

**IN THE HIGH COURT OF SINDH, CIRCUIT
COURT, HYDERABAD**

CP No.D-36 of 2012

[Jam Khan & others v. Province of Sindh & others]

Before:

Justice Adnan-ul-Karim Memon
Justice Riazat Ali Sahar

Petitioners: Jam Khan & others through Mr. Waqar Ahmed, advocate

Respondents: Federation of Pakistan and others through Mr. Muhammad Irfan Chandio, advocate, along with Javed Iqbal, Deputy Chief H.R. Officer, OGDCL, and Imam Ali R.C, OGDCL Hyderabad.

Date of hearing: 20.11.2025.

Date of decision: 20.11.2025.

JUDGMENT

RIAZAT ALI SAHAR, J: - Through this petition, the petitioner seeks the following reliefs:-

- i. This Honourable Court would graciously be pleased to hold and declare that the petitioners, after completing the codal formalities, have been appointed in their respective Posts/Cadres and accordingly are entitled to draw their salaries.
- ii. Issue Writ of mandamus directing the respondents to issue salaries, etc., to the petitioners from the date of their joining, viz. 01.11.2010 and onwards.
- iii. Costs of the petition be saddled upon the respondents.
- iv. Any other orders as this Honourable Court deems fit and proper in the arisen circumstances of the case.

2. The case of the petitioners is that, being jobless and possessing the requisite qualifications, they applied for various posts pursuant to an advertisement published in the daily Kawish on 12.01.2010 by respondent No.2, and their tests/interviews were duly conducted. According to the petitioners, during the recruitment process, respondent No.2 issued another advertisement dated 20.06.2010 for additional posts, which also included the posts advertised earlier and stated at the bottom that candidates who had already applied pursuant to the advertisement dated 12.01.2010 were not required to submit fresh applications. The

petitioners further stated that after completion of the recruitment process, the respondents issued offer/appointment letters to them vide letter No.M(R)/DIR/2010 dated 22.10.2010, appointing them to various posts on a contract basis with directions to report to respondent No.4 in November 2010. Accordingly, the petitioners immediately proceeded to respondent No.4 and, after verification and examination, joined their duties and have been performing their functions to date. However, despite their regular attendance, the department has neither assigned them postings nor released their salaries, despite their continuous efforts and repeated approaches to the authorities. Hence, the petitioners have filed the instant petition.

3. In response to the Court notice, the respondents filed comments admitting issuance of the advertisement dated 12.01.2010, but stated that only petitioners No.1, 5, and 9 had applied and that the applications of petitioners No.1 and 5 were rejected. They contend that the advertisement created a misperception that the posts were confined to candidates from Sindh; therefore, the management issued a fresh national advertisement on 26.06.2010 clarifying that the vacancies were open to candidates from all over Pakistan. The respondents denied and stated that the advertisements were issued under political pressure, without observing codal formalities, including requisition from the concerned departments, verification of vacancies, or adherence to the prescribed recruitment process. They further stated that the interviews of shortlisted candidates were challenged in W.P. No.2231/2010 before the Lahore High Court, Rawalpindi Bench, and W.P. No.356/2011 before the Islamabad High Court, both filed by OGDCL employees' unions. A stay order was passed in the former petition, restraining action on the impugned advertisement, before its eventual dismissal. The respondents stated that the offer letters issued to the petitioners, as well as subsequent steps including medical examinations, were undertaken due to political/extraneous pressure and in violation of rules, and therefore are illegal. They stated that the management later sought withdrawal of the offer letters ab initio. They further stated that following the stay orders of the Lahore High Court and Islamabad High Court, all actions pursuant to the impugned advertisement were withdrawn/cancelled, and no appointments were made. They further stated that Petition No.36/2012 already stood dismissed for non-prosecution on 18.10.2017; hence, M.A. No. 16667 and 16668 of 2017 merit dismissal.

4. Heard learned counsel for the petitioners as well as learned counsel representing the respondents. We have also minutely examined the material available on record, including the pleadings and written comments so filed. The central question requiring determination is whether the petitioners acquired any vested or enforceable right on the strength of the offer/appointment letters dated 22.10.2010, and if so, whether such right could lawfully be defeated by the respondents on the pretext of political pressure, procedural irregularities, or the pendency of litigation before other forums. The ancillary issue is whether, having admittedly allowed the petitioners to join duties and mark attendance, the respondents can now deny the petitioners their salaries for the period they claim to have served.

5. From the record, it is an admitted position that the petitioners were issued offer letters and were directed to report to respondent No.4 in November 2010, pursuant to which they duly appeared, underwent verification, and joined duties. There is nothing on record to show that, at the time of their reporting, any written cancellation, restraint, or suspension of their appointment was communicated to them. It is further admitted in the comments of the respondents themselves that the petitioners continued to mark their attendance, yet were neither assigned postings nor paid salaries. Such conduct on the part of the respondents discloses a clear administrative lapse; however, the question remains whether such a lapse, by itself, creates a legally enforceable right to regular appointment or salary. The respondents have taken a categorical stance that the entire process stood vitiated due to non-observance of codal formalities and was subsequently annulled following litigation before the Lahore High Court and Islamabad High Court. These assertions cannot be brushed aside lightly.

6. Even otherwise, the law is well settled that an offer letter does not, by itself, confer an indefeasible right to appointment, unless the appointment is finalized through a valid and lawful process culminating in the issuance of an appointment order followed by assumption of charge. The Supreme Court has consistently held that appointments made in violation of recruitment rules, without requisition of posts, without verification of vacancies, or under political/extraneous influence are void and non-est in the eye of law, and no rights, including the right to salary, can accrue from a void act. The respondents have produced material

showing that the advertisements were challenged before constitutional courts and that stay orders were operative at the relevant time. In such circumstances, the petitioners cannot claim a superior right over the judicial restraint in the field, nor can they rely on mere entry into office premises or marking of attendance to legitimize an otherwise irregular recruitment exercise. The petitioners were bound to demonstrate a valid, rule-based and competently sanctioned appointment, which they have regrettably failed to do.

7. Moreover, public employment cannot be conferred by acquiescence, sympathy, or equity in derogation of mandatory recruitment rules. The petitioners' reliance upon their attendance or purported assumption of duties cannot override settled principles governing public service appointments.

8. In view of the above discussion, it is abundantly clear that the petitioners have failed to establish that their appointments were valid, lawful, or in accordance with rules. Consequently, no vested right to salary or continuation in service accrued to them. The respondents, having withdrawn the entire process pursuant to judicial proceedings before competent courts, cannot be directed to release salaries for a process held to be irregular and void. Interference in such matters would not only prejudice the settled law on public employment, but would also amount to validating an exercise admittedly tainted with procedural and legal defects. No case for issuance of a writ of mandamus is made out.

9. For the foregoing reasons, captioned petition stands *dismissed alongwith pending application(s)*.

JUDGE

JUDGE

Abdullahchanna/PS