

Order Sheet
**IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD**

CP. No. D- 585 of 2017

Inayatullah and another v. Province of Sindh and others

BEFORE :

Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Adnan Iqbal Chaudhry

Petitioner: Inayatullah and another through Mr. Abdul Samad Memon, Advocate

Respondents: Province of Sindh and others through Mr. Allah Bachayo Soomro, Addl.A.G.

Date of hearing & decision: 26.10.2021

ORDER

ADNAN-UL-KARIM MEMON, J:- The petitioners are seeking regularization of their services under Section 3 of the Sindh (Regularization of Adhoc and Contract Employees) Act, 2013.

2. At the very outset, we asked learned counsel representing the petitioners to satisfy this Court concerning maintainability of the instant Petition, because of Office Order dated 19.9.2013, whereby their services were dispensed with, with effect from 1st July 2013 due to non-allocation of funds in the development scheme namely Strengthening and Improvement of Fish and Shrimp Hatcheries in Sindh.

3. In reply to the query, learned Counsel referred to the orders passed by this Court and argued that under the similar facts and circumstances, this Court disposed of the matter in terms of ratio in the case of Dr. Iqbal Jan and others v. Province of Sindh and others (**2014 PLC (C.S) 1153**). We asked him another question that in the aforesaid petition, the petitioners approached this Court within time i.e. on 4.10.2013, whereas they have filed the instant Petition on 1.3.2017, as such their case falls within the doctrine

of laches. He replied that the laches will not come in the way of Petitioners on the ground that this Court has already entertained various petitions of similar nature and the facts of the instant Petition are akin to the facts available in the aforesaid cases C.P No.D-5233/2016 and on that basis, he has approached this Court and seeks disposal on the same terms, manner and methods as decided in the above-referred petition. In support of his contention, he placed reliance upon the case of *S.A Jameel v. Secretary to Government of Punjab, Cooperative Department, and others* (**2005 SCMR 126**).

4. Learned A.A.G. raised the issue of maintainability of the instant Petition and argued that the case of Petitioners falls within the ambit of laches, thus, the Petitioners are not entitled to the relief as claimed in the aforesaid Petitions.

5. We have heard learned Counsel for the parties at length and have gone through the record made available as well as the case-law cited at bar.

6. Learned Counsel for the Petitioners has stated at bar that the case of the Petitioners do fall within the ambit of Section 3 of the Sindh (Regularization of Ad-hoc and Contract Employees) Act, 2013 (Act, 2013), on the plea that they were appointed in the year 2009 through transparent manner and this Court in the aforesaid matters considered the Office Order dated 19.9.2013, whereby their services were terminated where-after this court allowed regularization of their service. Be that as it may, we are only concerned with the point of laches involved in this matter, whether the petitioners have approached this court within a reasonable time when the impugned action was taken against them in the year 2013, the reasoning assigned by learned counsel that the petitioners have approached this court based on various orders passed by this court on the issue of Regularization; that a constitutional petition involving violation and infringement of fundamental rights of the citizens could not be thrown out on the ground of delay in filing the same.

7. We do not concur with the assertion of learned counsel for the Petitioners with his explanation of laches as rights of petitioners were not dependent upon other petitioners in the referred petitions. We are of the considered view that the instant Petition falls within the doctrine of laches as the Petitioners filed the instant Petition in March 2017 whereas the alleged cause of action accrued to them in September 2013, i.e. approximately 4

years before filing of the instant Petition. Those who slept over there cannot be given a premium. The observations of Honorable Supreme Court in the case of Ardeshir Cowasjee v. Karachi Building Control Authority (1999 SCMR 2883) is a guiding principle on the issue of laches.

8. Since the case of the Petitioners is suffering from serious laches, therefore, any discussion as to this Court's orders as discussed supra is not necessary.

9. In view of the aforementioned facts and circumstances, the instant petition stands dismissed along with listed applications.

JUDGE

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