

**ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI**

C.P. No.D-2674 of 2024

Abdul Aleem Uqaili & others
Versus
Province of Sindh & others

Date	Order with signature of Judge
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1. For orders on CMA 13647/24
2. For orders on office objection No.10
3. For orders on CMA 12213/24
4. For hearing of main case.

Dated: 21.06.2024

Mr. Abdul Karim Lakhiair for petitioners.

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Brief facts of the case are that during Covid regime on account of some emergency, as prevailing at the relevant time, some doctors were appointed purely on temporary basis. When the Covid period was over, some of the temporary appointees filed C.P. No.D-1691 of 2022 and others, which were heard and decided by a learned Division Bench of this Court by a common order and concluded as under:-

“12. In the light of the above analogy and more particularly the principles outlined in the judgment passed by the Supreme Court of Pakistan in the case of Dr. Naveeda Tufail and 72 others v. Government of Punjab and others, 2003 SCMR 291, we find it appropriate to direct the competent authority of the respondent-health department to refer the candidature of the petitioner to SPSC to assess their suitability for appointment on the subject posts by conducting their interview within one month from the date of order of this Court, and the result of the interview shall be announced and recommendations shall be forwarded to the competent authority for consideration of their appointment regularly, while considering their case for the said purpose, the ratio of judgment passed by the Honorable Supreme Court in the case of Dr. Naveeda Tufail supra must be kept in mind, in the intervening period, the posts which were being held by the petitioners shall not be filled. An excerpt of the judgment rendered in the case of Dr. Naveeda Tufail is as under:

12. We having examined the above scheme find that in the similar circumstances, the Federal Government while giving fair treatment to its employees appointed on ad hoc basis successively framed policies for regularization through the process of selection by the Public Service Commission. It is stated that all Provincial Governments, except Government of Punjab, following the Federal Government also adopted the policy of regularization and gave their employees the equal treatment. The petitioners, being ad hoc employees of Provincial Government, cannot claim regularization as of right in the light of policy of Federal Government but the principle of equality as embodied in Article 25 of the Constitution of Islamic Republic of Pakistan, 1973, would demand that they while facing the similar circumstances should be treated in the same manner. The principle of equality would impliedly be attracted in favour of the petitioners as they being ad hoc lecturers in the Provincial Government would stand at par to that of the ad hoc employees of the Federal Government and therefore, it would be fair, just and proper to consider their cases for regularization. We having heard the learned counsel for the petitioners and Mr. Maqbool Ellahi Malik, learned Advocate-General Punjab, assisted by Mr. Tariq Mahmood Khokhar, Additional Advocate-General, are of the view that since substantial questions of public importance are involved in the present petitions, therefore, the technical objection that the, questions not raised before the Tribunal, cannot be allowed to be raised before this Court, is not entertained. The authorities in the Education Department, Government of Punjab, while adopting the method of ad hoc appointments as a continuous, policy, created a legitimate expectancy in the mind of petitioners for their retention on regular basis and therefore, we deem it proper to direct that the respondents while seeking guidance from the scheme of regularization of ad hoc employees of Federal Government referred above, will initiate the process of regularization of the petitioners through Punjab Public Service Commission giving the concession as mentioned in the reply filed by the respondents in the Punjab Service Tribunal within a period of one month and meanwhile without prejudice to title right of the selectees of the Public Service Commission for appointment on regular basis, the posts which were being held by the petitioners shall not be filled. It is clarified that the cases of the petitioners shall be sent separately to the Public Service Commission and shall not be tagged with the direct recruits. In case any of the petitioners is not found suitable, by the Public Service Commission, he shall not be entitled to be retained in service. 13. We in the light of above discussion, convert these petitions into appeals and dispose of the same with no order as to costs.”

13. For the reasons given above, these petitions are disposed of in the above terms.”

In substance the directions were issued to the competent authority of the respondents/health department to refer the candidature of these petitioners to Sindh Public Service Commission (SPSC) to assess their suitability for appointment on the subject posts by conducting their interviews “only”, emphasis applied. The compliance was made by virtue of press release dated 09.04.2024, annexed with the petition as Annexure “I”, wherein some of the petitioners, as arrayed in the above referred petitions, were declared to have been passed. Those who were not declared/mentioned in the list presumably failed in the interview. This petition is now filed with the argument that the SPSC has not adjudged the suitability of these petitioners through an interview, in terms of the directions given by the learned Division Bench.

We have heard learned counsel for the petitioners and perused record.

The directions given in the referred order passed in above petition bearing CP No. D-1691 of 2022 were only to the extent that SPSC may assess their suitability for the appointment via interview. Needless to mention that those were posts which were to be filled and considered by a satisfactory process to be initiated by SPSC and requisite tests were required to be given before adjudging them to be fit and suitable followed by interview, which require public notices also for filling of posts of permanent nature, however the judgment relied upon has considered their temporary appointment during Covid regime without above compliance as adequate of the process required. The directions were given by the Bench in consideration of the judgment in the case of Dr. Naveed Tufail and 72 others v. Government of Punjab (2003 SCMR 291). In compliance of the directions, the SPSC conducted the interviews and assessed the suitability of the candidates, which were adjudged accordingly and

petitioners were not disclosed as successful. We cannot make further probe in this regard since earlier petition was disposed with certain directions, which directions were complied with by virtue of press release. However, as far as the present failures, in the shape of petitioners are concerned, this Bench cannot be a substitute of SPSC, to assume the role of interviewing panel and adjudge the suitability for the appointment of these candidates who were adjudged accordingly and not recommended.

No question of law for our consideration is raised. Petition, along with listed applications, is dismissed.

Judge

Judge