

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
Constitution Petition No. D-1325 of 2023

(Firdous Khanam Vs. Province of Sindh & others)

Constitution Petition No. D-1571 of 2023

(Mashooque Ali Sanghar and others Vs. Province of Sindh & others)

Constitution Petition No. D-238 of 2024

(Arif Sattar Rajput and others Vs. Province of Sindh & others)

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| DATE OF HEARING | ORDER WITH SIGNATURE OF JUDGE |
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Before;
Adnan-ul-Karim Memon, J;
Muhammad Abdur Rahman, J;

Date of hearing 30-04-2024

Date of Order 30-04-2024.

Mr. Suhail Ahmed Khoso, advocate for the petitioners in CP.No-D-1325/2023.

Mr. Noor Hassan Malik Advocate for petitioners in CP.No-D-1571/2023 and CP.No-D-238 /2024

Mr. Ali Raza Baloch, Assistant Advocate General, Sindh.

ORDER.

Adnan-ul-Karim Memon J:- Through this single order, we propose to decide the titled Petitions as identical questions of law have been raised therein.

2. Precise the case of the petitioners is that their case falls within the ambit of ratio of the Judgment dated: 03.08.2023 passed by Supreme Court of Pakistan in Civil Petitions No.903, 904, 905, 906, 907 of 2023 as such they be treated a like and excerpt of the judgment is reproduced as under:-

"In view of the above these petitions are converted into appeals and allowed in the following terms:

The impugned judgment of the Sindh High Court is set-aside; The Chief Secretary Government of Sindh shall constitute an inquiry committee comprising the Additional Secretary Education Govt. of Sindh, Addl. Secretary (SGA&CD), Government of Sindh and Deputy Secretary (Law), School Education and Literacy Department, Govt. of Sindh within ten days from the date of receipt of this Judgment) .

The inquiry committee shall issue notice to the fifty-six petitioners of the above Civil Petition and also to the departmental representatives for joining the inquiry proceedings.

The committee shall examine the entire appointment process of the fifty-six petitioners and shall also allow them to produce relevant documents with ample opportunity of being heard, so that it may be verified whether the petitioners joined the appointments process in terms of the advertisement and after appearing and qualifying the aptitude test on merits, the appointment letters were issued to them after complying with codal formalities, and if the appointment letters were found to be fake after due satisfaction, then what punitive action was taken against the person who was responsible for the fake recruitment process and how the petitioners who joined recruitment process in response to the advertisement are responsible.

That committee may also call for the entire record of recruitment process questioned in the present proceedings to examine the authenticity of the appointment letters issued to the petitioner.

The committee shall complete the inquiry within a period of 90 days from the date of constituting the inquiry committee and the result of such inquiry shall be communicated to the petitioners in writing. The petitioners may avail appropriate legal remedy in accordance with law if found to be aggrieved and dissatisfied with the result of inquiry.

At this juncture the learned counsel for the petitioners argued that after joining service, no salary was paid to the petitioners for the period they actually performed their duties. This aspect shall also be examined by the inquiry committee and, if any salary is found due during the period the petitioners actually served, the same shall be paid after fulfillment of requisite codal formalities within 30 days of conclusion of the inquiry

Office is directed to transmit a copy of this judgment to the Chief Secretary Sindh, Govt. of Sindh and the Advocate General Sindh for compliance"

3. The main theme of the arguments of the petitioners is that the petitioners were appointed on different posts of teaching staff (BPS-09) through advertisement as per recruitment policy of 2008 and after receiving appointment orders, the petitioners have joined their duties at different Government (B) High Schools, Taluka Ubauro District Gohtki respectively, however they have been deprived of from their salaries since long, the petitioners have averred that they

approached the competent authorities for issuance of their salaries but respondents kept the petitioners on hollow hopes and always gave lame excuses for non-issuance of salaries, compelling the colleagues of the petitioners to file Constitutional Petitions bearing C.P.Nos. D-1813, D-2159, D-3442, D-3716, of 2013 and D-69 of 2014, such petitions were dismissed by this Court vide order dated 25.10.2022. Petitioners in the aforesaid petitions, challenged such consolidated orders passed by this Court through Civil Petitions No.903, 904, 905, 906, 907 of 2023, before the Supreme Court of Pakistan, however, Supreme Court of Pakistan vide Judgment dated 03.08.2023, set-aside the Order dated 25-10-2022 passed by this Court, with directions to the respondents to constitute an inquiry committee within ten days to examine the entire appointment process of the fifty six petitioners and shall also allow them to produce relevant documents with ample opportunity of hearing. Petitioners claim that their case needs to be decided in terms of ratio of the judgment passed by the Supreme Court, in the case of Hameed Akhtar Niazi Case, reported in 1996 SCMR 1185.

4. Learned AAG has opposed these petitions on the ground that that their earlier petition bearing No.2280/2013 has been dismissed for non-prosecution vide order dated 07.11.2019 as such no further petition is maintainable.

5. We have heard the learned counsel for the petitioners and learned AAG at length and gone through the record with their assistance.

6. We have noted that the subject petition was dismissed for non-prosecution and not on merits and in the intervening period Supreme Court has taken cognizance and remanded the matter to the department. In such circumstances, in our view, it will be just and proper to remand the case to the respondent department with the direction to re-examine/reconsider the case of the petitioners/affected persons and to decide their matter in terms of the ratio of the Judgment dated 03.08.2023 passed by Supreme Court of Pakistan in Civil Petitions Nos.903, 904, 905, 906, 907 of 2023 for the reason that the Supreme Court has decided the point of law in the above proceedings which not only covers the case of some of the petitioners and affected persons who have not taken any legal proceedings as such benefit should be given to them; in such a case, the dictates of justice and rule of good governance demand that the benefit of the above judgment be extended to effect civil servants/petitioners, who may not be

parties to the above litigation instead of compelling them to approach the Supreme Court or any other legal forum.

7. The above petitions stand disposed of in the above terms, with no order as to costs.

Judge

Judge

Nasim/P.A