

**PRESIDENT'S SECRETARIAT (PUBLIC)  
AIWAN-E-SADR, ISLAMABAD**

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**Rep. No.553/WM/2022**  
**Date of Decision: 03.02.2023**

**Hamza Wazir Vs Federal Board of Revenue**

**REPRESENTATION FILED BY HAMZA WAZIR AGAINST THE ORDERS OF THE WAFAQI MOHTASIB IN COMPLAINT NO.WMS-HQR/0006002/2022**

Kindly refer to your representation addressed to the President in the background mentioned below:-

2. This representation has been filed by Hamza Wazir (the complainant) assailing the orders dated 31-08-2022/ 24-11-2022 of the Wafaqi Mohtasib. In the original order dated 31-08-2022 it has been held as under:-

*“Since the selection and appointment of a person against an advertised post is the sole prerogative of the Agency, the case is referred to the Chairman FBR to reconsider it in the light of the position discussed in the preceding paragraphs.*

*In view of the foregoing facts, investigation in the complaint is closed under Regulation 23(1)(z) of the Wafaqi Mohtasib (Investigation and Disposal of Complaints) Regulations, 2013. Compliance report be submitted to this Secretariat within 30 days of the receipt of these findings in terms of Article 11(2) of President's Order No.1 of 1983.”*

3. The complainant preferred a review petition that was rejected vide order dated 24-11-2022 in the following terms:-

*“Perusal of the record revealed that the complainant applied for the post of Assistant (BPS-15) in October 2021. Accordingly, written MCQs test was held on 07.04.2022 and interview was held on 13.06.2022. At the time of cut-off date to apply for the position, the complainant was neither in possession of any DMC nor any degree, meaning thereby that he was not eligible for the said post. It was further revealed that the final semester of the complainant was concluded in 12/2021 and the result was announced in 03/2022 which clearly indicates that on the cut-off date, he had no proof of being a Bachelor Degree holder. In addition, the certificate was issued by the QAU on 27.06.2022 whereas the Agency had already interviewed the final candidates by 16.06.2022. Therefore, the complainant was not eligible for said post ab initio. More so, the Agency advertised the position on composite quota as appeared from its advertisement date 19.09.2021. Since the complainant was not eligible for the said post, the preference was given to the next candidate having GB domicile. Therefore, no mal-administration was established on the part of the Agency.*

*In view of the above, the Review Petition filed by the complainant is rejected for being devoid of merits and the original findings dated 31.08.2022 are recalled.”*

4. The complainant had alleged that he applied for the post of “Assistant (BPS-15)” in the Federal Board of Revenue (the Agency) in October 2021 and passed MCQs based written test and also called for interview which was held on 16-06-2022. According to him, during the interview he was asked by one of the Members of Interview Panel that his Bachelor Degree has been issued after closing date of Advertisement and he showed the Order dated 10-03-2022 of the Hon'ble President along-with implementation letter of the President Secretariat dated 03-06-2022 passed in his case against the Quaid-i-Azam University for declaration of the result of 1<sup>st</sup> & 2<sup>nd</sup> semester despite lapse of two years but the Member said that this office will either call you or sent an Objection Letter, after that you will be given time to explain or submit whatever supporting documents you have. Since 16.06.2022, he has neither received a call nor any objection letter and the offer letters have been issued for the post of Assistant to other candidates.

5. The case was fixed for hearing on 19-01-2023. The complainant Hamza Wazir along-with Ahmad Mumtaz Bhatti advocate whereas Ms. Uzma Munir, Chief (Management) and Muhammad Waseem, Second Secretary on behalf of the Agency have appeared.

6. After perusal of record and hearing the parties, it has been observed that on 24-05-2021 the complainant filed a complaint before the learned Wafaqi Mohtasib with the plea that in 2019 he got admission in Associate Degree Program at Islamabad Postgraduate College affiliated with the Quaid-i-Azam University (the Agency) and the Agency had not declared the result of 1<sup>st</sup> & 2<sup>nd</sup> semester despite lapse of two years which would delay in completion of the degree program and also affect his career prospects and the said complaint was disposed of by the learned Wafaqi Mohtasib vide revised order dated 02-09-2021. Thereafter, the complainant filed a representation in this Secretariat which was disposed of by the Hon'ble President vide Order dated 10-03-2022, on the assurance of the representative of the Agency stated therein *"In the circumstances, the complainant's Bachelor Degree may kindly be considered from June/ July 2021 according to Findings of the President's Secretariat (Public) dated 10.03.2022 and the complainant may kindly be considered against the post of Assistant, hence this complaint."* In this regard, on request of the complainant, a letter dated 03.06.2022 had also been forwarded by this Secretariat to the learned Wafaqi Mohtasib and the Agency for compliance report of the Order of the Hon'ble President.

