

**ORDER SHEET  
IN THE HIGH COURT OF SINDH AT  
KARACHI**

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Date

Order with Signature of Judge

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PRESENT:

**MR. JUSTICE ADNAN-UL-KARIM MEMON, J.  
MR. JUSTICE ZULFIQAR ALI SANGI, J.**

**C.P.No.D-4499 of 2019**

(Adil Khan and others versus NBP and others)

**C.P.No.D-4500 of 2019**

(Sabir Ali Jatt and others versus NBP and others)

**C.P.No.D-4501 of 2019**

(Imran Khan and others versus NBP and others)

**C.P.No.D-6466 of 2019**

(Nisar Ahmed versus NBP and others)

**C.P.No.D-272 of 2021**

(Abdul Latif and others versus NBP and others)

**Date of hearing: 11.05.2026.**

**Date of Order: 21.05.2026.**

M/s Suhail Ahmed, Rafia Murtaza and Abdul Rehman Khan, Advocates for the Petitioners in C.P. Nos.D-4499/2019, 4500/2019, 4501/2019 and 272/2021.

Mr. Ali Asadullah Bullo, Advocate for petitioner in C.P. No.D-6466/2019.

Mr. Rashid Anwar, Advocate for Respondents (NBP) in C.P. Nos.D-4499/2019, 4500/2019 and 4501/2019.

Mr. Faisal Mehmood Ghani, Advocate for Respondent Nos.1 to 4 (NBP) in C.P. Nos.D-272/2021 and 6466/2019.

Mr. Ghulam Ali Khan, Advocate for applicant/intervener in C.P. No.D-4501/2019.

Mr. Abdul Sami Mahar, Advocate for applicant/intervener in C.P. No.D-4499/2019.

Mr. Khaleeq Ahmed, Deputy Attorney General.

Mr. Muhammad Akbar Khan, Assistant Attorney General.

**JUDGMENT**

**ZULFIQAR ALI SANGI, J:** Through the instant consolidated judgment, this Court proposes to decide Constitutional Petition Nos. D-272 of 2021, D-4499 of 2019, D-4500 of 2019, D-4501 of 2019 and D-6466 of 2019, as all the aforesaid petitions involve common questions of law and fact, arise out of substantially

identical controversies, and seek similar reliefs against the same respondents, principally the National Bank of Pakistan. Since the grievance of the petitioners in all the connected matters pertains to the alleged unlawful denial of regularization of their services despite prolonged engagement against posts asserted to be of permanent and perennial nature, the petitions were heard together and are being disposed of through this consolidated judgment.

2. Briefly stated, the facts common to all the petitions are that the petitioners invoked the constitutional jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, read with Articles 2-A, 3, 4, 9, 11, 25, 37 and 38 thereof, seeking directions against the respondents for regularization of their services in the respondent Bank from the dates of their initial induction together with all consequential monetary and service benefits. In certain petitions, additional relief for reinstatement in service has also been sought on the allegation that some of the petitioners were discontinued or terminated despite having continuously served the respondent Bank for considerable periods. It is the consistent case of the petitioners that respondent No.1, namely the National Bank of Pakistan, is a statutory corporation established under the National Bank of Pakistan Ordinance, 1949, substantially owned and controlled by the Federal Government, and performs functions in connection with the affairs of the Federation. According to the petitioners, the terms and conditions of service of employees of the respondent Bank are governed by the Staff Service Rules, 1973, framed with the approval of the Federal Government, which possess statutory character. It has further been pleaded that although the respondent Bank subsequently framed Service Rules, 1980, the Hon'ble Supreme Court of Pakistan, in the case reported as Muhammad Tariq Badar v. National Bank of Pakistan (2013 SCMR 314), held that the said Rules merely constituted administrative guidelines and could neither supersede nor override the statutory Staff Service Rules, 1973. The petitioners have averred that they were engaged by the respondent Bank at different times against various posts including Janitorial Staff, Liability Sales Officers, Collection Officers, Reconciliation Officers, Data Entry Operators, Processing Officers, Cash Sorters, Drivers, Office Attendants and other allied assignments. According to the petitioners, although

their appointments were formally routed through different outsourcing companies, contractors or third-party service providers, the entire process of induction, including interviews, scrutiny and shortlisting, was in substance undertaken directly by the respondent Bank itself. It has been contended that after such induction the petitioners continuously rendered services exclusively for the respondent Bank and remained under its direct administrative control, supervision and authority throughout the tenure of their engagement without being deputed or transferred to any other organization or institution.

3. The petitioners have further asserted that they remained engaged with the respondent Bank for periods ranging from two to more than ten years and continuously performed duties of permanent and recurring nature forming an integral part of the functioning of the respondent Bank. According to the petitioners, the uninterrupted continuation of their services for prolonged periods itself demonstrates that the requirement of the respondent Bank was not temporary, seasonal or contingent in nature but rather permanent and perennial. It is their case that the duties discharged by them were identical or substantially similar to those performed by regular employees of the respondent Bank holding corresponding posts. It has further been pleaded that throughout the tenure of their engagement the petitioners performed their duties honestly, diligently and efficiently to the satisfaction of the competent authorities of the respondent Bank and that no allegation of misconduct, inefficiency, negligence or dereliction of duty was ever levelled against them. The petitioners have maintained that their service record remained unblemished and that, by virtue of their long, continuous and satisfactory service, they acquired a legitimate expectation and lawful entitlement for regularization of their services. The petitioners have also contended that the respondent Bank deliberately adopted the device of outsourcing and engagement through contractors merely to deprive the petitioners of lawful service benefits available to regular employees. According to the petitioners, such arrangements were sham, colourable and exploitative in nature and constituted forced labour and economic exploitation prohibited under Article 11 of the Constitution. Reliance has also been placed upon Articles 37 and 38 of the Constitution pertaining to social justice, economic well-

being and protection against exploitative labour practices. In support of their contentions, the petitioners have heavily relied upon a series of judgments rendered by the Hon'ble Supreme Court of Pakistan and various High Courts wherein, according to the petitioners, the practice of retaining employees for long periods through contractual or outsourcing arrangements against permanent posts was deprecated and directions for regularization were issued in favour of similarly placed employees. Particular reliance has been placed upon the judgments rendered in Pir Imran Sajid and others v. Managing Director, Telephone Industries of Pakistan (2015 SCMR 1257), Pakistan State Oil Company Limited v. Bakhat Siddique and others (2018 SCMR 1181), National Bank of Pakistan v. Talimand and others, Abdul Ghafoor and others v. President, National Bank of Pakistan (2018 SCMR 157), National Bank of Pakistan v. Sohail Ahmed and others, Board of Intermediate and Secondary Education Faisalabad v. Tanveer Sajid, and Ikram Bari v. National Bank of Pakistan (2005 SCMR 100). Reliance has also been placed upon certain judgments rendered by the Peshawar High Court in matters relating to outsourced employees of the respondent Bank.

