

IN THE HIGH COURT OF SINDH KARACHI

Before:

**Justice Muhammad Saleem Jessar
Justice Nisar Ahmed Bhanbhro**

CP No.D-6241 of 2016

(Anjum Badar v. Province of Sindh and 02 others)

CP No.D-2795 of 2019

(Saima Soomro v. Province of Sindh and 04 others)

CP No.D-4107 of 2019

(Aqeel Ahmed & 09 others v. Province of Sindh and 03 others)

CP No.D-2201 of 2024

(Sarwat Naz Qureshi v. Province of Sindh and 03 others)

CP No.D-2826 of 2024

(Ms. Bushra Memon v. Province of Sindh and 02 others)

Date of hearing

& order:

12.03.2026

Mr. M.M Aqil Awan, Advocate for petitioner in C.P No.D-6241/2016

Mr. Danish Rashid Khan, Advocate for petitioners in C.P No.D- 2795/2019 and D-2201/2024

M/s. Muhammad Saleem and Muhammad Nasir, Advocates for petitioner in C.P No.D-2826/2024

Mr. Talha Abbasi, Advocate for petitioners in C.P No.D-4107/2019

Mr. Faraz Ali Rajpar, Associate of Mr. Ali Asadullah Bullo, Advocate for petitioners in C.P Nos.D-2795/2019 and D-2201/2024

M/s. Hakim Ali Shaikh and Sageer Ahmed Abbasi, Additional Advocates General, Sindh

Mr. Shiraz Ahmed Siddiqui, Applicant/Intervener in C.P No.D-6241/2016

ORDER

Nisar Ahmed Bhanbhro, J. These petitions were dismissed by a Learned Division Bench of this Court vide order dated 08.04.2021. The order passed by this Court was assailed before the Hon'ble Supreme Court of Pakistan through Civil Appeals No 26 - K of 2021 & others. The Honorable Supreme Court of Pakistan vide its order dated 29.12.2023 set aside the order dated 08.04.2021 passed by this Court and remanded the petitions back to decide afresh. For the sake of convenience, para 16 and 17 of the order dated 29.12.2023 of Supreme Court of Pakistan is reproduced below:

“16. In fact, the case before the High Court was to consider whether the petitioners are entitled for regularization of their services and obviously, if no case was made out, the petitions could have been dismissed. Here, however, not only were the petitions dismissed but Karachi the law was also declared *ultra vires* which disturbed and traumatized regularized since 2013 by the Government of Sindh in its different departments/ministries under the same law. The impugned judgment has deprived a long chain of employees and virtually made them jobless without providing any right of audience to them which was grave violation of Article 10-A of the Constitution and also amounts to the contravention of the principle of natural justice and due process of law. In the case of Jameel Qadir and another Vs Government of Balochistan, Local Government, Rural Development and Agrovilles Department, Quetta through Secretary and others (2023 SCMR 1919), it was held by this Court that the term jurisdiction in the legal parlance means the command conferred to the Courts by law and Constitution to adjudicate matters between the parties. The jurisdiction of every Court is delineated and established to adhere to and pass legal orders. Transgressing or overriding the boundary of its jurisdiction and authority annuls and invalidates the judgments and orders. The Courts commit judicial overreach when they exercise powers beyond the compass of powers and jurisdiction entrusted to the courts through the law and the Constitution. We are again making endeavors to recapitulate the legal position with the fond hope that the High Court would keep in mind the legal position and the law declared by this court which is crystallized by a catena of decisions as under:-

1. Dr. Imran Khattak v Ms. Sofia Waqar Khattak PSD to the Chief Justice (2014 SCMR 122). It be noted that no Judge of a High Court or the Supreme Court is robed, crowned and sceptered as a King to do whatever suits his whim and caprice. In all eventualities, he is bound to abide by and adhere to the law and the Constitution. Yes, in certain cases a High Court on receipt of a letter or an application of an aggrieved person can convert it into a constitutional petition and exercise its Constitutional jurisdiction but not in the matters where the Constitution and the law of the land have provided a forum and a machinery for their settlement. It thus follows that the framers of the Constitution of 1962 and those of 1973, inasmuch as it can be gathered from the words used in Article 98 of the former and Article 199 of the latter, never intended to confer *Suo Motu* jurisdiction on a High Court. Article 175(2) of the Constitution leaves no ambiguity by providing that 'no Court shall have jurisdiction, save as is or may be conferred on it by the Constitution or by or under any law. We would be offending the very words used in the Article by reading exercise of *Suo Motu* jurisdiction in it which cannot be read even if we stretch them to any extreme.

