

IN THE HIGH COURT OF SINDH AT KARACHI

CP. No. D-283 of 2022

(*Muhammad Ali Matto & others v Province of Sindh & 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: 11.08.2025

M/s. Zameer Hussain Ghumro and Salim Khaskheli advocates for the petitioners.

Mr. Ali Safdar Depar AAG

ORDER

Adnan-ul-Karim Memon, J: Petitioners request this Court to:-

1. Direct the respondents to regularize the services of the petitioners under section 3 of the Sindh (Regularization of Ad hoc and contract employees) Act, 2013, against the post they are working with all consequential benefits of a regular appointment;
2. Direct the respondents to pay petitioners' monthly salary and arrears forthwith;
3. Suspend the operation of the impugned Advertisement dated 08.12.2021 and/ or restrain the respondents from filing (04) posts held by the petitioners till final adjudication of the captioned petition;
4. Restrain the respondents, their servants, subordinates, agents and/or any person(s) working through or under them from removing the petitioners from service.

2. The petitioners were initially hired in 2012 on a one-year contract for roles like Khadim (BS-01) and Naib Qasid (BS-01), and submit that they are entitled to permanent employment under the Sindh (Regularization of Adhoc and Contract Employees) Act, 2013. They claim the Act's Section 3 mandates their regularization because they were employed on the date the law was enacted. Despite working for over a decade and receiving positive performance reviews, they assert they have been treated unfairly.

3. Learned counsel for the petitioners argued that other similarly situated employees have been regularized, yet the petitioners have been denied the same benefit. He emphasized that to make matters worse, their salaries have been withheld since 2016, and the positions they hold have been advertised for new applicants. Learned counsel is asking this Court to order their regularization, citing discrimination and a violation of their constitutional rights, and to compel the respondents to pay their back wages.

4. The learned AAG, however, denies these claims. He states that the petitioners were hired on a "daily wages contract" and never performed their duties with honesty or punctuality. He alleges that the petitioners were removed from service in 2016 due to poor performance, which led to the discontinuation of their contracts and salaries. The AAG argues that because of their unsatisfactory performance, the petitioners are not eligible for regularization after removal from contingent service. At this stage, learned counsel for the petitioners refuted the claim of AAG and submitted that the petitioners are performing their duties with honesty and dedication under the West Pakistan Auqaf Service Rules, 1962.

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

6. This Constitutional Petition under Article 199 of the Constitution of Pakistan, 1973, has been filed by the petitioners, seeking regularization of their service under the provisions of Section 3 of the Act of 2013. However, it is made clear that if a removed employee wants to be regularized, he/she needs to demonstrate that there's a legal or policy basis for it, and that they meet the requirements. However, Courts would not grant regularization simply because someone was previously employed on a temporary/contingent or contractual basis.

7. There is no doubt that the regularization of a contractual employee constitutes a fresh appointment into the stream of regular appointments in civil services as observed by the Supreme Court in the cases of the Province of Punjab through Secretary Livestock and Dairy Development Department, Government of the Punjab, Lahore and others v. Dr. Javed Iqbal and others (2021 SCMR 767). It is also held that 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, 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). However in the present case, the services of the petitioners were dispensed with long ago in 2016 as agitated by the AAG in his comments as such we at this stage cannot resolve this controversy and it is for the competent authority of the respondents to look into the matter on the subject issue if they are still performing their duties.

8. This petition is dismissed as it seeks to reopen a reassessment already conducted by the respondent department, rendering it not maintainable at this stage. All pending applications are also dismissed.

JUDGE

Head of the Cost. Benches