4. The petitioners have further pleaded that the respondent Bank itself initiated a process for regularization of outsourced employees pursuant to the proceedings of the 283rd Meeting of the Board of Directors held on 27.04.2018, followed by issuance of Circular No.184/2018 dated 24.05.2018. According to the petitioners, Cross Functional Scrutiny Committees were thereafter constituted and interviews and scrutiny processes were conducted for the purposes of regularization of outsourced employees, including the petitioners; however, despite completion of the said exercise, no final action was taken by the respondents in respect of the petitioners. It has additionally been averred that amendments were subsequently introduced in the By-Laws, 2015 in exercise of powers under Section 32 of the National Bank of Pakistan Ordinance, 1949, with prior approval of the Federal Government, whereby provision for absorption and regularization of outsourced employees was envisaged. Reference has also been made to communications issued by the Finance Division, Government of Pakistan, including notification dated 14.06.2018 and letter dated 03.01.2019, whereby the respondent Bank was allegedly directed

to take necessary action in accordance with judgments rendered by the superior Courts concerning regularization of outsourced employees. The petitioners have further asserted that despite repeated representations, legal notices and demands made before the competent authorities for regularization of their services in the light of the aforesaid policy decisions and judicial pronouncements, no favourable response was received. It is their grievance that similarly placed employees had allegedly been granted the benefit of regularization either pursuant to judicial orders or through decisions of the respondent Bank itself, whereas the petitioners were denied similar treatment without any lawful justification. According to the petitioners, such conduct amounts to hostile discrimination violative of Article 25 of the Constitution guaranteeing equality before law and equal protection of law.

5. In Constitutional Petition No. D-4500 of 2019, it has additionally been pleaded that instead of regularizing the petitioners despite their long and continuous service against permanent posts, the respondents abruptly terminated their services in the year 2016 without assigning any lawful reason, thereby causing grave financial hardship and prejudice to them. The petitioners therein have accordingly sought reinstatement in service together with regularization and consequential benefits.

6. The petitioners in all the connected matters have maintained that the actions of the respondents in refusing to regularize their services are arbitrary, mala fide, discriminatory, exploitative and contrary to the settled principles laid down by the superior Courts. They have further contended that public authorities are under a constitutional and legal obligation to act fairly, reasonably and in accordance with law and cannot exercise discretion whimsically or capriciously. On the basis of the foregoing assertions, the petitioners have prayed that the instant petitions be allowed and the respondents be directed to regularize their services against the posts held by them with effect from the dates of their initial induction together with all consequential service and monetary benefits admissible to regular employees holding corresponding posts, and, in cases where services were discontinued, to reinstate the petitioners in service with continuity of service and all ancillary benefits.

7. Upon notice only in the Constitutional Petition No. D- 6466 of 2019 the respondent Bank, through its Assistant Vice President/Litigation Manager, Karachi, submitted comments/objections as well as a counter affidavit controverting the averments made in the petition and the accompanying stay application. It was stated therein that the deponent was duly authorized by virtue of a power of attorney and was fully conversant with the facts and circumstances of the case.

8. At the very outset, the respondents raised various preliminary objections with regard to the maintainability of the instant petition. It was contended that petitioners No. 2 to 36 lacked locus standi to institute the proceedings in a representative capacity in view of the law laid down by the learned Division Bench of this Court in Democratic Workers Union CBA v. State Bank of Pakistan. The objection with regard to the jurisdiction of this Court was further raised on the premise that several of the petitioners do not belong to the Province of Sindh; therefore, the instant petitions are liable to be dismissed on this ground alone. It was further asserted that the petition suffered from a procedural infirmity, inasmuch as the same had been verified by only one petitioner, contrary to the principle enunciated in PLD 1961 Dacca 389, and, therefore, the petition, to the extent of petitioners No. 2 to 36, was incompetent and not maintainable in law. The respondents also questioned the territorial jurisdiction of this Court by contending that petitioners No. 4 to 36 belonged to different districts, including Jacobabad, Larkana, Naushahro Feroze, Dadu and Shahdadkot, and that no cause of action, either wholly or partly, had arisen within the territorial jurisdiction of this Court. In support of the said objection, reliance was placed upon Section 16 of the Code of Civil Procedure, 1908, as well as the judgments rendered in Sandalbar Enterprises Ltd. v. Central Board of Revenue and Deputy Managing Director, National Bank of Pakistan v. Ataul Haq.

9. The respondents further contended that the controversy involved disputed questions of fact which could not be adjudicated upon in the exercise of constitutional jurisdiction under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973.

