

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

C. P. No. D – 107 of 2019

(Syed Bahadur Ali Shah & 12 others V/s Executive Engineer, PHED, & others)

Hearing of Case(Priority)

- 1.For orders on office objection
- 2.For hearing of CMA 6596/2021
- 3.For hearing of CMA 422/2019
- 4.For hearing of Main Case

Before:

**Mr. Justice Muhammad Junaid Ghaffar
Mr. Justice Zulfiqar Ali Sangi**

Date of Hearing: **15-03-2022**

Date of Decision: **15-03-2022**

**Mr. Mukesh Kumar G. Karara, Advocate for the Petitioners.
Mr. Ali Raza Baloch, Assistant Advocate General-Sindh.**

ORDER

Muhammad Junaid Ghaffar, J. –Through this Constitutional Petition, the Petitioners have sought the following prayer:

- (a) To direct the Respondents to treat the Petitioners in the identical and similar manner, at par with other employees who have been regularized and extend every legal benefit to the Petitioners including back benefits, as provided under the law.
- (b) To restrain the Respondents from taking any adverse action against the Petitioners due to the filing of the present Petition for their regularization and without due course of law?

2. We have heard petitioners Counsel and have confronted him as to the present status of the Petitioners, which according to the Petitioners' stance as stated in Para 2 of the memo of petition is that they are still working as work charged employees; however, no supporting documents have been placed on record, to support this contention that they have been continuously employed on work charged basis. In response, he has not been able to refer to any document on record; instead has referred to Order(s) dated 30.03.2010 in C.P. No. D-862 of 2007 and dated 28.11.2012 in C.P.No.D-1309 of 2011 and has prayed that Petitioners may also be granted the same relief as they are also entitled for similar treatment.

3. At the very outset, we may observe that insofar as the aforesaid Orders passed by this Court are concerned, they are not Orders on merits, but perhaps on the statements and concession given by the respective

departments; hence do not become a binding precedent to follow. As to the Petitioners before us in para-2 of the Petition, they have stated as follows:

“2. That the Petitioners were appointed in Public Health Engineering Department on Work Charge Establishment in the year 1988 to 1997 in the capacity of Operators, Beldars, Chowkidars, W-Mistry and Sweeper at different Water Supply and Drainage Scheme Public Health Engineering Divisoin Khairpur. The petitioners have been rendering their services to the Department upto date”.

4. As noted, despite our repeated requests, we have not been assisted with any document to support the contention that the Petitioners were, and still are, working as work charged employees for a fixed period of time on continuous basis and are being paid remuneration as well. If so, then may be, they had a case for favorable orders; but this is not so, and therefore, they do not have any lawful justification to claim any regularization. On the contrary, Respondents in their comments in para-4 have stated as under:

“That in reply of Para No.4 it is submitted that some of the cases of employees were regularized when they approached the Honourable Court. The Constitution Petitions referred to, in Para No.4 of the Petition, are not identical to the present petition as in the present petition the claim of the petitioners is denied, even to the extent, that the present petitioners never remained the employees of the answering department, therefore, under no stretch of imagination, it can be assumed that the case of the petitioners is at par with those who were regularized by the Honourable Courts in their respective orders”.

5. Perusal of aforesaid response very clearly reflects that the very employment of the Petitioners as of today is denied; whereas, the cases being relied upon are not on same footing; hence question of their regularization in any manner does not arise. Their case could only have been considered if they had been continuously employed on work charge basis and were still continuing as such when they came before this Court. This admittedly is not the case. Hence, no case is made out, therefore, by means of a short order, this Petition was **dismissed** in the earlier part of the day and these are the reasons thereof.

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