2. Jahanzaib Malik v. Balochistan Public Procurement Regulatory Authority thr. Chairman Board of Directors and others (2018 SCMR 414) in this case, two years contract of the petitioner was expired on 08.04.2015 and he was granted a further extension of 2 years but said office order was not challenged by respondent No.3. The Court held that by taking *Suo Motu* Notice of such extension, the High Court appears to have exceeded its jurisdiction for reasons which are not legally sustainable.

3. Mian Muhammad Nawaz Sharif and others v. Muhammad Habib Wahab Al-Khairi and others (2000 SCMR 1046). It is true that in the order passed by the learned ICA. Bench, it has been held that the

learned Single Judge had no suo motu jurisdiction under Article 199 of the Constitution and therefore, the proceedings initiated by him in exercise of his power under Article 199 of the Constitution in respect of the alleged illegal allotment of plots as well as mismanagement of Federal Baitul Maal Funds, were wholly without jurisdiction and were accordingly quashed.

4. Raja Muhammad Nadeem v. The State and another (PLD 2020 SC 282). On the higher plane, High Court had no jurisdiction under the Constitution to take up the issue suo motu. Article 199 of the Constitution envisages an aggrieved person; there was none before the Court besides the bar of alternate remedy.

5. Mian Irfan Bashir v. The Deputy Commissioner, Lahore and others (PLD 2021 SC 571) This Court held that suo motu exercise of judicial power not available to the High Court under the Constitution. Such exercise of judicial power by a judge passes for judicial overreach ie, exercise of judicial power without any backing of law and clearly interfering in and encroaching on the legislative and executive domain.

6. M/s Sadiq Poultry (Pot.) Ltd, v. Government of Khyber Pakhtunkhwa thr. Chief Secretary and others (PLD 2023 SO 236). It is settled law that the High Court does not have suo motu jurisdiction under Article 199 of the Constitution of the Islamic Republic of Pakistan (the "Constitution") as compared to this Court which has been conferred exclusive jurisdiction in the matter by the Constitution in terms of Article 184(3) The learned High Court could only pass appropriate and lawful orders on matters which have a direct nexus with the lis before it and could not overstep or digress therefrom.

17. The aforementioned Civil Appeals along with connected Civil Miscellaneous Applications No. 7436 & 3498/2021, moved for seeking permission to file and argue two CPLAs, were fixed on 29 12 2023, when the office was directed to number the said petitions and for the reasons to be followed, the Civil Appeals were allowed as well as the Civil Petitions were also converted into appeals and allowed As a consequence thereof, the impugned judgment of the Sindh High Court dated 08.04.2021 was set aside and the matter was remanded to the High Court for deciding the Constitution Petitions afresh after providing opportunity of hearing to all the parties. Above are the reasons assigned in support of our short order."

2. Per ratio of the erstwhile judgment rendered by Honorable Supreme Court, referred herein-above, this Court has been burdened to determine whether a case for regularization in service in favor of Petitioners is made out or not.

3. The case of the petitioners is that they were appointed against the permanent posts; in project posts in connection with the affairs of the province of Sindh, hence, they were entitled to all consequential benefits as permanent employees from the date of their initial appointment. Alternatively, they entreated that the respondents be directed to treat the petitioners as regular employees in their respective grades from the date of

promulgation of the Sindh (Regularization of Adhoc and Contract Employees) Act, 2013 (**Act-2013**) and issue notifications accordingly. The failure of the respondents to regularize the services of the petitioners was act ab initio illegal, arbitrary, fanciful, discriminatory and unconstitutional, therefore, they may directed to regularize the service of the Petitioner.

4. Mr. M. Aqil Awan Learned counsel for the petitioners in CPD 6241 of 2016 argued the matter and other learned Counsel in connected petitions relied upon his assertions. He contended that the Petitioners were appointed in service by following the due process of law. He contended that the Petitioners were working in the projects related to the affairs of province of Sindh and by operation of Section 3 of the **Act-2013**, the petitioners stood regularized in service and a formal notification was required to be issued by the Respondent departments in that regard. He contended that the Government has granted such benefit to the other similarly placed employees and non regularization of the services of the Petitioners was an act of discrimination. He prayed to allow the petition.

5. Learned A.A.-G contended that the petitioners were performing their services on contract basis in different projects. He further contended that the Petitioners joined service on contract with their sweet will, the nature of employment of petitioners is temporary and contractual one. Furthermore all the petitioners were aware that their services are being governed under Employment Agreement signed by them, hence there is no question of their regularization. He prayed to dismiss the petitions.

