

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

C. P. No. D – 1548 of 2019

(Ghulam Hyder Rajput versus Federation of Pakistan & others)

Present:

Mr. Muhammad Iqbal Kalhoro, J.

Mr. Arbab Ali Hakro, J.

Date of hearing : **29.11.2023**

Date of decision : **29.11.2023**

Mr. Sohail Ahmed Khoso, Advocate for petitioner.

Mr. Khan Muhammad Sangi, Advocate for respondent No.4.

Mr. Dareshani Ali Haider 'Ada', Deputy Attorney General.

ORDER

Muhammad Iqbal Kalhoro, J. – Petitioner was appointed in 2009 on daily wages as Lift Operator at Regional Tax Office, Sukkur. Along with petitioner, many other persons were also employed in the year 2009 against the lower grade posts on daily wages in entire country including in Regional Tax Office, Sukkur. After one year of service, petitioner and others applied to the department for regularization of their services. A committee was constituted as a result, which recommended regularization of services of all such daily wages employees throughout Pakistan vide order dated 29th August 2008. But since the recommendations of the committee were not followed, many persons filed petitions before this Court as well as before Islamabad High Court. Petition No. D-3913 of 2015 pending before this Court was decided on 26.03.2019 in the following terms:

“4. The four petitioners were recommended by the Chief Commissioner, Inland Revenue. The Cabinet Sub Committee vide letter dated 2nd May, 2012 has forwarded the cases of 203 employees and amongst them petitioners were also included. They have recommended the regularization of contract/daily wages employees, hence at this stage the respondents cannot plead their department do not enjoy the sanctioned post against which these employees were working. The petitioners were appointed as Hardware & Software Technicians, Electrician, Generator Operator and Lift Operator, hence it is beyond presumption that these posts are not sanctioned posts. All these

aspects were available as defense when Cabinet Committee recommended and forwarded their cases for regularization.”

2. Some of the persons, who filed petitions before Islamabad High Court, their Writ Petition No.4325 of 2012 along with six other writ petitions was decided on 20.02.2013 in the terms as follows:

“4. Since cases of most of the petitioners in these writ petitions have been approved by the Cabinet Sub Committee for regularization, therefore, all these writ petitions are accepted, with a direction to the respondents to regularize service of the petitioners, expeditiously but not later than one month. However, this order would not be binding in respect of the petitioners/employees, whose cases have not been approved by the Cabinet Sub Committee.”

3. Petitioner’s name was also included at serial No.147 with the names of 203 employees, who were recommended for regularization by the committee. But since he could not be regularized for one reason or the other, he filed this petition ultimately.

4. The case of respondents is that the petitioner has never approached the department for regularization, and he has filed this petition in 2019 after lapse of a long time. Therefore, laches are attracted in his case, and more so, there is no such vacant post against which the petitioner can be accommodated. Learned Counsel for respondent No.4 has however filed a statement today. Para No.3 and 4 thereof reads as under:

“03. That for these petitioners of petition No. 3913 of 2015 re-Muhammad Irfan and others v/s Federation of Pakistan and others, this Honorable Court passed order dated. 26.03.2019 for their regularization but at the time of passing of aforesaid order no any sanctioned post was available, therefore the petitioners of Constitution Petition No. D-3913 of 2015 requested their regularization of services to be adjusted against any vacant post of other cadre and scales as per their qualification.

04. That the remaining fifth employee Mr. Ghulam Hyder didn’t come with any option for regularization on any other equivalent post.”

5. A perusal of aforesaid two paras reflects that the petitioners in C. P. No. D-3913 of 2015 were regularized and adjusted to some other posts vacant in different cadres as per their qualifications, as

the posts they were working on, were not vacant. Further, it is pointed out, the present petitioner has not made any such request. Meaning thereby that if the request is made by the petitioner to accommodate him against some other post in a different cadre as per his qualification, he could be adjusted accordingly. This proposition has not been contested by learned Counsel, and he submits that if consent is given by the petitioner, respondent No.4 would forward his case to respondent No.2 for regularization of his service and adjusting him to some other post in a different cadre, where the post is vacant, as per his qualification. This proposal has been accepted by learned Counsel for the petitioner.

6. Therefore, let the above exercise be conducted and the result of which i.e. decision of respondent No.2 be conveyed to the petitioner within a period of two (02) months, and such report be submitted for a perusal in chamber.

The petition stands **disposed of** in the above terms.

J U D G E

J U D G E

Abdul Basit