

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**PRESENT:**

MR. JUSTICE UMAR ATA BANDIAL, CJ  
MR. JUSTICE MUHAMMAD ALI MAZHAR

**CIVIL APPEAL No. 64 OF 2022**

(Against the Judgment dated 30.01.2018  
passed by the Islamabad High Court,  
Islamabad in F.A.O.No.98/2017)

Federal Public Service Commission, Islamabad & .... Appellants  
another

**VERSUS**

Dr. Shahid Hanif ...Respondent

For the Appellants: Ch. Aamir Rehman, Addl. AGP  
Mr. Kamran Riffat, DD FPSC  
Mr. M.Abdullah, AD FPSC

For the Respondent: Nemo

Date of Hearing: 30.05.2022

**JUDGMENT**

**MUHAMMAD ALI MAZHAR, J:-** This Civil Appeal, with leave of the Court, is directed against the judgment dated 30.01.2018 passed by learned Islamabad High Court in F.A.O.No.98 of 2017, whereby the First Appeal filed by the respondent was allowed and impugned orders dated 27.02.2017, 09.05.2017 and 31.05.2017 were set aside.

2. The transient facts of the case are as under:-

A vacant Post of Executive Director (BS-21) in the Federal Government Polyclinic (PGMI) was to be filled under Capital Administration and Development Division, according to the recruitment Rules notified on 17.12.2014. The respondent applied for the post, appeared and qualified the test conducted by Federal Public Service Commission (FPSC). On scrutiny of documents, he was found deficient in the post qualification experience. The respondent's claim to count his experience prior to degree in Public Health was not accepted and his representation dated 13.3.2017 was dismissed by FPSC. He filed review application which was also rejected on 31.5.2019.

3. Leave to appeal was granted vide order dated 28.01.2022 in the following terms:-

"Learned Additional Attorney General for Pakistan relies upon the notification being SRO No.1138(I)/2014 dated 17.12.2014 published in the gazette of Pakistan on 23.12.2014 also relied upon in the impugned judgment and contends that for initial appointment of an Executive Director, Federal Government Polyclinic Hospital under the Capital Administration & Development Division, Islamabad, the candidate is required to possess education qualification and experience and also be within age limit as mentioned against the post concerned in the schedule and the experience means experience gained in a regular full time paid job after obtaining the required qualification. He next contends that the schedule contains that there should be 22 years of experience in the field of public health in BPS-17 and above including 3 years experience of administration and management in a post of BPS-19 and above. Learned Additional Attorney General further contends that the respondent did not meet the condition in that he did not have 22 years of experience in the field of public health in BPS-17 and above and thus was not qualified to be appointed as Executive Director. The Additional Attorney General further contends that the High Court has misinterpreted the rules and come to a wrong finding, which is not supported by law.

2. The submissions made by the learned Additional Attorney General require consideration. Leave to appeal is granted to consider, inter alia, the same. The appeal stage paper books be prepared from the available record with liberty to the parties to file additional documents, if any, within a period of one month. As the matter relates to service, office is directed to fix the same expeditiously, preferably, after three months."

4. The learned counsel for the appellant argued that the respondent did not possess post qualification experience as advertised hence he was not eligible for appointment to the post of Executive Director (BPS-21) which was advertised by the FPSC in pursuance of Section 7 (1)(a) of Federal Public Service Commission Ordinance, 1977. On scrutiny of the documents, the respondent was found lacking in post qualification experience by 10 years, 1 month and 25 days for the reason that he acquired MBBS degree in 1987 and passed out FSCP/higher diploma in Public Health on 10.12.2004. It was further contended that while rendering the impugned judgment, the learned Islamabad High Court overlooked the requirement of Rule 12 of the Civil Servants (Appointment, Promotion & Transfer) Rules, 1973 ("APT Rules 1973") as well as the criteria prescribed in order to count the experience in terms of Establishment Division's Office Memorandum, O.M.No.39 dated 22.10.1976, circulated by FPSC which is also available as

SL.No.12, ESTACODE 2007, Volume-II. He further argued that Rule 12 of the APT Rules, 1973 makes it mandatory that experience required for any post would be post qualification unless otherwise specified. In the instant case if experience before acquiring a degree/higher diploma in Public Health was to be accepted then it must have been so prescribed in the rules for the said post.

