

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI

C.P. No.D-3123 of 2025  
(**Abdul Mutalib & others v Federation of Pakistan** )

C.P. No.D-4648 of 2025  
(**Ashfaq Ahmed & others v Federation of Pakistan** )

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Date	Order with signature of Judge
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Before:-

Mr. Justice Adnan-ul-Karim Memon

Mr. Justice Zulfiqar Ali Sangi

Date of hearing and order:- 26.02.2026

Mr. Abdul Salam Memon, Advocate for the petitioners, in C.P. No. D-3123/2025

Mr. Naeem Iqbal advocate for the petitioners in C.P. No. D-4648/2025

Mr. Arshad Khan Tanoli advocate for the respondent/Port Qasim Authority in both petitions

Ms. Wajiha Mehdi DAG

**ORDER**

**Adnan-ul-Karim Memon, J.** – The petitioners in C.P. No. D-3123/2025 has filed the captioned Constitutional Petitions under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, with the following prayer(s):-

- a) *Declare and direct the Respondents that, in view of the Regulations and recommendations forwarded for the regularization of the Services of the petitioners' orders of the regularization of the petitioner's services, from the date of appointment, be issued forthwith;*
- b) *Direct the respondents that, as a result of the present petition, as a vendetta, the service contract of the petitioners may not be discontinued till the final disposal of the present petition.*
- c) *Any other relief(s) as this Court deems appropriate in the facts and the circumstances of the case be granted to the petitioners.*

The petitioners in C.P. No. D-4648/2025 have filed the captioned Constitutional Petitions under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, with the following prayer(s):-

- a) *Declare that the petitioners are regular employees of the Port Qasim Authority, having been appointed in the same manner as regular employees through advertisement test, interview, etc., against sanctioned permanent posts;*
- b) *In alternate to direct, the respondents regularize the petitioners in terms of Regulation 21-A of the Port Qasim Authority Employees Service Regulations-2011 and the recommendations of the departmental heads of the petitioners;*

- c) *Restrain the respondents, their agents, or anyone acting on their behalf from taking any adverse/coercive action against the petitioners till the disposal of the captioned petition.*

2. The petitioners, all employees of the Port Qasim Authority (PQA), filed the petition under Article 199 of the Constitution of Pakistan, challenging their non-regularization of service, despite being similarly placed as other employees who were regularized. It is the case of the petitioners that they were appointed to permanent sanctioned posts through competitive processes, including advertisements, tests, and interviews, but were held on contract terms. They aver that they have rendered satisfactory service ranging from 2 to 5 years, with contract extensions, without future protection; as such, their services are vulnerable.

3. The learned counsel for the petitioners in C.P. No. D-3123/2025 submitted that Respondent No.2, i.e., Port Qasim Authority, through various advertisements dated 20.09.2020, 21.03.2021, and 25.08.2021, invited applications from eligible candidates for appointment against sanctioned posts in different departments, including Assistant Executive Engineers (BPS-17), Assistant Managers (BPS-17), Deputy Managers (BPS-18), and Executive Engineers (BPS-18). Pursuant thereto, the Petitioners applied for the said posts and, after due scrutiny and shortlisting, were subjected to written tests conducted by the highly reputed testing body, namely Institute of Business Administration, Karachi. Upon successfully qualifying the written tests held on various dates, the Petitioners were issued interview letters by Respondent No.2 and were subsequently interviewed by the duly constituted Selection Committee. After completion of all codal formalities and approval of the competent authority, the Petitioners were selected and appointed against permanent and sanctioned posts, in accordance with the prescribed provincial/regional quotas, albeit on a contract basis for a period of two years (extendable). He submitted that owing to their satisfactory performance and professional conduct, the contractual appointments of the Petitioners were extended on two separate occasions, thereby acknowledging their efficiency and the organizational requirement for continuity of service. Subsequently, the Petitioners submitted representations dated 07.02.2025 seeking regularization of their services in terms of the applicable statutory service regulations. Thereafter, the HRM Department of Respondent No.2 processed a summary before the Board for the regularization of contractual employees, including the Petitioners, pursuant to the recommendations of the National Assembly Standing Committee on Maritime Affairs. The said proposal was duly vetted and endorsed by both the Legal and Finance Departments of Respondent No.2. However, despite fulfillment of all legal and procedural requirements and recommendation by the competent forums, no decision has been taken regarding the regularization of the Petitioners' services. The Petitioners have further apprehended that certain structural

changes within Respondent No.2 may adversely affect their service status, thereby necessitating the invocation of the constitutional jurisdiction of this Court. It is further submitted that similarly placed employees appointed through an identical process were regularized in service in May 2020; therefore, denial of the same relief to the Petitioners amounts to hostile discrimination in violation of Article 25 of the Constitution. The continued retention of the Petitioners on a contractual basis against sanctioned posts, despite satisfactory performance and departmental recommendations for regularization, is arbitrary, unlawful, and violative of Articles 4, 9, 18, and 25 of the Constitution of the Islamic Republic of Pakistan, 1973. He prayed to allow the petition.

