

ORDER SHEET  
HIGH COURT OF SINDH, CIRCUIT COURT,  
HYDERABAD

**C.P No.D-2150 of 2019**

(Khalil-ur-Rehman & Ors versus Federation of Pakistan & Ors)

**Before:**

Mr. Justice Muhammad Iqbal Kalhoro

Mr. Justice Adnan-ul-Karim Memon

Petitioners : In person

Respondents : Through Mr. Ashfaque Nabi Qasi, Asstt. A.G  
along with Shahnawaz Memon, Assistant  
Director PCRWR M/o Science & Technology

Date of hearing & decision : 02.12.2021

**ORDER**

\*\*\*

**ADNAN-UL-KARIM MEMON, J.** - Through this petition, the petitioners are seeking directions to the respondents to regularize their services in the project i.e. Provision of Safe Drinking Water, taken over on the non-development side without discrimination.

2. Petitioners present in person, have submitted that respondent No.2 initiated a development project with the name "Provision of Safe Drinking Water" (**Project**) in the year 2006 and appointed the petitioners on contract basis against various posts in the year 2010 to 2012 and posted them in Sindh Province at different locations and continued with their services till 2015; and in the same year their salaries were stopped without any notice and /or reason; that respondent-ministry has regularized the services of 158 employees of the project, whereas they have been left out only. Per petitioners the aforesaid project has now been taken over on the non-development side with budgetary allocation; and now they have been discriminated; that the respondents are reluctant to consider their case for the same treatment as meted out with their colleagues.

3. Mr. Ashfaque Nabi Qasi learned Assistant Attorney General has opposed the petition and raised the question of maintainability of the instant petition and argued that the project was initiated in the year 2006 for five years; however, the same was extended from

time to time and was finally completed on 31.12.2015. He next argued that the petitioners were specifically appointed for the project, which had already been completed, and there was no commitment for conversion of development project employees to non-development side. He also argued that so far as terms and conditions of appointment letters are concerned, the same relates to regular / permanent employees and not for the employees for the project side. He further argued that the respondents have tried their level best to seek approval of the competent authority for transfer of posts to non-development side; however, only 158 posts could be approved. He lastly argued that the petitioners are not on the payroll of respondents, therefore, they cannot claim vested right for regularization of their services, as such petition is liable to be dismissed.

4. Heard the parties and perused the material available on record.

5. Firstly, the issue of maintainability is to be resolved, in our view this petition is maintainable and can be heard and decided on merits on the ratio of judgment passed by Honorable Supreme Court in the case of Messrs State Oil Company Limited vs. Bakht Siddiq and others (2018 SCMR 1181).

6. Admittedly the petitioners were appointed on contract basis against various posts of the project as discussed supra. The project was established, managed, and controlled by the respondent Council. The Council was established under the Act of 2007 and, therefore, the terms and conditions of the petitioners are governed under the Act of 2007. It is also admitted by the respondents in their comments that the petitioners were appointed against the project posts till the life of project, therefore, when the project completed its life on 31.12.2015, some of the colleagues of the petitioners were transferred to non-development side with the approval of competent authority, but unfortunately the number of posts sought i.e. 200 were not approved by the competent authority, hence only 158 employees of the project were accommodated on non-development side with budgetary allocation.

7. Prima facie, the petitioners have the requisite length of service and they have been working on the project, now on the non-development side and the colleagues of the petitioners have

already been recommended for regularization of their services, even some of them by order of learned Bench of Islamabad High Court in the year 2019, against the approved available posts. Keeping in view the rule of parity and equity, they having been performing duties of permanent nature ought to have been regularized on the basis of strength of their respective service along with their colleagues.

8. Similar issue came under consideration before the Honorable Supreme Court in Civil Appeal No.1549/2014 vide order dated 24.5.2019 has observed that the above arrangement, in the facts and circumstances of the case, is merely a vehicle of oppression and exploitation of the poor helpless employees, who on account of widespread unemployment, economic and social disparities and for their bare survival, are compelled to accept the job offered to them suiting the organization. The similar view was also taken into the consideration by the Honorable Supreme Court in the case of M/s. State Oil Company Limited vs. Bakht Siddiq and others (2018 SCMR 1181); therefore the stance of the Respondents cannot be taken into consideration in the light of findings of Honorable Supreme Court in the aforesaid judgments.

9. Primarily the case of the petitioners is based on discrimination, as the competent authority, vide letter dated 25.02.2016 sanctioned the conversion of 158 posts of the project to non-development side / current budge with effect from 1<sup>st</sup> January 2016. We have also noticed that the colleagues of the petitioners even appointed in the year 2010 and 2012 have been regularized vide minutes of DPC / DAC for regularization. On the issue of parity, we are of the considered view that Petitioners are entitled to similar treatment as given to their similarly placed colleagues for their regularization and the respondents cannot act in whimsical and arbitrary manner. As per record nothing adverse against them in terms of qualifications, character and performance in their respective fields was observed by the Competent Authority during their entire period of service.

10. On the issue of regularization in service, the case of the Petitioners is fully covered by the Judgments rendered by the Honorable Supreme Court in the cases of Pir Imran Sajid and others Vs. Managing Director/General Manager (Manager Finance), Telephone Industries of Pakistan and others (2015 SCMR 1257),

Government of Khyber Pakhtunkhwa and others vs. Adnanullah and others (2016 SCMR 1375), Board of Intermediate and Secondary Education, D.G. Khan and another Versus Muhammad Altaf and other (2018 S C M R 325), Abdul Ghafoor and others versus the President National Bank of Pakistan and others (2018 SCMR 157) and Board of Intermediate and Secondary Education, Multan through Chairman and another Versus Muhammad Sajid and others (2019 SCMR 233).

11. In the light of facts and circumstances of the case as discussed above and the decisions rendered by Honorable Supreme Court in the aforesaid cases, the instant Petition is hereby disposed of with direction to the Competent Authority of the Respondents to consider the case of the Petitioners for regularization of their service, more particularly in the same analogy as decided by the Hon'ble Supreme Court of Pakistan in the case of Messrs State Oil Company (supra). This exercise shall be undertaken within a period of two months from the date of receipt of this judgment and compliance report be submitted through Additional Registrar of this Court.

JUDGE

JUDGE

Sajjad Ali Jessar