

# IN THE HIGH COURT OF SINDH KARACHI

**Before:**

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

**C.P. No. D-152 of 2021**

Ayaz Ali & 280 others  
Petitioners through : Mr. Samiullah Soomro, advocate

Respondents  
Through : Mr. Ali Safdar Depar, AAG along Zahid Baig, Deputy  
Director, Population Welfare Department.

Date of hearing  
& order : **10.02.2022**

**ORDER**

Through this petition, the petitioners are seeking directions for regularization of their services from the date of their initial appointment as Male mobilizer and/ or in line with beneficial legislation i.e. The Sindh (Regularization of Adhoc and Contract Employees) Act, 2013 (ACT-2013).

2. Mr. Samiullah Soomro, learned Counsel for the petitioners, has submitted that after regularization of the services of the petitioners, respondent No.2 failed to formulate the service structure of the petitioners and further promotion in the next grade and also failed to consider the service of the petitioners from the date of enactment of Act, 2013. Per learned Counsel, the Government of Sindh has issued notification for regularization of the services of the employees of other departments and it is depicted that the services of the employees will be regularized with effect from the date of initial appointment and in some other cases from the date of enactment, 2013.

3. Mr. Ali Safdar Depar learned AAG assisted by Zahid Baig, Deputy Director, Population Welfare Department, has submitted that this court has already settled the aforesaid issue in CP No.D-6611/2018 in which it is held that no appointment made on contract/ad-hoc basis shall be regularized retrospectively; and, the case of the petitioners is akin to the case decided supra, therefore, the instant petition may be dismissed in line with the judgment dated 17.12.2018 passed by this Court in CP No.D-6611/2018 and other connected petitions.

4. We have heard the learned Counsel for the parties on the subject issue and perused the record.

5. Prima facie, the assertion of the Petitioners is tenable under the law for the simple reason that they were initially appointed in 1989 and onwards up to 2013, in our view, no ambiguity is left that the services of the Petitioners have been regularized on the orders of this court in CP No.D-1303/2016 and other connected petitions with effect from 2019 and the respondent-department issued the notification dated 19.11.2019 for their regular appointment under Act-2013 with immediate effect. Prima facie, the notification dated 19.11.2019 issued by the respondent department

is erroneous for the reason that the petitioners were appointed before the enactment of Act-2013, therefore, the benefit of Act-2013 ought to have been given to the petitioners for the date of enactment i.e. 25.03.2013.

6. In the light of the above provisions of law, we are of the considered view that no appointment made on a stipend/contract/ad-hoc basis shall be regularized with effect from the initial appointment for the reason that the stipend/contract/ad-hoc period of service cannot be counted as seniority of a Civil Servant since seniority can be reckoned only from the date of regular appointment, now, from the date of enactment of Act-2013. Thus, the question of counting the service of the petitioners retrospectively is misconceived, thus discarded.

7. In the light of the above facts and circumstances of the case, we do find merit in the captioned Petition, which is disposed of along with all the pending application(s), with direction to the competent authority /Secretary Population Welfare Department, Government of Sindh to regularize the services of the petitioners with effect from the enactment of Act-2013 i.e. 25.3.2013. However, the respondents are under obligations to streamline the service structure of the petitioners as Male Mobilizers. Let them do so accordingly within a reasonable time.

**J U D G E**

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