Ph: 9214401
Fax: 9220406

REGISTERED
No. C.A. 936-937/2020 - SCJ
SUPREME COURT OF PAKISTAN

Islamabad, dated 27-02-2021

From The Registrar,
Supreme Court of Pakistan,
Islamabad.

To The Registrar,
High Court Of Sindh,
Karachi.

INWARD TO 215
BRANCH D.B.
DATE 03/3/2021
HIGH COURT OF SINDH AT KARACHI

PAKISTAN POST
RGL44230375

Subject: CIVIL APPEAL NOS. 936 & 937 OF 2020

Sui Southern Gas Company Limited thr. its attorney
S.M. Hassan Meerza (in both cases)

Versus

Zeeshan Usmani and others (in C.A.936/2020)
Mst. Saima Athar and others (in C.A.937/2020)

On appeal from the Order/Judgment of the High Court Of Sindh, Karachi dated 07/04/2020 in Const.P.-D5850/2018 & D5851/2018.

Dear Sir,

In continuation of this Court's letter of even number dated 11-11-2020, I am directed to enclose herewith a certified copy of the Judgment of this Court dated 18/02/2021 allowing the above cited cases in the terms stated therein for information and further necessary action.

I am further directed to return herewith the original record of the High Court received under the cover of your letter No. ____dated 25/11/2020.

Please acknowledge receipt of this letter along with its enclosure immediately.

Encl: Judgment:
2. O/Record of High Court:

Yours faithfully,

(MUHAMMAD MUJAHID MEHMOOD)
ASSISTANT REGISTRAR (IMP)
FOR REGISTRAR

IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

PRESENT:
MR. JUSTICE GULZAR AHMED, HCJ
MR. JUSTICE IJAZ UL AHSAN
MR. JUSTICE SAYYED MAZAHAR ALI AKBAR NAQVI

AFR

CIVIL APPEAL NOs. 936 & 937 OF 2020

(On appeal against the judgment dated 07.04.2020 passed by the High Court of Sindh, Karachi in Constitutional Petition Nos. D-5850 & D-5851 of 2018)

M/s Sui Southern Gas Company Ltd (In both cases)
... Appellant

VERSUS

Zeeshan Usmani etc (In CA 936/2020)
Saima Athar etc (In CA 937/2020)
... Respondents

For the Appellant: Mr. Asim Iqbal, ASC (In both cases)

For Respondent (1): Malik Naeem Iqbal, ASC (Islamabad)
Mrs. Abida Parveen Channar, AOR (through video link from Karachi)

Date of Hearing: 18.02.2021

JUDGMENT

SAYYED MAZAHAR ALI AKBAR NAQVI, J.- Through these appeals under Article 185 of the Constitution of Islamic Republic of Pakistan, 1973, the appellant has called in question the legality of the impugned consolidated judgment dated 07.04.2020 passed by the High Court of Sindh, Karachi, whereby the Constitutional Petitions filed by the respondents were disposed of and the appellant department was directed to regularize them in service.

2. Briefly stated the facts of the matter are that respondents No. 1 in both the appeals were appointed in the appellant Sui Southern Gas Company Ltd on contract basis vide order dated 14.11.2012. They remained working on contract until 31.12.2017 but were not regularized and their contract stood terminated on the said date i.e. 31.12.2017. It appears from the record that the appellant had framed a policy i.e. Uniform Recruitment and Promotion Policy for regularizing the services of contract employees on the basis of certain criteria. Against the said policy, some of the colleagues of the respondents approached the

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Court Associate
Supreme Court of Pakistan
Islamabad

High Court of Sindh for their regularization by filing Constitutional Petition Nos. D-3759 & S-4422 of 2017 which were allowed and the appellant department was directed to regularize them in service. This judgment was upheld by this Court vide order dated 12.03.2018 passed in Civil Petition Nos. 67-K & 68-K of 2018. To get the same relief, the respondents also filed Constitutional Petitions No. D-5850 & D-5851 of 2018, which have been disposed of vide impugned judgment and the appellant has been directed to regularize the respondents without any discrimination. Hence, these appeals by leave of the Court.

