

## IN THE HIGH COURT OF SINDH, KARACHI

Constitutional Petitions No.D-3759 & 4422 of 2017

**Present:**

Mr. Justice Syed Hassan Azhar Rizvi  
Mr. Justice Adnan-ul-Karim Memon

Kamran Ahmed Mallah  
Petitioner in CP No.D-3759/2017  
Through:

M.A.K. Azmati, Advocate

Syed Irtaza Raza Naqvi & others  
Petitioners in CP No.D-4422/2017  
Through:

M/s Malik Naeem Iqbal and  
Faizan Hussain Memon  
Advocates

Federation of Pakistan,  
Respondent No.1  
in both petitions through:

Shaikh Liaquat Hussain,  
Assistant Attorney General

Sui Southern Gas Company  
& others Respondents No.2 to 5  
in both petitions through:

Mr. Asim Iqbal and Ms.  
Mariam Riaz, Advocates

Date of hearing:

15.12.2017  
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### JUDGMENT

**Adnan-ul-Karim Memon, J.** The captioned Constitution Petitions are being disposed of through this common Judgment as common points of law and facts are involved. In both these petitions, the petitioners have sought regularization in service as per the Regularization Policy of the Federal Government.

2. Brief facts of the above referred petitions are that the petitioners were appointed in Sui-Southern Gas Company Limited (hereinafter referred to as “SSGCL”) as contract employees in about 04 to 06 years ago on various dates. They have asserted that they

performed duties assigned to them with keen interest and devotion without any cause of complaint to the Respondent-Company; therefore, they contend that regularization in service was their right. They have further asserted that employment is basic necessity of life in the society, particularly for educated youth and the State is responsible to provide transparent working environment and the employers are required to provide opportunity for grooming and exploitation of abilities and talent by the employees. They contended that after continuous devoted and successful performance, the Respondent-Company threatened the Petitioners and several other employees to accept again under the role of third party contract or face termination from the contract employment. They further contended that the Petitioners and other employees of the Respondent-Company deserved regularization of their service, as well as, promotion to higher posts.

The petitioners further contended that as per Recruitment Policy dated 01.11.2010 they should stand confirmed; but, they were not given any benefit admissible under the Policy. The Respondent-Company introduced another Recruitment Policy on 27<sup>th</sup> September, 2013, which required the Petitioners to secure 35% marks in NTS test to be declared successful candidates, who after completion of probationary period would be permanently absorbed. On the contrary, being threatened for forcible removal from the employment under the garb of their powers and authorities, as the Respondents are bent upon to further victimize and remove the Petitioners and other employees from service in violation of law and disregard of the Constitution. It is further asserted that the Respondents having observed that the Petitioners

being employed for the last four to six years or so on, without any break in their services and payment of their emoluments, perks and perquisites/benefits of employment for all the legal purposes; might ask for bringing them to regular status, framed a new strategy to create insecurity and confusion in the ranks of the Petitioners by way of introducing a new recruitment policy for contract employees; with new terms and conditions of employment; quite distinguishable from the previous policy or the existing one; that the Respondents introduced the recruitment policy dated 01.11.2010 and on the basis of such policy, the Petitioners should stand confirmed, but they have been neglected by the arbitrary, unilateral acts of the Respondents; that the Respondents introduced another policy on 31<sup>st</sup> May 2011 in which they provided the growth opportunities to its employees and to provide avenues for job enrichment and satisfaction, which policy fortunately also goes in favour of the Petitioners, but again they have been deprived from their legitimate and lawful rights. It is asserted that the absorption policy was amended by introducing another policy of recruitment, which was introduced on 27<sup>th</sup> September 2013, to the extent that the Petitioners were required to appear before the NTS Examination and were required to secure at least 35 percent marks for the successful completion of the probationary period for permanent absorption 50% marks in testing is the benchmark for fresh hiring and 35 weightage is given for promotion of regular executives. It is further averred that in order to create trouble and block the sound career of the Petitioners, the Respondents have introduced another absorption policy, which has been approved in the month of February 2017 by the Board of Directors, for making fresh recruitments, and has enhanced the criteria from 35 percent

to 60 percent marks, for that purpose, the Petitioners are required to appear before the NTS examination and to secure at least 60 percent marks for the successful completion of the probationary period for permanent absorption 60% marks in testing is the benchmark for fresh hiring and have dropped weightage for promotion of regular executives. Petitioners being aggrieved by and dissatisfied with the purported policy by enhancing the criteria from 35 percent to 60 percent marks with malafide intention to deprive the Petitioners from their jobs, has approached this Court.

