

IN THE HIGH COURT OF SINDH KARACHI

Before:

Justice Muhammad Saleem Jessar

Justice Nisar Ahmed Bhanbhro

CP No.D- 5555 of 2019

(Tufail Ahmed v. Province of Sindh and 03 others)

Date of hearing

& order: 30.04.2026

Petitioner:

Tufail Ahmed Through Mr. Bhajandas Tejwani, and Mr
Shaharyar Ali Daud Advocates

Respondents:

Through M/s. Hakim Ali Shaikh and Sageer
Ahmed Abbasi, Additional A. G. Sindh

ORDER

Nisar Ahmed Bhanbhro, J. Through the instant Petition, the Petitioner has claimed following relief(s):

(a) Declare that act of Respondents avoiding to confirm the service of Petitioner as Assistant Director (BPS - 17) in Land Administration & Revenue Management Information System (LARMIS), Board of Revenue Sindh in terms of Sindh Act No XXV of 2013, as illegal, discriminatory and violation of such promulgation.

(b) Direct the Respondents to regularize the services of Petitioner as Assistant Director Finance (BPS - 17) in the Land Administration & Revenue Management Information System (LARMIS) Board of Revenue Sindh from the date of his appointment.

(c) Restrain the respondents from taking any action, adverse to career and interest of the Petitioner including withdrawal of vehicle, POL and other facilities conferred on him lawfully by Respondents by issuing permanent injunction.

2. Learned Counsel for the Petitioner contended that the petitioner applied for the post of Assistant Director (Finance) BS -17 (the said Post) in LARMIS project, in response to an advertisement dated 20.01.2012 published in Daily "DAWN". He argued that the Petitioner was appointed for the said Post after a competitive process and recommendation of selection committee dated 16.04.2012. Petitioner joined service on 14.05.2012 and continued in service on

contract basis up to June 2019. He further argued that Pursuant to the legislation by provincial assembly of Sindh for Regularization of Services of Adhoc and Contract Employees, Petitioner applied to the department for his regularization, however said application until the filing of Petition was not considered. Learned Counsel further argued that the Petitioner was working against permanent posts in a project posts in connection with the affairs of the province of Sindh, hence, he was entitled to all consequential benefits as permanent employees from the date of initial appointment. Alternatively, Learned Counsel entreated that the respondents be directed to treat the petitioners as regular employees in their respective grades from the date of promulgation of the Sindh (Regularization of Adhoc and Contract Employees) Act, 2013 (**Act-2013**) and issue notifications accordingly; that the failure of the respondents to regularize the services of the petitioners was act ab initio illegal, arbitrary, fanciful, discriminatory and unconstitutional, therefore, they may directed to regularize the service of the Petitioner. He contended that the Petitioner was working in the project related to the affairs of province of Sindh and by operation of Section 3 of the **Act-2013**, the petitioners stood regularized in service and a formal notification was required to be issued by the Respondent departments in that regard. He contended that the Government has granted such benefit to the other similarly placed employees and non regularization of the services of the Petitioner was an act of discrimination. He prayed to allow the petition.

3. Learned A.A.G contended that the petitioner was performing services on contract basis in a project. He further contended that the Petitioner joined service on contract with own sweet will, the nature of employment of petitioner is temporary and contractual one. Furthermore, the petitioner was aware that his services are governed under Employment Agreement signed by him, hence he cannot demand regularization. He further contended that the case of the Petitioner was considered by the Scrutiny Committee No 3 tasked with scrutinizing the cases of contract employees of BS -16 to BS - 18 for regularization under the Act-2013 in its meeting held on 10.09.2020 and after due deliberations, perusing the service record and criteria for appointment of petitioner, found deficiencies and did not recommend for regularization. He prayed to dismiss the petitions.

4. Heard learned counsel for the parties and perused the material made available before us on record.

5. Scanning of the record reveals that the petitioner was appointed on contract basis in LARMIS project of Government of Sindh, through a competitive process. Since induction in service, Petitioners was working in the project and his contract of service was extended from time to time by the respondents. Perusal of the appointment letter of Petitioner reflected that their services were governed under the provisions of Sindh Civil Servants Act 1973 (SCSA) and rules framed thereunder. Petitioner was subjected to the service discipline under the provisions of Sindh Civil Servants (Efficiency and Discipline) Rules 1973.

