

IN THE HIGH COURT OF SINDH AT KARACHI  
CP. No. D-8456 of 2019  
(*Farrukh Imran & 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: 05.05.2025**

Chaudhary Atif Rafiq advocate for the petitioners  
M/s Shoukat Ali and Israr Ahmed Kalhoro advocate for the respondents  
Ms. Wajiha Mehdi, Assitant Attorney General

**ORDER**

**Adnan-ul-Karim Memon, J:** The Petitioners request this Court to order Pakistan State Oil Company (PSO) to reinstate their pre-regularization basic salaries, deem the current Regularization Allowance unlawful, and affirm their right to pension and long-term benefits calculated from their initial date of joining, based on their original salaries. Additionally, they ask the Court to direct PSO to grant them increments for their entire service and to properly grade them according to their experience and education, ensuring they receive all long-term benefits equivalent to permanent employees from their respective joining dates.

2. The Petitioners, who dedicated many years (1998-2015) as contractual staff at Respondent No. 2 (a state-run oil firm) performing the same duties as permanent employees, were not regularized despite positive feedback and a 2008 government directive. Following a 2017 Sindh High Court win and the Supreme Court's upholding of that decision, recognizing their outsourcing as a sham and mandating regularization from their High Court appeal date, with pension and long-term benefits from their initial hire dates, they were finally made permanent. Nevertheless, the Petitioners argue that Respondent No. 2 has not fully honored the Supreme Court's ruling. Their complaints include a reduction in their basic salaries accompanied by a new "Regularization Allowance," which appears to be a tactic to evade providing full long-term benefits linked to their original pay. Some Petitioners are not even receiving this allowance despite their reduced basic pay. Their annual salary increases are significantly lower due to the reduced base salary, and some have received no raises since regularization. Contributions to their provident fund have decreased because they are based on the lower basic pay. Similarly, their potential gratuity is much less as it's calculated on a "Gross Salary" that's been lowered due to the reduced basic pay. Despite their management status, they are being denied medical benefits by their parents. Their future pension payouts will also be lower, being calculated

on the reduced "Gross Salary," and many with over a decade of service have not yet received any pension benefits. Furthermore, Petitioners with comparable education and experience have been assigned to lower job grades with reduced basic pay, essentially being treated as new employees despite their years of prior service. Some Petitioners with more than five years of service are not receiving their entitled 25 days of leave, and the lower gross salary reduces the value of cashed-in leave and Leave Fare Assistance. Finally, the Petitioners have been blocked from accessing relevant company policies.

3. The petitioners' counsel argued PSO's non-compliance with the Supreme Court order regarding the regularization of long-serving contractual employees (1998-2015). He highlighted the illegality of the "Regularization Allowance," the unfair treatment of regularization as new recruitment, the reduction in long-term benefits due to decreased basic salaries, discriminatory practices against permanent employees and amongst the petitioners themselves, and the denial of rightful benefits despite their years of service. He emphasized that despite a favorable Supreme Court ruling mandating benefits from their initial hire dates following their regularization, PSO has failed to fully comply. Specific grievances raised included reduced basic salaries with the new allowance (not received by all), lower annual increments (some none), diminished provident fund contributions, significantly reduced gratuity, denied parental medical benefits, lower future pensions, placement in lower job grades with reduced pay despite experience, denial of entitled leave for some, reduced value of leave encashment and assistance, and blocked access to company policies.

4. Counsel for Respondent No. 2 argued for the dismissal of the Constitutional Petition on several grounds of maintainability: PSO is a company under the Companies Act, subject to master-servant law, and not a "person" under Article 199; the petition involves disputed employment terms with existing alternative legal remedies; the relief sought is against a non-federal entity; the Petitioners misinterpreted the Supreme Court's 2018 SCMR 1181 judgment, which the Respondent contends excludes PSO employees from Article 199 relief; the Karachi High Court lacks jurisdiction over Petitioners residing elsewhere; adequate alternative remedies were available but not used; and the petition is fundamentally flawed. The counsel submitted that while the Petitioners were regularized following a High Court order, PSO operates under its Board according to the Marketing of Petroleum Act, with a master-servant relationship and no statutory service rules, denying Federal Government control. He acknowledged the Petitioners' initial employment with HRSG Pvt. Ltd.

