

IN THE HIGH COURT OF SINDH AT KARACHI

Present:
Irfan Saadat Khan, J.
Agha Faisal, J.

CP D 4095 of 2012 : Naimat Ali Khushk & Others vs.
Federation of Pakistan & Another

For the Petitioners : Mr. Syed Nadeem-ul-Haq, Advocate

For the Respondents : Mr. Muhammad Nishat Warsi
Deputy Attorney General

Mr. Muhammad Imran Baig, Advocate

Date/s of hearing : 16.12.2021

Date of announcement : 17.12.2021

ORDER

Agha Faisal, J. The petitioners, claiming to have been third party contractual employees until 2010, seek reinstatement and regularization in Pakistan Steel Mills (“PSM”); hence, this petition.

2. Per petitioners’ counsel no contacts whatsoever were entered into by PSM with the petitioners; however, they were issued gate passes from time to time. It was averred that the collective bargaining union, not arrayed herein, had entered into an agreement with PSM pursuant whereof the petitioners ought to have been regularized.

3. Learned Deputy Attorney General submitted that the petition is not maintainable as *inter alia* PSM does not have statutory rules; reinstatement is sought demonstrating that even the alleged contracts, albeit with third parties, were not valid; and that alternate remedy ought to have been exercised, inclusive of that pursuant to the IRA.

4. Heard and perused. Admittedly there never was any privity between the petitioners and PSM. No appointment letter / contract has been placed on the record and per petitioners’ counsel none ever existed. Even if the petitioners were employed by third party contractors,

no document in such regard was identified before us. Therefore, it appears safe to observe that the petitioners' counsel has been unable to demonstrate any entitlement of the petitioners to the relief claimed.

5. The august Supreme Court has maintained in *Khushal Khan*¹ that the High Court lacked jurisdiction to revive, amend or alter contracts; there was no vested right to seek regularization for employees hired on contractual basis unless there was legal and statutory basis for the same; contractual employees had no automatic right to be regularized unless the same has specifically been provided for in a law; and that the relationship of contractual employees is governed by principles of master and servant.

A Division Bench of this Court has held in *Anjum Badar*² that contractual employees had no vested right for regular appointment or to seek regularization of their services, hence, were debarred from invoking the constitutional jurisdiction of this Court.

In the present case no contracts were ever before us, hence, no deliberation was ever merited in such regard.

6. It is settled law that contractual employees are devoid of any generic entitlement for regularization³. In the present case the petitioners did not claim to be contractual employees of PSM and failed to demonstrate any contractual relationship whatsoever, even with any third party having nexus with PSM. Petitioners' counsel has been unable to identify any specific law conferring any right upon the petitioners to be considered for regularization⁴. Even if the petitioners did have contracts, since expired, with third parties, any claim in pursuance thereof may lie, if at all, with respect to parties privy thereto and not with respect to

¹ Per *Ijaz ul Ahsan J* in *Khushal Khan Khattak University & Others vs. Jabran Ali Khan & Others* reported as 2021 SCMR 977.

² Per *Nadeem Akhtar J* in *Anjum Badar vs. Province of Sindh & Others* reported as PLD 2021 Sindh 328.

³ Per *Ijaz ul Ahsan J* in *Govt of KPK vs. Jawad Ali & Others* reported as 2021 SCMR 185; Per *Mansoor Ali Shah J* in *Province of Punjab vs. Dr. Javed Iqbal* reported as 2021 SCMR 767; Per *Ijaz ul Ahsan J* in *Owais Shams Durrani vs. Vice Chancellor Bacha Khan University* reported as 2020 SCMR 2041; Per *Miangul Hassan Aunrangzeb J* in *First Womens Bank vs. Muhammad Tayyab* reported as 2020 PLC (C.S.) 86.

⁴ Per *Ijaz ul Ahsan J* in *Govt of KPK Welfare Board vs. Raheel Ali Gohar & Others* reported as 2020 SCMR 2068;

others. It is, thus, our deliberated view that the petitioners have failed to set forth a case for exercise of the discretionary⁵ writ jurisdiction of this Court.

7. In view of the reasoning herein contained, we find that the present petition is devoid of merit, hence, the same (along with pending application/s) is hereby dismissed.

JUDGE

JUDGE

⁵ Per *Ijaz Ul Ahsan J.* in *Syed Iqbal Hussain Shah Gillani vs. PBC & Others* reported as 2021 SCMR 425; *Muhammad Fiaz Khan vs. Ajmer Khan & Another* reported as 2010 SCMR 105.