

IN THE HIGH COURT OF SINDH AT KARACHI  
CP. No. D-4 of 2019  
(Muhammad Attaullah & others v Federation of Pakistan & others )  
CP. No. D-5926 of 2018  
(Pakistan National Shipping Corporation v Federation of Pakistan & others )  
CP. No. D-125 of 2011  
(Muhammad Attaullah & 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**

Malik Naeem Iqbal advocate for the petitioners in C.P. No. D-04/2019 and C.P. No. D-125/2011 and for respondents No. 2, 3, and 4 in C.P. No.D-5926/2018 along with Muhammad Saleem Khaskheli and Mr. Muhammad Talha Abbasi advocate

Chaudhry Azhar Elahi advocate for the petitioner in C.P. No. 5926/2018 and for respondent No.2 in C.P. No. D-04/2019 and for respondent No.3 in C.P. No. D-125/2011.

-----  
**ORDER**

**Adnan-ul-Karim Memon, J:** Petitioners in C.P. No. D-04 of 2019 pray that this Court declare the rejection of their regularization of service order dated 06.07.2018 issued by the Secretary Government of Pakistan, Ministry of Maritime Affairs is illegal, direct their regularization in the respondent / Pakistan National Shipping Corporation (PNSC) with benefits from 2008, order payment of entitled pay and allowances, and restrain adverse action against them. An excerpt of the order is reproduced as under:-

*“ The petitioners were appointed on a contract basis vigilance Directorate by the then Ministry of Communications and Railways (Communication Division) in the year of 2001/2002 and subsequently their contracts were renewed from time to time and the vigilance Directorate was abolished in June 2010 with the direction to KPT, PQA, and PNSC to adjust the staff.*

*Gwadar Port Authority absorbed (01) vigilance employees in 2009 Port Qasim Authority absorbed (07) vigilance employees in 2010. Karachi Port Trust has adjusted (9) employees through contract and PNSC kept the petitioners on daily wages but they were not absorbed in view of their law, Service Regulations, and contractual employees policy.*

*Although all employees deserved equal treatment for their adjustment in all the organizations they were adjusted as per respective organizations rules/regulations and policy. These three employees have been treated differently by PNSC because of their laws and policies.*

*The option of their absorption in any other organization was also considered but it was observed that it will not be possible for a new organization to absorb the petitioners at this stage.*

*Keeping in view the above background and hearing petitioners and PNSC, I have come to the conclusion that regularization of the petitioners in PNSC cannot be done as per their law and policy, however, they may continue like other similar employees in*

*Pakistan National Shipping Corporation as per PNSC's employees' service rules with the protection of pays & allowances."*

2. In 2001, a Vigilance Directorate was formed with sub-offices in several organizations, including the Pakistan National Shipping Corporation (PNSC)/ (Respondent No. 2), which was responsible for their costs. It is claimed that the Petitioners were appointed within this Directorate and assigned to Respondent No. 2. Respondent No. 2 was instructed to create permanent positions with equivalent pay and allowances to their regular staff. Despite their contractual status, these positions were intended to be permanent, with later approvals and extensions. The Petitioners received comparable salaries and allowances. However, a 2008 Federal decision (OM) to regularize contract employees (appointed by June 3, 2008) was not applied to the Petitioners by Respondent No. 2, even though similar employees were regularized. In 2010, when the Vigilance Directorate was temporarily shut down, Respondent No. 2 was directed to absorb the Petitioners with protected pay, but this did not happen. Instead, their employment was changed to daily wages, and Petitioners Nos 1 and 3 were dismissed from service. While Petitioner No. 3 was later reinstated, Petitioner No. 1 was not. In 2013, this Court vide order dated 21.01.2013 ordered the reinstatement of Petitioner No. 1 with benefits and directed the Petitioners to seek regularization from the relevant authority and dispose of the matter. Their salaries remained frozen. Their subsequent regularization requests led to a status quo order passed by this Court. Nevertheless, the vacant vigilance positions were eliminated, a new inspection team was proposed, and existing contracts were not to be extended. Contempt applications related to the 2013 order were dismissed by this Court due to a technicality. In 2018, this Court directed the Secretary of Maritime Affairs to decide on their regularization issue after a hearing. Ultimately, the Secretary denied their request vide letter dated 06.07.2018, citing Respondent No. 2's lack of a regularization policy since 1984, despite acknowledging discriminatory treatment.

