

# IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Constitution Petition No.D- 599 of 2022  
[Miss. Seema Sanam vs. P.O Sindh & others]

**Before:**

Mr. Justice Zulfiqar Ali Sangi;  
Mr. Justice Abdul Hamid Bhurgri.

Petitioner : Miss Seema Sanam,  
through Mr. Ghulam Shabbeer Shar  
Advocate.

Respondents : Province of Sindh and others,  
through Mr. Zulfiqar Ali Naich,  
Assistant Advocate General Sindh.

***Date of Hearing:*** 16.04.2025  
***Date of Order.*** 13.05.2025

## **ORDER**

**Abdul Hamid Bhurgri, J.**,- Through this Constitutional Petition, the petitioner seeks the following reliefs:-

- (a) *That the Honourable Court direct the respondent No.4 to restore the services of petitioner as were prior to the illegal verbal orders of Respondent No.4 and petitioner may be allowed to serve as usual as computer operator in the office of Respondent No.4.*
- (b) *That the respondents No.1 to 4 may be directed to regularized to petitioner similarly as respondent No.5 was regularized being the similar case even the case of petitioner is more strong then the case of respondent No.5 on the basis first come first serve.*
- (c) *That the respondents may be restrained from harassing and threatening to the petitioner hereafter.*
- (d) *That interim injunction may be granted till pending hearing and decision of this petition.*
- (e) *That any other relief which this Honourable Court deem fit and appropriate in the circumstances.*
- (f) *Cost of the petition.*

**2.** The petitioner claims that she was appointed as a Computer Operator on a daily wage basis in the office of the then District

Coordination Officer, Naushero Feroze, via an order dated 16th July 2009 (Ref: DCO/NE/Estt/460/08/2009) as per order she was to perform duties under the E-Government Project System, DCO Secretariat, Naushero Feroze.

**3.** It is further submitted that she had earlier filed Service Appeal No. 1007 of 2019, which was decided on 10-12-2021, with the following observation:

*“The Petitioner did not press the appeal stating that she shall try to obtain the relevant documents for approaching the proper forum again, the appeal was accordingly disposed of as not pressed.”*

**4.** The petitioner now pleads that her name was unjustly removed by the department, solely on the apprehension that she may obtain documentation to seek regularization. She also states that no formal termination order was ever issued, and the removal of her name is illegal, discriminatory, and in violation of established rules.

**5.** It is asserted that directions were issued by the then Chief Minister, and later by the Senior Member Board of Revenue, for consideration of her regularization. Reference is made to a letter dated 21st April 2015. In response, the Assistant Secretary of the Board of Revenue forwarded the matter to the Deputy Commissioner, Naushero Feroze, vide letter dated 12-06-2015, for necessary action. However, the petitioner alleges that no action was taken by Respondent No.4 in compliance with such directives.

**6.** The petitioner further draws attention to the fact that another individual, Mr. Saleem Ahmed Ansari respondent No.5 who was working as a Data Entry Operator, was regularized under similar circumstances through an order dated 03-07-2017. She claims this reflects discriminatory treatment, as she has been serving since 2009 and possesses more experience than the said individual.

**7.** Despite repeated approaches to the relevant authorities for redressal, including submission of multiple applications, no relief was granted. The petitioner also points out that the respondents did not comply with gender and minority quota provisions in appointments, which, according to her, is evident from available service records.

**8.** Respondents, through learned AAG filed comments refuted the claims and argued that the petitioner was appointed on a daily wage basis and had never been formally regularized. No legal provision exists for regularization of daily wage employees under the Civil Services Act, 1973. It was further asserted that directions issued regarding regularization were merely advisory and not binding, as no policy exists to support such regularization.

**9.** Regarding respondent No.5, it was submitted that he was not regularized as alleged by the petitioner but taken up as Data Entry Operator. Thus, the petitioner cannot claim parity based on an incorrect comparison.

**10.** In conclusion, the respondents maintained that the petitioner's case does not fall under any existing policy for regularization, and therefore, the petition is liable to be dismissed.