6. Heard learned counsel for the parties and perused the material made available before us on record.

7. Scanning of the record reveals that the petitioners were appointed on contract basis in various projects of Government of Sindh, through a competitive process except in the case of some of the Petitioners in CPD (4107 of 2019 Re Aqeel Ahmed & others). Since induction in service Petitioners are working in the projects and their contract of service was extended from time to time by the respondents. Perusal of the appointment letters of Petitioners reflected that their services were governed under the provisions of Sindh Civil Servants Act 1973 (**SCSA**). The Petitioners were subjected to the service discipline under the provisions of Sindh Civil Servants (Efficiency and Discipline) Rules 1973, (**E&D Rules**). Since the

services of the petitioners were hired on contract basis which they agreed to, therefore, were precluded to lay claim of regularization, unless backed by any statutory provision of law.

8. It is by now a settled principle, that in absence of any statutory or legal backing, an employee cannot claim regularization in service as a matter of right. In the absence of such a framework, courts cannot impose any obligation on the government to regularize the services of the employees on any ground including efflux of time. An employee who accepts the terms and conditions of the service on contract cannot claim regularization as his fundamental right and knock on the door of the Courts for the same purpose. The process of appointment is an internal affair of the department, if the department takes the service of an employee on contract basis, then the claim of the regularization cannot be accepted unless backed by the statute or any provision of law. This view is fortified by the judgment of Honorable Supreme Court, in the case of VICE-CHANCELLOR AGRICULTURE UNIVERSITY, PESHAWAR and others Versus MUHAMMAD SHAFIQ and others reported as 2024 S C M R 527 Honorable Supreme Court of Pakistan has held that:

5. 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. The differences between a contractual employee and a regular employee is material for both the employee and the employer and, inter alia, include: (i) Duration of employment; a contractual employee is usually employed for a specific period or task, with a set end date. (ii) Benefits; contractual employee generally do not receive the same benefits or statutory protection as a regular employee. (iii) Scope of work; contractual employee is engaged for specific project or task. (iv) Flexibility; contractual employee often has more flexibility in terms of work hours and location. (v) Cost Considerations: a contractual employee can be less costly in the short term as it does not require benefits and other long-term financial commitments. (vi) Risk Management; hiring regular employee is often a long-term commitment, so organizations opt for contractual

workers to manage risks associated with fluctuating market demands. Therefore, any institution opting for regularization of its employees must be either mandated by law or must carry out regularization through a well-thought out policy of the institution concerned laying down the criteria and the process for regularization; performance evaluation of the contractual employee must be assessed to determine if the employee meets the standards required for a regular position; there must be availability of positions that match the skills and experience of the contractual employee; the budgetary considerations and financial implication of a regular employee be weighed and considered. There must be a fair assessment of the employee's qualifications, performance and merit, so as to ensure only competent and committed employees be granted permanent employment status.²Regularization is, therefore, not a ritualistic and mechanical exercise. It requires fresh assessment of the candidature of the contractual employee by the competent authority before he is made a regular employee as any such act carries long term financial implications on the institution concerned. The process of regularization is grounded in principles of fairness, openness, transparency, non-discrimination and public interest. Regularization therefore has a close nexus with institutional policy and autonomy.

6. It is well settled that there is no vested right to seek regularization for employees hired on contractual basis unless there is any legal or statutory basis for the same. The process of regularization requires backing of any law, rules or policy. It should adhere to the relevant statutory provisions and government policies. In the absence of any of the same, a contractual employee cannot claim regularization. Applying the principles settled by this Court to the proposition at hand, it becomes clear that the Respondents have no automatic right to be regularized unless the same has specifically been provided for in law or policy which in the present case is not available. Any regularization without the backing of law offends the principles of fairness, transparency and meritocracy and that too at the expense of public exchequer. The Impugned Judgment has also erred in law by failing to take into account that where a contractual employee wishes to be regularized, he must demonstrate statutory basis for such a claim, in the absence of which, relief cannot be granted solely on the principle of similarly placed persons. Article 25 of the Constitution has no application to a claim based upon other unlawful acts and illegalities. It comes into

operation when some persons are granted a benefit in accordance with law but others, similarly placed and in similar circumstances, are denied that benefit. But where a person gains, or is granted, a benefit illegally, other persons cannot plead, nor can the court accept such a plea, that the same benefit must be allowed to them also in violation of law. Thus, the ground of discrimination also does not stand, because in order to establish discrimination it is important to show that the earlier act was based on law and policy, which has not been the case here. Thus, with respect to the first question raised, we are of the view that the regularization of the Respondents cannot take place without the backing of any law, rule or policy and without an open and transparent process based on an objective criteria, as discussed above.

