

IN THE HIGH COURT OF SINDH AT KARACHI

Constitution Petition No.D-2397 of 2019

Present.

Mr. Justice Aziz-ur-Rehman

Mr. Justice Adnan-ul-Karim Memon

Banaras Khan & 34 others Petitioners

Versus

Government of Sindh and 10 others Respondents

Date of Hearing: **11.04.2019**

Mr. Farhan ul Hassan Minhas, Advocate for the Petitioners.

ORDER

ADNAN-UL-KARIM MEMON, J:- The Petitioners have approached this Court for grant of Health Professional Allowance.

2. Basically the case of the Petitioners is that they are serving in different cadres/departments of National Institute of Cardiovascular Disease Hospital, Karachi (NICVD). Petitioners have submitted that they are entitled for the aforesaid allowance, which is being paid to the employees of Jinnah Post Medical Centre Karachi [JPMC], National Institute of Child Health, Karachi [NICH] Health Department, Government of Sindh and other employees of Health Department as per Notifications dated 01.01.2018 & 23.01.2018 issued by Finance Department, Government of Sindh.

3. We questioned from the learned counsel for the Petitioners as to how this Petition is maintainable for grant of Health Professional Allowance on the premise that the same falls within the ambit of Terms and Conditions of service of the

Petitioners and they have remedy before the Learned Services Tribunal. In reply to the query, Mr. Farhan ul Hassan Minhas, learned counsel for the Petitioners has argued that the Finance Department had granted Health Professional Allowance to the employees of JPMC, NICH and various Medical Institutes/Hospitals and the case of the Petitioners is at par with those employees, therefore, they are entitled for the aforesaid allowance. He next submitted that the Governing body of NICVD approved the proposal for grant of the benefit of Health Professional Allowance in favour of all the employees, in Meeting held on 16.10.2018, which was duly endorsed by the Provincial Health Minister, but the same has not yet been given to the petitioners, however, he emphasized that the Respondent-NICVD has allowed the aforesaid allowance to the selected employees of NICVD and deprived the Petitioners, which is discriminatory treatment meted out with the Petitioners. Learned counsel has cited summary for Chief Minister Sindh dated 03.01.2018, Notifications dated 01.01.2018 and 23.01.2018 issued by Finance Department, Government of Sindh (available page at 21 to 27) and argued that paramedic, nursing staff, pharmacist, drug inspector, drug analyst, chemist, physiotherapists, microbiologist and biochemist of Health department were granted Health Professional Allowances, whereas the Petitioners, who are performing the same duties have been denied the benefit of aforesaid allowances without assigning any reason. Learned counsel for the petitioners has argued that the omission of the aforesaid allowances is discriminatory attitude of the Respondents which is not sustainable under the law,

therefore, the Petitioners are entitled for the allowances as claimed by them. He lastly prayed for notice to the respondents.

4. To appreciate the aforesaid aspect of the case under Article 25 of the Constitution, which guarantees equal treatment to all persons similarly placed in terms of Article 27 of the Constitution, that no citizen in the service of the Pakistan or other person shall be discriminated in any manner. Article 27 does not only safe guard against the discrimination at the time of appointment of service but subsequent appointment as well. Disparity in the pay scale allowances in the province of Sindh, as compared to other provinces is in clear negation to the aforesaid Articles. Let notice be issued to the respondents as well as AAG for a date to be fixed by the office.

JUDGE

JUDGE