

IN THE HIGH COURT OF SINDH AT KARACHI

CP. No. D-4020 of 2018
(*Syed Sikandar Ali Shah v Federation of Pakistan & others*)

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

Date of hearing and Order: 25.04.2025

The petitioner present in person along with his counsel, Mr. Aaz Ansari,
Advocate.
Mr. Sanaullah Noor Ghori
Mr. R.D. Kalhoro, Assistant Attorney General

ORDER

ADNAN-UL-KARIM MEMON, J: Petitioner prayed that this Court direct the Respondent-Pakistan Steel Mills, to regularize his services from his joining date (29.07.2010) with all resulting benefits, as per the Cabinet Sub-Committee decision dated 13.03.2013.

2. The Petitioner, employed by Respondent No. 2 since 2010 as a Supervisor Horticulture (initially contract, later regular pay scale), faces contract expiration on 30.06.2018. Despite receiving regular employee benefits and working a regular vacant post, the "contract employee" classification denies them retirement benefits like the E.O.B.I. pension.
3. The Petitioner's counsel argues that the Petitioner's continuous service since 2010 and the permanent nature of their duties warrant permanent status. They highlight a 2013 Cabinet Sub-Committee decision for regularization after one year of contract service and note that Respondent No. 2 has already regularized numerous employees based on this Court's orders (upheld by the Supreme Court) and subsequent similar rulings, all referencing the 2013 Cabinet decision. Counsel contends that ignoring the Petitioner's identical case constitutes discrimination and violates Article 4 of the Constitution. The denial of retirement benefits causes irreparable loss. They emphasize the Petitioner's qualification for regularization under the 2013 Cabinet decision and relevant court judgments, citing Supreme Court precedent supporting the extension of service benefit rulings to similarly situated individuals. Therefore, the Petitioner seeks the court's intervention to end this discrimination and enforce the 2013 Cabinet Division decision for their regularization, ensuring equal treatment with other similarly situated employees
4. The learned counsel for Pakistan Steel Mills informed the court that on September 19, 2024, the Respondent received official communication from the Cabinet Division dated September 4, 2024, concerning a Cabinet Meeting held on

August 27, 2024 (item 16). This memorandum ordered the liquidation of both Pakistan Steel Mills (PSM) and Pakistan Steel Fabricated Company. Additionally, the Respondent received minutes from the 10th Meeting of the Special Investment Facilitation Council (SIFC) Apex Committee, dated June 10, 2024 (item 39), regarding the finalization of PSM land matters (copies R/1 and R/2 were provided). Counsel argued that these federal government documents demonstrate the ordered liquidation, effectively declaring bankruptcy and closure of both PSM entities under the Ministry of Industries & Production. They reiterated that PSM has been non-operational since June 2015, leading to significant staff retrenchment. The counsel further brought to the court's attention that the Supreme Court has granted leave to appeal and suspended a promotion order related to this retrenchment (document R/3). Moreover, they stated that the Supreme Court dismissed CMA Appeal No. 7/2021 on March 17, 2022 (document R/4), thereby upholding the retrenchment of numerous PSM employees after their union's legal challenge was unsuccessful. The counsel emphasized that the Respondent's statements in the petition accurately reflect the dire financial situation and operational shutdown of PSM and the Ministry of Industries & Production. He explained that PSM is currently unable to even cover monthly salaries, which are being paid through federal government loans contingent on PSM potentially resuming operations. Given the recent liquidation order and ongoing financial crisis, the counsel asserted that PSM is in no position to regularize existing employees or hire new ones. Consequently, the counsel concluded by requesting the dismissal of the petition.

5. The Assistant Attorney General also opposes the petition and supports the arguments of the respondent's lawyers.

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

7. The Petitioner seeks regularization at Pakistan Steel Mills (PSM) from his 2010 joining date as Supervisor Horticulture, based on a 2013 Cabinet decision. Despite receiving regular benefits and working a vacant post, he lacks retirement benefits. However, a Cabinet Division order dated September 4, 2024, mandates PSM's liquidation due to bankruptcy and closure since June 2015, with significant staff retrenchment upheld by the Supreme Court. PSM is in dire financial straits, and the liquidation order precludes regularization as Regularization of contractual employees requires a clear legal basis, a well-defined policy, and a fair assessment of the employee's performance and qualifications. Without these, employees cannot claim regularization of service. Reference in this regard may be made to the cases of Vice Chancellor Agriculture University, Peshawar v Muhammad Shafiq **2024 SCMR 527**, Federation of Pakistan through Secretary, Ministry of Law and Justice Islamabad and another v. Fazal-e-Subhan and others

(PLD 2024 SC 515); Government of Khyber Pakhtunkhwa through Secretary Forest, Peshawar and others v. Sher Aman and others (2022 SCMR 406); and Messrs. State Oil Company Limited v. Bakht Siddique and others (2018 SCMR 1181).

8. The Supreme Court has ruled that contractual employees do not have an automatic right to regularization unless explicitly supported by law or policy. Regularization lacking such a legal foundation is deemed a violation of fairness, transparency, and meritocracy. Furthermore, the argument of discrimination in such cases has been rejected by the apex court, as discrimination presupposes a legal entitlement to the initial benefit, which is absent. Consequently, regularization necessitates legal backing and a transparent, merit-based procedure. The Supreme Court underscores that regularization is primarily an executive policy decision, generally not subject to judicial intervention. Courts can only review such policies if they infringe upon constitutional rights. The principle of institutional autonomy, crucial for effective decision-making, further supports judicial restraint in policy matters. This autonomy is vital for public institutions to protect public interest and uphold democratic values, including academic freedom.

9. This Court finds that the Petitioner cannot seek service regularization via a constitutional petition. However, it is for the Respondent's competent authority to consider the Petitioner's case in light of the 2013 Cabinet decision.

10. In view of the foregoing facts and circumstances, the Petitioner has failed to demonstrate grounds for enforcing Pakistan Steel Mills' service rules for the regularization of his services, under Article 199 of the Constitution. Furthermore, in the absence of a clear policy applicable to the respondent mills, especially considering its closure in 2015, no intervention by this court is warranted. Therefore, this petition is dismissed, along with any pending applications.

JUDGE

Head of

Constitutional Benches