

IN THE HIGH COURT OF SINDH KARACHI

Before :

Mr. Justice Aftab Ahmed Gorar
Mr. Justice Adnan-ul-Karim Memon

Constitutional Petition No. D – 6132 of 2021

Muhammad Zubair & two others
Petitioners : Muhammad Zubair, petitioner in person

Respondents : Mr. Ali Safdar Depar, AAG

Date of hearing
& decision : **02.02.2022.**

ORDER

Through this Constitutional Petition, filed Under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, petitioners have approached this Court for regularization of their service in Directorate of Human Rights, Government of Sindh, inter-alia on the ground that they are most qualified candidates having requisite qualification in the relevant field, thus their cases ought to have been considered for regularization by the Selection Committee, however, they without assigning valid and cogent reasons and scantily and vaguely did not consider their cases for regularization which action is impugned through the captioned petition before this Court.

2. Learned AAG has submitted that the petitioners are performing their duties at their own will. They were hired purely on a contract basis for a project post with the specified period, which does not confer any right for a regular appointment, however, they were relieved from the respondent-department, after completion of the contract till December 2020 on the premise that the Scrutiny Committee considered their cases but they were not recommended for regularization due to lack of qualification/unsatisfactory performance. An excerpt of the speaking order passed by the committee is reproduced as under:

"Subject: MINUTES OF MEETING OF SCRUTINY COMMITTEE NO.1 HELD ON 07-09-2020 AT PROVINCIAL LEVEL TO CONSIDER REGULARIZATION OF CONTRACT EMPLOYEE OF DIRECTORATE OF HUMAN RIGHTS DEPARTMENT.

The Honorable High Court of Sindh has passed the order, dated 20-03-2018 CP No.D-7122 of 2018, filed by Zamir Hussain Ujjan & Others & CP No. D-7506 of 2018. Abdul Razzaque & others versus Province of Sindh and directed to send the petitioners cases for regularization to the concerned scrutiny Committee, in accordance with Law.

After promulgation of Sindh (Regularization of Adhoc and Contract Employees) Act, 2013. The Services, General Administration and Coordination Department, Government of Sindh has constituted Scrutiny Committee Number 01, 02 and 03 to Scrutinize the eligibility of the employees appointed on adhoc and contract basis with the TORs vide its notification dated 16-09-2014.

The Human Rights Department, when it was part of law Department recruited the employees on contract basis under the ADP Scheme No. 1205 Establishment of Human Rights Complaint Cell @ Karachi” and ADP Scheme No. 1206 “Free Legal Aid Centre at District Larkana, Ghotki, Jacobabad, Dadu and Sukkur in the year 2012

The meeting of Scrutiny Committee No.1 at Province Level (for post in BS-1 to BS-15) notified by Services, General Administration and Coordination department, Government of Sindh was held on 07-09-2020 under the Chairmanship of Secretary, Human Rights Department, Government of Sindh, Karachi. The Scrutiny Committee No.1, after thoroughly examination as per TORs, given its recommendation case to case basis show against each mentioned which is attached list:

S #	Name	S/o W/o Dio	Publication of Advertisement 02-02-2012	Constitution of Selection Committee	Recommendation of Selection Committee	Availability of approval of Competent Authority	Designation	Date of Birth	Date of Appnt.	Extension upto	Age Required for Appnt.	Age at the time of Appnt.	Required Qualification	Officer/Official Holding Degree	Performance Certificate	Domicile	Degree Certificate Verified/Not Verified	Department's Remarks	Scrutiny Committee Findings	Scrutiny Committee Remarks
107	Muhammadd Zubair CP#4-6354	Muhammadd Ibrahim	Daily Dawn Daily Express Daily Arman Daily Sobah	Yes	Yes	Yes	Naib Qasid	1/1/99	18/2/02	31/12/2013	21-35	20.5	Preferably literate	Middle	Attached in Person of file.	Jacobabad	In Process	Not recommended as per his unsatisfactory performance	His contract was no further extended after 31-12-2013 due to unsatisfactory performance	Not recommended for regularization of service
101	Muhammadd Yaqoob CP#6354	Muhammadd Saleem	Daily Dawn Daily Express Daily Arman Daily Sobah	Yes	Yes	Yes	Assistant	1/1/96	31/7/2012	31/12/2013	21-35	44	Graduate with at least 2 nd Division from recognized University	B.A (2 nd Division) from Shah Abdul Latif University Khairpur	Attached in Person of file.	Sukkur	In process	Not recommended as per his unsatisfactory performance.	His contract was not further extended after 31.12.2013 due to unsatisfactory performance and he was over age at the time of appointment.	Not recommended for regularization of service

S #	Name	S/o W/o Dio	Designation	Date of Birth	Date of Appnt.	Extension upto	Age Required for Appnt.	Age at the time of Appnt.	Required Qualification	Officer/Official Holding Degree	Performance Certificate	Availability of Approval of Competent Authority	Domicile	Degree Certificate Verified/Not Verified	Department's Remarks	Copy of Payroll Attached
1	Faheem-ud-Din Alimed CP#D-2380	Nasem-ud-Din	Legal Coordinator	28/10/71	18/07/2012	31/12/2013	21-35	41	Graduation higher at least 2 nd Division from recognized university	B.A Division from University of Karachi	Attached	yes	Karachi	In process	Over age of appointment unsatisfactory performance	

3. Having heard petitioners in person and learned AAG, the perusal of record would divulge that candidature of the petitioners were assessed by the selection committee and found them not illegible for the post due to lack of qualification as per recruitment rules. If this is the position of the case, we are of the considered view that essential qualifications refer to the minimum qualifications required for a post. Moreover, essential qualifications for a job description what skills, abilities, knowledge, personal qualities, experience as well as what professional qualifications (degrees, diplomas, etc.) candidates need for a position. In principle, if the candidate is not equipped with the requisite qualification, would not be entitled and eligible to apply for the post.

4. It is settled law that the Government has every right to fix the minimum criteria for the selection of an employee and it is their satisfaction to look into the performance of the employee and if it is not satisfactory, they are well within their right to dispense with the service of the employee. Since the petitioners were appointed for certain schemes in the respondent-department, therefore, this Court is not in a position to say for and against the qualification and working conditions of the

petitioners as the respondent-department has already opined in this regard and found the service of the petitioners not satisfactory and were not recommended for regularization of their service. We do not see any violation of law and statutory rules to come to say that services of the petitioners should be regularized as it is for the respondent department to look into the matter.

5. In the present case petitioners lack, the qualification for the subject posts, thus this court cannot condone and relax the qualification to allow the petitioner's service to be regularized.

6. In wake of the above, the learned counsel for petitioners failed to make out a case for the indulgence of this Court. Thus the instant constitution petition is dismissed along with the pending application(s) with no order as to costs.

JUDGE

JUDGE

Nadir*