7. In the instant case, the complainant has contended that he applied to the Agency for the post of Assistant (BS-15) in October 2021 and got first position in the written test with 86-marks which was held on 07-04-2021; that he was called for interview which was held on 16-06-2022; that he was waiting Agency's response but in the meanwhile he come to know that the Agency had published a list of selected candidates on 06-07-2022 without affording him any opportunity of hearing; that being topper in the written test he was discriminated by the Agency in the final selection and that the instant representation may be accepted by setting aside the impugned orders of the Wafaqi Mohtasib.

8. The representative of the Agency has contended that the complainant had applied in the Agency for the post of Assistant (BS-15) and had admittedly got first position in the written test; that the Agency has acted transparently in whole of its selection process as per law; that the Agency advertised the post on 19-09-2021 and as per advertisement all candidates must have bachelor degree before 19-09-2021 but the complainant's degree was issued on 02-06-2022 after lapse of more than 08-months after the advertisement; that if the complainant was not holding bachelor degree before advertisement he should not have applied for the said post; that if the Agency entertain the complainant's case for the appointment it will open a flood-gate others who do not meet relevant criteria of the post and that the learned Wafaqi Mohtasib has rightly passed the impugned order which may be upheld.

9. After perusal of record and hearing the parties, it has been observed that the order passed by the Hon'ble President on 10-03-2022 is a settled issue which had nexus with the issuance of result of semesters of the degree; that Quaid-i-Azam University issued 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> semester's DMC on 25-02-2022 as well as DMS of final semester on 02-06-2022 which were delayed due to Corona Virus Pandemic; that the University also issued a Certificate on 27-06-2022 which read as under:-

*"This is to certify that Mr. Hamza Wazir Registration No.90201193039 was student of Islamabad Model Postgraduate College for Men, H-8 Islamabad affiliated institute of this University. The Spring Semester of this session was to convened in February 2021 to June 2021, but due to COVID-19, it was convened in July 21 to November 2021 and January 2022, result was declared on 30 March 2022. So he is considered eligible for admission in any University or Job on the basis of this from June/ July 2021."*

The University declared result of the complainant late due to Covid-19 and it was not fault of the Student, the University's Certificate dated 27-06-2022 categorically indicates that the complainant is eligible for admission in any university or job from June/ July 2021 whereas the Agency advertised post of Assistant in September, 2021 for which the complainant applied and got first position but the Agency neither considered his case objectively nor gave him the opportunity to explain the matter and deprived him of his due; that special relaxation, incentive and enticement were given at large due to epidemic of Corona Virus which was beyond human control. Now a days, there is a tough competition for each and every post and a large number of candidates are coming forward, the obligation to act fairly on the part of the administrative authorities is evolved to ensure due process of law, to prevent the failure of justice and avoid any unfair treatment. In deed the act of the Agency runs counter to the earlier decision of the President (Representation No.389/WM/2021).

10. In such view of the matter, maladministration established on the part of the Agency within the meaning of Article 2 of P.O. No.1 of 1983. The learned Wafaqi Mohtasib has overlooked this very important aspect of the matter while passing the impugned order. Therefore, the Agency is directed to reconsider appointment of the complainant against the post of Assistant (BS-15) against quota of Ex-FATA as per Establishment Division's O.M. No.4/10/2006/R-2 dated 14-02-2020 within 45-days.

11. Accordingly, the Honourable President has been pleased to set aside the impugned order passed by the learned Wafaqi Mohtasib and accept the instant representation in the above terms.

-Sd-  
**(Asghar Ali)**  
**Director (Legal)**

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The Chairman,  
Federal Board of Revenue (FBR),  
FBR House, Constitution Avenue,  
**Islamabad.**

**Copy to:**

- i. The Secretary, Wafaqi Mohtasib (Ombudsman)'s Secretariat, Constitution Avenue, Islamabad.
- ii. The Press Secretary, President's Secretariat (Public), Islamabad.