

IN THE SUPREME COURT OF PAKISTAN

(Appellate Jurisdiction)

Present:

Justice Qazi Faez Isa, CJ
Justice Muhammad Ali Mazhar
Justice Musarrat Hilali

Civil Appeal No.1471 of 2013 and

Civil Appeal No.53 of 2014 and

Against the judgments dated 21.02.2013
passed in W.P. No.1124/2006 and dated
07.10.2013 in F.A.O.71/2011 by Peshawar
High Court, Peshawar

Civil Appeals No.187 to 191 of 2018

Against the judgments dated 17.01.2017
passed in I.C.As. No.157 and 275/2011 by
Lahore High Court, Multan Bench, Multan

C.M.A.5008/2014 in C.A.1471/2013

(Impleadment)

Pakistan Engineering Council
through its Chairman & others

(In C.As 1471/13 and
189, 190/18)

Taj Muhammad Khan
Multan Electric Power Company
Shoukat Hussain and others

(In C.A 53/14)
(In C.As 187, 188/2018)
(In C.A 191/2018)

...Appellants

Versus

Muhammad Sadiq & others
Chairman Federal Public Service
Commission, Islamabad
Muhammad Sabir Khan and others
Ali Ahmad Sabir and others

(In C.A 1471/2013)
(in C.A 53/2014)
(In C.As 187, 189/2018)
(In C.As.188, 190, 191/2013)

...Respondents

For the Appellants:

(in CA 1471/13)
(in CA 53/14)
(in CAs 187,188/18)
(in CAs 189,190/18)

Mr. Waseem-ud-Din Khattak, ASC
Mr. Rashdeen Nawaz Qasoori, Addl.AGP
Mr. Abdul Razzaq Raja, ASC
Hafiz Hafiz ur Rehman, ASC

(in CA 191/18)

Mr. Muhammad Akram Shaikh, Sr.ASC

For the applicants:
(in CMA 5008/14)

Mr. Farooq Malik, ASC

For the Federation:
For FPSC.

Mr. Rashdeen Nawaz Qasoori, Addl.AGP
Mr. Haroon Rasheed, Dy. Dir. FPSC

For Respondent-1:
(in CAs 187 &
189/18)

Mr. Aftab Alam Yasir, ASC

For Respondents 1-2:
(in CAs 188,
190,191/18)

Dr. Khalid Ranjha, Sr. ASC

For Respondents 5-9 in
CA 189/18 and For
Respondents 7-10 in CA
190/18 and For
Respondent-5 in CA
191/18

Mr. Abdul Razzaq Raja, ASC

Date of Hearing:

15.02.2024

JUDGMENT

Muhammad Ali Mazhar, J. These Civil Appeals with leave of the Court are directed against the judgment dated 21.02.2013 passed by the Peshawar High Court whereby the Writ Petition No.1124/2006 filed by the respondent was allowed; the judgment dated 07.10.2013, passed by the Peshawar High Court whereby F.A.O.71/2011 filed by the appellant was dismissed, and the judgment dated 17.01.2017 passed by the Lahore High Court, Multan Bench, whereby the Intra Court Appeals No.157 and 275/2011 filed by the appellants were dismissed.

2. The precise facts of the civil appeals are as under: -

I) C.A.No.1471/2013

The respondent No.1 applied for admission in M.Sc. Engineering in KPK (NWFP) University of Engineering and Technology, Peshawar. During scrutiny, it was revealed that the respondent No.1 did not possess the pre-requisite qualification for admission in M.Sc. According to the University Rules and Regulations, the qualification of B.Tech. (Hons.) was not equivalent to B.Sc. Engineering; therefore, he was declared ineligible for admission. The respondent No.1 filed a Writ Petition No.1124/2006 in the Peshawar High Court, which was allowed *vide* impugned Judgment dated 21.02.2013.

II) C.A. Nos.53/2014

The appellant obtained a B.Tech degree from KPK University of Engineering & Technology, Peshawar. The respondent invited applications for recruitment for the post of Assistant Executive Engineer (BPS-17) in the Civil Engineering Department of Pakistan Railways, prescribing that candidates must hold a Bachelor's degree in Civil Engineering or an equivalent qualification. The candidature of the appellant was provisionally accepted and he was called upon to provide his registration with the Pakistan Engineering Council but the

appellant failed to provide such a Registration Certificate. Hence, his candidature was rejected. The appellant filed a Review Petition which was dismissed on 29.06.2011; hence, he filed F.A.O.71/2011 in the Peshawar High Court which was also dismissed *vide* Judgment dated 07.10.2013.

III) C.A. Nos. 187 to 191/2013

The respondents No. 1 to 4 filed Writ Petition No. 5578/10 in the Lahore High Court with the plea that they possess the qualification of B.Tech. (Hons.) in Electrical (Power) Technology and are performing duties as Line Superintendent. On 20.05.2010, the Board of Directors of the appellant, convened its 66th meeting wherein an Agenda No. 9 was approved according to which 09 Seats were allocated to Diploma Holders & 03 Seats were allocated to B.Tech. (Hons.) for promotion from LS-I to Junior Engineer/SDO. The Writ Petition was allowed and the decision of the management on Agenda No. 9 was declared without lawful authority. On similar notion, another Writ Petition No.5040/2010 was also allowed. The appellants filed Intra Court Appeals No.157 and 275/2011 which were dismissed by the High Court *vide* impugned consolidated judgment dated 17.01.2017.

