

HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

CP No. D- 1543 of 2015

[Lutfullah Kalhoro and another v. Shaheed Benazir Bhutto University & others]

CP No. D- 1827 of 2015

[Sagar v. V.C. Shaheed Benazir Bhutto University & others]

BEFORE:

JUSTICE ADNAN-UL-KARIM MEMON
JUSTICE RIAZAT ALI SAHAR

Mr. Muhammad Arshad S. Pathan & Razia Ali Zaman, Advocate for Petitioners

Mr. Unaib Kamal, Advocate for respondent-university

Mr. Rafiq Ahmed Dahri, Asstt: A.G.

Date of hearing:
& Decision: 18.12.2025

ORDER

ADNAN-UL-KARIM MEMON, J - The Petitioners through instant Petitions have prayed as under:-

- a) Declare that the petitioners are regular employees of Shaheed Benazir Bhutto University of Veterinary & Animal Sciences, Sakrand, in terms of Committee recommendations, Syndicate approval, and legislative policy of regularization.
- b) Declare the non-regularization of the petitioners and the omnibus circular dated 06.07.2015 as illegal, unlawful, discriminatory, void ab initio, and without lawful authority.
- c) Restrain the respondents from preventing the petitioners from performing their duties and suspend the operation of the impugned circular.
- d) Direct the respondents to release withheld salaries and refrain from taking any coercive action against the petitioners.
- e) Grant any other relief deemed just and proper.

2. Petitioner No.1 in Constitutional Petition No. D-1543 of 2015 claims that he was appointed as Office Assistant in BPS-12, later upgraded to BPS-14, on adhoc basis, while Petitioner No.2 in the same petition was appointed as Associate Computer Operator, later Computer Operator in BPS-16, also on adhoc basis. The petitioner in Constitutional Petition No. D-1827 of 2015 claims to have been

appointed as Personal Assistant to the Vice Chancellor on adhoc basis in the year 2012. All the petitioners joined their respective posts after completion of all codal formalities and have continuously performed their duties without any complaint. In January 2014, upon appointment of new Vice Chancellor, an Ability Test was ordered for existing adhoc and contractual employees from BPS-07 to BPS-16. The petitioners appeared in the written test and interview, were declared successful, and were duly recommended by the competent Committee for regularization of their services. Despite such approval, the respondents failed to issue formal orders of regularization, although the petitioners continued to discharge their duties as regular employees. The salaries of the petitioners were released irregularly and after considerable delays, often spanning several months, which caused serious financial hardship. Notwithstanding the approval for regularization, the respondents neither issued notifications nor regularized the services of the petitioners; instead, they continued to unlawfully extend contracts and re-appoint employees, despite there being no legal provision for re-appointment of existing adhoc employees. The petitioners repeatedly approached the Chairman and Members of the Syndicate through representations, seeking justice and implementation of the regularization policy. It is pertinent that the Sindh Assembly had already enacted legislation for regularization of adhoc employees who had completed two years of continuous service, and similarly placed institutions duly implemented the said policy. The cases of the petitioners were scrutinized on two occasions: firstly, at the time of their initial appointment, and secondly, through written test and interview conducted on the directions of newly appointed Vice Chancellor. Even thereafter, issuance of office order dated 03.03.2015 extending their contracts was illegal, arbitrary, and unjust. Subsequently, in its meeting held on 21.02.2015, the Syndicate resolved to extend the services of employees up to 31.12.2015, subject to satisfactory performance. In compliance thereof, the petitioners were issued performance reports by their immediate superiors, wherein the performance of the petitioners was rated as "Good" and "Excellent." However, without any complaint, show-cause notice, or approval of the Syndicate, Respondent No.2 issued an omnibus circular dated 06.07.2015 directing all employees from BPS-02 to BPS-16 to hand over charge and stop attending their offices. The said circular is illegal, discriminatory, malafide, and in direct violation of the resolutions of the Syndicate as well as the legislative policy governing regularization of adhoc employees. The impugned circular has unlawfully deprived the petitioners of their accrued rights, legitimate expectancy, and protection under the principles of natural justice. The petitioners have no alternate efficacious remedy available to them except to invoke the constitutional jurisdiction of this Court for redress of their grievances.

3. Learned counsel for the respondent University contended that the instant petitions are not maintainable as there are no statutory service rules governing the

employees of the University and, in the absence of any violation of statutory provisions the petitions are incompetent under Article 199 of the Constitution. He submitted that admittedly the petitioners were contractual employees and, upon expiry of their contracts, they acquired no legal right to seek regularization or extension. He further argued that the petitioners failed to avail the alternate remedy provided under Section 43 of the Shaheed Benazir Bhutto University of Veterinary & Animal Sciences, Sakrand Act, 2012, before invoking constitutional jurisdiction. It was further argued that the petitioners were initially appointed against posts which were neither sanctioned nor available in the approved PC-I of the project, due to which the sponsoring department, namely the Livestock & Fisheries Department, Government of Sindh, raised objections and withheld salaries. To rationalize these appointments and secure release of funds, the University followed the procedure prescribed by the Government. The test conducted was only to assess suitability for continuation on contract basis and not for regularization, and most of the contractual staff, including the petitioners, failed to demonstrate the requisite competence. Learned counsel further submitted that the delay in payment of salaries occurred due to non-release of funds by the Project Director, which affected even senior officers, and that salaries were later paid after additional grants were obtained. He maintained that no employee of the University has been regularized, as all staff were appointed on contract basis, and regularization remains contingent upon allocation of funds by the Government of Sindh. He submitted that the matter was placed before the Syndicate, which allowed temporary extension of contracts up to 30.06.2015, subject to performance, need, and availability of funds. Upon expiry of contractual period, the petitioners stood relieved automatically and were not removed through any punitive action. Opinions of Deans or Assistant Registrars were not binding on the appointing authority. He denied that the petitioners continued to discharge duties after expiry of their contracts and submitted that only the services of most-needed employees were extended. Being contractual employees, the petitioners were not entitled to show-cause notices under the law of master and servant. In view of the above, learned counsel prayed that the petitions be dismissed with costs.

4. In view of the facts and submissions, it is observed that if the services of the colleagues of the petitioners who appointed with petitioners have been regularized, the services of the petitioners in the present case, having similar qualifications, experience, and satisfactory performance, deserve to be considered for regularization on a par with them, without any discrimination. Reliance is placed on the principle of pari passu treatment as recognized, whereby employees similarly situated cannot be treated differently without justifiable reasons. If this is the position of the case this court is left with no option but to treat the case of the Petitioners akin to the cases whereby their colleagues were regularized vide letter dated 30.6.2016 & 21.7.2016 and subsequent steps taken by the respondent-university on the subject issue.

5. Accordingly, without touching the merits of the case and keeping in view the parity, these Petitions are disposed of with direction to the competent authority of the respondent-university to re-consider their Decision by continuing and regularizing the petitioners' services on the same terms as their colleagues as discussed supra, without discrimination in accordance with law, within a period of 60 days after providing meaningful hearing to them.

JUDGE

JUDGE

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