According to the respondents, none of the petitioners had ever been appointed by the respondent Bank, nor had they remained employees of the Bank at any point in time. It was specifically averred that no appointment letters had ever been issued by the respondent Bank in favour of the petitioners and that the documents annexed with the petition themselves demonstrated that the alleged appointments, if any, had been made by different entities. The respondents categorically denied the existence of any employer-employee relationship between the petitioners and the Bank and maintained that no record whatsoever was available with the Bank substantiating such claim. It was further pleaded that the allegations levelled by the petitioners pertained to highly disputed factual controversies requiring recording of evidence, which could not be resolved in writ jurisdiction. In this regard, reliance was placed upon the judgments reported as PLD 2001 SC 415, PLD 1986 SC 429 and 2002 SCMR 549. It was argued that the proper remedy, if any, available to the petitioners lay before a court of competent plenary jurisdiction and not before this Court in exercise of its constitutional jurisdiction. In support of the aforesaid objections, reliance was also placed upon the judgment of the Hon'ble Supreme Court of Pakistan rendered in National Bank of Pakistan v. Shoaib Iftikhar, wherein it was held that where the relationship of employer and employee is disputed and denied by the Bank, such controversy cannot be adjudicated upon in writ jurisdiction without recording evidence. The Apex Court observed therein that the alleged appointment letter relied upon by the claimant was merely a photocopy and an unsigned document denied by the Bank, and consequently held that the writ petition was not competent. The judgment of the High Court granting reinstatement and regularization was accordingly set aside, though liberty was granted to the claimant to seek appropriate remedy before a court of plenary jurisdiction. The respondents further relied upon the order passed by the Hon'ble Supreme Court in Arif Noor and others v. Arif Usmani, President NBP and others, wherein it was observed that where the status of employees depends upon factual inquiry, the aggrieved persons are required to first approach the competent forum for determination of their status in accordance with law before seeking any relief pertaining to regularization. Further reliance was placed upon the judgment rendered in Habibur Rehman v. Al-Hadi Textile and others,

wherein it was held that the burden to establish the relationship of employer and employee squarely lies upon the claimant and that such relationship cannot be presumed in the absence of documentary evidence, including appointment letters, identity cards, gate passes or other employment records.

10. The respondents also denied the applicability of the National Bank of Pakistan Ordinance, 1949, the National Bank of Pakistan Staff Service Rules, 1973, and the Banks Nationalization Act, 1974, relied upon by the petitioners. According to the respondents, since the petitioners were never employees of the respondent Bank, none of the aforesaid statutory provisions were attracted in the present matter and, therefore, no question of violation thereof arose. In the para-wise comments, the respondents denied the assertions raised in the petition and reiterated the preliminary objections already taken. It was specifically denied that the petitioners had ever been appointed by the respondent Bank or that any employer-employee relationship had ever existed between the parties. The respondents maintained that the documents annexed with the petition did not establish any nexus whatsoever between the petitioners and the respondent Bank and that no record relating to the petitioners was available with the respondent institution. The respondents further denied that the petitioners had ever worked with the Bank or that any of their constitutional or legal rights had been infringed. It was asserted that the judgments relied upon by the petitioners were distinguishable on facts and circumstances and had no applicability to the controversy in hand. According to the respondents, the cases cited by the petitioners pertained either to employees directly engaged by the Bank, daily wage employees, or outsourced employees whose long association and employment relationship with the Bank stood duly established through documentary evidence. It was contended that, in the present matter, the petitioners had failed to place on record any material whatsoever to establish that they had ever been directly employed by the respondent Bank. The respondents also emphasized that the petitioners had never approached the Labour Court or the National Industrial Relations Commission for redressal of their alleged grievances and had directly invoked the constitutional jurisdiction of this Court despite the existence of disputed questions of fact requiring adjudication by a competent

forum after recording of evidence. Lastly, it was averred that no illegality, discrimination, victimization or violation of any fundamental or legal right had been committed by the respondents and that each case was required to be decided on its own peculiar facts and circumstances. In support thereof, reliance was placed upon the judgments reported as 1994 SCMR 2213, 2002 SCMR 235, 2002 SCMR 677 and PLD 2007 SC 460. The deponent finally affirmed that the contents of the comments/objections were true and correct to the best of his knowledge and belief and were based upon the official record maintained by the respondents.

11. The learned counsel for the petitioners contended that the petitioners are long-serving employees of the respondent Bank, having been engaged for considerable periods ranging from two to more than ten years against posts which are permanent, perennial, and integral to the functioning of the Bank. It was argued that the mere device of outsourcing through third-party contractors does not alter the true nature of employment, particularly where the entire recruitment process, supervision, control, and disciplinary authority remain vested in the respondent Bank. It was submitted that the doctrine of “substance over form” squarely applies, and the so-called contractual arrangement is nothing but a colourable exercise designed to circumvent statutory obligations. It was further argued that the respondent Bank is a statutory corporation created under the National Bank of Pakistan Ordinance, 1949, and its employees are governed by the Staff Service Rules, 1973, which have statutory force. Reliance was placed on the judgment reported as Muhammad Tariq Badar v. National Bank of Pakistan (2013 SCMR 314) to contend that the subsequent Service Rules, 1980 cannot override or dilute the statutory protection afforded under the 1973 Rules. The learned counsel emphasized that the petitioners performed identical duties as regular employees and remained under the direct administrative control of the Bank, thereby establishing a de facto employer-employee relationship. It was argued that prolonged, uninterrupted service gives rise to a legitimate expectation for regularization, particularly where employees are engaged against sanctioned and permanent posts. It was further contended that the respondent Bank itself initiated a regularization process through Board decision dated 27.04.2018 and Circular No. 184/2018, followed by scrutiny committees and

interviews, thereby acknowledging the eligibility of outsourced employees for regularization. Having once set the process in motion, the respondent Bank is estopped from arbitrarily withholding regularization, particularly when similarly placed employees have already been extended such benefit. The learned counsel also submitted that denial of regularization amounts to hostile discrimination in violation of Article 25 of the Constitution, as similarly situated employees have been regularized while the petitioners have been arbitrarily excluded without lawful justification. It was further argued that such outsourcing practices constitute exploitation and forced labour in contravention of Article 11, and offend the constitutional principles of social and economic justice embodied in Articles 37 and 38. Heavy reliance was placed on a consistent line of judicial precedents including *Pir Imran Sajid* (2015 SCMR 1257), *PSO v. Bakhat Siddique* (2018 SCMR 1181), *Abdul Ghafoor* (2018 SCMR 157), and other cases wherein the superior Courts deprecated the practice of retaining employees for prolonged periods through contractual arrangements against permanent posts and directed regularization. It was therefore prayed that the petitions be allowed and the petitioners be declared entitled to regularization from the dates of their initial induction with all consequential benefits, and in cases of termination, reinstatement with continuity of service.

