

# IN THE HIGH COURT OF SINDH AT KARACHI

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

C P D 1629 of 2022 : Muhammad Naeem Kiani & Others vs.  
Federation of Pakistan & Others

C P D 723 of 2022: Habib Nawaz & Others vs.  
Federation of Pakistan & Others

C P D 1658 of 2022 : Francis & Others vs.  
Federation of Pakistan & Others

C P D 1697 of 2022 : Noman Khan & Others vs.  
Federation of Pakistan & Others

C P D 1772 of 2022 : Qamar Ali & Others vs.  
Federation of Pakistan & Others

C P D 4292 of 2022 : Hav (R) Irshad Ali Khan & Others vs.  
Federation of Pakistan & Others

For the Petitioners : Mr. Ashikue Raza, Advocate  
Petitioners in person

For the Respondents : Malik Waseem Iqbal, Advocate  
Mr. Yasir Ahmed Shah  
Assistant Attorney General

Date/s of hearing : 09.09.2022

Date of announcement : 09.09.2022

## ORDER

**Agha Faisal, J.** The issue common to all these petitions is whether regularization in service could be sought / granted, in the writ jurisdiction of this Court, in absence of any pertinent law, rules or policy. These petitions were listed and heard conjunctively and shall be determined vide this common order.

2. The order sheet demonstrates that on 26.05.2022, the counsel for the petitioners were confronted with the edict of the august Supreme Court in *Sher Aman*<sup>1</sup> and queried as to whether there was any law, rule or policy conferring

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<sup>1</sup> Per *Muhammad Ali Mazhar J in Govt of KP vs. Sher Aman & Others* reported as 2022 SCMR 406.

any entitlement upon the petitioners to seek regularization. The counsel sought an adjournment and requested that this issue may be taken up on the next date. On 19.08.2022, the respective counsel for the petitioners were once again asked to address the issue raised supra, however, the counsel sought time once again. The matter was fixed for today and despite the specific orders, mentioned supra, Mr. Muhammad Hanif Advocate has opted to remain absent, whereas, Mr. Ashikue Raza Advocate once again sought a continuance. Since *ad interim* orders have been operating herein since the inception of the petitions, the learned counsel was asked to address the issue with respect to maintainability, raised earlier as represented vide the earlier orders, however, he failed to identify any law, rule and / or policy on the basis whereof the petitioners could seek regularization.

3. The issue of regularization has been deliberated exhaustively by the courts and it has been held that no claim for regularization was merited on mere efflux of time<sup>2</sup>; the High Courts lacked jurisdiction to revive, amend or alter contracts; there was no vested right to seek regularization unless there was legal and statutory basis for the same; there was no automatic right to be regularized unless the same has specifically been provided for in a law; the relationship of contractual employees is governed by principles of master and servant<sup>3</sup>; since contractual employees had no vested right for regular appointment or to seek regularization of their services, hence, they were debarred from invoking the constitutional jurisdiction of this Court<sup>4</sup>; and that contractual employees, being governed by the principle of master and servant, were devoid of any right to invoke the writ jurisdiction of the High Courts to seek redress of grievances relating to regularization<sup>5</sup>.

4. It is imperative to observe that the pivotal question before this Court has been clinched by a recent pronouncement of the august Supreme Court in *Sher Aman*, wherein the contemporary law pertaining to regularization has been chronologically catalogued and consequently it has been maintained, while holding that contractual employees were governed by the principle of master and servant, that regularization requires the backing of law, rules or policy and in the absence thereof no claim in such regard ought to be entertained. The judgment in *Sher Aman* appears squarely applicable herein and no cavil in such

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<sup>2</sup> Per *Ijaz ul Ahsan J* in *Owais Shams Durrani vs. Vice Chancellor Bacha Khan University* reported as 2020 SCMR 2041

<sup>3</sup> Per *Ijaz ul Ahsan J* in *Khushal Khan Khattak University & Others vs. Jabran Ali Khan & Others* reported as 2021 SCMR 977

<sup>4</sup> Per *Nadeem Akhtar J* in *Anjum Badar vs. Province of Sindh & Others* reported as PLD 2021 Sindh 328.

<sup>5</sup> Per *Ijaz ul Ahsan J* in *Govt of KPK Welfare Board vs. Raheel Ali Gohar & Others* reported as 2020 SCMR 2068

regard has been articulated by the petitioners' counsel; clearly answers the issue sought to be answered herein, against the petitioners; and is binding upon us per Article 189 of the Constitution.

5. Since daily wage / contractual employees are devoid of any generic entitlement for regularization<sup>6</sup> and the petitioners' counsel has remained unable to identify any specific law, rule or policy conferring any right upon the petitioners to be considered for regularization<sup>7</sup>, therefore, we are constrained to hold that petitioners have failed to set forth any case for exercise of the discretionary<sup>8</sup> writ jurisdiction of this Court.

6. In view hereof, these petitions, along with pending application/s, are hereby dismissed.

JUDGE

JUDGE

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<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.