

IN THE HIGH COURT OF SINDH, AT KARACHI

C.P No.D-6870 of 2015

Present:-

Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Adnan Iqbal Chaudhary

Muhammad Sajid Petitioner

Versus

Government of Sindh & others Respondents

Date of hearing: 07.11.2018

Mr. Qadir Hussain Khan Advocate for the Petitioner
Mr. Abdul Jalil Zubedi, AAG for Respondent No.1

ORDER

ADNAN-UL-KARIM MEMON,J:-. Petitioner is seeking regularization of his service in the District Municipal Corporation (West) Baldia Zone Karachi (DMC West) on the premise that he was appointed as Sanitary Worker in BPS-01 on 02.05.2012 in (DMC West). Petitioner has asserted that he performed duties assigned to him with keen interest and devotion without any complaint, therefore his service may be restored and regularized. Petitioner has submitted that employment is basic necessity of the life, particularly for the educated youth and the State is responsible to provide transparent working environment and the employers are required to provide opportunity for grooming and exploitation of abilities and talent by the employees. Petitioner has submitted that after continuous devoted and successful performance, the Respondent-Department regularized the service of the Respondent No. 3 to 8 and dispensed with the service of Petitioner without assigning any reason. Petitioner has submitted that he deserves regularization of his service in line with the cases of his colleagues as discussed supra. Petitioner has averred that the Respondent

No.2 has regularized the services of other contingent employees, who were appointed along with the Petitioners in the year 2012. Petitioner has submitted that in pursuance of Section 3 of the Sindh (Regularization of Ad hoc and Contract Employees) Act 2013, this Court passed several orders including the Judgment reported as PLC 2014 (C.S.) 1153, as such all the Petitioners shall be deemed to have been validly appointed on regular basis. It is next submitted by the Petitioner that he was supposed to be regularized from the date of joining his duties. It is further submitted that in all other departments, including the Law Department as well as the Forest Environment and Wildlife Department, employees have been regularized in terms of Section 3 ibid with seniority to be maintained from the date of joining on contract basis. Petitioner has submitted that he seeks the similar treatment as meted out to the private Respondents.

2. Mr. Qadir Hussain Khan, learned counsel for the Petitioner has contended that Petitioner was appointed on probation for a period of four months extendable as per rules that the Respondents No. 4 to 8 have been regularized and the Petitioner has been singled out without any justification on the part of Respondent No. 1 & 2. He lastly prays for allowing the instant petition.

3. This Court vide order dated 05.11.2015 issued notices to the official Respondent No. 1 & 2 to file para wise comments, and since then Respondent No.2 has failed to appear to rebut the allegations of the Petitioner, therefore this Court has no option but to proceed with the matter on the basis of available record, in their absence.

4. Mr. Abdul Jalil Zubedi, learned A.A.G representing the Respondent No.1, has raised his no objection with the assertion that if the Petitioner meets the eligibility of the aforesaid post, the Respondent No.2 may be directed to consider the case of the Petitioner in accordance with law. We have heard the learned counsel for the Petitioner as well as learned AAG and perused the material available on record. The proposal put forward by the learned AAG is reasonable.

5. We are cognizant of the fact that the service of the Petitioner had been dispensed with after December 2013, however record reflects that the Responded No.2 forwarded the case of the Petitioner to the Competent Authority for sympathetic consideration vide note sheet available on record.

6. In view of the facts and circumstances of the case and for the reasons alluded above, we are of the considered view that the service of the Petitioner ought to have been considered for regularization with effect from promulgation of Act 2013, therefore the Respondent No.1 and 2 are directed to consider the case of the Petitioner for regularization of his service in the line when his colleagues were regularized in BPS-01 or any other equivalent posts, subject to his eligibility and qualification, within a period of one month in accordance with law from the date of receipt of this order.

7. Resultantly, the above captioned petition is disposed of in the above terms.

JUDGE

Karachi

Dated: 09.11.2018

JUDGE