

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
C.P. No.D-2666 of 2011.

DATE OF HEARING	ORDER WITH SIGNATURE OF HON'BLE JUDGE
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1. For orders on office objection 'A'.
2. For hearing of M.A.No.7109/2011 (S/ A).
3. For hearing of main case.

18.08.2020.

Mr. Nisar Ahmed G. Abro, advocate for the petitioners.

Mr. Liaquat Ali Shar, Addl. A. G.

Through this petition, the petitioner has sought the following relief(s) :

- a) To direct the respondents, particularly, the respondent No.2/Secretary, Govt. of Sindh, Finance Department, to issue regular appointment orders in favour of petitioners on the 02 posts of Data Processing Assistant lying vacant in the office of District Accounts Office, Kamber-Shahdadt, at Kamber, where the petitioners are already working.
- b) To grant stay order in favour of petitioners, thereby restraining the respondents from making appointment of strangers/outside under political or any other influence, till decision of this petition;
- c)
- d)

At the very outset, learned counsel for the petitioners' states that this petition is not pressed to the extent of petitioner No.1. As to petitioner No.2, he submits that the said petitioner is entitled for regularization with the respondents/department and in support of his contention he has also relied upon the sanctioned strength as well as Notification dated 07.07.2011 and submits that various other employees were regularized in the District Accounts Office; hence the petitioner is also entitled for the same relief.

On the other hand the petition has been opposed by the learned Addl. A. G on the ground that the petitioner is no more under employment and cannot be regularized.

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

It reflects that on 13.04.2009, a letter was issued by the District Accounts Officer, Kamber to the Accountant General Sindh with a request for

hiring 03 Key Punch Operators including the petitioner No.2 herein. This is the only letter which has been placed on record, whereas, despite repeated query of the Court learned counsel could not refer to the actual appointment letter, if any. Comments filed on behalf of the District Accounts Officer/respondent No.3, reflects that the petitioner including others were only engaged for Key Punch Operations as a special task for some assigned work and for that purposes, they were paid after completion of the assigned task. It has been further stated that after October, 2010, the petitioner is not working in their office. Comments of respondent No.2, also reflects the same position.

In these circumstances, we do not see any justifiable reason to entertain this petition and are not inclined to exercise any discretion in the matter as the petitioner is not in any *contingent* or a *continuous* employment with the respondents. In fact, according to them he is not in employment anymore. He was only asked to work for a special task, and could at best be termed as employed for a project. As soon as the task was finished, the matter ended there. The Hon'ble Supreme Court in the case reported as *Province of Punjab v Muhammad Arif (2020 SCMR 507)* has been pleased to hold that contractual employees are different from time bound project posts, and cannot be regularized. The ratio of the said judgment fully applies to the case of petitioner. Insofar as reliance on the Notification dated.07.07.2011 regarding regularization of some other employees is concerned, that has no nexus with the case of the petitioner, as it been done in respect of Naib Qasids, Sweepers and Chokidars, who were working as contingent paid staff members regularly with the respondents/Department as per sanctioned strength.

In view of herein above facts and circumstances of this case, we are of the view that no case for indulgence is made out. The petition is accordingly dismissed along with the listed application.

However, as stated in his comments by Additional Finance Secretary, Government of Sindh that if the petitioner qualifies and fulfills the conditions and legal formalities for the post applied for i.e. Data Processing Assistant (BPS-12), he will be considered for appointment in accordance with law as and when recruitment is made. The petitioner is at liberty to apply accordingly.

M.Y. Panhwar/*