

IN THE HIGH COURT OF SINDH, KARACHI

C. P. No. D – 457 of 2024

[Salahuddin and 11 others *versus* Province of Sindh and 29 others]

and

C. P. No. D - 893 of 2024

[Salahuddin Siddiqui and 10 others *versus* Province of Sindh and others]

Present:

Mr. Muhammad Faisal Kamal Alam, J.

Ms. Sana Akram Minhas, J.

Date of hearing : 29.10.2025.

Petitioner(s) : Salahuddin and 11 others [in C. P. No. D – 457 of 2024] and Salahuddin Siddiqui and 10 others [in C. P. No. D – 893 of 2024], through Mr. Ali Assadullah Bullo, Advocate.

Respondents No.1 & 2 : Province of Sindh and another, [in C. P. No. D – 457 of 2024] and for Respondents [in C. P. No. D – 893 of 2024], through Mr. Abdul Jalil A. Zubedi, Assistant Advocate General Sindh along with M/s. Dr. Mansoor Abbas Rizvi, Secretary and Shahid A. Hashmi, Consultant, Provincial Ombudsman, Sindh.

Respondents No.3 to 30 : *Nemo.*
[in C. P. No. D – 457 of 2024]

JUDGMENT

Muhammad Faisal Kamal Alam, J: Due to commonality, both the title Petitions are decided by this Judgment.

2. Succinctly, Petitioners, who are permanent employees of Respondent No. 2 [Provincial Ombudsman Secretariat and Regional Office], have filed these Petitions with the prayer that appointment of consultants, advisors and other persons as mentioned in Section 20, in the Respondent No. 2 is in violation of codal formalities and adversely affecting the career advancement of Petitioners. *Whereas*, in C. P. No. D – 893 of 2024, the request of Petitioners is that Respondent No. 2 – Provincial Ombudsman Office should initiate a Summary for the approval

of Respondent No. 1 [Government of Sindh], proposing benefits / allowances in addition to usual pay and allowances of the Petitioners and all permanent Employees of Respondent No. 2, including, Ombudsman Secretariat Allowance at the rate of one running basic pay; *(ii)* self-hiring / house rent ceiling; and *(iii)* health insurance card for indoor treatment.

3. Mr. Ali Asadullah Bullo, Advocate, argued in support of his stance in both the Petitions. States that although hiring of consultant, advisor, fellow(s) can be done under Section 20 of the Establishment of the Office of Ombudsman for the Province of Sindh Act [I of 1992] – the **Governing Law**, but a transparent recruitment process has not been in place, as ruled by the Superior Courts in number of the Judgments. Contented that Advisors and Consultants, who are retired Employees of the Sindh Government, are also occupying the regular / permanent positions in the Respondent No. 2, due to which career progression of the Petitioners as well as other regular Employees is obstructed. Argued by placing reliance on sub-section (3) of Section 8 of the Governing Law, that Petitioners being public servants are entitled to salary, allowances and other benefits of service as are admissible to civil servants of the corresponding grade, as envisaged in the above statutory provision, therefore, they are also entitled for the Ombudsman Secretariat allowance, health insurance and self-hiring / house rent ceiling [as Prayed]. Drawn our attention to the Table in Paragraph-7 of the Petition [C. P. No. D – 893 of 2024], *inter alia*, of government employees working in Civil Secretariat Chief Minister Secretariat, Governor Secretariat and other Departments.

Referred to the Provincial Ombudsman [Employees] Service Rules, 1997 [**‘the Rules’** amended in 2023, gazetted / notified on July 25, 2023], to draw a distinction between ad-hoc appointments [Rule 3B and 14], and an employee appointed against a permanent post, *inter alia*, enlisted in Schedule ‘B’ [of the Rules]; that ad-hoc and temporary appointments can be made only in public interest and on account of exigency, but, it is to be confirmed by the Selection Committee and is only for a period of six months. To fortify his argument, cited as an example that as per proviso of Rule 7 (3), *ibid*, the post of Director [BPS-19], can either be filled through promotion from amongst the Deputy Directors with the criteria mentioned in the latest Rules or by transfer from amongst the serving Officers of Government of Sindh / Federal Government / Secretariat Provincial

Ombudsman [Mohtasib] of equivalent grade with relevant qualification and experience, but unfortunately, such permanent vacancies are filled by ad-hoc employees, viz. Consultant and Advisors. Refers to the Office Order dated 31st May 2010 [*page-189*] about appointment of an Advisor, though was on temporary basis with effect from first 01.06.2010 to 31.08.2010 [as mentioned in the Office Order], but till date, he is continuing in the Ombudsman Secretariat, that is, even after passage of fifteen years.