7. At this juncture, it is underlined that the process of regularization is a policy matter and the prerogative of the Executive which cannot be ordinarily interfered with by the Courts especially in the absence of any such policy. It does not befit the courts to design or formulate policy for any institution, they can, however, judicially review a policy if it is in violation of the fundamental rights guaranteed under the Constitution. The wisdom behind non-interference of courts in policy matters is based on the concept of institutional autonomy which is defined as a degree of self-governance, necessary for effective decision making by institutions of higher education regarding their academic work, standards, management, and related activities. Institutional autonomy is usually determined by the level of capability and the right of an institution to decide its course of action about institutional policy, planning, financial and staff management, compensation, students, and academic freedom, without interference from outside authorities. The autonomy of public institutions is not just a matter of administrative convenience, but a fundamental requirement for the effective functioning of a democratic society, as public sector organizations are guardians of the public interest. Democracy, human rights and rule of law cannot become and remain a reality unless higher education institutions and staff and students, enjoy academic freedom and institutional autonomy. More recently, the concept has in its longstanding and idealized form been well captured in the Magna Charta Universitatum 2020 that states ...intellectual and moral autonomy is the hallmark of any university and a precondition of its responsibilities to society

8. *Courts must sparingly interfere in the internal governance and affairs of educational institutions i.e., contractual employments. This is because the courts are neither equipped with such expertise, nor do they possess the relevant experience that would allow for interference in such policy matters. Under this autonomous realm, educational institutions are entitled to deference when making any decisions related to their mission. At the same time, any transgression by Courts would amount to the usurpation of the power of another, which would be against the spirit of Article 7 of the Constitution as it is not the role of the Courts to interfere in policy decisions. The judicial pronouncement of the Courts in other jurisdictions i.e., United States of America, United Kingdom and India also provide that that courts should not interfere in the internal affairs of educational institutions.*

9. Legislative history in the Sindh Province, if unfolded, it reveals that, Government has remained vigilant to secure the future of employees hired on contract and adhoc basis in Government Department. In order to extend continuity of service after elongated periods on contract, the Provincial Assembly of Sindh, invented legislative instruments, paving way for induction of such employees in regular service. The legislative intent is in line with the principles of policy enshrined under the Constitution of Islamic Republic of Pakistan, 1973, wherein an obligation towards state had been cast to ensure the promotion and well being of the individuals. If the employees are retained in service for an indefinite period on contract basis, they would not be able to get fruits of the blood burnt by them for the department. They will not get any benefits of service at the end of the innings. This will result in disparity and tantamount to an act of exploitation, whereas it is obligation of the State to eliminate all kinds of exploitation, as enshrined under Article 3 of the Constitution of Islamic Republic of Pakistan, 1973, which reads as under:

“3. The State shall ensure the elimination of all forms of exploitation and the gradual fulfillment of the fundamental principle, from each according to his ability to each according to his work.”

10. In furtherance to protect the future of teachers appointed on contract, the provincial Assembly of Sindh enacted the Sindh (Regularization of Teachers appointed on Contract Basis) Act, 2018, which was again amended

through ACT No XXX of 2021 to include and extend the benefits of regular service to the teachers appointed on contract basis in the years 2013, 2014, 2015, 2016 and 2017. In another legislative development on the subject of regularization, the Provincial Assembly of Sindh enacted "The Regularization of Doctors Appointed on Contract or Adhoc Basis Act 2018", SINDH ACT NO. XLII OF 2018 to provide for regularization of the services of all categories of doctors appointed on contract or adhoc basis in the Health Department or working in its Projects, Programs and Health Facilities. The Sindh Assembly passed the Sindh (Regularization of Contract Employees of Khairpur Medical Colleged, Khairpur) Act, 2018, and in view of its Section 3(2) & (3), a committee was constituted to scrutinize the eligibility/qualification of employees appointed on adhoc or contract basis in the College by the Health Department. To the credit of the provincial Assembly of Sindh, to provide a legal cover and statutory backing for regularization of the contingency paid employees appointed in LBOD, it enacted "The Sindh (Regularization of Contingent Paid or Work-Charged Employees of Left Bank Outfall Drainage (LBOD) ACT, 2018" SINDH ACT NO. XL OF 2018. This Act has its uniqueness that for the first time in the legislative history a legal cover was provided to the contingency paid employees working in any government department or establishment.

