

IN THE HIGH COURT OF SINDH KARACHI

Before :

Mr. Justice Muhammad Iqbal Kalhoro

Mr. Justice Adnan-ul-Karim Memon

Constitutional Petition No.D-5636 of 2021

Abdul Sattar

Petitioner:

Through Mr. Qadir Hussain Khan, advocate

Respondent No.1:

Through Mr. Abdul Jalil Zubedi, AAG

Respondents No.2 to 4:

Mr. Muhammad Idrees, advocate, and Ms. Sana Abid, advocate

Date of hearing

& Decision:

27.01.2023.

ORDER

ADNAN-UL-KARIM MEMON, J. – Through the captioned petition, the petitioner is seeking regularization of his service in the District Municipal Corporation (West) Baldia Zone Karachi (DMC West) and asking for the same treatment as meted out to his colleague as per order dated 07.11.2018 passed by this Court in CP No.D-6870 of 2015 (re-Muhammad Sajid v. Government of Sindh and others).

2. The case of the petitioner is that he was appointed as Cooly in BPS-01 on 30.05.2016 on a contract basis in (DMC West). Per the petitioner, he performed duties assigned to him with keen interest and devotion without any complaint, therefore his service may be restored and regularized. Petitioner submitted that after a continuous devoted and successful performance, the Respondent-Department regularized the service of the other employees, however, dispensed with his service without assigning any reason. Petitioner has submitted that he deserves regularization of his service in line with the cases of his colleague as discussed supra. Petitioner has submitted that in pursuance of Section 3 of the Sindh (Regularization of Ad hoc and Contract Employees) Act 2013, this Court passed several orders including the Judgment reported as **PLC 2014 (C.S.) 1153**, as such the Petitioner shall be deemed to have been validly appointed on regular basis. It is next submitted by the Petitioner that he was supposed to be regularized from the date of joining his duties.

3. Mr. Qadir Hussain Khan, learned counsel for the Petitioner has contended that Petitioner was appointed on probation for 89 days extendable as per rules and the colleagues of the petitioner have been regularized, but the Petitioner has been singled out without any justification on the part of respondents. Learned counsel for the petitioner submitted that the Government of Sindh Local Government Department vide Note sheet Dated 12.12.2018 forwarded the request of the petitioner that the post of Cooly (BS-1) was/is lying vacant in Baldia Zone, West Karachi and they have no objection if the competent authority regularizes the service of the petitioner, but till now no action has been taken. He relied on Articles 4,9,14 and 35 of the Constitution. He lastly prays for allowing the instant petition.

4. Mr. Muhammad Idrees, learned counsel for respondents 2 to 4, refuted the claim of the petitioner for regularization of his service and contended that to share the extra workload on the department, the petitioner was engaged on a contract basis as Cooli (BPS-01) in Baldia Zone DMC (West) (after bifurcation DMC Keamri) vide letter dated 30.05.2015 for 89 days and upon expiry of the such period his contract employment was not extended further in compliance of the directions of Order dated 26.08.2015 passed by Government of Sindh, whereby ban was imposed on contract employment. Learned counsel for the respondents submitted that the petitioner also approached Provincial Ombudsman vide Complaint No.POS/20186/2019-F but his complaint was filed with directions that he may approach the Secretary, Local Government for redressal of his grievance, but he failed to approach the competent authority.

5. We have heard the learned counsel for the Petitioner as well as learned counsel representing the respondents and AAG and perused the material available on record.

6. The record reflects that Respondent No.3 forwarded the case of the Petitioner to the Competent Authority for sympathetic consideration vide note sheet dated 19.7.2018, whereby it was opined that the salary of the petitioner was stopped as his contract was not further extended, neither he was given any new contract of 89 days nor he was given any relieving letter from DMC West as per rules and petitioner is still working without salary on frequent demand various quarters and as per need in DMC West.

The Administrative Officer, Orangi Zone, DMC West has opined that petitioner is a hardworking person and DMC West needs manpower/staff possessing extraordinary devotion and a sense of responsibility, and his contract needs to be extended as per government policy or his service could be regularized as per law, however, nothing has been done. His complaint has been turned down by the learned Ombudsman Sindh vide order dated 13.3.2020 on the premise that the petitioner is required to approach the Secretary, Local Government, for redressal of his grievances.

7. In view of the facts and circumstances of the case and for the reasons alluded to by the Administrative Officer, we are of the considered view that the case of the petitioner for regularization of his service and/or his hiring on a contract basis needs to be looked into by the Secretary, Local Government, Government of Sindh, in terms of the Act 2013, therefore the respondents are directed to consider the case of the Petitioner on the aforesaid analogy without discrimination, subject to his eligibility and qualification, within one month under the law from the date of receipt of this order.

8. Resultantly, the above-captioned petition is disposed of in the above terms.

JUDGE

JUDGE

Nadir*