

THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Const. Petition No.D-445 of 2023
(*Ghulam Fareed and others P.O. Sindh & others*)

PRESENT:

MR. JUSTICE ZULFIQAR ALI SANGI
MR. JUSTICE RIAZAT ALI SAHAR

Petitioners: **Ghulam Fareed & others** through Mr. Shabbir Ali Bozdar, Advocate.

Respondents: Through Mr. Ali Raza Baloch, Additional A.G Sindh.

Date of Hearing : **20.10.2025**

Date of Announcement : **28.10.2025**

ORDER

RIAZAT ALI SAHAR J: - The case of the petitioners is that they were appointed by respondents No.3&4 respectively and allowed to work as X-Ray Technician, Dispenser, O.T. Technician, and Junior Clerk at Ghulam Muhammad Mahar Medical College (GMMMC), Sukkur, on a daily wages basis. The petitioners claim that they performed their duties satisfactorily by exhibiting their expertise from the years 2019 to 2021. It is alleged that they were paid only five months' salary at the rate of Rs.10,000/- per month since their appointment, whereafter, despite repeated protests, their remaining salaries have not been released. It is further averred that though the petitioners are still performing their duties, their services have neither been regularized nor have they been paid their arrears; hence, through the instant petition, they seek regularization of their services and release of their salaries for the last three years.

2. Medical Superintendent, GMMMC Hospital, Sukkur (respondent No.4) filed a statement wherein it has been stated that out of six petitioners, four were appointed purely on a daily wages basis without any recruitment process through the Departmental Recruitment Committee (DRC) by the then Medical Superintendent, GMMMC Teaching Hospital, Sukkur, whereas two petitioners, namely Ghulam Fareed and Haroon, were allowed to work only on an honorary basis. It is further apprised that the recruitment process for posts in BPS-01 to BPS-04 is *subjudice* before this Court, in which four of the petitioners had applied and qualified but could not join duties owing to the ban imposed by the Government. It has also been submitted that it is a settled proposition of law that employees appointed on a daily wages basis cannot claim any vested right to regularization. The services of all daily wages employees working at GMMMC, Sukkur, including the present petitioners, were accordingly terminated, and such orders were duly communicated to them. It is further stated that four petitioners were paid their salaries from contingent funds generated by GMMMC Sukkur itself, whereas two petitioners had been working on an honorary basis and were never entitled to salary.

3. Learned counsel for the petitioners contends that the petitioners were appointed by respondent No.4 on a daily wages basis and have been performing their duties diligently from 2019 to 2021. It is argued that despite satisfactory performance, they were paid only five months' salary at the rate of Rs.10,000/- per month, and their remaining salaries have not been released. Counsel further submits that the petitioners are still discharging their duties; however, their services have not been regularized, hence they are entitled to regularization of their services and release of their remaining salaries.

4. Learned A.A.G contends that the instant petition is misconceived and not maintainable as the petitioners, being daily wages and honorary workers, have no legal entitlement to regularization or to claim any vested right for continuation in service.

5. We have heard the learned counsel for the petitioners and the learned A.A.G. for the respondents and have perused the material available on record. At the very outset, the maintainability of this petition was questioned by the learned Additional Advocate General on the ground that no fundamental right of the petitioners is infringed. We are conscious of the fact that the constitutional jurisdiction of this Court is supervisory, not appellate, and it may be exercised only to prevent arbitrary, mala fide or discriminatory action by public authorities. Where appointments are not made in accordance with the prescribed recruitment rules, no enforceable right is created, and therefore, mere length of service or sympathetic considerations cannot override the settled law. The admitted position is that four petitioners were engaged on a daily wages basis, whereas two of them were allowed to work only on an honorary basis. It is now a settled proposition of law, as enunciated by the Hon'ble Supreme Court in several authoritative pronouncements, including *Province of Punjab through Chief Secretary, Lahore and others Versus Prof. Dr. Javed Iqbal and others (2022 S C M R 897)*, wherein the hon'ble Apex court has observed as under:

“10. It is settled law that the Court cannot step into the shoes of the appointing authority. The Appellants mentioned that the Respondents were reinstated with immediate effect and, were regularized with immediate effect. It is pertinent to mention that the Respondents did not challenge the order dated 27-10- 2014 according to which they were reinstated with immediate effect. They have only challenged the order dated 22-06-2015 whereby, they were regularized with immediate effect. The fact that the Appellants have reinstated the Respondents and regularized the Respondents with

immediate effect cannot be interfered with by the Court in absence of any illegality. The argument that other similarly placed medical practitioners were given relief, therefore, the Respondents cannot be discriminated against is misconceived. Firstly, each case has to be analyzed on its facts and circumstances and relief which is available to a party in one set of circumstances is not always available to another party in a different set of circumstances like those before us. Secondly, regularization takes effect prospectively, from the date when a regularization order is passed. In the absence of any law/order/policy providing for retrospective regularization, the Respondents cannot claim regularization of their services based on past service rendered on contract basis as well as the period during which they were out of service. As such, the conclusion of the High Court to the effect that the Appellants could not have regularized the Respondents with immediate effect is ex facie erroneous and is accordingly held as unsustainable. Reliance in this regard is placed on the case of Khushal Khan Khattak University v. Jabran Ali Khan (2021 SCMR 977 Supreme Court).....”

6. Insofar as the release of the remaining salaries to the petitioners is concerned, the same is not tenable for the reason that, as per the comments of respondent No.4, four of the petitioners were engaged on a daily wages basis and were paid their salaries from contingent funds generated by GMMMC Hospital, Sukkur, for the period they worked, whereas the remaining two were honorary appointees; hence, no vested right accrues to any of them for regularization or continuation in service.

7. In view of the foregoing discussion and the settled legal position, we are of the view that the petitioners, being engaged on a daily wages and honorary basis, have no vested right to claim regularization or continuation in service unless their appointments were made in accordance with law. Accordingly, the instant petition, being misconceived and devoid of merit, stands dismissed along with all pending applications

JUDGE

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