

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

C. P. No. D – 205 of 2017

Before:

Mr. Justice Muhammad Junaid Ghaffar
Mr. Justice Zulfiqar Ali Sangi

Date of Hearing: **29-09-2021**

Date of Decision: **29-09-2021**

Mr. Nisar Ahmed Bhanbhro Advocate for the Petitioner.
Mr. Abdul Mujeeb Shaikh Advocate for the Respondents-WAPDA.
Mr. Muhammad Hamzo Buriro, Deputy Attorney General.

ORDER

Muhammad Junaid Ghaffar, J. – Through this petition, the petitioner seeks a writ of mandamus against the respondents to regularize his services as a permanent employee.

2. Learned counsel for the petitioner submits that the petitioner was appointed as Accounts Assistant in BPS-11 on contract basis on 21.06.2007 for a period up to 20.06.2008 and continued to perform his duties with WAPDA, whereas despite satisfactory service, he was never regularized; that there is no adverse finding of any sort; nor any complaint and therefore petitioner ought to have been regularized. In support of his contention, he relied upon cases reported as *Pir Imran Sajid v. Managing Director/General Manager (Manager Finance) Telephone Industries of Pakistan and others* (2015 SCMR 1257), *Faisal Noman and others v. Javed Hussain Shah and others* (2015 SCMR 1265) and *Board of Intermediate and Secondary Education, DG Khan and another v. Muhammad Altaf and others* (2018 SCMR 325).

3. On the other hand, Counsel for respondents has opposed this petition and has relied upon the comments.

4. We have heard both the learned counsel and perused the record. Insofar as the appointment of the petitioner is concerned, it is not in dispute that he was appointed on contract basis, which as per record available before us was valid till 20.06.2008. We have repeatedly asked the petitioner's counsel to refer to any further extension or renewal of the contract and to this, he has not been able to refer to any document on record, but has argued that this has not been denied in the comments. He has further argued that the petitioner is still working and was being paid salaries as well. This contention of petitioner's counsel is not borne out from the material before us, whereas, it is settled law that a contract employee whose contract has expired cannot seek its extension through writ jurisdiction of this court.

5. It is further noted in the comments filed by the concerned respondents that in fact after appointment on contract basis, petitioner had had even resigned and then came again for recalling of his resignation and was thereafter issued a fresh contract on the same terms and conditions, however, contention of petitioner's counsel that the contract was extended from time to time, has been vehemently denied and it has been stated that appointment was purely on contract basis for a period up to 30.06.2008 inclusive of six months' probation period and same was never renewed, as contended. This also goes against the petitioner's case as it has now become a disputed fact which cannot be resolved by this court in its Constitutional jurisdiction since the very basis of the petitioners' case is dependent on this factual aspect that whether or not petitioner's contract was extended after 2008 from time to time. It is not a case wherein it could be argued that since petitioners contract was kept on extended without regularization against a permanent post, therefore, a right has accrued to him to seek regularization. The case law relied upon

by the learned Counsel for the Petitioner is not relevant to the present facts in hand, inasmuch as the Courts have been inclined to direct regularization only in case wherein, the employees are still working on such contract basis which are renewed from time to time, whereas, their initial appointment is also transparent and according to law and finally, such appointments are against sanctioned vacant posts, and at the time of seeking regularization the said sanctioned posts are still available. It is only when these circumstances are present in case of a litigant that the Courts have shown leniency and have exercised the discretion in their favor, and not otherwise. We are afraid the present facts do not support the case of the petitioner.

6. In view of hereinabove facts and circumstances of this case, this petition merits no consideration; hence the same is hereby dismissed with pending application.

J U D G E

J U D G E

Ahmad