and their regularization into PSO service based on Supreme Court orders (2018 SCMR 1181) from their High Court petition filing date. The filing and outcome of CP No. 3199 of 2013 were not disputed, as the judgment was fully implemented. Similarly, the CPLA filing and the Supreme Court's 2017/2018 decision are factual records, but the Petitioners' interpretation is contested. The Supreme Court's ruling concerned contractor employees, whereas PSO employees are governed by master-servant law. Full compliance with prior court orders was asserted, and the dismissed contempt applications filed by some regularized employees were cited to argue the current petition, concealing these facts, is an attempt to improperly revise employment terms. No new cause of action exists. Regarding the Petitioners' specific grievances, the counsel argued that salaries were not reduced but structured under PSO's policies, offering better benefits than the previous contractor, with no discrimination in salary fixation based on PSO's approved criteria. Performance-based rewards are tied to basic salary, and long-term pension benefits are separate from basic/gross pay, accounted for at retirement. Provident Fund membership begins upon the employee's contribution post-regularization, according to PSO rules. The Respondent is not bound by the previous employer's salary structure, and the Petitioners' benefits are applicable from their petition filing date, with pension benefits calculated from their initial hire date with the previous employer, without any malafide intent or discriminatory actions. Group allocations were based on PSO's recruitment policy and qualifications. Service calculation for long-term pension benefits adheres to the Supreme Court's directive, using the initial hire date, which the Petitioners incorrectly seek to apply to their salary structure. The leave policy is applied uniformly from the regularization date, and leaves are not considered long-term benefits. No Petitioner was denied LFA, with a monthly option for those previously earning more. Access to company policies is available through department heads, with no specific blocking. The salary structure upon regularization was based on ensuring the average gross monthly take-home pay was no less than their previous earnings, considering annualized payments. Based on these arguments, the counsel for Respondent No. 2 requested the dismissal of the petition with costs.

5. Learned AAG has supported the stance of the respondent PSO.

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

7. The petitioners, initially contractual employees of Respondent No. 2, were regularized in April 2019. They are aggrieved that Respondent

No. 2 has not paid their basic salary from their initial joining dates, as mandated by a High Court judgment (CP No D-3199/2013 and others) that was upheld by the Supreme Court (Civil Petitions No.409-K to 414-K/2017).

8. The respondent company appealed this Court's order to regularize the petitioner employees, but the Supreme Court upheld the decision. The Supreme Court reasoned that regularizing long-serving employees based on fairness and their significant contributions, especially given potential exploitation, is within the High Court's power to protect fundamental rights (Articles 9 and 25), even without specific regulations. Consequently, the objection to the petition's initial validity in this Court was also denied. Addressing the claim that the employees were hired through a contractor, the Supreme Court considered the outsourcing of permanent positions a common deceptive practice. Given the petitioners' extended service (some since 1984), it appeared to be a sham, requiring no further proof. The Supreme Court also pointed to the respondent company's previous regularization of workers supposedly employed by contractors, following Labour Tribunal directives. In the interest of fairness and equal treatment, the Supreme Court determined that even if the petitioners were considered contractor employees (a point the Court did not concede), their performance of permanent duties justified regularization. Ultimately, the Supreme Court dismissed the appeal but clarified that the petitioners' regularization would take effect from the date they first went to the High Court, while their pension and other long-term benefits would accrue from their original hiring date by the respondent company.

9. The respondent's lawyer submitted a compliance report to the Supreme Court concerning Criminal Misc Nos 142-K, 143-K, and 144-K of 2019. The Supreme Court noted that the petitioners' appointment, regularization, and salary payments were not in dispute. As a result, the Court found initial compliance with its order and observed that any grievances regarding salary calculations could be pursued through appropriate legal channels. All related CMAs were also concluded by order dated 29.08.2019.

10. The learned counsel for the petitioners submitted that the order of the Supreme Court is clear in its terms and needs to be implemented in terms of Article 187(2) of the Constitution. We ask the learned counsel that the Supreme Court was satisfied with the compliance report submitted by the respondent company. He replied to the query and submitted that the Supreme Court had allowed the petitioners' to agitate their issue of salary

calculation and other ancillary service matters through this Court, as such this petition is in continuation of the earlier petition filed by the petitioners and the same cannot be dismissed based on non-statutory rules of service, as the issue of regularization of service does not require enforcement of statutory rules as observed by the Supreme Court in the aforesaid decision, however he added that the respondent company was directed to count the service of the petitioners when they joined the service with PSO including pensionary and other service benefits, which have been denied, which triggered the cause to the petitioners to approach this Court on 24.12.2019, seeking direction to the respondents to pay them basic salary as they were receiving their regularization and pensionary benefits if any from the date of their joining their services. This issue as raised firstly could be resolved by the competent authority of PSO at their end within three months from the date of receipt this order and if the respondent company decide the cases of the petitioners on the same analogy as put forward by the petitioners then the matter shall be over once for all, however if the decision goes against the petitioners they may recourse to the legal remedies as provided under the law, however the petitioners cannot be non-suited based non-statutory rules of service in terms of Supreme Court decision. This petition stands disposed of with the aforesaid direction.

JUDGE

Head of the Cost. Benches