3. Upon notice, Respondents-Company filed comments and denied the allegations leveled against them.

4. Mr. Malik Naeem Iqbal, learned counsel for the Petitioners in C.P No.D-4422 of 2017 contended that the Petitioners at the time of filing of the captioned petition, were serving in the Respondent-Company on contract basis; that the Petitioners were eligible for permanent absorption under policy dated 27.09.2013 for absorption of executives on contract; that the Petitioners were put in process for permanent absorption pursuant to policy dated 27.09.2013; that as per 2013 policy, Petitioners secured more than 35% marks in NTS held on 19<sup>th</sup> February, 2017, thus, qualified for permanent absorption in accordance with the said Policy exactly in same manners in which their colleagues were regularized; that the Respondent-Company after conducting of NTS test on 19.2.2017, increased qualifying marks from 35% marks to 60% marks in the NTS test for permanent absorption of the Petitioners with retrospective application, which is mala fide action of the Respondent-Company and not sustainable in law and merely to deny and the Petitioners are bound to qualify NTS at 60% and no

such Policy has been produced by them before the Court except oral submission. He further contended that it is consistent practice of Respondent-Company to hire Executives on contract basis and thereafter regularized them. He further contended that the contractual Executives cannot be subjected to discriminatory treatment rather uniform policy for absorption is to be followed; that Petitioners are entitled for similar treatment in respect of absorption/regularization under which their similarly placed colleagues have been regularized / absorbed; that the Petitioners did appear in NTS test, yet they could not qualify the same by securing 35 marks (except some petitioners No.5, 6, 8 & 11) yet the Respondent-SSGCL did not terminate them from service rather continued their service and given them opportunity for next test; that the Respondent-Company cannot now turn around and say that since it has enhanced the criteria as such unless Petitioners qualify the same they cannot be absorbed/regularized; that the Respondent-Company cannot deny benefits available to its employees under previous policy by introducing a discriminatory policy with mala fide intentions.

5. Mr. M.A.K Azmati, learned counsel for the Petitioners in C.P No.D-3759/2017 has argued that the methodology adopted by the Respondents is denial of legal rights of the Petitioners; that the terms and conditions formulated by the Respondents are in derogation of the fundamental rights of the Petitioners as guaranteed in the Constitution, 1973; that the powers exercised and abused by the Respondents are void ab-initio as such are liable to be annulled; that the Petitioner is being discriminated in the employment and inspite of working on permanent post is compelled to remain on contract; that the Respondents avoiding to

declare regularization of the Petitioners/employees beside the fact, the Petitioner has attained the status of a permanent employee, but still unlawfully he has been deprived of his legal rights; that the steps and the actions of the Respondents are tainted with ulterior motives as such are unsustainable; that imposing the terms prejudicial to the fundamental rights are void ab-initio, therefore, liable to be set aside.

6. On the other hand Mr. Asim Iqbal, learned counsel for Respondent No.2 argued that Respondent-Company is a Public Limited Company, which was incorporated under the Companies Act, 1913 (now the Companies Ordinance, 1984) and is engaged in the business of transmission and distribution of natural gas to the Province of Sindh and Baluchistan and is managed by a Board of Directors for policy guidelines and overall control under the provisions of Companies Ordinance, 1984 and has its own Memorandum and Articles of Association. He next contended that Respondent-Company does not perform functions connected with the affairs of the Federation, Province and Local Authority. According to him, the disputed facts involved in the instant Petitions require recording of evidence, which cannot be done in a Constitutional Petition. He added that SSGCL Service Rules are not statutory, as such, the relationship between "SSGCL" and the Petitioners is that of "Master and Servant"; that Petitioners have no right to agitate their service grievances before this Court under Article 199 of the Constitution of Pakistan, 1973 hence, petitions are not maintainable; that the contractual obligations cannot be enforced through constitutional petition; that the Petitioners were serving in the Respondent-Company in accordance with the terms and conditions of the service contract duly entered/accepted by