**11.** Learned counsel for the petitioner, Mr. Ghulam Shabbeer Shar, contended that the petitioner had been continuously serving as a Computer Operator since 2009. He submitted that although the petitioner had approached the Service Tribunal, the Appeal was ultimately not pursued. He argued that the respondents unjustly removed the petitioner's name from service rolls without issuing any formal show-cause notice, relying solely on verbal directives. Furthermore, he submitted that respondent No. 5, Saleem Ahmed, had been regularized, which, according to him, amounted to a clear infringement of Article 25 of the Constitution of the Islamic Republic of Pakistan. He maintained that the petitioner's case was stronger than that of respondent No.5, yet she was excluded from consideration while respondent No.5 was regularized on irrelevant grounds. Learned counsel emphasized that the petitioner had accumulated substantial professional experience and would serve as a valuable asset to the department, should she be regularized. He accordingly prayed that the petition be accepted and that the petitioner be regularized and treated on equal footing with similarly placed employees.

**12.** Conversely, learned Assistant Advocate General Mr. Zulfiqar Ali Naich, representing the respondents, contended that the petitioner had

been employed solely on a daily wage basis. As such, in the absence of any statutory provisions, rules, or policy, she was not entitled to regularization. He asserted that without the requisite legal framework, the respondents had no authority to regularize the petitioner. He requested that the petition be dismissed.

**13.** It was not disputed that the petitioner had been employed on a daily wage basis, with the initial appointment order issued on July 16, 2009. Upon reviewing the available record, it was observed that her appointment was made for a fixed duration on daily wages. No subsequent order or document was placed on record to demonstrate any extension of her tenure beyond the initially sanctioned period. Although the petitioner filed Service Appeal No.1007 of 2019 before the Service Tribunal for regularization, the appeal was not actively pursued.

**14.** The petitioner also challenged the termination of her service, alleging that her name was struck off without lawful justification. She sought not only reinstatement but also regularization. Her contention was that since respondent No. 5, Saleem Ahmed, had been regularized, she too was entitled to similar treatment under Article 25 of the Constitution. However, this argument was found to be flawed. Article 25 does not permit extension of benefits arising from illegal or irregular actions.

**15.** It is the considered opinion of this Court that Article 25 of the Constitution of the Islamic Republic of Pakistan serves to ensure equality before the law and cannot be invoked to legitimize or perpetuate irregularities. The Article safeguards lawful and just treatment; it does not authorize courts to extend illegal benefits simply because similar unlawful advantages were afforded to others. The plea of the petitioner regarding same treatment as given to similarly placed employees cannot be granted as the same is without support of any law or statute. Reliance is placed on *Government of Khyber Pakhtunkhwa v. Sher Aman* reported in (2022 SCMR 406), where the Honourable Supreme Court has held as under:-

*“14. Regularization is a policy matter which necessarily requires backing of the law. In the absence of any law, policy or rules, an employee cannot knock on the door of the High Court for regularization of his/her services.....*

*16. It is not denied by either side that all of the Respondents were appointed on temporary posts as stipulated in their employment contracts. We note that the learned High Court has not adverted to this aspect of the case and has simply applied the principle of “similarly placed employees” to grant relief to the Respondents. It has specifically been mentioned in the appointment orders of the Respondents that they cannot claim regularization and further, that they are employed on contract for a specific period of time. In this view of the matter, the learned High court has incorrectly applied the law to the cases of the respondents. We find the view of the learned High Court is neither supported by the law nor the policy of regularization and is patently erroneous. Further, it is not in consonance with the settled principles of law on the subject and is therefore unsustainable.”*

**16.** The petitioner was appointed on daily wages basis without adherence to any codified recruitment procedure or advertisement for specific period. It is settled principle of law that appointments made on daily wages or ad hoc basis do not confer any legal right for regularization unless the appointment is supported by statutory rule or made against a sanctioned post following proper process.

