

***SHAHEED BENAZIR BHUTTO UNIVERSITY
SHERINGAL, DIR UPPER (KP)***



MINUTES

OF

THE 36TH MEETING OF SYNDICATE

***HELD IN THE COMMITTEE ROOM OF SHAHEED BENAZIR BHUTTO
UNIVERSITY, SHERINGAL***

DATED: 29.04.2023 (9.30 AM)

SHAHEED BENAZIR BHUTTO UNIVERSITY

Sheringal, Dir Upper, Khyber Pakhtunkhwa, Pakistan

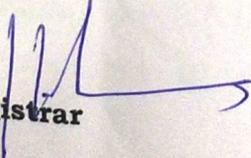
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MINUTES OF THE 36TH SYNDICATE MEETING

The 36th meeting of Syndicate of the University was held in the Committee Room of Shaheed Benazir Bhutto University, Sheringal, Dir Upper on 29.04.2023 at 9.30 am. The following attended the meeting;

01. Prof. Dr. Muhammad Shahab (Vice Chancellor) in Chair
- ✓ 02. Prof. Dr. Yorid Ahsan Zia, Principal Quaid-e-Azam College of Commerce, University of Peshawar (HEC Nominee)
03. Barrister Dr. Adnan Khan (Nominee of Chancellor) attended the meeting through a video link
04. Dr. Abdul Khaliq Jan (Director ORIC)
05. Mr. Javed Iqbal, Additional Secretary Higher Education Department, Government of Khyber Pakhtunkhwa
06. Syed Habib Ul Hassan, Gillani, Deputy Secretary Establishment Department, Government of Khyber Pakhtunkhwa
07. Dr. Shafiqur Rahman (Representative of Chairpersons)
08. Sahibzada Abbas Khan, Budget Officer, Finance Department, Government of Khyber Pakhtunkhwa
09. Prof. Jalandar Shah, Principal GDC Wari, Dir Upper
10. Badshah Hussain (Registrar)
11. Dr. Shujaat Ahmad, Associate Professor
12. Sahibzada Murad Hussain (Representative of Assistant Professors)
- ✓ 13. Mr. Sahib Rahman (Treasurer)
14. Mr. Muhammad Sharif Khan, Deputy Director Internal Audit
15. Mr. Muhammad Ihsan Danish (Representative of lecturers)
16. Mr. Ibrar Hussain, Deputy Director Administration
17. Mr. Anwar Zada, Deputy Registrar Academics

The meeting started formally with name of Allah, the most Beneficent and the Merciful. The Vice-Chancellor welcomed the participants and thanked them


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Vice Chancellor

for their timely participation in the meeting. He then asked the Registrar to present the agenda before the House. He accordingly, presented the agenda, item wise. The House made detailed discussions on each agenda item and recorded its decisions.

01. CONFIRMATION OF MINUTES/IMPLEMENTATION STATUS OF THE DECISIONS OF THE 35th SYNDICATE MEETING

DECISION:

The House confirmed the minutes and the implementation status of the decisions of the 35th Syndicate meeting except item No. 04 (endorsement of the initial appointment of Dr. Aftab Ahmad, Assistant Professor in Islamic Studies on TTS) where Prof. Dr. Yorid Ahsan Zia, Principal Quaid-e-Azam College of Commerce, University of Peshawar noted that only the experience gained as TTS faculty can be counted for the purpose of promotion in the TTS stream. Thus, the recommendation of the Committee/decision of the 35th meeting of the Syndicate regarding the counting of his previous service (which was not on TTS) from 18.11.2016 to 12.01.2020 for the purpose of experience and promotion **in the track** is not per the TTS Statutes. The House, therefore, referred the case back to the Committee for review and recommendations accordingly. The Chair proposed that a nominee of QAA, HEC may also be invited to the Committee, so that the case may be dealt with properly. On a query raised by a member, the Registrar clarified that item No. 13.4 was not the adoption of the Notification regarding upgradation, but rather the adjustment/grant of grades to the existing employees as per the approved Statutes. He assured the house that the due correction will be made in the relevant office orders/notification. With respect to item No. 10, the issue of regular appointment orders of the Security Guards and other over aged staff was to be decided within 30 days of the issuance of the 35th Syndicate minutes, however eventually the Committee held its preliminary meeting on 28.04.2023 where the Committee members sought further details.


