

IN THE HIGH COURT OF SINDH, AT KARACHI

Before:-

Mr. Justice Nadeem Akhtar

Mr. Justice Adnan-ul-Karim Memon

Constitutional Petitions No.D-2293 of 2018

Noureen Naz & others V/S Province of Sindh and others

Constitutional Petitions No.D- 2634 of 2018

Muhammad Islam V/S Province of Sindh and others

Constitutional Petitions No.D- 3234 of 2018

Habibul Hassan & 02 others V/S Province of Sindh and others

Constitutional Petitions No.D- 3399 of 2018

Imtiaz Ali Shekh & 08 others V/S Province of Sindh and others

Constitutional Petitions No.D- 3543 of 2018

Sadaqat Ali V/S Province of Sindh and others

Dates of hearing 04.02.2020 & 20.02.2020.

Date of Decision: 20.02.2020.

Petitioners

in C.P.No. D-2293 of 2018: Through Ali Asadullah Bullo, advocate.

Petitioners in C.Ps No. D-3543 of 2018,

D-3234 of 2018, D-2634 of 2018

& D-3399 of 2018: Nemo.

Respondents:

Through Mr. Ali Safdar Depar, Assistant Advocate General along with Dhani Bux Bhutto, Section Officer (Legal), Planning and Development Department.

ORDER

ADNAN-UL-KARIM MEMON, J: Through this common order, we intend to decide the titled petitions, as common questions of law and facts involved therein.

2. We have noticed that the petitioners in C.Ps No. D-3543 of 2018, D-3234 of 2018, D-2634 of 2018 & D-3399 of 2018 are not appearing in these cases to assist this Court since 26.03.2018 except on 27.08.2018, when their counsel's presence was recorded. Today when the matter is taken up, petitioners and their counsel are called absent without any intimation. In these circumstances, we have no option but to proceed with the matter in their absence.

3. Primarily, the petitioners have approached this Court for regularization of their services in Planning and Development Department, Government of Sindh.

4. Initially, all the petitioners were appointed in Project known as Program Support Unit, Sindh Cities Improvement Program (SCIP), Planning and Development, Government of Sindh, in the months of May to July, 2013 and March, 2018, respectively. The aforesaid project was dissolved with effect from 1st July, 2018 vide notification dated 09.07.2018. Copy of notification dated 09.7.2018 has been placed on record.

5. Learned counsel for all the Petitioners consented that Petition bearing No. D-2293 of 2018 may be treated as leading Petition and same may be disposed of along with other connected petitions. However, he conceded that the petitioners were appointed after the promulgation of the Sindh (Regularization of Ad-hoc and Contract Employees) Act, 2013. He argued that they fulfill the criteria and are qualified for the job ; and, they are working to the satisfaction of the respondent-department. In support of his contentions, he relied upon the decision rendered by the Hon'ble Supreme Court of Pakistan in the case of Messrs State Oil Company Limited vs. Bakht Siddique and others, **2018 SCMR 1181**. This argument is without any substance and does not entitle the petitioners for regularization of services because the project for which they had been appointed is now complete and the decision relied upon does not support the case of petitioners as in the aforesaid petition petitioners were performing duties of permanent nature, whereas in the present case they were appointed on a project which has now been dissolved vide notification discussed supra.

6. It is well settled now that regularization of the services of the petitioners on the premise that regularization is always subject to availability of post and fulfillment of recruitment criteria. 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**.

7. It is an undisputed fact that the petitioners were project employees. Their letters of appointment clearly state that their posts were 'temporary project posts' which would be 'likely to continue till the completion of project and keeping in view the completion of project activities and finalization of scope of work relating to job assignment of the petitioners, the competent authority decided to closure of the project under policy decision, it is beyond the jurisdictional domain of this Court to delve into highly technical and purely policy issues which were better left to be dealt with by experts having relevant knowledge, training and expertise in their respective fields and the competent authorities authorized and empowered by law to do so.

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 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