

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

C. P. No.D-2431 of 2021

C.P. No.D-2839 of 2017

DATE ORDER WITH SIGNATURE OF JUDGE(S)

Present:-

Mr. Justice Muhammad Ali Mazhar

Mr. Justice Amjad Ali Sahito

C. P. No.D-2431 of 2021

Ali Raza Larik & others.....Petitioners

Versus

Province of Sindh & others.....Respondents

C. P. No.D-2839 of 2017

Muhammad Azim & others.....Petitioners

Versus

Government of Sindh & others.....Respondents

28.05.2021

Mr. Zameer Hussain Ghumro, Advocate for the petitioners in C.P. No.D-2431/2021

Mr. Muhammad Arshad Khan Tanoli, Advocate for some of the petitioners in C.P. No.D-2431/2021

Mr. Ali Asadullah Bullo, Advocate for the Petitioners in C.P. No.D-2839/2017

Ms. Leela Kalpana Devi, Addl. Advocate General, Sindh
(1) Mr. Ahmed Bux Narejo, Secretary, (2) Mr. Mushtaq Ali Soomro, Director (HR), (3) Mr. Junaid Ali Khobar, Deputy Secretary, (4) Mr. Abdul Jabbar Shahani, Law Officer and (5) Mr. Iftikhar Bablani, Section Officer, School Education & Literacy Department, Government of Sindh, Karachi.

Muhammad Ali Mazhar, J: The brief facts of the case in C.P. No.D-2431 of 2021 are that 643 petitioners have approached this Court for entreating directions against the respondents to regularize their services in view of their length of service in light of Cabinet decision on 29.03.2018. Originally, this petition was filed in Circuit Court of this court at Hyderabad (old C.P. No.D-160/2020) and when this matter was placed before the learned Division Bench on 13.02.2020

while issuing notice to respondents, the learned Division Bench passed the order that in the meantime no coercive action shall be taken. This petition was transferred in view of the Administrative Order passed by the Hon'ble Chief Justice of this Court. During course of the proceedings, learned counsel for the petitioners on 05.05.2021 filed a statement alongwith a copy of letter dated 21.04.2020 communicated by the Section Officer, School Education & Literacy Department, Government of Sindh to the Secretary, Sindh Public Service Commission, Hyderabad for appointment of Head Master/Head Mistresses (BPS-17) through Sindh Public Service Commission for regularization of their services. For the ease of reference the letter is produced as under:-

"NO.SO(S-II)1-199(Misc)/2019
GOVERNMENT OF SINDH
SCHOOL EDUCATION & LITERACY DEPARTMENT
Karachi dated 21st April, 2020

To,

*The Secretary,
Sindh Public Service Commission,
Thandi Sarak, Near Indus Hotel
Hyderabad.*

Subject: APPOINTMENT OF HEAD MASTER / MISTRESSES (BS-17) THROUGH SINDH PUBLIC SERVICE COMMISSION (SPSC) FOR REGULARIZATION

I am directed to refer to the subject noted above and to submit that the approval of competent authority i.e. Chief Minister Sindh, the post of Head Master/Mistresses (BS-17) were taken out from the purview of Sindh Public Service Commission (SPSC) in relaxation of rules through Sindh Civil Servant Act 1973. Accordingly, IBA University Sukkur conducted a test through advertisement published on 10th May 2015 to fill up the posts of Head Master/Mistress (BS-17) and recommended 1089 candidates for their appointment on ad hoc basis and 968 candidates submitted their joining in July 2017. It is further added that at present 937 candidates are performing their duties. The ad hoc period was extended for a period of one year which shall expire in July 2020.

02. Now, the Competent Authority i.e. Chief Minister Sindh, after taking into consideration the purview of appointment in (BS-17) which comes under the Sindh Public Service Commission (SPSC) in accordance with Sindh Civil Servant Act 1973, has decided to get the eligibility of the Head Master/Mistresses examined so that their services may be regularized, if found eligible/competent for the said positions.

03. It is therefore requested that further necessary action may be taken as per law / rule / policy.

*Sd/- 21-04-2020
(RIAZ AHMED SHAR)
SECTION OFFICER (SEC-II)"*

Since the learned counsel for the petitioners made reliance on this letter and also agreed that the case of the petitioners may be sent to the Sindh Public Service Commission in view of this letter therefore we asked learned Addl. A.G. to call the Secretary, School Education & Literacy Department to come and respond as and when the matter will be referred to the Sindh Public Service Commission for verifying the eligibility of the petitioners. Today, Secretary, School Education & Literacy Department (respondent No.2) has submitted the compliance report, which is reproduced as under:-

“COMPLIANCE REPORT

Most respectfully sheweth,

It is most respectfully submitted that in compliance of the orders of this honourable Court, passed in CP No.D-2839/2017 & CP. No.D-2431/2021, filed by Muhammad Azeem & Others on 05-05-2021 the department submitted its proposal in accordance with Para-2 of the letter dated 21-04-2021, through a summary to Chief Minister Sindh.

*Furthermore, in compliance the orders of this Honourable High Court of Sindh dated 25-05-2021, the department has prepared a draft letter addressed to the Secretary Sindh Public Service Commission (SPSC), in accordance with Para-2 of the letter dated 21-04-2020 **(Annexure-A)**, for perusal of the Honourable Court.*

In view of above, it is respectfully prayed before this Honourable Court, to dispose of this Constitutional Petition accordingly.”

The Secretary, School Education & Literacy Department further stated that the working papers of all the petitioners will be sent to the Sindh Public Service Commission to determine the eligibility of incumbent i.e. Head Master/Head Mistresses for regularization as per rule and policy.

Learned counsel for the petitioners is satisfied with this statement. At this juncture, the Secretary, School Education & Literacy Department further stated that the last contracts of many of the petitioners will expire in the month of June and may be Sindh Public Service Commission will take some time to decide the eligibility and issue of regularization of the petitioners therefore he very fairly stated that the contracts of

the petitioners will be extended for six months and in case the matter is further delayed by Sindh Public Service Commission and not decided within six months then the contracts will be extended for some further period. Secretary, School Education & Literacy Department further submits that within two weeks the complete working papers of the petitioners will be sent to the Sindh Public Service Commission for onwards proceedings.

So far as C.P. No.D-2839 of 2017 is concerned, Mr. Ali Asadullah Bullo, Advocate for the petitioners argued that though his petition has been dismissed but a contempt application is pending. Secretary, School Education & Literacy Department voluntarily submits that since they are already sending the cases of 937 Head Master/Head Mistresses to the Sindh Public Service Commission therefore he assured us that the working papers of 12 petitioners in C.P. No.D-2839 of 2017 will also be sent to the Sindh Public Service Commission alongwith the cases of 937 Head Master/Head Mistresses as mentioned above for scrutinizing their eligibility so that their services may be regularized if found eligible and competent for the said position.

In view of above terms, C.P. No.D-2431 of 2021 is disposed of alongwith pending application(s) and Miscellaneous Application pending in C.P. No.D-2839 of 2017 is also disposed of. However, interim order passed earlier in C.P. No.D-2431 of 2021 shall continue till the contracts of the petitioners are extended.

Office is directed to place copy of this order in the above listed petition.

JUDGE

JUDGE