

HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

Before:

Justice Arbab Ali Hakro
Justice Riazat Ali Sahar

C.P No.D-1542 of 2024

[Kirshan Lal and 10 others v. Province of Sindh and 03 others]

C.P No.D-1598 of 2024

[Ameer Bux and 02 others v. Province of Sindh and 03 others]

Petitioners by : Mr.Bhooro Bheel, Advocate

Respondents by : Mr.Muhammad Sharif Solangi, Assistant Advocate General, Sindh

Intervener : Pirano s/o Mubeen. Nemo
(in C.P No.D-1598/2024)

Dates of Hearing : **04.02.2026**

Date of Decision : **04.02.2026**

ORDER

ARBAB ALI HAKRO J:- These two constitutional petitions, are taken up together for final disposal, as both matters arise out of the same factual matrix, involve identical questions of law and seek substantially the same relief regarding regularisation of service of daily-wage/contract employees of Municipal Committee Umerkot.

2. The petitioners in both petitions assert that they have been serving the Municipal Committee Umerkot in various capacities, Fire Fighter (Fire Man), Driver, Beldar, Helper and Peon, falling within BS-01 to BS-04, continuously since 2006 or thereabout, initially under the then Taluka Municipal Administration Umerkot. They maintain that after their engagement, they underwent formal training/familiarisation courses in fire-fighting conducted by Meraj Limited and have since been performing duties not only on routine days but also during emergencies, public holidays, Ashura, monsoon seasons, and Eid festivals. It is their case that their services were acknowledged from time to time by the municipal authorities through

issuance of duty rosters, muster rolls, shift-wise fire brigade lists, and office orders directing them to open bank accounts for salary disbursement. They further rely upon letters issued by the then Taluka Nazim confirming their services with effect from 01.02.2010, asserting that such confirmation created a vested right to regularisation. The petitioners also contend that they fall squarely within the ambit of Section 3 of the Sindh (Regularisation of Adhoc and Contract Employees) Act, 2013. They further assert that, despite repeated approaches to the authorities, their grievances remain unaddressed, and they continue to receive salaries in cash rather than through bank accounts, allegedly due to directions issued by the respondent officials. In C.P. No. D-1598 of 2024, an additional plea is raised that the petitioners have been serving since 2009 and that their long tenure, coupled with their age, has rendered them ineligible for fresh government employment, thereby entitling them to regularisation on equitable considerations.

3. Respondent No. 2 (Chief Municipal Officer) and Respondent No. 4 (Account Officer) have filed detailed para-wise comments. The respondents do not dispute the petitioners' engagement, their performance of duties or the issuance of various office orders, muster rolls and training certificates. However, they consistently maintain that the petitioners were engaged solely on daily-wage/contingent basis and never held sanctioned posts. The respondents further assert that pursuant to the directions of the Water Commission of this Court, all local councils were restrained from engaging or continuing contingent/daily-wage employees and were instead directed to outsource municipal services. It is stated that, in compliance with such directions, the services of daily-wage workers, including the petitioners, were terminated and that no right to regularisation therefore survives. The allegations regarding payment of salary in cash, refusal of bank statements, discrimination and mala fides are denied, with the respondents contending that the petitioners must strictly prove such assertions.

4. In C.P. No. D-1598 of 2024, an application under Order I Rule 10 CPC was filed by one Pirano S/o Mubeen seeking impleadment as a petitioner on the ground that his case is identical to that of the existing petitioners. However, despite repeated calls, none appeared on behalf of the applicant/intervener to press the application.

5. Learned counsel for the petitioners contended that the petitioners have rendered uninterrupted service for more than fifteen years, have undergone specialised fire-fighting training and have been continuously utilised by the Municipal Committee for essential municipal functions. It was argued that the petitioners satisfy the statutory criteria for regularisation under the Sindh Regularisation Act, 2013 and that the respondents themselves acknowledged their services through confirmations, duty rosters, and salary-related directives. Counsel submitted that the petitioners' long tenure, coupled with the regular nature of duties performed, creates a legitimate expectation of regularisation and that denial of such benefit amounts to discrimination, particularly when similarly placed employees have been regularised. It was further argued that the Water Commission's directions pertained to future engagements and did not extinguish vested rights accrued prior to such orders.

6. Conversely, learned A.A.G. supported the stance of the respondents, submitting that the petitioners were never appointed against sanctioned posts and were engaged only as daily-wage workers. It is argued that no vested right to regularisation can arise from an irregular or non-cadre engagement. Learned A.A.G. emphasised that the Water Commission's orders were binding and required disengagement of all contingent staff, leaving no scope for regularisation. It is further contended that the Sindh Regularisation Act, 2013, does not apply to daily-wage workers and that the petitioners' reliance on confirmations or office orders is misconceived, as such documents cannot override statutory requirements or judicial directives.