3. Initially, the leave to appeal was granted by this Court in C.P.No.235-P of 2013 (C.A.1471/2013) on 05.12.2013 in the following terms: -

“Petitioners' learned counsel, inter alia, contends that the learned High Court did not appreciate that to grant equivalence of the B.Tech Hons with B.E./B.Sc Engineering, it had no jurisdiction and the power fell in the exclusive domain of the Pakistan Engineering Council/petitioner under section 2 & 8 of the Pakistan Engineering Council Act, 1975.

2. After hearing learned counsel for the petitioner's leave is granted, inter-alia, to consider the issue raised.

CMA No. 411-P/2013

Notice. In the meanwhile, the impugned judgment shall remain suspended.”

Based on the aforesaid leave granting order, the leave was also granted in similar terms in other civil petitions which were converted into appeals and fixed together for decision.

4. The learned counsel for the appellants in CA No. 1471/2013 argued that the admission of respondent No.1 was cancelled in view of Rule

1.1 of the Post-Graduate Prospectus 2005-2006 of the University of Engineering & Technology, Peshawar. It was further averred that according to the provisions of the Pakistan Engineering Council Act, 1976 ("**PEC Act**"), the Pakistan Engineering Council ("**PEC**") can only register individuals who have qualified with a B.E./B.Sc. Engineering degree. He further argued that the Higher Education Commission ("**HEC**") can only determine the standing of two degrees at comparable levels but there is a difference between equivalence and accreditation. The former is the domain of the HEC and the latter is the mandate of the PEC (appellant) for which HEC recognizes that insofar as interchangeability or accreditation or authorizing the same status is concerned, it is the domain of the respective regulatory/accreditation council. In support of his contention, the learned counsel referred to the judgments passed by this Court in the case of Maula Bux Shaikh vs. Chief Minister Sindh & others (2018 SCMR 2098), Fida Hussain vs. Secretary Kashmir Affairs (1996 PLC (C.S) 44) and Muhammad Sadiq vs. University of Sindh & another (PLD 1996 Supreme Court 182).

5. In CA No. 1471/2013, Muhammad Farooq Malik, Deputy District Officer (Roads) Kharian, District Gujrat, filed CMA No. 5008 2014 under Order (V) Rule 2(2) of the Supreme Court Rules, 1980, to be impleaded as a necessary and proper party as an office bearer of the Pakistan Diploma Engineers Federation (Regd.) and the B. Tech. Graduates Society (Regd.), which application was allowed. He, in-person, addressed that though the controversy is regarding the cancellation of the admission of respondent No.1, he is only concerned with the issue of equivalence. He argued that B.Tech. (Hons.) individuals are agitating promotion matters in light of the judgment of this Court in Suo Motu Review Petition, reported as PLD 1995 SC 701. Despite settling the issue, the appellant is continuously interfering in the equivalence of B.Tech. (Hons.) *vis-à-vis* B.E./B.Sc. Engineering qualification. He also relied on the decision of the University Grants Commission ("**UGC**") dated 12th February, 1998, wherein it was decided that the degree of B.Tech. (Hons.) is not similar to B.E./B.Sc. Engineering degree but both the degrees are to be considered as two distinct disciplines of knowledge in the field of Engineering and Technology and should run parallel to each other.

6. The learned Counsel for the appellant in C.A. Nos.53/2014, argued that the degree of B.Tech. has always been considered as equivalent to

B.Sc. Engineering, thus the rejection of the candidature of the petitioner on the ground of B.Tech. Degree not being equivalent to B.Sc. Engineering was illegal. He further contended for the post of Assistant Executive Engineer (BPS-17) Civil Engineering, there was no requirement of registration with the PEC. He also referred to the judgment passed by this Court in *Suo Muto Review Petition No. 52 of 1993* and argued that the PEC has no authority to oppose equivalency to the B.Tech. (Hons.) degree which is the function of the HEC.

7. The Deputy Director, Federal Public Service Commission (FPSC), addressed in C.A. Nos.53/2014, that 09 posts of Assistant Executive Engineers in the Civil Engineering Department of Pakistan Railways were advertised on receipt of requisition from the Ministry of Railway with a prescribed qualification of Bachelor's degree in Civil Engineering or equivalent qualification. The B.Tech. (Hons.) degree in Civil Engineering has not been declared by the PEC as equivalent to the required qualification of Bachelor degree in Civil Engineering. A meeting was convened on 19.02.2011, wherein the representative of the PEC stated that "Technology" and "Engineering" are two separate and distinct streams, with different, distinct syllabi and programme objectives. In the recent past, PEC in its 22nd Annual General Body Meeting has adopted two resolutions regarding the non-equivalence of the B.Tech. degree to the B.E. degree.

8. The learned counsel for the appellant in C.A. Nos. 187 to 191/2013, argued that B.Tech. (Hons.) is not at par with B.Sc. Engineering Degree. The B.Tech. holders are not allowed registration with the PEC. It was further averred that the first and second Schedule of the PEC Act, 1976 read with Sections 10, 11, and 16 debar B.Tech. (Hons.) to be considered equivalent to B.Sc. Professional Engineers as both have different characteristics and disciplines. He further argued that High Court had no jurisdiction to declare B.Tech. (Hons.) equivalent or at par with a B.Sc. Professional Engineering Degree.

