

IN THE HIGH COURT OF SINDH, KARACHI

C.P Nos.D-1435 & 1689 of 2014

Present:-

Mr. Justice Muhammad Ali Mazhar

Mr. Justice Adnan-ul-Karim Memon

1. C.P. No.D-1435/2014

Mehboob Shah Khan & 46 others Petitioners

V E R S U S

Federation of Pakistan and others Respondents

2. C.P. No.D-1689/2014

Syed Aamir Hashmi & 2 others Petitioners

V E R S U S

Federation of Pakistan and others Respondents

Date of hearing: 15.12.2016

Mr. Abdul Salam Memon, Advocate for Petitioners in C.P No.D-1435/2014.

Dr. Shah Nawaz, Advocate for Petitioners in C.P No.D-1689/2014.

Mr. Muhammad Arshad Khan Tanoli, Advocate for Respondents No. 2 to 4.

Mr. Shaikh Liaquat Hussain, Standing Counsel.

JUDGMENT

ADNAN-UL-KARIM MEMON-J. Both of the above referred Constitutional Petitions are being disposed of vide this Single Judgment, as common question of law and facts are involved therein.

02. Brief facts of the case are that the Petitioners in response to the advertisement dated 23.10.2010, published in daily newspaper Express, the petitioners had applied for security related jobs in the Port Qasim Authority and after having passed the written test and the interview in the month of October, 2011, they were appointed on contractual basis for a period of two years against the following posts:

C.P No.D-1435/2014:

The Petitioners Serial No. 1 to 21 were appointed as Assistant Sub-Inspector Security (BPS-08).

The Petitioners Serial No. 22 to 38 were appointed as Sub-Inspector Security (BPS-09).

The Petitioners Serial No. 39 to 47 were appointed as Inspector Security (BPS-15).

C.P No.No.D-1689/2014:

The Petitioner Serial No. 1 was appointed as Inspector Security (BPS-15).

The Petitioners Serial No. 2 and 3 were appointed as Sub-Inspector Security (BPS-09).

03. The petitioners asserted that after completion of their contractual period, they applied for regularization of their services in accordance with Regulation 62 of the Port Qasim Service Regulations, 2011 (hereinafter referred to as the "Regulations"). Thereafter, their case was recommended but, before their summaries could be approved, some dispute arose and a Civil Petition No. 736-K of 2010 was filed before the Honourable Supreme Court of Pakistan, relevant portion of Order dated 31.01.2011 is reproduced as under:

"In such view of the matter, it is hereby directed that no more appointment/promotion/transfer irrespective of the fact whether the employees are on contract basis or otherwise, shall be made by the

Chairman/Board of Governor of the Port Qasim Authority till furnishing of a comprehensive report as mentioned hereinabove.”

04. The learned counsel for the Respondents No.2 to 4 filed their Counter Affidavits in both the Petitions.

05. The learned counsel for the petitioners contended that the petitioners applied in the security department against various posts at Port Qasim Authority (on two years contract period which stood elapsed on 18/19.10.2013) but they continued to perform their jobs till 24.10.2013. However, after the said date, the petitioners were verbally stopped from attending the office and were not paid the salary for the month ending October, 2013. However, no termination letters were issued to the Petitioners in this regard. Thereafter, being aggrieved by the said verbal directives of the Respondent No. 2 to 4, the petitioners filed departmental appeal/representation but failed to receive any response to the same. However, the respondents verbally communicated to the petitioners that their services cannot be regularized in terms of Order dated 31.1.2011 passed by the Honourable Supreme Court of Pakistan. He has further contended that the above order is not applicable to the present case because the petitioners had been appointed after passing of the order dated 14.02.2011 by following proper procedure and after meeting all the necessary requirements. Per learned counsel, the names of all 124 persons were sent for confirmation, however, out of them only 17 were confirmed and others including the petitioners were not confirmed. He further states that there is clear discrimination on the part of Port Qasim Authority as the petitioners also stand on the same pedestal as those 17 persons who have been confirmed, since all of them were appointed on the same terms and conditions. Per learned counsel the petitioners have good case for regularization under Regulation 62, as they meet the requisite criteria. He next contended that the Port Qasim Authority stopped taking action on the summary of

