

Order Sheet
IN THE HIGH COURT OF SINDH KARACHI
Constitutional Petition No. D –7155 of 2019

Before:

Mr. Justice Nadeem Akhtar

Mr. Justice Adnan-ul-Karim Memon

Mujtaba Hassan and 27 others

Versus

Federation of Pakistan and 02 others

Date of hearing & order : 10.11.2020

Mr. Faizan Hussain Memon, advocate for the petitioners.

Mr. Muhammad Nishat Warsi, DAG.

Mr. Asad Manzoor Halepota, advocate for respondents 2 and 3.

ORDER

ADNAN-UL-KARIM MEMON, J. Petitioners are seeking direction to the respondents-Oil & Gas Development Company Ltd. (OGDCL) to regularize their services against the post held by them.

2. The case of petitioners is that they are qualified engineers/professionals working for the respondents on daily wages since six to ten years. Main grievance of the petitioners is that the respondents have started process of recruitment on contract basis rather than regularization of the petitioners.

3. Mr. Faizan Hussain Memon, learned counsel for the petitioners has argued that the petitioners are working on regular posts since almost a decade and their last extension was done vide letters dated 29.10.2019 till 31.12.2019 and have a legitimate expectation of regularization of their service. The impugned advertisement ex-facie is malafide and contrary to the decision of this Court, inasmuch as, the respondents were directed to consider the petitioners for regularization, whereas, the respondents have yet again introduced a ruse of contract appointment and the petitioners will be deprived of their vested rights. In support of his contention he relied upon in the case Dr. Naveeda Tufail and 72 others versus Government of Punjab and other (2003 PLC (CS) 69), Ayaz Ahmed Memon versus Pakistan Railways through Chairman and 8 others (2017 PLC (C.S) 226) and Aftab Ahmed and others versus Government of Punjab and others (2012 PLC (C.S) 602).

Mr. Asad Manzoor Halepota learned counsel for respondents 2 and 3 has submitted compliance report in terms of the order dated 18.09.2018 passed by this Court in C.P No.D-417 of 2018 along with comments and argued that respondent No.2 does not has a policy of direct regularization for daily wages. He further argued that appointments of officers must first be made on contract basis as stipulated in the Oil and Gas Development Company Limited Service Rules, 2012; that the policy of regularization of such contractual employees has been issued vide notification dated 27.02.2012 and revised vide notification dated 28.09.2018; that in terms thereof the Managing Director / CEO of respondent No.2 is authorized to regularize officer employed on contract basis up to EG-V against advertisement(s), subject to the completion of three (03) years of contractual service and fulfilling essential criteria stipulated in the advertisement(s). He further argued that the petitioners were allowed to participate in the competitive and transparent process as per the aforesaid policy for the conversion of their engagement into contract basis, thereby enabling them to be considered for subsequent regularization upon completion of the applicable contract period and fulfillment of necessary criteria, however, they failed to either fulfill required criteria or pass the written test. Notwithstanding the above, no adverse action has been taken against them. It is contended by him that the Hon'ble Supreme Court vide order dated 21.11.2017 passed in Civil Petitions No.2781 to 2783 and 2980 of 2017 confirmed the legitimacy of the regularization process as implemented by respondent No.2 in the case of Medical Officers similarly placed to the petitioners; that respondent No.2 to further facilitate the petitioner has issued the advertisement dated 20.10.2020 for appointment against posts of EG-III sought by the petitioners. The said advertisement, inter-alia, offer leniency in the form of age relaxation and exemption from appearing in the written test. As such, the grievances of the petitioners stand redressed. He lastly prayed for dismissal of the instant petition.

4. We have noticed that earlier Petition bearing No.417/2018 of the petitioners were disposed of by consent of the parties vide order dated 18.09.2018 with the following observation(s):-

“Since in the instant matter, admittedly the respondents / OGDCL have consented that the petitioners shall be accommodated in the regularization process as and when it is initiated. It is expected that as and when the said regularization process is being made by respondents No.2 and 3, the cases of the petitioners with regard to their regularization may also be considered in view of the judgment of the Hon'ble Supreme Court of Pakistan as discussed supra strictly in accordance with law. With these directions, the instant petition along with the listed applications is disposed of.”

5. In view of the statement of respondent-OGDCL that they have published the advertisement dated 20.10.2020 for appointments against posts of EG-III on contract basis and the petitioners will be considered in terms of advertisement dated 20.10.2020, the said respondent is directed to allow the petitioners to participate in the regularization process in accordance with law more particularly in terms of order dated 21.11.2017 passed by the Hon'ble Supreme Court in Civil Petitions No.2781 to 2783 and 2980 of 2017 and submit compliance report through MIT-II of this court. The petition stands disposed of in the above terms with no order as to costs.

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Shahzad*