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The House asked that full details, as per request of the Committee members, be provided within seven days and the committee members assured to give definitive final recommendations in two weeks.

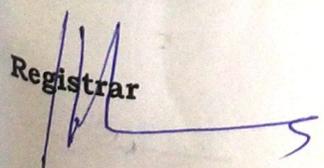
02. IMPLEMENTATION OF THE HON'BLE PESHAWAR HIGH COURT MINGORA BENCH (DAR-UL-QAZA SWAT) JUDGMENT/DIRECTIONS IN CM NO. 1671-M/2022 WITH COC NO. 58/2022 & CM NO. 174-M/2022 IN W.P No. 657-M/2021 (SANAULLAH & OTHERS VS GOVT OF KPK AND OTHERS).

DISCUSSION:

The case was presented before the House. The House made a detailed discussion on the agenda item. Barrister Dr. Adnan Khan (who participated in the meeting through Video link), highlighted the need of implementing the Hon'ble High Court directives contained in its judgment dated 29.03.2023 with immediate effect and one-year probation as per service statutes. He further added that the implementation order may be conditional and subject to revision in light of any legal remedy exercised by the University and it shall not be a precedent for all other such cases in future. He said that the University may seek legal remedy by filing an appeal to an appropriate forum whether intra-Court appeal or CPLA in the Hon'ble Apex Court of Pakistan as per its directions in its judgment dated 15.03.2023 against the Hon'ble High Court Judgement dated 29.03.2023.

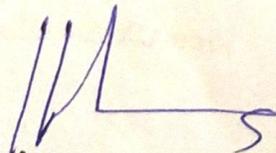
Prof. Dr. Yorid Ahsan Zia, noted that the perusal of the judgment dated 15.03.2023 rendered by the Hon'ble Supreme Court of Pakistan, in CPLA No. 3140/2022, reveals that the University stated before the Court that the directions given by the learned High Court in paragraph 7 of the impugned order have already been complied with, which caused the Apex Court to remark that the order in issue in the petition has already been complied with, hence, no cause of action is available. Accordingly, the CPLA was dismissed and leave to appeal was refused. He said that the statement of the University before the Apex Court


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appears to be a gross misstatement/misrepresentation of the facts as the whole point of all previous Syndicate decisions was to ensure that the prescribed procedure for the regular appointment of lecturer needs to be followed as provided for by the judgment of the Apex Court dated 29.10.2020 which stipulates that after the satisfaction of the Syndicate that each of the Respondents possesses the requisite qualification, eligibility criteria, and other requirements of a regular lecturer of the University will induct him so, while the Hon'ble Peshawar High Court was stressing that the Syndicate shall satisfy itself regarding their eligibility in terms of qualification, age limit etc alone. There was a marked difference between the Hon'ble Peshawar High Court and the Syndicate regarding the interpretation of the Apex Court judgment dated 29.10.2020. However, the University failed to highlight the matter before the Apex Court during the hearing of CPLA on 15.03.2023 and instead acceded before the Court that the directions given by the learned High Court in paragraph 7 of the impugned order have already been complied with. This is a very serious negligence/lapse that caused a blow to the efforts and decisions of the Syndicate made to uphold the due process of appointing regular lecturers as prescribed under its Act and Statutes.