Today, during proceeding has filed a Statement along with the documents, to reiterate his grievance that one Junior Consultant, Mr. Riaz Gill, is assigned to look after the work of Director [Admin] in Respondent No. 2 as a stopgap arrangement, thus violating the present Rule. Placed reliance in support of his arguments on the following Case Law_

- i. **2024 S C M R 298**
[*Muslim Commercial Bank Limited versus Muhammad Anwar Mandokhel and others*] – **MCB Case**; and
- ii. **2013 S C M R 1752**
[*CONTEMPT PROCEEDINGS AGAINST CHIEF SECRETARY, SINDH AND OTHERS In the matter of*].

4. Both the Petitions are opposed by learned Assistant Advocate General Sindh. On the last date of hearing, on notice, Secretary [Provincial Ombudsman Office/ Secretariat, appeared and filed Statement along with documents through learned Assistant Advocate General Sindh, outlining the justification for appointment of Advisors and Consultants by countering the arguments of Petitioners' side. It is contended that appointment of experienced retired Bureaucrats and other Experts in the field as Consultants and Advisors has been envisaged in Section 20 of the Governing Law with the object that the learned Provincial Ombudsman should discharge the functions effectively and complaints of citizens are addressed expeditiously, which relate to the mal-administration in different government departments.

5. It is mentioned in today's Statement, that there is a proper assessment criteria in place to assess the performance of Advisors, Consultants and Fellows on monthly basis by adopting key performance indicators that include, number of cases disposed of, considering the quantum of cases assigned to an individual; quality of draft decision; number of cases returned to him / her due to unsatisfactory draft decision;

number of site visits particularly alleged encroachment / public interest works and open katcheris held. Those, who do not meet the benchmark, are not considered for retention / extension or renewal of Contract for another term of three months, resulting in their termination upon expiry of contract. In last one and half years, Contracts of eleven Advisors and Consultants were terminated, not renewed due to under performance. In this regard a List is also attached containing the names of those persons. Has cited the following case law_

- i. **P L D 2020 Islamabad 449**
[*Syed Pervaiz Zahoor versus The Prime Minister of Pakistan through Secretary to the Prime Minister and 3 others*] – **Pervaiz Zahoor Case**;
- ii. **PLD 2021 Supreme Court 379**
[*Malik Munsif Awan, Advocate, Chairman, Pakistan Justice Party, Lahore versus Federation of Pakistan through Secretary, Law & Justice, Islamabad & others*] – **Munsif Awan Case**; and
- iii. **Judgment dated 22.11.2018 passed by Lahore High Court in Case No. Intra-Court Appeal No.131955 of 2018**
[*Akhtar Abbas Naqvi versus Ombudsman Punjab, etc.*]- **Naqvi Case**.

6. Arguments heard and record perused.

7. Before the start of their submissions, Dr. Mansoor Abbas Rizvi, the Secretary Ombudsman Office, has made a Statement about the overall questions involved in these Cases.

Firstly, the Consultants and Advisors, as per the Governing Law, are appointed on extendable Contract, based upon their performance and such appointments cannot adversely affect, obstruct or impede the career progression of Petitioners and the other regular Employees / Staff Members of the Respondent No. 2. *Secondly*, candidature of Petitioner No.8 [Zulfiqar Ali] for the post of Private Secretary can only be considered, as per Service Rules and Policy, once the present incumbent retires from service, in December this year. *Thirdly*, about the recent development concerning the appointment of a Junior Consultant as Director Admin, replied that the Office Order itself states that it is a stopgap arrangement, because the Provincial Ombudsman Office is undergoing expansion and re-structuring, and this regular position of Director Admin will be filled very soon in terms of the Amended Service Rules of 2023 [*supra*].

8. The MCB Case [*ibid*] relied upon by the Petitioners' Counsel, hardly supports the case, because it explains the jurisdiction of National Industrial Relations Commission [NIRC] formed under the Industrial Relations Act, 2012, and the Provincial Labour Courts established under respective Provincial Laws; *whereas*, the other Judgment handed down by the Honourable Supreme Court in the famous Azhar Baloch Case, can only be considered from the perspective, that career progression of a regular employees should not be impeded or blocked by adopting deceptive modes, including horizontal transfers from other cadres.

9. *Whereas*, summary of case law cited by learned A.A.G. is_

Learned Islamabad High Court in the case of Pervaiz Zahoor [*supra*], who has challenged the appointment of Mirza Shahzad Akbar, as Advisor and Chairman of the Assets Recovery Unit, ruled that after considering the provisions of Rules of Business, 1973, relating to appointment of Advisors and Special Assistants, the appointment was not interfered with, while observing that Advisor is not a policymaker and therefore functioning of the National Accountability Bureau would not be affected by such appointments. It is further laid down, that it is the exclusive discretion of Prime Minister to tender advise to the President for appointing not more than five Advisors [as envisaged in the constitutional scheme] and no eligibility criteria is prescribed for such an appointment.

