

Order Sheet

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

C. P. No. D - 1678 of 2021

Date of hearing	Order with signature of Judge
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Hearing of case (priority)

1. For orders on office objections at Flag-A
2. For hearing of CMA No.8166/2021 (S/A)
3. For hearing of main case

30.03.2023

Mr. Arslan Khokhar, Advocate for the petitioners.

Mr. Khuda Bux Chohan, Advocate for respondents No.2 to 4.

Mr. Ali Raza Baloch, Assistant Advocate General Sindh.

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Through instant petition, the petitioners seek declaration to the effect that the act of respondents No.2 and 3 for non-regularizing the services of the petitioners against the posts of Driver is quite discriminatory.

2. It is case of the petitioner that vide various orders dated 27.09.2021, 06.10.2021 and 11.10.2021, they were appointed as Drivers in the office of Sukkur Municipal Corporation for 88 days purely temporary, on daily wages basis and on fixed remuneration of Rs.25,000/- and they are still working on the same posts.

3. In response to claim of the petitioners, the respondent No.2 & 3 (*Municipal Commissioner, Sukkur Municipal Corporation*) filed comments on 16.11.2022, *inter alia*, admitting that the petitioners were hired as Drivers as per need on daily wages basis for a period of 88 days w.e.f. 01.09.2021. Subsequently, they were re-hired for another term of 88 days on daily wages basis, which term expired on 30.09.2022 and, thereafter, they were not re-hired; hence, question for regularization has got no validity in the eyes of law and no law permits to regularize the persons appointed on daily wages basis as per Municipal Service Rules.

4. From perusal of the appointment orders of the petitioners (*Annexure 'A', 'A-1', 'A-2', 'A-5', 'A-6' & 'A-7' available at page-15, 17, 19, 21, 27, 29 & 31 of the memo of petition*), it transpires that the same were issued for appointment of the petitioners for 88 days purely temporary on daily wages basis on the, *inter alia*, following terms and conditions:

5. *Being daily wager the services can be removed / terminated at any time without giving prior notice or before completion of period with cogent reasons or unsatisfactory performance.*
9. *The hired worker is directed to submit undertaking in writing for doing work so assign to him/her by the Municipal Administration and **he/she will not claim as regular** Municipal employee in any forum.*

5. In view of above, it is an admitted position that the petitioners were appointed for 88 days purely temporary on daily wages basis with the undertaking that they will not claim regularization of their services. Moreover, it is within the mandate of the appointing authority to continue or otherwise discontinue services of a contract employee; however, a contract employee, as per dictum laid down by the Hon'ble Supreme Court of Pakistan reported as *Government of Khyber Pakhtunkhwa v. Sher Aman* (2022 SCMR 406) cannot claim right for regularization of his services nor even to remain continue in service till indefinite period. Suffice it to say, that the authority, who appoints a person on contingent/daily wages basis, is competent to discontinue his services at any time even without issuing him a formal written notice. Hence, this petition being devoid of any merit stands **dismissed** along with listed application.

JUDGE

JUDGE

Abdul Basit