

IN THE HIGH COURT OF SINDH, KARACHI

Present:

**Mr. Justice Muhammad Saleem
Jessar
Mr. Justice Nisar Ahmed
Bhanbhro**

Const. Petition No. D-1387 of 2018

(Ms. Asma and 07 others v. Province of Sindh and 02 others)

Petitioners : Through Ms. Iram Anwar, Advocate

Respondents : Through Mr. Hakim Ali Shaikh, Additional Advocate General and Mr. Sagheer Ahmed Abbasi, Assistant Advocate General Sindh

Date of hearing & Order : **05.03.2026**

ORDER

NISAR AHMED BHANBHRO, J. Through this petition, the petitioners claim as under:

- "i. To declare that the petitioners are entitled for the benefit of Section 3 of the Sindh (Regularization of Adhoc & Contract Employees) Act, 2013 and maintain their seniority from the date of joining service on contract basis.*
- ii. To direct the Respondents to assign seniority to the petitioners from the date of joining in service, shown in the appointment orders on contract basis.*
- iii. To grant any other relief as this Hon'ble Court may deem fit and proper under the circumstances of the case."*

2. Learned counsel for the petitioners submits that the petitioners were appointed as Lecturers in BS-17 on contract basis in the year 2004, though regular posts were available, and thus they were deliberately engaged on contract against permanent vacancies. They continued to serve on such basis till 2009, when they appeared before the SPSC, qualified the examination, and were thereafter issued regular appointment orders. It is contended that the respondents acted in violation of the relevant rules by appointing the petitioners on contract basis against regular vacant posts. Learned counsel further argues that the

petitioners are also entitled to the benefit of the Sindh (Regularization of Adhoc and Contract Employees) Act, 2013, whereby initial appointments of contract/adhoc employees have been recognized as valid appointments on regular basis. It is maintained that employees appointed on contract or adhoc basis, who never appeared in any test or interview before the SPSC, cannot lawfully be placed senior to those who appeared and qualified the Commission's process on two occasions. In the alternative, if such employees are granted the benefit of the said Act, the same relief must equally be extended to the petitioners. In support of his contentions, learned counsel for the petitioners relied upon unreported **judgment dated 19.05.2025** of Supreme Court of Pakistan passed in **CPLA No.2258/2023** (*Asad Hussain v. The Controller General of Accounts*), **Mazhar Ali Kalhoro v. Secretary to Government of Sindh and 3 others (2025 PLC (C.S) 683)** and **Dr. Iqbal Jan and others v. Province of Sindh and others (2017 PLC (C.S) 1153)**. He lastly prayed to allow this petition.

3. Learned Additional Advocate General contends that the petitioners were appointed on regular basis in the year 2009 as fresh candidates through the SPSC; therefore, their earlier service rendered from 2004 to 2009 on contract basis is not recognized under the relevant rules for the purpose of seniority or other service benefits. Consequently, the claim of the petitioners is stated to be unjustified. It is further argued that prior to the promulgation of the Sindh (Regularization of Adhoc and Contract Employees) Act, 2013, the petitioners had already availed the opportunity of regular appointment through the Sindh Public Service Commission, and thus they cannot claim dual benefit. Learned Additional Advocate General, therefore, prayed for dismissal of the petition.

4. Heard arguments of the parties and perused the material available on record.

5. The crux of the controversy involved in the present petition is that the petitioners were appointed on adhoc/contract basis vide order dated 26.05.2004 and they were regularized in service pursuant to the recommendation of SPSC vide order dated 13.08.2009. Petitioners claim Seniority with effect from the date of initial appointment retrospectively. From perusal of the order dated 13.08.2009, it transpires that the petitioners were regularized in service from the said date. For the sake of

convenience, the order dated 13.08.2009, available at Page 93 of the file, is reproduced below:

“The Sindh Public Service Commission has determined the suitability for retention in service of those Lecturers (Male/Female) BPS-17 who were already appointed on adhoc basis in Education & Literacy Department, Govt: of Sindh. The following candidates are recommended for regularization of their services against their respective posts on the basis of Interviews conducted by Sindh Public Service Commission in the month of June, 2009.”

6. The petitioners shall be deemed to have been regularized from the date when they were issued regular appointment letters pursuant to the recommendation of SPSC. The regularization in service is akin to a fresh appointment and it cannot be given retrospective effect. The prayer of the petitioners for grant of benefit of Sindh (Regularization of Adhoc & Contract Employees) Act 2013 is too misconceived for the reason that petitioners rendered services on contract/adhoc basis during period starting from year 2004 until 2009. The provisions of Act of 2013 shall not apply retrospectively, the Petitioners, therefore cannot take benefit from this legislation.

7. This view is fortified from the judgment of Honorable Supreme Court of Pakistan in the case of **VICE-CHANCELLOR AGRICULTURE UNIVERSITY, PESHAWAR and others Versus MUHAMMAD SHAFIQ and others** reported as **2024 SCMR 527**, wherein it has been held that:

“9. Now coming to the second question raised, given that the regularization of the Respondents cannot take place without the backing of any law, rule or policy, there lies no claim for ante-date regularization. It is well settled that when the basic order is without lawful authority, then the entire superstructure raised thereon falls to the ground automatically. However, if it is the case of some Respondents i.e., Categories B, C, and D who stood regularized through earlier Court orders which remain unchallenged can seek ante-date regularization, it is well established that regularization takes effect prospectively, from the date when a regularization order is passed. This is because regularization is based on several considerations which help gauge not only the competence and ability of the employee, proposed to be regularized, but also the financial impact and long term legal obligations on the employer institution. It is a conscious decision to be taken by the employer institution at a particular time and therefore cannot be given a retrospective effect. Thus, the Respondents in the aforesaid categories cannot claim ante-date regularization”

8. The Sindh Civil Servants Act, 1973, the Sindh Civil Servants (Appointment, Transfer and Promotion) Rules, 1974 and the Sindh Civil Servants (Probation, Confirmation and Seniority) Rules, 1975 (**PCS Rules**) are governing laws regulating the appointment, promotion, transfer, probation, confirmation and Seniority of a Civil Servant in the province of Sindh. Under the above provisions of law, the regularization in service cannot take place with retrospective effect. Per Rule 10 of the PCS Rules, the seniority of a civil servant is reckoned from the date of his regular appointment and further that no civil servant appointed on adhoc basis can be regularized retrospectively. For the sake of convenience Rule 10 is reproduced below:

10. *(1) Subject to the provisions of rule 11, the Seniority of of a civil Servant shall be reckoned from the date of his regular appointment.*

(2) No appointment made on adhoc basis shall be regularized retrospectively.

9. The above provisions of law make it crystal clear that any civil servant, who is initially appointed on adhoc basis cannot be regularized retrospectively. In the absence of any statutory provisions of law, the petitioners cannot be granted the back dated seniority for the period they served on the adhoc basis.

10. The case laws relied upon by counsel for the petitioners with due reverence were not attracting to the issue in lis, thus are distinguishable.

11. For the foregoing reasons, this petition fails and is accordingly dismissed.

JUDGE

**JUDGE
HEAD OF CONST. BENCHES**

Nadir /PS*

Approved for reporting