

IN THE HIGH COURT OF SINDH AT KARACHI
CP. No. D-1935 of 2019
(*Shahid Rasool Memon and others 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: 06.05.2025

Chaudhry Azhar Elahi advocate for the petitioners.
M/s. Bilawal Khan and Muhammad Zahid advocates for the respondent No.3
Ms. Wajiha Mehdi Assistant Attorney General

ORDER

Adnan-ul-Karim Memon, J: The Petitioners request this Court to declare that Respondent No. 2 has failed to implement its commitment and the decision of Respondent No. 1, as well as the judgments of this Court and the Supreme Court of Pakistan. They seek direction to the Respondents to regularize their services to positions equivalent to their designation and qualifications, effective from their initial date of appointment, with all resulting benefits as mandated by the judgments of this Court and the Supreme Court of Pakistan. Furthermore, and without limiting the above, direct the Respondents to regularize the Petitioners' services in accordance with the legal principles established by this Court and the Supreme Court of Pakistan, given their long service on posts of a permanent nature.

2. Contracted by Respondent No. 3/Hadeed Welfare Trust, subsidiary of Respondent No. 2/ M/s Pakistan Steel Mills Corporation Ltd. (PSM) in 2012 and 2006 as teachers/lecturers under Respondent No. 2, Petitioners still earn low salaries, and their contracts were last extended until 30-06-2019, with them still working. They allege their contract status denies their service rights, citing missed pay increases. They referred to a 2008 regularization Office Memorandum (OM) (BS-1 to BS-15) allegedly ignored by Respondent No. 2, leading to a successful 2012 High Court order (CP No. D-3272/2012) recognizing them as Respondent No. 2's employees and mandating regularization, a judgment upheld after Respondent No. 2 withdrew its Supreme Court appeal. Petitioners also cited 2011 and 2013 Cabinet decisions for regularization based on service length for contract and daily wage employees in PSM educational institutions. Similar petitions (C.P. No D-5176/2013, D-151/2014) by other staff were allowed in 2016, directing regularization per the 2013 Cabinet decision, a judgment also upheld by the Supreme Court, with those petitioners being regularized.

3. The Petitioners' counsel argued their situation mirrors that previously granted regularization. He added that they are employees of Respondent No. 2, have worked over a year in educational institutions, meet the requirements, and

have vacancies exist, thus entitling them to regularization of their service. Fearing termination, they have not formally applied. Counsel also highlighted the presence of regular officers in the Cadet College and alleged malafide intent, discrimination, and improper use of authority by the Respondents. He referred to prior successful similar petitions (CPD 2017/2018 series) that mandated regularization based on the 2013 Cabinet Sub-Committee decision. He further argued that long tenure on permanent posts grants permanent employee status. The counsel sought a court declaration of Respondent No. 2's failure to adhere to commitments and court directives, an order for the Petitioners' regularization with full benefits from their initial hiring date, an order for regularization based on their years of service on permanent positions, and an injunction against their termination or any changes to their employment terms that reduce their existing benefits.

4. The Respondent's lawyer argued that the petition lacks legal basis, is filed beyond the permissible time limit, and is not legally sustainable in terms of order dated 21.03.2025 passed by this Court in C.P. No. D1315 of 2014. He further argued that Paksitan Steel Mills is not in a position to hire the services of the petitioners through respondent No.3. He further submitted that the respondent No.3 hired the petitioners' services on contract basis and respondent No.3 trust has been desolved in meeting held on 09.04.2021 by the board of Trustee as such the petitioners can not claim for regularization, therefore, requesting the court to dismiss it and impose costs on the Petitioners.

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

6. 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, and the services of the employees working with the respondent No.3 is still intact and so far as the dissolution of trust is concerned the fate of the employees have not yet been decided therefore the benefit of the order of the the Supreme Court can be given to the petitioners who claim to have been serving since their appointment based on the interim order passed by this Court. Learned counsel for the respondents simply said that this petition is 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 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 in terms of orders passed by this Court as well as by the Supreme Court.

7. 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 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.”

8. It may be noted that although the Colleges in question are permanent and are required to have permanent status, the staff 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 long 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 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.

9. Based on our scrutinizing 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.

10. Accordingly, this petition is 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 the Cost. Benches