

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

C.P. No.D-2000 of 2016

Date	Order with signature of Judge
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Priority:

1. For hearing of CMA No.8952/16.
2. For hearing of main case.

12.04.2018.

Mr. Faizan Hussain Memon, Advocate for the petitioners.
Mr. Sibtain Mehmood, AAG.

The instant petition has been filed with the following prayers:

- i. *Declare that the failure of respondents to notify regularization of services of the petitioners against the post of Headmistress (Community Model School) (BS-11) with all consequential benefits of a regular appointment from the date of their initial appointment, is illegal, unlawful, unconstitutional, discriminatory, mala fide, ultra vires and tantamount to defeating the very purpose of the Sindh (Regularization of Adhoc and Contract Employees) Act, 2013.*
- ii. *Direct the respondents to regularize the services of the petitioners against the posts they are working, with all consequential benefits of a regular appointment from the date of their initial appointment and treat them at par with their similarly placed colleagues.*
- iii. *Declare that the failure of respondents to pay the salary of the petitioners No.1 and 2 from the months of June, 2015 and of the petitioner No.3 from the month of August, 2015 is illegal, unlawful, unconstitutional, mala fide, arbitrary, discriminatory and in violation of principles of natural justice, equity and fairness.*
- iv. *Direct the respondents to pay the salary of the petitioners on a regular basis as well as make payment of the arrears as due, forthwith.*
- v. *Restrain the respondents, their servants, subordinates, agents and /or any person(s) working through or under them from taking any adverse action against the petitioners till the final adjudication of instant petition.*
- vi. *Grant any other relief(s), which this Honorable Court may deem appropriate and proper in the circumstances of the case.*
- vii. *Grant cost of the petition.*

The petitioners, who are three in numbers, claim that they were appointed as Headmistress on 18.06.2011, 22.06.2011 and 30.06.2011 respectively for a period of three years; however, since they were not regularized in spite of passage of substantial time, therefore, the instant petition has been filed.

Mr. Faizan Hussain Memon Advocate has appeared on behalf of the petitioners and stated that as per Sindh (Regularization of Adhoc & Contract Employees) Act 2013 the respondents were legally obliged to regularize the services of the petitioners, keeping in view Section 3 of the said Act. He read out the said Section and stated that the petitioners may be regularized. In support of his contentions the learned counsel has placed reliance on the following decisions:

1. *2014 PLC (CS) 1153 (Dr. Iqbal Jan and others Vs. Province of Sindh and others)*
2. *2016 PLC (CS) 179 (Dr. Bashir Ahmed and others Vs. Province of Sindh through Chief Secretary and others)*
3. *Unreported decision of this Court in C.P. No.D-2598 of 2016 (Rashid Ali Memon Vs. Chief Secretary through Government of Sindh and others)*
4. *Unreported decision of this Court in C.P. No.D-2746 of 2014 (Abdul Razaque and others Vs. Province of Sindh through the Chief Secretary and others)*
5. *Unreported decision of this Court at Circuit Court Larkana in C.P. No.D-76 of 2013*

Mr. Sibtain Mehmood, AAG has appeared on behalf of the respondents and at the very outset submitted that the petition is not maintainable, since the same involves factual controversies. He however stated that under identical circumstances in other petitions, involving the matter of regularization of some other petitioners, the matter has been sent to the Scrutiny Committee by giving a mandate to verify the testimonials of the those petitioners and other aspects and within two months' time decide their matter in accordance with law. He, therefore, prays that the instant petition, in the alternate, may be disposed of as per the prayer made by him. He also in this regard relied upon the decision in C.P. No.D-2746 of 2014.

Mr. Faizan Hussain Memon agreed to the proposal given by Mr. Sibtain and stated that he has no objection if the instant petition also is disposed of by directing the Scrutiny Committee to consider the qualification, fitness and eligibility of the petitioners strictly in accordance with law keeping in view the judgments of the Hon'ble Supreme Court and this Court.

We, therefore, with the consent of the parties, dispose of this petition by directing the Competent Authority i.e. respondent No.2 to form a Scrutiny Committee, which shall scrutinize and examine the qualification, eligibility and fitness of the petitioners for the subject post strictly in accordance with law and as per the relevant rules and regulations so also the decisions of the Hon'ble Supreme Court and High Courts. It is expected that the said exercise would be completed within three months from the date of receipt of the order passed by this Court today. With these directions the instant petition alongwith the listed application stands disposed of.

JUDGE

JUDGE