both the parties and at present the said employment contract has been concluded and the said relationships have come to an end; that the contract between the parties was always extended or renewed with consent of the parties as no any contract can come into force on the will of a single party; that the management of the Respondent-Company has the exclusive right to determine terms and conditions of employees and determine number of the employees in particular category; that Petitioners were given multiple chances to prove their eligibility and capability for absorption in the career employment; but, they have not met the prerequisites criterion; that for recruitment in the company service the educational qualifications and standards are settled by the Respondent-Company and the company alone can decide regarding the qualifications and other criterion required for the purpose of permanent employment, such as, clearing of aptitude test, performance rating of at least "Meet Expectation", Evaluation and Recommendation by Interview Committee, at least 12 months continuous service with the company and achieving 60% aggregate marks for consideration of absorption into permanent cadre and the Petitioners have not met with the required criteria for recruitment; that it is the discretion of the Respondent-Company to select the ones with higher marks in the NTS written test as well as complying with the other criterion meant for the same and the Respondent-Company selected among all those who appeared for the NTS written test as those all were also meeting the other criterion set by the Respondent-Company; that several employees have qualified for the absorption after meeting all the laid down criterion and only a few contract employees (petitioners, etc.) who have failed time and again to meet the laid down merit based

criteria. He further contended that it is the prerogative of the company to enhance the qualification as per service rules. He lastly prayed for dismissal of both the petitions. The learned counsel relied upon the cases of Nagina Bakery versus Sui Southern Gas Ltd and Others (2001 CLC 1559), Abdul Wahab and others versus HBL and others (2013 SCMR 1383), Saleemullah Khan versus Shahid Hamid and others (2010 PLC CS 888), Abdul Hameed versus Ministry of Housing and Works Government of Pakistan, Islamabad and others (PLD 2008 SC 395), Mumtaz Ali Narai versus Chief Secretary Government of Sindh and others (2008 PLC CS 255), Muhammad Zakir Khan versus Government of Sindh and others (2004 SCMR 497), Government of Pakistan through Establishment Division Islamabad and others versus Hameed Akhter Niazi, Academy of Administrative Walton Training Lahore and others (PLD 2003 SC 110), Dr. Ilyas Qadeer Tahir versus Secretary M/O Education (Now M/O CADD, Islamabad and others (2014 SCMR 997), Pakistan International Airlines Corporation and others versus Tanveer-ur-Rehman and others (PLD 2010 SC 676), Syed Nazeer Gillani versus Pakistan Red Crescent Society and others (2014 SCMR 982), Defence Housing Authority Versus Lt. Col Syed Javaid Ahmed ( 2013 SCMR 1707), PIA Corporation versus Syed Suleman Alam Rizvi and others (2015 SCMR 1545), and unreported order dated 18.10.2017 passed by this court in C.P No.D-1547 of 2016, PTCL & others Vs. Masood Ahmed Bhatti & others, (2016 SCMR 1362) and Chairman NADRA, Islamabad & another Vs. Muhammad Ali shah & others (2017 SCMR 1979) and argued that this Court cannot alter and / or amend the terms of Regularization that were offered to the Petitioners.

7. The learned Assistant Attorney General, representing Respondent No.1 has adopted the arguments of the learned counsel for the Respondent-Company.

8. We have heard learned Counsel for the parties, perused the material available on record and case law cited at the bar.

9. Firstly we would address the question of maintainability of instant Petitions under Article 199 of the Constitution. The Respondent-Company as per its profile is a State enterprise incorporated under the Companies Ordinance, 1984 and has an authorized capital of Rs.10 billion, of which Rs.6.7 billion is issued and fully paid up capital. The Government and other State entities jointly own more than 67% of shares of Respondent-Company and 11 out of 14 Directors on its Board are nominees of the Government. Aforesaid status of Respondent-Company is confirmed from the decision of the Hon'ble Supreme Court of Pakistan in the case of Khawaja Muhammad Asif vs. Federation of Pakistan (PLD 2014 SC 206).

10. The Respondent No.2 is indeed a Company, which is performing function in connection with the affairs of Federation and as such, is amenable to Constitutional jurisdiction of this Court. Mere fact that it is a Company limited by shares and registered under the Companies Ordinance, 1984 is not sufficient to hold that Constitutional petition against it is not maintainable. The registered companies funded by the Federation or Province fall under the dominative control of the State and constitutional jurisdiction under Article 199 of the Constitution, 1973 could be invoked against them. We are fortified by the decision rendered by

the Honorable Supreme Court of Pakistan in the case of Ramna Pipe and General Mills (Pvt.) Ltd v. Sui Northern Gas Pipe Lines (Pvt.) (2004 SCMR 1274). The aforesaid view is further affirmed in the cases of Pakistan Defence Housing Authority & others vs. Lt. Col. Syed Jawaid Ahmed (2013 SCMR 1707), Abdul Wahab and others v. HBL and others (2013 SCMR 1383), Salahuddin v. Frontier Sugar Mills and Distillery Ltd. (PLD 1975 SC 244), Aitcheson College, Lahore through Principal v. Muhammad Zubair (PLD 2002 SC 326), Pakistan International Airlines v. Tanweer-ur-Rehman (PLD 2010 SC 676), Pir Imran Sajid and others Vs. Managing Director/General Manager (Manager Finance) Telephone Industries of Pakistan and others (2015 SCMR 1257), and Pakistan Defence Housing Authority & others vs. Mrs. Itrat Sajjad Khan and others (2017 SCMR2010).

