

IN THE HIGH COURT OF SINDH AT KARACHI

CP. No. D-3835 of 2021

(*Junaid Khalil v Province of Sindh & others*)

CP. No. D-3836 of 2021

(*Jawed Solangi v Federation of Pakistan & others*)

Date	Order with signature of Judge
Before: Mr. Justice Muhammad Karim Khan Agha Mr. Justice Adnan-ul-Karim Memon	

Date of hearing and Order: 29.05.2025

Mr. G.M. Bhutto advocate for the petitioners.

Mr. Ali Safdar, Depar Assistant Advocate General.

ORDER

Adnan-ul-Karim Memon, J: The petitioners seek regularization of their services as Naib Qasid and Driver in the office of Reforms Wing and Special Sell Board of Revenue Sindh and also seek to restrain the respondents from appointing new employees before their services are regularized.

2. It is the case of the petitioners that in 2008, an advertisement was published for various positions within the Computerized & Land Administration and Revenue Management Information System (LARMIS). The petitioners, including individuals, for Naib Qasid and Driver roles, applied and were interviewed on January 6, 2009. Subsequently, they were appointed on the subject post on a contract basis via an order dated April 9, 2009, and officially joined on April 10, 2009, after completing medical formalities. However, the petitioner Jawed's contract was extended for the period of 89 days w.e.f. 01.07.2012 to onwards and now he claims that he is working in the department till date. He also claimed that summary to the Chief Minister Sindh was floated for extension of contract appointment of the staff of LARMIS, which was approved vide paragraph 18 of the summary dated 31.12.2019. However, on July 1, 2012, the petitioner in CP No. 3835 of 2021 transitioned from Naib Qasid to dispatcher. By June 16, 2014, the petitioner was authorized to work as a **record** keeper. However, his service contract was extended annually from 2012 to 2017. On January 23, 2018, the petitioner also assumed the role of focal person for the LARMIS office and his contract is still subsist, but now he insists that his position as Naib Qasid may be regularized in terms of decision made by this Court in C.P. No. D-5473/2017 as his colleagues were regularized by sending their case to Sindh Public Service Commission whereas the case of the petitioners is in lower grade as such their position may also be regularized in terms of order dated 07.05.2025 passed by this Court in C.P. No. D-4291 of 2020 and C.P. No. D-7528 of 2018 which decision was upheld by the Supreme Court vide order dated August 24 2023 in Civil Petition for leave to appeal No. 517-K of 2023.

3. The petitioners' counsel highlighted "The Sindh Regularization of Adhoc and Contract Employees Bill 2013," enacted on March 20, 2013, which aimed to regularize contract employees hired before its commencement. The petitioners' counsel contended that their LARMIS posts were approved and extended in the 2020-21 budget, yet their applications for regularization have been ignored, which in violation of the dicta laid down by the Supreme Court in its various pronouncements on the subject issue. He further alleged that the respondents are now trying to terminate their services and hire new employees by falsely claiming their initial appointments were "contingency" based, despite the original advertisement and appointment letters explicitly stating a "contract" basis. He prayed to allow these petitions in terms of order dated 07.05.2025 passed by this Court in C.P. No. D-4291 of 2020 and C.P. No. D-7528 of 2018 which decision was upheld by the Supreme Court vide order dated August 24 2023 in Civil Petition for leave to appeal No. 517-K of 2023.

4. The Assistant Advocate General (AAG) acknowledges the initial hiring of the petitioners as Naib Qasid and Driver on a three-month contract for the LARMIS ADP Scheme. However, he disputes that this was a continuous contingent contract. The AAG clarifies that the petitioners' employment evolved due to their own requests. For instance, a petitioner Junaid Khalil's role as Naib Qasid ended on April 13, 2012, when he requested and was hired as a Dispatch Rider. Similarly, the Dispatch Rider position was discontinued on May 16, 2014, again at the petitioner's request, when he was engaged as a Record Keeper on a temporary 89-day basis, a role that has since been repeatedly extended. The AAG also clarifies that "focal person" is not a separate position but an additional duty assigned to the petitioner as a Record Keeper. The AAG denies that "The Sindh Regularization of Adhoc and Contract Employees Bill 2013" applies to the petitioners as a contingent employees. He argued that by voluntarily moving from a contract-based Naib Qasid role to temporary/contingency-based 89-day roles as Dispatch Rider and then Record Keeper, petitioner Junaid Khalil fell outside the Act's purview as discussed supra. Furthermore, the AAG states that the petitioners' regularization applications are not on record, and he lack the necessary qualifications for the BPS-09 Record Keeper post as per the recruitment rules. He asserts that all BPS-05 to BPS-15 positions will be filled through competitive processes, and the petitioners Naib Qasid and Driver are free to apply and compete based on their qualifications. Finally, the AAG denies the petitioners' requests for regularization and protection from termination, asking for the petition's dismissal. He reiterates that the petitioners' initial contract roles changed to temporary/contingency-based positions at their behest, rendering them ineligible for regularization under the 2013 Act, especially given to the petitioner Junaid's lack of qualifications for the Record Keeper role. He maintains that both the petitioners can still apply and compete for any regularly advertised positions.

