

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
Constitution Petition No. D-873 of 2018
(Muhammad Yousif & others Vs. Province of Sindh & others)

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE
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Before;

Adnan-ul-Karim Memon, J;
Muhammad Abdur Rahman, J;

Date of hearing and order: 16-05-2024.

Mr. Illahi Bux Jamali, advocate for the petitioners.
Mr. Shehryar Imdad Awan, Assistant A.G, Sindh.

ORDER.

Adnan-ul-Karim Memon J:- Petitioners seek regularization of their services as Pesh Imams of concerned Schools and release of salaries of the entire period they served with the respondent-Education Department w.e.f 1988 on the premise that the Mosque Schools Education Project was introduced in 1988 by the Government of Sindh to provide the Primary education facility to the people of rural areas in Sindh; and, Masjid Schools were established within the premises of Mosques and Primary Teachers were posted in those schools for teaching purpose. The Pesh Imams of concerned schools were also directed to deliver the Education of Holy Quran to the students admitted in the said schools and Honoraria of Rs. 250/- per month was fixed for them to work as part-time workers designated as Pesh Imams.

2. The learned AAG has submitted that the petitioners were initially paid Honoraria Rs. 250/- per month and after the introduction of the Devolution Plan (District Government), they were paid Rs 1000/- per month subject to the availability of Budget Grant being part-time. After the passage of some time, the Mosque

Schools Project was regularized as Government Primary Schools, and due to separation from Mosques, so many Pesh Imam discontinued their job as Pesh Imams. The remaining Pesh Imams discharged their duties up to 2013 and then remained absent due to non- non-sanction of Budget Grants by the Government under the Sub-Head. Learned counsel for the petitioners has submits that the petitioners approached the respondents for regularization of their service and release of their salaries, but no fruitful result came out and finally Additional District Accounts Officer, Naushahro Feroze vide letter dated 18-03-2012 addressed to the Manager National Bank of Pakistan, Naushahro Feroze Branch for making payments to the payees through their Bank accounts, despite that no fruitful result came out. Learned further submitted that petitioners are entitled for their salaries and regularization of services. He prayed for allowing the petition.

3. Since the Petitioners were employed by the District Government and as daily wagers, and prima-facie their service was discontinued in the year 2013, it is not their case that they are entitled to regularization under the provisions of the Sindh (Regularization of Adhoc and Contract Employees), Act, 2013. It is also not disputed by them that as daily wagers and contingent staff, their appointment could have been discontinued at any time. The sole ground taken by them for regularization is that other daily wagers had been regularized according to judgments passed by this Court. This is hardly a ground as their appointment letters expressly show that they were rendering their services in Education Department on honoraria basis, as such there is no protection of law in their favour as the Act 2013 explicitly provides that regularization of service of Adhoc and Contract employees except daily wagers and/or Work Charge basis and the petitioners have admitted that they were working on honoraria, which shows that status as daily wager, as such they are excluded from the Act 2013.

4. It has since come to be settled law that even long and satisfactory service is no ground for regularization, and that an employee engaged ad-hoc or under a time-bound contract has no vested right to regularization. That is reiterated in Deputy Commissioner Upper Dir v. Nusrat Begum (2022 SCMR 964) and Government of Khyber Pakhtunkhwa v. Saeed ul Hasan (2021 SCMR 1376). It is also settled, as held in the Province of Punjab v. Prof. Dr. Javed Iqbal (2022 SCMR 897) and Khushal Khan Khattak University v. Jabran Ali Khan (2021 SCMR 977), that continuity in service is a pre-condition to seeking regularization, and that while exercising constitutional jurisdiction the High Court cannot revive or renew expired contracts or alter the terms and conditions of an employee's contract. More fundamentally, regularization of service cannot follow unless there is an executive policy or a statute that permits the same, so held in Government of Khyber Pakhtunkhwa v. Saeed ul Hassan (2021 SCMR 1376), Deputy Director Finance & Administration, FATA v. Dr. Lal Marjan (2022 SCMR 566) and Government of Khyber Pakhtunkhwa v. Sher Aman (2022 SCMR 406). Therefore, when there is no executive policy or statute under which the Petitioners' service can be regularized, this Court has no jurisdiction to issue a writ for regularization.

5. Regards the claim for salaries there is nothing on the record to show that the Petitioners were in service at the relevant time. However the competent authority of the respondents may look into the matters of the petitioners, if they are working as Pesh Imam, their grievances including the issue of outstanding salary must be resolved within two weeks with fail.

6. For the foregoing reasons, the petition is disposed of in the above terms.

Judge

Judge