5. Heard the arguments. According to Sub-Rule (2) of Rule 3 of the APT Rules, 1973, the method of appointment, qualifications and other conditions applicable are laid down by the concerned Ministry/Division in consultation with Establishment Division. In exercise of powers conferred by Sub-Rule (2) of Rule 3 of the APT Rules, 1973 and Sub-Clauses (i) and (ii) of Clause (b) of Sub-Section (1) of Section 7 of the Federal Public Service Commission Ordinance 1977, the methods, qualifications and other conditions were laid down for the appointment of Executive Director (BPS-21), Joint Executive Director (BPS-20), Deputy Executive Director (BPS-19) and Assistant Executive Director (BPS-18) in the Poly Clinic/Federal Government Services Hospital (FGSH) under the Ministry of Capital Administration *vide* SRO No.1138(I)/2014, dated 17.12.2014, published in the Extraordinary Gazette of Pakistan on 23.12.2014. The post of Executive Director (BPS-21) was to be filled initially by promotion, however, in the method of appointment enunciated under Rule 3, it is also provided that if no suitable person is available for promotion, the post reserved for promotion shall be filled by initial appointment. In Rule 4 of the aforesaid SRO, 'experience' means experience gained in a regular full-time paid job after obtaining the required qualification. For ease of reference, Rule 4 is reproduced as under:

"4. A candidate must be possess the educational qualifications and experience and must be within the age limits as mentioned against the posts concerned in the Schedule to this Notification provided that:-

- (i) "Experience" means, experience gained in a regular full-time paid job after obtaining the required qualification.
- (ii) The period spent by a candidate in obtaining degree of M.Phil or Ph.D in the relevant field shall be treated as practical experience up to a maximum period of two and four years respectively for the purpose of initial appointment, provided that:

- (a) a candidate who has obtained the degree of M.Phil or Ph.D during service shall not be entitled to a double benefit of counting the said period as service towards experience prescribed for the post; and
- (b) this concession shall not be available for the posts for which the prescribed qualification is M. Phil or Ph.D.
- (iii) the maximum age limit shall be relaxed to respect of the candidates specified and to the extent indicated in the initial Appointment to Civil Posts (Relaxation of Upper Age Limit) Rules, 1993 as amended from time to time; and
- (iv) eligibility of candidates shall be reckoned as on the closing date fixed for submission on applications in accordance with these Recruitment Rules and the Instructions issued by the Federal Government and the Federal Public Service Commission from time to time."

**SCHEDULE**  
(See Rule 4)

S.No.	Designation and BPS of the post	Qualification and experience	Age Limits	
			Min	Max
(1)	(2)	(3)	(4)	(5)
1.	Executive Director (BS-21)	(i) MBBS or equivalent qualification recognized by Pakistan Medical and Dental Council.  (ii) Postgraduate Higher Diploma/Degree in Medical Administration/Public Health/ Health Services Administration.  (iii) 22 years' experience in the field of Public Health in BS-17 and above including 03 years' experience (not as head of Hospital) of Administration and Management in a post of BS-19 and above.	42 years	50 years

(N.B: Only relevant portion is reproduced)

6. The required qualification and experience for the post of Executive Director (BPS-21) is mentioned in the Schedule appended to the aforesaid Rules but in the column of “experience” the condition “experience gained in regular full-time paid job after obtaining the required qualification” is not mentioned in the Schedule but the condition of post qualification experience is commensurate to Rule 4 which should be read in conjunction with the condition for required

experience in the Schedule as laid down in Rule 4, rather than reading out the required qualification in isolation or seclusion. It is also significant that though a corrigendum was issued in continuation SRO No.1138(I)/2014 on 04.03.2015 but this corrigendum did not affect or amend Sub-Rule (i) of Rule 4, which delineates the required experience for the advertised posts.

7. According to Rule 12 of the APT Rules, 1973, a candidate for initial appointment must possess the educational qualifications and experience and the experience prescribed for initial appointment shall be the post qualification experience. For ease of reference, Rule 12 is reproduced as under:

"12 A candidate for initial appointment to a post must possess the educational qualifications and experience and, except as provided in the rules framed for the purpose of relaxation of age limit, must be within the age limit as laid down for the posts:

[Provided that unless otherwise specified in the method of appointment, qualifications and other conditions applicable to a post as laid down under sub rule (2) of rule, 3, the experience prescribed for initial appointment shall be the post-qualification experience]".

