

IN THE HIGH COURT OF SINDH, KARACHI
Constitutional Petition No.D-5580 of 2023
(Lal Muhammad Rajar versus Federation of Pakistan & others)

Before:
Justice Muhammad Karim Khan Agha
Justice Adnan-ul-Karim Memon

Date of hearing & Order: 09.10.2025

Mr. Ali Asadullah Bullo advocate for the petitioner.
Mr. Khalid Javed, advocate for Respondent.
Mr. Khalid Ali Lashari, Assistant Director (Legal) PSQCA
Ms. Wajiha Mehdi, Assistant Attorney General.

ORDER

Muhammad Karim Khan Agha J. Through this petition, the petitioner seeks the following relief(s):-

- A. *To declare the impugned letter dated 02.11.2023 as illegal, violative of the dicta laid down by the Hon'ble Apex Court and in direct conflict with Section 21 of the General Clauses Act, 1897, and set aside the same.*
- B. *Direct the Respondents, agents, officials, and any other authority acting on behalf of them not to take coercive/adverse action against the petitioner and conduct themselves in accordance with the law till the finalization of the instant proceedings.*

2. The case of the Petitioner is that he was appointed as Examiner (Agriculture & Food) with Respondent No.2 on a contingency basis for 89 days in 2012, and his service was extended periodically due to satisfactory performance. In 2013, the Federal Government introduced a policy for the regularization of daily-wage and contractual employees. The Petitioner's case, along with others in the Pakistan Standards & Quality Control Authority, was placed before a Cabinet Sub-Committee constituted under government orders and endorsed by the National Assembly. However, the Islamabad High Court later declared the Committee without legal effect. In *Intra Court Appeal No. 340/2017*, decided on 21.06.2018, directions were issued to the Government for regularization, which were upheld by the Supreme Court on 13.03.2019, thereby attaining finality.

3. Learned counsel for the Petitioner contended that, vide Office Memorandum dated 13.09.2018, the Establishment Division sought details of the contract and daily-wages employees recommended for regularization by the Cabinet Sub-Committee. The Ministry of Science & Technology accordingly collected data from its subordinate offices, and Respondent No.2 (PSQCA) submitted a list including the Petitioner at serial No.2. Despite submission to the Supreme Court, no notification followed. The matter was later placed before the 24th and then the 25th meetings of PSQCA's Board of Directors, which finally approved the Petitioner's regularization vide Notification dated 19.07.2023.

However, Respondents, with mala fide intent, withdrew the regularization through an impugned order dated 02.11.2023. Counsel argued that the withdrawal violates binding judgments of the Islamabad High Court and Supreme Court, Section 21 of the General Clauses Act, 1897, and the Petitioner's vested rights accrued through lawful regularization. The impugned act, being arbitrary, illegal, and violative of constitutional rights, was prayed to be set aside.

4. Learned counsel for Respondent No.1 submitted that PSQCA, an autonomous body established under the 1996 Act and governed by its 2015 Service Regulations, employed the Petitioner on a contingent basis in 2012, contrary to rules restricting such appointments to Class-IV (BPS-1 & 2) posts under GFR Vol-II. The Petitioner's engagement as Examiner (Agriculture & Food) began on 31.05.2012 and expired on 11.08.2018, and his services were never regularized. Pursuant to the Islamabad High Court's directions and the Government's policy (O.M. No. 53/1/2008-SP, dated 11.05.2017), only eligible employees were allowed to apply for posts. Counsel added that the Supreme Court had already declared the SERA Act, 2010, ultra vires the Constitution for regularizing employees without observing codal formalities. He has further added that the services of the petitioner were terminated some five years ago, details of the initial appointments of the petitioner on a contingent basis, and the expiry of the contingency period. He lastly prayed for dismissal of the instant petition. The contingency period is as under:-

“Mr. Lal Muhammad Rajar was appointed on 31.05.2012 as Examiner (Agriculture & Food) in SDC-PSQCA, and his contingent period expired on 11.08.2018.”

5. Learned Assistant Attorney General has adopted the argument of learned counsel for the respondent-PSQCA.

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

7. The record shows that vide Notification dated 19.07.2023, the respondent department regularized the Petitioner's services in compliance with Supreme Court Judgment in C. P No. 3526/2018 dated 13.03.2019, ICA No. 340/2017, relevant subcommittee minutes, and the Ministry of Science & Technology's letter dated 05.05.2023. However, through a letter dated 02.11.2023, the department, referring to the Islamabad High Court judgment dated 13.10.2023 declaring the Special Committee's regularization orders void, directed implementation of the said judgment and withdrawal of its earlier letter dated 27.10.2023.

8. We have been informed that the Islamabad High Court, in its order dated 27.09.2023 in W.P. No. 4657/2022 and connected petitions, held that the Special Committee constituted under the Rules of Procedure and Conduct of Business in the National Assembly, 2007, cannot act beyond its terms of reference as stated in

the circular dated 12.10.2022. It reiterated that what is prohibited by law cannot be done indirectly. The learned Single Bench of the Islamabad High Court noted that the Federal Government's representative did not support the Committee's recommendations and that the National Assembly's term had already expired. Consequently, the Committee's recommendations were declared void and without legal effect. All ministries, departments, and organizations, including EOBI, CDA, OPF, Pakistan Steel Mills, and FIA, were directed not to implement or enforce them. Any actions taken or proceedings initiated based on those recommendations were also declared illegal and void ab initio. Accordingly, all writ petitions were allowed, and Criminal Original No. 47 of 2023 was disposed of.

9. The Islamabad High Court relied on two settled principles of administrative and constitutional law: (i) what cannot be done directly cannot be done indirectly (*Quando aliquid prohibetur, prohibetur et omne per quod devenitur ad illud*), and (ii) a statutory body must act strictly within its legal authority. In *Federation of Pakistan v. Aitzaz Ahsan* (PLD 1989 SC 61) and *Hussain Nawaz Sharif v. Federation of Pakistan* (PLD 2018 SC 189), the Supreme Court held that acts beyond legal or constitutional mandate are void. Similarly, in *Muhammad Yousaf v. Province of Punjab* (PLD 2016 Lahore 610), such acts were declared void ab initio. Once the National Assembly's tenure ended, any committee formed under it ceased to exist. As affirmed in *Benazir Bhutto v. Federation of Pakistan* (PLD 1988 SC 416) and *Government of Balochistan v. Azizullah Memon* (PLD 1993 SC 341), actions beyond jurisdiction are null and void. Accordingly, the Court held that the Special Committee's recommendations were without lawful authority, void ab initio, and all consequential actions stood quashed, exonerating the petitioners.

10. We have been apprised of the fact that since an Intra-Court Appeal is pending before the Division Bench of the Islamabad High Court against the order dated 27.09.2023 passed in W.P. No. 4657/2022 and connected petitions, we refrain from examining the merits of the case. The petitioner may await that decision and, if similarly placed colleagues succeed, may approach this Court for relief, subject to all just exceptions as provided under the law. However, in the intervening period, if the petitioner is still serving in the respondent-PSQCA, he may not be disturbed.

11. The petition is disposed of accordingly, without touching the merits.

HEAD OF CONST. BENCHES

JUDGE