

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR  
C.P.No. 7 /2011

27-2-12

MANUPT 5 1284

- ✓ 1. Altaf Hussain s/o Abdul Qayyoom, Siddiqui  
Statistical Assistant (BS-14)  
E.D.O (Health), Sukkur
2. Liaquat Ali s/o Faqir Muhammad, Channa  
Statistical Assistant (BS-11)  
E.D.O (Health) Office, Sukkur
3. Shabdo Mal s/o Bakhshe Mal  
Statistical Assistant (BS-11)  
GMC Hospital Sukkur
4. Sirajuddin s/o Abdul Hakeem  
Statistical Assistant (BS-14)  
E.D.O(Health) Office Shikarpur
5. Asadullah s/o Imamuddin, Shaikh  
Statistical Assistant (BS-14)  
E.D.O(Health) Office Shikarpur
6. Mohammad Abbas s/o Nawaz Ali  
Statistical Assistant (BS-11)  
E.D.O(Health) Office Naushehro Feroze

.....Petitioners

Versus

1. Government of Sindh through Chief Secretary,  
Sindh Secretariat, Karachi
2. Secretary Health Department,  
Government of Sindh,  
Sindh Secretariat, Karachi
3. Secretary Finance Department,  
Government of Sindh,  
Sindh Secretariat, Karachi
4. Executive District Officer (Health)  
Sukkur.....

.....Respondents



CONSTITUTIONAL PETITION UNDER ARTICLE 199 OF THE  
CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN, 1973

# THE HIGH COURT OF SINDH BENCH AT SUKKUR

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C.P.No.D-07 of 2012

Present:-  
Mr.Shahid Anwar Bajwa &  
Mr.Muhammad Ali Mazhar, JJ

Date of hearing:- 01.02.2012  
For petitioners: Mr.A.R.Faruq Pirzada Advocate  
For official resp: Mr.Imtiaz Ali Soomro, A.A.G.

## ORDER

Shahid Anwar Bajwa, J:- The petitioners are working as Statistical Assistant in offices of E.D.O.Health at Sukkur, Shikarpur and Naudhero Feroze. Some of them are in BS-11 while others are in BS-14. It is stated in para 2 of the petition that the petitioners are holding Master's Degrees "in various subjects". Vide notification dated 19<sup>th</sup> July 1987 posts of Statistical Investigator in Agriculture, Live Stock and Fisheries Department were upgraded from BS-11 to BS-16. Notification reads in the relevant part, as under:-

"2. It has now been decided that the existing in-cumbents of the posts of Statistical Investigators may be upgraded from BS-11 to Bs-16 who possess Master's Degree at least in second Division in Economic/ Statistics.

3. The existing incumbents who do not possess the qualification of M.A. Economic or Statistics (2<sup>nd</sup> Division) have also been allowed BS-16 as personal to them subject to the condition that they shall not be eligible for further promotion until they acquire Master's Degree in Economics or Statistics in 2<sup>nd</sup> Division.

4. For further recruitment, the qualification for the post of Statistical Investigator will be as under:-

### Minimum Qualification:-

Master's Degree (2<sup>nd</sup> Class) in Statistics or Mathematics/ Economics with special papers on Statistical Methods from a recognized University.



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5. Learned A.A.G. submitted that it is discretion of the Government to upgrade or not to upgrade and therefore, the petition is not maintainable. He next submitted that the Finance Department has not agreed to such upgradation.

6. We have considered the submissions made by the learned counsel and have also gone through the record.

7. In the comments submitted by Secretary Health, it is stated that after Statistical Assistants of Agriculture Live Stock and Fisheries Department were upgraded, a summary was moved and was approved by the Chief Minister on 10.11.2007. In view of approval of the summary by the Chief Minister the Finance Department required that fresh financial implications involved in the matter be provided. Consequently on 2.2.2008 Health Department forwarded the financial implications to the Finance Department. In the meanwhile eight Statistical Assistants of various institutions approached this Court at Hyderabad and in Constitution Petition No.D-380 of 2008, this Court directed the Finance Department to comply with the orders of the Chief Minister passed on 30.10.2007. Such order of the High Court was challenged by the Government of Sindh in the Supreme Court but the CPLA was dismissed and thereafter Finance Department allowed upgradation and re-designation of only eight Statistical Assistants.

It is settled law and one of the cardinal principles enshrined in the fundamental rights guaranteed by the Constitution that every one is entitled to equality before the law and to equal protection of law. We are failed to understand that when eight persons moved the High Court and the High Court ordered their upgradation in view of the summary approved by the Chief Minister and order of the High Court was upheld



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5. These orders will take effect from the date of issue of this letter.

2. Thereafter vide notification dated 14<sup>th</sup> May 1991 the same posts were upgraded to BS-17, the relevant part of the notification reads as under:-

It has now been decided that all existing posts of Economic Investigators and Statistical Investigators BPS-16 in the departments concerned shall be upgraded to BPS-17 and re-designated as Research Officers and Statistical Officers respectively, subject to the condition that they possessed the following qualifications:-

- |     |                       |                                                                                          |
|-----|-----------------------|------------------------------------------------------------------------------------------|
| i.  | Statistical Officers. | Master's Degree<br>(Hnd Division) in<br>Statistics or with<br>Statistics as one subject) |
| ii. | Research Officers.    | Master's Degree<br>(Hnd Division) in<br>Economics.                                       |

3. The petitioners approached for up-gradation of their posts but it appears that their cases were not decided. In the meanwhile a summary was moved to the Chief Minister Sindh where it was stated that Statistical Assistants employed at Liaquat University Hospital had sent an application and it was recommended that their posts be upgraded to Statistical Officers BS-17, this summary was approved by the Chief Minister and while approving the summary the Chief Minister ordered that " in view of up-gradation allowed to Agriculture, Live Stock and Fisheries Department Statistical Assistants as informed in para (1) above.

The proposal at para (3) is approved."

4. Learned counsel for the petitioners submitted that it amounts to discrimination because the qualification and the nature of job of all the Statistical Assistants is the same.



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by the Supreme Court, why similar treatment was not given to other similarly placed persons. The functionaries are well advised to keep in mind dictum of the Supreme Court that if a particular benefit is allowed to one category of employees then the same benefit should be allowed to other persons in the same category rather than forcing them to resort to litigation. If any one is need, reference may be made to Hameed Akhtar Niazi versus The Secretary, Establishment Division, Government of Pakistan and others (1996 SCMR 1185).

9. Since the petitioners have not very clearly stated as to of which discipline do they hold the Master's Degree and since in notification relating to Agriculture, Live Stock and Fisheries Department the degree requirement is Master's Degree (IInd Division) in Statistics or with Statistics as one subject, the respondents are directed to upgrade the petitioners who hold that particular qualification and in respect of the petitioners who do not hold the specified qualification, benefit of notification dated 19<sup>th</sup> July 1987 be extended to them and both the above be done with effect from the date the Chief Minister approved the summary i.e. w.e.f.30.10.2007. This order be complied with within one month.

10. With the above directions this constitution petition is disposed of.



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Sd/-01/02/2012  
SIRHIS ANWAR HAJWA,  
JUDGE.

Sd/-  
MUIANNUD ALI NAZIR  
JUDGE.

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of the Judgment

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