

IN THE FEDERAL CONSTITUTIONAL COURT OF PAKISTAN
(Original/Appellate/Advisory/Review Jurisdiction)

PRESENT:

Justice Amin-ud-Din Khan, Chief Justice
Justice Aamer Farooq
Justice Ali Baqar Najafi

FCPLA No. 1275 of 2026

[against the impugned judgment dated 31.03.2026
passed by the Division Bench of High Court of
Balochistan, Quetta in C.P.No.254 of 2026]

The D.G. National University of Modern Languages (NUML) and others **.... Petitioner (s)**

Versus

Rahat Mehmood and another **.... Respondent (s)**

For the Petitioner (s) : Mr. Muhammad Munir Paracha,
Senior ASC

For the Respondent(s) : Rahat Mehmood
[respondent No.1 in person]

Date of Hearing : 16.09.2026

JUDGMENT

ALI BAQAR NAJAFI, J. Through this petition under Article 175F(1)(c) of the Constitution of the Islamic Republic of Pakistan, 1973, **[Constitution, 1973]**, leave to appeal is sought against the impugned judgment dated 31.03.2026 passed by a Division Bench of High Court of Baluchistan, Quetta **[High Court]**, whereby, it allowed C.P No.254 of 2026 filed by Rahat Mehmood **[respondent No.1]** and termination notification dated 12.09.2025 was set aside and he was reinstated into service forthwith with continuity of service but the question of back benefits was subject to determination by the competent authority in accordance with law.

2. **Brief facts**, giving rise to the filing of this petition are that on 07.06.2024 an advertisement was published for the selection of the

post of Assistant Director (Academics) BPS-17 through a competitive selection process, whereafter, respondent No.1 was appointed as Assistant Director (Academics) BPS-17 vide appointment letter dated 23.09.2024 for NUML Regional Campus, Quetta subject to the condition mentioned in clause-B that his probation period was for one year during which he was liable to be terminated without assigning any reason. Under clause-C, such termination could be on a notice of one month's pay in lieu thereof from either side without assigning any reason. On account of unsatisfactory performance, during probation period, the service of respondent No.1 was terminated and he was paid one month's salary in lieu of notice period, which was assailed before the High Court.

3. Arguments heard. Record perused.

4. **After hearing** the learned counsel for the petitioners and respondent No.1, who appeared in person, we have noticed that the High Court set aside the termination letter whereby the services of respondent No.1 were dispensed with on account of his weak and unsatisfactory performance during the probationary period. The High Court proceeded on the premise that, since respondent No.1 had been appointed against a regular post pursuant to an advertisement and after undergoing a competitive selection process, his services could not be dispensed with on arbitrary or unfair grounds. The High Court further observed that, vide letter dated 23.07.2025 issued by the Director (HR), respondent No.1 was required to submit his probationary performance review/self-evaluation, which he duly submitted and which, according to the High Court, contained no adverse remarks, deficiencies or shortcomings communicated to him. It was further observed that no performance evaluation report had been produced by the department. The High Court, therefore, concluded that termination of service, without disclosing before the Court the reasons substantiating the alleged weak and unsatisfactory performance and without first issuing a show-cause notice, warning or affording an opportunity of hearing, was unlawful. The High Court also

treated the self-evaluation report submitted by respondent No.1 as complete, correct and reliable.

5. We have examined the terms and conditions of the appointment letter. Respondent No.1 was appointed against the post of Assistant Director (Academics), BPS-17, on the recommendations of the Selection Board and with the approval of the competent authority. According to respondent No.1, the appointment letter was communicated to him belatedly and, consequently, he joined service on 07.10.2024, whereas the last date for acceptance of the appointment, as stipulated in the appointment letter, was 04.10.2024. His explanation was that the appointment was communicated to him late. Be that as it may, it is evident from the record that his services were dispensed with during the last month of his probationary period, meaning thereby that he was allowed the entire probationary period to demonstrate his suitability and improve upon his performance. We are also mindful of the fact that, had the termination been founded upon a specific allegation carrying a stigma, it could have adversely affected the professional career of respondent No.1. Following his termination, respondent No.1 preferred a departmental appeal seeking withdrawal of the termination order; however, the same was not decided. In the meantime, the posts were re-advertised on 23.09.2025. Respondent No.1's case is that he could not be treated as a contractual employee and that his claim to regular appointment could not be denied. The legal position, however, is otherwise.