11. In the light of the aforesaid judgments of the Honorable Supreme Court of Pakistan, the objection of maintainability of the captioned constitutional petitions is not sustainable in law and is accordingly rejected.

12. In the matter of regularization of service of the Petitioners, we seek guidance from the unreported case of M/s Hadeed Welfare Trust & another vs. Syed Muhammad Shoaib & others rendered by the Honorable Supreme Court of Pakistan in Civil Petitions No.121-K and 122-K of 2017, wherein the Honorable Supreme Court has maintained the Judgment dated 15.12.2016 passed by this Court against Hadeed Welfare Trust (A subsidiary of Pakistan Steel Mills) reported in 2017, PLC (C.S.) 1020, whereby contract

employees of Pakistan Steel Cadet College were regularized as under: -

*“3. The other pretext for not regularizing the respondents was that the office memo dated 29.8.2008, issued by the respondent No.26 (Federation of Pakistan), which required regularization of the service of the employees of the Federal Ministries/Divisions/ Attached Departments, Subordinate offices, Autonomous, Semi-Autonomous Bodies/Corporations, was for the benefit of employees in BS-1 to BS-15, and is not applicable to the present respondents, however, in so pleading the present petitioners have ignored the minutes of the meeting of the Cabinet Committee dated 07.2.2011 and minutes of the meeting of the Cabinet sub-committee on regularization, inter alia, of contract employees in Ministries/Divisions/Attached Department / Autonomous Bodies/Organizations held on 13.3.2013, relevant paragraphs whereof, for the ease of reference are reproduced below: -*

**“MINISTRY OF PRODUCTION**

*236. The representative of the Ministry of Production/Secretary Pakistan Steel Mills informed the Cabinet Sub-Committee that there are certain contract/daily wages employees in the Cadet College and other educational institutions of the Steel Mills at Karachi who have served for more than one year and whose services are required to be regularized.*

**DECISION**

*237. The Cabinet Sub-Committee discussed and directed that the services of all the contract/daily wages employees (teaching and non-teaching staff) of the Cadet College and other educational institutions of Pakistan Steel Mills Karachi, who have served for more than one year should be regularized subject to fulfillment of criterion and availability of posts under intimation to the Establishment Division.”*

*4. As can be seen from the forgoing, the above decision is not restricted to any scale or grade, and no such restriction can be read therein by any stretch of imagination and is therefore equally applicable to the employees of all grade*

*and scales including the present respondents, who were thus rightly granted such relief through the impugned judgment. We therefore do not find any lacuna in the impugned judgment justifying our interference in the matter, the petitions are therefore dismissed.”*

13. On the issue of regularization in service, our view is further strengthened by the judgment of this Court dated 01.6.2017 passed in Constitutional Petitions No.D-3199, D-4605 and D-5079 of 2013 respectively and D-509, D-2034, and D-1091 of 2014 respectively, whereby Pakistan State Oil Company was directed to regularize the services of third party contractor/ “outsourced employees”.

The aforesaid Judgment was assailed before the Honorable Supreme Court of Pakistan in Civil Petitions No.409-K to 414-K of 2017, which maintained the same and held as under: -

*“As regards the question that the respondents were not the employees of the petitioner but the contractor, suffice it to say that it is a normal practice on behalf of such industries to create a pretence and on that pretence to outsource the employment of the posts which are permanent in nature and it is on the record that the respondents have been in service starting from as far back as 1984. This all seems to be a sham or pretence and therefore it being not a case of any disputed fact and no evidence was required to be recorded. Moreover, we have seen from the order under challenged that in such like cases where the orders have been passed by the Labour Tribunals, the employees, even those who were under the contractors’ alleged employment, have been regularized by the petitioner. And thus keeping in view the rule of parity and equity, all the respondents even if considered to be the employees of the contractor, which is not correct, they having been performing duties of permanent nature should have been regularized. However, at this stage, we would like to observe that the employment of the respondents shall be regularized with effect from the date when they approached the learned High Court through the Constitution petition but for their*

