

Termination During Probation in Pakistan: FCC Upholds NUML Decision and Explains Due Process

The FCC upheld NUML's termination of a probationer but held that an employer cannot disguise punitive dismissal as unsatisfactory performance to avoid due process.

NUML v Rahat Mehmood | FCPLA 1275/2026 | 16 September 2026

By Shahbaz Shah, Advocate High Court | Published 6 October 2026

What the Federal Constitutional Court decided

The Federal Constitutional Court of Pakistan restored NUML's decision to terminate an Assistant Director during probation for weak and unsatisfactory performance. It held that appointment against a regular post through competitive selection did not, by itself, give the employee a vested right to confirmation or continued service.

The judgment also draws a clear limit on that principle. A genuine assessment of suitability during probation is different from dismissal founded on misconduct. Where the termination is punitive or carries a stigma, an employer cannot avoid notice and due process simply by calling it unsatisfactory performance. A fair opportunity to explain may also be necessary where the circumstances warrant it.

The decision is *The D.G. National University of Modern Languages (NUML) and others v Rahat Mehmood and another*, FCPLA No. 1275 of 2026. Justice Ali Baqar Najafi authored the judgment for a three-member Bench comprising Chief Justice Amin-ud-Din Khan, Justice Aamer Farooq and Justice Najafi. It is dated 16 September 2026 and marked approved for reporting. The FCC judgment register records its upload on 6 October 2026; the upload date is not the decision date. No reporter citation appears in the supplied judgment.

The appointment and termination at NUML

NUML advertised the post of Assistant Director (Academics), BPS-17, on 7 June 2024. Rahat Mehmood was selected through a competitive process for the university's Regional Campus at Quetta and received an appointment letter dated 23 September 2024.

Clause B prescribed one year's probation, during which his employment could be terminated without assigning a reason. Clause C provided for one month's notice or pay in lieu of notice. NUML terminated his service on 12 September 2025 on account of unsatisfactory performance and paid one month's salary instead of notice.

The employee said the appointment letter reached him late and that he joined on 7 October 2024. The FCC noted that termination occurred in the last month of probation. His departmental appeal remained undecided, and the posts were re-advertised on 23 September 2025. These matters formed part of the background; the FCC did not make a separate order deciding the departmental appeal or re-advertisement.

Why the Balochistan High Court reinstated him

The High Court of Balochistan, Quetta, allowed Constitutional Petition No. 254 of 2026 on 31 March 2026. It set aside the termination, ordered immediate reinstatement with continuity of service, and left back benefits to determination by the competent authority under law.

As described in paragraph 4 of the FCC judgment, the High Court considered that appointment to a regular post after competitive selection could not be ended arbitrarily. It also relied on a probationary self-evaluation submitted by the employee following an HR letter dated 23 July 2025. According to the High Court, no adverse remarks or shortcomings had been communicated to him, and the department had produced no performance evaluation report.

The High Court therefore regarded termination without substantiating the alleged poor performance, a show-cause notice, warning or hearing as unlawful. The FCC disagreed with the legal conclusion drawn from those circumstances. It did not hold that a self-evaluation is invariably worthless or that an employer's records can never be examined.

A regular post does not mean automatic confirmation

Paragraph 6 explains the purpose of probation: it gives an employer time to assess capability, suitability and the prospects of satisfactory service. Selection is the entry stage; confirmation depends on fulfilling the prescribed requirements and being found fit for retention by the competent authority.

The judgment describes a probationer as temporarily holding the post during that assessment period. Until confirmation, the probationer does not acquire a lien or vested right to remain merely from having been selected for a substantive vacancy. The Court relied on *Muhammad Naseem Ahmad and others v Miss Azra Feroze Bkht and others*, PLD 1968 SC 37, for the absence of an automatic right to substantive appointment where prescribed confirmation conditions remain to be met. The name is reproduced as it appears in the FCC footnote.

The distinction is between the nature of the vacancy and the employee's status in it. A regular vacancy does not eliminate a probation clause. Equally, this judgment should not be used to replace the applicable service rules with a universal probation period: NUML's appointment letter prescribed one year, and the governing provisions must be checked in every other employment dispute.

When termination during probation requires a hearing

The central distinction appears in paragraphs 6 and 7. Termination simpliciter means an ordinary discharge under the appointment terms or applicable rules, rather than punishment for a proved or alleged disciplinary offence. A genuine termination for unsatisfactory work does not ordinarily amount to dismissal or removal requiring the disciplinary safeguards attached to those penalties.

By contrast, a termination founded on misconduct attracts notice and due process even if the employee is temporary or on probation. Where a stigma capable of harming the employee's career is involved, the protections cannot be avoided by using neutral wording. Paragraph 7 specifically says that a corruption allegation requires a regular inquiry.

