

# IN THE HIGH COURT OF SINDH AT KARACHI

Present:  
**Muhammad Junaid Ghaffar, J.**  
**Agha Faisal, J.**

C P D 5000 of 2020 : Naseem Abbas & Others  
vs. Federation of Pakistan and another

C P D 6016 of 2020 : Amir Khan & Others  
vs. Federation of Pakistan & Others

C P D 2760 of 2021 : Imran ud Din & Others  
vs. Federation of Pakistan & Others

For the Petitioners : Mr. Shan-ur-Rehman, Advocate

For the Respondents : Mr. Malik Naeem Iqbal, Advocate

Mr. Muhammad Nishat Warsi  
Deputy Attorney General

Date/s of hearing : 12.08.2022

Date of announcement : 12.08.2022

## ORDER

**Agha Faisal, J.** The representative facts pertinent herein are that the petitioners claim to have been contractual employees, admittedly engaged on contract by Services Management Center Creek Vista<sup>1</sup> ("SMC"), however, seek regularization of their service with the Pakistan Defense Officers' Housing Authority ("DHA"). Since the controversy has been articulated to be common *inter se*, hence, these petitions were heard conjunctively and shall be determined vide this common order.

2. Briefly stated, the petitioners were engaged on a three year contract in 2009 by SMC. The express contractual period, including a pre-stipulated two year extension, expired in 2014. The petitioners claimed to have been retained subsequently, however, in September 2020 they were served with a notice advising them that their service had been extended until 13.05.2021, at which time the relationship would cease. The expiration date of the contractual relationship has passed, however, the petitioners have preferred the present claim seeking regularization in DHA.

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<sup>1</sup> Per letter of appointment dated May 2009; relied upon by the petitioners' counsel as being representative of all the relevant appointment letters herein.

3. At the very outset petitioners' counsel was asked to demonstrate the existence of any law conferring entitlement upon the petitioners to be considered for regularization. It was also queried as to how a petition for regularization could be maintained in the absence of any demonstrable / subsisting relationship between the parties<sup>2</sup>. Learned counsel remained unable to satisfy the Court in such regard.

The crux of the petitioners' case was that even though they had been contractual employees of SMC, they ought to be regularized in DHA, primarily on account of efflux of time. Upon being asked to demonstrate any direct or vicarious privity *inter se*, the counsel remained unable to do so.

4. Per respondents' counsel, SMC is a collective for the maintenance and upkeep of Creek Vista Apartments in Karachi. It was stated that SMC is funded by the residents and that the contractual emoluments paid to the petitioners had also been furnished by the residents. The counsel explained that while the petitioners had a contractual relationship with SMC in the past, the same ought not to impose any obligation upon DHA. It is imperative to denote at this juncture that the petitioners' counsel expressed no cavil to the description of SMC articulated by the respondents' counsel.

In summation, it was argued that the petitioners were never employees of DHA; the tenancy of their contracts were abridged at the will of the residents of Creek Vista, manifest through their SMC; and that notwithstanding the foregoing, the petitioners had demonstrated no law, rule or policy to even be considered entitled to regularization<sup>3</sup>.

5. Heard and perused.

6. The law with respect to regularization is has been subjected to detailed scrutiny by the superior Courts. The august Supreme Court has illumined in *Bacha Khan* that no claim for regularization was merited on mere efflux of time. In *Khushal Khan*<sup>4</sup> it was observed that the High Court lacked jurisdiction to revive, amend or alter contracts; there was no vested right to seek regularization for employees hired on contractual basis unless there was legal

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<sup>2</sup> Being the petitioners and DHA.

<sup>3</sup> *Per Ijaz ul Ahsan J in VC Bacha Khan University & Others vs. Tanveer Ahmed & Others* reported as 2022 PLC CS 85; 2021 SCMR 977 ("*Bacha Khan*"); *Per Ijaz ul Ahsan J in VC Govt. of Khyber Pakhtunkhwa Workers Welfare Board & Others vs. Raheel Ali Gohar & Others* reported as 2020 SCMR 2068 ("*KP WWB*").

<sup>4</sup> *Per Ijaz ul Ahsan J in Khushal Khan Khattak University & Others vs. Jabran Ali Khan & Others* reported as 2021 SCMR 977 ("*Khushal Khan*").

and statutory basis for the same; contractual employees had no automatic right to be regularized unless the same has specifically been provided for in a law; and that the relationship of contractual employees is governed by principles of master and servant.

A Division Bench of this Court has held in *Anjum Badar*<sup>5</sup> that contractual employees had no vested right for regular appointment or to seek regularization of their services, hence, were debarred from invoking the constitutional jurisdiction of this Court. The august Supreme Court had earlier maintained in *KP WWB* that contractual employees were governed by the principle of master and servant and were devoid of any right to invoke the writ jurisdiction of the High Courts to seek redress of grievances relating to regularization.

7. It is trite law that contractual employees are devoid of any generic entitlement for regularization<sup>6</sup>. Petitioners' counsel has been unable to identify any specific law conferring any right upon the petitioners to be considered for regularization<sup>7</sup>. It is, thus, our deliberated view that the petitioners have failed to set forth a case for exercise of the discretionary<sup>8</sup> writ jurisdiction of this Court.

8. In view hereof, these petitions, along with pending application/s, were dismissed vide our short order announced in open Court earlier today. These are the reasons for the short order.

JUDGE

JUDGE

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<sup>5</sup> Per Nadeem Akhtar J in *Anjum Badar vs. Province of Sindh & Others* reported as *PLD 2021 Sindh 328*.

<sup>6</sup> Per Ijaz ul Ahsan J in *Govt of KPK vs. Jawad Ali & Others* reported as *2021 SCMR 185*; Per Mansoor Ali Shah J in *Province of Punjab vs. Dr. Javed Iqbal* reported as *2021 SCMR 767*; Per Ijaz ul Ahsan J in *Owais Shams Durrani vs. Vice Chancellor Bacha Khan University* reported as *2020 SCMR 2041*; Per Miangul Hassan Aurangzeb J in *First Womens Bank vs. Muhammad Tayyab* reported as *2020 PLC (C.S.) 86*.

<sup>7</sup> Per Ijaz ul Ahsan J in *Govt of KPK Welfare Board vs. Raheel Ali Gohar & Others* reported as *2020 SCMR 2068*;

<sup>8</sup> Per Ijaz Ul Ahsan J. in *Syed Iqbal Hussain Shah Gillani vs. PBC & Others* reported as *2021 SCMR 425*; *Muhammad Fiaz Khan vs. Ajmer Khan & Another* reported as *2010 SCMR 105*.