

**IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD**

Before:

Mr. Justice Muhammad Iqbal Kalhoro
Mr. Justice Adnan-ul-Karim Memon

C.P. No. D- 3305 of 2018

Shahrukh ul Hassan and others

VERSUS

Province of Sindh & others

Mrs. Shahida Ghani, Advocate for Petitioner
Mr. Allah Bachayo Soomro, Addl.A.G.

Date of hearing
& decision: **8.9.2022**

ORDER

ADNAN-UL-KARIM MEMON, J. Through instant petition, the petitioner has prayed as under:

- a. Declare that the fresh appointment by the authority/department, by leaving the petitioners, who already worked since last many years, is illegal vide ab-initio and without lawful justification, further declare that petitioners having first right of regular appointments.
- b. Declare that the act of the respondents restraining the petitioners from their legitimate, legal, and constitutional rights to perform their duties in their offices and positions are illegal and unlawful.
- c. That this Honourable Court may kindly be pleased directed to the respondents to regularized / permanent service of the petitioners along with back benefits in the light of bill / act passed by provincial Assembly of Sindh of March 2013, as they are working since 2011.
- d. That, this Honourable Court may kindly be pleased to restrain to the respondents not to take any coercive action against the service of the petitioners.
- e. That, this Honourable Court may be pleased to direct the respondents not to stop the salaries of the petitioners henceforth without any legal and lawful reason.

2. Mrs. Shahida Ghani learned counsel for the petitioners has submitted that the petitioners were appointed on a contract basis in Hyderabad Development Authority (H.D.A.) and that the petitioners worked honestly and efficiently on their posts, hence their contracts were extended and given performance certificates, but they were not regularized even though several other employees were regularized on political basis; that in the year 2013 Sindh Assembly passed Bill / Act for regularization of contract /

Adhoc Employees and as provided understanding order VI of 1968 after the expiry of 9 months an employee attains the status of permanent workman but the above benefits have not only been denied to the petitioners but subsequently were removed from service without any warning/notice. In support of her contention, learned counsel relied upon the cases of **Board of Intermediate and Secondary Education, Faisalabad v. Tanveer Sajid and others** (2018 SCMR 1405), **Mst. Nazia Munir v. Government of Punjab** (2019 PLC (C.S) 1077), **Board of Intermediate and Secondary Education DG Khan and another v. Muhammad Altaf and others** (2018 SCMR 325), **Messrs State Oil Company Limited v. Bakht Siddique and others** (2018 SCMR 1181), **Syed Muhammad Shoab and others v. Federation of Pakistan and others** (SBLR 2017 Sindh 443), **Muhammad Jan and 3 others v. The Government of Balochistan** (2017 PLC (C.S.) 1471), **Qayyum Khan v. Divisional Forest Officer, Mardan** (2016 SCMR 1602), **Matiullah and 16 others v. General Manager, Pakistan International Airline, Quetta and another** (2012 PLC 202), **Muhammad Munir Ahmed v. Govt. of Pakistan** (NLR 1992 Service 98), unreported order dated 22.8.2022 passed by Honourable High Court in CP No. 7684 of 2019 & others; Notification dated 11.5.2018, Compliance report dated 27.5.2021 submitted SBCA for regularization.

3. We have heard learned counsel for the parties on the point of maintainability of these petitions, and perused the material available on record and the case-law cited at the bar.

4. We have been informed that the petitioners are not performing duties since 2016; perhaps they were relieved from contingency service by the respondent authority as no documentary proof has been provided to support that they are still working on their respective jobs. The basic concept of Adhoc and Contract appointments against the regular posts is a stopgap arrangement that is not permanent character. In our view, every post is required to be filled through the method prescribed by law not otherwise. In the present case, the petitioners were admittedly contractual employees of the respondent-authority, based on fixed remuneration; and thus have no vested right for regular appointment. So far as contract employment is concerned, In our view, a contract employee, whose period of contract employment expires by efflux of time, carries no vested right to remain in employment and this Court cannot force the respondent-authority to regularize or extend the contract period of the petitioners in writ jurisdiction.

5. It is well-settled now that regularization of the services of contract employees is always subject to availability of post and fulfillment of recruitment criteria, apparently, the petitioners have not initially been appointed openly and transparently through the prescribed competitive process. Besides it is well-settled law that a contract employee is debarred from approaching this Court in constitutional jurisdiction, in the light of the

law laid down by the Hon'ble Supreme Court of Pakistan in the cases of **Qazi Munir Ahmed v. Rawalpindi Medical College and Allied Hospital through Principal and others** (2019 SCMR 648), **Province of Punjab through Secretary Agriculture Department, Lahore, and others v. Muhammad Arif and others** (2020 SCMR 507) and **Miss Naureen Naz Butt v. Pakistan International Airlines and others** (2020 SCMR 1625).

6. That in view of the judgments of Hon'ble Supreme Court of Pakistan, there is no occasion for the detailed discussion by us on the question of maintainability of the instant Petition.

7. The petition and listed applications are disposed of with no order as to costs

JUDGE

JUDGE

Karar_hussain/PS*