3. Regarding the admissibility of this petition, the Petitioners' counsel argued that under Article 199 of the Constitution, the petition is maintainable because the Pakistan National Shipping Corporation (PNSC) is a state-owned entity. He submitted that PNSC had previously agreed to treat the Petitioners the same as employees taken on regular service permanently. The counsel argued that even though regularization is not a standard term of service, the Petitioners' significant length of service with PNSC entitled them to claim regularization in PNSC, as they had dedicated their prime years to the previous organization and then to PNSC by operation of law. He highlighted that the Supreme Court had already addressed similar issues in various judgments, and the Petitioners' situation was/is comparable to those decided cases. Furthermore, the counsel asserted that the Petitioners have a fundamental right to seek regularization of their service,

guaranteed by Article 9 of the Constitution, which includes the right to livelihood, as established in the case of Abdul Wahab (2013 SCMR 1383). He emphasized the Supreme Court's ruling that the right to sustenance should not depend on the whims of authorities. The counsel concluded that having served for a considerable period, the Petitioners had earned the right to continue as permanent employees until their services were formally regularized in terms of orders passed by this Court in C.P. No.D-125 of 2011. The Petitioners' lawyer contended that based on the government's 2008 directives (office memorandum) and the fact that similarly situated employees in other organizations had been regularized, the Petitioners had a legitimate expectation of being made permanent. He argued that the respondent-PNSC has regularized many identically placed employees and many other similarly placed employees have continued permanently; that the respondent-PNSC has failed to extend the benefit of the decision of the Subcommittee of cabinet, as discussed supra, whereby, all ministries/divisions/autonomous bodies were directed to regularize employees working on contract basis and the respondents regularized many employees in compliance of the decision of the cabinet's sub-committee, yet the petitioners have been ignored without any rhyme or reason; however, they were subjected to discriminatory treatment regarding their pay and benefits and requested the court to grant this petition No. D-04 of 2019 and dismissed the petition bearing No. D-5926 of 2018 filed by PNSC against the decision dated 06.07.2018 passed by respondent Secretary Government of Pakistan Ministry of Maritime Affairs by allowing to continue the services of the petitioner in C.P. No. D-04 of 2019 like other similar employees in PNSC as per PNSC's employees service rules with protection of pay and allowances.

4. The counsel for Respondent No. 2 countered that the petition No. D-04 of 2019 may not be allowed against them and their petition No. D-5926 of 2018 may be allowed, which is against the same decision dated 06.07.2018 to the extent of continuing the petitioners in C.P. No. D-04 of 2019 like other similar employees. He argued that the Petitioners were employees of Respondent No. 1 or the Vigilance Directorate, and no employment relationship existed between the Petitioners and Respondent No. 2. The counsel asserted that the Petitioners' documents supported this claim. Furthermore, he pointed to a 2013 High Court judgment that confirmed the absence of such a relationship, making Respondent No. 1 responsible for the Petitioners' pay and allowances. Respondent No. 2's counsel also invoked the principle of *res judicata*, stating that this issue had already been decided and thus the current petition against the decision dated 06.07.2018 issued by respondent Ministry was/is barred. He further argued that because their service rules are not statutory, a High Court petition against them was/is not maintainable. Additionally, he contended that as purported civil servants of the Vigilance Directorate, the Petitioners should have approached the

