

THE HIGH COURT OF SINDH, KARACHI

Before:

Justice Mohammad Karim Khan Agha

Justice Adnan-ul-Karim Memon

CP No D-4283 of 2019

(Hayatullah v. Chief Secretary & others)

Petitioner : through Mr. Abdul Samad Memon,
advocate.

Respondents No. 1 and 2 Mr. Ali Safdar DeparZehra Sehar

Dates of hearing : 13-05-2025

Date of order : 13-05-2025

ORDER

Adnan-ul-Karim Memon, J., The Petitioner prays for the directives that Respondents No. 1, 2, and 4 be ordered to regularize his employment under "The Sindh Regularization of Adhoc and Contract Employees Act 2013." He further seeks direction that the Respondents No. 2 and 4 be directed to calculate the Petitioners' seniority from their initial appointment dates and to provide back benefits from the date of their termination.

2. The Petitioner contests his termination by Respondents Nos. 2 and 4 on July 1, 2011, arguing they were not charged or issued a show-cause notice (Annexure A). The events leading to their appointment include Respondent No. 4's advertisement for lower-grade contract positions (Annexure B), the Petitioners' successful interviews and receipt of offer letters from Respondent No. 6 (Annexure C), their compliance with offer terms including medical fitness (Annexure C1), and their submission of joining reports (Annexure D). The Petitioners assert they were verbally instructed to continue working beyond the termination date and did so, despite their requests for formal extension being denied. They also highlight that this Court previously ruled in favor of a similar petition (C.P. No. D-4144/2013) on February 26, 2015 (Annexure F).

3. Leareened counsel for the petitioner submitted that this court has already allowed identical petitions as such the case of the petitioner is akin to the aforesaid decision dated 26.02.2015 passed in C.P. No. D-4144/2013. He prayed for direction to the respondent department to consider the case of the petitioner for regularization of service under the Act of 2013. In support of his contention he relied upon the unreported order dated 30.04.2014 passed by the Supreme Curot in Civil Appeals No. 84-K to 86-K of 2012. He lastly allowed for the instant petition.

4. The learned Assistant Advocate General (AAG) contended that the termination was lawful, citing a decision made during a meeting led by Respondent No. 2 on June 28, 2011, which attributed the action to a budget shortfall for contract employees. The AAG further argued against the petition's maintainability, pointing to the Supreme Court's dismissal of an identical case on October 28, 2022 (Annexure-I). Additionally, the AAG asserted that regularization was not a viable option, as the Petitioner was employed purely on a contractual basis and was terminated before the implementation of "The Sindh Regularization of Adhoc and Contract Employees Act, 2013," again referencing the Supreme Court's dismissal of a similar matter.

5.. Having heard the arguments presented by the learned counsel for all parties regarding the maintainability of this petition, specifically in relation to the doctrine of laches, and having carefully examined the provided record with their assistance, we will now proceed to consider the matter on the aforesaid analogy.

6. Laches, an equitable defense, bars relief for unreasonable delay that prejudices the opponent. Unlike strict limitations, its application depends on case facts and fairness. The Supreme Court in *Farzand Raza Naqvi case* 2004 SCMR 400) held that delay can bar writ petitions, but not if equitable, the petitioner was not indolent, and relief is just. Laches is less impactful for recurring issues, as past delay might not preclude action on current occurrences. The AAG argued that 2013-2018 (now 2025) is laches, countered by petitioners citing timely prior cases.

7. Considering the aforementioned facts and circumstances, without touching the merits of the case, we find no justification to entertain this petition in 2025. It is significantly barred by laches, as the cause of action arose in 2011 with the impugned order dated 1.07.2011, yet the petitioner filed this petition in 2020, a delay of approximately nine years. Furthermore, no compelling reason to exercise our discretionary powers has been presented. Consequently, the Petition, being ill-conceived and barred by laches. This petition is dismissed because the Supreme Court of Pakistan has already dismissed an identical case through its judgment/order dated October 28, 2022, in CRP.No:510-K/2022 within Civil Petition No.1717-K of 2022.

JUDGE

HEAD OF CONST. BENCHES

SHAFI