12. The learned counsel for the respondent Bank raised at the outset serious objections as to the maintainability of the petitions. It was submitted that the petitions are not maintainable in representative form, particularly in view of the law laid down in *Democratic Workers Union CBA v. State Bank of Pakistan*, and that petitioners have failed to establish proper authorization inter se. It was further contended that this Court lacks territorial jurisdiction as several petitioners neither reside nor have any cause of action arising within the territorial limits of this Court. Reliance was placed on Section 16 CPC and the judgments in *Sandalbar Enterprises Ltd.* and *NBP v. Ataul Haq*. A preliminary objection was also raised regarding defective verification of the petition, contending that the petition is not properly instituted in accordance with law and is therefore liable to be rejected on this ground alone. On merits, the learned counsel argued that no employer-employee relationship exists between the petitioners and

the respondent Bank. It was submitted that the petitioners were engaged by independent third-party contractors, and at no point were they issued appointment letters by the Bank. It was emphasized that the Bank's record does not reflect any employment of the petitioners, and therefore the foundational fact required to invoke constitutional jurisdiction is absent. It was further argued that the entire controversy involves disputed questions of fact, particularly regarding the existence of employment, which cannot be adjudicated under Article 199 of the Constitution without recording evidence. Reliance was placed on *PLD 2001 SC 415*, *PLD 1986 SC 429*, and *2002 SCMR 549*, as well as *NBP v. Shoaib Iftikhar*, wherein it was held that writ jurisdiction is not an appropriate forum for resolving disputed employment claims. The learned counsel submitted that mere long association, if any, through outsourcing agencies does not create any vested right of regularization, nor does it establish a legal employment relationship with the Bank. It was further argued that the petitioners never approached the Labour Court or NIRC, which are proper forums for determination of such disputes. It was also contended that the judgments relied upon by the petitioners are distinguishable, as those cases involved either direct employees or proven employer-employee relationships, which is not the case here. The doctrine of equality cannot be invoked to perpetuate illegality or create rights where none exist. The learned counsel concluded that the petitions are misconceived, not maintainable, and liable to be dismissed.

13. The learned counsel for the intervenor being the entity which formally engaged the petitioners and disbursed their salaries submitted at the outset that the entire edifice of the petition's rests on a fundamental mischaracterization of the employment relationship. It was contended that the intervenor is an independent service provider duly engaged under a lawful outsourcing arrangement with the respondent National Bank of Pakistan (NBP), and that the petitioners were never appointed, selected, or inducted as employees of NBP in the legal sense. It was emphasized that the intervenor, being a distinct legal entity, is the exclusive employer of the petitioners, having issued appointment letters, maintained personnel records, processed attendance, and disbursed salaries from its own payroll mechanism. The learned

counsel stressed that salary payment, disciplinary control in day-to-day matters, and contractual supervision were exclusively within the domain of the intervenor, whereas the respondent Bank's role was strictly limited to availing outsourced services under a commercial agreement. It was thus argued that the petitioners' claim of being employees of NBP is factually incorrect and legally misconceived. The learned counsel further submitted that the outsourcing arrangement is a legitimate and recognized mode of procurement of services, permissible under applicable procurement and administrative policies, and cannot be invalidated merely on the basis of prolonged engagement or functional integration with the principal organization. It was argued that even if the petitioners performed duties within the premises of NBP or under its operational requirements, such fact does not ipso facto convert an independent contractual arrangement into a direct employment relationship with the principal. It was contended that the petitioners' entire grievance is predicated on an attempt to bypass the lawful contractual framework governing outsourcing arrangements and to secure regularization against the respondent Bank without ever having been recruited through the prescribed statutory process. The learned counsel argued that such a claim, if accepted, would amount to rewriting contractual relations and defeating the principles of competitive public employment, merit, and transparency. It was further argued that the doctrine of legitimate expectation is wholly inapplicable against the intervenor, as no representation was ever made that the petitioners would be regularized by NBP. The intervenor merely provided employment under fixed contractual arrangements governed by service contracts, which did not create any vested right of permanency or absorption in the principal organization. The learned counsel also submitted that the petitioners' reliance on Articles 11, 25, 37, and 38 of the Constitution is misplaced, as these provisions, though embodying principles of social and economic justice, do not override clear contractual arrangements or create enforceable rights of regularization in the absence of a statutory or direct employment relationship. It was further contended that the intervenor alone bears the legal responsibility towards the petitioners as their employer, including payment of wages, compliance with labour laws, and other service-related obligations,

whereas NBP cannot be fastened with liabilities arising out of a relationship to which it is not a party in the legal sense of employment. The learned counsel also distinguished the judicial precedents relied upon by the petitioners, submitting that those cases involved either direct engagement by the principal employer or situations where the outsourcing arrangement was found to be a mere camouflage. In the present case, however, the intervenor is an established independent contractor with a separate legal existence, and there is no material to suggest that the arrangement is sham or colourable. It was accordingly prayed that the petitions, insofar as they seek declaration of employment with or regularization in NBP, be dismissed against the intervenor as not maintainable, and it be declared that the petitioners, if aggrieved, may seek remedies strictly against their contractual employer in accordance with law, and not against the respondent Bank.

14. The learned Deputy Attorney General, appearing on behalf of the Federation, supported the preliminary objections raised by the respondent Bank and adopted a neutral but legally aligned stance emphasizing constitutional and jurisdictional limits. It was submitted that the relief sought by the petitioners essentially pertains to service regularization and determination of employment status, which involves factual controversies requiring evidentiary assessment and cannot be adjudicated in constitutional jurisdiction under Article 199. It was further argued that the petitioners have failed to establish any enforceable legal or statutory right against the Federation or its instrumentalities. The existence of an employer-employee relationship is a sine qua non for the grant of service-related relief, which is conspicuously absent in the present matters. The learned Deputy Attorney General contended that policy decisions relating to employment, regularization, and staffing fall within the exclusive domain of the executive authorities and the concerned institutions, and the Courts ordinarily exercise restraint in interfering with such matters unless clear illegality or mala fide is demonstrated. It was further submitted that reliance upon Articles 2-A, 3, 4, 9, 25, 37 and 38 of the Constitution, though reflective of socio-economic ideals, does not create enforceable rights for regularization in the absence of a valid legal foundation of employment. It was also argued that the process of outsourcing and contractual

engagement is a policy matter adopted to ensure administrative efficiency and financial discipline, and Courts should be cautious in converting contractual or outsourced engagements into permanent employment relationships without lawful basis. The learned Deputy Attorney General accordingly prayed that the petitions be dismissed as not maintainable, leaving the parties to avail appropriate remedies before competent forums, if so advised.