9. The learned counsel for the respondents in C.A. Nos. 187 to 191/2013, argued that the respondents were promoted as SDO/Junior Engineer-17 in 2004 and 2005 respectively. They acquired degree of B.Tech. (Hons.) Electrical, therefore, the issue of promotion is a matter between the employer and the employee which has nothing to do with the PEC. It was further contended that the employer is free to ask for any qualification. It was further averred that the HEC *vide* letter dated

29.03.2019 decided that that both the degrees of B.E/B.Sc. Engineering and B.Tech. (Hons.) are two distinct disciplines of knowledge in the field of Engineering and Technology but should run parallel to each other. It was further averred that the High Court in its judgments rightly set aside the decision of the Board of Directors dated 20.5.2010 of the appellant (MEPCO) wherein an Agenda No.9 was approved for allocating only 03 Seats to B.Tech. (Hons.) for promotion from LS-I to Junior Engineer/SDO.

10. The learned Additional Attorney General argued that the UGC, predecessor of the HEC, resolved on 25.11.1981 that the B.Tech. (Hons.) degree, awarded by Polytechnic Institutions/Universities, be considered at par with B.Sc. Engineering degree awarded by other Universities in Pakistan. However, UGC's Equivalence Committee on 04.01.1983 and 12.02.1998 concluded that the degree of B.Tech. (Hons.) is not similar to B.E/B.Sc. Engineering degree. It was further contended that the National Curriculum Revision Committee ("**NCRC**") in the year 2010 also acknowledged that both degrees are two distinct disciplines of knowledge and HEC constituted a Committee of Experts for recommendations on the same subject matter and recommendations of the NCRC were placed before HEC's Committee of Experts on 11.03.2014. The Committee of Experts unanimously endorsed the recommendations of NCRC. In support of his contention, he also referred to the case of Maula Bux Shaikh, reported as 2018 SCMR 2098. It was further argued that HEC's mandate to determine equivalence under Section 10(1)(o) of the Higher Education Commission Ordinance, 2002 ("**HEC Ordinance**") is limited to the extent of standing of a degree or level of education which includes the number of schooling years, credit hours gained during program, and recognition of foreign degrees but HEC cannot encroach upon the domain of the PEC. He also pointed out that there is a Memorandum of Understanding ("**MOU**") between HEC and PEC which recognizes that substantial equivalence, authorization, and accreditation of engineering qualification can only be issued by the by the PEC which is responsible for granting engineering professional equivalence in consultation with the HEC. He referred to Sections 10 and 11 of PEC Act in support of his submissions and also relied on the judgment in the case of Muhammad Sadiq reported as PLD 1996 Supreme Court 182 and Fida Hussain case, reported as 1996 PLC (C.S) 44.

11. Heard the arguments. The admission of respondent No.1 (C.A.No.1471/2013) in M.Sc. Engineering in KPK (NWFP) University of Engineering and Technology, Peshawar was cancelled in view of the "Postgraduate Prospectus 2005-2006" of the University wherein according to Regulation 1.1(b), candidates seeking admission to M.Sc. Degree Programme must have a Bachelor's Degree in a relevant Engineering discipline from an institution accredited by the PEC and since the B.Tech. (Hons.) qualification was not equivalent to B.Sc. Engineering; therefore, he was declared ineligible for admission. In the affairs of admission and examination in the educational institutions, the concerned authorities are vested with the powers and jurisdiction to lay down the eligibility criteria in their own rules, regulations, or prospectus. They are independent to follow their own policy for admission, and in other affairs, therefore, the academic, administrative, and disciplinary autonomy of a university must be respected. The interference by the courts in the admission policy would give rise to glitches for the said institutions to administer the matters harmoniously and efficiently. The educational institutions are competent to manage their own affairs without any outside intervention from executive or judicial organs unless they contravene or disregard the compass of their authority or act in breach of applicable statutes or admission policies as laid down in the prospectus. There is no ambiguity in the eligibility criteria mentioned in the prospectus; hence, it was not open to any other interpretation. Nothing on record shows that while cancelling admission of the respondent No.1, the University committed any act in violation of their rules and regulations. The petitioner failed to achieve the admission criteria and hence, he was not entitled to admission. It was neither fair nor just or equitable to interfere into affairs falling into the exclusive domain of the university and its academia, therefore, the learned High Court was not justified to intervene in the admission policy which does not seem to be discriminatory or unlawful but is a fair benchmark for applying for admission in the M.Sc. Degree Programme. Reference may be made to following case law:

1. Noor Muhammad Khan Marwat vs. Vice Chancellor, Gomal University (PLD 2001 219). There is another aspect of the case. Universities have always been considered to be centres of high excellence where higher education is imparted and research facilities are regulated through its own discipline. Prominent jurists, educationists and research scholars are assigned administrative as well as educational and research assignments for achieving the object of higher education. Such authorities, generally

speaking, are competent to administer their own affairs without outside interference from executive or judicial organs. Unless University authorities transgress the scope of their authority or act in violation of the statute, Courts are always loath to interfere with the smooth administration of universities.

