

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR.

Present:

Mr. Justice Zulfiqar Ali Sangi.

Mr. Justice Abdul Hamid Bhurgri.

Const. Petition No.D-1614 of 2019

(Ghulam Mustafa and others Vs. Province of Sindh and others)

Petitioners : Ghulam Mustafa, Gul Bahar, Shafqat Ali, Syed Faique Ali Shah, Gulzar Ahmed, Engineer Saeed Ali, Khadim Hussain, Abdul Shakoor, Ali Sher, Khair Muhammad and Faiz Muhammad, through Mr. Gul Feroze Kalwar, Advocate,

Respondents No.1 to 4 : Province of Sindh through Chief Secretary, Government of Sindh and others through Mr. Zulfiqar Ali Naich, Assistant Advocate General Sindh.

Respondent No.5 : Chairman, Municipal Committee, Rohri through Mr. Abdul Qadir Shaikh, Advocate.

Date of hearing : **14.05.2025**

Date of Announcement : **26.06.2025**

O R D E R

Abdul Hamid Bhurgri, J. Through the instant Petition, petitioners have sought following relief:

- (a) *That this Honourable Court may graciously be pleased to declare that the petitioners are entitled for regularization from the date of their initial/original appointments instead of the date of confirmation or regularization.*
- (b) *To direct the Respondents to regularize the services of the Petitioners with effect from the date of their initial/original appointments, with all consequential benefits, including back pensionary benefits and other service-related entitlements; and further, to treat the Petitioners' prior length of service as regular employment, to fix their seniority accordingly, and to consider the period served under contract as regular service in accordance with the law.*
- (c) *To grant any other relief which this Honourable Court deems fit and proper in circumstances of the case.*
- (d) *To award the costs of this petition.*

2. The case advanced by the Petitioners is that they were engaged on a contractual basis in the Office of the Municipal Committee, Rohri (Respondent No.4, “T.M.A. Rohri”), by the Competent Authority. The particulars concerning the date of initial engagement of each Petitioner are as follows:

S#	Name with father Name	Designation With BPS	CNIC
1	Gulzar Ahmed S/o Rasool Bux Jigirani	Chowkidar (BPS-01) (9130-290-17830)	01-02-1973 (45 years) 45502-7736264-5
2	Abdul Shakoor S/o Sahab Dino	Chowkidar (BPS-01) (9130-290-17830)	10-03-1988 (30 years) 45502-0605290-1
3	Shafqat Ali s/o Hussain Bux	Helper (BPS-01) (9130-290-17830)	27-03-1984 (34 years) 45502-9757904-7
4	Saeed Ali S/o Gulzar Ali	Helper (BPS-01) (9130-290-17830)	01-01-1987 (31 years) 45502-1096073-7
5	Engineer S/o Shamsuddin	Chowkidar (BPS-01) (9130-290-17830)	01-02-1976 (42 years) 45502-0853245-3
6	Syed Faik S/o Syed Nabi Dino Shah	Operator (BPS-01) (9130-290-17830)	10-03-1973 (45 years) 45503-7393662-5
7	Gul Bahar S/o Allah Wasayo Malah	Operator (BPS-01) (9130-290-17830)	01-05-1966 (52 years) 45502-3265303-3
8	Khair Muhammad S/o Allah Dino Mirbahar	Chowkidar (BPS-01) (9130-290-17830)	1971 (47 years) 45502-5327717-3
9	Faiz Muhammad S/o Allah Dino Mirbahar	Chowkidar (BPS-01) (9130-290-17830)	1975 (43 years) 45502-3737129-7
10	Khadim Hussain S/o Ali Bux Shaikh	Chowkidar (BPS-01) (9130-290-17830)	1970 (48 years) 45502-6694782-1
11	Ghulam Mustafa S/o Muhammad Ali Solangi	Cooli (BPS-01) (9130-290-17830)	25-02-1976 (42 years) 45502-4365700-1
12	Muharam Ali S/o Hazar Khan	Mashki (BPS-01) (9130-290-17830)	04-01-1978 (40 years) 45502-0823604-9

3. According to the Petitioners, their engagements were made on contract for a specified term of three years by the Competent Authority, and said contractual period was extended periodically. Notwithstanding the prolonged and uninterrupted nature of their service, their engagements were not subsequently regularized. They assert that similarly situated employees, pursuant to earlier petitions (C.P. Nos. D-3267/2012 and 2605/2012), were directed to be regularized vide order dated 01.10.2018, issued by the Chief

Municipal Officer, Municipal Committee, Rohri, with immediate effect.