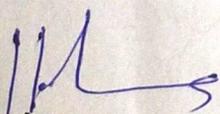
Prof. Dr. Yorid Ahsan Zia, also pointed out that the Syndicate has no such powers for direct appointment of lecturers and officers in BPS-17 and above, so the case may be placed before the Selection Board for proper recommendation to Syndicate for regular appointment. He further added that the regular appointment should be made against budgeted vacant positions as two or more persons cannot be appointed substantively against a single position. His point of view was seconded by Mr. Javed Iqbal, Additional Secretary Higher Education Department, Syed Habib Ul Hassan, Gillani, Deputy Secretary, Establishment Department, and Sahibzada Abbas Khan, Budget Officer, Finance Department.

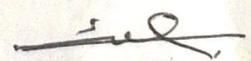

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The Registrar pointed out that the Hon'ble Court has adjourned the case till 02.05.2023 with strict directions that the Vice Chancellor shall appear before the Court along with the implementation order and in such a situation, the University would not be in a position to conduct the Selection Board meeting on such a short notice. The House also sought the view of Justice ® Miftah Uddin, nominee of the Hon'ble Chief Justice Peshawar High Court, on the case who shared his opinion through WhatsApp which was read out before the House by the Registrar as follows:

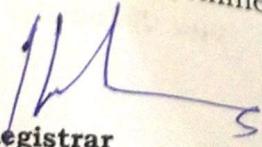
"The petitioners Sanaulah etc are Ad hoc employees who have got no vested or statutory right for regular appointment but even then they subjected the University Authorities to mental torture and litigating expense through unjustified litigation. Irrespective of dismissal of Appeal by the Hon'ble Apex Court, the final judgment dated 29.10.2020 is still holding the field. Normally the judgment of Supreme Court is implemented by the High Court in constitutional jurisdiction, restricted to implementation of the judgment in letter and spirit only but in the present case the matter has further been simplified. The final order of the Hon'ble Supreme Court was implemented by the Syndicate in its 27th meeting held on 24.01.2021 on the basis of which one Anayatullah was regularly appointed on the recommendations of the Selection Board while the remaining petitioners, Sanaullah etc refused to appear for test, demonstration and interview before the Selection Board in spite of affording two chances, hence were relieved. The petitioners filed CA No 148, 149, 151 and 162 of 2021 wherein they requested for initiating contempt of court proceedings against the University Authorities but the Hon'ble Supreme Court, placing reliance on PLD SC 671, disapproved filing of contempt proceedings and directed the petitioners to file execution petition under the civil procedure code. This clear cut specific direction of the Hon'ble Supreme Court, dated: 10.06.2021 was violated by the


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petitioners and again filed W.P and COC before the Hon'ble High Court. So for as implementation of the order of the Hon'ble High Court, dated: **24.11.2021** is concerned, the Syndicate, in its 32nd meeting, dated the 15th January 2022, implemented the same by reinstatement of the petitioners who were relieved in the 27th meeting but were again relieved as they were not fulfilling the requirements of regular lecturer as directed by the Hon'ble Supreme Court in its judgment, dated: **29.10.2020**. The decision, taken by the Syndicate, in its 32nd meeting, has neither been challenged before the Senate or any other Court, has, therefore, attained finality.

Instead of filling execution petition under the civil procedure code, showing specific executable order or showing what terms and conditions, mutually agreed between the learned counsels for the parties before the Hon'ble Supreme Court, have been violated by the petitioners by again filing COC and CM No. 174 of 2020 in violation of the Hon'ble Supreme Court direction in a matter implemented in the 32nd meeting and has attained finality. The Hon'ble High Court, in a non-entertain able matter on 31.05.2022, directed the Syndicate that the Syndicate shall satisfy itself regarding eligibility in terms of qualifications and age limits etc alone and induct the petitioners against the posts of regular lecturer. This order of the Hon'ble High Court is, with due respect, in conflict with the order of the Hon'ble Supreme Court, dated: **29.10.2020**. The Hon'ble Supreme Court directed the Syndicate that if the petitioners possess the requisite qualifications, eligibility criteria and all other requirements of a regular lecturer, shall induct them. All other requirements of a regular lecturer include the procedure required under the Model Statues-2016 and the recommendations of the Selection Board under section-23(m) of the KP Universities Act 2012. The Syndicate has got no power to make appointment without recommendations of the Selection Board. The Hon'ble High Court

