

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Constitutional Petition No. D-6595 of 2017
(*Ms. Khizra Saeed v Federation of Pakistan & others*)

Date	Order with signature of Judge(s)
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Before:
Mr. Justice Muhammad Karim Khan Agha
Mr. Justice Adnan-ul-Karim Memon

Date of hearing and order 21.4.2025

Mr. Talha Abbasi advocate for the petitioner
Mr. Mohsin Shahwani, Additonal Attorney General

ORDER

Adnan-ul-Karim Memon, J: The petitioner, relying on her fundamental rights, seeks regularization of her service as an Examiner (BS-14) at the Federal Board of Revenue (FBR). Appointed on a two-year contract in 2010 under the "Assistance Package" after her FBR officer father's death, she passed the required tests and medical examination and completed training. Her contract was extended in 2012. She pointed out that her contemporaries were regularized in 2013, but she was not, despite repeated requests. She claimed this is discriminatory and violates her constitutional rights, especially as the FBR has recently regularized others in similar positions. She submitted that the respondents' inaction is arbitrary and seeks a declaration of its unlawfulness, a directive for her regularization from the date her colleagues were regularized with all benefits, and a restraint order against her termination.

2. The learned counsel for the petitioner highlighted the Assistance Package for deceased employees' families and the petitioner's appointment as an Examiner (BS-14) on contract after her father died in 2010. She is still performing her duties, as evidenced by her 2017 salary slip. Counsel argued that individuals appointed under the deceased quota are typically regularized and that the petitioner was recommended for a further extension in 2017, yet she fears discriminatory action, and her ID has been blocked. He prayed for allowing the instant petition.

3. The respondents, in their initial submission, stated that the petitioner's ID had been reactivated and the matter taken up with the FBR. However, they submitted that according to her contract (dated August 4, 2010, and October 1, 2010), she had no right to permanent employment, as her two-year contract was extendable upon the Collector's satisfaction. They cited an FBR letter from 2015 stating that Collectors are only authorized to extend contracts for BPS-1 to 15 employees, implying no provision for BPS-16 contractual employment. They requested dismissal based on the contract terms and jurisdiction, suggesting the matter falls under the Service

Tribunal. Furthermore, they alleged that charges of inefficiency, misconduct, and corruption were established against her in 2016.

4. In their para-wise comments, the respondents denied the petitioner's claim of discriminatory treatment regarding the 2013 regularization of sixteen contract employees, stating it was done per the Board's directions following a Cabinet Division decision, and the petitioner was aware her name wasn't included at the time. They further referred to the 2016 notification regarding established charges against her and requested dismissal of the petition, urging her to face the mandatory adjudication/prosecution proceedings.

5. We have heard the learned counsel for the parties and perused the record with their assistance.

6. The sole reason cited by the respondents is that no relief can be granted to the petitioner under Article 199 of the Constitution due to the perceived absence of a specific law or policy that would permit the regularization of contractual employees.

7. The regularization of contractual employees through writ jurisdiction under Article 199 of the Constitution is contingent upon its permissibility under existing law and a universally applicable policy decision, provided the organization in question falls under the High Court's writ jurisdiction. This principle was also upheld by the Supreme Court in the case of *Faraz Ahmed vs. Federation of Pakistan* (2022 SCMR 1680). The Supreme Court specifically established that contractual employees do not possess an inherent right to regularization. However, their regularization may be considered based on their fitness, suitability, and the relevant laws, rules, and regulations of their respective department. An automatic right to regularization does not exist unless explicitly provided by law, and employees seeking it must demonstrate a statutory basis for their claim; otherwise, relief cannot be granted.

8. Despite lengthy arguments by the petitioner's counsel who insisted on a decision based on the merits of the case, we disagree. We are of the view that the petitioner should first pursue appropriate legal remedies within the relevant department. If she is unsuccessful there, other legal avenues are available to her. It is clarified that if any legal proceedings are initiated subsequently, the deciding Court or Authority must consider the matter independently, based on its own merits, and without any prejudice or influence from the observations made by this Court in this order. Consequently, this Petition stands disposed of under these terms.

JUDGE

Head of Constitutional Benches