6. Since the services of the petitioner were hired on contract basis which he agreed to, therefore, he was precluded to lay claim of regularization, unless backed by any statutory provision of law. It is by now a settled principle, that in absence of any statutory or legal backing, an employee cannot claim regularization in service as a matter of right. In the absence of such a framework, courts cannot impose any obligation on the government to regularize the services of the employees on any ground including efflux of time. An employee who accepts the terms and conditions of the service on contract cannot claim regularization as his fundamental right and knock on the door of the Courts for the same purpose. The process of appointment is an internal affair of the department, if the department takes the service of an employee on contract basis, then the claim of the regularization cannot be accepted unless backed by the statute or any provision of law. This view is fortified by the judgment of Honorable Supreme Court, in the case of **VICE-CHANCELLOR AGRICULTURE UNIVERSITY, PESHAWAR and others Versus MUHAMMAD SHAFIQ** and others reported as **2024 S C M R 527**.

7. The legislative intent should be to protect the interests of citizens specially in line with the principles of policy enshrined under the Constitution of Islamic Republic of Pakistan, 1973, (the Constitution) wherein an obligation had been cast towards state to ensure the promotion and well being of the individuals. If the Government institutions retained the service of an employee for an indefinite period on contract basis, they would not be able to get fruits of the blood burnt by them for the department. They will not get any benefits of service at the end of the innings. This will result in disparity and tantamount to an act of exploitation, whereas it is obligation of the State to eliminate all kinds of exploitation, as enshrined under Article 3 of the Constitution, which reads as under:

“3. The State shall ensure the elimination of all forms of exploitation and the gradual fulfillment of the fundamental principle, from each according to his ability to each according to his work.”

8. To protect the future of employees working on adhoc and contract basis, in government departments and its projects, the Provincial Assembly of Sindh enacted “The Sindh (Regularization of Contract and Adhoc Employees), Act 2013” (2013 Act). The preamble of the above referred law makes it clear that it was promulgated to provide for regularization of the services of certain employees appointed on ad hoc and contract basis or otherwise (excluding the employees appointed on daily-wages and work-charged basis). In Clause (b) of section 2, (definition clause) "Appointment of an employee" means the appointment of a duly qualified employee made on ad hoc and contract basis or otherwise (excluding the appointment on daily-wages and work-charged basis). In Clause (d), "employee" means a person appointed to a post on ad hoc and contract basis or otherwise (excluding the employee appointed on daily-wages and work-charged basis). While Clause (e) defines the post which means the post held by an employee in Government department and includes the post in a Project of such department in connection with the affairs of the Province. In compliance to such beneficial legislation services of the thousands of employees were regularized in terms of the provisions of Section 3 of the Act, who were working in grade 1 to 18 in various departments and projects of the Government of Sindh. Section 3 of the Act contained a non obstante clause, and reads as under:

3. Notwithstanding anything contained in the Act or rules made thereunder or any decree, order or judgment of a court, but subject to other provisions of this Act, an employee appointed on adhoc and contract basis or otherwise (excluding the employee appointed on daily-wages and work-charged basis), against the post in BS-1 to BS-18 or equivalent basic scales, who is otherwise eligible for appointment on such post and is in service in the Government department and it's project in connection with the affairs of the Province, immediately before the commencement of this Act, shall be deemed to have been validly appointed on regular basis.

9. Since the Petitioner claims the benefit of 2013 Act, so let us first clarify in view of definition clause made in section (2) of the Act that benefit of this Act will go to him. Per definition all ad hoc and contract employees in a government department and employees performing their duties on a Project in connection with affairs of the Province are fell within the definition of an employee. Main

section under the Act-2013 is section 3 which provides and or stipulates the criterion for regularization which envisages in well-defined terms that an employee who has been appointed on ad hoc and contract basis against the post in BS-1 to BS-18 or equivalent basic scales, who is otherwise eligible for appointment on such post and is in service in the Government department and its project in connection with the affairs of the Province, immediately before the commencement of this Act, shall be deemed to have been validly appointed on regular basis. It is the responsibility of Government to apply and allow the benefit to all employees placed in equal and similar circumstances without any discrimination and not to pick and choose the employees for conferring the benefit or advantage of this law. The law under discussion is a beneficial statute proclaimed with the sole aim to provide and secure the rights of a particular category or class of employees for their betterment and to safeguard and preserve the contractual or ad hoc employment into a permanency. The letter and spirit of law enshrines that the efforts should be made to bequeath the benefit and its advantage to all the deserving employees in rem rather than to seek ways and means to deprive them on one or the other pretexts which is against the norms of good governance.