2. Muhammad Ilyas v. Bahauddin Zakariya University (2005 SCMR 961). At the outset it may be noted that as far as the rules/regulations framed by the University Authorities for the purpose of conductive/regularizing examination etc. of University are concerned these are required to be interpreted by the University Authorities itself and Courts should avoid to interpret the same unless a case of grave injustice is not made out otherwise it would become difficult for University administration to run its internal affairs relating to examination, etc... therefore, no interference is called for by this Court in exercise of jurisdiction under Article 185(3) of the Constitution of Islamic Republic of Pakistan.

3. Secretary Economic Affairs Division, Islamabad v. Anwarul-Haq Ahmed (2013 SCMR 1687). The educational institutions are independent to follow policy for admission including affairs relating to changing conditions for endowment funds or fee, either under the policy given by the government or adopted by the college; and interference in the policy by the Court is possible only in exceptional circumstances.

4. Murad Ali Khan v. Vice Chancellor, University of Health Sciences, Lahore (2016 SCMR 134). It is a settled law that in matters of admission and examination in educational institutions, the University authorities concerned are the sole judges of the criteria laid down in the prospectus. The Courts in such matters desist from interfering due to the reason that it would create difficulties for the said institutions to run its affairs in an appropriate manner according to their rules and regulations.

5. Khyber Medical University and others v. Aimal Khan and others (PLD 2022 SC 92). The self-restraint by the courts in matter of educational institutions is based on the wisdom that academic freedom and institutional autonomy of the universities must be protected and safeguarded. Academic freedom is not merely liberty from restraints on thought, expression, and association in the university, but also that the university should have the freedom to make decisions about the educational matters including disciplinary matters. As it is the business of a university to provide that atmosphere which is most conducive to speculation, experiment, and creation. It is an atmosphere in which there prevail the four essential freedoms of a university; who may teach, what may be taught, how it shall be taught and who may be admitted to study.

12. The purpose of constituting the PEC under the PEC Act is to make provisions for the regulation of the engineering profession and to regulate the engineering profession with the vision that the engineering profession shall function as a key driving force for achieving rapid and sustainable growth in all national, economic, and social fields and

maintain realistic and internationally relevant standards of professional competence and ethics for engineers, and license engineers, and engineering institutions, to competently and professionally promote and uphold the standards and the Council, covering the entire spectrum of engineering disciplines, functions as an apex body to encourage and promote the pursuit of excellence in engineering profession, and to regulate the quality of engineering education and the practice of engineering. The definitions provided under Section 2 of the PEC Act which are relevant to decide the present controversy are reproduced as under: -

(i) "Accreditation Committee" means the Accreditation Committee constituted under sub-section (1) of section 14;

(ii) "accredited engineering qualification" means any of the qualification included in the First Schedule or the Second Schedule;

(viii) "Council" means the Pakistan Engineering Council constituted under section 3;

(xxiii) "professional engineer" means a person who holds an accredited engineering qualification and after obtaining a professional experience of five years, whether working privately or in the employment of an engineering public organization, has passed the prescribed engineering practice examination and is registered as such by the Council;

(xxv) "professional engineering work" means the giving of professional advice and opinions, the making of measurements and layouts, the preparation of reports, computations, designs, drawings, plans and specifications and the construction, inspection, and supervision of engineering works, in respect of -

(a) railways, aerodromes, bridges, tunnels, and metalled roads;

(b) dams, canals, harbours, light houses;

(c) works of an electrical, mechanical, hydraulic, communication, aeronautical power engineering, geological or mining character;

(d) waterworks, sewers, filtration, purification, and incinerator works;

(e) residential and non-residential buildings, including foundations framework and electrical and mechanical systems thereof;

(f) structures accessory to engineering works and intended to house them;

(g) imparting or promotion of engineering education, training and planning, designing, development construction, commissioning, operation, maintenance and management of engineering works in respect of computer engineering, environmental engineering, chemical engineering, structural engineering, industrial engineering, production engineering, marine engineering and

naval architecture, petroleum and gas engineering, metallurgical engineering, agricultural engineering, telecommunication engineering, avionics and space engineering, transportation engineering, air-conditioning ventilation, cold storage works, system engineering, electronics, radio and television engineering, civil engineering, electrical engineering, mechanical engineering and biomedical engineering etc.;

(h) organizing, managing, and conducting the teaching and training in engineering universities, colleges, institutions, Government colleges of technology, polytechnic institutions, and technical training institutions;

(i) preparing standard bidding or contract documents, construction cost data, conciliation, and arbitration procedures; guidelines for bid evaluation, prequalification and price adjustments for construction and consultancy contracts; and

(j) any other work which the Council may, by notification in the official Gazette, declare to be an engineering work for the purposes of this Act;

(xxvii) "registered engineer" means a person who holds an accredited engineering qualification, whether working privately or in the employment of an engineering public organization and is registered as such by the Council. Registered Engineer shall perform all professional engineering works except independently signing design;

(xxviii) "registered" means registered under this Act;

13. The Functions of the PEC are provided under Section 8 of the PEC Act which *inter alia* include as under: -

"(a) maintenance of a Register of persons qualified to work as registered engineers, professional engineers, consulting engineers, constructors, and operators;

(b) accreditation of engineering qualifications for the purpose of registration of registered engineers, professional engineers

c) removal of names from the Register and restoration to the Register of names which have been removed"