4. The petitioners' counsel in C.P. No. D-4648/2025 contended that under Regulation 21 of the PQA Employees Service Regulations-2011 (Revised), contractual appointments are initially for two years, with subsequent regularization governed by Regulation 21A, which allows regularization after one year of satisfactory service, approved by the competent authority. He further submitted that other employees in similar positions were regularized, whereas the petitioners were not, despite completing requisite service and receiving departmental endorsements. He added that, being appointed to permanent sanctioned posts through the same selection process as regular employees, they cannot be treated as contract employees. The petitioners' counsel argued that they were effectively regular employees and entitled to regularization. He sought a declaration of their status as regular employees or direction to the respondents to regularize them in accordance with Regulation 21A of the Regulations, which are statutory in nature, cannot be bypassed via Board Resolution, without amending the law. He prayed to allow this petition.

5. The learned counsel for the respondents, PQA, submitted that PQA, under the PQA Act, 1973, has the authority to determine terms, conditions, and methods of appointment. The Board framed a policy through Resolution No. 39/2019, providing that future appointments, including previously sanctioned posts, are to be made on a contract basis, extendable upon satisfactory performance. He argued that the petitioners were aware, through advertisements and appointment letters, that their posts were contract-based, extendable subject to performance, and they accepted these terms. Emphasized that the regularization is always subject to the availability of vacant positions. However, the regularization can be made provided in the initial appointment, on contract was made in accordance with the instructions/procedure in vogue. He added that Regulation 21A of the regulation is enabling, not mandatory; it allows consideration for regularization, but does not create a vested right to be regularized. He submitted that Contractual employees have no automatic entitlement to regularization without a legal or policy basis. He emphasized that Courts, including the Supreme Court, have consistently held that regularization of

contractual employees is a policy matter, and courts ordinarily cannot interfere unless there is a violation of statutory provisions or fundamental rights. He argued that the petitioners' claim of discrimination is not valid, as past regularizations cited by the petitioners involved exceptional circumstances or predated Resolution No. 39/2019. Learned counsel emphasized that vide Board Resolution No. 39/2019 dated 26.11.2019, the Board of Port Qasim Authority, after due deliberation, approved the recommendations of the Administration Division and resolved that all future appointments shall be made on a contract basis. It was further resolved that contract employees shall receive salary and allowances equivalent to regular employees on a contractual basis, inclusive of terminal benefits and all admissible allowances, as recommended by the Admin/HR Committee. The Board further decided that such contractual appointments shall initially be for a period of two years, extendable from time to time up to the age of superannuation, subject to performance evaluation. It was also resolved that Regulation No. 21 ("Appointment on Contract") and Regulation No. 62 ("Regularization of Contract Employees") of the PQA Employees Service Regulations, 2011 (as amended) be deleted and the matter be communicated to the Ministry for approval and notification. Moreover, the earlier recruitment process initiated through an advertisement dated 16.02.2019 was scrapped; however, candidates who had cleared the written test conducted by the Institute of Business Management were allowed exemption from the fresh written test and could be considered by the Selection Committee through interview, subject to acceptance of contract appointment in future advertisements. He lastly submitted that the Petitioners have no legal or vested right to claim regularization, and the petition is not maintainable under prevailing policy and law; it may be dismissed with costs. Learned counsel has relied upon the cases of Government of the Punjab and another v Zaka Ullah and others **2025 SCMR 443**, Deputy Director Finance and Administration FATA & others **2022 SCMR 566**, Khushal Khan Khattak University and others v Jabran Ali Khan and others **2021 SCMR 977**, and Vice Chancellor Agriculture University Peshawar and others v Muhammad Shafiq and others **2024 SCMR 527**.

6. The learned Assistant Attorney General also adapted the arguments of the learned counsel for the respondent-PQA.

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

8. Admittedly, the Petitioners were appointed in the service of the Port Qasim Authority against duly sanctioned and permanent posts through an open competitive process comprising advertisement, written test conducted by the Institute of Business Administration, Karachi / Institute of Business Management, and interview by the

duly constituted Selection Committee. Their appointments were not backdoor or ad-hoc in nature; rather, the same were made strictly in accordance with the prescribed recruitment procedure under the applicable service regulations. It is also not in dispute that the Petitioners have completed more than the stipulated contractual period with satisfactory performance, and their cases for regularization were duly recommended by the concerned departmental heads and endorsed by the Legal and Finance Departments.

