

IN THE HIGH COURT OF SINDH AT KARACHI

CP. No. D-2668 of 2021

(Dohni Das & others v Province of Sindh & others)

Date

Order with signature of Judge

Before:

Mr. Justice Muhammad Karim Khan Agha

Mr. Justice Adnan-ul_Karim Memon

Date of hearing and Order: 29.05.2025

Malik Altaf Hussain advocate for the petitioners.

Mr. Ali Safdar Depar Assistant Advocate General.

ORDER

Adnan-ul-Karim Memon, J:

The petitioners are requesting this Court to regularize their services from the date of their initial appointments in the Secretary Human Rights department and also seeks declaration that the impugned order dated 07.09.2020 is illegal unlawful, unconstitutional, malafide, discriminatory, consequently the same may be set aside.

2. The Petitioners, a sanitary worker, dispatch rider, and two computer operators, claimed to be performing their duties diligently. They alleged hostile discrimination in the regularization of their services in Human Rights Department, Government of Sindh. Their appointments were on a contract basis, and their contracts have since expired, leading to their departure from the respondent department. The Petitioners previously filed petitions (CP No. D 2380/2014 & CP No. D 2476/2014), which resulted in an order on September 20, 2016, directing the Respondent department to consider their candidatures for regularization in terms of Sindh Regularization (Contract and Adhoc), Act 2013 . In a March 6, 2017 meeting of scrutiny committee, their cases were deferred with a "vague, scanty, and unspecified order." They challenged this deferral in CP No. D 7122/2018), leading to a March 4, 2020 order obliging the Respondents to reconsider the cases of the petitioner and issue a speaking order. Due to the Respondents' reluctance, the Petitioners filed a contempt application (CMA No. 15322/2020). The contempt application was dismissed on March 8, 2021, as the Respondents presented an earlier compliance report with no changes, submitting that consideration had already taken place. However, the Petitioners were granted liberty to initiate further legal proceedings as such they filed the present petition challenging the decision of scrutiny committee.

3. The Petitioners counsel contended that the Respondents have extended illegal, mala fide, highly discriminatory, and unlawful treatment to them. He emphasized that the minutes of the meeting/Impugned Order are illegal, unlawful, unconstitutional, mala fide, and discriminatory. He next argued that similarly placed employees were regularized, with their regularization effective from the date of acquiring requisite qualifications, rather than their initial appointment date. The Petitioners, despite being similarly situated, were denied these benefits

due to "mala fide reasons. He added that they faced hostile discrimination and qualified the test of intelligible differentia, deserving similar treatment. He submitted that the Impugned Order violated Articles 2, 4, 10, and 25 of the Constitution of the Islamic Republic of Pakistan, 1973. He prayed for allowing the petition.

4. Learned AAG submitted that the Petitioners were contractual employees hired for a specified period, and their contracts have expired. He asserted that their cases for regularization were not recommended at the time of appointment due to lack of qualification/unsatisfactory performance. He further submitted that their cases were considered by the Scrutiny Committee but rejected for the same reasons; that the cases were considered with due diligence, and a detailed/speaking order was passed. He argued that all contractual employees were considered to avoid partial treatment. He pointed out that the Committee decided not to recommend the petitioners due to multiple reasons, including qualification and performance. He added that the Petitioners have been treated according to law/rules and constitutional requirements. He prayed for dismissal of the petition.

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

6. The petitioners' repeated challenges before this court are viewed unfavorably. Despite previous orders from September 20, 2016, and March 4, 2020, directing the respondents to reconsider their regularization cases and issue a detailed order, which they apparently complied with in previous round of litigation as such the petitioners' continuous litigation on the similar cause of action, including a dismissed contempt application on March 8, 2021, is not appreciated at all.

7. Regularization of employment hinges on legal backing. Without a specific law, policy, or rules governing regularization, an individual cannot simply petition the High Court for this relief. Both parties acknowledged that the petitioners were hired for temporary, contract-based positions, as explicitly stated in their employment contracts. These contracts also stipulated that they could not claim regularization. This aspect of the lack of qualification of the post as pointed out cannot be overlooked by this Court; these crucial details cannot be basis of principle to grant relief as they have already been nonsuited. The application of the law applied by the respondents while scrutinizing the cases of the petitioners is correct appreciation of law and supported by both regularization policy and existing legal precedents, rendering the decision of scrutiny committee valid and sustainable as the issue of qualification has been raised as this Court cannot change the disqualification into qualification. On the aforesaid proposition we are

supported by the decision of the Supreme Court in the case of Government of Khyber Pakhtunkhwa v. Sher Aman (2022 SCMR 406).

8. For the foregoing reasons, this petition is found to be meritless and is dismissed.

JUDGE

Head of the Const. Benches

Shafi