

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

CP D 1634 of 2023

Order with signature of Judge(s)

1. For orders on CMA No.8116/2023.
2. For orders on CMA No.8117/2023.
3. For orders on CMA No.8118/2023.
4. For hearing of main case.

30.03.2023

Mrs. Humaira Nadeem Rana, Advocate for the petitioner.

1. Granted. 2. Granted, subject to all just exceptions. 3 & 4. The petitioners claim to have obtained *ad hoc* / contractual appointment with the Health Department in the wake of the Covid-19 crisis in 2020 and have preferred this petition to essentially seek regularization of their service in BS-17, notwithstanding the expiration of the tenure of their *ad hoc* appointments. At the very onset, learned counsel was confronted with respect to the maintainability hereof; *inter alia* as to what vested rights did the petitioners have to seek regularization, what was the law pursuant whereof such a claim was preferred and how could regularization of service in BS-17 be sanctioned in any event. Learned counsel remained unable to articulate a cogent response on either count.

The Supreme Court has maintained in *Ali Azhar Khan Baloch*¹ that a post in BS-17 could only be filled through a competitive examination process after an advertisement. It was specified that the Sindh Government was devoid of any authority to bypass the mandatory requirements, essential to maintain transparency in the process of induction and to ensure merit, and seek recourse through any parallel process. The Supreme Court was pleased to hold that appointments in BS-16 to BS-22 could only be made through the competitive process delineated in the law.

Admittedly, there is no existing relationship between the parties. The august Supreme Court has maintained in *Khushal Khan*² that the High Court lacked jurisdiction to revive, amend or alter contracts; there was no vested right to seek regularization in the absence of any legal and statutory basis for the same; and that temporary employees had no automatic right to be regularized unless the same has specifically been provided for in a law. A Division Bench of this Court has held in *Anjum Badar*³ that such employees had no vested right for regular appointment or even to seek regularization of their services, hence, were debarred from invoking the Constitutional jurisdiction of this Court. The law is now well settled that such employees are devoid of any generic entitlement for regularization⁴. Petitioners' counsel has been unable to identify any

¹ Per Amir Hani Muslim J in *Ali Azhar Khan Baloch vs. Province of Sindh* reported as 2015 SCMR 456; at paragraph 198.

² Per Ijaz ul Ahsan J in *Khushal Khan Khattak University & Others vs. Jabran Ali Khan & Others* reported as 2021 SCMR 977.

³ Per Nadeem Akhtar J in *Anjum Badar vs. Province of Sindh & Others* reported as PLD 2021 Sindh 328.

⁴ 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 Aurangzeb J in *First Womens Bank vs. Muhammad Tayyab* reported as 2020 PLC (C.S.) 86.

specific law conferring any right upon the petitioners to be considered for regularization⁵.

Article 199 of the Constitution contemplates the discretionary⁶ writ jurisdiction of this Court and the said discretion *may* be exercised in appropriate circumstances. In the present matter no case has been set forth before us for invocation of the writ jurisdiction. In view hereof, this petition and listed application are hereby dismissed in *limine*.

JUDGE

JUDGE

⁵ Per *Ijaz ul Ahsan J* in *Govt of KPK Welfare Board vs. Raheel Ali Gohar & Others* reported as 2020 SCMR 2068;

⁶ 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.