

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

CP No.D-3940 of 2019

Date

Order with signature of Judge(s)

1. For orders as to maintainability of petition.

18.04.2023

Mr. Abdul Samad Memon, advocate for the petitioner.
Qazi Ayazuddin Qureshi, Assistant Attorney General.

The petitioner seeks issuance of a writ against a charitable trust registered under the Endowment Act 1890. At the very onset, learned counsel was confronted as to how a writ could be sought against a person not contemplated within Article 199(5) of the Constitution, however, he failed to articulate any justification. His reliance upon authority was misconceived as *prima facie* no exposition of law was contained therein to maintain a writ in the manner sought.

Without prejudice to the foregoing, the petitioner claimed to have been temporarily employed on contract and such engagement has admittedly ceased to exist. The petitioner's claim for confirmation (regularization) cannot be sustained in view of *Khushal Khan*¹, wherein the Supreme Court has maintained that the High Court lacked jurisdiction to revive, amend or alter contracts. A Division Bench of this Court has held in *Anjum Badar*² that such employees had no vested right for regular appointment or even to seek regularization of their services, hence, were debarred from invoking the Constitutional jurisdiction of this Court.

Article 199 of the Constitution contemplates the discretionary³ writ jurisdiction of this Court and the said discretion *may* be exercised in appropriate circumstances. In the present matter no case has been set forth before us for invocation of writ jurisdiction. In view hereof, this petition and pending applications are hereby dismissed.

JUDGE

JUDGE

¹ Per *Ijaz ul Ahsan J* in *Khushal Khan Khattak University & Others vs. Jabran Ali Khan & Others* reported as 2021 SCMR 977.

² Per *Nadeem Akhtar J* in *Anjum Badar vs. Province of Sindh & Others* reported as PLD 2021 Sindh 328.

³ 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.