

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA.

Constt: Petition No.D- 410 of 2024

(Dr. Marvi Qazi v. P.O Sindh and others)

DATE OF HEARING	ORDER WITH SIGNATURE OF HON'BLE JUDGE
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BEFORE:

Mr.Justice Muhammad Saleem Jessar.

Mr.Justice Adnan-ul-Karim Memon.

1. For orders on office objection as flag A.
2. For hearing of M.A No.1460/2024.
3. For hearing the main case.

Date of hearing & Order: 12.3.2025.

M/s Sheeraz Fazal, and Akhtiar Ahmed Bhanbhro, Advocate a/w petitioner.

Mr. Liaquat Ali Shar, A.A.G assisted by Mr.Aftab Ahmed Bhutto, Asstt: A.G. a/w Rabail Ahmed Noonari, AMS/Focal Person on behalf of MS CMC Larkana.

Mr. Arif Ali Kalhoro, advocate, on behalf of the Chairman/Head of Department, Gynecology & Obstetrics Department.

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ORDER

Adnan-ul-Karim Memon, J:-

Dr. Marvi Qazi requests the court to declare the termination and denial of regularization unlawful; overturn the termination orders of May 22nd and June 6th, 2024; reinstate the petitioner; mandate regularization from February 20th, 2019, consistent with other medical officers; order the release of back salaries from February 2018 to February 2023; and suspend the termination orders pending the case's resolution.

2. Learned counsel for the petitioner submitted that the petitioner was employed on a continuous contract from 2014 to 2024, and ought to have been regularized under the Regularization of Doctors appointed on the contract or Adhoc Basis Act, 2018, upon verification of her qualifications, like other similarly situated doctors. He added that despite meeting all requirements, she was denied regularization, a clear act of discrimination. Her 2022 request for regularization remains unresolved. Subsequently, her contract extension was denied, violating the intent of the 2018 Act. In the alternative, he submitted that her case may be sent up to the Sindh Public Service Commission (SPSC) for suitability, which has now been dispensed with, by continuing her services on a contract basis. He prayed for allowing the petition.

3. Based on advice from the Advocate General and Law Department, the petitioner's request for a contract extension from July 2023 was rejected. She was advised to apply for a fresh appointment through the Sindh Public Service Commission. Furthermore, the regularization of remaining doctors was halted following a 2021 Court order that overturned the 2013 Regularization Act, which was later reversed by the Supreme Court in 2023. As the matter is now back with the High Court, the respondents claim that any regularization is dependent upon this Court's new fresh. Therefore, they request the petition be dismissed.

4. We have heard the learned counsel for the parties and perused the record with their assistance.

5. The "Regularization of Doctors Appointed on Contract or Ad Hoc Basis Act, 2018", aims to provide a pathway for contract and ad-hoc doctors in the Sindh province to achieve permanent status, potentially impacting their job security and career prospects.

6. The question is whether the services of the petitioner can be regularized under Section 3 of the Regularization of Doctors Appointed on Contract or Adhoc Basis Act, 2018 and whether the suitability of the petitioner as Medical Officers BPS-17 could be sent to SPSC.

7. To understand these arguments, we must examine the relevant rules. Rule 10 of the Sindh Civil Servants (Appointment, Promotion, and Transfer) Rules, 1974, mandates that initial appointments to positions in BS 16 to 22 'shall' be made: (a) through the Commission's examinations or tests, if within its purview; or (b) as determined by the Government, if not.

8. A review of Rule 10 of the 1974 Rules and Rule 3(1)(i) of the 1990 Commission Rules reveals that initial appointments to BS 16-22 positions falling within the SPSC's purview *must* be made through its examinations or tests. The use of 'shall' underscores the legislature's intent to make this a mandatory requirement, one that cannot be disregarded or circumvented.


9. While it's true that contractual employees are not civil servants and therefore are not initially bound by the mandatory SPSC appointment process, this exemption does not provide a pathway to automatic regularization. The petitioners' desire to transition from contractual status to permanent civil servant status under the Sindh Civil Servants Act, 1973, necessitates compliance with the mandatory competitive selection process required for all civil servant appointments. Simply put, to become regular civil servants, they must successfully pass the same SPSC selection process as those who were initially appointed through it. They cannot claim equal footing with regularly appointed

civil servants without undergoing and succeeding in that mandatory competitive selection.

10. The core argument presented was that the petitioner, having served as a Medical officer in the department even during the pandemic, should be granted a fair opportunity by the SPSC to demonstrate the petitioner's suitability. The fact that she served as a Medical officer as a regular employee in the Health Department in various positions, but without secure tenure, and finally her services were dispensed with based on the aforesaid analogy, underscores the need for this opportunity for the petitioner to continue on contract till her case is sent up for suitability. The respondent department shall facilitate the petitioner to continue her job as a medical officer.

11. Based on the presented arguments and, specifically, the principles established in the Supreme Court of Pakistan's judgment in Dr. Naveeda Tufail and 72 others v. Government of Punjab and others (2003 SCMR 291), this court directs the respondent health department to continue the services of the petitioner on contract under the Act 2018 and then refer the petitioners' candidatures to the Sindh Public Service Commission (SPSC). The SPSC is directed to interview to assess the petitioners' suitability for the subject post within one month of this order. The interview results and recommendations are to be forwarded to the competent authority for consideration of her regular appointment. In this process, the respondent must adhere to the principles outlined in Dr. Naveeda Tufail's judgment. To ensure fairness, the post held by the petitioner on the contract is to remain intact during this period. The court emphasizes the importance of Dr. Naveeda Tufail's judgment in guiding the regularization process.

12. For the reasons given above, this petition is disposed of in the above terms.


JUDGE
12/3/2025