11. For the general benefit of the employees working on contract or adhoc basis, in government departments and projects related to Government of Sindh, the Provincial Assembly enacted "The Sindh (Regularization of Contract and Adhoc Employees), Act 2013" (2013 Act). The preamble of the above referred law makes it clear that it was promulgated to provide for regularization of the services of certain employees appointed on ad hoc and contract basis or otherwise (excluding the employees appointed on daily-wages and work-charged basis). In Clause (b) of section 2, (definition clause) "Appointment of an employee" means the appointment of a duly qualified employee made on ad hoc and contract basis or otherwise (excluding the appointment on daily-wages and work-charged basis). In Clause (d), "employee" means a person appointed to a post on ad hoc and contract basis or otherwise (excluding the employee appointed on daily-wages and work-charged basis). While Clause (e) defines the post which means the post held by an employee in Government department and includes the post in a Project of such department in connection with the affairs of the Province. In compliance to such beneficial legislation services of the thousands of

employees were regularized in terms of the provisions of Section 3 of the Act, who were working in grade 1 to 18 in various departments and projects of the Government of Sindh. Section 3 of the Act contained a non obstante clause, and reads as under:

3. Notwithstanding anything contained in the Act or rules made thereunder or any decree, order or judgment of a court, but subject to other provisions of this Act, an employee appointed on adhoc and contract basis or otherwise (excluding the employee appointed on daily-wages and work-charged basis), against the post in BS-1 to BS-18 or equivalent basic scales, who is otherwise eligible for appointment on such post and is in service in the Government department and it's project in connection with the affairs of the Province, immediately before the commencement of this Act, shall be deemed to have been validly appointed on regular basis.

12. Since the Petitioners claim the benefit of 2013 Act, so let us first clarify in view of definition clause made in section (2) of the Act that benefit of this Act will go to all ad hoc and contract employees and employees include the employees performing their duties on a Project of such department in connection with affairs of the Province. Now main section under the Act is section 3 which provides and or stipulates the criterion for regularization which envisages in well-defined terms that an employee who has been appointed on ad hoc and contract basis against the post in BS-1 to BS-18 or equivalent basic scales, who is otherwise eligible for appointment on such post and is in service in the Government department and its project in connection with the affairs of the Province, immediately before the commencement of this Act, shall be deemed to have been validly appointed on regular basis. It is the responsibility of Government to apply and allow the benefit to all employees placed in equal and similar circumstances without any discrimination and not to pick and choose the employees for conferring the benefit or advantage of this law. The law under discussion is a beneficial statute proclaimed with the sole aim to provide and secure the rights of a particular category or class of employees for their betterment and to safeguard and preserve the contractual or ad hoc employment into a permanency. The letter of law enshrines that the efforts should be made to bequeath the benefit and its advantage to all the deserving employees in rem rather than to seek ways and means to deprive them on one or the other pretexts which is against the norms of good governance.

13. Appointment in the civil service was purely the prerogative of the concerned department. The process of the recruitment depends upon availability of resources, need of the employees whether on regular or temporary basis. Appointment in civil service is basically a policy matter which falls squarely within the domain of the Executive, any interference in the policy issues may amount to usurpation of the executive powers and every possible effort be made by the Courts of law to avoid encroaching upon the exclusive domain of the executives. Pronouncements of the Honorable Supreme Court on the issue of regularization of the services of the employees underscored that regularization is not merely a procedural formality but a prerogative of the executive, reflecting its autonomy in determining institutional priorities and resource allocation, therefore, it should not be interfered with under the writ jurisdiction of this Court. This view is fortified from the dicta laid down by the Honorable Supreme Court of Pakistan in the case of MOHSIN RAZA GONDAL and others Versus SARDAR MAHMOOD and others reported as 2025 S C M R 104, wherein it was held that:

14. Even otherwise, any institution opting for regularization of its employees must be either mandated by law or must carry out regularization through a well-thought-out policy of the institution concerned laying down the criteria and the process for regularization; performance evaluation of the contractual employee must be assessed to determine if the employee meets the standards required for a regular position; there must be availability of positions that match the skills and experience of the contractual employee; the budgetary considerations and financial implication of a regular employee be weighed and considered. There must be a fair assessment of the employee's qualifications, performance and merit, so as to ensure only competent and committed employees be granted permanent employment status. Reference in this regard may be made to the cases of 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). In the instant case, the regularization process of the petitioners lacks the backing of law,

rules, or policy. In the absence of any of the same, an employee cannot claim regularization.