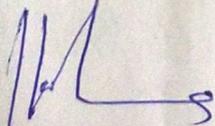

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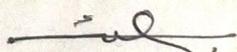

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in execution process can ensure implementation of the Hon'ble Supreme Court order in letter and spirit but, with due respect, can't set as Court of appeal and change the terms and conditions, mutually agreed by the learned counsels for the parties before the Hon'ble Supreme Court of Pakistan. The order of the Hon'ble Supreme Court, is clear and unambiguous, requires no further clarification by the Hon'ble High Court, hence binding on the Hon'ble High Court. The Syndicate has implemented the final order of the Supreme Court in letter and spirit in its 32nd, 34th and the 35th meetings, therefore no legal justification exists to review the same in the 36th meeting. The members are free to rebut my point of view through reasons and arguments to convene respectable members but arbitrary and dictatorial opinion may be avoided just to say yes or no to the agenda item.

I again clarify that until and unless the statutory provisions of the Model Statues 2016 and the University Act, 2012, for regular appointment, are declared as null and void by a Court of law, the Syndicate can't make appointment without the recommendations of the Selection Board. As all decisions of regular appointments of BPS-17 and above are exclusively within the jurisdiction of the Syndicate, therefore, no action can be taken against the Vice Chancellor in individual capacity.

Those, advocating the cause of petitioners, may plead that after dismissal of appeal by the Hon'ble Supreme Court, the Syndicate is bound to implement the order dated: 31.05.2022. My reply is that the Syndicate as well as the Hon'ble High Court are bound by the final order of the Hon'ble Supreme Court, and that the Hon'ble High Court has no jurisdiction to change the terms and conditions for regular appointment, settled mutually by the learned counsels for the parties. The Hon'ble Supreme Court has not discussed the merits of the order of the Hon'ble High Court. The Hon'ble Supreme Court simply clarified that when the order of the Hon'ble Court


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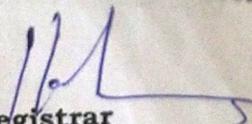

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has been implemented, the Syndicate has no cause of action to file appeal. The Hon'ble High Court, in order dated: 31.05.2022 has also clarified that if the petitioners possess the requisite qualifications eligibility, age limits etc then they be regularly appointed against the post held by them. The word "etc" include the procedure required under statues including recommendations by the Selection Board. This order as well as order dated: 24.11.2021 has been implemented by the Syndicate, in its 32nd meeting, which decision of the Syndicate remains unchallenged before Senate or any other Authority, has thus attained finality".

Taking part in the discussion, Muhammad Sharif Khan, Deputy Director Internal Audit, submitted that in case of implementation of the instant case, the other ad-hoc employees of the University may also be appointed on regular basis as per analogy of the petitioners, however, the Vice Chancellor stressed that the Syndicate shall restrict its decision to the petitioners only and the analogy should not be extended to other employees of the University.

The members of the Syndicate were unanimous on the fact that the relevant sections of the Service Statutes and the Khyber Pakhtunkhwa Universities Act, 2012 do not provide for regular appointment of lecturers by the Syndicate without the recommendations of the Selection Board and fulfilment of all other requirements like test, demonstration, and interview. However, the majority of the members were of the view that keeping in view the orders of the Hon'ble High Court, dated, 29.03.2023, the fulfilment of the same procedure is not possible.

Prof. Dr. Yorid Ahsan Zia, asked about the availability of clear vacant budgeted posts against which the majority of the members are considering the appointment of petitioners. However, there was a lack of clarity on the matter with respect to the posts of Law Officer. The Treasurer verified that all other positions of lecturers in question are available except the position of Law Officer which has not been sanctioned till date.


