

# IN THE HIGH COURT OF SINDH KARACHI

Before :

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

## **Constitutional Petition No.D-1786 of 2018**

(Muhammad Nasir & 11 others v. Federation of Pakistan and 02 others)

## **Constitutional Petition No.D-1247of 2018**

(Ghulam Asghar Narejo & 31 others v. Federation of Pakistan and 02 others)

Mr. Hakim Ali Khan, advocate for the petitioners

Mr. Sanallah Noor Ghouri, advocate for respondent  
No.2/Pakistan Steel Mill

Mr. Yasir Shah, Assistant Attorney General

Date of hearing  
& Decision: 10.01.2023.

## **ORDER**

**ADNAN-UL-KARIM MEMON, J.** – Through this common order, we intend to decide the present petitions as the controversy and questions raised, on behalf of the petitioners, are common.

2. The brief facts of the case are that the petitioners were initially appointed by Pakistan Steel Mills and presently performing their duties as non-teaching staff in the Education Department of Pakistan Steel in terms of letters of contracts issued by Hadeed Welfare Trust for the last many years and are seeking regularization of their contractual services on the strength of order dated 21.03.2017 passed by the Hon'ble Supreme Court of Pakistan in Civil Petition Nos.121-K and 122-K of 2017.

3. Respondents 2 and 3 filed their comments. Respondent No.2 in their comments raised the objections that the petitioners are employees of Hadeed Welfare Trust, while Hadeed Welfare Trust has taken the plea that the Office Memorandum issued by the Establishment Division for regularization of contract employees does not apply to petitioners.

4. Learned counsel for respondents No.2 & 3 has referred to the para-wise comments and submitted that the petitioners have no locus standi to file the instant petitions having been appointed on the contract basis. Learned counsel

referred to the judgments rendered by the Hon'ble Supreme Court of Pakistan in the case of Tanveer-ur-Rehman (PLD 2010 SC 676) PTCL v. Iqbal Nasir (PLD 2011 SC 132) and submitted that based on the ratio of the judgments passed by the Hon'ble Supreme Court of Pakistan, these petitions are liable to be dismissed.

5. When confronted with the order dated 21.03.2017 passed by the Hon'ble Supreme Court of Pakistan in Civil Petition Nos.121-K and 122-K of 2017, the learned counsel for Pakistan Steel Mills simply said that these petitions are not maintainable.

6. Prima facie, the case of petitioners is akin to the case of petitioners in the case of Syed Muhammad Shoaib and others v. Federation of Pakistan and others (SBLR 2017 Sindh 443). The decision of this Court was assailed before the Hon'ble Supreme Court of Pakistan in Civil Petition Nos.121-K & 122-K of 2017 and the same was upheld vide order dated 21.3.2017. An excerpt of the order dated 21.3.2017 is reproduced as under:

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

7. We have also taken guidance from another order dated 03.06.2019 passed by the Hon'ble Supreme Court of Pakistan in C.P Nos.575-K to 578-K and 590-K to 594-K /2018 whereby respondent-Pakistan Steel did not press the petitions on the ground that teaching staff had already been regularized, accordingly the petitions were dismissed as not pressed.

8. It may be noted that although the Colleges in question are permanent and are required to have permanent status, thus the staff which is working therein is required to have permanent status. However, the respondents have created the relationship between the petitioners and Hadeed Welfare Trust as master and servant to avoid regularization of their service through the issue has already been set at naught by the judgment rendered by this Court in Hafeez Junejo's case has been implemented in its letter and spirit. Additionally, the Hon'ble Supreme Court of Pakistan has already taken care of the issue of

regularization of service of teaching staff in the aforesaid cases, as such no further deliberation is required on our part.

9. So far as the issue of maintainability is concerned, the petitioners have not approached this court to challenge or enforce the terms and conditions of their service. It also makes no difference that PSM has no statutory rules of service as in the present case, the petitioners had approached this court for enforcement of the decision of the Hon'ble Supreme Court of Pakistan as discussed supra. In this regard, this court is competent to enforce the judgment passed by the Hon'ble Supreme Court of Pakistan in terms of Article 187 of the Constitution.

10. In view of the above, we feel no reluctance to hold that PSM and/or Hadeed Welfare Trust which is a subsidiary of PSM is amenable to the writ jurisdiction of this Court and these petitions are maintainable for the reasons that to enjoy the protection of the law and to be treated under the law is an inalienable right of every citizen in terms of Articles 3 and 4 of the Constitution. On the aforesaid proposition, we are guided by the decisions rendered by the Hon'ble Supreme Court of Pakistan in the case of *Ikram Bari* reported in **2005 SCMR 100**, *Imran Sajid v. Managing Director, Telephone Industries of Pakistan* (**2015 SCMR 1257**).

11. Based on our examination of the record, we are left in no manner of doubt that the respondents are causing discriminatory treatment with the petitioners which is violative of Article 25 of the Constitution of the Islamic Republic of Pakistan, 1973, which is a fundamental right and this Court under Article 199 of the Constitution can protect the fundamental rights of the citizens including the petitioners in service-related issues.

12. Accordingly, these petitions are disposed of in terms of **orders dated 21.03.2017 and 03.06.2019** passed by the Hon'ble Supreme Court of Pakistan in the aforesaid matters, with no order as costs.

**JUDGE**

**JUDGE**