

HIGH COURT OF SINDH CIRCUIT COURT, MIRPURKHAS

C.P No.D-450 of 2024

[Mst. Malookan vs. Province of Sindh and Others]

Before:

JUSTICE ADNAN-UL-KARIM MEMON
JUSTICE RIAZAT ALI SAHAR

Mr. Javed Kumbher, advocate for petitioner(s)

Mr. Muhammad Sharif Solangi Assistant A.G Sindh a/w DHO
Umerkot (Dr. Muhammad Ali Nohri)

Date of hearing & decision: 19.11.2025

ORDER

ADNAN-UL-KARIM MEMON J.- The petitioner has prayed for directions to the respondents to issue her posting order, accept her joining and pay salaries from the date she performed duties.

2. The case of the petitioner is that she was appointed as ‘Dai’ (BPS-02) at E.D.O.H Umerkot in Health Department. She possesses the required qualifications. The petitioner applied for the post, completed all formalities, and was issued an appointment letter dated 03-12-2007 (photocopy attached). Despite submitting the required documents, the respondent No.3 did not issue her posting order, keeping her on false hopes. She has been performing duties unofficially but has not received her salary (joining report attached). The petitioner claims political victimization, alleging that previous government appointments are being ignored. Similar cases (C.P. D-357 of 2009 and C.P. D-02 of 2010) were decided in favor of other petitioners, granting posting orders. The petitioner argues she is entitled to the same relief.

3. Learned counsel for the petitioner submitted that non-issuance of posting orders violates law and equity; that the appointment of petitioner was properly made and withholding her posting is illegal and violates the fundamental rights. Respondent allegedly made fresh appointment to the post of Petitioner with malafide intention. Petitioner has not received salary or posting orders, denying her legal rights. He allowed the allowing the instant Petition.

4. Learned A.A.G submitted that the Appointment Order of the petitioner was issued after proper procedure; however, the petitioner did not submit mandatory documents (police verification and medical fitness certificate) and did not report for duty. Allegations of political victimization are baseless. The petitioner never approached the office for clarification or posting. No posting order was required; the petitioner failed to assume duties within the prescribed time. The post remained vacant and was re-advertised according to law. The petitioner has never performed duties under the instructions of the office; therefore, claim of working without salary is false. He prayed for dismissal of this court being devoid of merit and not maintainable in law.

5. Once a valid appointment letter has been issued by a competent authority, it creates a vested right, which cannot be denied arbitrarily. This Court has held, in a similar situation that posting orders are consequential, and the failure to issue them does not invalidate the appointment. In CP. No. D- 373 of 2009, the court directed the respondents to issue the posting orders. The Supreme Court of Pakistan in a recent pronouncement has directed verification of appointment letters where they were admitted to be genuine. Once verified, the Court ordered payment of all pending salaries. That decision underscores the denial of salary without due process is not only an administrative irregularity, but also a violation of fundamental rights such as the right to livelihood (Article 9), equality (Article 25) and fair trial (Article 10-A) under the Constitution. The Supreme Court has recently recognized the doctrine of constructive continuity, which means if an employee was prevented from working by an unlawful or arbitrary act of the employer, they may be treated as having remained in continuous service. Under this doctrine, back benefits (salary, increments, seniority, etc.) become a right, not a favour, when reinstatement or recognition is granted. In the present case, the petitioner was never lawfully posted or paid, despite holding a valid appointment letter and performing duties. She should therefore be treated as having been in constructive service, entitling her to full back benefits.

6. Given that the petitioner belongs to a very poor family, the denial of her posting and salary causes extreme hardship. Courts should adopt a justice-oriented approach, not just a technical dismissal especially when all formalities (selection, interview, appointment) were completed by her. The

Supreme Court’s jurisprudence supports protection of vulnerable, low-grade employees when administrative lapses occur.

7. In light of the above principles, this Court order the respondents to issue her posting order and accept her joining report and to pay all withheld/ unpaid salaries from the date she began performing duties.

8. This petition strands disposed of in the above terms.

JUDGE

JUDGE

Karar_Hussain/PS*