HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

C.P. No.D-1902 of 2022

[Mirza Muhammad Ali Baig and another vs. Province of Sindh and others]

Before:

JUSTICE ADNAN-UL-KARIM MEMON
JUSTICE MUHAMMAD JAFFER RAZA

Petitioners:	Through Mr. Aayatullah Khuwaja advocate
Respondents HDA:	Through Mr. Ashar Majeed Khokhar advocate
Province of Sindh:	Through Mr. Rafique Ahmed Dahri Additional A.G Sindh
Date of hearing	11.11.2026
Date of Decision	11.11.2026

O R D E R

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ADNAN-UL-KARIM MEMON J:- The petitioners have filed the instant constitutional petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, seeking the following reliefs:-

"A. To direct the respondent No.4 to produce the entire service record of respondents No.5 to 10 maintained at HDA Hyderabad.

B. To direct the respondent No.2 and respondent No.4 not to promote respondents No.5 to 10 to next higher rank nor consider their promotion till final disposal of the petition.

C. To declare that private respondents No.5 to 10 were appointed on adhoc basis for limited period of 6 months after expiry of above period they are no more in service, as law does not provide any mechanism to regularize the service of adhoc employee into permanent service without adopting legal procedure of selection.

D. To declare that salaries drawn by the respondents No.5 to 10 on the basis of illegal regularization in service and further promotion shall be recovered from them under the provisions of Land Revenue Act.

E. To declare that the notification regarding the adhoc appointment, regularization in service and promotions are illegal, unlawful and unjustified having no legal effecting and are liable to be set aside.

F. Interim orders are solicited whereby suspending the impugned notification till final decision of the petition.

G. Interim order are solicited whereby restraining the respondents from taking any coercive and illegal action, threat and from stopping of salary under the grab of illegal, unlawful, threatening acts and misuse of powers in any manner.

H. Costs of the petition may be saddled upon the respondents.

I. Any other reliefs) which this Honourable Court deems fit, just and proper in favour of the petitioners."

2. Learned counsel for the petitioners submits that the initial appointments, subsequent regularization and promotions of private respondents No.5 to 10 in HDA were illegal and without lawful authority, as they were initially appointed on ad hoc basis and were not eligible for regularization or promotion. He refers to page 37 of the record, reflecting regularization of private respondent Shiwan Kumar, and questions whether the same was made with the approval of the competent authority.

3. In view of the above, this Court directed HDA to submit a comprehensive report, duly supported by documentary evidence, demonstrating that the competent authority regularized the services of the private respondents.

4. Learned counsel for respondent No.04 has submitted a statement along with copies of the appointment order of 2007, prohibition period order dated 14.01.2008, regularization order dated 14.02.2009, delegation of powers notification authorizing the Director General, HDA, to make appointments up to BPS-17, and Notification dated 19.12.2013 regarding the Hyderabad Development Authority (Revival and Amending) Act, 2013. The documents have been placed on record to substantiate the relevant appointment and regularization process and the statutory powers of the HDA authorities. He submitted that respondent No.5 retired long ago. He prayed to dismiss the petition.

5. This stance has been refuted by the counsel for the petitioners by referring various documents attached with the memo of petition and prayed to allow the petition.

6. We have heard learned counsel for the parties and examined the available record, including the documents submitted on behalf of respondent No.04 in compliance with the earlier directions of this Court.

7. The petitioners have primarily questioned the initial ad hoc appointments, subsequent regularization and promotions of private respondents No.5 to 10, alleging that the same were made without adopting the prescribed recruitment procedure and approval of the competent authority. However, the documents placed on record, particularly the appointment order, regularization order dated 14.02.2009 and the delegation of powers notification, prima facie demonstrate that

the Director General, HDA, was vested with powers to make initial appointments and promotions up to BPS-17. Furthermore, the Hyderabad Development Authority (Revival and Amending) Act, 2013, contains a saving clause validating appointments and other acts undertaken during the period specified therein, notwithstanding any judgment of a Court. However, this Court cannot entertain such exercise of fish hunting under Article 199 of the Constitution to dislodge the appointment of the private respondents made long ago under the garb of writ of quo warranto or writ of mandamus, which is the function of the competent authority.

8. The petitioners have not been able to produce any cogent material to establish that the impugned appointments or regularization orders were passed by an authority lacking jurisdiction or in violation of any specific statutory provision. The mere fact that the initial appointments were made on an ad hoc basis, by itself, would not be sufficient to invalidate subsequent regularization, particularly when the same is claimed to have been made under the applicable rules and with the approval of the competent authority.

9. It is further contended on behalf of respondent No.04 that private respondent No.5 has already retired from service long ago, a circumstance which also has a bearing upon the efficacy of the relief sought against him. The petitioners have not established any enforceable legal right or demonstrated infringement of any statutory or constitutional provision warranting interference by this Court in its constitutional jurisdiction.

10. The question of recovery of salaries already drawn by the private respondents, without first establishing the illegality of their appointments and regularization, is equally without lawful foundation at this stage subject to scrutiny by the competent forum/authority.

11. It is settled that the extraordinary jurisdiction under Article 199 of the Constitution cannot be invoked on the basis of mere allegations or disputed factual assertions unsupported by convincing evidence.

12. Consequently, finding no sufficient ground for constitutional interference, the instant petition is dismissed along with pending applications. However, there shall be no order as to costs.

J U D G E

J U D G E

Irfan Ali