regularization of the petitioners on the plea that there was a dispute created due to filing of petitions before the Honourable Supreme Court, though the case of the petitioners was not covered by the judgment passed by the Honourable Supreme Court. Per learned counsel all the vacancies in respect of which the petitioners were appointed were sanctioned by the Board of Directors of Port Qasim Authority and approved by the Federal Government, therefore, the petitioners are entitled to have their jobs regularized as per the Regulations No.62 and have filed the instant Constitution Petitions seeking regularization of their services.

06. The learned counsel relied upon the letter dated 10.12.2012 issued by the Prime Minister's Secretariat (Public) Islamabad with respect to proposal for regularization of the contract employees of Ministry of Ports and Shipping. He argued that the Respondent No.2 ought to have complied with the directives of Prime Minister and he argued that other employees have already been regularized the Petitioners have been left out only. He relied upon the case of Qayoom Khan vs. Divisional Forest Officer Mardan and others reported in 2016 SCMR 1602, Peer Imran Sajid and others vs. Managing Director/General Manager (Manager Finance) Telephone Industries of Pakistan and others reported in 2015 SCMR 1257, Dr. Bashir Ahmed and others vs. Province of Sindh through Chief Secretary and others reported in 2016 PLC CS 179, Irshad Ali and 78 others vs. Province of Sindh through Secretary Local Government, Karachi and four others reported in 2015 PLC CS 293, Muhammad Asim Rafiq and 11 others vs. Zarai Taraqiyati Bank Limited through President and 7 others reported in 2011 PLC CS 1434 and Abdul Rahman and others vs. National Bank of Pakistan through President and others reported in 2011 PLC CS 234.

07. The learned counsel appearing on behalf of the Respondent No.2 to 4 argued that the Petitions are not maintainable, as the petitioners were appointed on contractual basis for the period of two years and after completion of their contractual period, the

petitioners automatically stood relieved by operation of terms of the contract which was only for 2 years, The learned counsel further contended that no vested right has been created in favour of the petitioners for regularization of their services. He referred to Paragraph No.6 of the counter affidavit and argued that in light of the Order dated 31.1.2011 passed by Hon'ble Supreme Court, direction was issued to the respondents that *"no more appointment/promotion/transfer irrespective of the fact whether the employees are on contract basis or otherwise, shall be made by the Chairman/Board of governor of the Port Qasim Authority till furnishing of a comprehensive report as mentioned hereinabove"*.

08. The learned counsel next contended that the Respondents, in compliance of the order, had submitted the concise statement/report before the Honourable Supreme Court and the names of the petitioners are also listed in the said report available at page No. 131 to 133 alongwith the counter affidavit. He further contended that the petitioners cannot seek relief from this Court and if they are aggrieved, they should approach the Hon'ble Supreme Court in the same matter. He referred to Paragraph No. 18 of the counter affidavit and argued that the advertisement dated 23.10.2010, which shows four posts of Inspector (Security), which were filled by appointing top four position holder candidates and their services were recommended on regular basis. Whereas, 13 appointments against the post of Inspector (Security) were made on contract basis against which the petitioners were appointed in the similar manner against the three advertised posts of Sub-Inspector (security) and eight advertised posts of Assistant Sub-Inspector on regular basis by appointing top position holder candidates. While the other posts against which the petitioners were appointed were not advertised in any of the newspapers and in this regard the learned counsel has relied upon Annexure "M", "N" and "O" submitted alongwith counter affidavit, which were also submitted in the Honourable Supreme Court with Concise Statement. For convenience, the relevant portions from the said Annexure "M" is reproduced as under:

ANNEXURE 'M'**Post of Inspector Security (BS-15)**

(1) Four vacant posts of Inspector (Security) (BPS-15) were advertised in daily Dawn dated 22.10.2010 for filling of advertised posts through direct recruitment. In response, total 284 applications were received, out of which 90 were short listed as per criteria. Short listed candidates were issued call letters to appear for written test on 18.10.2010. Out of 90 candidates, 38 cleared written test and appeared before Selection Committee for interview on 21.12.2010.

