ORDER-SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

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Constt. Petition No. D- 306 of 2011 and

Constt. Petition No. D- 1265 of 2013.

Date of hearing	Order with signature of Judge

29.09.2020.

Mr. Ghulam Dastagir A. Shahani, Advocate for petitioners in both petitions.
Mr. Khadim Hussain Khoso, Advocate for petitioners Naeem Ali, Ali Dino and Muzamil in Constt. Petition No. D- 306/2011.
Mr. Liaquat Ali Shar, Addl. A.G.

For reasons to be recorded later on, these petitions are dismissed with cost of Rs.1000/- on each petitioner, which shall be deposited in the account of High Court Clinic at Larkana.

Ansari

IN THE HIGH COURT OF SINDH, CIRCUIT COURT
LARKANA

C P No D-306 of 2011 &

C P No D-1265 of 2013

Present

Mr. Justice Muhammad Junaid Ghaffar.
Mr. Justice Irshad Ali Shah.

Mr. Ghulam Dastagir A. Shahani, Advocate for the petitioners in both petitions.

Mr. Khadim Hussain Khoso, Advocate for petitioners Naeem Ali, Ali Dino and Muzamil in C.P. No. D-306/2011

Mr. Liaquat Ali Shar, Additional Advocate General Sindh.

Date of hearing	29-09-2020
Date of decision	29-09-2020

ORDER

Muhammad Junaid Ghaffar, J. Through these two petitions, the petitioners have sought directions for regularization of their services with a further prayer to restrain the respondents from terminating their services.

2. Learned Counsel for the petitioners submits that pursuant to offer letters dated 16.09.2007, the petitioners were issued appointment letters on 19.09.2007 for three years contract which was then extended for another six months on 20.04.2010; that the petitioners joined the services of respondents and were regularly being paid salaries which were suddenly stopped and being aggrieved C.P. No. D-688 of 2010 was filed and same was disposed of on 21.12.2010; that pursuant to such orders of the Court salaries for the period they had worked with respondents were paid and now neither they are neither being regularized nor the salaries are being paid, whereas, other similarly placed persons have been regularized; hence, the petitioners being discriminated have approached this Court for the relief as above.

3 On the other hand, learned Additional Advocate General Sindh has opposed the grant of petition on the ground that the appointments were fake and the petitioners have no case as contended.

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4 We have heard the learned Counsel as well as Additional Advocate General, Sindh and perused the record.

5 Insofar as the purported offer and appointment of the petitioners is concerned, it is not denied that the purported offer was on contract basis for three years, which was then extended for a further period of six months. We have confronted learned Counsel for the petitioners as to what happened after the expiry of the contract and its extension, to which he could not satisfactorily respond; but argued that the petitioners were allowed to work by the respondents and, therefore, the contract shall be deemed to be extended. However, we are not impressed by such line of arguments as no contract could be extended in such a manner without anything in writing by the competent authority. Moreover, in the earlier petition bearing C.P. No. D-688/2010 it has come on record that the very appointment of the petitioners was bogus and fake. Such order has attained finality as it was never challenged any further. The order dated 21.12.2010 reads as under: -

> "Shan Muhammad Brohi, Executive District Officer, Shikarpur is present. He filed compliance report of the order dated 24.11.2010. He has furnished list of the petitioners who have been found on proper verification. In pursuance of the said order, to be on job and getting salaries. They are five in numbers who are found genuine, and whose matter has been so disposed of on the part of the ADO concerned. ***whereas the remaining 110, were found on job but with no appropriate authority and since there is no situations lying vacant to accommodate them, they are to be fired with immediate effect but with their respective salaries for the period they have served i.e. October 2009 to date. The EDO states that three months' time, will be sufficient for him to deposit the amount of the arrears of the salaries of the said 110 persons in this Court. The petitioners also of 110 persons, will not claim any further relief, and their petition stands disposed of in the above terms accordingly. The learned Counsel for them concedes***. The remaining one, out of the said 110 petitioners, namely, Ashique Hussain is found to have never been in job and his claim is false as per the verification made in that regard. His matter therefore, stands disposed of as dismissed. The learned Counsel for the petitioners concedes. It is a matter of great concern that the officers under whom the petitioners who were found to have been working without any authority and appointment order in any form