The FCC referred to *Muhammad Afzal Khan v Superintendent of Police, Montgomery and others*, PLC 1961 Lah. 808, on notice where misconduct is the basis of discharge. It referred to *Muhammad Saddiq Javaid Chaudhry v The Government of West Pakistan*, PLD 1974 SC 393, on the inquiry required where corruption makes the discharge disciplinary in substance. These authorities are discussed here through the propositions expressly adopted by the FCC, rather than through any unverified account of their underlying facts.

Calling it poor performance is not enough

The Court's qualification is essential. An employer cannot convert a punitive or stigmatic decision into an ordinary probation discharge merely by describing it as unsatisfactory performance. The substance of the decision matters.

The FCC also approved Secretary, Ministry of Education, Government of Pakistan, Islamabad and another v Muhammad Azam Ch. and another, 2009 SCMR 194. It explained that, where circumstances warrant it, the probationer must have a fair opportunity to clarify the performance attributed to him.

Read together, these passages reject two absolute positions. A show-cause notice is not automatically required before every genuine probation discharge. But probation does not permit an employer to impose disciplinary punishment without the safeguards that its actual basis requires. In litigation, counsel must identify what the employer really decided and how the surrounding record supports that characterization.

Why Articles 4, 25 and 199 did not secure reinstatement

In paragraph 9, the FCC found no violation of Article 4, the right to be dealt with according to law, that justified the High Court's interference. It also found that the employee had established no discrimination attracting Article 25.

The Court stressed that constitutional jurisdiction ordinarily enforces an existing legal or fundamental right; it cannot create a right to confirmation where none exists and then enforce it through a writ. NUML's petition, brought under Article 175F(1)(c), was converted into an appeal and allowed.

This was a decision on the termination and asserted rights in this case. It does not establish that all probation disputes are immune from judicial review or settle the appropriate forum for every university or public-body employee. Service status, governing rules, the impugned action and the available remedies still require examination.

The final order and its practical effect

Paragraph 10 set aside the Balochistan High Court judgment and restored the termination order. The FCC found NUML's discharge for weak and unsatisfactory performance during probation consistent with the appointment terms. The High Court's reinstatement order therefore no longer stood.

For an employee challenging a similar decision, the stronger inquiry is whether the termination was genuinely about suitability or was punishment disguised as assessment. Appointment to a regular vacancy and the employee's own satisfactory self-evaluation do not alone answer that question.

For an employer, an appointment clause is relevant but cannot substitute for the disciplinary process where misconduct is the real foundation. A performance assessment should remain an assessment of fitness for the particular job, rather than an unnecessary condemnation of the person's wider professional competence. Paragraph 8 expressly cautions against damaging a probationer's future career through unnecessary stigmatization.

Documents to examine before challenging or defending termination

- The advertisement, appointment letter, acceptance and joining record, including the applicable probation clause.
- The governing service rules, confirmation requirements, and the authority competent to terminate or confirm.
- The termination order and evidence of notice or salary paid in lieu of notice.
- Performance assessments, communicated concerns, explanations and the employee's self-evaluation.
- Any allegation, charge or disciplinary record showing whether misconduct was the real basis of termination.
- The departmental appeal, its status, relevant dates, and evidence of discrimination or another identified legal violation.

These are practical points drawn from the issues in the judgment. They are not a new checklist of mandatory conditions imposed by the FCC for every probation discharge.

Frequently asked questions

Can a probationer be terminated without a show-cause notice?

Ordinarily, a genuine termination simpliciter for unsatisfactory performance under the appointment terms or applicable rules does not require the disciplinary process. If misconduct is the foundation, or the decision is punitive or stigmatic, notice and due process are required. Circumstances may also require an opportunity to clarify the alleged poor performance.

Does competitive selection for a regular post guarantee confirmation?

No. The FCC held that selection to a regular vacancy did not itself confer a vested right to confirmation. The prescribed requirements and the competent authority's assessment remain relevant.

Did the FCC uphold the employee's reinstatement?

No. It allowed NUML's appeal, set aside the High Court judgment and restored the termination order. The decision concerns this employee's termination during probation, not a general prohibition on challenges to unlawful discharge.

Source and paragraph guide

The complete seven-page judgment is available through the judgment download on this page, together with the FCC's official download and judgment register in the primary sources below. The substantive reasons conclude on page six; page seven contains only a running header.

Paragraphs 1-5 cover the litigation and appointment history. Paragraph 6 explains probation and confirmation. Paragraph 7 distinguishes genuine performance-based discharge from punitive termination and preserves the fair-opportunity qualification. Paragraph 9 deals with Articles 4, 25 and 199. Paragraph 10 contains the operative order.

The four older authorities above are identified and cited in the FCC's own footnotes. This article does not claim that their full reported judgments were independently examined. The controlling analysis here is the reasoning and outcome of FCPLA No. 1275 of 2026.

Primary sources and online article

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