(2) The meeting of the Selection Committee was held in the Office of Director General (Admn) to assess/recommend the successful candidates against the vacant post of Inspector (Security) (BPS-15).

(3) Director (S&T)/Member apprised the said Selection Committee that strength of the security officials in Port Qasim Authority has been enhanced by the PQA Board vide resolution No.68/2010 dated 26.11.2010 in consideration of the overall law and order situation in the country and specially in Karachi. Director (HRM) recommended that as per emergent requirement the approved additional post of 13 Inspector (Security) (BPS-15) may also be filled amongst the available candidates who have cleared the written test and interview in addition to the advertised post of Inspector (Security) (BS-15) in terms of Board resolution No.68/2010 dated 26.11.2010 for a period of two years on contract basis (extendable).

(4)(A) The Selection Committee recommended the candidature of four candidates, who secured first to fourth position respectively on the basis of their overall assessment for appointment against the four advertised posts of Inspector (security) (BPS-15) on usual terms and conditions.

(B) The Selection Committee further recommended that the candidature of 13 candidates who secured 5th to 17th positions respectively on the basis of their overall assessments for the post of Inspector (security) (BPS-15) may be considered for appointment against the 13 approved posts of Inspector (security) (BPS-15) vide Board resolution No. 68/2010 dated 26.11.2010 for the period of two years on contract basis which may or may not be extendable.

Post of Sub-Inspector Security (BS-09)

(1) Three vacant posts of Sub-Inspector (security) (BPS-09) were advertised in daily Dawn dated 22.10.2010 for filling up of advertised posts through direct recruitment. In response, a total of 208 applications were received out of which 75 were short listed as per criteria. Short listed candidates were issued call letters to appear for written test on 18.12.2010. Out of 75 candidates, 35

cleared the written test and appeared before Selection Committee for interview on 21.12.2010.

(2) The meeting of Selection Committee was held in the office of Director General (Admn) to assess/recommend the successful candidates against the posts of Sub-Inspector (security) (BPS-09).

(3) Director S&T/Member has apprised the said Selection Committee that the strength of the security official in PQA has been enhanced by the PQA Board vide Resolution dated 26.11.2010 in consideration of the overall law and order situation in the country especially in Karachi. Director (HRM) recommended that as per emergent requirement the approved additional post of 21 Sub-Inspector (Security) (BS-09) may also be filled by the available candidate who have cleared the written test and interview in addition to the advertised post of Sub-Inspector (Security) (BPS-09) in terms of Board Resolution No.68/2010 dated 26.11.2010 for a period of two years on contract basis (extendable).

(4)(A) The Selection Committee recommended that the candidature of 03 candidates who secured 1st to 3rd positions respectively on the basis of their overall assessments for the 3 posts of Sub-Inspector (security) (BPS-09) may be considered for appointment against the 3 approved posts of Sub-Inspector (security) (BPS-09) on usual terms and conditions.

(B) The Selection Committee further recommended that the candidature of 21 candidates who secured 4th to 24th positions respectively on the basis of their overall assessments for the post of Sub-Inspector (security) (BPS-09) may be considered for appointment against the 21 approved posts of Sub-Inspector (security) (BPS-09) vide Board resolution No.68/2010 dated 26.11.2010 for the period of two years on contract basis (extendable).

Post of Assistant Sub-Inspector Security (BPS-08)

(1) Eight vacant posts of Assistant Sub-Inspector (Security) (BPS-08) were advertised in daily Jung dated 23.10.2010 for filling of advertised posts through direct recruitment. In response, a total of 490 applications were received, out of which 121 were short listed as per criteria and issued call letters for written test on 06.12.2010. Amongst them 51 cleared written test whereas 49 candidates appeared before Selection Committee for interview on 09.12.2010.

