

IN THE HIGH COURT OF SINDH, AT KARACHI

Before:-
Mr. Justice Nadeem Akhtar
Mr. Justice Adnan-ul-Karim Memon

C.P No.D- 8536 of 2018

Riffat John V/S Province of Sindh & 02 others.

Date of hearing
& decision: 26.02.2020

Mr. Sajjad Ahmed, advocate holding brief for Mr. Ali Asadullah Bullo, advocate for the petitioner.

Mr. Hakim Ali Shaikh, Additional Advocate General, Sindh, along with Dr. Altaf Hussain Shaikh, Chief Technical Officer (Litigation), Health Department, Government of Sindh.

ORDER

ADNAN-UL-KARIM MEMON, J: Petitioner has approached this Court for regularization of her service as Staff Nurse (BPS-16) in Health Department, Government of Sindh.

2. The case of petitioner is that she was appointed on contract basis in the year 2010 as Staff Nurse (BPS-16) in Health Department, Government of Sindh, and since then she is regularly discharging her duties. The main objection of the respondent-department in not recommending her case for regularization of service is that basically she was not qualified to be recruited on the aforesaid post on the premise that she was not permanent resident of Sindh province at the time of her initial appointment as she had already acquired Permanent Residence Certificate (PRC) from District Sahiwal (Punjab) in the year 1994, but to utter shock and dismay of the respondent-department, and after impugned action, she managed to obtain Domicile and PRC of District East, Karachi, on 22.9.2014.

3. Mr. Sajjad Ahmed, learned counsel for the petitioner, has heavily relied upon her Domicile Certificate of District East, Karachi, issued on 22.09.2014 and argued that her previous Domicile Certificate was cancelled vide letter dated 24.8.2015 issued by the office of District Coordination Officer, Sahiwal ; the petitioner was appointed on contract basis and the respondents cancelled her contract on the allegation as discussed supra without ascertain the fact that she is permanent resident of Karachi. This according to the learned counsel is illegal and malafide ; that during the selection process the Recruitment Committee got verified the documents and thereafter issued the petitioner an offer of appointment ; after lapse of ten years vested right has been created in favour of the petitioner and the

respondents cannot dispense with her services in a summarily manner ; that the services of other colleagues of the petitioner have already been regularized, but instead of regularizing her service the respondents have cancelled her contract which is illegal and without lawful authority, therefore, she seeks indulgence of this Court.

4. We have heard learned counsel for the parties at some considerable length on the issue whether petitioner was qualified to be appointed on the post of Staff Nurse (BPS-16) in Health Department, Government of Sindh, on the Domicile and PRC of Punjab Province.

5. Record reflects that petitioner was offered the post of Staff Nurse (BPS-16) in the office of the Programme Manager, Hepatitis Prevention and Control Program Sindh (Chief Minister's Initiative) vide appointment order dated 24.06.2010. Upon scrutiny of her testimonials, petitioner was found not entitled for the aforesaid post, being permanent resident of Punjab having been born in Chak No.190-9 Tehsil Sahiwal District Sahiwal, she has lived there throughout and having obtained his Certificates of Domicile and Permanent Residence from the appropriate Authorities, appears to be aggrieved by the decision of the Scrutiny Committee dated 12.8.2016, whereby her case was rejected for regularization of her service on the aforesaid analogy, thereafter she has acquired Domicile Certificate of District East, Karachi, on 22.09.2014 and her previous Domicile Certificate was cancelled vide letter dated 24.8.2015 issued by the office of District Coordination Officer, Sahiwal.

6. We have scrutinized the record and noticed that the aforesaid post was meant for the candidates belong to the Province of Sindh and admittedly petitioner was not permanent resident of Province of Sindh at the time of her initial appointment. This is an admitted position that she has acquired the Certificate of Domicile and permanent residence certificate of District East, Karachi, in the year 2014, therefore, no premium can be given to the petitioner for continuation of her service or regularization in service.

7. To elaborate further on the issue in hand Rules 13 to 15 of Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974 are clear in its terms. According to which post in grades 01 & 02 are to be filled in on local basis and those in grades 03 to 15 offices which serve only a particular region or district should be filled by appointment or persons domiciled in the region or district concerned, whereas post in BS-16 and above shall be filled on provincial basis in accordance with merit and regional or district quota.

8. In our view, the Sindh Government may have the right to appoint bona fide residents of Province of Sindh, denial of such right to residents of other provinces is protected as discussed in the preceding paragraph. It is also established principle in service jurisprudence that the domicile declared by a Government servant and accepted by Government at the time of entry into Government service is treated as final throughout his service career and no subsequent change in his domicile is recognized for service purposes. However, if a person lives in a particular province or district and decides to shift to another province to be a permanent residence there, then it will not affect the status of his/her domicile; however, his/her former PRC will be cancelled. But in the present case we have seen that petitioner deliberately obtained domicile of District East, Karachi, after an objection was raised by the respondents with regard to her domicile of Punjab. This being the position of the case, this petition merits no consideration, which is accordingly dismissed along with pending application(s) with no order as to costs.

JUDGE

JUDGE