10. Appointment in the civil service was purely the prerogative of the concerned department. The process of the recruitment depends upon availability of resources, need of the employees whether on regular or temporary basis. Appointment in civil service is basically a policy matter which falls squarely within the domain of the Executive, any interference in the policy issues may amount to usurpation of the executive powers and every possible effort be made by the Courts of law to avoid encroaching upon the exclusive domain of the executives. Pronouncements of the Honorable Supreme Court on the issue of regularization of the services of the employees underscored that regularization is not merely a procedural formality but a prerogative of the executive, reflecting its autonomy in determining institutional priorities and resource allocation, therefore, it should not be interfered with under the writ jurisdiction of this Court. This view is fortified from the dicta laid down by the Honorable Supreme Court of Pakistan in the case of MOHSIN RAZA GONDAL and others Versus SARDAR MAHMOOD and others reported as **2025 S C M R 104**.

11. The Sindh Civil Servants Act, 1973 (SCSA) is the governing law regulating the recruitment in civil service in the province of Sindh, whereas the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974 ('APT Rules') framed under section 25 of the SCSA govern the method of appointment. Rule 3

of the APT Rules empowers the administrative department to determine the method of appointment and the qualifications and other conditions applicable to a post in consultation with the services department. Rule 11 of the APT Rules provides that initial appointment to a post in basic pay scales 1 to 15 and equivalent shall be made on the recommendation of the Departmental Selection Committee after the vacancies have been advertised in newspapers. Rule 10 further provides for filling of the vacancies in grade 16 and above through Sindh Public Service Commission (SPSC). Rule 12 mandates that the candidates for initial appointment to a post must possess the prescribed educational qualifications and experience and must be within the age limit, except if otherwise provided in the rules framed for the purposes of relaxation thereof.

12. Admittedly the Petitioner was working on contract basis in the project in relation to the affairs of Province in grade 1 to 18. The benefit of section 3 of the **Act - 2013** as such is available to him. However, to seek regularization, the Petitioner is required to demonstrate that his initial appointment was done strictly in accordance with law and was in consonance with the provisions of SCSA & APT Rules. It would be therefore imperative to carefully scrutinize the appointment of petitioner.

13. Petitioner was appointed as Assistant Director, Finance (BS - 17) against the ADP Scheme of LARIMS project of Board of Revenue Sindh, vide appointment letter dated 30.04.2012 on contract basis. His service contract was extended from time to time and per office order dated 25.09.2025, Petitioner's contract was lastly extended up to 30.06.2026. Petitioner's case for regularization was declined by the relevant Scrutiny Committee for the reasons that permission for initiating the recruitment process was not available; the minutes of the selection committee were not signed by Senior Member Board of Revenue; Experience Certificate was not available; and the approval of Competent Authority for the appointment of candidates recommended by the Selection Committee was not available. The Reasons so weighed by the Scrutiny Committee reflected administrative lapses, rather no allegation of ineligibility was available which could have hindered his regularization in terms of the Act-2013. The Petitioner was appointed in service pursuant to advertisement and recommendation by the Selection Committee. The case of the Petitioner squarely falls within the domain of Section 3 of the Act -2013 and he ought to have been considered for regularization, particularly for the reason that since 2012 to date petitioner was working in the project on contract basis, which demonstrates the satisfaction of the department for the service of petitioner. It appears from the

record that about 17 Assistant Managers (IT) BS -17 were regularized in service by the Revenue Department vide notification dated 12.02.02 2024, in compliance to the directions contained under order dated 14.01.2022 passed by this Court in CPD No 128 of 2020. Since the case of the Petitioner is on the identical footing to those of the employees in CPD No 128 of 2020, this petition is granted. Since the Petitioner was appointed in grade 17, a post falling within the purview of SPSC, therefore, recommendation of SPSC was mandatory for his induction in regular service.

14. To enjoy the protection of law and to be treated in accordance with the law is the inalienable right of every citizen. Under articles 4, 9, 14, 25 and 27 of the Constitution an assurance has been tendered as of equality before law or equal protection of law, and no action detrimental to the life and liberty of any person can be taken without due process of law and no discrimination in any walk of life including services. The objective of good governance can be achieved by exercising discretionary powers reasonably by adhering to the rules of justness, fairness and openness within the precincts of Articles 4 and 25 of the Constitution. The Petitioner has been discriminated by the Respondents while dealing his case for regularization.

15. For the forgoing reasons, a case to exercise the powers of judicial review is made out. Consequently this Petition is allowed. The decision dated 10.09.2020 of the Scrutiny Committee is set aside. The Respondent Revenue Department is directed to refer the case of Petitioner to SPSC to assess his eligibility. If Petitioner is found otherwise eligible, the SPSC shall make recommendations for regularization of the service of the Petitioner in terms of section 3 of the Act-2013.

16. The above exercise for regularization shall be completed within a period of two months from the date of this order. The petition stand disposed of in the above terms. Office to send the copy of the order to the respondents for compliance.

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HEAD OF CONST. BENCHES

Approved for reporting