

THE HIGH COURT OF SINDH, KARACHI

Present:

Justice Mohammad Karim Khan Agha
Justice Adnan-ul-Karim Memon

CP No.D-770 of 2013

[Saleem Shahzad and others v. Federation of Pakistan and others]

CP No.D-769 of 2013

[Zaheer Abbas and others v. Federation of Pakistan and others]

CP No.D-4471 of 2018

[Abdul Nabi Sadhayo and others v. Federation of Pakistan and others]

Petitioners : through Mr. Altaf Hussain, Advocate
 Respondent No.1 : through Ms. Wajiha M. Mehdi, AAG
 Respondents No.2 & 3 : through M/s. Sanauallah Noor Ghouri and Asghar Ali advocates
 Dates of hearing : 17.06.2025
 Date of order : 17.06.2025

J U D G M E N T

Adnan-ul-Karim Memon, J. These petitions are being disposed of through this consolidated judgment as common questions of fact and law are involved.

2. The petitioners' case is that they have repeatedly sought the regularization of their services from Respondents Nos.2 and 3, but their requests have been ignored. They were employed in the A&P Department of Respondent No.3 and Respondent No.1. Despite a government policy, established by various official memos and orders, including from the Establishment Division, Prime Minister, and Ministry of Labour and Manpower, that mandates regularization for contract employees with one year of service and daily wageworkers with three 89-day spells, the petitioners remained un-regularized. Numerous applications for regularization, including one forwarded by the Ministry of Industries and Production on February 9, 2011, have yielded no results. This is despite Respondent No.2 regularizing over 4,600 contractual employees on May 1, 2010. The petitioners, comprising 325 females and 144 males, were unjustly excluded. The A&P Department was discriminatorily excluded from a merger that included other non-productive units with Respondent No.2, further demonstrating unfair treatment. While Respondent Nos.2 and 3 have regularized a significant number of daily wage and contractual workers in other departments, the A&P Department has been inexplicably overlooked. This exclusion is a clear act of prejudice and a gross miscarriage of justice, forcing petitioners into dire living conditions and causing significant distress. Despite the government's efforts to improve the lives

of citizens, the petitioners, as patriotic citizens, have been unjustly ignored and victimized. This is a blatant injustice, particularly when employees in less "critical" roles, like sweepers, enjoy regular employment. Respondents Nos.2 and 3 have subjected the petitioners to discriminatory treatment by failing to regularize their services since 2009 without cause, violating their fundamental rights under Articles 2-A, 14, 17, and 25 of the Constitution of the Islamic Republic of Pakistan.

3. The petitioners' counsel argued that the *Hafiza Junejo* decision on 2.10.2012 established that Hadeed Welfare Trust was a mere subterfuge, affirming the petitioners' original employment with Pakistan Steel Mills (PSM), despite claims of transfer via a 2004 Memorandum that lacked documentation for employees. Though the *Hafiza Junejo* judgment primarily focused on BS-1 to BS-15 employees based on a 2008 Office Memorandum, PSM later withdrew its Supreme Court appeal (C.P. No.1638/2012) on October 30, 2012, agreeing to comply with this Court's regularization directives "in letter and spirit." The counsel's core argument rests on the Cabinet Committee meeting minutes of February 7, 2011, which explicitly extended regularization to BS-16 and above employees, with their cases to be approved by the Cabinet, bypassing FPSC. PSM's own Acting General Manager (A&P) acknowledged implementing the *Hafiza Junejo* judgment, without disputing the employer-employee relationship, only citing the BS-1 to BS-15 limitation. Further support comes from an Establishment Division letter dated May 30, 2013, reiterating Cabinet Sub-Committee minutes. These minutes (Paras 236-237) show PSM acknowledging the need to regularize contract/daily wage employees (teaching and non-teaching) in its educational institutions who had served for over one year. The Cabinet Sub-Committee then directed their regularization, subject to criteria and post availability. Finally, the counsel asserted that denying regularization violates the petitioners' fundamental rights under Articles 3 and 4 of the Constitution, which guarantee equality before the law, protection, and the elimination of exploitation. Therefore, the petitions may be allowed, directing Respondents to regularize the petitioners' services per the Cabinet Sub-Committee's decision and order dated 29.8.2008 and other beneficial orders.

4. The learned counsel for Respondents jointly contended that the petitions are not maintainable because Pakistan Steel Mills lacks statutory regulations. Furthermore, the petitions are barred by laches, as the petitioners failed to pursue alternative remedies like appeals or representations to the competent authority before approaching this court.

5. We have heard the learned counsel for the parties and perused the record with their assistance.

6. These petitions, initiated in 2013 and 2018, aim to regularize the petitioners' employment at Pakistan Steel Mills. This is despite PSM's closure in 2015 due to a financial crisis. The petitioners' counsel, however, could not establish any current employment relationship or contract between the petitioners and PSM. Furthermore, given the significant time elapsed and the petitioners' lack of diligence in pursuing their case, no legal basis for the requested regularization could be identified.

7. Applying the legal principles established in Supreme Court of Pakistan judgment **2024 SCMR 527** (*Vice Chancellor Agriculture University Peshawar & Others v. Muhammad Shafiq & Others*), as well as this Court's full bench decision in *Muhammad Arif v. Federation of Pakistan* (CP D-875 of 2020 and connected petitions) dated April 20, 2024, and the Division Bench ruling reported as 2024 PLC (C.S) 1487 (*Mumtaz Ali Panhwar & Others v. Province of Sindh & Others*), these petitions are deemed not maintainable and are, therefore, dismissed. The Office is directed to place a copy of this order in the connected petitions.

JUDGE

HEAD OF CONST. BENCHES