14. The Sindh Civil Servants Act, 1973 (SCSA) is the governing law regulating the recruitment in civil service in the province of Sindh, whereas the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974 ('APT Rules') framed under section 25 of the SCSA govern the method of appointment. Rule 3 of the APT Rules empowers the administrative department to determine the method of appointment and the qualifications and other conditions applicable to a post in consultation with the services department. Rule 11 of the APT Rules provides that initial appointment to a post in basic pay scales 1 to 15 and equivalent shall be made on the recommendation of the Departmental Selection Committee after the vacancies have been advertised in newspapers. Rule 10 further provides for filling of the vacancies in grade 16 and above through Sindh Public Service Commission (SPSC). Rule 12 mandates that the candidates for initial appointment to a post must possess the prescribed educational qualifications and experience and must be within the age limit, except if otherwise provided in the rules framed for the purposes of relaxation thereof.

15. To enjoy the protection of law and to be treated in accordance with the law is the inalienable right of every citizen. Under articles 4, 9, 14, 25 and 27 of the Constitution an assurance has been tendered as of equality before law or equal protection of law, and no action detrimental to the life and liberty of any person can be taken without due process of law and no discrimination in any walk of life including services. The objective of good governance can be achieved by exercising discretionary powers reasonably by adhering to the rules of justness, fairness and openness within the precincts of Articles 4 and 25 of the Constitution of Islamic Republic of Pakistan, of 1973. (the constitution)

16. In the case of PROVINCE OF PUNJAB through Chief Secretary, Lahore and others Versus QASIM MEHMOOD and others reported as 2025 S C M R 14 Honorable Supreme Court of Pakistan has held that:

9. To enjoy the protection of law and to be treated in accordance with law is an inalienable right of every citizen. The sagacity of Article 4 of the Constitution of the Islamic Republic of Pakistan, 1973 ("Constitution") accentuates the doctrine of equality before law or

equal protection of law and no action detrimental to the life, liberty, body, reputation, or property of any person can be taken except in accordance with law. In all fairness, the public functionaries are duty-bound to perform in good faith with sheer dedication but within the peripheries of their powers, to ensure equal treatment, being mindful to the tenets and precepts enshrined under Article 3 of the Constitution wherein the State is obligated to ensure the elimination of all forms of exploitation and commit to the gradual fulfillment of the fundamental principle: "from each according to his ability, to each according to his work," which is further fortified under Article 38 of the Constitution (Principles of Policy) wherein, yet again, the State has a duty to secure the well-being of the people by raising their standards of living and ensuring equitable adjustment of rights between employer and employees and providing for all citizens, within the available resources of the Country, facilities for work and adequate livelihood, and reducing disparity in income and earnings of individuals.

17. Admittedly the Petitioners were working on contract basis in the projects in relation to the affairs of Province in grade 1 to 18. The benefit of section 3 of the **Act - 2013** as such is available to them. However, to seek regularization, the Petitioners are required to demonstrate that their initial appointments were done strictly in accordance with law and were in consonance with the provisions of SCSA & APT Rules. In order to ascertain that the Petitioners in all the petitions were appointed in accordance with law, it will be, appropriate to examine their cases separately:

18. In CPD 6241/2016, Petitioner Anjum Badar was appointed as Accounts Officer BS -17 in Benazir Bhutto Shaheed Youth Development Program (Women Development Department Government of Sindh) vide appointment letter dated 03.12.2008. Petitioner was appointed in service pursuant to Advertisement and competitive process. The Respondent department in its reply to petition stressed that Petitioner was laid off from service since 31.12.2012. This claim by the Department was not substantiated from the record. It transpired from record that the Secretary to Government of Sindh Women Development Department, floated a summary dated 11.02.2014 to Chief Minister Sindh, seeking regularization of services of the Petitioner by extending her the benefit of Section 3 of the **Act - 2013**. If the

Petitioner was not an employee of the department and laid off in year 2012 then why in the month of February 2014, Department proposed to extend her the benefit of regularization. Besides Petitioner along with other employees was granted extension in contract on 03.12.2014 till their regularization. The Notification dated 03.12.2014 reads as under:

WOMEN DEVELOPMENT DEPARTMENT

GOVERNMENT OF SINDH

Karachi dated the 3rd December 2014

NOTIFICATION

In super-session of earlier notification issued by this Office Vide No S)(Dev)/WDD/BBSYDP/PD/2010/11:Dated 31st July 2013, it is to state that after thorough examination of all the fact and official documents specially letter No PCU/BBSYDP/Admin/1-1/2013/10555 dated 2nd July 2013 & SO/WDD/DIR-PMU-BBSYDP/2014 dated 25th February 2014, the services of the following contractual staff and officer of the "Project Benazir Bhutto Shaheed Youth Development Program" are hereby extended since 1st March, 2011 till regularization of their services and the layoff notification is being withdrawn. During this Period they will draw their fixed salaries from the Project Gender Reform Action Plan (GARP) in Women Development Department Government of Sindh.