15. We have heard the learned counsel appearing for the parties, including the learned Deputy Attorney General, at length, and have also carefully gone through the entire material available on the record with their able assistance.

16. The objection pertaining to territorial jurisdiction raised on behalf of the respondents has been examined with anxious consideration in the backdrop of the constitutional scheme regulating the exercise of jurisdiction by the High Courts under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, the nature and character of the controversy involved, the situs of the respondent authority against whom constitutional relief has been sought, as well as the material available on record. The respondents have primarily contended that since the petitioners neither belong to the Province of Sindh nor were serving within the territorial limits of Sindh at the relevant time, this Court lacks territorial competence to entertain and adjudicate upon the instant constitutional petition. It has further been argued that the alleged cause of action substantially accrued outside the Province of Sindh and, therefore, the present proceedings are liable to be dismissed on the sole ground of territorial non-maintainability. The objection, though apparently attractive at first blush, is legally misconceived and devoid of substance. The same cannot be sustained in view of the settled constitutional principles governing territorial jurisdiction under Article 199 of the Constitution as consistently interpreted by the superior Courts of the country.

17. At the outset, it is necessary to observe that the constitutional jurisdiction vested in a High Court under Article 199 of the Constitution is not to be construed in a narrow, pedantic, or hyper-technical manner. The constitutional framework envisages a broader and purposive approach while determining territorial

competence. The jurisdiction of a High Court is not confined merely to the place of residence of an aggrieved person or the locality where such person may happen to perform duties. Rather, jurisdiction extends to all matters where the person, authority, department, corporation, or instrumentality against whom relief is sought is situated within the territorial limits of the Court or where the cause of action, wholly or in part, has arisen within such territorial jurisdiction. The expression “cause of action” occurring in constitutional jurisprudence has repeatedly received liberal and expansive interpretation from the superior judiciary. It is by now a settled proposition of law that even a fraction, component, or integral part of the cause of action arising within the territorial jurisdiction of a Court is sufficient to confer jurisdiction upon such Court. The phrase “cause of action” includes every material, essential, or foundational fact which a petitioner is required to establish in order to succeed in the proceedings. Therefore, where any essential fact giving rise to the controversy bears nexus with the territorial jurisdiction of a High Court, such Court becomes competent to exercise constitutional jurisdiction notwithstanding the fact that some ancillary or consequential facts may have arisen elsewhere. The superior Courts have consistently held that the concept of territorial jurisdiction under Article 199 must be interpreted in a manner which advances the cause of justice and ensures effective constitutional remedies against unlawful actions of public authorities. The Constitution being a living and organic instrument cannot be interpreted in a rigid or technical fashion so as to defeat substantive justice. Jurisdictional objections which are merely technical in character and do not occasion any prejudice on merits are ordinarily discouraged, particularly where the authority against whom relief is claimed is admittedly situated within the territorial limits of the Court concerned.

18. In the instant case, it is an admitted and indisputable position that the respondent, namely the National Bank of Pakistan, is a statutory corporation and public sector financial institution established under the relevant banking laws of the country. It performs public functions and is amenable to constitutional jurisdiction under Article 199 of the Constitution. The principal office and Head Office of the respondent Bank are admittedly situated at Karachi within the territorial jurisdiction of

this Court. The entire administrative hierarchy, policy formulation mechanism, operational command structure, financial management, human resource administration, and institutional governance of the Bank emanate from its Head Office situated at Karachi. The record further reflects that the impugned actions challenged by the petitioners are directly connected with and attributable to the authorities functioning from the Head Office of the Bank at Karachi. Matters relating to outsourcing arrangements, manpower deployment, contractual engagements, service structure of outsourced personnel, and policies governing ancillary services are admittedly formulated, supervised, approved, or controlled from the principal office of the respondent Bank situated within Sindh. Consequently, a substantial, material, and integral part of the cause of action has undeniably arisen within the territorial jurisdiction of this Court. It is by now well settled that territorial jurisdiction cannot be determined solely with reference to the residence, domicile, or place of posting of the petitioners. The decisive consideration is whether the authority against whom relief is sought is situated within the territorial jurisdiction of the Court and whether the challenged action bears nexus with such authority. Merely because the petitioners may belong to another province or may have rendered services outside Sindh does not automatically oust the jurisdiction of this Court when the principal respondent authority is admittedly located within Sindh and the impugned decisions are attributable to, or emanate from, the Head Office situated at Karachi. The superior judiciary has repeatedly recognized that where the Head Office or principal seat of a statutory corporation, autonomous body, public authority, or governmental institution is situated within the territorial jurisdiction of a High Court, and the challenged action has direct nexus with such office, the constitutional petition before such High Court is maintainable irrespective of the place where the aggrieved persons reside or perform duties. The situs of the principal office assumes particular significance where policy decisions, administrative directives, and impugned actions originate from such office. The rationale underlying this constitutional interpretation is not merely technical but also practical and functional. Modern public institutions and statutory corporations frequently operate through regional offices, branches, zonal establishments, and field units spread throughout the

country. If territorial jurisdiction were to be confined only to the locality where an employee is posted or where a petitioner resides, it would result in serious practical difficulties, conflicting proceedings, and multiplicity of litigation before different High Courts in matters arising from a common policy decision taken at the principal office level. Such an interpretation would frustrate administrative consistency and undermine judicial economy. The constitutional scheme, therefore, recognizes the situs of the principal office and the place from where the impugned decision emanates as relevant and material factors while determining territorial competence. The superior Courts have repeatedly emphasized that where policy decisions, administrative actions, or impugned directives originate from the Head Office situated within the territorial jurisdiction of a High Court, such Court possesses constitutional competence to examine the legality of those actions.