3. *Learned counsel for the appellant inter alia contended that the appellant Sui Southern Gas Company Limited has no statutory rules of service and the relationship between the company and the respondents is governed by the principle of 'master and servant'; that contractual employment does not confer any vested right in favour of a servant to seek regularization in service; that the contract of the respondents had ended on 31.12.2017 and after eight months of the termination of contract, they have filed Constitutional Petitions, which were not maintainable.*

4. *On the other hand, learned counsel for the respondents No. 1 in both the appeals has contended that some of the colleagues of the responderts, who were similarly placed, have been regularized in service but the same relief has been denied to the respondents, which amounts discrimination in law, therefore, the learned High Court has rightly ordered their regularization. In support of his contention, learned counsel relied on the case of Hameed Akhtar Niazi Vs. Secretary Establishment Division (1996 SCMR 1185).*

5. *We have heard learned counsel for the parties and have perused the case record.*

6. *Admittedly, the respondents were contract employees and their relationship was governed by the principle of 'master and servant'. This Court in a number of cases has held that contract employees have no vested right to claim regularization. This Court in the case of Government of KPK, Workers Welfare Board Vs. Raheel Ali Gohar (2020 SCMR 2068) has categorically held that contractual employees, who are governed by the principle of 'master and*

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servant' do not have the right to approach the High Court in its Constitutional jurisdiction to seek redressal of their grievances relating to regularization. The only question which needs to be seen in the present case is whether the respondents deserve the same treatment, which was meted out to their colleagues. We have been apprised that the contract of the ex-colleagues of the respondents was terminated somewhere in June, 2017, against which they approached the High Court. Upon notice issued by the High Court, the department issued letter of termination, which was suspended by the High Court through an interim order and ultimately, the said writ petitions were allowed by the High Court. This clearly shows that at the time of allowing of the writ petitions, the said contractual employees/colleagues of the respondents were in service. However, admittedly in the present case the contract of the respondents was terminated on 31.12.2017 and they filed the impugned writ petitions on 11.08.2018 after eight months of their termination. The regularization of the respondents is not part of the terms and conditions of service because for that purpose statutory rules are required and admittedly there are no statutory rules of the appellant. We are of the view that the learned High Court could not have ordered regularization of the respondents without reinstating them in service, which was clearly not possible keeping in view the fact that at the time of filing of the writ petitions, there was no relationship between the appellant and the respondents because they were no longer in service. In the case of the colleagues of the respondents, there was continuity in service but the same is lacking in the instant case. This Court in Naureen Naz Butt Vs. Pakistan International Airlines (2020 SCMR 1625) while relying on earlier judgments of this Court has held as under:-

> "Thus, the establish law is that a contract employee, whose period of contract employment expires by afflux of time, carry no vested right to remain in employment of the employer and the Courts cannot force the employer to reinstate or extend the contract of the employee."

7. So far as reliance placed by learned counsel for the respondent on Hameed Akhtar Niazi supra case is concerned, we have noted that the ratio in Hameed Akhtar Niazi's case was that

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where a Tribunal or Court decides a point of law relating to terms and conditions of service of civil servants which governs not only those who litigated but also those who have not resorted to any legal proceedings, then irrespective of this they too become entitled to the same benefit. Hameed Akhtar Niazi's case therefore extends benefit to civil servants who were not party to the litigation and the entitlement of benefit granted to the litigating civil servants is so common that it is also extendable to those who have not litigated, therefore, they too can legitimately claim the same irrespective of the fact that they were not party to the litigation. However, in the present case, the situation is altogether different. In the present case, the respondents went to the High Court eight months after termination of their contract, therefore, they were no longer in service, which could have entitled them to claim the same relief as meted out to their colleagues.

8. For what has been discussed above, we allow these appeals and set aside the impugned judgment of the High Court of Sindh, Karachi dated 07.04.2020.

Sd/— CJ
Sd/— J
Sd/— J

Certified to be True Copy

Court Associate
Supreme Court of Pakistan
Islamabad

Islamabad, the
18th of February, 2021
Not Approved For Reporting
Khurram