

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Constitutional Petition No. D-763 of 2022
(*Abdul Qadeer Khan v Federation of Pakistan & others*)

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

Date of hearing and order 06.08.2025

Mr. Zafar Imam advocate for the petitioner.
Mr. Dur Muhammad Shah, Deputy Attorney General.

ORDER

Adnan-ul-Karim Memon, J: Petitioner prayed that this Court:

1. To direct the respondent Nos. 2 and 3 to regularize the service of the petitioner on a permanent footing from the date of his joining/appointment as UDC(Upper Division Clerk), i.e., 03.06.1990
2. To declare that the petitioner has been working for the last 28-29 years as a UDC on a contract basis since 1990 against a leave vacancy, and his service has been verified by the AGPR.

2. The petitioner, who was hired in 1990 as a temporary Upper Division Clerk (UDC), is seeking to have his service regularized. The petitioner states that he has been working continuously for over 29 years, performing his duties to his supervisors' satisfaction. He claims that a position became vacant in 1996 when another UDC retired, and he has been serving in that role ever since. The petitioner notes that, despite a 2017 letter from the Establishment Division questioning why his case had not been regularized, and a 2018 letter from the Estate Office recommending his regularization, his services were never made permanent. He contends that the denial of his regularization is illegal, discriminatory, and a violation of his fundamental rights.

3. The petitioner's counsel argues that the respondent's actions constitute a misuse of power and discrimination, violating Article 25 of the Constitution. The petitioner filed a departmental appeal on October 20, 2021, but received no response, forcing him to bring the matter to court. The counsel claims that it is his fundamental right to ask for regularization of his service which right is guaranteed by Article 9 of the Constitution, which includes the right to livelihood as the same rule has been laid down by the Honorable Supreme Court in the case of *Abdul Wahab and others v. HBL and other*, **2013 SCMR 1383**, by holding that the right to sustenance cannot cling to the fantasies of persons in authority. Learned counsel emphasized that the petitioner provided services for a considerable period

and therefore acquired the right to be regularized in service; however, the respondents are ignoring the law and fundamental rights, and he requests the court to grant the petition.

4. The respondent's stance is that the Regularization of service is not a right for temporary, contract, or daily-wage employees; that a government committee was formed to review such cases, but the petitioner's name was not on the list submitted by the Ministry of Housing & Works. The Supreme Court has consistently held that project posts and contractual employees have no right to be made permanent. The respondent concludes that since the petitioner has no legal right to demand regularization, the petition should be dismissed.

5. The learned AAG is asking this court to decide the captioned petition based on the comments provided by the other respondents. He further submitted that the petitioner's case was reviewed by a committee in line with a government policy approved by the Prime Minister. The committee's findings, supported by rulings. He has next contended that ad-hoc, temporary, contractual, daily wages or project appointments do not possess any vested right to seek regularization. He lastly prayed for dismissal of the instant

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

7. The petitioner was hired as a temporary UDC on June 3, 1990. His service has been verified from June 30, 1990, to June 2, 2015. Despite a recommendation from Respondent No. 3 to regularize his position, the petitioner's request for permanent status was not approved by Respondents No. 2 and 3 on the analogy that ad-hoc, temporary, contractual, daily wages or project appointments do not possess any vested right to seek regularization.

8. In the case of *Mohsin Raza Gondal v. Sardar Mehmood*, **2025 SCMR 104** the Supreme Court of Pakistan ruled that for an institution to regularize employees, it must be supported by law, a clear policy, or rules. This process must include an assessment of the employee's performance, qualifications, and merit, as well as an evaluation of the financial implications. The Court emphasized that regularization should not be granted without a legal or policy framework.

9. The Supreme Court in the recent judgment **2025 SCMR 104** has held that 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, to ensure only competent and committed employees be granted permanent employment status. Reference in this regard may also 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 petitioner rendered his service since 1990 and continued besides federal government has framed various policies to regularize the services of the contractual employees as such the petitioner's case needs to be looked into under that policy by the competent authority as the petitioner has requisite length of service to claim such benefit under the policy decision within reasonable time, i.e. within three months.

10. This petition is disposed of, based on the Federal Government's policy on the subject issue and the Supreme Court's ruling in the **Mohsin Raza Gondal** case.

JUDGE

Head of Constitutional Benches