

HCJDA 38.

JUDGMENT SHEET  
**LAHORE HIGH COURT BAHAWALPUR BENCH**  
**BAHAWALPUR**

JUDICIAL DEPARTMENT

Intra Court Appeal No. 67 of 2015.

Govt. of Punjab etc. **Versus** Mst. Saba Jabeen

Date of hearing: 2.2.2016

For the appellants: Mr. Saeed Ahmad Chaudhry, Asstt. Advocate  
General with Mst. Samina Yasmin, D.E.O.  
Elementary and Zahoor Ahmad Chohan,  
E.D.O. (Education), Bahawalnagar.

For the respondent: Ch. Shafi Muhammad Tariq, Advocate

**ZAFARULLAH KHAN KHAKWANI, J.**- By way of instant Intra Court Appeal the appellants have called in question order dated 5.5.2015 passed by learned Judge-in-chamber of this Court in constitutional petition bearing W. P. No. 1541 of 2015 whereby the respondent has been directed to be appointed as E.S.E. (Sci. Math.).

2. Facts of the case, in brevity, are that Mst. Saba Jabeen, respondent, in response to the advertisement floated in the newspaper on behalf of appellant No.2, applied for the post of ESE (Sci.-Math) having qualification B.Sc., B.Ed. However, she was not appointed which compelled the respondent to file the above cited constitutional petition which was accepted and the learned Judge-in-chamber of this Court directed the appellants to appoint the respondent in accordance with law. Feeling aggrieved of the said order the appellants have assailed the same by way of instant Intra Court Appeal, as mentioned above.

3. Although notice in this appeal has not yet been issued to the respondent, but Ch. Shafi Muhammad Tariq, Advocate has put in appearance at preliminary stage by submitting that he is on watching brief and seeks permission to represent the respondent in this case. This being the position, this appeal is being decided after hearing both the parties as a notice case.

4. Learned Law Officer representing the Government/appellant submits that required qualification for the post applied by the respondent was inter alia B.Sc. with at least two subjects out of Chemistry, Zoology, Botany, Physics, Math-A Course, Math-B Course & Math whereas the respondent passed her graduation with the combination of Economics, Advance Computer and Statistics which did not match with the required qualification. Further submits that in the advertisement the above said condition was relaxed by adding that if the candidate was not B.Sc. with at least two above-indicated subjects then he must be B.Sc./B.A. with F.Sc.. The learned Law Officer submits that neither the respondent is having qualification of F.Sc. in Pre-Medical nor in Pre-Engineering group and has passed the same in General Science Group with the subjects of Physics, Mathematics and Statistics which cannot be equated with F.Sc. as such she was not entitled to be appointed as per Recruitment Policy for Educators (2014) but the learned Single Judge has erroneously accepted the writ petition and directed the appellants to appoint the respondent which order is not sustainable in the eye of law and is liable to be set aside.

5. Although learned counsel for the respondent conceded that the respondent did not pass B.Sc. examination with either of two subjects given in the said advertisement, but at the same time supported the impugned order by referring to the condition of B.Sc./B.A. with F.Sc. made in advertisement that bare perusal of the same would reveal that appellant No. 2 had invited applications