5. We have heard the learned counsel for the parties and perused the record with their assistance and case law cited at the bar.

6. In the light of the above, it has become clear that the petitioners had cleared the positions through competitive process for the subject posts, which was a pre-condition before they could be appointed to the posts applied for. For this proposition, our view is supported by the decision rendered by the Honorable Supreme Court in the case of Muhammad Ashraf Sangri vs. Federation of Pakistan and others, **2014 SCMR 157**.

7. We have been informed that the petitioners were appointed initially on a contract basis to run the operations of Peoples Service Centre in 27 districts of Sindh, and are in employment/service for several years and project on which the colleagues of the petitioners, who were appointed had also been taken over by the provincial Government on the regular budget for the Financial year 2017-2018, therefore, the status of the petitioners is same and they being project employees had ended once Finance Department, Government of Sindh, had sanctioned the regular posts to run the computerized land record facility across the Province. The summary floated by the Senior Member Board of Revenue on 09.12.2021 has endorsed the stance of petitioners.

8. During arguments, we have been informed that the Summary has been floated by the respondents, to the Competent Authority, with the proposal that the services of the petitioners may be retained in the public interest for successful implementation of computerization of land records in Sindh.

9. On the issue of discriminatory treatment as well as regularization of contract employees/daily wages, the Supreme Court of Pakistan has dealt with the aforesaid issues in elaborative manner in the following authoritative judgments:

- (1) Government of KPK V/S Adnanullah, **2016 SCMR 1375**, (2) Government of N.W.F.P. (Now KPK) through its Chief Secretary VS Kaleem Shah, **2011 SCMR 1004**, (3) Ghulam Mustafa VS Omaid Ali, **1984 SCMR 1126**, (4) Miss Benazir Bhutto V/S Federation of Pakistan, **PLD 1988 SC 416**, (5) Director, Social Welfare, N.W.F.P., Peshawar VS Sadullah Khan, **1996 SCMR 1350**, (6) Chairman, Minimum Wage Board, Peshawar VS Fayyaz Khan Khattak, **1999 SCMR 1004**, (7) Muhammad Akhtar Shirani VS Punjab Textbook Board, **2004 SCMR 1077**, (8) Federation of Pakistan VS Gohar Riaz, **2004 SCMR 1662**, (9) Muhammad Ashraf Tiwana V/S Pakistan and others, **2013 SCMR 1159**, (10) Government of N.W.F.P. through Secretary, Education Department, Peshawar V/S Qasim Shah, **2009 SCMR 382**, (11) Sumara Umar Awan V/S Chancellor Gomal University, D.I. Khan, **2014 PLC (CS) 526**, (12) Rafaqat Ali V/S Executive District Officer (Health), **2011 PLC (CS) 1615**,

(13) Shabana Akhtar V/S District Coordination Officer, Bhakkar, **2012 PLC (CS) 366**, (14) Pakistan Telecommunication Company Limited through General Manager and another v. Muhammad Zahid and 29 others, **2010 SCMR 253** (15) Ziaullah Khan v. Government of Pakistan through Secretary, Law, Justice and Human Rights Islamabad and 3 others, **2011 PLC (CS) 7** (16) Ejaz Akbar Kasi v. Ministry of Information and Boradcasting and others, **2011 PLC (CS) 367**, (17) Shahid Habib V/S Government of Khyber Pakhtunkhwa, **2019 PLC (CS) 1426**, (18) Suo Motu Action Regarding Eligibility Of Chairman And Members of Sindh Public Service Commission, etc., **2017 SCMR 637**, (19) Inspector General of Police and others v. Ali Abbas and others, **1985 SCMR 946**, (20) Professor Abdul Qayyum Qureshi v. Government of Punjab etc., **1975 SCMR 457**, (21) Secretary Schools Government of Punjab Education Department and others v. Yasmeen Bano, **2010 SCMR 739**, (22) Chairman Pakistan Railways and others v. Arif Hussain and others, **2008 PLC (CS) 240**, (23) Messers State Oil Company Limited v. Bakht Siddique and others, **2018 SCMR 1181**, (24) Board of Intermediate and Secondary Education, Multan through Chairman and others v. Muhammad Sajid and others, **2019 PLC (CS) 539**, (25) Province of Punjab through Secretary Communication and Works Department and others v. Ahmad, **2013 SCMR 1547**, (26) Secretary to Government of Pakistan, Mnistry of Finance and others v. Muhammad Hussain Shah and others, **2005 SCMR 675**.

10. In view of the foregoing, we are of the considered view that the matter of the petitioners needs to be processed further for regularization of their services as Naib Qasid and Driver as they have been appointed on regular posts (LARMIS), through a competitive process.

11. For all the above-mentioned reasons, we allow these petitions along with all pending application(s) in terms of order dated 07.05.2025 passed by this Court in C.P. No. D-4291 of 2020 and C.P. No. D-7528 of 2018, which decision was upheld by the Supreme Court vide order dated August 24 2023 in Civil Petition for Leave to Appeal No. 517-K of 2023.

JUDGE

Head of the Const. Benches