(2) The meeting of the Selection Committee was held in the office of Director General (Admn) on 09.12.2010 to assess/recommend the successful candidates against the vacant posts of Assistant Sub-Inspector (security) (BPS-08).

(3) Director (S&T)/Member apprised the Selection Committee that strength of the security officials in PQA has been enhanced by

the PQA Board vide Resolution No.68/2010 dated 26.11.2010 in consideration of the overall law and order situation in the country especially in Karachi. Director (HRM) further informed the Selection Committee that as per emergent requirement the approved additional post of 22 Assistant Sub-Inspector (security) (BPS-08) may also be filled by the available candidates who have cleared the written test and interview in addition to the advertised post of Assistant Sub-Inspector (security) (BPS-08) in terms of Board Resolution No.68/2010 dated 26.11.2010 for a period of two years on contract basis (extendable).

(4)(A) The Selection Committee recommended the candidature of the eight candidates, who secured 1st to 8th position respectively on the basis of their overall assessment as per terms and conditions of the advertisement.

(B) The Selection Committee further recommended that the candidature of 22 candidates who secured 9th to 30th positions respectively on the basis of their overall assessments for the post of Assistant Sub-Inspector (security) (BPS-08) may be considered for appointment against the 13 approved posts of Assistant Sub-Inspector (security) (BPS-08) vide Board Resolution No. 68/2010 dated 26.11.2010 for the period of two years on contract basis (extendable).

09. The learned counsel next contended that all the appointees against the newly created posts including petitioners were not eligible for appointments under the criteria laid down in the Regulations as well as in the advertisement dated 23.10.2010 because they did not possess the prescribed security related experience of police or armed force and that the experience certificates of the majority of petitioners were either not produced at the time of their appointment, or they did not have the requisite experience which was a mandatory requirement under the Regulations. He submitted that the appointments were not made as per Regulations, however, the petitioners did not meet the criteria which could not be circumvented. He further pointed out that the appointment of the petitioners was effected during the operation of stay order of the Hon'ble Supreme Court of Pakistan. Therefore, the recommendations of regularization of petitioners could not be processed.

10. The learned counsel further submitted that the Director (HRM) vide letter dated 30th October, 2014 informed that Port

Qasim Authority (PQA) Board vide Board Resolution No.08/2014 inter alia approved abolition of 124 posts (BPS-03) to (BPS15) of security cadre. He referred resolution, the copy of the same is available at page No. 167 to 169 of the file. The learned counsel, in support of his contentions has placed reliance upon the case of Human Right case in Ref Abdul Jabbar Memon and others (1996 SCMR 1349), Munawar Khan vs. Niaz Muhammad (1993 SCMR 1294), Manzoor Ahmed vs. Muhammad Sabir (2001 PLC (CS) 50), Syed Mehmood Akhtar Naqvi vs. Federation of Pakistan (PLD 2013 S.C 195), Muhammad Azam Sohail vs. Government of Pakistan and others (1998 SCMR 1549) and Government of Baluchistan, Quetta vs. Dr. Zahida Kakar and others (2005 SCMR 642).

11. The learned Standing Counsel representing Respondent No.1 adopted the arguments of the learned counsel for the Respondent No. 2 to 4.

12. On 15.12.2016, the learned counsel for the petitioners and respondents requested for time to submit the brief notes along with case laws within a week. The learned counsel for the petitioners submitted statement showing breakup of the posts held by the petitioners along with list of case law. The counsel for the respondents No.2 to 4 also submitted synopsis along with list of books.

13. We have considered the submissions of the learned counsel for the Parties along with case law and have also gone through the entire record carefully with their assistance.