19. In the present case, the controversy essentially pertains to the legal status and service claims of persons allegedly engaged through outsourcing arrangements and third-party contractors in connection with the affairs of the respondent Bank. The outsourcing policies, contractual frameworks, manpower arrangements, and administrative supervision governing such engagements admittedly emanate from the Head Office of the respondent Bank situated at Karachi. The petitioners have directly questioned actions attributable to the respondent Bank acting through its principal administrative machinery located within Sindh. Therefore, the nexus between the subject matter of the petition and the territorial jurisdiction of this Court is neither remote nor incidental; rather, it constitutes an integral and foundational component of the cause of action itself. It is equally significant to observe that the doctrine of forum conveniens also supports the maintainability of the present proceedings before this Court. The principal respondent institution, the relevant administrative record, the policy-making authorities, and the central decision-making apparatus are all situated within Karachi. The convenience of parties, effective adjudication of the dispute, and availability of the relevant record are all factors which support the exercise of constitutional jurisdiction by this Court. The objection raised by the respondents, if accepted, would amount to giving an unduly restrictive interpretation to Article 199 of the

Constitution. Constitutional remedies are intended to provide expeditious and efficacious relief against unlawful exercise of public power. Such remedies cannot be defeated merely on technical objections where substantial nexus with the territorial jurisdiction of the Court is clearly established. It may also be observed that the objection regarding territorial jurisdiction appears to have been raised in a purely technical manner without demonstrating any actual prejudice caused to the respondents. The respondents themselves admittedly function through their Head Office situated within Karachi. The relevant policies, records, and authorities are available within the territorial jurisdiction of this Court. Therefore, no prejudice whatsoever can be said to have been occasioned merely because the petitioners may belong to another province. In view of the admitted position that the Head Office of the National Bank of Pakistan is situated at Karachi and the impugned actions are directly connected with and attributable to the authorities functioning from such Head Office, this Court is fully competent to exercise constitutional jurisdiction in the matter. The objection regarding territorial non-maintainability is, therefore, misconceived, untenable in law, and hereby repelled. Consequently, the petition is held to be maintainable before this Court.

20. Having resolved the preliminary objection regarding territorial jurisdiction, we now proceed to examine the merits of the controversy involved in the present petition.

21. The principal question requiring determination in the instant proceedings is whether persons admittedly engaged through third-party contractors or outsourcing agencies can claim regularization, absorption, or permanent appointment in the service of the National Bank of Pakistan merely on the basis of long association, continuous deployment, or performance of duties of permanent nature within the premises of the Bank.

22. At the very outset, it is pertinent to observe that the petitioners have failed to place on record any appointment letter, office order, notification, contract of service, or letter of induction issued directly by the respondent Bank appointing them against any sanctioned post within its regular service structure. There is

absolutely nothing available on record to demonstrate that the petitioners were ever recruited by the competent authority of the Bank through any lawful recruitment process envisaged under the applicable service rules, recruitment policies, or constitutional framework governing public employment. On the contrary, the material placed before this Court clearly establishes that the remuneration, wages, and salaries of the petitioners were admittedly being paid by private contractors or outsourcing agencies and not from the establishment, payroll, or budgetary allocation of the respondent Bank. The outsourcing agreements and contractual arrangements produced before this Court unmistakably reveal that the respondent Bank had outsourced certain ancillary, operational, and support services to independent contractors who, in turn, engaged their own workforce for execution of the contractual obligations undertaken by them. The petitioners have also candidly admitted that they were engaged and employed by a third-party contractor and not directly by the respondent Bank. The petitioners, therefore, admittedly remained employees of the contractors and not of the respondent Bank.

23. It is by now a firmly settled principle of service jurisprudence that the relationship of master and servant, or employer and employee, can only come into existence where appointment is made by the competent authority strictly in accordance with law, prescribed recruitment procedure, and applicable service rules governing the field. Such relationship cannot be presumed merely because an individual performs duties within the premises of an institution or because the work performed ultimately benefits the principal organization. The legal character of employment is determined not by physical presence at the workplace but by the legality, source, and mode of appointment. The essential ingredients necessary for creation of a lawful employer-employee relationship include direct appointment by the competent authority, existence of a sanctioned post, observance of prescribed recruitment procedure, issuance of formal appointment order, payment of salary from the employer's establishment, and regulation of service conditions under the applicable service rules. In the absence of these foundational requirements, no enforceable legal right accrues in favour of any person to claim regularization, absorption, or permanent appointment in the service of a public

institution. The concept of outsourcing has now become a recognized and accepted mode of administration adopted by both public and private organizations for operational convenience, financial efficiency, cost management, and specialized service delivery. Banks, statutory corporations, autonomous bodies, and public authorities frequently engage contractors or service providers for ancillary functions including security services, maintenance, sanitation, technical operations, logistics, and support services. Persons engaged through such outsourcing arrangements remain employees of the contractor or service provider. The contractual nexus subsists between such workers and the contractor alone. The principal organization does not automatically become the employer merely because the outsourced workers perform duties within its premises or under its administrative supervision. Administrative or supervisory control exercised by the principal employer for ensuring discipline, efficiency, institutional standards, or quality of work cannot be equated with direct employment. Such supervision is merely incidental to the contractual arrangement and does not override the legal requirement of appointment through the competent authority under the prescribed service structure. So long as the contractor retains authority regarding appointment, transfer, disciplinary control, payment of wages, and termination of services, the legal relationship of employer and employee remains exclusively between the contractor and the worker.

