

# IN THE HIGH COURT OF SINDH KARACHI

Before :

Mr. Justice Muhammad Iqbal Kalhoro

Mr. Justice Adnan-ul-Karim Memon

## Constitutional Petition No.D-1354 of 2022

**Dr. Nadeem Alam**

Petitioner: Through Ms. Naheed Akhtar Bhatti, advocate

Respondent No.1: Mr. Abdul Jalil Zubedi, AAG

Respondents/KMC: Malik Altaf Hussain, advocate

Date of hearing  
& Decision: 26.01.2023.

## ORDER

**ADNAN-UL-KARIM MEMON, J.** – Through the captioned petition, the petitioner is seeking Health Professional and Special Health Care Allowance at Rs. 19175/ and Rs.10000/ respectively, in terms of the notification dated 2.4.2019 issued by the Finance department Government of Sindh, inter-alia on the ground that he is serving as Resident Medical Officer (RMO) (BS-18) at Abbasi Shaheed Hospital Nazimabad No.7 Karachi and also working as causality Medical Officer (MO).

2. We have heard the learned counsel for the parties and perused the record with their assistance.

3. This petition has been filed on the ground that Health Professionals and Special Health Care allowances are not being given to the petitioner who, according to the learned counsel for the petitioner, is performing duties in the causality ward and is exposed to all diseases, including Covid-19. As per learned counsel for the petitioners, the ‘aforesaid allowance’ granted to the medical officers/doctors of the Sindh Government only under the Notification dated 2.4.2019, excluding the MO (BS-18) at Abbasi Shaheed Hospital Nazimabad No.7 Karachi, is discriminatory, as it offends the fundamental rights of the petitioner, enshrined in Article 25 of the Constitution. II, therefore, the respondents may be directed to also grant ‘the subject allowance’ to the petitioner, while he is posted at the above causality trauma center.

Learned counsel emphasized that the regular duties of the petitioner involve/involved continuous and routine contact with patients infected with communicable diseases or having to routinely handle, as his primary duty, infected material, instruments, and equipment, which could spread infection. Learned counsel submitted that aforesaid Allowance is liable to be disbursed to the petitioner according to a letter dated 2.4.2019.

4. Notices were issued to the respondents. Respondents have contested the matter. According to them, as per guidelines contained in the Government letter, the eligibility condition has been prescribed for sanctioning the allowance. The intention for the grant of allowance is that the patient infected with communicable diseases should not be neglected by society and they should get proper care and attendance in their respective hospitals. Learned AAG submitted that it is a policy matter and out of the jurisdiction of this court.

5. In rebuttal, learned counsel for the petitioner emphasized that the doctrine of equal pay for equal work is not abstract and is capable of being enforced in a court of law. She added that Article 25 of the Constitution permits reasonable classification based on qualities or characteristics of persons recruited and grouped, as against those who are left out. She asserted that the qualities or characteristics must have a reasonable relation to the object sought to be achieved.

6. Going ahead on the aforesaid reasoning put forward by the learned counsel, and enumerating several factors which may not warrant the application of the principle of equal pay for equal work, since the said principle requires consideration of various dimensions of a given job, normally the applicability of this principle must be left to be evaluated and determined by the competent authority and the court should not interfere till it is satisfied that the necessary material on the basis whereof the claim is made is available on record with necessary proof and that there is equal work of equal quality and all other relevant factors are fulfilled.

7. In the present case, it is also evident that this allowance is also allowable to the “Medical officers across Sindh, who are attached/involved with patients at Government Health Facility Centers. Primarily all the employees who fulfill the eligibility conditions as prescribed in the letter dated 2.4.2019 form a homogeneous class are entitled to the benefit of the policy decision as discussed supra without discrimination.

8. After hearing both the learned counsel at some length, the instant petition is disposed of by directing the competent authority of respondents to scrutinize the matter of the petitioner the Health Professional and Special Health Care Allowance should be given to him and all other colleagues of the petitioners performing the same duties in Covid Ward/ Lab, causality and trauma center under law. However, the Health Personnel who do not fall within the said definition will not be entitled to the said allowance. This exercise should be completed preferably within one month from the date of receipt of this order.

9. The instant petition, therefore, stands disposed of along with the listed application, in the above terms. Let a copy of this order be sent to the Secretary of Finance and Secretary Local Government Department, for information and compliance.

**JUDGE**

**JUDGE**

Nadir\*

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