4. The respondent No.5 filed his statement/comments along with certain documents, which is reproduced as under:-

“On behalf of the Respondent No. 5, it is submitted that in fact previously the petitioners had filed C.P No. D-2650/2012 for grant of relief of their regularization. C.P No. D-3267 / 2012 Nangar Khan & others was also connected with the above petition, it is further submitted that on 13-02-2018 Secretary, Local Government Department filed statement that the Ad-hoc & Contract Employees Act, 2013 is not applicable to the petitioners as the petitioners are not Government employees & the Secretary also under took that after completion of formalities by the Respondent No. 5 (in this petition) the Secretary, Local Government Department will issue approval & the grievance of the petitioners will be redressed. Alongwith the statement comments dated 12-12-2022 were also filed in which the Scrutiny Committee in its meeting held on 18-03-2022 had taken decision that the petitioners in C.P No. D-1255 / 2022 were entitled for arrears of pay & allowances permissible only from the effective date of regularization which point is also involved in this petition. Legal advice was issued by the Advocate General Sindh which was also placed on record. In furtherance of the orders of this Honourable Court dated 18-01-2018 & 13-02-2018 & upon orders of the Government office order No. GB/MCR/-625 dated 01-10-2018 (at page 57 of this petition) was issued & that the petitioners in C.P No. D-2650 / 2012 Ghulam Mustafa & others were regularized with immediate effect, as such, the petitioners grievance that they may be regularized from the initial date of appointment is resolved by the Secretary that the regularization will be take effect from the date of order & not retrospectively i.e. from the date of initial appointment & so far as the point No. 2 regarding payment of back benefits from the initial date of appointment also stands resolved by the Scrutiny Committee that it is the date of regularization & not the date of initial appointment, as such, the petition is meritless & is liable to be dismissed with costs”.

5. Learned counsel for the Petitioners contended that by virtue of their continuous service since 2007, devoid of any break, they are entitled to regularization from the date of their initial

engagement. It was argued that any regularization order should necessarily be backdated to their original appointment, thereby entitling them to all consequential benefits, including seniority, pension, and other service perks. He prayed for allowing the Petition with costs. He placed reliance upon the case of ***Fareeha Rehman and others v. Province of Punjab, reported in 2019 PLC (C.S.) 103, Chairman, Pakistan International Airlines corporation (PIAC), Karachi and 3 others v. Tayyaba Hasnain and another, reported in 2012 PLC (C.S.) 696.***

6. Conversely, the learned counsel for Respondent No.5 contended that several of the Petitioners had previously invoked the jurisdiction of this Court through connected petitions, namely C.P. Nos. D-2650/2012, D-3267/2012, D-285/2013, D-4819/2015, D-350/2016, and D-713/2016, seeking the relief of regularization. All these petitions, being interrelated, were disposed of vide consolidated order dated 13.02.2018, wherein the Respondents were directed to consider the Petitioners' cases in accordance with prevailing statutory provisions, service rules, and regulations within a period of thirty days. Pursuant to the said directions, the services of the Petitioners were regularized by means of an order dated 01.10.2018, a copy of which is annexed at page 57 of the petition. The learned counsel submitted that while compliance with the Court's directive was duly effected and the Petitioners were indeed regularized, such regularization could not, in law, take retrospective effect. It was his emphatic submission that the regularization became operative only from the date of the issuance of the formal order, and not from the date of the initial appointment. He further contended that the issue regarding entitlement to back benefits from the initial date of engagement stood conclusively resolved by the Scrutiny Committee, which determined that the effective date for regularization shall be the date of the regularization notification, i.e., 01.10.2018. Consequently, the question of backdated monetary benefits does not arise. In support of his submissions, learned counsel placed

reliance upon the judgment rendered in C.P. No. D-1255/2022 re: Anwar Ali Kandhro and others v. Province of Sindh, wherein an identical contention was raised, namely, that the Petitioners therein were entitled to regularization from the date of initial appointment. That petition, however, was dismissed on merits. He concluded by submitting that in view of the binding principles of stare decisis and parity of reasoning, the present petition is likewise devoid of merit and liable to be dismissed, with special costs.