9. The controversy essentially revolves around the legal effect of Board Resolution No. 39/2019 dated 26.11.2019 vis-à-vis the statutory framework contained in the Port Qasim Authority Employees Service Regulations, 2011. It is a settled principle of law that statutory rules framed under an enabling provision of the parent statute hold the field unless amended in the manner prescribed by law, and any executive instruction, policy decision, or administrative resolution cannot override, curtail, or nullify such statutory provisions.

10. In this context, Regulation 21-A of the PQA Employees Service Regulations, 2011 (Revised), being a statutory provision framed under the PQA Act, 1973, provides a mechanism for the regularization of contractual employees upon successful completion of the prescribed period of satisfactory service with the approval of the competent authority. The said Regulation, admittedly, has neither been repealed nor amended through the legally prescribed procedure with the approval and notification of the competent forum. Therefore, the mere expression of intent through Board Resolution No. 39/2019 to delete Regulation Nos. 21 and 62 cannot attain the status of law unless followed by formal amendment and notification in accordance with the parent statute.

11. It is well settled principle of law that policy decisions or administrative instructions cannot override statutory rules governing service matters. Likewise, in *Vice Chancellor Agriculture University Peshawar v. Muhammad Shafiq*, it was reiterated that where appointments are made against sanctioned posts through due process under the governing rules, the employees acquire a lawful expectation to be considered strictly in accordance with the statutory framework and not under any subsequent executive policy.

12. Even otherwise, the principle of equality enshrined under Article 25 of the Constitution mandates that similarly placed employees cannot be discriminated against without lawful justification. The record reflects that employees appointed through an identical process before the Petitioners were regularized in service; hence, denial of similar consideration to the Petitioners who have fulfilled all requisite conditions under the Regulations amounts to hostile discrimination.

13. While it is correct that regularization is ordinarily a policy matter, judicial interference is warranted where the denial of regularization is contrary to statutory rules or results in discriminatory treatment.

14. The judgments relied upon by the learned counsel for the Respondents are distinguishable on facts and law. In *Government of the Punjab v. Zaka Ullah*, the Hon'ble Supreme Court declined regularization as the employees therein were appointed on a purely temporary/contract basis de hors the governing statutory framework and not against duly sanctioned posts through a prescribed recruitment process, nor was there any statutory provision providing for their regularization. In contrast, the Petitioners in the present case were appointed against duly sanctioned permanent posts through an open competitive process comprising advertisement, written test conducted by the Institute of Business Administration, Karachi / Institute of Business Management, and interview by a duly constituted Selection Committee under the statutory framework of the PQA Employees Service Regulations, 2011, particularly Regulation 21-A, which expressly provides a mechanism for regularization. Likewise, in *Deputy Director Finance FATA v. Sher Afzal Khan*, it was held that contractual employees cannot claim regularization as a matter of right in the absence of any statutory provision enabling such regularization. However, in the instant matter, Regulation 21-A of the PQA Employees Service Regulations, 2011 (Revised), framed under the Port Qasim Authority Act, 1973, constitutes a statutory regime governing regularization upon completion of satisfactory service. Similarly, in *Khushal Khan Khattak University v. Jabran Ali Khan*, the appointments were not made through a transparent recruitment process envisaged under the applicable statutory rules, whereas the Petitioners herein were selected through due process against sanctioned posts in accordance with codal formalities. In *Vice Chancellor Agriculture University Peshawar v. Muhammad Shafiq*, while it was reiterated that regularization is ordinarily a policy matter, the said principle is subject to the governing statutory rules. In the present case, denial of consideration for regularization is not based upon any lawful amendment to the statutory Regulations but merely on Board Resolution No.39/2019, which has not culminated into a legally notified amendment of Regulation 21-A. Thus, the cited precedents pertain to appointments made de hors statutory rules or against non-sanctioned posts, whereas the Petitioners were appointed against sanctioned posts through a prescribed competitive process under an operative statutory framework providing for regularization. Hence, the same are distinguishable and do not bar judicial review where denial of regularization is alleged to be in derogation of statutory provisions and violative of Article 25 of the Constitution.

15. In view of the above, it is held that until the relevant Regulations are lawfully amended in accordance with the procedure prescribed under the PQA Act, 1973, the statutory provisions governing regularization continue to hold the field and cannot be rendered nugatory through an administrative resolution of the Board.

16. Consequently, the Petitioners, having been appointed against sanctioned posts through due process and having completed the requisite period of satisfactory service, are entitled to be considered for regularization strictly in terms of Regulation 21-A of the PQA Employees Service Regulations, 2011 (Revised), in parity with other similarly placed employees.

17. Accordingly, the Respondents are directed to place the cases of the Petitioners before the competent authority for consideration of their regularization in accordance with the applicable statutory Regulations, within three weeks, and no adverse action shall be taken against them in the meanwhile solely on account of their contractual status as they were appointed through a competitive process.

18. The petitions, along with pending application(s), are disposed of in the above terms.

JUDGE

JUDGE