LEGAL STATUS OF A PROBATIONER

6. A probationer is a person appointed against a substantive vacant post who remains on probation for the prescribed period, which may extend to a maximum of two years. Where his work and performance during the probationary period remain unsatisfactory, his services may be dispensed with even before expiry of the prescribed period. During probation, although holding a civil post, he remains a temporary employee and is subject to the obligations applicable to a person in service, including obedience to lawful orders, observance of official hours and abstention from

malpractice. The purpose of prescribing a probationary period is to enable the employer to assess whether the probationer possesses the capability, suitability and potential to make a satisfactory career in the service and whether his continued engagement would serve the interests of the employer. It affords both sides a reasonable opportunity to determine whether the relationship of employment should continue. It is for this reason that a reasonable period of probation is prescribed. Ordinarily, the principle of *audi alteram partem* is not attracted to a termination simpliciter of a probationer, particularly where no allegation of misconduct is involved. However, where the termination is not simpliciter but is founded upon an allegation amounting to misconduct, the protections applicable to dismissal or removal from service are attracted and a show-cause notice and due process become necessary, as rightly held in Muhammad Afzal Khan's case¹. Likewise, where a probationer's services are sought to be terminated on account of misconduct, he is entitled to a show-cause notice irrespective of whether he is a permanent or temporary employee. In Muhammad Naseem Ahmad's case², it was rightly held that where conditions have been prescribed for confirmation of an officer who remains on probation, he cannot be treated as substantively appointed to a permanent post and, therefore, acquires no vested right to confirmation merely because he may otherwise qualify for it. The general rule in the ordinary course is that, where nothing adverse is found against an officer on probation, he may be confirmed from the date of his original appointment; nevertheless, confirmation remains subject to the discretion of the competent authority. The Government has reserved to itself the right to determine how, when, in what manner, with what effect and from which date such confirmation is to be made. It is, therefore, not unreasonable for an employer to require that a probationer be confirmed only when found fit for retention in accordance with the prescribed requirements. Until such confirmation, the probationer acquires no lien or vested right to remain in service.

¹ Muhammad Afzal Khan v. Superintendent of Police, Montgomery and others [PLC 1961 Lah. 808]

² Muhammad Naseem Ahmad and others v. Miss Azra Feroze Bkht and others [PLD 1968 SC 37]

7. It is by now settled that where the services of a probationer are terminated on the ground of unsatisfactory work or performance, such termination does not ordinarily amount to dismissal or removal from service, as it is regarded as a termination made in accordance with the terms of appointment or the applicable rules. Conversely, where the termination is founded upon misconduct, it assumes the character of removal or dismissal and, particularly where the order carries a stigma capable of adversely affecting the employee's career, the constitutional safeguards become applicable, including the issuance of a show-cause notice and, where required, a proper inquiry. Where an allegation of corruption is involved, a regular inquiry cannot be dispensed with, as such discharge would amount to removal or dismissal, as held in Muhammad Saddiq Javaid Chaudhry's case³. At the same time, where the services of a probationer are brought to an end on account of unsatisfactory performance, the employer cannot, merely by using the expression "unsatisfactory performance", convert a stigmatic or punitive termination into a termination simpliciter. The probationer must, where the circumstances so warrant, be afforded a fair opportunity to clarify his position regarding the unsatisfactory performance attributed to him, as rightly held in Secretary, Ministry of Education's case⁴.

8. Needless to observe, a probationer may yet have brighter prospects for his future, as his abilities and potential may find better expression in another field. The position for which he was appointed may not ultimately prove suitable for him. The post to which respondent No.1 was appointed may have involved different standards, requirements or expectations on the part of the employer, which he may not have been able to fulfil despite his best efforts. This, by itself, does not necessarily mean that he was unworthy or incapable of performing any useful professional role. It may simply mean that the organization, for reasons peculiar to its institutional requirements, did not find it appropriate to continue

³ Muhammad Saddiq Javaid Chaudhry versus The Government of West Pakistan [PLD 1974 Supreme Court 393]

⁴ Secretary, Ministry of Education, Government of Pakistan, Islamabad and another Versus Muhammad Azam Ch. and another [2009 SCMR 194]

benefiting from his particular expertise. Employers may adopt multifarious criteria and approaches in selecting persons whom they consider capable of advancing the objectives of the institution. Such considerations, however, do not warrant the unnecessary stigmatization or ruination of the future career of a probationer where his services are terminated simpliciter on account of unsatisfactory performance.

9. In the present case, the right guaranteed under Article 4 of the Constitution, 1973, to be dealt with in accordance with law does not appear to have been violated so as to warrant interference by the High Court in exercise of its constitutional jurisdiction under Article 199 of the Constitution, 1973. Likewise, no element of discrimination attracting Article 25 of the Constitution, 1973, was established by respondent No.1. It is a settled proposition that a probationer has no vested right to confirmation. The constitutional jurisdiction of the High Court is exercised for enforcement of an existing legal or fundamental right and cannot ordinarily be invoked to create a right where none exists and then enforce the same through a writ.

10. For the foregoing reasons, this petition is converted into appeal and is **allowed**. Consequently, the impugned judgment dated 31.03.2026 passed by the Division Bench of the High Court of Balochistan, Quetta, in C.P. No.254 of 2026 is set aside. Resultantly, the order whereby the services of respondent No.1 were terminated during his probationary period on account of weak and unsatisfactory performance, is found in accordance with the terms and conditions of his appointment and therefore, stands restored.

CHIEF JUSTICE

JUDGE

Islamabad

16.09.2026

'Approved for Reporting'

'Adel'

JUDGE

