

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

C.P No. D-414 of 2015

[Ahmed vs. Administrator M.C Tando Adam & Ors.]

Before:

Justice Muhammad Saleem Jessar

Justice Nisar Ahmed Bhanbhro

Petitioner Ahmed: **Through Mr. Mazhar Ali Leghari**
advocate

Respondents Administrator M.C Tando Adam & Ors:
Through Mr. Rafique Ahmed Dahri
Assistant A.G Sindh

Date of hearing 16.10.2025

Date of Judgment 16.10.2025

J U D G M E N T

MUHAMMAD SALEEM JESSAR, J: Through this petition, the petitioner seeks following reliefs:

- a) *That, this Honourable Court may be pleased to direct the respondents to implement the service structure for up-gradation of posts of health related staff of Local Government and allow the up-graded scale to the petitioner and other from BPS-01 to BPS-16 w.e.f. 13.05.2006 with all back benefits as the similar up-gradation has already been allowed by the respondents to the similar posts of District Councils Para Medical Staff and for the other health related staff.*
- (b) *That this Honourable Court may be pleased to direct the respondents to stop illegal discrimination and victimization of the petitioner and other employees.*

2. Learned counsel for the petitioner contended that on 13.05.2006 a Notification was issued by the Secretary to the Government of Sindh Health Department with the approval of competent authority/Chief

Minister Sindh, whereby the service structure of paramedical staff in BS-01 to 16 was approved besides posts falling in BS-01 to 16 (*Category-1, Contained Sr. 01 to Sr. No. 28, Category-II Sr. No. 1 to Sr. No.24*) were upgraded with immediate effect; that pursuant to said notification the petitioner submitted an application to the Deputy Secretary (Admn) Local Government Department, Government of Sindh, Karachi, for sanction of service structure of Paramedical Staff of Municipal Committee, Tando Adam BPS-1 to 15 as the Government had accorded up-gradation of paramedical staff of District Councils in Sindh in terms of Notification 14.12.2010; that on 05.06.2014 Section Officer, Government of Sindh, Local Government Department wrote a letter dated 05.06.2014 to Chief Municipal Officer, Municipal Committee, Tando Adam to furnish the views /comments on the application of petitioner and other for up-gradation of paramedical staff of Municipal Committee, Tando Adam; that the Chief Municipal Officer Municipal Committee, Tando Adam submitted his comments stating therein that as the Local Government has already allowed up-gradation of paramedical staff working in District Councils in Sindh at par with the paramedical staff of Health Department Government of Sindh w.e.f. 13.05.2006, therefore, the paramedical staff of Municipal Committee may also be accorded same facility, but nothing has yet been done; that since the petitioner and others are discharging their duties under the same cadres, therefore, they are also entitled for the same relief as has been granted to the employees of other Departments mentioned supra. He prayed for allowing this petition as prayed for.

3. Learned Assistant A.G opposed the petition and prayed for its dismissal on the ground that the Petitioners were employees of local government department; that local councils were independent institutions and can upgrade the petitioners at their own; that petitioner had got no vested right for upgradation, therefore prayed for dismissal of the petition.

4. Heard the arguments and perused the material available before us on record.

5. From scanning of the record, it appears that the petitioner is employee of Municipal Committee Tando Adam, which is a body corporate defined under Section 7 of Sindh Local Government Act 2013. Petitioner working in the Municipal Committee Tando Adam as para medical staff. Petitioner seeks equal treatment with the employees working under similar capacity in the health department government of Sindh.

6. The Respondent No 3 in its reply to the petition has stated that a notification dated 14.12.2010 in this regard had already been issued by the Local Government, wherein the Para Medical Staff of the Local Councils was directed to be treated at par with the para medical staff of health department Government of Sindh. It would be advantageous to reproduce the notification dated 14.12.2010 issued by the Secretary Local Government Department, which reads as under:

GOVERNMENT OF SINDH
LOCAL GOVERNMENT DEPARTMENT
Karachi dated the 14th December, 2010

NOTIFICATION

No-SOIII /47-60/2010 With the approval of Competent Authority i.e Chief Minister Sindh, the Government of Sindh is pleased to approve and notify the Service Structure of Para Medical Staff of the Defunct District Councils, Local Government Department at par with the paramedical staff of the Health Department from BS -1 to BS – 15 in accordance with notification of Health Department dated 13.05.2006.

Sd/
Khursheed Naeem Malik
Secretary to Govt. of Sindh

7. *Minutiae of the para wise comments furnished by respondent No.1/Municipal Committee reveals that they have admitted the assertion of the petitioner to the effect that his case as to the service structure is covered under the Sindh Local Government*

paramedical staff. In its para-wise comments the respondent No.1 further admitted that Municipal Committee has recommended the case for up-gradation of the paramedical staff; however, with the condition that employees will not claim back benefits. For the sake of convenience para-7 of the reply of respondent No.1 is reproduced below:

Para partly admitted with further submission that this Municipal Committee has recommended the case for up-gradation of Para Medical Staff with the condition that back benefits will not be claimed.

8. In reply to para-12 of the petition, the respondent No.1 through its comments stated that the Administrator has not denied the facility but the same is subject to the sanction of Government of Sindh Local Government Department. For better understanding reply to para-12 furnished by respondent No.1 is reproduced below:

The Administrator has not denied the facility but the same is subject to the sanction of Government of Sindh Local Government Department."

9. Since the Petitioner is working as para medical staff of local government department and seeks equal treatment to that of the employees of health department government of Sindh. Admittedly the Petitioner is performing the same job as that of the employees of health department, it would be appropriate and consistent to the canons of law that the Petitioner be given similar treatment as is being enjoyed by the employees of health department. Though law permits reasonable classification through intelligible differentia but such a classification was not evident in the case of Petitioner.

10. The Petitioner was entitled for the grant of upgradation and benefits with effect from the date it was notified by the Respondent No 3, but Respondent No 1 fettered that entitlement with a condition that the Petitioner shall relinquish the back benefits, such condition tantamounted to infringement of the fundamental right of the petitioner under the

doctrine of “equal pay for equal work”. This Court is saddled with a responsibility to safeguard the fundamental rights of the citizens granted to them under the Constitution. The powers conferred to this Court under its writ jurisdiction in ordinary cases are limited and restricted to its territorial jurisdiction, but in matters warranting the enforcement of fundamental rights, the constitution under article 199 itself grants unbridged powers to this Court. The Petitioner have placed on record sufficient material to demonstrate that the Respondents have failed to give him equal treatment, such an act is a violation of article 25 and 27 of the Constitution.

11. As a result of the discussion made herein above, the Petitioner have made a case for indulgence of this Court under its writ jurisdiction, consequently this Petition is allowed. The Respondents are directed to extend the service benefits of upgradation to the Petitioner from the date of issuance of notification dated 14.12.2010.

12. A copy of this order shall be sent to the Respondents No 1 to 3 for compliance within a period of 3 months from the date of this order.

J U D G E

J U D G E

Sajjad Ali Jessar

Approved for reporting

Hyderabad

16.10.2025