

THE HIGH COURT OF SINDH, KARACHI

Present:

Justice Mohammad Karim Khan Agha
Justice Adnan-ul-Karim Memon

CP No.D-2750 of 2021

[Mehtab Ali v. Federation of Pakistan and others]

Petitioner : through Mr. Talha Abbasi, Advocate.
Respondent No.1 : through Ms. Wajiha M. Mehdi, AAG
Respondents No.2 & 3 : through M/s. Mukesh Kumar G. Karara and Sajid Ali Channa, advocates alongwith Syed Ali Hassan Almdar, Deputy Director, Legal, SSGC and Rana Abu Bakar, Law Officer, SSGC
Dates of hearing : 17-06-2025
Date of order : 17-06-2025

J U D G M E N T

Adnan-ul-Karim Memon, J., Petitioner humbly prayed that this Court may:

Declare that the respondents' failure to induct the petitioner regularly after successful completion of the Emerging Leadership Program is unlawful, unconstitutional, arbitrary, whimsical, discriminatory, and in disregard of natural justice principles.

Direct Respondents No.2 and 3 to treat the petitioner on par with similarly placed trainee engineers who have been regularized, and accordingly, induct the petitioner into regular service, having successfully completed the training under the Emerging Leadership Program.

2. The petitioner is seeking regularization of employment with Respondent No.2 after successfully completing his "Emerging Leadership Program" (ELP). This program promised regular positions to new engineers after two years of training. The petitioner successfully passed the ELP's competitive test and interview in March 2017. Although initially not selected with a batch of 75 engineers in May 2017, the petitioner was called to join training on January 16, 2018, as confirmed by an orientation letter despite an earlier enrollment letter date. Throughout the training, the petitioner's performance was highly praised, achieving 92 out of 100 marks in evaluations and even receiving a posting to Sukkur. While the earlier batch of 75 engineers, who completed training in May 2019, were inducted into regular employment by June 2019, the petitioner, whose training concluded on January 16, 2020, was arbitrarily ignored. Respondents initially cited COVID-19 as a reason for delay and later gave false assurances, ultimately excluding the petitioner when the other batch received confirmation letters in December 2020.

3. The petitioner's counsel argued that the denial of regularization is a clear act of discrimination, violating Article 25 of the Constitution. They emphasized

that the petitioner underwent the identical selection and training process as their already regularized colleagues, yet the respondents have deliberately delayed, seemingly to time-bar the claim. The counsel contended that this disparate treatment is unjust, unlawful, unconstitutional, and a direct violation of the petitioner's fundamental rights. They highlighted that Respondent No.2, a public sector entity, is irresponsibly wasting public funds by training individuals and then denying them regular induction without valid cause. This, they asserted, constitutes a breach of fundamental rights and policy principles, specifically Article 25. Finally, the counsel stressed that settled law mandates structured discretion to ensure due process, fairness, and a fair trial, preventing arbitrary and discriminatory practices. He concluded by stating that courts consistently hold that authorities cannot exercise power arbitrarily but must act fairly, evenly, and justly, with their actions subject to judicial review.

4. The respondent company (SSGC) counsel firmly rejected the petitioner's regularization claims, asserting that the "Emerging Leadership Program" (ELP) is a training program, not a guarantee of permanent employment. The counsel highlighted that the ELP's purpose is to offer learning opportunities to graduates. The petitioner was enrolled as a "Trainee Engineer" for a fixed two-year period (January 17, 2018, to January 16, 2020) on a stipend of Rs.50,000/- per month. Crucially, the ELP terms and conditions, explicitly accepted and signed by the petitioner in their enrollment letter (dated November 30, 2017), stated that the program "does not in any way guarantee qualification for future full-term employment." The company also retained the right to terminate the contract without reason, and the training was set to conclude automatically after two years. The counsel further argued that the petitioner's claim of finding the ELP advertised on the company website was false; their application was found in a university-linked data bank. The petitioner was not initially selected with the May 2017 batch due to lower test scores and interview performance compared to other candidates. They were offered a slot in January 2018 from a backup list when a vacancy arose. Regarding performance, the counsel stated that a trainee report only reflects assigned task performance and is not the sole factor for permanent employment. Other vital considerations include company requirements, candidate suitability, overall attitude, and subsequent assessments. The company retains full discretion over offering permanent positions. Finally, the counsel denied any allegations of offering false hopes related to COVID-19 or subsequent regularization. The petitioner was explicitly informed that their ELP enrollment concluded on January 16, 2020. They also refuted the claim that all 75 trainees from the earlier batch were regularized, clarifying that only 61 engineers were offered permanent employment. Based on these points, the respondent company's counsel concluded that the petition is factually incorrect, frivolous, and should be

dismissed with costs, as SSGC is not legally obligated to provide the petitioner with permanent employment.