<i>S#</i>	<i>Name of Employee</i>	<i>Designation</i>
1.	<i>Ms. Anjum Badar</i>	<i>Accounts Officer (BPS - 17)</i>
2.	<i>Mr. Aurangzeb Mughal</i>	<i>Assistant Director (BPS - 17)</i>
3.	<i>Mr. Muhammad Ahmed</i>	<i>Assistant Director (BPS -17)</i>
4.	<i>Mr. Rizwan Ahmed Bhutto</i>	<i>Program Assistant (BPS - 17)</i>
5.	<i>Mr. Shakeel Ahmed</i>	<i>Accounts Officer (BPS - 17)</i>

Sd/

SECRETARY TO GOVERNMENT OF SINDH

No. SO(G)/WDD/2014-15

Karachi dated the 3rd
December 2014

19. The above referred notification granted benefit of extension in service to Petitioner and other employees until regularization. It further reflects from the summary to Chief Minister Sindh, that the names of six employees were mentioned in the Summary, including one Ms. Asma Lakho. It is admitted

position on record that service of Ms. Saima Lakho was regularized. The case of the Petitioner in no manner was different to the case of said Saima Lakho, who was regularized in service pursuant to orders passed by this Court in writ petition No 2696 of 2012. The case of the Petitioner Anjum Badar only differed that she was appointed in grade 17, whereas Asma Lakho was appointed in grade 12. Since the Petitioner was appointed in grade 17, a post falling within the purview of SPSC, therefore, recommendation of SPSC was mandatory for her induction in regular service. This Petition is allowed, the Respondent Department is directed to forward the case of the Petitioner to SPSC. SPSC shall determine the eligibility of the Petitioner, if found otherwise eligible, she shall be recommended for regular appointment in terms of Section 3 of the **Act-2013**.

20. In CPD 2826/2024, Petitioner Bushra Memon was appointed as Assistant Director, Finance (BS - 17) against the ADP Scheme of LARIMS project of Board of Revenue Sindh, vide appointment letter dated 16.10.2012 on contract basis. Her service contract was extended from time to time. The Petitioner was appointed in service pursuant to advertisement and recommendation by the Selection Committee. It appears from the record that about 17 Assistant Managers (IT) BS -17 were regularized in service by the Revenue Department vide notification dated 12.02.02 2024, in compliance to the directions contained under order dated 14.01.2022 passed by this Court in CPD No 128 of 2020. Since the case of the Petitioner is on the identical footing to those of the employees in CPD No 128 of 2020, this petition is granted. Since the Petitioner was appointed in grade 17, a post falling within the purview of SPSC, therefore, recommendation of SPSC was mandatory for her induction in regular service. The Respondent Revenue Department is directed to refer the case of Petitioner to SPSC to assess her eligibility. If Petitioner is found otherwise eligible, the SPSC shall make recommendations in consonance with the orders passed in CPD No 128 of 2020

21. In CPD 2795/2019, Petitioner Saima Soomro was appointed as Social Welfare Officer (BS - 17) against the Project titled Women Center Jacobabad, in the Ministry of Women Development Government of Pakistan vide appointment letter dated 14.03.2007 on contract basis. Her service contract was extended from time to time. In the advent of 18th Amendment to the Constitution of Islamic Republic of Pakistan, 1973 (the Constitution), the Department of Women Development was devolved to provinces. In