14. First and foremost, we would address the question of the maintainability of the instant Petitions.

15. Undoubtedly, the Port Qasim Authority Employees Service Regulations, 2011 are statutory Rules of Service and admittedly the same were framed by the Board of Directors of Port Qasim Authority with the prior approval of the Federal Government, pursuant to Section 51 of the Port Qasim Authority Act No. XLIII of

1973. In the given circumstances, we are fully fortified by the view enunciated by the Hon'ble Supreme Court in para 50 of the judgment in the case of Pakistan Defence Housing Authority vs. Lt. Col. Syed Javed Ahmed (2013 SCMR 1707) that an aggrieved person can invoke the Constitutional Jurisdiction of this Court against a public authority. The same principle is also enunciated in the case of Muhammad Rafi and another vs. Federation of Pakistan and others (2016 SCMR 2146). Accordingly, we are of the view that these petitions could be heard and decided on merits by this Court, while exercising its Constitutional jurisdiction.

16. Now in our view, the Petitioners agitated for determination are as under:-

- I. Whether after expiry of the contract period, the Petitioners can claim vested right for regularization of their services with the Respondents No.2 to 4?
- II. Whether the Petitioners were appointed in accordance with the law and had requisite qualifications and experience of security related posts to claim regularization of their services with Port Qasim Authority under Regulations-2011?
- III. Whether the 124 surplus/redundant vacancies (BPS-03 to BPS-15) of Security cadre were abolished through Board Resolution No. 08/2014 dated 16.9.2014 pursuant to the statement made by the Chairman, Port Qasim Authority before the Hon'ble Supreme Court regarding illegal and irregular appointments?

17. The first two above questions raised, are co-related and in this regard, the record clearly depicts that the Petitioners completed their two years contractual period on 18th/19th of October 2013 and the same was not extended and hence, they stood relieved from their respective jobs.

18. Our attention was also invited to the advertisement dated 23.10.2010. The learned counsel for the Respondents argued that the Petitioners did not possess the requisite experience for the advertised posts. The advertisement is reproduced herein below:

پورٹ قاسم اتھارٹی

بن قاسم، کراچی۔ 75020



ملازمت کے مواقع

پورٹ قاسم اتھارٹی درج ذیل اسامیوں کیلئے موزوں امیدواروں سے درخواستیں طلب کرتی ہے،
تقرری عارضی بنیادوں پر کی جائے گی جسے بعد ازاں مستقل کیا جاسکتا ہے۔

سیریل نمبر	اسامی کا نام اور اسکیل	اسامیوں کی تعداد	مجوزہ تعلیمی قابلیت اور تجربہ	ڈومیسائل	عمر کی حد
1	اسٹنٹ (BS-15)	01	کم از کم 2nd کلاس بیچلرز ڈگری اور کمپیوٹر سے واقفیت 4 سالہ متعلقہ تجربہ	میرٹ	30-40 سال
2	انسپیکٹوریٹ (BS-15)	04	گریجویٹ یا مساوی آرمی ایجوکیشنل سرٹیفکیٹ / ریٹائرڈ J.C.O / پولیس انسپکٹر 4 سالہ متعلقہ تجربہ	میرٹ	30-40 سال
3	لیبارٹری ٹیکنیشن (BS-15)	01	بیچلرز سائنس (کیمسٹری) یا نیوکیمسٹری / اپلائڈ کیمسٹری اور کمپیوٹر سے واقفیت 4 سالہ متعلقہ تجربہ	میرٹ	25-35 سال
4	اسٹینوگرافسٹ (BS-14)	03	میٹرک اور کمپیوٹر سے واقفیت شارٹ ہینڈ اسپید 80 w.p.m اور ٹائپنگ اسپید 40 w.p.m	میرٹ-02 بلوچستان-01	25-35 سال
5	فائر سپروائزر (BS-12)	02	انٹرمیڈیٹ، جھلمہ سول ڈیفنس سے حاصل کردہ فائر مین سرٹیفکیٹ کم از کم 5 سالہ متعلقہ تجربہ	میرٹ-01 بلوچستان-01	25-35 سال
6	سب انسپیکٹوریٹ (BS-09)	03	انٹرمیڈیٹ یا مساوی آرمی ایجوکیشنل سرٹیفکیٹ، ریٹائرڈ حوالدار اسامی یا سب انسپیکٹر پولیس 3 سالہ متعلقہ تجربہ	میرٹ	30-40 سال
7	اے۔ ایس۔ آئی۔ سیوریٹ (BS-08)	08	میٹرک یا مساوی آرمی ایجوکیشنل سرٹیفکیٹ / ریٹائرڈ ٹائیک اسامی یا اسٹنٹ سب انسپیکٹر پولیس 3 سالہ متعلقہ تجربہ	میرٹ	30-40 سال
8	لیڈنگ فائزین (BS-08)	02	میٹرک، جھلمہ سول ڈیفنس سے حاصل کردہ فائزین سرٹیفکیٹ 3 سالہ متعلقہ تجربہ	میرٹ-01 پنجاب-01	25-35 سال
9	ڈرائیور (BS-06)	12	ڈبل مع ڈرائیونگ لائسنس (LTV/HTV) 5 سالہ متعلقہ تجربہ	میرٹ	25-35 سال

