

IN THE HIGH COURT OF SINDH KARACHI

Before :

Mr. Justice Nadeem Akhtar

Mr. Justice Adnan-ul-Karim Memon

Constitutional Petition No. D – 2884 of 2016

Sikandar Ali & 02 others V/S Province of Sindh & 03 others

Constitutional Petition No. D – 5975 of 2016

Imtiaz Ali Sangrasi & 04 others V/S Province of Sindh & 03 others

Constitutional Petition No. D – 1826 of 2017

Ayaz Hussain Khichi & 02 others V/S Province of Sindh & 03 others

Constitutional Petition No. D – 1827 of 2017

Mohammad Qasim & 03 others V/S Province of Sindh & 02 others

Constitutional Petition No. D – 2268 of 2019

Ali Akber V/S Province of Sindh & 03 others

Date of hearing
& decision : 02.03.2020.

Mr. Abdul Salam Memon, advocate for the petitioners in C.P. No.D-5975 of 2016 & C.P. No.D-2884 of 2016.

Mr. Munawar Alam Khan, advocate for the petitioners in C.P. No.D-2268 of 2019, C.P. No.D-1826 of 2017, C.P. No.D-1827 of 2017 and for petitioner No.4 in C.P. No.D-5975 of 2016.

Mr. Mukesh Kumar Khatri, advocate for respondent No.3.

Mr. Hakim Ali Shaikh, Additional Advocate General.

ORDER

ADNAN-UL-KARIM MEMON, J. – Petitioners have approached this Court for regularization of their service in Culture, Tourism and Antiquities Department, Government of Sindh.

2. Mr. Abdul Salam Memon, learned counsel for the petitioners in C.P. No.D-5975 of 2016 & C.P. No.D-2884 of 2016, has heavily relied upon Para 9.10 (b) of the minutes of the meeting of Provincial Cabinet held on 29.3.2018 and argued that Provincial Cabinet has decided to regularize the contract employees vide letter dated 18.04.2018 ; they have been appointed through competitive process, fulfilled the criteria and are qualified for the job ; they are working to the satisfaction of the respondent-department ; the petitioners, despite the fact that their services had matured and are under the law entitled to be regularized, but the respondents instead of doing so, intend to dispense with their services and have made fresh appointments which prompted the petitioners to file the

captioned petitions. He lastly prayed for allowing these petitions with direction to the respondents to regularize of their services in accordance with law.

3. Mr. Munawar Alam Khan, learned counsel for the petitioners in C.P. No.D-2268 of 2019, C.P. No.D-1826 of 2017, C.P. No.D-1827 of 2017 and for petitioner No.4 in C.P. No.D-5975 of 2016, has adopted the arguments of learned counsel for the petitioners in C.P. No.D-5975 of 2016 & C.P. No.D-2884 of 2016.

4. Mr. Mukesh Kumar Khatri, learned counsel for respondent No.3, has opposed these petitions on the ground that project is about to complete in June, 2020, as such petitioners' services cannot be regularized and their case does not fall within ambit of the Sindh (Regularization of Ad-hoc and Contract Employees) Act, 2013.

5. We have heard learned counsel for the parties and carefully examined the record.

6. The case of petitioners is that they were engaged on contract basis in the Annual Development Program (ADP) ongoing schemes for the financial year 2014-2015 at Planning, Development, Monitoring, Implementation and Evaluation Cell of Culture, Tourism and Antiquities Department, Government of Sindh, as Archeological Conservator, Resident Engineer, Administrative Officer, Computer Operator-cum-Receptionist, Supervisor, Junior Clerk, Driver and Naib Qasid respectively with effect from 19.03.2015, however, no determining date is mentioned in their respective contracts except that contract will continue till completion of the project and this project is going to end in June, 2020.

7. Admittedly, the petitioners were appointed to the aforesaid posts on contract basis in the projects after the cut-off date i.e. 25th March, 2013 as provided in the Sindh (Regularization of Ad-hoc and Contract Employees) Act, 2013. Prima-facie, their cases need not be referred to the Committee constituted by the Government of Sindh for consideration of regularization of their service under Sindh (Regularization of Ad-hoc and Contract Employees) Act, 2013, for the reasons discussed supra. It is well-settled law that the regularization of the service is always subject to availability of budgetary post and fulfillment of recruitment criteria, which factor is lacking in the present cases. Besides, it is well-settled law that a contract employee is debarred from approaching this Court in constitutional jurisdiction, in the light of the law laid down by the

Hon'ble Supreme Court of Pakistan in the case of Qazi Munir Ahmed versus Rawalpindi Medical College and Allied Hospital and others, 2019 SCMR 648.

8. The petitioners, in our view, have failed to make out their case for regularization of their service as their case is neither covered under Section 3 of the Sindh (Regularization of Ad-hoc and Contract Employees) Act, 2013, nor falls within the ambit of Policy of Government of Sindh, therefore, the instant petitions are hereby dismissed along with pending application(s) with no order as to costs.

JUDGE

JUDGE

Nadir*