whatsoever, have not reported the matter to the government and remained silent and continued on taking work without salary from such persons which is against the law and detrimental public interest at large and at present when this unwarranted condition stands detected, the concerned quarter, is reasonably expected to take appropriate departmental action against such officers, who are not only have proved themselves to be negligent and inefficient but also become source of embarrassment to the Government and that of the burden on the exchequer. The petition stands disposed of in the above terms."

6. Perusal of the aforesaid order very clearly reflects that the appointments of the petitioners were found to be fake and even while confronted the Counsel had conceded to such aspect. In fact, there wasn't any vacancy available for such appointments. It was further observed that since they had worked notwithstanding such bogus appointments, assurance was given by the officer present before the Court for payment of their salaries for such period. The Court while disposing of their petition went on to observe that they will not claim any further relief. We are completely at a loss to understand as to how, and under what law, second petition has been filed by these petitioners after passing of the above order, wherein their appointment has been held to be fake and bogus. These petitions are pending since 2011 and not only Courts precious time has been wasted; but so also the Court has been burdened with voluminous documents with the memo of petition and replies of respondents. Such conduct on the part of the petitioners cannot be appreciated as after passing of order dated 21.12.2010, there was no occasion for them to continue in service, and even if so, at least they had no right to come before this Court for regularization of their services which as per Courts earlier orders and adjudication have been held to be fake and bogus. On these facts were are afraid no discretion can be exercised in their favour under our Constitutional jurisdiction.

7. As to the contention that the petitioners have been discriminated as others have been regularized, we may observe that facts of the present petitioners are not supportive as their appointment has been held to be fake and bogus. In that case no question of any regularization arises. Moreover, it may also be noted that petitioners were contract employees which stood expired long

ago, and neither the question of their regularization arises, nor they are entitled for issuance of show cause or even a termination letter. The expiry of contract period is itself a termination notice as such.

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8. Insofar as reliance on letter dated 8.1.2011 and the argument that termination letters were never issued individually and they were verbally told not to perform any work, whereas, the impugned order cannot terminate the employment of the petitioners; hence the same is liable to be set aside, is also not of much consideration, for the reason that as of now, the contract period stands expired, whereas, the appointment itself was held to be fake and bogus; hence, no further relief can be granted. As to reliance on precedents including the case of *Government of the Punjab v. Aamir Junaid* (**2015 SCMR 74**), whereby in certain cases regularization has been ordered is concerned, the same also is not applicable to the present facts inasmuch for the present purposes, and in view of earlier orders by this Court, the case of the petitioners because of its own peculiarity, wherein the very appointments have been decided as fake and bogus, nothing more can be asked for by the petitioners. The issue now and as of today is, that they were contract employees and their contract stands expired, whereas the appointments are fake and bogus; hence this Court cannot come to their rescue in any manner. Once the contract period has been completed, no right accrues to the petitioners to seek extension of contract or for that matter regularization. It is settled law that a person employed on daily wages or on contract basis, can be terminated even without notice and is not entitled for reinstatement through exercising constitutional jurisdiction. The only exception to this proposition is that persons employed on contract, and such contract, being renewed on regular intervals by the government departments, can seek their regularization; however, that is only subject to, that the said persons are still under employment on contract and their contracts are being continuously renewed, but this not the case herein.

9. In view of hereinabove facts and circumstances of this case, since the petitioners conduct whereby an attempt has been made to approach this Court repeatedly when their appointment itself has been termed as bogus, with malafide and bad intentions to seek favorable orders against respondents, both petitions were dismissed by us through a short order dated 29.09.2020 by imposing cost of Rs.1,000/- on each petitioner, to be deposited in the account of High Court Clinic at Larkana. The above are the reasons thereof.

Judge

Judge

Abdul Salam/P.A