

Order Sheet
**IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD**

CP. No. D- 688 of 2019

Imran and others
others

v. Province of Sindh and

BEFORE :

Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Adnan Iqbal Chaudhry

Petitioners: Imran and others through Mr. Muhammad
Aslam Bhatti, Advocate

Respondents: Province of Sindh and others through
Mr. Rafiq Ahmed Dahri, Asstt: A.G.

Date of hearing
& decision: 27.10.2021

O R D E R

ADNAN-UL-KARIM MEMON, J:- Through the instant petition, the petitioners have approached this Court for regularization of their service in respondent-Municipal Corporation Tando Jam; and, payment of salary, of the intervening period, when they remained under termination in the year, 2018.

2. At the outset, we queried from the learned counsel for the Petitioner as to how this Petition is maintainable in its form in view of the decision of this court in the case of *Badar Anjum V/S Province of Sindh and 2 others*. (Constitutional Petition No. D – 6241 of 2016 and other connected petitions). An excerpt of the judgment is reproduced as under:-

“It is an admitted position that the petitioners are contractual employees and thus their status and relationship are regulated and governed by the principle of „master and servant“. The Hon’ble Supreme Court has been pleased to hold in its numerous pronouncements that a contract employee, whose terms and conditions of service are governed by the principle of „master and servant“, does not acquire any vested right for regular appointment, or to claim regularization, or to approach this Court in its constitutional jurisdiction to seek redressal of his grievance relating

to regularization ; in fact he is debarred from approaching this Court in its constitutional jurisdiction and the only remedy available to him is to file a Suit for damages alleging breach of contract or failure on the part of the employer to extend the contract ; after accepting the terms and conditions for contractual appointment, the contract employee has no locus standi to file a Constitutional Petition seeking writs of prohibition and or mandamus against the authorities from terminating his service and or to retain him on his existing post on regular basis ; a contract employee, whose period of contract expires by efflux of time, carry no vested right to remain in employment of the employer and the courts cannot compel the employer to reinstate him or to extend his contract ; and, no rights would accrue to a de facto holder of a post whose right to hold the said post was not established subsequently. In view of the above well-settled law consistently laid down by the Hon'ble Supreme Court, the petitioners, being contractual employees having no vested right for regular appointment or to seek regularization of their services, are debarred from invoking the constitutional jurisdiction of this Court. Thus, these petitions filed by them are not maintainable on this ground alone.”

3. Mr. Muhammad Aslam Bhatti, learned counsel for the petitioners attempted to give a brief history of the case and contended that on 17.09.2015 the petitioners were appointed in Municipal Corporation Tando Jam with the approval of competent authority for 6 months; subsequently, the period of contract was extended up to 3 years; they received their salaries up to October 2018 but subsequently with malafide intention and political influence their services were terminated from 19.10.2018; therefore, they filed CP No. D- 3162 of 2018 before this Court, as a result of which respondent No.1 set aside the termination letters, hence the petition was not pressed; the petitioners thereafter continuously served with the respondent- Municipal Corporation, but they have not been regularized as required under Sindh Regularization of Adhoc & Contract Employees Act 2013, hence they have filed the instant petition. Learned counsel emphasized that the case of the petitioners is akin to the Case decided by this court in matters of Muhammad Ali and another Vs. Federation of Pakistan and others (2021 PLC (CS) 295) and prayed for similar treatment to be meted out with the petitioners. An excerpt of the order is reproduced as under:

“20. Record shows that the performance of the Petitioners in the Respondent Company has not been called in question throughout their service period by the Respondent-Company. We are of the considered view that the Petitioners are entitled to similar treatment, which was given to their similarly placed employees for their regularization more particularly the relief granted to the Petitioners in Constitutional Petitions No.D-3759 & 4422 of 2017 and Constitutional Petitions No. D 3199, D-4605, and D-5079 of 2013 respectively and D-509, D-2034, and D1091 of 2014 (SBLR 2018 Sindh 134). 21. Looking through the above perspective and keeping in view the factual position of the case, we hereby infer that the Petitioners ought to have been considered for regularization by the Respondent-Company in the light of the aforesaid Office Memorandums. 22. Keeping in view the foregoing, the Petition is disposed of in the terms whereby Chief Executive Officer of Respondent-Company/Respondent No.2 is directed to consider the case of the Petitioners for regularization of their service without discrimination, in accordance with law and the dicta laid down by Hon’ble Supreme Court of Pakistan in the cases referred to hereinabove within a period of two months from the date of receipt of this judgment. The listed application(s) also stand disposed of accordingly.”

4. It is an admitted position that the petitioners are contractual employees and thus their status and relationship are regulated and governed by the principle of master and servant.

5. In view of the above well-settled law consistently laid down by the Hon’ble Supreme Court, the petitioners, being contractual employees having no vested right for regular appointment or to seek regularization of their services, are debarred from invoking the constitutional jurisdiction of this Court. On the aforesaid proposition, we seek guidance from the latest decision of the Honourable Supreme Court in the case of the Government of Khyber Pakhtunkhwa, Workers Welfare Board, through Chairman V/S Raheel Ali Gohar and others, **2020 SCMR 2068**.

6. In the light of the decision of the Honourable Supreme Court in the case of Government of Khyber Pakhtunkhwa, Workers Welfare Board supra, the decision of this Court rendered in the case of Muhammad Ali and another supra cannot rescue the petitioners in terms of Article 189 of the Constitution.

7. As a result of the above discussion, the petition in hand and applications pending therein are not maintainable under Article 199 of the Constitution, therefore the same is dismissed with no order as to costs. Leaving the petitioners to seek a remedy before the competent forum under law.

JUDGE

JUDGE

Karar_hussain/PS*