8. Corresponding to General Instructions of the Federal Public Service Commission, the post qualification experience as mentioned in Rule 12 of the APT Rules, 1973 means experience gained in regular full-time paid job, including experience of daily wages, contingent services and that of the on job training, subject to its relevancy acquired after attaining the requisite minimum advertised qualification. The relevant portion is reproduced as under:

**FEDERAL PUBLIC SERVICE COMMISSION**  
**GENERAL INSTRUCTIONS**

**AN APPLICATION IS LIABLE TO BE REJECTED, IF THE  
INSTRUCTIONS MENTIONED BELOW ARE NOT FOLLOWED**

**2. EDUCATIONAL QUALIFICATIONS AND EXPERIENCE**

1) The prescribed educational qualifications and valid registration with PEC/ PMDC/ PNC and such other institutions where applicable must have been acquired on or before the closing date for submission of applications. Applications of candidates, whose result is not officially

announced by the Controller of Examination of a Board/ University on or before the closing date, shall not be considered. Proof of the announcement of results (date, month and year) should be provided along with the requisite documents.

II) The eligibility of a candidate is governed by the Recruitment Rules of a post. Candidates who claim equivalence of a foreign degree with the prescribed educational qualifications of post, must at the time of submission of requisite documents, enclose certificate/proof of such equivalence of degrees/diplomas/certificates issued by the competent authority e.g. Higher Education Commission/Pakistan Engineering Council/Pakistan Council of Architects & Town Planners /Pakistan Nursing Council/Pakistan Medical and Dental Council/Inter Board Committee, along with their translation in Urdu/English. Otherwise their applications will be liable to rejection, and no subsequent claim on this account will be accepted by the Commission.

III)'Post qualification experience' means the experience gained in a regular full time paid job including experience of daily wages/contingent services and that of the on job training subject to its relevancy acquired after attaining the requisite/ minimum advertised qualifications. Period reckonable as post qualification experience is from date of commencement of experience which essentially must be after date of attaining the qualification (counted after the result of requisite qualification is officially announced by the Controller of Exam of a Board/ University concerned) till the closing date. The experience as part time, honorary/ self-employed and apprentice/ internee will not be considered/ counted as experience.

IV) Any experience overlapping with another period of post qualification experience will also not be admissible.

V) Subsequent changes in post qualification experience in the form of additional certificates supplied later will not be admissible (unless asked for by the FPSC).

VI) The decision as to which foreign or Pakistani qualification is equivalent to corresponding Pakistani degree rests solely with the Commission

VII) The period spent by a candidate in obtaining degree of M.Phil/Ph.D in the relevant field shall be treated as practical experience up to a maximum period of two and four years, respectively, for the purpose of initial appointment, provided that:

- i) a candidate who has obtained the degree of M.Phil/Ph.D during service shall not be entitled to a double benefit of counting the said period as service towards experience prescribed for the post; and
- ii) this concession shall not be available for the posts for which the prescribed qualification is M.Phil/Ph.D.

9. At this moment, it is also significant to gaze O.M.No.39/3/75-DV (PT) dated 22.10.1976, (Sl.No.12 Page-1245 ESTACODE Edition 2007, Volume-II, "Criteria for counting of prescribed length of experience for recruitment to various posts") as well as Sl.5.2, ESTACODE, Edition 2015, which were also referred to by FPSC vide communiqué dated 8.7.1981 for inviting attention of all Ministries/Divisions that wherever they consider that the experience gained before acquiring minimum prescribed educational qualification should also be accepted as

relevant, this should be made clear while forwarding the requisition for the post and full justification may be given for providing this relaxation in the interest of service. It was further provided in the aforesaid Office Memorandum that the Commission, after due consideration of the proposal, may agree to advertise this condition in the advertisement so that the candidate concerned should know it before applying for the post and unless such a clearance is given in the requisition for the posts concerned and advertised by the Commission accordingly, it will not be possible for the Commission to deviate from the general practice.

