

ORDER SHEET
**IN THE HIGH COURT OF SINDH, CIRCUIT
COURT, HYDERABAD.**
C.P.No.D-1551 of 2010

DATE

ORDER WITH SIGNATURE OF JUDGE

For hearing of main case.

21.08.2019.

Syed Muhammad Soulat Rizvi, advocate for petitioners.

Mr. Muhammad Ismail Bhutto, Additional Advocate
General Sindh.

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The petitioners by way of instant constitution petition has prayed for the following relief;-

- i. Declare the inaction of the respondents not to regularize the services of petitioners as well as not to pay salaries and other fringe benefits to the petitioners is illegal, unlawful, malafide and without any authority under the law.
- ii. Direct the respondents to regularize the petitioners in Health Department and pay them salaries and other fringe benefits.
- iii. Any other relief this Hon'ble Court deems appropriate and proper in the circumstances of the case.
- iv. Grant costs of the petition

2. The facts in brief necessary for disposal of instant constitutional petition as per petition are that the petitioners were taken up as laboratory technicians and vaccinators for Sindh Devolved Social Services Program on contract / daily wages basis, for one year, extendable through the program support unit by Executive District Officer (Health) Hyderabad, on different dates in year 2008 and they were posted at different health centers at District Hyderabad and Matiari and then their period of contract was

extended to July, 2009 and subsequent to it, their salaries and other remuneration were stopped and their services were terminated / not required. It was in these circumstances, the petitioners have filed instant constitutional petition for the relief which is detailed above.

3. The respondents in their objections/written statements/ Para-wise comments have sought for dismissal of the instant constitutional petition by inter-alia submitting therein that they were paid up to June, 2010 and health department submitted a summary for regularization of services of contractual employees for **abandoned** project of Sindh Devolved Social Services Program but summary was regretted by Finance Department Sindh.

4. It is contended by learned counsel for the petitioners that the petitioners were appointed on contract / daily wages basis against the regular posts and they as such ought to have been regularized on priority basis. By contending so, he sought for direction against the respondents to take the petitioners back in their service, on regular basis with all back benefits. In support of his contention he relied upon case of **Board of Intermediate and Secondary Educaiton, Faisalabad through Chairman and others vs Tanveer Sajid and others (2018 SCMR 1405)**.

5. It is contended by learned A.A.G that the petitioners were not taken against the regular posts, they were taken on contractual / daily wages basis, in Sindh Devolved Social Services Program and their services came to an end when the very scheme was abandoned.

By contending so, he sought for dismissal of the instant constitutional petition with costs.

6. We have considered the above arguments and perused the record.

7. Admittedly, the petitioners were taken up against different posts on contract / daily wages basis, in Sindh Devolved Social Services Program, for period of one year which was extended up to July, 2009 and they have been paid up to June, 2010. The very program as per reply furnished by the Secretary Health Sindh has been **abandoned**. If it is so, then the petitioners could not be directed to be taken up back in **abandoned** project. The summary for regularization of the services has been regretted by the finance department Sindh and such "**regretting order**" has not been challenged by the petitioners before any forum. In these circumstances, the petitioners could not be ordered to be taken back in service on regular basis with all back benefits by this court in exercise of its constitutional jurisdiction.

8. The case law which is relied upon by learned counsel for the petitioners is on different facts and circumstances. In that cases the petitioners were taken in service against regular posts and instead of regularizing services of the petitioners, fresh appointments were being made. In the instant matter, the petitioners were taken up in Sindh Devolved Social Services Program, which now is said to have been **abandoned** and nothing has been brought on record by the

petitioners which may suggest that instead of them some one else was taken up in service on regular basis.

9. For what has been discussed above, the instant constitutional petition is dismissed, with no order as to costs.

JUDGE

JUDGE

Ahmed/Pa