

# IN THE HIGH COURT OF SINDH KARACHI

Before :

Mr. Justice Muhammad Iqbal Kalhoro

Mr. Justice Adnan-ul-Karim Memon

## **Constitutional Petition No.D-3946 of 2018** (*Moosa v. Federation of Pakistan and 07 others*)

Mr. Manzoor Hussain Khoso, advocate for the petitioner

Mr. Khalid Mehmood Siddiqui, advocate for respondent  
PIA

Date of hearing  
& Decision: 22.02.2023.

### **ORDER**

Through this petition, the petitioner has approached this Court for regularization of his contractual service in the Pakistan International Airline (PIA), *inter-alia*, on the ground that he was initially appointed in PIA in 1980 as a cleaner on daily wages/contract and he continuously performed his work and is now entitled to regularization of his service.

2. Mr. Manzoor Hussain Khoso, learned counsel for the petitioner, contended that regularization of the employee is not part of the terms and conditions of service as such the previous service rendered by the petitioner with effect from 1980 is required to be regularized. Learned counsel next submitted that the petitioner has given his entire life and youth to the respondent PIA, however, he has been ignored. So it is on that principle the petitioner has approached this court for regularization of his service just to enforce his fundamental rights in terms of Articles 9 and 25 of the Constitution of the Islamic Republic of Pakistan, 1973. In support of his contentions, he relied upon the cases of *State Oil Limited v. Bakht Siddique and others*, **2018 SCMR 1181**, and prayed for allowing the instant petition.

3. Mr. Khalid Mehmood Siddiqui, advocate for respondent PIA, has raised the question of maintainability of the instant petition and submitted that PIA employees are governed through non-statutory rules, thus the petitioner cannot invoke Constitutional Petition and this petition is also time-barred and hit the laches. Learned counsel submitted that the petitioner's application at page 17 and Airport Entry Pass at Page 23, reflect that his old NIC number and date of birth as 1958 which shows that his real age is 64 years, which disentitles him for any regularization as claimed; that the list annexed at page 31 clearly shows the status of petitioner as daily wage employee on 17.06.2003 and the cheques at page 33 and 35 have been issued by different contractors and other

documents do not reflect that the petitioner was ever employed with PIA; that the petitioner has not disclosed the date of his appointment, therefore, it is denied that the petitioner is continuously working in PIA; that relief claimed on the basis of order passed in CP No.D-1067/2003 is not sustainable as the said petition was dismissed with directions, whereas the petitioner was not a party in the said petition. Learned counsel also emphasized the plea that the petitioner has failed to point out any malafide intention or malice on the part of PIA against the petitioner which deprives him of the alleged right of permanent absorption in PIA, though his contract is required to be governed through third-party-contractor to avoid regularization of service as PIA cannot engage the service of employees permanently so far as the petitioners are concerned.

4. We have heard learned counsel for the parties, and have also perused the material available on record.

5. Petitioner claims that he is still working in PIA, whereas the respondent refuted the claim on the ground that as per his old CNIC No. his date of birth is disclosed as 1958 which shows that his real age is 64 years, however, the petitioner states that his date of birth is 1968. If this is the stance of the parties, the question arises whether the petitioner was inducted in service in 1980 at the age of 12 years, if his age is accepted as 1968, whereas if his age is counted from 1958 he has crossed the age of 64 years, which disentitles him for the benefit of regularization of his service as he had already reached the superannuation i.e. 60 years long ago.

6. In the present case, the petitioner has not established that his cause still subsists for regularization of his service after crossing the age of 60 years for the reason that regularization and permanent absorption must be granted strictly under the rules of recruitment in force, whereas petitioner's initial appointment in PIA has been disputed by the respondent on the premise that petitioner failed to produce any documents to suggest that he was ever employed by PIA management.

7. In view of the above discussion, the petition is not maintainable either on facts or in law for the reason that the parties have raised disputed questions, thus we are not inclined to entertain this petition under Article 199 of the Constitution, leaving the petitioner at liberty to approach the competent forum for redressal of his grievances. The instant petition stands dismissed along with the pending application(s) with no order as to costs.

**JUDGE**

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