In the case of *Province of Punjab through Secretary Agriculture v. Abdul Khaliq* reported in (**PLD 2014 SC 380**), the Honourable Court has held as under:-

*“The employees appointed without competitive process or in violation of rules cannot claim regularization of service. Mere long service or passage of time does not create a vested right”*

Similarly, in *Province of Punjab v. Ahmed Hussain* (2013 SCMR 1547) it was held as follows:

*“No regularization can be claimed as a matter of right unless there is a clear policy decision or legislative backing. Daily wages employment does not create a vested right for absorption in permanent service”.*

In the case of *Faraz Ahmed v. Federation of Pakistan, through Secretary Ministry of Communication, Government of Pakistan, Islamabad* (**2022 PLC 198**), the Honourable Apex Court has held as under:-

*“8. The bone of contention was whether the petitioner, being a contractual employee, had any vested right for regularization or absorption in the newly created cell, and whether a certain*

length of contractual services could be considered to give rise to a legitimate right to be permanently absorbed. On the contrary, in the various dictums laid down by this Court it was repeatedly held that contractual employees have no vested right to regularization, but their regularization may be considered subject to the fitness, suitability and the applicable laws, rules and regulations of the Department. In the case of *Khushal Khan Khattak University through Vice-Chancellor and others v. Jabran Ali Khan and others* (2011 SCMR 977), this Court held that it is settled law that there is no vested right to seek regularization for employees hired on contractual basis unless there was legal and statutory basis for the same. In the case of *Government of Khyber Pakhtunkhwa, Workers Welfare Board through Chairman v. Raheel Ali Gohar and others* (2020 SCMR 2068), this Court held that contractual employees have no automatic right to be regularized unless the same has specifically been provided for in the law. The judgment of this Court in Civil Petitions Nos.4504 to 4576,4588 and 4589 of 2017 dated 08.01.2013 was also quoted in which it was held that contractual employees have no right to be regularized until there is a law provided to that effect and we are not confronted with any such legal proposition. They have to serve till the pleasure of their master and, in case of any wrongful termination, they cannot seek the reinstatement. At the best, they can only have the compensation for the wrongful termination by applying to the competent court of law. Whereas in the case of *Chairman NADRA, Islamabad, through Chairman, Islamabad and another v. Muhammad Ali Shah and others* (2017 SCMR 1979), it was held that till such time that the employees were regularized they would continue to be governed by the terms and conditions of the contract which they had with NADRA. The writ or constitutional jurisdiction of the High Court under Article 199 of the Constitution could not be invoked by a contractual employee of a statutory organization, such as NADRA (see *Pakistan Defence Officers' Housing Authority v. Jawaid Ahmed* reported as 2013 SCMR 1707, *Pakistan Telecommunication Co. Ltd. v. Iqbal Nasir* reported as PLD 2011 Supreme Court 132 and *P.T.C.L v. Masood Ahmed Bhatti* reported as 2016 SCMR 1362). In the next case of *Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and others v. Intizar Ali and others* (2022 SCMR 472), it was held that temporary employees have no vested right to claim reinstatement/regularization. This Court in a number of cases has held that temporary/contract/project employees have no vested right to claim regularization. The direction for regularization, absorption or permanent continuance cannot be issued unless the employee claiming regularization had been appointed in pursuance of a regular recruitment in accordance with relevant rules and against the sanctioned vacant posts, which admittedly is not the case before us. In the case of *Vice-Chancellor, Bacha Khan University Charsadda, Khyber Pakhtunkhwa and others v. Tanveer Ahmed and others* (2022 PLC (C.S) 85), it was held

*that a person employed on a contract basis has no vested right to regularization. Similarly, in the case of Pakistan Telecommunication Company Ltd. V. Muhammad Samiullah (2021 SCMR 998), it was held that an ad hoc, temporary or contractual appointment does not create any vested right of regularization in favour of the appointee. In the case of Government of Khyber Pakhtunkhwa through Secretary Forest, Peshawar and others v. Sher Aman and others (2022 SCMR 406), it was held that contract employee have no vested right to be regularized. While in the case of Deputy Director Finance and Administration FATA through Additional Chief Secretary FATA, Peshawar and others v. Dr. Lal Marjan and others (2022 SCMR 566), it was held by this Court that regularization is not a vested right but requires a statutory basis which is admittedly absent in the instant case. Where a contractual employees wishes to be regularized, he must demonstrate statutory basis for such a claim, in the absence of which, relief cannot be granted solely on the principle of “similarly placed persons”.*

Reliance is also placed on *Government of Khyber Pakhtunkhwa through Secretary Agriculture, Livestock and Cooperative Department Peshawar and others v. Saeedul Hassan and others (2022 PLC (C.S) 164)*.

**17.** In view of the foregoing discussion, this Constitution Petition, being without substance, is hereby dismissed along with listed application, if any.

Judge

Judge

ARBROHI