

Judgment Sheet**IN THE PESHAWAR HIGH COURT,**
PESHAWAR JUDICIAL DEPARTMENT

WP No. 2622-P/2023

Dr. Pudil Khan etc.

..VS..Pakistan Medical and Dental Council through
its Chairman etc.**JUDGMENT**

Date of hearing.....09.10.2024.....

Petitioner(s) by:- Mr. Javed A Ghani, Advocate.

Respondents by:- M/s Farhan Qadeer, AAG and Aurangzeb
Khan, Advocate alongwith Dr. Mohammad Iqbal, Director(
Medical) PM& DC Islamabad.

WIQAR AHMAD, J:- Facts of the case, as per contents of the writ petition are that, the petitioners had qualified MBBS and obtained their graduation degrees when the respondents published advertisement inviting applications from eligible candidates admission in four year Histopathology course. Petitioners applied and succeeded in getting admission therein; that the course was comprising of four years study program which also includes trainings at the hospitals wherein trainees used to deal with patients and Laboratory Diagnostic Procedures; that after completion of two years, the institute taken comprehensive exam, calling intermediate module mandatory for continuing the program for next two years; that at the given time particular point of time the intermediate module exam was not in existence in FCPS histopathology as an

additional exam that the respondents also awarded experience certificates to the petitioners for their Experience Training Program as full time residential and hospital training based which was recognized by PMDC for M. Phil and by the CPSP for FCPS Training in Histopathology; that the respondents subsequently re-designated same four years M. Phil program as MD Histopathology Program without any change in syllabus clinical rotation, training assessment and evaluation and there was only a change in nomenclature of said program but not its structure and characteristics; that the PMDC/respondents later on changed the name of procedure of said 4 years program to MD/MS and M. Phil was nowhere offered except 2 years. That the college of physicians and surgeons recognized and accepts the training of the M. Phil allows the exemptions of Part-I FCPS and grants 2 years exemptions to the doctors who have done 2 years M. Phil program in an academic institute without clinical training. That the teaching experience of the petitioners had been recognized by PMDC vide letter No. 1585 dated 19-02-2018 to Dean KMC Peshawar "postgraduate resident M. Phil Histopathology at Quaid-e-Azam Post Graduate Medical College PIMS Islamabad; that as per program, training and procedure the petitioners have acquired post graduate medical education which was totally distinguishable as per duration i.e. 4 years training (clinical hospital based residents, direct involvement with patients and teaching students providing services to hospital) which could not be equated or be equivalent to M. Phil academic 2 years; that petitioners applied to the respondents for recognition of the qualification in terms of equivalency to MD and other equivalent medical education and be placed in level-III but same was denied.

2. Arguments heard and record perused.
3. Perusal of record reveal that petitioners have obtained a qualification of M.Phil Histopathology. Their main grievance is that same should be categorized as level-III qualification and that the respondents while categorizing their qualification as level-II (b) have been subjecting the petitioners to unjust treatment therefore, same required interference of this court for the remedial measures.
4. Learned counsel for petitioners mainly contended that LLM of petitioners was comprising of 04 years program and as per categorization, qualification of the petitioners should have been categorized at level-III which was requiring minimum of 03 years study program after obtaining level-I qualification i.e. MBBS and BDS. He added that since petitioners had studied for 04 years in their LLM therefore, they were entitled to be placed in level-III qualification holders.
5. For understanding grievance of petitioners we would like to reproduce the table given in section 2 of the Regulation for the Appointment/Promotions of Faculty/Teaching Staff/Examiners/Principals/Deans/Vice Chancellors in Undergraduate & Postgraduate Medical and Dental Institutions/Medical Universities of Pakistan, 2018 as;

Section-II.

MINIMUM QUALIFICATION LEVEL REQUIRED FOR APPOINTMENT OF TEACHERS IN MEDICAL AND DENTAL INSTITUTIONS.

