

Order Sheet
IN THE HIGH COURT OF SINDH KARACHI
Constitutional Petition No. D –527 of 2018

Before:

Mr. Justice Nadeem Akhtar

Mr. Justice Adnan-ul-Karim Memon

Agha Shoaib Abbas and 10 others

Versus

The Province of Sindh and 04 others

For hearing of CMA No.22890 of 2019 (Contempt)

Date of hearing & order : 15.12.2020

Syed Ali Ahmed Zaidi, advocate for the petitioners.

Mr. Ali Safdar Depar, AAG.

ORDER

ADNAN-UL-KARIM MEMON, J. Through the listed application, the petitioners have prayed that contempt of court proceedings may be initiated against the alleged contemnors for willful defiance of the judgment dated 11.10.2018 passed by this Court.

2. This petition was disposed of vide judgment dated 11.10.2018 with the following observations:

“14. In the light of facts and circumstances of the case discussed above the instant Petition is hereby disposed of with directions to the Competent Authority of the Respondent-department to take a fresh decision so far as the matter of the Petitioners is concerned for regularization of their service, without any discrimination, in accordance with law subject to the budgetary sanction, qualifications, and eligibility of the Petitioners and this exercise shall be completed within two months from the date of receipt of this Judgment.

15. Petition stands disposed of in the above terms along with the listed application(s).”

3. We have heard the learned counsel for the parties on the listed application viz. CMA No. 22890 of 2019 and perused the compliance report available on record.

4. The compliance report prima-facie suggests that the Scrutiny Committee No.1 found only seven contract employees eligible for regularization and the same were notified vide office order dated 11th March 2020. The reasons

assigned by the committee with regard to 10 petitioners except petitioner No.1 are as under:

SR. NO.	FULL NAME	QUALIFICATION AT THE TIME OF APPOINTMENT	REQUIRED QUALIFICATION & AGE AS PER THE ADVERTISEMENT	DESIGNATION WITH REMUNERATION	AGE	REMARKS
01.	Mr. Agha Ahsan S/o Mumtaz Ali Shaikh	Intermediate	i) Graduation ii) Having 3 years experience of working in Print Media. iii) 25-40 years	Editorial Assistant Rs.20,000/-	At the time of contract / appointment his age was 30 years (DOB 20 th December, 1982)	He was not having require academic qualification as well as experience for the post of Editorial Assistant at the time of appointment. Hence, not recommended for regularization.
02	Pir Shoaib Ahmed S/o Pir Shabbir Ahmed	Bachelor of Arts	i) Graduation ii) Having knowledge of current political, social & economical issues. iii) Having 3 years experience of working in Print Media. iv) 25-40 years	Columnist-Contributor Rs.30,000/-	At the time of contract / appointment his age was 37 years (DOB 12 th March, 1975)	Proof of relevant experience not available on record. Hence, not recommended for regularization.
03	Faraz Ahmed S/o Fayyaz Ahmed	Intermediate	i) Graduation ii) Having knowledge of current political, social & economical issues. iii) Having 3 years experience of working in Print Media. iv) 25-40 years	Columnist-Contributor Rs.30,000/-	At the time of contract / appointment his age was 24 years (DOB 6 th March 1988)	He was not having the required academic qualification as well as experience for the post of Columnist & Contributor at the time of appointment. Hence, his case is not recommended.
04.	Ms. Hina D/O Anis ur Rehman	BSC (Micro Biology)	i) Graduation ii) Having knowledge of current political, social & economical issues. iii) Having 3 years experience of working in Print Media. iv) 25-40 years	Columnist-Contributor Rs.30,000/-	At the time of contract / appointment his age was 26 years (DOB 10 th November, 1986)	Proof of relevant experience not available on record. Hence, not recommended for regularization.
05.	Ms. Mussarat Shaheen D/O Hafiz Gul M. Memon	B.Ed	i) Graduation ii) Having knowledge of current political, social & economical issues. iii) Having 3 years experience of working in Print Media. iv) 25-40 years	Columnist-Contributor Rs.30,000/-	At the time of contract / appointment his age was 37 years (DOB 12 th April, 1975)	Proof of relevant experience not available on record. Hence, not recommended for regularization.
06.	Mr. Sanaullah Soomro S/o Haji Ali	M.A (Sindhi)	i) Graduation ii) Having 2 years experience of	Copy Editor Rs.20,000/-	At the time of contract / appointment	He is recommended for regularization against the post of

	Sher Soomro		working in Newspapers. iii) 25-40 years		his age was 38 years (DOB 1 st August 1974)	Sindhi Typist (BPS-08). To be adjusted against available vacancy with the Department.
07	Syed Talha Gilani		i) Matriculation ii) Having 6 Months working experience iii) 18-30 Years	Telephone Operator Rs.17,000/-		Expired.
08	Sohail Ahmed S/O Abdul Ghafoor Rajper	Intermediate	i) Matriculation ii) Having 6 Months working experience iii) 18-30 Years	Telephone Operator Rs.17,000/-	At the time of contract / appointment his age was 22 years (DOB 15 th August 1991)	He is recommended for regularization against the post of Telephone Operator (BPS-05). (To be adjusted against available vacancy with the Department)
09	Ghulam Murtaza S/O Muhammad Amro	Primary	i) Matriculation ii) 18-30 years	Office Boy Rs.14,000/-	At the time of contract / appointment his age was 26 years (DOB 1 st January, 1986)	He was not having the required academic qualification for the post of Office Boy at the time of appointment. Hence, not recommended for regularization.
10	Mr. Muhammad Rafiq S/O Muhammad Shoaib	Middle (8 th Class Passed from Madressah Landhi Area)	i) Literate ii) 18-30 years	Sanitary Worker Rs.14,000/-	At the time of contract / appointment, his age was 30 years (DOB 20 th May 1982)	He is recommended for regularization against the post of Naib Qasid (BPS-01) (To be adjusted against available vacancy with the Department)

5. The aforesaid compliance report submitted by alleged contemnors has been objected to by the applicants on the ground that the case of petitioners was considered vide summary dated 28.11.2018 and the same was approved for regularization of their services, thus their case ought not to have been reopened by the respondents as a vested right created in their favour; that the stance of respondents has already been rejected by this Court vide order dated 21.01.2020. Accordingly, floating the fresh summary is contradictory to the orders passed by this Court and as such of no legal effect. Learned counsel for the petitioners referred to paragraph 7 of the objections and argued that the cases of petitioners have been wrongly rejected due to lack of academic qualification and work experience. Learned counsel further argued that the Scrutiny Committee is not authorized to reassess the eligibility under Section 3 of the Act 2013. He further pointed out that the exercise conducted pursuant to a fresh summary dated 16.1.2020 is contrary to the order dated 21.1.2020. He prayed for drastic action against alleged contemnors.

6. Primarily substantial compliance of the judgment passed by this Court has been made. Prima-facie, the question of not considering some of the petitioners in the regularization process cannot be decided in contempt proceedings, which is a separate cause of action and it is for the aggrieved petitioners to avail their remedy as provided under the law against the purported action on the part of respondents, if any, for the reasons that the respondent-department was directed to take a fresh decision for regularization of their service, without any discrimination, in accordance with law subject to the budgetary sanction, qualifications, and eligibility of the petitioners, which compliance report has now been submitted. Prima-facie the reasons assigned in the aforesaid report cannot be dilated upon for and against in contempt proceedings.

7. In view of the above the listed application stands disposed of in the above terms.

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Shahzad*