

HIGH COURT OF SINDH CIRCUIT COURT, HYDERABAD

C.P. No.D-1636 of 2023

[Muhammad Kashif and Others vs. Province of Sindh and Others]

C.P. No.D-1705 of 2023

[Razique Dino Memon vs. Province of Sindh and Others]

BEFORE:

JUSTICE ADNAN-UL-KARIM MEMON
JUSTICE RIAZAT ALI SAHAR

M/s. Ishrat Ali Lohar and Mumtaz Alam Leghari, advocates for the petitioner(s)

Mr. Mansoor Ali Jamali, advocate for respondent(s)

Mr. Muhammad Ismail Bhutto, Additional A.G. Sindh

Date of hearing & decision: 24.11.2025

ORDER

ADNAN-UL-KARIM MEMON J . - Petitioners prayed that this Court be pleased to:

- i. Restrain the Respondents and their subordinates from taking any adverse action, including termination, against the Petitioners.
- ii. Declare that the failure to regularize the Petitioners is discriminatory, illegal, arbitrary, mala fide and violative of natural justice, equity, fair play, and Article 25 of the Constitution.
- iii. Direct the Respondents not to take coercive measures regarding the Petitioners' service or salaries.
- iv. Direct the Respondents to regularize the services of the Petitioners in accordance with the law.

2. Since a common question of law arises, both petitions are being heard and decided together.

3. It is the case of the petitioners that the Provincial Assembly through Notification dated 26.03.2013, enacted the Sindh Act No. XXVI of 2013, namely the Sindh Institute of Ophthalmology and Visual Science Act, 2013 (SIOVS). In exercise of powers under Section 12(1)(x) of the said Act, the competent authority appointed the petitioners to various technical and non-technical positions through different office orders. These appointments were initially made on contract or honorarium basis for a period of six months, with the condition that extensions would be granted subject to

satisfactory performance. According to the petitioners, their contracts were repeatedly extended owing to their continuous diligence, satisfactory performance and punctuality. It is further asserted that number of petitioners rendered exceptional services during the COVID-19 pandemic, which the Department duly recognized. They maintain that they were appointed against the vacant posts and continue to serve till-date. It is stated that on 5 June 2022, the Department advertised several technical and non-technical vacancies. The petitioners, who were already serving within the Institute, applied for the said posts, completed all requisite formalities and appeared in both written tests and interviews. They qualified for these assessments in August 2022 and were subsequently subjected to medical fitness examinations. Thereafter, the competent authority issued fresh contractual appointment orders in October 2022, and the petitioners resumed their duties for further six-month contractual period commencing from April 2023.

4. The petitioners' counsel submits that after each contractual term expired, the Respondents routinely extended their services, with the most recent extension lasting until October 2023. He emphasizes that petitioners have been serving against regular vacant posts for past 5 to 7 years on contract or honorarium basis without any break in service and without any complaint. Despite fulfilling all eligibility criteria, including qualifications, experience and age limits, their services were not regularized and instead, they were issued fresh contract appointments without justification. The petitioners' counsel further asserts that they have completed the probation period under the latest appointment orders and have an unblemished service record spanning more than 5 to 6 years. Hence, they claim that their services merit regularization. The petitioners' counsel submitted that while the Board of Directors regularized other similarly placed employees in its meetings, the petitioners were ignored based on the analogy of financial constraints. Learned counsel for the petitioners referred to Section 50 of the Sindh Institute of Ophthalmology and Visual Science Act, 2013, as amended on 20.09.2021 and Rules, 2021, which prescribe the procedure for the regularization of contractual employees in BPS-1 to BPS-16. Learned counsel therefore prayed that, in light of statutory provisions and the petitioners' continuous satisfactory service, this petition may be allowed in accordance with the relevant clauses of the Sindh Institute of Ophthalmology and Visual Sciences Act, 2013, as amended up to 2021.

5. Learned A.A.G, assisted by the counsel for respondent Institute, contended that the petitioners were appointed on contract basis and cannot claim regularization as a right, having accepted the terms at the time of joining. He further stated that cases of other employees were different as they were regularized by the Board of Directors (BoD) in its 6th meeting, while the petitioners' cases were deferred in 6th and 7th meetings due to financial implications. The petition being not maintainable may be dismissed.

6. We have heard learned counsel for the parties and perused the record with their assistance.

7. SIOVS is an eye hospital established in 1963 under the name "Eye Hospital." It was later restructured and renamed as Sindh Institute of Ophthalmology and Visual Sciences (SIOVS) through the Sindh Institute of Ophthalmology and Visual Sciences Act, 2013, under which the SIOVS Rules, 2021, were framed. The Institute is the only facility in Sindh providing free-of-cost eye treatment and operates under the control of its Board of Directors. Section 8 of the Act outlines the composition of Board, while Section 9 specifies its powers and functions, including the authority to frame Rules and Regulations for the proper and efficient functioning of SIOVS. Under Section 7 of the Act 2013, the Governor of Sindh was initially designated as the Patron and Section 11 appointed the Director as the administrative and academic head of the Institute. In 2019, several amendments were introduced, substituting the word "Governor" with "Chief Minister," replacing "Director" with "Executive Director," and revising the composition of the Board of Directors. Section 24 of the amended Act authorizes the Board to make rules and regulations consistent with the Act, subject to the approval by the Government. Accordingly, with Government approval, the SIOVS Rules, 2021 were promulgated. Furthermore, Section 50 of the Act (as amended on 20.09.2021), read with 2021 Rules, sets out the procedure for regularizing contractual employees in BPS-1 to BPS-16. This includes satisfactory completion of service, positive performance reports, availability of posts compatible with their qualifications and experience, no disciplinary proceedings within the preceding three years and passing a test or interview conducted by a committee constituted by the Board. The provision expressly limits eligibility to individuals appointed on contractual basis.

8. Under Article 25 of the Constitution provides that, all citizens are entitled to equal treatment. The refusal to regularize the Petitioners, despite their colleagues having been granted this benefit is arbitrary and discriminatory, amounting to violation of their fundamental rights. It is well settled now that employees cannot be denied regularization when others in similar positions have been regularized without valid reasons. This Court emphasized that such discrimination violates Article 25, and that organizations have a duty to protect the fundamental rights of long-serving contract employees who have devoted substantial years of service.

9. Accordingly, in view of above, the Petitioners are entitled to regularization under Section 50 of the Act (as amended on 20.09.2021), read with 2021 Rules, which prescribe the criteria for regularizing contractual employees in BPS-1 to BPS-16. These requirements include satisfactory completion of service, positive performance evaluations, availability of posts suited to their qualifications and experience, absence of disciplinary action during the preceding three years and successfully passing a test or interview conducted by a committee constituted by the Board. The law expressly confines eligibility to those appointed on contractual basis. Therefore, subject to verification of their qualifications by the Board, if the Petitioners meet the statutory requirements and the Respondents are obligated to implement the regularization process in accordance with law, without unnecessary delay.

10. This petition stands disposed of in the above terms with direction to the respondents to complete the entire exercise within three months, with a speaking order to be communicated to the petitioners.

JUDGE

JUDGE

Karar Hussain/PS*