HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

C.P No.D-1271 of 2024

DATE	ORDER WITH SIGNATURE OF JUDGE

26.03.2025

Mr.OM Parkash H. Karmani, Advocate for the Petitioner
Mr.Ayaz Ali Rajpar, Assistant A.G Sindh a/w AXEN Samaro (Rahil Riaz Memon)

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Through instant petition, the Petitioner seeks the following reliefs: -

a) *Declaration that petition is eligible and fit person to be appointed/regularized against the post on which he was appointed and continuing serving as contingent paid staff at fixed salary.*

b) *Declaration that since such posts, being of low-scale, are to be filled in at local basis therefore, the Petitioner is entitled to be considered on such scale so also on basis of privileges which they have earned while continuously serving on such posts over years together hence act of not considering the Petitioner by Respondents for such jobs/post is quite illegal, void, malafide, against the policy and even right of the Petitioner. Thus appointment, if any, made against such post at such posts is Drainage Division Mirpurkhas be declared illegal.*

c) *Issue the writ of mandamus directing the Respondents consider the case of the Petitioner for his regularized appointment against such low paid scales on due scale, policy, procedure and giving due preference to Petitioners as permissible under rules, procedure and policy of contingent staffs.*

d) *Any other relief.*

Learned counsel for the Petitioner submits that the Petitioner was appointed as a Beldar in the Respondents' Department and has been working there for seven years. During his tenure, he submitted applications for the regularization of his service. However, the Respondents have not regularized his service, prompting the filing of this petition.

Conversely, the learned Assistant Advocate General (A.A.G) contends that this is a case of forged documents. He asserts that the Petitioner was neither appointed as an employee by the Respondents nor employed on a contingent basis.

An official on behalf of Respondent namely Rahil Riaz Memon (AXEN) Samaro is present and submits that the record of the office has been verified against the outward register. It was found that the outward number and date bear a different number, which does not correspond with the documents annexed by the Petitioner in the instant petition.

Heard learned counsel for the respective parties and meticulously examined the record presented. The crux of the issue in the instant case revolves around the controversy raised by the Respondents, wherein it is alleged that the appointment orders/letters annexed by the Petitioner are fabricated, fake, and devoid of authenticity. Conversely, the Petitioner has categorically denied such allegations, asserting the genuineness of the said documents. The nature of the dispute is evidently factual and pertains to the verification or falsification of the appointment orders/letters, which necessitates an evaluation of evidence and examination of witnesses to ascertain the truth behind the conflicting claims. It is settled law that a constitutional petition is limited in scope and primarily aimed at addressing violations of fundamental rights or challenging actions contrary to law or without jurisdiction. Matters involving contested facts or the requirement of evidentiary scrutiny fall outside the purview of constitutional jurisdiction. The adjudication of disputes of this nature requires a competent forum where evidence can be properly presented,

tested, and evaluated in accordance with the procedural framework and substantive law governing such disputes.

Under these circumstances, this Court finds itself unable to resolve the controversy solely based on the submissions and documents annexed, as such determination requires the production and examination of evidence, which cannot be achieved within the ambit of constitutional jurisdiction. Consequently, the instant petition is **dismissed**, leaving the Petitioner at liberty to approach the competent forum vested with jurisdiction over such matters, if he so desires.

JUDGE

JUDGE

AHSAN ABRO