

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH BENCH AT SUKKUR**  
**Constitution Petition No. D-580 of 2023**

*( Javed Ali Khaldi 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: 29-05-2024.**

Mr. Khan Muhammad Sangi, advocate for the petitioner.  
Mr. Shehryar Imdad Awan, Assistant A.G, Sindh.

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**ORDER.**

**Adnan-ul-Karim Memon J:-** The petitioner Javed Ali seeks reinstatement of his service as a Family Welfare Assistant (WFA) Male, in the office of District Population Welfare Sukkur, he also seeks regularization of his service from the date of his initial appointment dated 09-07-2011, inter-alia on the ground that the services of his wife Mrs. Rukhsana had already been regularized as the Family Welfare Assistant (Female) BPS-05 in terms of order dated 24-04-2018 passed by this Court in C.P No.D-1292 of 2016 as well as vide summary approved by the worthy Chief Minister Sindh, whereas he has been discriminated which is violative of Article 25 of the Constitution of Islamic Republic of Pakistan, 1973.

At the outset, we asked the Petitioner to satisfy this Court regarding the maintainability of the instant Petition in terms of earlier decision made by this Court in C.P No.D-1292 of 2016. Learned counsel for the petitioner submits that the case of the petitioner is akin to the case of co-petitioner Mrs. Rukhsana in the aforesaid petition and needs to be decided on the same analogy by the competent authority as his earlier petition was disposed of upon

the undertaking of learned AAG; however, after scrutiny, his case was declined on the premise that the petitioner allegedly managed another employment and did not join his duties. As per learned counsel, the respondents have no proof of such allegations, and such summary was erroneously approved by the Chief Minister Sindh, therefore, he is entitled to reinstatement and regularization of his service and allied benefits; that he has been discriminated against in violation of Article 4, 9 and 25 of the Constitution of the Islamic Republic of Pakistan, 1973; He prayed for allowing this petition as prayed.

Learned AAG has filed comments and prayed for the dismissal of this petition.

We have heard learned counsel for the parties and have perused the record.

During arguments, much emphasis has been laid on Section 3 of the Sindh (Regularization of Ad-hoc and Contract Employees) Act, 2013 which provides that;-

*“Notwithstanding anything contained in the Act or rules made thereunder or any decree, order or judgment of a court, but subject to other provisions of this Act, an employee appointed on ad-hoc and contract basis or otherwise (excluding the employee appointed on daily wages and work-charged basis), against the post in BS-1 to BS-18 or equivalent basic scales, who is otherwise eligible for appointment on such post and is in service in the Government department and it's project in connection with the affairs of the Province, immediately before the commencement of this Act, shall be deemed to have been validly appointed on regular basis.”*

Section 3 of the Sindh (Regularization of Ad-hoc and Contract Employees) Act, 2013 provides that employees appointed on Ad-hoc and contract basis shall be deemed to have been validly appointed on a regular basis immediately before the commencement of the Act. Hence, no ambiguity is left that all employees, who fall within the ambit of law shall be regularized in service with effect from the promulgation of the Act, 2013. However, his case does not fall within the ambit of Section 3 of the Act, 2013, as the service of the petitioner was not continued by the Respondent department with

reasoning and the recommendation of the respondents department has been approved by the competent authority. Therefore, the Petitioner does not have any vested right to seek reinstatement and regularization in service. In our view, the contract employee cannot claim any vested right, even for regularization of service. The policy decision of the Government of Sindh regarding the regularization of the employees of the Respondent department or otherwise could not be challenged in the writ jurisdiction of this Court on the purported plea of discrimination, when Article 25 of the Constitution itself provides a provision for such discrimination on the principle of reasonable classification, however, where a person gains, or is granted, a benefit illegally, other persons cannot plead, nor can the court accept such a plea, that the same benefit must be allowed to them also in violation of law. Thus, the ground of discrimination also does not stand, therefore, at this stage, the service of the Petitioner cannot be regularized when his service was discontinued with effect from the date when the summary was approved by the competent authority. The process of regularization is a policy matter and the prerogative of the Executive and the decision has already been taken, which is not open to interference by this Court at this stage as earlier petition was disposed of and subsequently scrutiny was made and finally the respondents discontinued the service of the petitioner on the ground that he gained another employment during subsistence of his service in the respondent department.

For the above reasons, the instant petition filed by the Petitioner is found to be not maintainable and is hereby dismissed along with the pending application(s).

**Judge**

**Judge**