*pensionary benefit and other long terms benefits, if any, available under the law, they would be entitled from the date when they have joined the service of the petitioner. All the petitions are accordingly dismissed.”*

14. From what has been discussed above, we have reached the conclusion that submissions of Respondent-Company are misconceived and not well founded. The regularization of the employees is not part of the terms and conditions of service of the employees for which statutory rules are required, but it depends upon the length of service. And, it is on the above principle that Petitioners have approached this Court for regularization of their service under Article 9 and 25 of the Constitution of Islamic Republic of Pakistan. We are fortified by the observation made by the Hon'ble Supreme Court of Pakistan in the case of Khawaja Muhammad Asif vs Federation of Pakistan & others (2013 SCMR 1205).

15. It is asserted by the learned Counsel for the Petitioners that the Petitioners were earlier “outsourced employees” of Respondent-Company in years 2000, 2003, 2006 and 2009; that subsequently the Petitioners were appointed in the year 2010, 2011, 2012 and 2013 as in Grade-I, II and III on contract basis for a period of two years as per terms and conditions set forth in the contract appointment; that as per record the contract continued till Petitioners were asked to appear in the NTS test as per the company policy; that the Petitioners secured more than 35% qualifying marks in the NTS Test held on 19.2.2017, but were declared unsuccessful and on 30.6.2017 their contract appointment came to an end without further renewal, except Petitioner No.8 in C.P. No.D-4422 of 2017. Record shows that

performance of the Petitioners in the Respondent-Company has not been called in question throughout their service period by the Respondent-Company.

16. We have perused the noting sheet dated 20.2.2017, which provides criteria, weightage and minimum eligibility of the policy i.e. (a) PMS rating 35%, (b) Aptitude Test 35% (c) Interview Evaluation 20% and (d) Service Tenure 10%, minimum eligibility score 60 marks. As per 2013 policy, Petitioners have secured more than 35% marks in NTS held on 19<sup>th</sup> February, 2017 and are entitled to permanent absorption in accordance with the said policy in the manner identical to the one adopted to regularize their colleagues.

We are not satisfied with policy of the Respondent-Company under which 35% qualifying marks in NTS were increased to 60% marks for permanent absorption; that no policy framed in 2017 enhancing the benchmark from 35% to 60% for qualifying NTS test has been brought on the Court record, even otherwise, any subsequent change in criteria could not be applied retrospectively to the serving employees who were subjected to 2013 Policy. The said conduct of the Respondent-Company is clearly reflecting discriminatory treatment to the Petitioners, which is not sustainable in the eyes of law.

We are of the considered view that Petitioners are entitled to similar treatment which was given to their similarly placed colleagues for their regularization and absorption and the Respondent-Company cannot act whimsically while making fresh appointments against the posts already held by the Petitioners, who were appointed in a transparent manner and nothing adverse

in terms of qualification and character and/or inefficiency in the subject field was observed by the Competent Authority of the Respondent-Company during their entire period of service.

We have noted that the Petitioners served the Respondent-Company for a period ranging from 5 years to 17 years (including the period of employees of third party contractor) as per details mentioned in paragraph 2 of the memo of petition in CP No.D-4422 of 2017. The said period of service is more than sufficient to acquire expertise in respective fields. Therefore, considering others while ignoring the Petitioners is unjustified and against the principles of natural justice and equity.

We have gone through the Office Memorandum dated 11<sup>th</sup> May, 2017 issued by Government of Pakistan, Cabinet Secretariat, Establishment Division and excerpt of the same is reproduced herein below: -

**Government of Pakistan  
Cabinet secretariat  
Establishment division**

No.F-53/1/2008-SP      Islamabad the 11<sup>th</sup> May, 2017

**OFFICE MEMORANDUM**

Subject:- **Amendment in the Recruitment Policy/Mechanism to Ensure Merit Based Recruitment in the Ministries/Divisions/Sub-ordinateOffices/Autonomous/Semi-Autonomous Bodies/Corporations/Companies/Authorities**

*The undersigned is directed to state that the Federal Cabinet in its meeting held on 12<sup>th</sup> April, 2017 has accorded approval of the subject amendment to be inserted as para 1(e) in the Recruitment Policy/Mechanism issued vide this Division's O.M. No.531/2008-SP dated 16<sup>th</sup> January, 2015 as under: -*