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

6. In Pakistan Electric Power Company v. Syed Salahuddin (2022 SCMR 991), the Supreme Court of Pakistan ruled on the maintainability of petitions against government-controlled companies without statutory rules. The Supreme Court held that writ petitions are generally not maintainable against power/distribution companies like QESCO, despite their government control. It clarified that merely adopting WAPDA's rules does not make them statutory for such entities. The relationship between these companies and their employees is governed by the "master and servant" principle when statutory rules are absent. The Supreme Court found that the High Court had incorrectly assumed jurisdiction, misinterpreting prior judgments that consistently deny constitutional jurisdiction (under Article 199) in cases where employees' service conditions are not regulated by statutory rules. Consequently, the Supreme Court set aside the High Court's judgment, affirming that in such scenarios, constitutional relief is unavailable.

7. In Vice Chancellor Agriculture University Peshawar and others v. Muhammad Shafiq and others (2024 SCMR 527), the Supreme Court of Pakistan unequivocally held that contractual employees have no vested right to regularization unless explicitly supported by law, rules, or policy. The Supreme Court emphasized that any regularization process requires a legal or statutory basis and must adhere to relevant provisions and government policies. Absent such backing, a contractual employee cannot claim regularization. Regularization without legal authority offends principles of fairness, transparency, and meritocracy, and is an improper expense to the public exchequer. However, in the present case the contract of the petitioner explicitly show that he could not claim regularization of service based on such ELP enrollment which concluded on January 16, 2020.

8. In Mohsin Raza Gondal and others v. Sardar Mehmood and others (2025 SCMR 104), the Supreme Court of Pakistan clarified the stringent requirements for employee regularization. The Supreme Court held that institutions regularizing employees must either be legally mandated or implement a well-defined, documented policy outlining clear criteria and processes. Essential considerations include: Assessing the contractual employee's performance against standards for regular positions. Ensuring matching positions exist for the employee's skills and experience. Weighing the financial impact of regular employment. Conducting an impartial evaluation of qualifications, performance, and merit to ensure only

competent individuals receive permanent status. The Supreme Court cited previous judgments, including *Federation of Pakistan v. Fazal-e-Subhan* (**PLD 2024 SC 515**), *Government of Khyber Pakhtunkhwa v. Sher Aman* (**2022 SCMR 406**), and *Messrs State Oil Company Limited v. Bakht Siddique* (**2018 SCMR 1181**).

9. In *Muhammad Suleman v. Chief Secretary Government of Khyber Pakhtunkhwa Civil Secretariat Peshawar and others* (**2023 SCMR 1932**), the Supreme Court of Pakistan ruled on the regularization of an employee whose appointment lacked a competitive and transparent process. The Supreme Court observed that the petitioner's appointment was not through a competitive, transparent process. Made by the College Principal, not the "Government" or a "Government Department" as defined by the 2009 Act. Against a fixed remuneration from the Agency Development Fund, falling outside the Act's definition of "employee" (which excludes project, work-charge, or contingency-paid employees). The Supreme Court reiterated its consistent stance that appointments made without public advertisement and a transparent, competitive process are unconstitutional and void. Such appointments fail to uphold the sacred trust of selecting the most qualified and deserving individuals fairly. Given that the petitioner was ineligible for regularization under the 2009 Act, the competent authority's decision (dated January 9, 2020) was upheld. The Court found no substantial legal question for consideration, refused leave to appeal, and dismissed the petition.

10. In the instant case, the regularization process for the petitioners was found to lack the backing of law, rules, or policy, thereby precluding their claim for regularization.

11. As a Constitutional Court, this Court is tasked with ensuring public sector institutions operate lawfully, safeguarding public interest and citizens' rights. In this case, the regularization process for the petitioner was found to lack the backing of law, rules, or policy, thereby precluding their claim for regularization. The petitioner has failed to demonstrate any illegality or irregularity in the respondents' actions, thus providing no basis for this Court's interference under its writ jurisdiction to regularize his services based on ELP enrollment which concluded on January 16, 2020.

12. This petition lacks merit and is therefore, dismissed, along with any pending application(s).

JUDGE

HEAD OF CONST. BENCHES

