



IN THE HIGH COURT OF SINDH, KARACHI

Constitutional Petition No.D-1078 of 2016
 Constitutional Petition No.D-3886 of 2015
 Constitutional Petition No.D-4097 of 2015

Date	Order with signature of Judge(s)
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Before: Mr. Justice Muhammad Shafi Siddiqui
 Mr. Justice Adnan Iqbal Chaudhry

Petitioners in all
 petitions through: Mr. Umair A. Qazi advocate

Federation of Pakistan
 Respondent No.1
 through: Mr. Muhammad Nishat Warsi, DAG

National Database and
 Registration Authority,
 Respondent No.2
 through: Chaudhry Muhammad Farooq advocate

Date of hearing: 21.10.2019

J U D G M E N T

Muhammad Shafi Siddiqui, J. On the strength of a Regularization Policy/Regularization Scheme, 2012 of NADRA employees, Petitioners claim similar treatment as given to other employees of NADRA.

2. Petitioners are the Data Entry Operators except Petitioner No.3, who is the Deputy Assistant Director. The Petitioners are aggrieved of the Office Order dated 15.2.2016, where the contract of nine [09] Petitioners was not extended. It is the case of the Petitioners that they were entitled for a similar treatment as given to other employees, who were regularized under Regularization Scheme, 2012.

3. Respondents, however, have seriously objected to the maintainability of this petition on the touchstone of two judgments reported in 2017 SCMR 1979 [Chairman NADRA v. Muhammad Ali Shah]



and 2019 SCMR 984 [*Maj. (Retd.) Syed Muhammad Tanveer Abbas v. Federation of Pakistan*].

4. We have heard learned counsel and perused the material available on record.

5. Since the Petitioners have claimed discrimination in terms of Articles 4, 9, 14 and 25 of the Constitution of Pakistan. We would see first as to whether they come within the frame of alleged discrimination. The regularization of the other employees, who were regularized under the Regularization Scheme of 2012, is in respect of that set of employees who had completed one year of service on the date of notification of the said scheme. Those employees were given two options i.e.: -

“(1) NADRA employees can opt for BPS equivalent perks, privileges and powers under the existing Government BPS rules and regulations. Their pay scales will be from BPS-1 to BPS-20.

“(2) Special NADRA Pay Scales (SNPS). The employees will be offered open ended (permanent Regularized Contract) under SNPS Scheme. The contract of the employees who are serving NADRA at the time of the notification of regularization scheme will be offered open ended contracts with no end date on the same terms and conditions as of their existing contract.”

6. The Petitioners are not classified to be the same as those notified in the Regularization Scheme of 2012 i.e. they were yet to complete a year of experience. The Regularization Scheme of 2012 lapsed, hence the Petitioners were neither at par with those employees who were regularized under the ibid scheme, nor the scheme existed on the day when their contract was not extended. In our view, no discrimination could be claimed by the Petitioners as only those were regularized, who were classified in the Regularization Scheme of 2012.

7. The question now, which requires consideration, is the maintainability of the petitions on the touchstone that the Petitioners were only contractual employees before their contract was not extended.

8. In the case of *Chairman NADRA and another v. Muhammad Ali Shah and others* [2017 SCMR 1979], the Petitioners before this Court in the aforesaid case were those employees who wanted to opt for regularization, but were aggrieved of the terms of the regularization set out in the letter impugned therein, which terms were not in accordance

with the decision taken in the earlier meeting in respect of regularization. This Court though struck down the letter impugned therein, setting out the terms to the extent of the equivalency table, however, the Honourable Supreme Court reversed the findings that the High Court did not enjoy the jurisdiction to negotiate the terms of regularization offered based on the case of Pakistan Defence Officers Housing Authority and others v. Jawaid Ahmed [2013 SCMR 1707]. The Honourable Supreme Court further went on to observe that the writ jurisdiction of the High Court can be invoked by the contractual employees of a statutory corporation until and unless the terms were materialized by submitting the required option form.

9. In the other case of Maj. (Retd.) Syed Muhammad Tanveer Abbas v. Federation of Pakistan reported in 2019 SCMR 984, the Petitioners therein were a set of employees who opted an option whereby they remained contractual employees on revised terms and conditions. Those set of employees were served with a termination notice, which was impugned in the aforesaid case before this Court. Relying on the aforesaid ibid case of Chairman NADRA, this Court dismissed the petition on the premise that the NADRA Employees Service Regulations, 2002 were non-statutory. The employees challenged the judgment of this Court before the Honourable Supreme Court relying on the case of Pakistan Defence Officers Housing Authority v. Itrat Sajjad Khan and others [2017 SCMR 2010], though the Honourable Supreme Court observed that the case before it could not be simply dismissed on the reasoning assigned in the case of Chairman NADRA v. Muhammad Ali Shah [2017 SCMR 1979]. In the case of Pakistan Defence Officers Housing Authority v. Itrat Sajjad Khan and others it was held that no doubt NADRA is a person within the meaning of Article 199, but the question was whether termination was in violation of rules and in violation of natural justice as in Itrat Sajjad case, however, the distinction between the two was that in the DHA case of Itrat Sajjad, the employees were regular employees and on that count the Honourable Supreme upheld that the writ jurisdiction cannot be invoked as Petitioners before the High Court were only contractual employees.

10. Thus the case of the Petitioners is squarely covered by the aforesaid pronouncements. The Petitioners were only contractual employees before the contract was exhausted. The contract lived its life and consequently not extended beyond its contractual period.

11. Thus in view of the above, no case of indulgence is made out. We have scrutinized the case of the Petitioners on the touchstone of the aforesaid judgments and the Petitioners have failed to make out a case of any interference. Petitions as such are dismissed.


JUDGE


JUDGE
8/11/19