14. While the objective of the HEC Ordinance (which repealed "The University Grants Commission Act, 1974") is to provide the establishment of the HEC in the interest of improvement and promotion of higher education, research, and development. The powers and functions of the HEC are laid down under Section 10 of the HEC Ordinance for the evaluation, improvement, and promotion of higher education, research, and development. Clause (o) of the aforesaid functions germane to the grant of equivalence, which is reproduced as under: -

"(o) determine the equivalence and recognition of degrees, diplomas and certificates awarded by Institutions within the country and abroad"

15. The chronicle of events bring to light that on October 26, 1973, pursuant to the decision of the Federal Government, the Ministry of Education had issued a policy letter wherein, it was conveyed that "B.Tech. (Hons.) shall be treated at par with B.Sc. (Engineering)/B.E. degree". Likewise, the erstwhile UGC Equivalence Committee resolved on 25.11.1981 in the 10th meeting of Equivalence Committee that "B.Tech. (Hons.) degree awarded by Polytechnic Institutions/Universities be considered at par with B.Sc. (Engg.) degree awarded by other Institutions/Universities in Pakistan". However, in the 11th Meeting of the erstwhile UGC's Equivalence Committee convened on 04.01.1983, it was resolved that the degree of B.Tech. (Hons.) be not considered as equivalent to the B.E degree but the two must be considered as two distinct disciplines of knowledge in the field of Engineering and Technology and both streams should run parallel to each other. However, B.Tech. (Hons.) degree holders may be treated at par with B.E./B.Sc. Eng. degree holders as far as grades of pay etc. are concerned but these two degrees would not be considered the same at any stage. Yet again on 12.02.1998, the erstwhile UGC's Equivalence Committee in its 39th meeting, resolved that the degree of B.Tech. (Hons.) is not similar to B.E./B.Sc. Engineering degree. Both the degrees of B.E./B.Sc. Engineering and B.Tech. (Hons.) be considered as two distinct disciplines of knowledge in the field of Engineering and Technology and should run parallel to each other. However, B.Tech. (Hons.) may be treated at par and compatible with B.E./B.Sc. Engineering degree holders as far as grades, pay and promotions and other benefits are concerned. It was further resolved that it is up to the employer to determine the type of qualification required for a particular job.

16. The record further reflects that the NCRC in 2010 made the recommendations that the letter issued by the HEC regarding the equivalency/compatibility of B.Tech. with B.Sc. Engineering must be withdrawn immediately to remove any confusion, because B.Tech. courses are implementation oriented and B.Sc. engineering courses are design and research oriented. The said recommendations were placed before the HEC Committee of Experts in its Meeting dated 11th March, 2014, where the Committee unanimously endorsed the recommendations of the NCRC that B.Tech. (Hons.) is not equivalent to B.Sc. (Eng.). Both the degrees of B.E/B.Sc. Engineering and B.Tech. (Hons.) be considered as two distinct disciplines of knowledge in the

field of Engineering and Technology and should run parallel to each other. The HEC Accreditation & Equivalence Committee in its 4th meeting held on 02.12.2014, formally approved the recommendations of the Committee of Experts. Despite the approval of recommendations, the HEC again convened a special meeting with the NCRC which was held on 08.10.2015 at HEC Islamabad to revisit whether the NCRC had the right to suggest a withdrawal of equivalence between B.Tech. and B.Sc. Engineering. The House unanimously declared that it was not the purview of the previous NCRC committee; therefore, degree status may be continued as per Government Policy 1973. At this juncture, it is pertinent to mention that an MOU between HEC and PEC was also executed on 15.05.2015 for developing linkages, collaboration, and coordination within the entire process of accreditation for formalizing respective roles. According to Article 6 of the MOU, the PEC is made responsible for granting engineering professional equivalence in consultation with the HEC whereas the Pakistan Qualification Framework (PQP) will remain in the purview of the HEC. However, on 15.11.2019, the 8th HEC Equivalence and Accreditation Committee was convened on the same subject, and the Committee, after detailed deliberation decided that both degrees of B.Sc. (Engg.)/B.E. Engineering and B.Tech. (Hons.) are not equivalent but could be considered at par for employment, grade, promotion, etc. in their respective cadre/streams. The decision of the 8th Accreditation & Equivalence Committee meeting was reaffirmed in the HEC's 9th Accreditation and Equivalence Committee meeting held on 03.05.2021.

17. All over again, in the 10th Accreditation and Equivalence Committee meeting of HEC held on 17.11.2021, the matter was reviewed on the recommendations of the Senate Standing Committee, and it was resolved that a Bachelor's degree in Engineering (minimum 16 years education) and a Bachelor's degree in Technology (minimum 16 years education) are at par for recruitment, pay scales and grades. However, *vide* letter dated 17.01.2022, the HEC, through its Executive Director communicated the revision of minutes of the 10th Accreditation & Equivalence Committee to the PEC and stated in paragraph 6 of the aforesaid letter that the "It is further clarified that word equivalence has not been mentioned in the final resolution of the aforesaid notification (8.12.2021) and it is only mentioned that both the qualifications are at par for recruitment, pay scales and grades".

