

JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P.No.4361/2018

Dr. Waqas Wakil

Versus

Federation of Pakistan through Secretary, Ministry of National
Food Security and Research and another

Date of Hearing:	23.07.2019
Petitioner by:	M/s Muhammad Umair Baloch and Muhammad Iqbal Maken, Advocates
Respondents by:	Mr. Muhammad Nadeem Khakwani, learned Assistant Attorney-General with Abdul Samad Sheikh R.O. (Lit.) and Babar Ali Qureshi, S.O. Respondent No.2 in person.

MIANGUL HASSAN AURANGZEB, J:- Through the instant writ petition, the petitioner, Dr. Waqas Wakil, seeks the issuance of a writ of *quo-warranto* against respondent No.2.

2. Learned counsel for the petitioner submitted that through advertisement dated 09.01.2018, respondent No.1 had invited applications from suitable candidates for appointment against the post of Plant Protection Adviser/Director General (BS-20); that respondent No.2 had applied for appointment against the said post; that the petitioner was also considered for appointment against the said post by virtue of order dated 09.05.2018 passed by the Hon'ble Supreme Court; that even though the Short Listing Committee ("S.L.C.") constituted by respondent No.1 had remarked that respondent No.2 "*lacks Admin & Regulatory experience & Research Papers*", the Departmental Selection Committee ("D.S.C.") nonetheless recommended respondent No.2 for appointment against the said post; that vide respondent No.1's notification dated 25.10.2018, respondent No.2 was appointed against the said post; that since respondent No.2 lacked the required qualifications and experience explicitly mentioned in the advertisement, his appointment was liable to be declared as unlawful by this Court; that the documents relied upon by respondent No.2 show that he had the required qualifications and

experience, were submitted after the cutoff date of 24.01.2018 mentioned in the said advertisement; and that such documents could not be taken into consideration by the D.S.C. while recommending respondent No.2 for appointment against the said post. Learned counsel for the petitioner prayed for the writ petition to be allowed in terms of the relief sought therein. In making his submissions, learned counsel for the petitioner placed reliance on the judgments reported as 2019 SCMR 1 and 2019 PLC (C.S.) Note 17.

3. On the other hand, the learned Assistant Attorney-General ("A.A.G.") submitted that respondent No.2's appointment as Plant Protection Adviser/Director General (BS-20) does not suffer from any legal infirmity; that respondent No.2 participated in the competitive process pursuant to the advertisement dated 09.01.2018 and was recommended by a three-member D.S.C. for the said appointment; that respondent No.2's documents had been scrutinized by the D.S.C. and he was found to be eligible and qualified for appointment against the said post; that since the petitioner had also competed for appointment against the said post, he cannot seek the issuance of a writ of *quo-warranto*; and that the petitioner by seeking to question respondent No.2's appointment is indirectly trying to obtain a benefit for himself. Learned A.A.G. prayed for the writ petition to be dismissed.

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

5. The facts essential for the disposal of the instant writ petition are that on 09.01.2018, the Ministry of National Food, Security and Research (respondent No.1) published an advertisement inviting applications for appointment against the post of Plant Protection Adviser/Director General (BS-20) on contract basis for a period of two years in the Plant Protection Department, Karachi, Ministry of National Food Security and Research. As per the said advertisement, the applicants were required to possess the following qualifications and experience:-

- “i. 2nd Class Master’s Degree in Agriculture Science with specialization in Entomology or M.Sc. in Entomology.*
- ii. Evidence of original research, extending over a period of fifteen (15) years, with publication in any foreign journal of repute.*
- iii. Admin and regulatory experience”*

6. The eligible candidates were required to submit their applications on prescribed form along with the attested copies of the documents. The prescribed application form was set out in the said advertisement. The applications were required to be submitted within 15 days of the publication of the advertisement, i.e. by 24.01.2018.

7. Respondent No.2 was one of the fifteen applicants for the said post. Vide office order dated 13.04.2018, a S.L.C. was constituted to scrutinize the documents submitted by the applicants. The said Committee, in its meeting dated 18.04.2018, scrutinized the documents of the fifteen applicants, and with respect to respondent No.2, the said Committee’s remarks were as follows:-

“Lacks Admin & Regulatory experience & Research Papers”

8. The petitioner was also considered for appointment against the said post by virtue of the order dated 09.05.2018, passed by the Hon'ble Supreme Court in Civil Petition No.1247/2018.

9. It is an admitted position that five short listed candidates, including the petitioner and respondent No.2, were called for interview by the D.S.C. The D.S.C., in its meeting dated 03.10.2018, unanimously recommended respondent No.2 for appointment against the said post on contract basis for a period of one year in terms of Rule 14 of the Civil Servants (Appointment, Promotion and Transfer) Rules, 1973 (“the A.P.T. Rules”). The D.S.C. had awarded 96 marks to the petitioner and 124 marks to respondent No.2.

10. Vide respondent No.1’s notification dated 25.10.2018, respondent No.2 was appointed as Plant Protection Adviser/Director General (BS-20), Department of Plant Protection on contract basis for a period of one year.

11. I first propose to deal with the contention of the learned counsel for the petitioner that respondent No.2 lacked administrative and regulatory experience. The respondents rely on letter dated 23.01.2018 issued by the Pakistan Agriculture Research Council ("P.A.R.C.") in support of their contention that respondent No.2 had the necessary administrative and regulatory experience. The said letter shows that the terms of reference for respondent No.2's appointment as the Principal Scientific Officer in the P.A.R.C. was to arrange meetings of Vice Chancellors' forum to streamline the research plan of academia with national agriculture research agenda. His responsibilities also included the interaction at national level with private companies, NGOs, progressive famers, manufacturers and public sector organizations to develop linkages for dissemination of research technologies of P.A.R.C. and knowledge sharing therein. The P.A.R.C. had also certified that respondent No.2 had developed effective managerial skills and enough administrative experience, enabling him to shoulder any assignment of a national level.

12. As regards the contention of the learned counsel for the petitioner that respondent No.2 did not have enough research papers, suffice it to say that the D.S.C. had taken into consideration the 10 international research publications co-authored by respondent No.2 and the 26 national research publications co-authored by him. These documents were brought on record by the respondents without any objection by the petitioner.

13. As regards the contention of the learned counsel for the petitioner that the research publications had been submitted after the cutoff date mentioned in the advertisement, this is a disputed question of fact that cannot be resolved without the recording of evidence. Be that as it may, all the research publications are of a period prior to the issuance of the advertisement dated 09.01.2018. It cannot be said that respondent No.2 had acquired the requisite qualifications or experience after the deadline in the said advertisement.

14. 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 05-08-/2019


Qamar Khan*

(JUDGE)