

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
Constitution Petition No. D-1327 of 2023
(*Mst. Iffat Khattak others & Vs. Province of Sindh & others*)

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE
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Before:

Mr. Justice Muhammad Karim Khan Agha
Mr. Justice Adnan-ul-Karim Memon

Date of hearing and Order: 15.04.2025

Mr. Muhammad Ramzan advocate for the Petitioners.
Ms. Wajiha Mehdi, Assistant Attorney General

ORDER

Adnan-ul-Karim Memon J:- Constitutional Petition filed by two female school teachers with the High Court in Karachi, Sindh. Petitioner No. 1: Appointed as a School Teacher on a contract basis on different dates: October 30, 2014, initially as a daily wage. June 26, 2015: on a contract basis as a teacher. Petitioner No. 2: Appointed as a School Teacher on a contract basis on February 9, 2022.

2. The petitioners, two school teachers working under the supervision and control of Respondents No. 2 and 3, were initially hired on contract, with their latest extension expiring on March 31, 2023. Petitioner No. 1 holds a Bachelor of Commerce with a B.Ed., and Petitioner No. 2 has an MBA in Finance and Accounting, qualifying them for positions in the education department where they currently serve within Pakistan Steel Mills. Notably, Respondent No. 2 provided accommodation to Petitioner No. 2 in Steel Town on January 25, 2023, and has previously regularized contract employees in similar situations within the Industrial Relations Department. Citing favorable rulings from the High Court and Supreme Court in analogous cases concerning the regularization of teaching and non-teaching staff (including the Hafiza Junejo case), the petitioners have repeatedly requested regularization. However, Respondent No. 2 has allegedly denied these requests and threatened termination. Fearing adverse action and facing financial difficulties due to inadequate contractual salaries, the petitioners seek a court order declaring their entitlement to regularization, directing the respondents to regularize their services, and mandating consideration of their case alongside previously regularized employees, as no other adequate legal remedy exists.

3. When confronted with the order dated 21.03.2017 passed by the Supreme Court of Pakistan in Civil Petition Nos.. 121-K and 122-K of 2017, the learned AAG simply said that these petitions are not maintainable in terms of orders passed by this Court in C.P.D No.1315 of 2014. Prima facie the precedent set forth by this Court vide order dated 21.03.2025 cannot not override the decision of the Supreme Court, however the respondents have already extended the contractual period of the colleagues of the petitioner vide letter dated 01.02.2023 and the case of the petitioner needs to be looked into by the respondents, if the services of the petitioners are intact.

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

5. The petitioners are seeking the intervention of this Court to compel the respondents to regularize their services as school teachers, citing their qualifications, their continuous service, the regularization of other similarly situated employees, and previous court orders on the matter. They are also seeking protection from potential termination during the pendency of the petition.

6. Prima facie, the case of the petitioners is akin to the case of petitioners in the case of Syed Muhammad Shoaib and others v. Federation of Pakistan and others (SBLR 2017 Sindh 443). The decision of this Court was assailed before the Hon'ble Supreme Court of Pakistan in Civil Petition Nos.. 121-K & 122-K of 2017, and the same was upheld vide order dated 21.3.2017. An excerpt of the order dated 21.3.2017 is reproduced as under:

“4. As can be seen from the foregoing, the above decision is not restricted to any scale or grade, and no such restriction can be read therein by any stretch of the imagination and is therefore, equally applicable to the employees of all grades and scales including the present respondents, who were thus rightly granted such relief through the impugned judgment. We, therefore, do not find any lacuna in the impugned judgment justifying our interference in the matter; the petitions are therefore dismissed.”

7. It may be noted that although the Colleges in question are permanent and are required to have permanent status, the staff which is working therein is required to have permanent status. However, the respondents have created the relationship between the petitioners and Hadeed Welfare Trust as master and servant to avoid the regularization of their service, as the issue has already been set at naught by the judgment rendered by this Court in Hafeez Junejo's case has been implemented in its letter and spirit. Additionally, the Hon'ble Supreme Court of Pakistan has already taken care of the issue of regularization of service of teaching staff in the aforesaid cases; as such, no further deliberation is required on our part.

8. Based on our examination of the record, we are left in no manner of doubt that the respondents are causing discriminatory treatment with the petitioners which is violative of Article 25 of the Constitution of the Islamic Republic of Pakistan, 1973, which is a fundamental right and this Court under Article 199 of the Constitution can protect the fundamental rights of the citizens including the petitioners in service-related issues.

9. Accordingly, these petitions are disposed of in terms of orders dated 21.03.2017 and 03.06.2019 passed by the Supreme Court of Pakistan in the aforesaid matters, with no order as costs.

JUDGE

Head of Const. Benches

Shafi