18. The perusal of Section 10 of the PEC Act divulges that the engineering qualifications granted by engineering institutions in Pakistan which are included in the First Schedule shall be the accredited engineering qualifications for the purposes of this Act and for this purpose, the Council has constituted an Accreditation Committee under Section 14 the same Act for organizing and carrying out a comprehensive program of accreditation of engineering universities, colleges and institutions etc. according to the criteria approved by the Governing Body in consultation with HEC. The PEC also maintains a Register under Section 16 of the Act in which the names and other particulars of persons possessing accredited engineering qualifications whose application for registration as registered engineers, professional engineers, consulting engineers, constructors and operators are, from time to time, granted by the PEC and entered in the Register. Whereas the penalties and procedure are provided under Section 27 of the PEC Act and whoever undertakes any professional engineering work shall, if his name is not for the time being borne on the Register, be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees, or with both, and, in the case of a continuing offence, with a further fine which may extend to two hundred rupees for every day after the first during which the offence continues. It is further provided that whoever willfully procures or attempts to procure himself or itself to be registered under PEC Act as a registered engineer, professional engineer, consulting engineer, constructor or operator by making or producing or causing to be made or produced any false or fraudulent representation or declaration, either orally or in writing, and any person who assists him therein shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both and whoever falsely pretends to be registered under this Act, or not being registered under this Act, uses with his name or title any words or letters representing that he is so registered, irrespective of whether any person is actually deceived by such pretense or representation or not, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both. Section 27 of the PEC Act further cautions that no person shall undertake any professional engineering work, unless he is registered under this Act and no person shall, unless registered as a registered engineer or professional engineer, hold any post in an

engineering organization where he has to perform professional engineering work.

19. Last but not least, the powers of framing Regulations are provided under Section 25A of the PEC Act, wherein the Governing Body may, in consultation with the committee of Vice-Chancellors of the Universities of Engineering and Technology of Pakistan set up by the HEC, make regulations, not inconsistent with the provisions of the this Act and the bye-laws, to provide for (a) minimum standard of courses of study and practical training for obtaining graduate and post-graduate engineering qualifications to be included in the First and Second Schedules; (b) minimum requirement for the content and duration of courses of study as aforesaid; (c) minimum qualifications for admission to engineering institutions offering course of study and laying down minimum standard for holding admission examinations; (d) qualification and experience required of teachers for appointment in engineering universities, colleges and institutions; (e) minimum standards of examinations, and duration and standard of practical training, for securing accreditation of engineering qualifications under this Act; and (f) qualifications and experience required of examiners for professional examinations of accredited engineering qualifications. In exercise of the powers conferred by Section 25A of the PEC Act, the PEC framed Regulations for Engineering Education in Pakistan in 1985 *vide* S.R.O.1142(I)/85. The relevant Article is reproduced as under:-

"Article 2. Minimum Qualification for Admission to Engineering Bachelor's Degree Programmes Offered by Engineering Institutions & Universities.

A candidate seeking admission in an Engineering Institution/University for working towards Bachelor's Degree in any recognized branch of Engineering must fulfill the following minimum requirements:—

[(c) (i)

[(ii) A candidate possessing four years degree/*qualification of B.Tech(Hons)/B.S/B.Sc./Bachelor of Technology (with relevant discipline) or equivalent qualification duly recognized by HEC seeking admission towards the relevant engineering discipline against 02% reserved seats of B.Tech (Hons)/B.S/B.Sc./Bachelor of Technology (with relevant discipline)], shall be considered for admission in 2021 and after; with two years of exemption subject to assessment of courses studied by concerned HEI for allowing maximum 40 credit hours transfer and satisfying PEC Regulations, and where needed qualifying remedial courses, shall be eligible for registration with the Council as per laid down criteria: Provided that a candidate possessing above qualifications, enrolled against the reserved seats during the period January 2015 to December 2020 shall

be considered for one year exemption; and Candidates possessing B.Tech (Pass) and B.Tech (Hons) or equivalent qualifications, enrolled up to 31st December, 2014 shall be considered for exemption of one and two years, respectively. [Emphasis supplied].

*Qualification B.Tech. (Hons.)/B.S. Bachelor of Technology refers to four years technology degree/program.]”

20. If the B.Tech. (Hons.) is deemed to be equivalent to an engineering bachelor's degree programme then there was no justification to provide in the aforesaid regulation that the candidate possessing a four year degree/qualification of B.Tech (Hons.), B.S., B.Sc., Bachelor of Technology or equivalent qualification duly recognized by the HEC seeking admission against 02% reserved seats of B.Tech (Hons.)/B.S./B.Sc./Bachelor of Technology shall be considered for admission in 2021 and after, with two years of exemption. The criteria set down for admission is self-explanatory that both degrees are distinct, with the rider that if a person who qualified B.Tech. (Hons.) applies for admission to Engineering Bachelor's Degree programme offered by Engineering Institutions and Universities, he can avail certain exemptions subject to assessment of courses and satisfying the PEC Regulations.

