

IN THE HIGH COURT OF SINDH AT KARACHI

Before:

Mr. Justice Muhammad Iqbal Kalhoro

Mr. Justice Adnan-ul-Karim Memon

C.P. No. D- 4354 of 2022

(Dr. Nadeem Alam v. Government of Sindh and 05 others)

Ms. Naheed Akhtar Bhatti, advocate for the petitioner

Malik Altaf Hussain, advocate for respondent/ KMC

Mr. Abdul Jalil Zubedi, AAG

Date of hearing

& Order:

16.02.2023

ORDER

ADNAN-UL-KARIM MEMON, J. – Through the instant petition, the Petitioner seeks implementation of the policy decision dated 02.06.2020 made by the Government of Sindh, whereby Health Risk Allowance was allowed to the Health Personnel who were performing duties related to COVID-19 patients in the Health Institutions/Laborites and the PG/House Job Officers with effect from March 2020.

2. The petitioner claims that he is Resident Medical Officer (RMO) (BS-18) at Abbasi Shaheed Hospital Nazimabad No.7 Karachi and also working as the causality Medical Officer (MO) and seeking Health Professional and Special Health Care Allowance, in terms of the notification dated 02.06.2020 issued by the Finance department Government of Sindh.

3. Learned counsel for the petitioner, at the very outset, submitted that the case of the petitioner is akin as decided by this court in CP No.D-1354 of 2022 vide order dated 26.01.2023 and this petition may be disposed of in the same terms.

4. Malik Altaf Hussain, advocate for KMC and learned AAG objected to the maintainability of the petition on the premise that this is a policy matter and out of the jurisdiction of this court under Article 199 of the Constitution.

5. We have heard learned counsel for the parties and perused the material available on record.

6. Primarily, the doctrine of equal pay for equal work is not abstract and is capable of being enforced in a court of law. Article 25 of the Constitution permits reasonable classification based on the qualities or characteristics of

persons recruited in the group as against those who are left out. The qualities or characteristics must have reasonable relations to the objects sought to be achieved. In the present case, the petitioner claims implementation of the policy decision made by the Sindh Government vide notification dated 02.06.2020 and this court under Article 199 can look into the policy decision of the Government of Sindh if the same is unreasonable and infringe the rights of the aggrieved party, therefore, this petition could be heard and decided based on the earlier decision made by this court as discussed supra. Thus, the objection raised on behalf of the respondents is overruled.

7. We have gone through the order dated 26.01.2023 passed by this Court and it appears that the case of the petitioner is akin to the case of the petitioner in CP No.D-1354 of 2022, which has already been decided by this Court vide order dated 26.01.2023, the relevant paras whereof are as under:

“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.”

8. Accordingly, this petition is disposed of in terms of the order dated 26.01.2023 passed by this Court in the aforesaid matters, with no order as costs. Let a copy of this order be sent to the Secretary Finance and Secretary Local Government Department for information and compliance.

JUDGE

JUDGE