

Order Sheet
IN THE HIGH COURT OF SINDH KARACHI

Before:

Mr. Justice Nadeem Akhtar

Mr. Justice Adnan-ul-Karim Memon

Constitutional Petition No. D –1400 of 2017

Syed Noorul Arifeen Shah

Versus

The Province of Sindh and 02 others

Constitutional Petition No. D –869 of 2019

Nadir Ali

Versus

Managing Director Sindh Technical Education and
Vocational Training Authority and 02 others

Date of hearing
& order : 14.10.2020

Syed Shoa-un-Nabi, advocate for the petitioners in both C.Ps. along with petitioners.

Mr. Karam Dad Khan Tanoli, advocate for respondent No.2 a/w Alamgeer Memon, Incharge Legal Section STEVTA Headquarter Karachi.

Mr. Ali Safdar Depar, Assistant Advocate General Sindh.

ORDER

ADNAN-UL-KARIM MEMON, J. Through instant petitions, both the petitioners are seeking regularization of their service from the date of their initial appointment in Sindh Technical Education and Vocational Training Authority (STEVTA).

2. Brief facts of the above-referred petitions are that the petitioner in C.P. No. D – 869 of 2019 was appointed as Photocopier Machine Operator and the petitioner in C.P. No. D – 1400 of 2017 was appointed as Deputy Assistant Director vide office orders dated 06.01.2015 and 24.3.2014 respectively at fixed remuneration for 89 days on a contingent basis. They have asserted that they performed duties assigned to them with keen interest and devotion without any complaint, therefore, they may be regularized in the service. They have further asserted that employment is the basic necessity of life, particularly for the educated youth and the State is responsible to provide a transparent working

environment and the employers are required to provide such environment to the employees. They contended that after a continuous devoted and successful performance, the Respondent-Authority discontinued their services in the year 2018. They further contended that the petitioners deserved regularization of their service. The petitioners further contended that they have worked as regular employees for a considerable period and have averred that as per Recruitment Policy 2010, the Respondents have regularized the services of other contingent employees, who were appointed in the year 2009-2010 vide office order dated 28.3.2012. The petitioners have submitted that the Respondent-Authority has appointed their nearest and dearest relatives and unqualified persons in violation of STEVTA (Appointment, Promotion, and Transfer) Rules 2012 on regular basis and the petitioners have been ignored. Petitioners have further submitted that they should stand confirmed ; but they were not given any benefit admissible under the Recruitment Policy. It is further averred that to block the career of the petitioners, the Respondents have dispensed with their services with effect from 2018 without assigning any reason to avoid their regularization in service, whereas the petitioners continued to work in STEVTA for consecutive terms of 89 days. Petitioners being aggrieved by and dissatisfied with the purported action with malafide intention to deprive the petitioners of their jobs have approached this Court.

3. Syed Shoa-un-Nabi, learned counsel for the petitioners, has mainly contended that the petitioners though are performing their duties but their salaries are not being paid to them since 2018; that the petitioners were eligible for regularization under the policy and Sindh Technical Education and Vocational Training Authority Act, 2009. (Act, 2009) as well as under section 3 of the Sindh (Regularization of Adhoc and Contract Employees) Act, 2013.

4. Mr. Karam Dad Khan Tanoli, learned counsel for the respondent-Authority, has contended that the petitioners were engaged in STEVTA for a limited period, based on contingency ; that the said appointment of the petitioners was made purely on need and temporary basis without considering the availability of the posts ; that the STEVTA has released their salary up to their contingency contract period; that the petitioners have no right to agitate their contingent service grievances before this Court under Article 199 of the Constitution of Pakistan,1973 hence, Petitions are not maintainable.

5. We have heard the learned counsel for the parties on the issue of regularization of service of the petitioners in the Respondent-Authority.

6. Record reflects that the petitioners continued to serve on a contingent basis in the Respondent-Authority for several years i.e. four consecutive terms of 89 days on the posts. However, their service was dispensed with in the year 2016 due to the expiry of the contingent / contract period.

7. Adverting to the point raised by learned counsel for the petitioners that under the beneficial legislation i.e. the Sindh (Regularization of Adhoc and Contract Employees) Act, 2013, the service of the petitioners ought to have been regularized. *Prima-facie* the Sindh (Regularization of Adhoc and Contract Employees) Act, 2013 does not apply to the facts and circumstances of the present case of the petitioners, as the aforesaid Act of 2013 is relevant for those employees, who held the posts in Government of Sindh Departments which includes the post in a Project of such Department in connection with the affairs of the Province also excluding the employees appointed on contingent / daily wages basis and under the aforesaid Act 2013 the contingent service of the petitioners cannot be converted into regular service.

8. In the light of facts and circumstances of the case, the instant Petitions are misconceived and are hereby dismissed along with the pending application(s) with no order as to costs.

J U D G E

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Nadir*