

IN THE HIGH COURT OF SINDH CIRCUIT COURT MIRPURKHAS

Constitutional Petition No.D-746 of 2024
(Abdul Salik & another Vs. Province of Sindh & others)

Constitutional Petition No.D-708 of 2024
(Seengar Ali Vs. Province of Sindh & others)

Constitutional Petition No.D-733 of 2024
(Amanullah & others Vs. Province of Sindh & others)

DATE	ORDER WITH SIGNATURE OF JUDGE (S)
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Date of hearing and Order 26.08.2024

Mr. Hameedullah Dahri advocate for petitioners in C.P.No.D-746/24.

Mr. Mazhar Ali Laghari advocate for petitioners in C.P.No.D-708/24.

Mr. Imtiaz Ali Chanhio advocate and Mr. Sardar Hussain Shah for petitioners in C.P.No.D-733/24.

Mr. Ayaz Ali Rajpar Additional A.G., Sindh.

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ORDER

Adnan-ul-Karim Memon, J. The petitioners are requesting that their services be regularized under Section 3 of the Sindh Regularization of Contingent Paid or Work Charge Employees of Left Bank Outfall Drainage (LBOD) Act, 2018.

2. Learned counsel for the petitioners states that the petitioners are entitled to regularization and the impugned letter dated 06.01.2022 is illegal and without lawful justification as their case falls within the scheme of the Act, 2018. Learned counsel submits that the Government of Sindh Irrigation Department has regularized the service of colleagues of the petitioners, however, service of the petitioners is still to be regularized. The learned counsel emphasized that the Sindh government has decided to regularize the contingent paid staff of the Irrigation Department's Nawabshah, Sanghar, and Mirpurkhas units, as well as the spinal, drain KPOD, and Tidal link schemes and that decision is based on the orders dated 04.10.2012 and 09.07.2015 passed by this court, as well as the Irrigation Department's summary. Per learned counsel, the government is justified in regularizing these staff members because the schemes they work on were transferred from WAPDA to the provincial government. This transfer gives the Sindh government the authority to regularize the services of the contingent paid staff and the case of the petitioners is akin to the case of their colleagues. They prayed for allowing the petitions.

3. The learned A.A.G has argued that the petitioners should not be regularized because they were not appointed as contingent employees through the proper process and did not have the required eligibility criteria (technical/skill certificate) for the positions of electrician or mechanic at the time of their appointment in 2011-2015. He further stated that the petitioners only submitted their technical/skill certificates in 2020 and therefore are not eligible for regularization of their services. He has requested that the petitions be dismissed.

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

5. The case of the petitioners is that they are entitled to regularization under the Sindh Regularization of Contingent Paid or Work Charge Employees of Left Bank Outfall Drainage Act, 2018 on the premise that they were employed as contingent paid staff in the Irrigation Department's LBOD project and their service has not been discontinued. They also pointed out that other contingent staff of the LBOD project have already been brought to the regular budget.

6. The respondent's case is that the petitioners are not eligible for regularization because they do not have technical certificates. However, they do not deny that the petitioners have been working on technical posts since their appointment.

7. Prima facie, the long service of the petitioners on the subject posts is sufficient to retain them in service if not earlier discontinued; besides the law supports their regularization of service. Additionally long and satisfactory service is a good ground for regularization and there is a regularization of service policy under the statute 2018 that permits the same. The petitioner's case falls within the scope of the Act 2018 and therefore their case should be reconsidered by the competent authority of the respondents on a parity basis. The aforementioned exercise shall be undertaken within two weeks after hearing them.

8. All these petitions stand disposed of accordingly.

JUDGE

JUDGE