

**IN HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD**

CP No. D-2928 of 2017

PRESENT:

MR. JUSTICE ARBAB ALI HAKRO

MR. JUSTICE RIAZAT ALI SAHAR

Petitioners : Maqbool Hussain and 26 others
through Mr. Mumtaz Ahmed Lashari,
Advocate.

Respondents: Through Mr. Rafique Ahmed Dahri
Assistant A.G. Sindh along with
Abdul Jabbar Focal Person DEO.

Date of Hearing : 17.03.2025

Date of Decision : 22.05.2025

JUDGMENT

RIAZAT ALI SAHAR J: -Through this Judgment, we intend to dispose of captioned petition filed by the petitioners with following prayers:-

- (a) To direct the respondents No.1 to 10 to release the salaries of petitioners and to set aside the impugned order of the respondent No.7 and petitioners No.1 to 27 may be allowed to work on their present seats as they were performing previously their jobs since five years from the date of their respective appointments orders.*
- (b) To direct the respondents Nos.1 to 10 to enquire into the matter as to why salaries of the petitioners have been stopped without lawful authority.*
- (c) To direct the respondents Nos.1 to 10 as to why they disband their service of 82 employees out of 23 reinstate with their salaries, who were same badgment of the petitioners and as to why the petitioners are being harassed on one or other pretext by stopping their monthly salaries.*

(d) To me further orders in the larger interest of the justice if this Honourable Court deem fit for the benefit of petitioners.

2. The petitioners in the present case has contended that they were employed as **“Naib Qasids”** and **“Chowkidars”** in various primary, elementary and secondary schools in the Education and Literacy Department, Government of Sindh, were appointed in 2012 on a regular basis in BPS-1. Their appointments were not ad hoc, contractual or work-charge based but made in accordance with departmental rules and procedures. They received offer and appointment letters, underwent medical fitness tests and have since been drawing regular salaries along with all service-related benefits. Their service records documented through CNICs, official service cards, pay slips, and transfer orders were duly maintained by the department and clearly reflect their continuous, legitimate service. Per petitioners, verification through biometric authentication also affirms the authenticity of their employment. Petitioner No.1, Maqbool Hussain, has been authorized through a Power of Attorney to represent all petitioners in this matter. The petitioners have further stated in the petition that recently, the respondents abruptly stopped the petitioners’ salaries, alleging their appointments were fake and dubious, without issuing any show-cause notice, conducting an inquiry or affording them an opportunity to be heard, as such, they violated basic principles of due process. They further stated that out of 83 similarly placed employees, salaries of 23 were selectively restored, allegedly after payment of bribes, exposing the arbitrary and discriminatory conduct of the respondents and indicating mala fide intent. The petitioners, having served over five years without any adverse remarks or complaints, fall under the protection of the Sindh Civil Servants (Probation, Confirmation and Seniority) Rules, 1975, which recognize their

appointments as regular upon completion of probation. The stoppage of their salaries without lawful justification or disciplinary proceedings not only reflects administrative abuse and corruption but also amounts to economic strangulation of low-paid workers who rely entirely on this income for their survival. The petitioners seek redress to this unlawful and discriminatory action.

3. Pursuant to the Court's notice, respondents No.2 / Secretary Education & Literacy Department, Government of Sindh respondent No.3 / Director School Education, Hyderabad Division Hyderabad, respondent No.4 / District Education Officer (Primary) District Hyderabad filed their joint comments wherein they have categorically denied the claims of the petitioners, asserting that only one of them namely, Muhammad Nadeem s/o Sirajuddin Malik (Petitioner No.26) was lawfully appointed through the proper recruitment process conducted by the Executive District Education Officer, Hyderabad. They explain that the Government of Sindh and the Education & Literacy Department advertised vacancies for BPS-01 to BPS-15, including *Naib Qasid* and *Chowkidar* positions, via Daily Ibrat on 02.10.2011, with walk-in interviews held on 20.10.2011 and recommendations made by the District Recruitment Committee (DRC) on 01.11.2011. According to the official record, only Muhammad Nadeem was recommended by the DRC and holds genuine documentation, whereas the offer letters and medical certificates submitted by the other petitioners were verified against the Outward Register and found to be fake or bogus. The respondents further stated that the salaries of 83 such employees, including the petitioners (except Muhammad Nadeem), were being disbursed beyond the sanctioned strength (SNE) of lower staff posts. Upon discovering this irregularity, the Taluka Education Officer (Primary Male), Hyderabad, issued circulars to school heads for submission of

staff records, leading to the identification of unauthorized salary IDs. Consequently, a letter was sent to the District Accounts Officer on 08.08.2017 for salary stoppage and the School Education & Literacy Department instructed the Accountant General Sindh for blocking payments to these allegedly fake employees. They also claim the petitioners misled the court by submitting forged documents and a fabricated letter regarding salary restoration of 23 individuals. The respondents maintained that the petitioners (except Muhammad Nadeem) are not civil servants and were never appointed through the recognized recruitment process, having entered service through fraudulent means and thus seek dismissal of the petition against all petitioners except Muhammad Nadeem. The order sheet dated 01.09.2021 shows that the learned A.A.G. Sindh adopted the above comments on behalf of the rest of the respondents.