7. We have heard the submissions of learned counsel for the respective parties at considerable length and have examined the record meticulously.

8. The core issue in this case is whether the Petitioners are entitled to be regularized from the date of their initial contractual appointments or merely from the date of issuance of the formal notification of regularization.

9. It is undisputed that the Petitioners were engaged on a contractual footing, and their contracts were periodically renewed. They previously approached this Court, whereby vide order dated 13.02.2018 this Court had disposed of their petitions as under:-

“In the comments filed on 29.04.2017 by respondent No.4 Taluka Municipal Administration Rohri in C.P No.D-2650/2012, it was stated that names of the petitioners were recommended to the Sindh Government for regularization as the Sindh Government had constituted a committee in the light of the Sindh (Regularization of Ad-hoc and Contract Employees) Act 2013. In compliance of the order passed on 18.01.2018, Secretary Local Government Department Muhammad Ramzan Awan is present in person along with his statement dated 13.02.2018 which is taken on record. He has stated in his statement that Chief Municipal Officer Rohri has not forwarded me cases of petitioners to his department for regularization.

Learned counsel for respondent No.4/Taluka Municipal Administration Rohri states that the cases of petitioners will be sent to the Government of Sindh within thirty (30) days. Secretary Local Government Department states that the cases of the petitioners will be decided by his department within thirty (30) days from the receipt of such

cases strictly in accordance with the prevailing law, rules, regulations and policy.

By consent, all these petitions and applications pending therein are disposed of in the above terms. Let a copy of this order be provided to learned Assistant Advocate General Sindh for compliance”.

Pursuant to the above order, the competent authority undertook the requisite procedural steps, culminating in their eventual regularization on 01.10.2018.

10. The record reflects that the Local Government Department acted in accordance with the order dated 13.02.2018 mentioned supra by initiating and completing the scrutiny process and regularized their services. The issuance of regularization orders was conducted in accordance with prevailing law, policy, and procedural requirements.

11. In light of the above, the Petitioners’ demand for retrospective regularization and back benefits from the date of initial engagement is misconceived. The appointment orders themselves categorically specify that the Petitioners were hired on a temporary basis, terminable at will without the need for assigning any reason. There exists no clause or statutory provision entitling them to regularization with retrospective effect.

12. This Court is fortified in its view by the authoritative dicta of the Honourable Supreme Court of Pakistan in the case of Province of Punjab through Chief Secretary, Lahore vs. Dr. Javed Iqbal and others (**2022 SCMR 897**), wherein it was unequivocally held that:

“Secondly, regularization takes effect prospectively, from the date when a regularization order is passed. In the absence of any law/order/policy providing for retrospective regularization, the Respondents cannot claim regularization of their services based on past service rendered on contract basis as well as the period during which they were out of service. As such, the conclusion of the High Court to the effect that the Appellants could not have regularized the Respondents with immediate effect is ex facie erroneous and is accordingly held as unsustainable.

This legal principle was reaffirmed in case of Vice Chancellor Agriculture University Peshawar and others vs. Muhammad Shafiq and others (**2024 SCMR 527**) and similar jurisprudence from superior courts, confirming that a contractual appointment constitutes a fresh engagement under a distinct service stream. The Honourable Supreme Court in the case supra held as under:-

“In order to understand the issue at hand, it is expedient to understand the regime of regularization which in essence means to make “regular” or “permanent.” Once the contractual services are regularized, the appointment can become substantive or permanent and cannot be terminated without due process. Therefore, the regularization of a contractual employee is a fresh appointment into the stream of regular appointment.”

13. In summation, the Court finds no provision in the Sindh Local Government Act, 2013, nor any accompanying rules or policy framework, that permits retrospective regularization of services rendered under contract. The petitioners’ claims, therefore, do not warrant judicial intervention, and no case of manifest injustice is made out.

14. Accordingly, the instant petition stands dismissed. There shall be no order as to costs.

JUDGE

JUDGE

ARBROHI