compliance to the devolution plan, the service of Petitioner stood transferred to province of Sindh. It appears from the record that Department had recommended for regularization of services of all the employees including Petitioner working in Shaheed Benazir Bhutto Center for Women at Karachi, Hyderabad, Benazirabad and Jacobabad. Petitioner was left out for the reason that at the time of her initial appointment, she was holding M.A. Previous Degree in 2007. It further transpires from the record that Petitioner qualified the Masters Degree in March 2008. Petitioner had applied for the Post of Social Welfare Officer on the basis of Graduation Degree. Per Assessment Sheet signed by the Selection Committee available at Page 33 of the Court file, the qualification of Petitioner is mentioned as B.Sc.(Graduation). Furthermore, Petitioner was given a fresh contract in year 2008 at the time when she had passed Masters Degree. If the Department was of the view that She was not qualified at the time of her initial appointment in year 2007, then she was offered fresh contract in year 2008, therefore, deferring her case for regularization on account of Masters Degree acquired in 2008 was not tenable under the law, particularly when regularization in service was akin to a fresh appointment. Since all the employees under the project were regularized and department had also recommended for the regularization of the Petitioner, therefore, this petition is allowed. Petitioner is granted the same benefit as extended to other employees. However, for the completeness of record and clarity, it is held that the service of the Petitioner as Social Welfare shall be reckoned from the month of March 2008, the date when she entered into fresh contract. Since the Petitioner was appointed in grade 17, a post falling within the purview of SPSC, therefore, recommendation of SPSC was mandatory for her induction in regular service. The Respondent Women Development Department is directed to refer the case of Petitioner to SPSC to assess her eligibility. If Petitioner is found otherwise eligible, the SPSC shall make recommendation for regularization accordingly.

22. In CPD 2201/2024 Petitioner Sarwat Naz Qureshi was appointed as Manger Software (BS - 18) against the ADP Scheme of LARIMS project vide appointment letter dated 01.01.2008 on contract basis. Her service contract was extended from time to time. She works as a System Analyst, pursuant to order dated 12.04.2013 passed by Honorable Supreme Court of Pakistan in Civil Petition No 13 - K of 2013. Respondents in their comments have not denied the case of Petitioner, however have stated that the case of Petitioner

shall be sent to Scrutiny Committee - 3 for assessment. Since case of the Petitioner stands admitted, moreover, it surfaced from the record that about 17 Assistant Managers (IT) BS -17 were regularized in service by the Revenue Department vide notification dated 12.02.02 2024, in compliance to the directions contained under order dated 14.01.2022 passed by this Court in CPD No 128 of 2020 in the same project. Since the case of the Petitioner is on the identical footing to those of the employees in CPD No 128 of 2020, this petition is granted. Since the Petitioner was appointed in grade 18, a post falling within the purview of SPSC, therefore, recommendation of SPSC was mandatory for her induction in regular service. The Respondent Revenue Department is directed to refer the case of Petitioner to SPSC to assess her eligibility. If Petitioner is found otherwise eligible the SPSC shall make recommendations in consonance with the orders passed by this Court in CPD No 128 of 2020.

23. In CPD 4107 of 2019, Petitioners Aqeel Ahmed, Saba Wakeel, Qurban Hussain, Muhammad Ali, Allah Warrayo, Mehmood Ali, Aamir Khan, were initially appointed on contingency basis. Subsequently vide notification dated 30th December 2013, issued by Secretary to Government of Sindh, School Education and Literacy Department (available at page 57 of Court File) they were taken into service on contract basis in Sindh Elementary Teachers Training Project - CIDA and continued in service on the contract in the said project. Since the positions held by the Petitioners referred above fell outside the purview of SPSC, they shall be deemed to have been regularized in service by extending them the benefit of Section 3 of the **Act-2013**. The department is directed to notify their regularization accordingly.

24. In CPD 4107 of 2019 Petitioners Syed Masoom Ali Shah, Shahzad Saleem Arbab and Shunail Aftab were appointed on contract basis vide appointment letters dated 28.04.2012, 30.04.2013 and 30.04.2013 respectively in grade 18 and 17. The Petitioners were appointed in project viz. Sindh Elementary Teachers Training Project - CIDA and their contracts were extended from time to time. Vide notice dated, 14 June 2019, the Petitioner were informed about termination from service.. Since the Petitioners were working on a project, therefore instead of termination of the service, the Petitioners ought to have been considered for regularization in terms of Section 3 of the **Act - 2013** . The Respondents are directed to consider the case of the Petitioner for regularization. Since the Petitioners were appointed in

grade 17 and 18, the post falling within the purview of SPSC, therefore, recommendation of SPSC was mandatory for her induction in regular service. The Respondent Education Department is directed to refer the case of Petitioners to SPSC to assess the eligibility. If Petitioners are found otherwise eligible, the SPSC shall make recommendations accordingly.

25. The above exercise for regularization shall be completed within a period of two months from the date of this order. The petitions stand disposed of in the above terms. Office to send the copy of the order to the respondents for compliance.

J U D G E

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HEAD OF CONST. BENCHES

Nadir/PS

Approved for reporting