Service Tribunal. The counsel also raised the objection of misjoinder or wrong joinder of Respondent No. 2 in the petition. The counsel informed the court that Respondent No. 2 had separately challenged Respondent No. 1's decision, and they adopted the arguments from that petition filed by PNSC. Finally, he stated that since the Vigilance Cell had been closed (as confirmed by Respondent No. 1), Respondent No. 2 was entitled to recover any payments made to the Petitioners after the closure. In general, Respondent No. 2 disputed the Petitioners' claims regarding pay, allowances, and the existence of an employer-employee relationship, maintaining that the Petitioners were merely assigned to them but remained employees of the Vigilance Directorate. They denied any disobedience of court orders in C.P. No. D-125 of 2011 and such contempt application may also be dismissed if pending, asserting that the Petitioners' case had already been decided in 2013 as such no more indulgence is required by this Court in terms of the decision by respondent Ministry though they are also aggrieved against that decision by allowing the petitioners to continue with PNSC, which petition filed by PNSC needs to be allowed. He prayed for the dismissal of the current petition bearing No. D-04 of 2019

5. Having listened to the arguments presented by the legal representatives of both sides regarding the regularization of the Petitioners' contractual service, and having reviewed the pertinent documents particularly the order dated 06.07.2018 issued by the respondent Ministry and the cited legal precedents, we have taken the matter under consideration.

6. Given that the PNSC Board of Directors manages the corporation under Section 13(i) of the PNSC Ordinance 1979, and its service regulations (framed under Section 39) are non-statutory, the West Pakistan Industrial and Commercial Employment (Standing Orders) Ordinance 1968 is also inapplicable (Section 3, PNSC Ordinance). In this context, one party argues that service regularization necessitates statutory authorization, and without it, regularization cannot occur, citing the Supreme Court's ruling in Vice Chancellor Agriculture University, Peshawar v Muhammad Shafiq (2024 SCMR 527).

7. The court is addressing the plea for regularization of service by former contract employees of the abolished Vigilance Directorate, who were assigned to PNSC. While a personal hearing was granted following a 2018 court judgment, the Secretary of the Respondent Ministry concluded that PNSC's laws, service regulations, and contractual employee policy prevent their regularization. Despite other organizations absorbing similar employees, PNSC maintains its inability to do so due to its specific rules. The possibility of absorption elsewhere was deemed unfeasible. Consequently, the decision is that regularization within PNSC is not possible under their current framework; however, the employees may continue their employment with PNSC under its service rules, with their current

pay and allowances protected, for which the counsel for the respondent PNSC is not agreeing with on the premise that the petitioners are not their employees as such their services cannot be regularized in PNSC.

8. The central issue in this case concerns the regularization of an employee's service within the framework of service law. The legal principle governing this matter is well-established: regularization and permanent absorption must adhere strictly to the prevailing recruitment rules. Furthermore, it is settled law that contractual employees do not possess an inherent right to be regularized unless explicitly stipulated in their terms of appointment/service and by law. 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**).

9. Given the established legal principles, this Court, while acting under Article 199 of the Constitution, cannot typically order the regularization, absorption, or permanent continuation of an employee's service. This is especially true unless the employee seeking regularization was appointed through an open and competitive process, following standard recruitment procedures under the applicable rules, and against an officially approved vacant position. It is a fundamental legal principle that for public sector employment, an appointment does not grant the appointee any inherent right unless it was made according to the relevant rules and after a fair competition among qualified candidates. In the case of a contractual appointment, the employment automatically ends when the contract expires. Similarly, engagements on daily wages or a casual basis conclude upon completion of the agreed work or period. A temporary employee cannot automatically claim permanent status once their term ends. To clarify, if the initial appointment did not follow the proper selection process as outlined in the relevant rules, a temporary, contract, or casual worker cannot be absorbed into regular service or made permanent simply because they continued working beyond their initial term. This Court cannot mandate regular recruitment for a temporary or contract employee whose work period has ended, or for an ad-hoc employee who, by definition, does not gain such rights. Furthermore, obtaining an interim court order does not grant an employee the right to be absorbed or made permanent without adhering to the mandatory legal recruitment process.

