

THE HIGH COURT OF SINDH, KARACHI

Before:

Justice Mohammad Karim Khan Agha

Justice Adnan-ul-Karim Memon

CP No D-4824 of 2022

(Taufique Ahmed & others v. Province of Sindh & others)

Petitioners : through Syed Shoa-un-Nabi advocate
Respondent Nos. 2 : through Malik Altaf Jawed advocate
Respondent No.3 : through Mr. Ali Safdar Depar Assistant A.G.
Date of hearing : 20-05-2025
Date of order : 20-05-2025

ORDER

Adnan-ul-Karim Memon, J., The petitioners pray for the following relief:

A) Declare the order dated 08.02.2021, regularizing the petitioners' services on a probationary basis, malafide, illegal, and in violation of the law, principles of natural justice, and their fundamental rights.

B) Direct the respondents to regularize the petitioners on a permanent basis, removing the probation condition from the order dated 08.02.2021.

2. Having worked for the Karachi Metropolitan Corporation (KMC) since 2009 under repeatedly extended contracts, the petitioners were not regularized until they successfully petitioned the court (CP No D-8533 of 2017). The court's order on March 11, 2020 (Annexure A) mandated the payment of outstanding salaries and directed KMC to decide on regularization within ten days. Subsequently, a KMC committee recommended their regularization, contingent upon the lifting of a government ban (Annexures B and C). KMC then issued regularization orders dated February 8, 2021 (and related orders in Annexures D to D/21), but these orders included a two-year probation period, extendable according to the rules. The petitioners, with 13 years of service, argue that imposing this probation is unwarranted, against established rules and principles of natural justice, and violates their fundamental rights. They contend that KMC was hesitant to regularize them, acting only after the court's intervention, making the probation condition unnecessary and invalid (Annexures E to G). The petitioners assert that probation is typically for new hires, and employees being regularized after years of satisfactory service should not be subjected to it. They highlight that KMC has not referenced any rule permitting probation for regularized employees, and the recommending committee did not suggest such a condition. Viewing KMC's action as arbitrary, the petitioners seek a court directive to remove the imposed probation condition.

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

4. Probation is typically for new hires to assess their suitability. Successful completion leads to regularization. However, imposing a new probation period on long-serving contractual employees being regularized for the same role can be seen as unjustified, especially with satisfactory prior service. The law often recognizes continuous service for benefits, and a new probation could negate this.

5. Given that the petitioners have now been regularized and are no longer on probation, the argument for removing the probation condition is now academic, and the purpose of the petition has been served. This petition stands disposed of in the aforesaid terms.

JUDGE

HEAD OF CONST. BENCHES

SHAFI