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DECISION:

In light of the foregoing discussion, members of the Syndicate were unanimous on the fact that the relevant sections of the Service Statutes and the Khyber Pakhtunkhwa Universities Act, 2012 do not provide for regular appointment of lecturers by the Syndicate without the recommendations of the Selection Board and fulfilment of all other requirements like test, demonstration, and interview. However, majority of the members, keeping in view the strict directions/orders of the Hon'ble Peshawar High Court, Mingora Bench (Dar Ul Qaza), Swat, dated **29.03.2023**, in C.O.C No. 58-M/2022 in C.M No. 174/2022 in W.P No. 657-M/2021, decided to implement the mentioned directives by issuing regular appointment orders to the petitioners with immediate effect with one-year probation as per the University Service Statutes except Law Officer, (where regular position is to be created), conditionally till any decision by the Hon'ble Supreme Court of Pakistan in the case, should the University seek appropriate remedies against the decision of the Hon'ble Peshawar High Court, dated: 29.03.2023 in C.O.C No. 58-M/2022 in C.M No. 174/2022 in W.P No. 657-M/2021, in accordance with law.

However, Prof. Dr. Yorid Ahsan Zia, Principal, Quaid-e-Azam College of Commerce, University of Peshawar/Nominee of the HEC, Mr. Javed Iqbal, Additional Secretary Higher Education Department, Syed Habib Ul Hassan, Gillani, Deputy Secretary, Establishment Department, and Sahibzada Abbas Khan, Budget Officer, Finance Department, recorded their note of dissent to the extent of the appointment of petitioners by the Syndicate without their due recommendation by the Selection Board as required under Section 23(1)(m) of the Khyber Pakhtunkhwa Universities Act 2012. They were of the view that the Hon'ble Peshawar High Court has not stopped the University from placing the case before the Selection Board, and thus the complete case along with the judgments of the Hon'ble Supreme Court and Peshawar High Court must be

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placed before the Selection Board for its consideration as per the prescribed procedure for appointment in BPS-17 and above. The recommendations of the Selection Board shall be placed before the Syndicate for consideration and needful as required under Section 23(1)(m) of the Khyber Pakhtunkhwa Universities Act 2012. They noted that when a law (in this case Khyber Pakhtunkhwa Universities Act 2012) has provided that a certain thing has to be done in a certain manner then it has to be done in the manner prescribed in law and not otherwise. Doing any act against the procedure laid down by the Law shall be an illegal act that cannot be sustained in the eyes of law.

The above members also noted that there was a lack of clarity regarding the available clear vacant budgeted position against which the petitioner (Law Officer) is to be appointed on a regular basis. From the data shared by the Treasurer during the discussion it appeared that there is no vacant budgeted post of Law Officer; in fact, none has been created to date, so they also dissented with the decision regarding regular appointment in the instant case where no clear vacant budgeted post is available. They suggested that regular position of Law Officer may be created first and then the order of the Court may be implemented in case of Law Officer.

**03. APPROVAL OF STUDY LEAVE OF MR. MUHAMMAD QASIM,
LECTURER IN ISLAMIC STUDIES FOR PURSUING PHD STUDIES**

DECISION:

The Syndicate approved the recommendations of the study leave Committee, in respect of Mr. Muhammad Qasim, lecturer in Islamic Studies for pursuing his Ph.D. studies in Islamic Studies at Abdul Wali Khan University Mardan, as per Study Leave Statutes of the University for a period of one year extendable up to 05 years on yearly basis/satisfactory performance report w.e.f 15.04.2023 to


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14.04.2024 subject to the fulfilment of all codal formalities/terms and conditions as per study leave statutes before proceeding on leave.

**04. APPROVAL OF ANNUAL INCREMENT IN SALARY OF TTS FACULTY
w.e.f JANUARY 2023**

DECISION:

As per TTS Statutes version 2.0, adopted by SBBU Sheringal, an annual increase in the salary of the TTS faculty member is included every year after successful evaluation by the annual DTRC. As per the given Table, DTRC of the faculty members at S.No. 03 & 04 has been conducted for 2022 while the DTRC of the faculty members at S.No. 01 & 02 for the purpose of annual increment has not been conducted for 2022. The same will be considered following assessment of their performance by the DTRC and recommendations thereof. Therefore, the annual increase of Rs. 12065 in the salary of faculty member at S.No. 03 & 04 shall be included as an annual increment with effect from 1st **January 2023** while the increment of the remaining two faculty members shall be subject to the recommendation of annual DTRC for 2022.