درخواستیں جمع کرانے کا طریقہ کار:

- ♦ درخواستیں عمر، تجربے اور قابلیت کی تمام متعلقہ دستاویزات / کوائف کی مصدقہ نقول، CNIC اور پاسپورٹ سائز تصویر کے ہمراہ بکس نمبر: 105016 معرفت ایکسپریس، پلاٹ نمبر 5، ایکسپریس وے بالقابل کورنگی روڈ، کراچی پر اشاعت ہذا کے اندرون 15 یوم پہنچ جانی چاہئیں۔ اسامی کا نام لگانے کے دائیں جانب تحریر کیا جائے۔
- ♦ امیدوار ایک وقت میں صرف ایک اسامی کیلئے درخواست دے سکتے ہیں۔
- ♦ صرف شارٹ لسٹ کئے گئے امیدواروں کو ٹیسٹ / انٹرویو کیلئے بلا یا جائے گا۔
- ♦ ٹیسٹ / انٹرویو کیلئے کوئی TA/DA نہیں دیا جائے گا۔
- ♦ اتھارٹی کسی بھی ایک یا تمام درخواستوں کو بلا اظہار وجوہ مسترد کرنے کا حق محفوظ رکھتی ہے۔
- ♦ حکومتی قوانین کے تحت عمر کی حد میں نرمی کی جائے گی۔
- ♦ درج بالا اسامیوں کیلئے اہل، جوان تین امیدواران کی حوصلہ افزائی کی جائے گی۔
- ♦ صرف بکس کے ذریعے وصول ہونے والی درخواستیں قابل غور تصور کی جائیں گی۔
- ♦ اتھارٹی ضرورت کے تحت اسامیوں کی تعداد میں اضافے یا کمی کا حق محفوظ رکھتی ہے۔

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19. The posts advertised in the Newspapers (Daily Express), pertained to Security of Sensitive Installations at Port Qasim Authority, as such bare minimum qualification would not suffice

in addition to which, experience of the relevant field is also a necessary requirement. Therefore, apparently, in the absence of the requisite qualification and experience, the Petitioners were not eligible to hold the said posts on contract as well as on regular basis.

20. Even though the learned counsel for the Petitioners, while exercising the right of rebuttal, argued that the qualification mentioned at Sr. No.5, 57 and 65 in Schedule IV of the Regulations in respect of the posts applied by the petitioners is ***either*** Intermediate, Matric or equivalent army educational certificate, retired J. C, Inspector of Police. Therefore, he argued that either of the qualification is required and not both as the word “or” is used. However, when confronted with the query, as to whether the Petitioners had the requisite experience of 3 and 4 years for the post applied for, the learned counsel for the Petitioners failed to give any satisfactory answer.

21. Additionally, as elucidated herein above, the Petitioners were appointed in complete disregard of the Regulations, having no requisite experience of 3 and 4 years of security related posts. Therefore, they cannot make a case for the regularization of their employment under Regulations-2011, relevant portion of which is reproduced hereunder.

