

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

Present:

Mr. Justice Adnan Iqbal Chaudhry

Mr. Justice Abdul Hamid Bhurgri

Constitution Petition No. D-2357 of 2011

[Akhtiar Ali Shaikh & ors. Vs Deputy Controller, Civil Defense Kamber-Shahdadkot & ors]

Constitution Petition No. D-1204 of 2011

[Akbar Ali Gaad & ors. Vs. P.O Sindh through Secretary, Govt. of Sindh & others]

Constitution Petition No. D-2417 of 2011

[Ayaz Ali Wadho & ors. Versus D.C.O, Larkana & others]

Constitution Petition No. D-2312of 2011

[Talib Hussain Junejo Versus P.O Sindh through Secretary, Govt. of Sindh & others]

Constitution Petition No. D-122 of 2016

[Nooruddin Jatoi Vs. Deputy Controller Civil Defence, (Defunct) Larkano now Kamber-Shahdadkot & others]

Constitution Petition No. D-232 of 2014

[Niaz Hussain & others Vs P.O Sindh through Secretary, Home Deptt. Karachi & others]

Petitioner (s) : Mr. Muhammad Afzal Jagirani, Advocate holding brief for Mr. Muhammad Aslam H.Jatoi, Advocate for the petitioners in C.P.No.D-2357/2011. None present for the petitioners in other petitions.

The State : Through Mr. Liaquat Ali Shar, Addl. Advocate General.

Date of hearing : 05-03-2026

Date of order : 05-03-2026

ORDER

Adnan Iqbal Chaudhry J.- All of these Petitioners pray for regularization of their service. Since the petitions are directed against the same employer, these are being decided together.

2. The Petitioners were appointed between 2004 to 2010 as fireman, one as fire officer and some as drivers, all on daily-wages in the Civil Defense Department administered erstwhile by District Governments. The appointments were made by the Controller or Deputy Controller of Civil Defense at Kamber-Shahdadkot and Larkana respectively.

The petitions were brought in 2011, 2014 and 2016 while pleading that they apprehended termination of service whereas the tenure served by them entitles them to regularization in service.

3. The comments submitted by the Department are that the Petitioners were appointed at the instance of the erstwhile District Nazim; that their wages were also paid from funds remitted by the District Government; however, upon abolition of the office of the District Nazim in 2011, those wages were stopped. In reply to C.P. No. D-2357/2011, C.P. No. D-2312/2011, C.P. No. D-122/2016 and CP No. D-232/2014, it is categorically stated by the Department that contracts of the Petitioners were terminated in 2011. In reply to C.P. No. D-1204/2011, it is further stated that the post of 'fireman' does not even exist in the Civil Defense Department. In all petitions, it is submitted by the Department that since the Petitioners were appointed temporarily on daily wages, they are not entitled to regularization.

4. It is to be noted that a prayer for regularization of service by an employee who stands terminated from service, cannot be considered until he makes out a case for reinstatement in service. As observed by the Supreme Court in *Khushal Khan Khattak University v. Jabran Ali Khan* (2021 SCMR 977), followed by a Division Bench of this Court in *Inayatullah Lashari v. Commissioner Larkana*, 2024 PLC (C.S.) 460, continuity in service is a pre-condition to seeking regularization.

5. It is then elucidated by the Full Bench of this Court in *Muhammad Arif v. Federation of Pakistan*, 2025 PLC (C.S) 93, that even where an employee is amenable to writ jurisdiction, a writ under Article 199(1)(a)(i) of the Constitution can issue only to do a thing 'required by law to do'. It is in this context of what the 'law' requires to be done, that the test of statutory rules came about in cases where the employee was on contract and not a civil servant. It was thus laid down by the Supreme Court that where terms and conditions of employment are not governed by statutory rules but by contract or by regulations, instructions or directions intended for internal use, the violation thereof

cannot be normally enforced through a writ petition. It was categorically held by the Supreme Court in *Province of Punjab v. Prof. Dr. Javed Iqbal* (2022 SCMR 897) and *Khushal Khan Khattak University v. Jabran Ali Khan* (2021 SCMR 977), that while exercising constitutional jurisdiction the High Court cannot revive or renew expired contracts or alter the terms and conditions of an employee's contract.

6. Nevertheless, assuming that employment contracts of the Petitioners were still intact when they filed these petitions, it is by now settled law that in the absence of a statute or Government policy requiring or enabling the employer to regularize a contract employee, no writ can issue to do so under Article 199(1)(a) of the Constitution of Pakistan. The binding precedents of the Supreme Court holding so, have already been discussed by the Full Bench of this Court in *Muhammad Arif v. Federation of Pakistan*, 2025 PLC (C.S) 93 as follows:

“26. It is settled law that for a writ to issue under Article 199(1)(a) of the Constitution the petitioner has to establish that he is guaranteed a fundamental or legal right, as the object of the Article is the enforcement of a legal right and not the establishment of a legal right. The precedents binding us categorically hold that in the absence of a specific provision in the contract, or a law providing for regularization, contract employees do not have a vested right for regular appointment solely for long and satisfactory contractual service; and that, while exercising jurisdiction under Article 199 of the Constitution the High Court cannot extend the scope of a contract or alter the terms and conditions of employment in favour of the employee. These are pronouncements of the Supreme Court in *Muzaffar Khan v. Government of Pakistan* (2013 SCMR 304); *Government of Khyber Pakhtunkhwa, Workers Welfare Board v. Raheel Ali Gohar* (2020 SCMR 2068); *Owais Shams Durrani v. Vice-Chancellor Bacha Khan University* (2020 SCMR 1041); *Sui Southern Gas Company Ltd. v. Zeeshan Usmani* (2021 SCMR 609); *Government of Khyber Pakhtunkhwa v. Saeed ul Hasan* (2021 SCMR 1376); *Khushal Khan Khattak University v. Jabran Ali Khan* (2021 SCMR 977); *Pakistan Telecommunication Company Ltd. v. Muhammad Samiullah* (2021 SCMR 998); *Government of Khyber Pakhtunkhwa v. Sher Aman* (2022 SCMR 406); *Deputy Director Finance & Administration FATA v. Dr. Lal Marjan* (2022 SCMR 566); and *Vice Chancellor Agricultural University, Peshawar v. Muhammad Shafiq*. The ratio decidendi of these precedents is that absent a statutory basis for regularization, an employee has no fundamental or vested right to regularization.”

7. Since the Petitioners were appointed on daily-wages, their service is not regularizable under the Sindh (Regularization of Adhoc & Contractual Employees) Act, 2013. It is also not their case that their service is regularizable under any Government policy. Therefore, when there is no statute or Government policy applicable to the Respondents requiring or enabling them to regularize the Petitioners, no writ can issue to do so under Article 199(1)(a) of the Constitution. Resultantly, the petitions are not maintainable and are dismissed.

JUDGE

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