

ORDER SHEET
IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD.

C.P. No.D-957 of 2014.

DATE	ORDER WITH SIGNATURE OF JUDGE
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For orders on MA-16361/16.
For orders on office objection.
For katcha peshi.
For hearing of MA-12629/15.

17.11.2016.

Mr. Mumtaz Alam Leghari, Advocate for Petitioners.
Mr. Allah Bachayo Soomro, Addl. A.G.

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1. Urgency granted.

2to4. Secretary Public Health Engineering and Rural Development
Department file comments, which are taken on record.

Through instant petition, Petitioners have prayed as under:-

(a) To direct the respondents to regularize the Petitioners from work charged establishment to permanent basis with effect from the date of appointments.

(b) To direct the respondents to give all the benefits, increments, promotions and allowances for the period under which the Petitioners served on work charge basis with all allowance allowed to the Government Employees from the date of their appointment.

(c) Costs of the petition may be saddled upon the Respondents.

(d) Any other relief(s) which this Honourable Court deems fit, just and proper in favour of the Petitioners.

Precisely relevant facts are that petitioners are working as Chowkidar, Helper, Pump Operator and Beldar on *work charge basis* since more than 30 years and performing their duties honestly and efficiently. Such plea is not denied by the official Respondents, rather reply of paragraph-9 says that “ *Keeping in view the length of services of work charged employees, the case of regularization of service of work charged employees including the names of Petitioners had been sent to the Government vide letter No.E/PHED/556 dated 09.03.2012, whereas reply of paragraph-11 shows*

that the services of Petitioners in C.P.No.D-742/2010 have been regularized as per order issued by Honourable High Court of Sindh, Circuit Court, Hyderabad.

At this juncture, it would be conducive to refer paragraph-5 of order passed in C.P.No.D-1204 of 2010:-

"We have also had a glance over a circular dated 10.03.1994 heavily relied upon by learned A.A.G to oppose the case of Petitioners, it does not even remotely suggest that 1.7.1994 is to be considered as a cut-off date for the contingent employees having 5 years of service to seek regularization. It merely denotes that regularization of the verified employees was to be effected from 1.7.1994 and for such verification a Committee was constituted which was tasked to submit the list of eligible workers to Finance Department who had rendered five years or more continuous service and were in possession of valid NICs. Mr. Abdul Nisar Soomro, Assistant Engineer, Public Health Engineering, Tando Allahyar, who is present alongwith Manohar Kumar, XEN Public Health Engineering, Tando Allahyar, has confirmed that the petitioners are continuously performing their duties since the date of their appointments (from 1987 to 1997), he has not raised any doubt either over the identification of any of the Petitioners to be employee of the department. Although learned A.A.G has strongly opposed the case of the Petitioners for regularization but has not been able to show as to why the petitioners, who are low paid work charged employees and are in continuous service, have not been provided the same benefit, in terms of the Government policy contained in letter dated 10.3.1994, already extended to similarly placed employees. Learned A.A.G and the officials present do not deny either that previously the contingent/work charged employees of the department have been regularized in compliance of decisions of this Court. We are of the view that when this Court has already decided a point of law in respect of other similarly placed employees of the department, the department ought to have taken into consideration the case of other employees including the petitioners as well who due to some reasons could not take any legal proceedings to seek their right. For obvious reason, the rule of good governance would demand that the benefit of decision of this Court ought to have been extended to other employees of the department, who were not party to the earlier litigation, instead of compelling them to approach this Court for the same relief, which has already been extended by this Court to other employees. We have not been informed that the case of the Petitioners was placed before the Committee for scrutiny in terms of the policy contained in letter dated 10.03.1994, or if so, whether any decision in this regard was made or not."

(underlining and use of bold and italic is ours for emphasis)

The above should leave nothing ambiguous that the present petitioners *even* were to be given benefited of the said *decision* even if they were not parties to said petition, as was insisted in above decision. The status of the present petitioners to be *regularly* serving their duties on *work-charge* basis and even their cases are admittedly sent for regularization

therefore, judicial propriety and equity couple with binding effect of decision, passed in above referred petition, demand that petitioners must be given the same treatment and benefit. Accordingly, the official respondents are directed that the Petitioners shall be regularized from the date of their appointments within two months with compliance report.

Petition is allowed in the above terms.

JUDGE.

JUDGE.