4. It reflects from the order dated 26.03.2024 that Petitioner No.10, Sajid Iqbal, submitted a statement before the Court expressing his desire to withdraw from the proceedings on the ground that he intends to go abroad and therefore does not wish to press the petition. Likewise, Petitioner No.26, Muhammad Nadeem whose appointment was acknowledged as genuine by the respondents also filed a statement seeking withdrawal of the petition on the ground that his grievance has been resolved. In view of these statements, the Court ordered that the names of both petitioners be deleted from the array of petitioners in red ink by the office. Accordingly, the matter now continues with the remaining petitioners.

5. It is also pertinent to mention that this matter was heard and reserved for judgment. However, on the very next day, i.e., petitioner Muhammad Hamid filed an application bearing M.A. No. 1792/2025, seeking withdrawal from the instant petition with liberty to file afresh on new grounds. This

post-hearing application was submitted after conclusion of arguments, reflecting the petitioner's intention to pursue his grievance independently through a separate proceeding.

6. Learned counsel for the petitioners has contended that the petitioners were appointed regularly as Naib Qasids and Chowkidars in 2012 through proper channels and procedures; that their appointments were not contractual or ad hoc; they received offer and appointment letters from competent authorities; that the petitioners underwent mandatory medical tests and started drawing regular salaries and benefits in BPS-01; that they have been continuously serving for over five years without adverse remarks or any inquiry; that their employment documents, CNICs, pay slips, service cards, and biometric attendance confirm their official service; that the stoppage of salaries was done abruptly, without issuing show-cause notices or conducting any disciplinary inquiry; that no prior opportunity of hearing was granted, which is a clear violation of natural justice and Article 10-A of the Constitution; that the selective restoration of 23 employees' salaries among 83, allegedly against bribes, shows arbitrariness and discrimination. Learned counsel has further contended that the petitioners are low-paid employees whose economic survival depends entirely on these salaries; that the petitioners having completed their probationary period, they attained regular status under Sindh Civil Servants (Probation, Confirmation and Seniority) Rules, 1975; that the unilateral blocking of salaries constitutes administrative overreach and violates established service jurisprudence; that none of the petitioners were informed of any verification process or found lacking before the stoppage; that the alleged fake documents were never shared with the petitioners or confronted for rebuttal; that the restoration of some salaries without clear criteria indicates the respondents acted with *mala fide* intent; that the petitioners were never

served any adverse findings through proper departmental mechanism or inquiry; that the burden lies on the department to prove alleged fraud in a court of law not by administrative circulars; that without being declared illegal by any competent forum, their employment enjoys protection under law; that the department cannot deny them status ex post facto when salaries were paid for years. Learned counsel for the petitioners seeks direction for restoration of salaries and protection from arbitrary victimization and continuation into service. In support of his arguments, he has relied upon the cases reported in 2006 SCMR 535, 2011 PLC (CS) 419, 2012 PLC (CS) 708, 2024 PLD (CS) 767, 2024 PLC (CS) 323, 2024 PLC (CS) 417, 2004 SCMR 158, 2009 SCMR 605 and 2010 SCMR 237.

7. On the other hand learned A.A.G. Sindh has vehemently opposed instant petition and contended that only petitioner No.26, Muhammad Nadeem, was appointed through a lawful recruitment process conducted by DRC in 2011. The vacancies were advertised through Daily Ibrat and filled via walk-in interviews with final DRC recommendations. All other petitioners were never recommended by DRC and do not appear in official records of appointments. Offer letters and medical certificates submitted by petitioners were checked against the outward register and found bogus. The petitioners drew salaries despite being outside the sanctioned strength (SNE) of lower staff. Upon internal audit, 83 salary IDs were found to have been created in violation of SNE limits. Taluka Education Officer (Primary Male) Hyderabad rightly issued a circular to obtain personal files for verification. A list of 83 dubious employees was sent to the District Accounts Officer for salary stoppage, including the petitioners. The School Education & Literacy Department then directed the Accountant General Sindh to block the salary IDs. The petitioners have misled this Court by submitting forged documents and a fake salary