7. We have heard learned counsel for the petitioners and learned A.A.G. at considerable length. We have also carefully examined the pleadings,

annexures, para-wise comments, and the material placed on record, including the directions issued by the Water Commission.

8. The petitioners' case rests on the assertion that they have served the Municipal Committee Umerkot for more than a decade, initially under the then Taluka Municipal Administration and that their long tenure, coupled with the nature of duties performed, entitles them to regularisation under the Sindh (Regularisation of Adhoc and Contract Employees) Act, 2013. The respondents, however, dispute any such entitlement, asserting that the petitioners were engaged purely on daily-wage or contingent basis and that their continuation was impermissible in view of the binding directions of the Water Commission.

9. The factual record, though voluminous, is largely undisputed. The municipal authorities indeed engaged the petitioners from time to time, assigned them duties during emergencies and public holidays, and provided them with fire-fighting training. Their names appear in muster rolls and duty rosters, and certain office orders directed them to open bank accounts for salary disbursement. However, none of these documents demonstrate that the petitioners were ever appointed against sanctioned posts, nor do they reveal that their engagement was made through any competitive process, advertisement or observance of statutory recruitment rules. The petitioners' engagement, at its highest, remained that of daily-wage or contingent workers, utilised as and when required.

10. The petitioners' reliance on letters purportedly "confirming" their services does not advance their case. Such letters, even if issued, do not constitute appointments under law, nor can they override the statutory scheme governing municipal employment. A confirmation presupposes a valid appointment; where the initial engagement itself is dehors the rules, no vested right can arise from subsequent administrative correspondence. The petitioners' entire tenure, though long, remained outside the sanctioned cadre and outside the recruitment framework mandated for public employment.

11. The petitioners' invocation of Section 3 of the Sindh Regularisation Act, 2013, is equally misplaced. The Act applies only to those employees who were appointed on a contract or ad hoc basis against sanctioned posts through a recognised mode of appointment. Daily-wage or contingent workers, who were never appointed through a competitive process nor placed against sanctioned strength, do not fall within the protective umbrella of the Act. The petitioners have not produced any appointment orders demonstrating that they were ever appointed on a contract or ad hoc basis in accordance with the law. Their engagement, being purely daily-wage in nature, cannot be retroactively elevated to a contractual appointment merely on account of long service.

12. The petitioners' plea of discrimination, premised on the assertion that similarly placed employees were regularised, also fails to persuade us. The petitioners have not placed on record any cogent material showing that persons identically situated engaged on daily-wage basis without sanctioned posts were regularised. Even if some irregular regularisations were made in the past, the doctrine of equality does not mandate perpetuation of illegality. Article 25 of the Constitution guarantees equality before the law, not equality in illegality. A wrong committed in favour of one employee cannot be invoked as a precedent to compel repetition of the same wrong.

13. The respondents' reliance on the directions of the Water Commission is well-founded. The Water Commission, in categorical terms, restrained all local councils from engaging or continuing contingent or daily-wage employees and directed that municipal services be outsourced. These directions were binding on all municipal bodies, including the Municipal Committee Umerkot. The petitioners' continuation, if any, after such directions, could not create any enforceable right nor could it override judicial directives issued in the public interest. The petitioners have not shown that their case falls within any exception to the Water Commission's mandate.

14. The petitioners' grievance that they were paid in cash or that bank statements were withheld does not alter the legal character of their engagement. Even if such allegations were assumed to be correct, they would at best indicate administrative irregularities, not confer any right to regularisation. The mode of salary disbursement cannot transform a daily-wage engagement into a sanctioned appointment.

15. The plea that the petitioners have become over-age for fresh government employment, though sympathetic, cannot be a ground for judicially directing regularisation. Courts cannot create posts, nor can they compel the State to absorb individuals who were never appointed through a lawful process. Public employment is a constitutional trust, and appointments must conform to the principles of transparency, merit, and equal opportunity. Long service, without lawful appointment, cannot ripen into a legal right.

16. As regards the application under Order I Rule 10 CPC filed by one Pirano, son of Mubeen, we have examined the application and the supporting affidavit. The applicant claims that his case is identical to that of the petitioners and seeks to be impleaded as a petitioner. However, the applicant's own appointment order reveals that he, too, was engaged on a purely contractual/daily-wage basis without adherence to any statutory recruitment process. His claim suffers from the same legal infirmities as the petitioners'. The application, therefore, does not disclose any independent right or legal basis warranting impleadment. Accordingly, the application under Order I Rule 10 CPC is **dismissed**.

17. For the reasons recorded above, both petitions are **dismissed**. No order as to costs.

JUDGE

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