

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

Constitutional Petition No.D-2603 of 2011
Constitutional Petition No.D-1222 of 2013

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE
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Present:

Mr. Justice Muhammad Junaid Ghaffar,
Mr. Justice Muhammad Saleem Jessar,

Petitioners : Sabir Ali & others in C. P. No.D-2603/2011, through Mr. Muhammad Ashique Dhamraho, Advocate.

Rizwan Ali Mithani & others in C. P. No.D-1222/2013, through Mr. Rashid Mustafa Solangi, Advocate.

Respondents : Province of Sindh & others.

Mr. Shafi Muhammad Chandio, Addl. A.G assisted by
Mr. Naimatullah Bhurgri, State Counsel.

Date of hearing : 21.09.2017.
Date of Order : 21.09.2017.

ORDER.

Muhammad Junaid Ghaffar, J.- Through these petitions, the petitioners have sought regularization of their services in Population Welfare Department Sindh.

2. Learned Counsel for the petitioners submit that the petitioners were appointed as Male Mobilizers in the Population Welfare Department through various orders in the year 2009, available at pages 13 to 63, on contract basis for a period of one year, whereafter such period was firstly extended in the year 2012 for six months and thereafter kept on extended, whereas the petitioners are still working in the Population Welfare Department. He further submits that they are also receiving their salaries. According to learned Counsel, this controversy has been decided at the Principal Seat vide judgment dated

30.01.2015 passed in C. P. No.D-869/2011 and other connected matters, whereafter the respondent/department went to the Hon'ble Supreme Court in appeal and subsequently withdrew the said petition for leave to appeal. Learned Counsel further submit that the petitioners are also entitled for the grant of same relief as has been given to the other similarly placed employees on the basis of the judgment of this Court.

3. On the other hand, comments have been filed, wherein it is not denied that the petitioners are still working on contract basis; however, an objection has been raised that the Government of Sindh has filed Petition No.269-K of 2016 against the order dated 25.2.2016 passed in C. P. No.872/2013, wherein leave has been granted and the operation of the impugned judgment is suspended. In such circumstances, it has been prayed that the petitions be dismissed.

4. We have heard the learned Counsel as well as learned AAG and have perused the record.

5. Insofar as the working of the petitioners till date is concerned, the same has not been denied in the comments. It further appears that one Tarique Ali had filed a Petition before the Principal Seat bearing No.869/2011, who was also performing his duties as Male Mobilizer with the Population Department. His petition was allowed vide order dated 30.01.2015 on the basis of a judgment already passed by this Court reported as 2014 PLC (C.S.) 1153 (Dr. Iqbal Jan and others v. Province of Sindh & others), in which the Sindh (Regularization of Adhoc and Contract Employees) Act, 2013 was discussed in detail and the operating part was contained in para 10 of the said judgment. The learned Division Bench on the basis of the aforesaid judgment disposed

169

of the said petition of Tarique Ali in favour of the petitioner. It appears that the judgment in the case of Adhoc Employees Act was challenged before the Hon'ble Supreme Court and in one such Petition bearing No.269-K of 2016 an order was passed on 24.6.2016 by the Hon'ble Supreme Court, wherein the impugned judgment was suspended; however, subsequently vide order dated 29.8.2017 passed in Civil Appeals No.33-K, 34-K and 98-K of 2016 (arising out of Civil Petition No.269-K of 2016) the learned Advocate General Sindh on instructions did not press the appeals. It further appears that through notification dated 08.02.2016 136 Male Mobilizers appointed on contract basis in the Population Welfare Department have been regularized in compliance of the order dated 30.01.2015 passed in C. P. No.D-869/2011 and other connected petitions. In such circumstances, the present petitioners are also entitled for the same relief. Accordingly, instant petitions are disposed of in terms of para 10 of the judgment reported as 2014 PLC (C.S.) 1153 (Dr. Iqbal Jan & others v. Province of Sindh & others) read with order dated 30.01.2015 passed in C. P. No.869/2011 and other connected matters. Since Notification for regularization in respect of other contract employees has already been issued, the respondents are directed to accordingly issue Notification in respect of present petitioners as well within a period of two months.

These petitions stand disposed of in the above terms along with all other pending applications.

Qazi Tohir PA/