21. The rationale of the PEC Act is to devise the provisions for regulation of the engineering profession and for achieving this task, the PEC has been constituted comprising of specialists and experts in the field. The main function of the PEC is the recognition and accreditation of engineering qualifications for registration in accordance with the PEC Act. If the entire facts are seen in juxtaposition, it is clear beyond any shadow of doubt that the PEC persistently expressed to HEC that engineering and technology qualifications are two distinct streams of the engineering profession and cannot be considered equivalent. Both qualifications are regulated internationally through their separate accords i.e. "Engineering Qualification" by the Washington Accord while "Engineering Technology" by the Sydney Accord. The Washington Accord was signed in 1989 for providing mutual mechanism for recognition of graduates of accredited programme among its signatories which is a self-governing, autonomous agreement between national organizations (signatories) that provide external accreditation to tertiary educational programme that qualify their graduates for entry into professional engineering practice. Pakistan is also a signatory to this Accord and the status of the PEC has been duly acknowledged in

the treaty. The signatories are responsible for undertaking a clearly defined process of periodic peer review to ensure that the accredited programmes are substantially equivalent and their outcomes are consistent with the published professional engineer graduate attribute exemplar. The PEC has also entered into other international agreements such as the International Professional Engineers Agreement (IPEA), and the Federation of Engineering Institutions of Asia and the Pacific (FEIAP). Whereas the Sydney Accord was signed in June 2001 by seven founding signatories representing, Australia, Canada, Hong Kong, Ireland, New Zealand, United Kingdom, and South Africa, and is specifically focused on academic programmes dealing with engineering technology. In fact, the Sydney Accord acknowledges the accreditation as a key foundation for the practice of engineering technology in each of the countries or territories covered by the Accord and recognizes the important roles of engineering technologists as part of a broader engineering team.

22. The gist of documents placed before us unequivocally demonstrate that that the degree of B.Tech. (Hons.) is not equivalent to B.E. degree but both are two distinct disciplines of knowledge in the field of Engineering and Technology with distinct syllabi and programme objectives but may be treated at par for recruitment, pay scales and grades. The covenants of the MOU between HEC and PEC also recognizes that substantial equivalence, authorization, and accreditation of engineering qualification can only be issued by the PEC which is responsible for granting engineering professional equivalence in consultation with the HEC. The word "equivalent" has been defined in the different law lexicons as under: -

1. Black's Law Dictionary (Ninth Edition), page 620: "Equal in value, force, amount, effect, or significance. Corresponding in effect or function; nearly equal; virtually identical".

2. Corpus Juris Secundum (Volume 30A), page 862-863: "Alike in significance and value; as good as; equal or identical; identical in effect; equal in worth or value, force, power, effect, import, and the like; equally good; equal so far as concerns the matter under consideration; of equal value, force, import, and effect; having equal or corresponding import, meaning, or significance; of the same import or meaning".

3. Words and Phrases (Volume 15), page 158: "To be 'equivalent to' means to be equal in value, to be the same, corresponding to and to be worth".

23. According to PEC, B.Tech. courses are implementation oriented and B.Sc. engineering courses are design and research oriented. The

NCRC in 2010 had also decided that B.Tech. (Hons.) is not equivalent to B.Sc. (Eng.). Both qualifications are also regulated internationally through two separate accords. The Bachelor of Science in Engineering emphasizes theories and advanced concepts, while an Engineering Technology degree emphasizes hands-on application and implementation with the major difference that B.E. is more knowledge-based while B.Tech. is skill-oriented. According to the Michigan Technological University, USA, "Engineering graduates" apply scientific, theoretic, and economic knowledge to research, invent, design, and build structures, devices, and systems, making for a broad discipline that encompasses specialized fields of engineering. While "Engineering technology graduates" develop, design, and implement engineering and technology solutions, typically pursuing engineering careers in manufacturing firms on design, construction, and product improvement [Ref: <https://www.mtu.edu/admissions/academics/majors/differences>]. A similar controversy was also dealt with by this Court to some extent in the following dictums:

1. Muhammad Sadiq and others Vs University of Sindh and another (PLD 1996 SC 182). It was held that the High Court in exercise of its Constitutional jurisdiction cannot sit as a Court of appeal over the decision of a body incorporated under the statutes for deciding the question, whether a particular qualification is to be recognized under the relevant statute. The fact that Sindh University, or the University Grants Commission or the Government of Pakistan treats a particular qualification equivalent to a particular professional qualification, will not be relevant for the purpose of decision by the authority concerned under the relevant statute. So, the decision of Sindh University to treat M.Sc. (Communications) or M.Sc. (Electronics) as engineering qualification will not be binding on Pakistan Engineering Council, nor the decision of the Government of Pakistan that B. Tech. (Honours) will be equivalent to Bachelor of Engineering, would be binding on Pakistan Engineering Council.

2. Fida Hussain Vs. The secretary, Kashmir Affairs and Northern Affairs Division, Islamabad (PLD 1995 SC 701). This was a Suo Motu Review Petition in Civil Appeal No. 216 of 1991 before the five members bench of this Court. The Court considered the letter of Minister for Education and Provincial Coordination whereby, it was conveyed that B. Tech. (Honours) shall be treated at par with B. Sc. (Engineering)/B.E. Degree. This Court held that it is the domain of the Government concerned to decide whether a particular academic qualification of a civil servant employee is sufficient for promotion from one grade to another higher grade and whereas it is in the domain of the Pakistan Engineering Council to decide, as to whether a particular academic qualification can be equated with another academic qualification, but it has no power to say that the civil servants/employees holding particular academic qualifications cannot be promoted from a particular grade to a higher grade.

3. Maula Bux Shaikh and others VS Chief Minister Sindh and others (2018 SCMR 2098). The Court again held that it is the

domain of the Government to decide whether a particular academic qualification of a civil servant/employee is sufficient for promotion from one grade to another higher grade and whereas it is in the domain of the Pakistan Engineering Council to decide whether a particular academic qualification can be equated with another academic qualification. Thus, professional engineering work can only be performed by a person who is registered as registered engineer or professional engineer and both registered engineer and professional engineer in terms of the PEC Act are by law required to possess accredited engineering qualification as prescribed by the PEC Act from accredited engineering institution.