10. In the consolidated Advertisement No.10/2016, issued by the Federal Public Service Commission, the interested candidates were also advised to visit the FPFC website for details as mentioned in the General Instructions and apply for the post(s) they qualify. The post of Executive Director was mentioned at Serial No.223 in the advertisement with the following required experience:

"223. Case No.F.4-237/2016-R (10/2016). EXECUTIVE DIRECTOR (BS-21), TEMPORARY, FEDERAL GOVERNMENT POLYCLINIC, CAPITAL ADMINISTRATION AND DEVELOPMENT DIVISION. MINIMUM QUALIFICATION: (i) MBBS or equivalent qualification recognized by Pakistan Medical and Dental Council. ii) Postgraduate Higher Diploma/ Degree in Medical Administration/ Public Health/ Health Services Administration. EXPERIENCE: Twenty two (22) years post qualification experience in the field of Public Health in BS-17 and above including three (03) years' experience (not as head of Hospital) of Administration and Management in a post of BS-19 and above. AGE LIMIT: 42-50 years plus five (5) years general relaxation in upper age limit. (The maximum age limit is 55 years). DOMICILE: Punjab (Both male and female candidates are eligible). Closing date 17.10.2016".

11. The main reason of rejecting the candidature of the respondent by the Federal Public Service Commission was lack of post qualification experience by 10 years 01 month and 25 days because he acquired MBBS degree in the year 1989 and FCPS/Postgraduate Higher Diploma in Public Health on 10.12.2004, which facts were unveiled on scrutiny of his documents. Even in the impugned judgment of the learned High Court in paragraph No.4, this fact has been admitted but the bone of contention was the interpretation of the Rules framed for the appointment of the Executive Director in terms of SRO

No.1138(I)/2014. The genus of Post qualification experience deduces the experience and proficiency which is gained after achieving the specific degree/education in order to meet the qualifying standards for the selected vacancy or job with the characteristics and attributes of ability, suitability and fitness of a person to perform a particular job or task with excellence. In fact it depends on the fine sense of judgment of requisitioning authority to structure the yardstick of required qualification for the post and no relaxation can be claimed in the criteria fixed for the post qualification experience. The learned High Court discarded the condition of post experience qualification as mentioned in Rule 12 of the APT Rules, 1973 as well as the advertisement published for inviting applications mainly on the ground that in SRO No.1138(I)/2014, no such condition was mentioned in the schedule for post qualification experience which was not correct advertence and appreciation to the applicable rules, on the contrary, it is clearly manifesting while appreciating the relevant rules in entirety or in conjunction, it is clear beyond any shadow of doubt that the required qualifying experience was (22) years post qualification experience in the field of Public Health in BPS-17 and above including three (03) years' experience (not as head of Hospital) of Administration and Management in a post of BS-19 and above. It was further held by the learned High Court that the proviso to Rule 12 will only come in field where the method of appointment does not provide the qualification and other conditions and since in the year 2014 the Rules were promulgated but through the aforesaid SRO with specific qualification and experience, hence the proviso attached to the schedule of the APT Rules, 1973 will not be applicable. In fact, the learned High Court mainly focused on the schedule appended to Rules in the aforesaid SRO of 2014 but failed to consider that this schedule is corresponding to the requirement of qualification, experience and age limit for initial appointment as prescribed in Rule 4 *ibidem* in which experience means the "experience gained in a regular full-time paid job after obtaining the required qualification". The general conditions to apply premeditated by the Federal Public Service Commission also articulates post qualification experience. It is also an admitted position that respondent does not fulfill the required criteria for the post applied by him in response to the advertisement published



by the Federal Public Service Commission and this aspect was not properly adverted to by the learned High Court while setting aside the impugned orders passed by the Federal Public Service Commission on the representation of respondent as well as the order passed on the review petition.

12. As a result of the above discussion, the civil appeal is allowed, the impugned judgment of the learned High Court is set aside, the appellants are directed to re-advertise the post and in order to avoid any misperception and perplexity in the mind of potential candidates, all the terms and conditions for applying the post shall be jotted down in the advertisement in accordance with the applicable Rules.

Chief Justice

Judge

Islamabad the  
30<sup>th</sup> May, 2022  
Khalid  
Approved for reporting.