Learning Levels	Duration	Clinical Medical/Dental Qualifications	Basic Medical/Dental Sciences Qualification
Level-I	MBBS 5 years BDS 4 years	MBBS/BDS	
Level-II a	Minimum 01 year after level-I	Postgraduate Diplomas	M.Sc, Basic Sciences, Diploma in Medical Education, DMJ (1 years), DPHE
Level-II b	Minimum 02 years after Level-I	MCPS/M.Sc, or other 2 years duration diploma and equivalent	MPH,MSPH/MHPE, DMJ (2 years) M.Phil and equivalent qualifications with other nomenclatures.

		qualification with other nomenclatures.	
Level-III	Minimum 03 year or more years after level-I	MD/MS/MDS/FCPS/ and equivalent qualifications with other nomenclatures	FCPS/PhD/and qualifications with other nomenclatures.
Level-IV	Minimum 2 years of recognized PG qualifications in related field after level-III	Sub-Specialty qualification in relevant field	Sub-Specialty qualification in relevant field

Learned counsel for petitioners have also been relying on a letter issued for the recognition of their experience where in Para-3 it has been stated;

“3. Postgraduate Resident, M. Phil Histopathology at Quaid-i-Azam Postgraduate Medical College, Pakistan Institute of Medial Sciences Islam and from 20.1.2007 to 20.1.2011=04 years (benefit will give on sex months).

6. Petitioners had earlier taken their grievance before the office of Ombudsperson wherefrom the matter had been sent to Standing Recognition Committee (SRC) for consideration and after considering the cases of petitioners and other similar persons, the committee had taken a decision that qualification of the petitioners could not be placed in level-III qualifications. Relevant discussion given under Item No.20 is also reproduced;

Item No. 20. Case of consideration of Dr. Afra Samad Registration No. 36228-P with Four years M.Phil program required the equivalence of level-III.

.....Dr. Farhan Abbas Baloch, Dr. Sajjad Ahmad, Dr. Pordil Khan filed a complaint in Wafaqi Mohtasib's (Ombudsman) in which they required the equivalence of Level-III of M.Phil qualification. The committee was informed that similar case of Dr. Ambrina Qurshi, Reg: No. 4655-D, was placed before the Dental Education Committee. The Committee considered the details of the case and decided to place the qualification in level-II-b.

The Committee observed that the two M.Phil program (one of 2 years duration and the other of 04 years) are the same and it requires nature of curriculum, training and assessment for a program to be different from another. The

committee pointed out that there is no change in curriculum and assessment in both study the programs of M.Phil hence after studying complete details of the case and satisfying itself, the Committee unanimously decided to declined the request.”

7. The reason for not considering qualification of the petitioners as level-III may be found in the above reproduced para which was to the effect that there had been two M.Phil programs one of 2 years duration and other 04 years duration, but nature of curriculum and assessment in both the programs have been same. In other words same curriculum was available both in 02 as well as 04 years program and the candidates were to go through same process of assessment, therefore, their program of M.Phil was possible to be taken in 02 years minimum period. Therefore, relevant committee was of the opinion that the minimum time in which a course could be completed might be considered for the parties of classifying the qualification of a person on the given tabular criteria reproduced above. This court has no reason to differ with said opinion of the specialists in the field. The word “minimum” has also been used in section-II of regulation reproduced above. It was “minimum provided time” in which a qualification can be obtained, and same is to be considered for the purpose of qualification as per section II of the Regulations and the criteria provided therein. So much so, that the very advertisement wherein petitioners had applied for admission in M.Phil program was showing that it was a 02 years diploma program as mentioned in the heading, where other particulars had been given in bullet point No. 1 to 5. It was apparent that the qualification of M.Phil could have been obtained in 02 years minimum time period and if certain courses of studies have been starched to 04 years then it would not further enhance worth of the

study program to be classified as level-III qualification.

8. Besides, while deciding cases whereunder specialized knowledge of the field of science or technology is required then opinion of the experts in the field may not be lightly ignored. The committee which has also re-considered cases of petitioners in pursuance of order of the Ombudsperson was comprising of imminent specialists in the relevant field and therefore, while exercising its constitutional jurisdiction this court cannot substitute their findings and opinion with the finding and opinion of our own, unless a case of express illegality or material irregularity in the process or malafide is made out. Reliance in this respect may be placed on judgment of Hon'ble Supreme Court of Pakistan rendered in case titled **Syed Azam Shah..vs.. Federation of Pakistan through Secretary Cabinet Division Cabinet Secretariat, Islamabad and another (2002 SCMR 201)**.

9. Learned counsel for petitioners was heard at length but he failed to make out a case for interference of this court in exercise of its constitutional jurisdiction. Instant writ petition was found lacking substance and same is accordingly dismissed.

Announced on;
09th of October, 2024
Zarshad

CHIEF JUSTICE

JUDGE

Date of announcement of judgment.....09.10.2024
Date of preparation & signing of judgment...15.10.2024

(DB) Hon'ble Mr. Justice Ishtiaq Ibrahim, HCJ, and Mr. Justice Wiqar Ahmad, HI