In Munsif Awan case [*supra*], the Honourable Supreme Court has considered the stance of Petitioner, questioning the appointment of Respondents, as Special Assistants to Prime Minister, purportedly in violation of the Rules of Business, 1973 [*as is argued in the present titled Petitions by the learned counsel, that appointments of Consultants, Advisors and other persons on Contract Basis are in violation of codal formalities*]. The Petition was dismissed by observing that Special Assistants are neither Federal nor State Ministers, although they were given such status; in fact they are acting in an advisory capacity to the Prime Minister, thus, they can be appointed at the discretion of the Prime Minister “*on the basis of his subjective assessment*”, while observing that Parliament at the opportune time may prescribe the criteria so that the above discretion is structured. Learned Division Bench of Lahore High Court in Naqvi Case [*supra*] disagreed with the stance of the appellants who were earlier appointed as honorary advisers without remuneration and were later

terminated, that their employment is not to be dealt with in accordance with Section 8 [3] of the Provincial Ombudsman Law (of the Punjab), which is quite identical to the Governing Law, *ibid*. It is held that no vested right accrued in their favour because their appointments were not against sanctioned / contractual posts; besides, reaffirming the discretionary authority of the Ombudsman in this regard.

10. The appointment letters placed on record clearly show that those persons appointed in terms of Section 20 of the Governing Law, that is, Advisors, Consultants and Fellows, their employment is of temporary nature, though extendable. These Consultants, Advisors, Fellows and persons appointed under section 20 cannot be an obstacle in career progression of the regular Employees of the Respondent No. 2 [Provincial Ombudsman Secretariat], so also acknowledged by the worthy Secretary in his above Statement. With regard to the latest grievance about appointment of Riaz Gill, who is inducted as a junior Consultant, as Director [Admin], the Office Order itself clarifies that it is merely a stopgap arrangement, and as soon as practicable, an eligible person would take charge in terms of the present Service Rules [*supra*].

11. With regard to the Prayer Clause of Petitioners in C. P. No. D – 893 of 2024 is concerned, that carries weight, in view of Section 8(3) of the Governing Law, by drawing a comparison between the terms of service of Staff Members of Respondent No. 2 and employees of the Provincial Government. Respondents No. 1 and 2 should take a decision in this regard.

12. About the grievance of the Petitioners, that Consultants and Advisors although are appointed on temporary basis but their contracts are continually extended with the result that many of them are there for more than a decade.

In view of the submissions of Respondents and learned Assistant Advocate General Sindh, as highlighted in their Statement today, with a specific reference to the key performance indicators criteria and the fact that Contract of Eleven Advisors / Consultants were not extended and terminated in the intervening period [as mentioned in the List appended with the said Statement], show that a proper system is in place in the Ombudsman Office, besides, Judgments cited by the Respondents' side also extend limited assistance to their stance, with regard to the discretionary

authority of the Provincial Ombudsman in this regard. Therefore, in these peculiar circumstances [as discussed and highlighted above], for now we do not intend to fix a term or tenure of those who are appointed under Section 20 [*supra*], with the observation that their recruitment procedure can be made more competitive and their tenure/duration of reasonable length, with the object to further enhance and optimize the overall performance of the Respondent No. 2 [the Provincial Ombudsman Office], of which the public at large is the beneficiary. If a proficient work force is working at the Respondent No. 2, it would directly impact in expeditiously resolving genuine grievances of complainants / citizens, and reposing their trust in the State Institutions.

13. To conclude, we dispose of both these Petitions along with all pending application(s), if any, in the following terms_

- a.* Personnel appointed in terms of Section 20 [*inter alia*, Consultants, Advisor, Fellows] of the Governing Law, cannot obstruct the career progression of permanent employees / staff members of Respondent No. 2, whose employment is regulated by Section 8 and the Rules of the Governing Law.
- b.* The Post of Director [Admin] Section, the Provincial Ombudsman Sindh should be filled by a regular employee within two [02] months, as per above Rules, as amended from time to time.
- c.* Performance Assessment Criteria in Respondent No. 2, including Key Performance Indicators (KPI), should be strictly followed and be constantly improved, with the object and for the reasons mentioned in the foregoing paragraphs.
- d.* Prayer Clause (I) in C. P. No. D – 893 of 2024, is accepted to the extent, that Summary for proposing benefits / allowance be placed before the Official Respondents / Government of Sindh for consideration as also observed in the preceding paragraphs.
- e.* There will be no order as to costs.

Judge

Judge

Karachi.
Dated: 10.11.2025.

Riaz / P.S.