*“(e) Appointment on Regular Basis of Contract/ Contingent/ Paid/ Daily Wages/Project Employees For the purpose of appointment on regular basis of Contract/ Contingent/ Paid/ Daily Wages/Project employees the following criteria shall be observed: -*

*(i) All Contract/Contingent/Paid/Daily Wages/ Project employees who have rendered a minimum of one year of service in continuity, as on 1.1.2017 (hereinafter referred to as eligible employees) may apply for appointment on regular basis in the manner prescribed hereinafter provided that the condition of continuity shall not be applicable in case of person(s) employed on daily wages who have completed at least 365 days service.*

*(ii) For initial appointment to posts in BS-16 and above, the employees shall apply direct to FPSC against relevant/suitable vacancies as and when arising for which they are eligible.*

*(iii) For initial appointment to posts in BS-1 to BS-15, the eligible employees may apply as per criteria given vide this Division’s O.M. No.531/2008-SP dated 16.1.2015 and 3.3.2015 shall be adopted.*

*(iv) The eligible employees shall be awarded extra marks in interview at the rate of one (01) mark for each year of service rendered upto a maximum of five (05) marks, on the recommendation of the respective selection authorities.*

*(v) The period served as Contract, /Contingent/Paid/Daily Wages/Project employees shall be excluded for the purpose of determination of upper age limit in addition to relaxation of upper age limit as per existing rules.*

*(vi) Qualifications prescribed for a post shall be strictly followed in case a person does not possess the prescribed qualifications/experience for the post he/she is applying for he/she shall not be considered for the same.*

*(vii) The employees must be in good mental and bodily health and free from any physical defect likely to interfere with the discharge of his duties unless appointed against disability quota.*

*(viii) The advantage of para 1(e) is a one-time dispensation for all Contract/Contingent/Paid/Daily Wages/Project employees for their eligibility to regular appointment.*

*2. This Division's O.M. of even number dated 16<sup>th</sup> January, 2015 is modified to the above extent. All Ministries/Divisions are requested to take further action accordingly.*

*(Attiq Hussain Khokhar)*  
*Director General*  
[Tel:051-9103482](tel:051-9103482)

*All Ministries/Divisions*  
*Rawalpindi/Islamabad"*

17. The above Memorandum dated 11<sup>th</sup> May, 2017 is issued in pursuance of the decision of the Cabinet Sub-Committee for regularization vide which the Federal Government has directed Ministries/ Divisions / Sub-ordinate Offices / Autonomous / Semi-Autonomous Bodies / Corporations / Companies / Authorities to regularize all Contract employees who have rendered a minimum of one year of service in continuity as on 01.01.2017.

18. We are of the view that the Petitioners are fully entitled to the benefit contained in the aforesaid Office Memorandum because they are in continuous service of the Respondent-Company for long time and are paid salary as well.

19. The case of the Petitioners is fully covered by the Judgment rendered in the case of Pir Imran Sajid and others Vs. Managing Director/General Manager (Manager Finance) Telephone Industries of Pakistan and others (2015 SCMR 1257). We are further fortified on the similar principle by the case law decided by learned five Members' Bench of the Hon'ble Apex Court in the case of Government of Khyber Pakhtunkhwa and others Vs. Adnanullah and others (2016 SCMR 1375), wherein the Hon'ble Supreme Court has held at paragraph 31 as reproduced below:-

*“The record further reveals that the Respondents were appointed on contract basis and were in employment/service for several years and Projects on which they were appointed have also been taken on the regular Budget of the Government, therefore, their status as Project employees has ended once their services were transferred to the different attached Government Departments, in terms of Section 3 of the Act. The Government of KPK was also obliged to treat the Respondents at par, as it cannot adopt a policy of cherry picking to regularize the employees of certain Projects while terminating the services of other similarly placed employees.”*

20. The case law cited by the learned Counsel for the Respondent-Company is not applicable to case in hand.

21. In the light of facts and circumstances of the case discussed above and decisions rendered by the Honorable Supreme Court in the aforesaid cases, the instant Petitions are hereby disposed of with direction to the Managing Director/Competent Authority of Respondent-Company to consider case of the Petitioners for regularization of their service in accordance with law and dicta laid down by the Hon'ble Supreme Court of Pakistan in the cases referred to hereinabove.

JUDGE

JUDGE

Karachi  
Dated: 19.01.2018.

**Shafi Muhammad /PA**