restoration letter. No legal or departmental record exists proving the valid entry of these petitioners into service. The petitioners are not civil servants under the Sindh Civil Servants Act, 1973 as they were never lawfully appointed. Petitioners failed to produce any valid evidence proving they were recruited via prescribed process. The Department was duty-bound to stop illegal disbursement of salaries from the public exchequer. Restoration of 23 IDs was not arbitrary; it was done only after their credentials were verified and found genuine. The Court cannot direct payment of salaries to individuals whose service entry is tainted with fraud. The act of blocking payments was administrative necessity, not discriminatory conduct. The prayer for reinstatement has no merit since the petitioners were never validly inducted in service. Petitioners' reliance on length of service is misplaced; fraud vitiates everything. Hence, learned A.A.G. Sindh has prayed that the petition may be dismissed against all except Muhammad Nadeem, whose appointment was genuine.

8. We have heard the learned counsel for the petitioners, learned A.A.G. Sindh for the respondents and perused the material available on record very carefully.

9. From the material available on record, it emerges that except for petitioner No.26, Muhammad Nadeem whose appointment has been acknowledged as valid by the respondents there is no official or documentary evidence substantiating the lawful appointment of the remaining petitioners. The record reflects that recruitment to the posts of Naib Qasid and Chowkidar in the Education & Literacy Department was made pursuant to a formal advertisement published on 02.10.2011, with walk-in interviews held on 20.10.2011 and subsequent recommendations by the District Recruitment Committee (DRC) on 01.11.2011. According to the

respondents, only Muhammad Nadeem was among those recommended by the DRC and his appointment is verifiable from the relevant record.

10. The remaining petitioners have failed to produce any credible or verifiable documentation confirming their selection through the recognized recruitment process. The offer letters and medical certificates relied upon by them were verified and found not to be recorded in the department's official registers. Furthermore, the continued disbursement of salaries to the petitioners beyond the sanctioned strength (SNE) further weakens the legitimacy of their appointments. While the petitioners emphasize length of service, possession of pay slips, and biometric attendance as evidence of regular service, these do not by themselves cure the fundamental defect of an unlawful or non-transparent entry into service.

11. It is a settled principle of law that fraud vitiates even the most longstanding claims and no individual can claim vested rights on the basis of forged or unverified appointments. The record does not suggest that the respondents acted *mala fide*ly or arbitrarily in stopping the salaries, particularly when a verification drive was initiated across the board and found numerous irregularities. The alleged restoration of salaries in certain cases was stated to have been done upon verification and not indiscriminately or as a result of discriminatory conduct.

12. No doubt, the principle of natural justice requires that a person be heard before adverse action is taken and to that extent the Department's failure to issue individual show-cause notices or hold personal hearings is not in line with best administrative practices. However, this procedural lapse does not override the absence of any lawful appointment record. The burden to establish a legitimate claim to civil service lies

squarely upon the petitioners and they have failed to discharge it.

13. As for petitioner No.10 Sajid Iqbal and petitioner No.26 Muhammad Nadeem, both have withdrawn from the present petition; Sajid Iqbal on account of his intention to go abroad and Muhammad Nadeem upon redressal of his grievance. Their names have already been struck off from the array of petitioners as per order dated 26.03.2024. More so, petitioner Muhammad Hamid has sought to withdraw through a post-hearing application with liberty to file afresh, which reflects his personal strategy but at this belated stage, it cannot be allowed as the claim of the petitioners is almost same.

14. Before parting with this judgment, we deem it necessary to observe that the disbursement of salaries and issuance of appointment-related documents to the petitioners despite the absence of any lawful recruitment process could not have taken place without the active connivance, negligence, or facilitation by certain departmental officials. The administrative machinery is expected to maintain transparency, accountability, and adherence to prescribed procedures. Therefore, the **competent authority** is directed to initiate a **thorough inquiry into the conduct of officers and officials** who may have facilitated or failed to prevent the issuance of unauthorized appointment letters and the subsequent withdrawal of salaries in violation of sanctioned strength and recruitment rules. If found involved, strict disciplinary and legal action shall be taken against all such persons in accordance with law, including recovery of financial loss to the public exchequer. The inquiry shall be concluded expeditiously, preferably within three months and compliance report shall be submitted before the court through Additional Registrar of this Court.

15. In view of what has been discussed above, we are of the considered opinion that the petitioners, except for Muhammad Nadeem who has already withdrawn, have failed to make out a case for grant of relief sought in the petition. No official record substantiates their appointment through a lawful recruitment process. The relief for restoration of salaries or continuation in service cannot be granted in absence of any legal entitlement. Accordingly, the captioned petition is **dismissed** along with pending applications, with no order as to costs.

JUDGE

JUDGE

Abdullahchanna/PS