24. One more important aspect that cannot be ignored is that under Section 10 (e) of the HEC Ordinance, the HEC has been vested with the powers to set up national or regional evaluation councils or authorize any existing council or similar body to carry out accreditation of Institutions including their departments, faculties, and disciplines by giving them appropriate ratings. Pursuant to aforesaid power and function, the HEC has constituted the National Technology Council ("**NTC**"), *vide* notification (HEC No.19-3 /HEC/HRM/2015/9721) dated 07.09.2015 which was published in the Gazette of Pakistan on 02.10.2015. The NTC has been given a mandate to carry out accreditation of all 04-year programs leading to technology degrees over a span of 16 years of learning. The technology education curriculum has been aligned pursuant to the guidelines of the HEC with the spirit of outcome-based education system in conformity with the Sydney Accord. Now, the NTC is empowered to accredit Higher Education Institutions Programs for graduate technologists and define accreditation and certification standards. The NTC is comprised of a Chairman, 23 members including the representative of PEC, and 04 other representatives of different Ministries. The NTC has started accreditation to the Higher Education Institutions (HEI) with the current standards of technology education degree programs comparable with international standards. Besides the role or mandate of accreditation, the NTC has also started registration of BSc Engineering Technology, B.Tech. (Hons.), B.Tech, B.S. Technology/B.E. Technology/B.Sc. Technology Degrees and maintaining National Register of Technologists (NRT). The 'Professional Engineering Technologist' may also apply after acquiring 5 years of post-qualification experience in the relevant technology discipline. The formation of NTC and conferring mandate of accreditation and registration by itself is sufficient to comprehend that in order to end this long standing dispute or controversy, the NTC has been constituted parallel to the PEC for accreditation and registration of Engineering Technologist, which is sufficient prove that B.Tech. (Hons.)

is not equivalent B. Sc. (Engineering) and for this reason, the PEC does not allow accreditation and registration of Engineering Technologists. The underlying wisdom and objective of setting up the NTC is to engage in sustainable policy framework for separate career paths for engineers and technologists in sectors where both are employed in a parallel service track. According to the learned Additional Attorney General, the NTC has also taken some material steps for attaining the status of provisional signatory to the Sydney Accord for performing its task more proactively and dynamically [Ref: <https://www.ntc-hec.org.pk>].

25. The Lahore High Court in the two judgments (impugned in C.A. Nos. 187 to 191/2013) set aside the minutes of Agenda No. 9 of the 66th Board of Director Meeting of the appellant whereby 09 Seats were allocated to Diploma Holders & 03 Seats were allocated to B.Tech. (Hons.) for promotion. The essential qualifications for appointment to any post is the sole discretion and decision of the employer. The employer may prescribe required qualifications and the preference for appointment of candidate who is best suited to his requirements. The court cannot set down the guidelines or conditions of eligibility or fitness for appointment or promotion to any particular post. In no case can the Court, in the garb of judicial review, seize the chair of the appointing authority to decide what is best for the employer and impose conditions in internal recruitment matters, unless there is a grave violation of applicable law, rules and regulations. In the private sectors, the employer is free to decide the criteria of appointment and promotions and other terms and conditions of employment and for this purpose, may set down its business strategy, H.R. policies, and progression plans. Whereas for the appointment, transfer and promotion in the civil service, the Appointment, Promotion and Transfer Rules framed by the Federal Government and Provincial Governments separately under their Civil Servants Acts are prevailed and followed and in case of statutory bodies, appointments and promotions are made in accordance with their statutory requirements, rules and regulations; but in all such circumstances, it is within the domain of the competent authority to prescribe required qualification and experience in the recruitment and promotion process. The courts cannot force to accept or interchange any other qualification equivalent to the specific post with specific qualification advertised for inviting applications for recruitment or setting benchmark for promotion of employees to any particular post or grade on attaining any particular

length of service. According to the Fida Hussain case (*supra*) also, this Court held that it is the domain of the Government concerned to decide whether a particular academic qualification of a civil servant employee is sufficient for promotion from one grade to another higher grade, whereas it is in the domain of the PEC to decide as to whether a particular academic qualification can be equated with another academic qualification, but it has no power to say that the civil servants/employees holding particular academic qualifications cannot be promoted from a particular grade to a higher grade. The same principle was reiterated in the case of Maula Bux Shaikh (*supra*).

26. In the wake of the above discussion, the C.A. Nos.53/2014 is dismissed and judgment passed by the High Court in F.A.O.71/2011 is maintained. The C.A. Nos. 187 to 191/2013 are allowed. Consequently, the impugned judgments passed by the Lahore High Court in the Writ Petition No. 5578/10 & Writ Petition No.5040/2010 as well as the judgments passed in Intra Court Appeals. No.157 and 275/2011 are set aside. The C.A.No.1471/2013 is also allowed as a result thereof, the impugned judgment passed by the Peshawar High Court in Writ Petition No.1124/2006 is set aside.

Chief Justice

Judge

Judge

Announced in open Court

on _____ at Islamabad
Khalid
Approved for reporting

Judge