioner.

11. In addition to the foregoing, the respondents’ claim of their having earned doctoral in Weed Science is also verified and

reinforced from the letters written by their advisor, and principal supervisor, respectively, and thus through letter dated 15.4.2014, Dr. Professor Hiroshi Matsumoto, of Faculty of Life and Environmental Sciences, Director, Center in Research for Isotopes and Environmental Dynamics, University of Tsukuba, Japan, whilst verifying that he was the advisor of respondent No.6 during her PhD thesis, stated that her research was on Herbicides Resistance, which is a major problem conferring the contemporary Weed Science and unequivocally confirmed that her degree is in Weed Science. The Professor further stated that the PhD research papers of respondent No.6 have been published in Weed Science, the oldest journal of Weed Science. Likewise, Professor Steve Adkins, through his letter/certificate of April 2014, verified that respondent No.7 has conducted research studies for PhD under his supervision and also under the supervision of Dr's Doug George and Chris O'Donnell, at the University of Queensland, Brisbane, and that respondent No.7 carried out his PhD studies on the "Long term sustainable management of Parthenium Weed (*Parthenium hysterophorus* L.) using suppressive pasture plants" and that his research work delved into the question as to how certain pasture plants would suppress the growth of parthenium weed, which is a significant invasive alien weed in more than 30 countries in an attempt to find ways of better management thereof, and that the evaluation of his work was conducted by external weed experts, before the PhD degree was awarded to him. The Professor clearly stated that the subject area of

the said respondent's thesis was "Weed Science" and further that the respondent No.7, during his stay at the University learned research skills in many areas of Weed Science, and management of world's most important invasive alien weeds, parthenium weed. He appreciated respondent No.7, *inter alia*, by saying that he fitted well into the Tropical and Subtropical Weeds Research Units within the University and reiterated that the subject area of his Doctoral study was "Weed Science" and that he has also published papers in the journals pertaining to Weed Science of national and international significance.

12. Indeed, it is true that the text of the PhD degrees awarded to the aforesaid respondents do not contain the word "Weed Science", however, as stated by the experts and academics on the subject, it is not the text of the degree that are determinative of the question, as to in which specific field or the area of a particular subject, the degree has been awarded, it is rather the dissertation/thesis which reveals the field/specialization and the scope of the degree.

13. We may observe here that PhD degrees are awarded for programs across a wide spectrum of academic fields. During his doctorate programme, usually a candidate has to complete a course work and comprehensive examinations. The candidate also has to work on his dissertation/thesis. A PhD candidate has to submit a project, thesis or dissertation, often consisting of a body of original academic research. As has been thoroughly examined and analysed

by the experts who were assigned the task by the Chairman HEC under order of this Court, and as also evident from the afore-discussed letters of the research supervisor/advisors of the said two respondents, the study, and research conducted and dissertation/thesis written and submitted by them in pursuit of their doctorate degrees, were undoubtedly in the field of Weed Science and therefore the petitioner, who too has done his PhD in Weed Science should have known the above fully well, and ought to have avoided initiating legal proceedings challenging the appointment of respondent No.6 and 7 on the frivolous grounds as urged by him.

14. The petitioner's objection that the said two respondents did not possess the requisite experience, also is clearly untenable, baseless and frivolous, as the said respondents have since their appointment on 01.2.2003 and 16.9.2002, been teaching Weed Science in the respondent University. The fact as to when and on what date, their such appointments were confirmed has absolutely no relevance in the matter at all, more so when it has not even been alleged that they were not teaching the students on regular/ full time basis, like the petitioner, or any other lecturer/teacher appointed on regular basis. Furthermore, as noted in the impugned judgment, since the credential and academic qualifications of the respondents were evaluated by three subject specialist from outside the Respondents' university, and the same were re-evaluated by a high profile committee and were after going through the said process, granted marks higher than those granted to the petitioner, and their

re-evaluation by the Selection Board was approbated by the Syndicate of the University. Neither the High Court, nor this Court can, in the facts and circumstances of the case, substitute such evaluation, opinion and recommendation in favour of the respondents.

13. We therefore do not find any merit in the petitioner's case and would refuse leave, and dismiss the petition accordingly.

Judge

Judge

Judge

Announced in open Court on **12.4.2018**
at Islamabad

Judge.

'APPROVED FOR REPORTING'
(*Aamir Sh.*)