24. The distinction between regular employees and outsourced personnel is neither superficial nor technical; rather, it carries substantial legal significance. Regular employees are appointed against sanctioned posts through a transparent recruitment mechanism after advertisement of vacancies, observance of merit, fulfillment of eligibility criteria, and approval by the competent authority. Their service conditions are governed by statutory rules and they acquire rights, privileges, protections, and benefits attached to the post. In contrast, outsourced personnel are engaged for limited contractual purposes contemplated under outsourcing agreements executed between the principal institution and the contractor. Their continuation depends upon the subsistence of the outsourcing arrangement and not upon the existence of any sanctioned post within the establishment of the

principal employer. Consequently, such personnel cannot claim parity with regular employees in matters relating to status, seniority, regularization, pensionary benefits, or permanent absorption. The petitioners have strongly relied upon the plea that they have continuously rendered services for several years and have been performing duties of regular and permanent nature. According to them, such prolonged service entitles them to regularization or absorption in the service of the respondent Bank. While this Court is not unmindful of the hardships and economic difficulties faced by such workers, sympathy alone cannot constitute a lawful basis for issuance of directions contrary to law. Equity follows the law and cannot override express statutory requirements governing appointments in public institutions.

25. Public employment under a statutory corporation such as the National Bank of Pakistan is regulated by constitutional principles embodied under Articles 4, 18, and 27 of the Constitution. Public office is a public trust and cannot be distributed in an arbitrary, casual, or informal manner. Appointments in public institutions must conform to transparency, merit, fairness, and equal opportunity. No person can claim appointment or regularization in public service except through a lawful recruitment process conducted by the competent authority in accordance with prescribed rules and procedures. Any direction by this Court for absorption or regularization of persons who admittedly entered service through indirect or outsourced arrangements would amount to bypassing the constitutional scheme regulating public employment and would prejudice the rights of countless eligible citizens who may otherwise compete for such posts through an open and transparent process. It is now a settled proposition of law, repeatedly affirmed by the august Supreme Court of Pakistan, that appointments made dehors the rules neither create any vested right nor can continuation for a long period confer legality upon an otherwise unlawful induction. The doctrine of regularization has limited application in service jurisprudence and cannot be treated as an alternate mode of recruitment. Regularization may only be considered where the initial appointment was made by a competent authority against a sanctioned post through a recognized process but suffered from some curable procedural irregularity. However, where the initial

induction itself lacks lawful foundation, no Constitutional Court can issue directions for regularization because doing so would amount to validating illegality and perpetuating violation of law. In the present case, admittedly no recruitment process whatsoever was undertaken by the respondent Bank for appointment of the petitioners. There was neither advertisement of vacancies nor any competitive selection process conducted by the competent authority. The petitioners entered into service through private contractors independently engaged by the Bank for outsourcing purposes. Such engagement cannot, by any stretch of imagination, be equated with lawful induction into the regular service of the respondent Bank. The contention advanced by learned counsel for the petitioners that the respondent Bank exercised administrative control over the petitioners and directly assigned duties to them does not advance the petitioners' case. Even if such assertion is presumed to be correct, the same would not alter the legal character of the petitioners' employment. In outsourcing arrangements, supervisory control by the principal organization is natural and inevitable for maintaining discipline and ensuring efficient performance of contractual obligations. However, such supervisory authority does not transform contractor employees into direct employees of the principal employer. Mere supervision, allocation of duties, or monitoring of attendance cannot substitute the essential legal requirements necessary for creation of a lawful employer-employee relationship.

26. It is observed that pursuant to the 27th Constitutional Amendment to the Constitution of the Islamic Republic of Pakistan, 1973, the Federal Constitutional Court was established under Article 175 of the Constitution, whereas its composition and constitution have been provided under Article 175-B thereof. Furthermore, Article 189 of the Constitution unequivocally stipulates that "any decision of the Federal Constitutional Court shall, to the extent that it decides a question of law or is based upon or enunciates a principle of law, be binding on all other Courts in Pakistan including the Supreme Court." It is further provided therein that "any decision of the Supreme Court shall, to the extent that it decides a question of law or is based upon or enunciates a principle of law, be binding on all other Courts in Pakistan except the Federal Constitutional Court." The Honourable

Federal Constitutional Court, while deciding the case of *Muhammad Zubair Khan and others* (C.P.L.A. Nos. 3615 to 3619 of 2024), dealing with an identical controversy and after examining the judgment rendered by the Honourable Supreme Court in *M/s State Oil Company Limited v. Bakht Siddique and others* (2018 SCMR 1181), was pleased to observe as under: -

**4. As noted above, the petitioners sought regularization in service in NBP on account of the fact that they had been in service of the said Bank for a considerable period of time and some of their colleagues were regularized by the Bank and they have been discriminated. The referred argument did not find favour with learned High Court on the basis that petitioners have chosen wrong forum and ought to have approached the relevant Court under the Industrial Relations Laws specifically because there were disputed questions of fact. It is an admitted position of law that no one has a vested right to be regularized in service; in the particular case, the petitioners were never directly working for NBP. In fact service providing Company has made an arrangement with NBP and due to the said arrangement, they were posted/placed with NBP to carry out duties tasked by the Bank. This arrangement did not make them the employees of NBP. The reference made by the learned counsel for the petitioners to the judgement of the Supreme Court in case reported as M/s State Oil Company Limited v. Bakht Siddique and others (2018 SCMR 1181) is misplaced. We are unable to agree with the reasoning adopted by the Supreme Court that the regularization depends upon length of service inasmuch as it is not in every case where length of service is the crucial question. Infact where the services are to be regularized the entire scheme of arrangement and the law is to be examined. We are also unable to support the view taken by the Supreme Court in the said judgment that outsourcing of employees seemed to be a sham or pretence inasmuch as in the modern times, the employer instead of direct recruitment, makes an arrangement through another entity for providing man-power and not in every case it can be regarded as a sham or pretence. The deeper appreciation is required and with due deference, the Supreme Court did not deal deeply with the matter to come to the conclusion that in that particular case, it was a sham or pretence. One cannot thrust upon the employer the employees specifically when it did not intend to take them on job or engage their services. NBP and other entities instead of making appointment(s), resorted to outsourcing the services in order to cut the expenses and liabilities of long-term employees by entering into this arrangement. The referred arrangement cannot, in any case, be regarded as sham or fraud or against any statute because it adopts the modern means. Moreover, the fact that the petitioners who were posted but only with the company who hired them and that did not at NBP never had an arrangement with NBP contracted, by no means, give any legitimate expectancy to them to be regularized. The fact that some of the similarly placed colleagues of petitioners were regularized, did not, in any way, created right in their favour and Article 25 of the Constitution, by no means, come to**

