

**ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI**

Date	Order with signature of Judge
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Present

Mr. Justice Muhammad Ali Mazhar

Mr. Justice Abdul Ghani Soomro

C.P. No.D- 2746 of 2014

Abdul Razaque & others	Petitioners
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V E R S U S

Province of Sindh & others	Respondents
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C.P. No.D- 6771 of 2014

Sabir Hussain & others	Petitioners
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V E R S U S

Province of Sindh & others	Respondents
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C.P. No.D- 2380 of 2014

Syed Inayatullah Kaka & others	Petitioners
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V E R S U S

Province of Sindh & others	Respondents
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Date of hearing 20.09.2016

M/s. Malik Naeem Iqbal, Mohammad Saleem Khaskheli and Irfan Mir Halepota advocates for the petitioners.

Mr. Abdul Jalil Zubedi A.A.G.

Muhammad Ali Mazhar, J: The case of the petitioners is that the Directorate of Human Rights, Government of Sindh issued

advertisement in the media for inviting applications for job on various posts by the eligible candidates. All the petitioners appeared for interview and on the recommendation of Departmental Selection Committee and with the approval of competent authority, they were offered for appointment on contractual basis. The petitioners accepted the same and after clearing medical test and verification, they were appointed on one year contract in the Directorate of Human Rights Scheme under the administrative control of Secretary, Ministry of Law, Parliamentary Affairs and Human Rights Department.

2. Learned counsel for the petitioners stated at bar that all the petitioners are continuously performing their duties. He further pointed out page 231 of the court file of C.P No.D-2746 of 2014 and submits that last extension of contract period was made up to February, 2014 in terms of the Summary moved to the Chief Minister, Sindh, thereafter, though no extension was made but the petitioners are performing their duties without any break. Learned counsel further argued that in terms of Section 3 of Sindh (Regularization of Ad-hoc and Contract Employees) Act, 2013, they are entitled to be regularized in their services but despite making various approaches and requests their cases have not been considered nor sent to the Scrutiny Committee.

3. The Respondent No.2 has filed reply which reflects that no comments have been made on various paragraphs of the memo of petition, however, it is stated that contractual

engagement with the petitioners was lastly extended up to 31.12.2014, thereafter, no extension was made due to adverse service record. However, no comments have been made to counter the plea taken by the petitioners that under the Sindh (Regularization of Ad-hoc and Contract Employees) Act, 2013 they are entitled to be regularized nor it is mentioned that why the cases of the petitioners were not considered under the Act which came in the year 2013 while the last contract of the petitioners was extended up to 31.12.2014 and it is also not denied that petitioners are not performing their duties.

4. Learned A.A.G also did not deny that the petitioners are not performing their duties on contract basis but he opposed these petitions on the ground that only those employees would be considered for regularization who are employed on ad-hoc and contract basis against the post in B.S-1 to B.S-18 or equivalent basic scale. He further submits that in the contract letter no basic scale or equivalent basic pay scale is mentioned, therefore, they are not entitled for the regularization. At this juncture, learned counsel for the petitioners has also shown us Notification dated 13.08.2015 issued by Mr. Parkash Lal Ambwani, Acting Law Secretary which is reproduced as under:-

NOTIFICATION

No.S.GENL:5-3/2007:- In pursuance of Section (3) of the Sindh (Regularization of Adhoc and Contract Employees) Act, 2013 and with the approval of competent authority (Chief Minister), the services of Ms. Yasmeen D/o Qurban Ali Magsi, Assistant Director, Directorate of Human Rights Department,

working on contract basis is hereby regularized as Assistant Director (BPS-17), with immediate effect.

Sd.
PARKASH LAL AMBWANI
ACTING LAW SECRETARY

5. Learned A.A.G referred to the case of Abid Iqbal Hafiz and others Vs. Secretary, Public Prosecution Department, Government of Punjab, Lahore, reported in PLD 2010 S.C 841. We are of the view that the dictum laid down by apex court supra is distinguishable to the facts of the case as the case before the apex court was related to the Contractual Appointment Policy, 2004 of Government of Punjab and the hon'ble Supreme Court reached to the conclusion that contractual appointment under the aforesaid Contractual Appointment Policy cannot be treated as regular appointment while in the case of present petitioners, they are seeking relief specifically under the provision of Section 3 of Sindh (Regularization of Ad-hoc and Contract Employees) Act, 2013 meant to deal and regularization of contractual employees.

6. Learned counsel argued that the petitioners are continuously approaching for their regularization but no action has been taken in their cases while the services of Ms. Yasmeen have been regularized by the Law Department in pursuance of Section 3 of the aforesaid Act, 2013 which is sheer discrimination with the petitioners. We have also seen the appointment letters available on record in which the consolidated remuneration is mentioned. Naturally, when a

person is holding any post on contract basis, no pay scale is normally mentioned but his pay may be examined to commensurate the equivalent basic pay in government department. It is not the case here that if the basic scale is not provided in the contractual engagement, no consideration will be given to the persons for regularization. We have also confronted the letter of Ms. Yasmeen to the learned A.A.G as to why Acting Law Secretary was not aware to this alleged legal position who is performing his duties in the Law Department being custodian of Law. Learned A.A.G could not respond. In the similar controversy, this Court has already decided the case of Dr. Iqbal Jan reported in 2014 PLC (C.S) 1153. The Sindh Government challenged this order in the hon'ble Supreme Court but ultimately the appeal was withdrawn. We have also noted that Law Department regularized the services of Ms. Yasmeen in terms of Section 3 of Sindh (Regularization of Ad-hoc and Contract Employees) Act, 2013, therefore, being at par to the case of Ms. Yasmeen, all the petitioners are also entitled to be regularized in terms of Section 3 of the Act, 2013 and Para-10 of the Iqbal Jan's case reported in 2014 PLC (C.S) 1153. Petitions are disposed of in above terms along with pending applications. The Respondents are directed to send the petitioners' cases for regularization to the concerned Scrutiny Committee in accordance with law.

JUDGE

JUDGE