10. Considering the legal principles outlined above, the respondent ministry acted within its legal rights to refuse the regularization of the service of the petitioners in PNSC due to their policy and rules. Furthermore, the General

Clauses Act, of 1897, grants the appointing authority the power to both appoint and remove individuals appointed under that authority. As such no case for interference is made out and contempt proceedings are dropped against the PNSC in a disposed of matter.

11. Having considered the legal precedents, we are of the opinion that the Petitioners' situation falls under the principle of Master and Servant. It is a well-established legal principle that a contractual employee does not possess a fundamental or acquired right to remain in their contractual position or to demand an extension or regularization of their service. Furthermore, it is settled law that courts generally avoid interfering with the policy-making authority of the Executive branch, unless it is demonstrated that such policies have violated the fundamental rights of citizens, which is not the situation presented in this case.

12. In the present matter, we have not been presented with any evidence that would lead us to conclude that the decision to refuse the regularization of the Petitioners' service was/is illegal. It is worth noting that the learned counsel for the respondent-PNSC has not agreed to allow the Petitioners to continue serving on a contract basis until the age of superannuation; however, the decision on this matter remains with the Respondents and should be made within a reasonable timeframe in terms of order dated 06.07.2018 issued by the Secretary Government of Pakistan, Ministry of Maritime Affairs in both petitions filed by Petitioners and PNSC, which order shall remain intact in both cases. The reasons already discussed above adequately address and dismiss their perspective.

13. Our conclusions in the preceding paragraphs are further supported by the following authoritative judgments of the Honorable Supreme Court:

*i. Government of Baluchistan V/S Dr. Zahida Kakar and 43 others, 2005 SCMR 642. ii. Dr. Mubashir Ahmed V/S PTCL through Chairman, Islamabad, and another, 2007 PLC CS 737. iii. Abid Iqbal Hafiz and others v. Secretary, Public Prosecution Department, Government of the Punjab, Lahore, and others, PLD 2010 Supreme Court 841. iv. Federation of Pakistan v. Muhammad Azam Chattha, 2013 SCMR 120. v. Muzafar Khan & others V/S Government of Pakistan & others, 2013 SCMR 304. vi. Abdul Wahab and others v. HBL and others, 2013 SCMR 1383. vii. Chairman NADRA, Islamabad through Chairman, Islamabad and another v. Muhammad Ali Shah and others, 2017 SCMR 1979. viii. Qazi Munir Ahmed Versus Rawalpindi Medical College and Allied Hospital through Principal and others, 2019 SCMR 648. ix. Raja Iviz Mehmood and another v. Federation of Pakistan through Secretary M/o Information Technology and Telecommunication and others, 2018 SCMR 162. x. Maj. (R) Syed Muhammad Tanveer Abbas and other connected Appeals, 2019 SCMR 984. xi. Unreported order dated 13.03.2019 passed by the Hon'ble Supreme Court in C.P. No.2792/2018 and other connected petitions. xii. Province of Punjab through the Secretary Agriculture Department, Lahore, and others Vs. Muhammad Arif and others, 2020 SCMR 507. xiii. Miss Naureen Naz Butt vs Pakistan International Airlines and others, 2020 SCMR 1625. xiv.*

*Government of Khyber Pakhtunkhwa, Workers Welfare Board, through its Chairman versus Raheel Ali Gohar and others (2021 PLC (CS) 125). xv. Order dated 18.02.2021 passed by the Supreme Court in Civil Appeal No. 936 and 937 of 2020.*

14. Considering the aforementioned facts and circumstances of this case, the captioned petitions, along with all associated pending applications including contempt application if any, are hereby disposed of in the aforesaid terms. There will be no order as to costs.

JUDGE

Head of the Cost. Benches

Shafi