***their rescue, as it does not amount to discrimination and there can always be a reasonable classification.***

***5. The judgment impugned before us is well reasoned and does not suffer from any error of law warranting interference.***

27. The petitioners also sought to invoke the doctrine of legitimate expectation. The contention is wholly misconceived. Legitimate expectation cannot operate against statutory provisions nor can it compel a public authority to act contrary to law. The petitioners were fully aware that they had not been appointed through any lawful recruitment process conducted by the respondent Bank and that their engagement was through third-party contractors under outsourcing arrangements. Mere continuation of such arrangement, even for a considerable period, cannot mature into an enforceable legal right for permanent absorption in public service. The record further reveals that the outsourcing agreements executed between the respondent Bank and the contractors specifically stipulated that the personnel engaged by the contractors would remain employees of the contractors alone and that no employer-employee relationship would come into existence with the Bank. Such contractual stipulations are binding upon the parties and cannot be ignored in constitutional proceedings. The Constitutional Court cannot rewrite contractual arrangements or create legal relationships contrary to the express terms of agreements and governing service rules. It also requires observation that acceptance of the petitioners' claim would open floodgates for similar claims by all persons engaged through outsourcing agencies, contractors, temporary arrangements, or daily wage engagements in various public sector organizations throughout the country. Such a course would render the entire framework of public recruitment meaningless and would seriously undermine constitutional principles of merit, fairness, and equal opportunity. Constitutional jurisdiction cannot be exercised in a manner which facilitates backdoor entry into public service or validates indirect modes of recruitment prohibited by law.

28. The contention that some similarly placed persons were allegedly regularized by the respondents is equally devoid of legal merit. It is a settled principle that Article 25 of the Constitution

does not envisage negative equality. An illegality committed in one case cannot be relied upon as a precedent for seeking repetition of the same illegality in another matter. Equality before law means equality in lawful treatment and not equality in perpetuation of unauthorized acts. The Honourable Supreme Court of Pakistan in the case Chief Secretary, Government of Balochistan, Civil Secretariat, Quetta & others v. Adeel-ur-Rehman & others (Civil Appeal No.441 of 2020 has observed as under: -

**6. As far as the question of regularization of similarly placed persons by the Department vide Notifications dated 26th July, 2007 and 22nd February, 2011 is concerned, suffice it to say that Article 25 of the Constitution does not envisage negative equality. Such right can only be claimed when decision is taken in accordance with law. A wrong concession in favour of one person does not entitle any other person to claim benefit of a wrong decision. This Court in plethora of judgments has ruled out that the posts in BPS-16 and above shall be filled through Public Service Commission. Reference can be made to the case reported as Province of Sindh and others v. Muhammad Taqi Shah [2018 SCMR 1607]. As far as the regularization of contract employees subsequent to creation of posts on regular side is concerned, in number of cases it has been held by this Court that mere creation of posts on regular side does not confer, in the absence of any statutory support, an automatic right of regularization in favour of the contract employees working against project posts. Reliance is placed on the case reported as Government of Khyber Pakhtunkhwa through Secretary Agriculture, Livestock and Cooperative Department Peshawar and others v. Saeed-Ul- Hassan and other [2021 SCMR 1376].**

**7. For the discussion made above, we are of the considered view that case of the present respondents falls within the purview of Rule 9 (1) (a) of the AP&T Rules so also under Rule 3 (i) (a) and 3 (i) (b) of the BPSC Functions Rules. The decision given by the High Court in the Constitution Petition is without any basis and is not sustainable in the eye of law, therefore, the same is set-aside. The Government of Balochistan is directed to refer these posts to the Commission for recruitment in accordance with the law through fresh publication on open merit basis. The respondents are directed to participate in the fresh recruitment process to be undertaken by the Commission and the Commission is directed to entertain their applications. In the peculiar circumstances of the case, the question, if any, of any age limit shall not be a hurdle in the way of the respondents. The appeal, in above terms stands disposed of.**

29. This Court is conscious of the economic and social hardships which may be faced by workers engaged under outsourcing arrangements. Many such workers undoubtedly perform valuable and essential functions for institutional operations. Nevertheless, hardship or sympathy cannot authorize

the Court to issue directions inconsistent with law. Judicial discretion must remain confined within constitutional and statutory boundaries. Matters relating to creation of posts, recruitment policy, regular appointments, and service structure fall within the exclusive domain of the executive authorities concerned and cannot ordinarily be assumed by the Constitutional Court in exercise of jurisdiction under Article 199 of the Constitution.

30. For the foregoing reasons, we are of the considered view that the petitioners, having admittedly been engaged through third-party contractors or outsourcing agencies and not directly appointed by the respondent Bank through any lawful recruitment process, possess no vested legal right to seek regularization, absorption, or permanent appointment in the service of the respondent institution. Their engagement through outsourced arrangements neither creates any employer-employee relationship with the Bank nor confers any enforceable constitutional or statutory entitlement in their favour. Consequently, the instant petitions, being devoid of merit and unsupported by any lawful entitlement, are hereby dismissed along with all pending applications. The petitioners, if so advised, may avail any remedy otherwise available to them under the relevant labour laws, contractual arrangements, or other forums of competent jurisdiction against their respective contractors or service providers strictly in accordance with law. However, such grievances cannot be transformed into a claim for regular appointment in the service of the National Bank of Pakistan in the absence of lawful induction through prescribed procedure.

31. Before parting with this judgment, it may be observed that dismissal of the present petitions shall not preclude the petitioners from availing any remedy otherwise available to them under the relevant labour laws or contractual arrangements against their respective employers, contractors, or service providers strictly in accordance with law.

**JUDGE**

**JUDGE**