S#	Name	Date of DTRC	Current status
01	Dr. Muhammad Asif Nawaz	July 08, 2021	Cases matured for promotion to Tenured Associate Professor
02	Dr. Allah Ditta	Sep 17, 2021	
03	Dr. Muhammad Nawaz Rajpar	July 29, 2022	On going
04	Dr. Hammad Tariq Janjua	Oct 11, 2022	-do-

05. DISCIPLINARY ACTION AGAINST MR. SAMI ULLAH, LECTURER IN BIOTECHNOLOGY FOR NOT JOINING THE UNIVERSITY, AFTER PHD STUDIES

DECISION:

The House decided to issue a final show cause notice to the employee under the Efficiency and Discipline Statutes of the University informing him about the tentative decision of the Syndicate to remove him from the University service on account of his wilful absence from the University. The notice shall be

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published in the newspapers with a response time per the Statutes. The outcome/response of the notice shall be submitted to the next meeting of the Syndicate for final decision.

06. ADOPTION OF THE HEC RULES FOR THE UNIVERSITY BEST TEACHER AWARD

DECISION:

The HEC revised framework for the University Best Teacher Award was adopted by the Syndicate.

07. REQUEST OF DR. FARHAT ALI KHAN FOR REGULARIZATION OF HIS SERVICES AS PROFESSOR OF PHARMACY

DECISION:

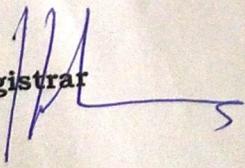
The House directed that the position should be properly advertised on BPS/TTS, if the same is required to the University and be processed as per laid down procedure in the University Service Statutes and HEC criteria for the appointment of professor.

08. RECOMMENDATION OF THE COMMITTEE REGARDING PAYMENT OF DESPARITY REDUCTION ALLOWANCE TO THE EMPLOYEES

DECISION:

The House, after detailed discussion, approved the following recommendations, made by the Committee, in respect of the payment of Disparity Reduction Allowance-2022 to the University employees.

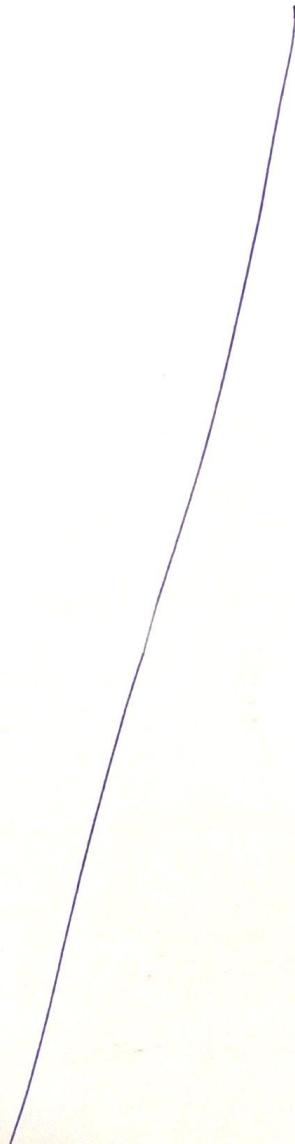
1. As the Senate had deleted the said allowance from the budget, so the same shall be required to be presented before the Senate for consideration and its inclusion in the revised budget estimates during its upcoming meeting before payment of the allowance to the employees.
2. The University Management is required to ensure the availability of funds through its own resources to cover the financial impact of Rs. 24.697

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million of the proposed DRA for the FY 2022-23 before processing the case for approval of the Senate,

3. The sustainability for future payment, in this regard, may also be ensured so that the University may not face financial issues in this regard.



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