“62. Regularization of Contractual Employees.

Regularization of Contractual Employees upto BPS-19 shall be approved by the Chairman on the following grounds:

- (1) Contract appointments be made against the sanctioned posts in accordance with the Rules.
(Emphasized added)
- (2) Regularization be considered on at least completion of one year service on contract.
- (3) Regularization shall be considered only on the basis of satisfactory performance of an employee in PQA duly concurred by the head of Division concerned.

- (4) Regularization of the employees be made with effect from their joining in Port Qasim Authority.

Provided that the initial appointment on contract was made in accordance with instructions/procedure in vogue in Government Departments.
(Emphasized added).

22. As provided above, the Petitioners had no vested right for regularization of their services which were purely on contract basis for two years and they stood relieved of their charge once their service tenure ended.

23. Furthermore, the case law relied upon by the learned counsel of the Petitioners, are quite distinguishable from the facts and circumstances of the present case.

24. It is admitted fact that the Respondents, in compliance of the order, had submitted the concise statement/report before the Honourable Supreme Court and the names of the Petitioners were listed in the said report available at Page No. 131 to 133 alongwith the counter affidavit filed by the Respondents No.2 to 4.

25. Perusal of record reveals that the applications were invited against 4 posts of Inspector (security), 3 posts of Sub-Inspector (security) and 8 posts of Assistant Sub-Inspector (security). However, appointments were made over and above the numbers of vacancies advertised in the Newspaper dated 23.10.2010 and the number of vacancies were increased via Port Qasim Authority (PQA) Board Resolution No.68/2010 dated 26.11.2010.

26. In addition to, so far as the letter dated 10.12.2012, issued by the Prime Minister Secretariat regarding proposal for regularization of contract employees of Ministry of Ports and Shipping, which has been cited by the learned counsel for the Petitioner, is concerned. In our view, this plea is not tenable in the eyes of law and the same cannot be enforced in the peculiar circumstances of the present case, as the Chairman, Port Qasim

Authority submitted before the Hon'ble Supreme Court that all the illegal appointments would be scrutinized and those found to be irregular would be undone. Pursuant to this statement, which was recorded in the Order dated 25.06.2014, the Port Qasim Authority (PQA) passed Board Resolution No.08/2014 dated 16.9.2014, relevant portion of which is reproduced as under:-

“Board Resolution No.08/2014 dated 16.09.2014

6. Considering the heavy expenditure being incurred on establishment charges the Board decided as under:-

- a. -----
- b. The 124 surplus/redundant vacancies (BPS-03 to BPS-15) of Security cadre be abolished immediately. Besides, detailed working on redundant positions be made and put up to the Board in the next meeting.
- c. -----
- d. -----“

27. Even otherwise, the Petitioners claim their regularization in view of Regulation No.62 and not on the basis of alleged Prime Minister's directives. The regularization is always subject to the availability of vacant positions. One more important aspect cannot be ignored that in terms of Sub-Regulation No.4 of Regulation No.62, the regularization can be made provided in initial appointment on contract was made in accordance with the instructions/procedure in vogue while the Port Qasim Authority declared the initial appointment illegal and submitted the report in the Honourable Supreme Court.

28. For what has been discussed above, we are of the considered view that the Port Qasim Authority (PQA) vide Board Resolution No.08/2014 dated 16.9.2014 abolished 124 vacancies (BPS-03 to BPS-15) of the Security cadre and that the discretionary power to do so vested with the Respondents No.2 to 4. The Hon'ble Apex Court also took cognizance of the matter in the affairs of Port Qasim Authority in respect of appointment, promotion and other ancillary appointments in suo-moto proceedings and the Chairman

Port Qasim Authority admitted in the proceedings that the appointments were irregular and those had to be terminated. The Petitioners did not have any vested right for regularization of contract period of two years, which elapsed and relevant vacancies stood abolished.

29. These Petitions, merit no consideration, are dismissed alongwith listed application with no order as to cost.

JUDGE

JUDGE