

IN THE HIGH COURT OF SINDH, AT KARACHI

C.P. No. D-1315 of 2014

(Syed Asif Raza and others v/s Federation of Pakistan and others)

PRESENT:

MR. JUSTICE MUHAMMAD KARIM KHAN AGHA

MR. JUSTICE NISAR AHMED BHANBHRO

Petitioners : Through Mr. Syed Shoa un Nabi,
Advocate

Respondents : Through Mr. Asgher Ali Khan,
Wajiha M. Mehdi, A.A.G.

Date of hearing : 18.03.2025

Date of Announcement : 21.03.2025

ORDER

Nisar Ahmed Bhanbhro, J. Through the instant Petition, petitioners have sought following relief:

- A. To direct the respondent No.2 to regularize the services of the petitioners, in accordance with directions contained in the Notification / Office Memorandum dated 29-08-2008, 22-12-2008 and 30-05-2013, on the touch stone of Articles 9, 14, 18, 25, 22, 25-A: of the Constitution of Islamic Republic of Pakistan, 1973.
- B. To direct the respondent No.2, to reckon their seniority from 01-07-2008, and financial benefits should accrue to them with effect from inter-alia for daily wage's from 22-10-2008 and seniority may be reckoned from 01-07-2008.
- C. To declare the notification / resolution dated 27-2-2004, establishing the Trust null & void ab-initio & consequently also registered Trust Deed dated 3-3-2001, so also transference of educational institutions by respondent No. 2 to respondent No.3.
- D. The respondents may be directed to maintain Status quo, be restrained from interfering with the petitioners present occupation and status as employees, so as not to cause or subject them to undue harassment pertaining specifically to their official duties also otherwise.

2. The case of the petitioners is that they were appointed as Teachers, Attendant, Lab Assistant, House Bearer, Librarian, Health Worker, Waiter, Plumber, Supervisor, Security Guard, Peon and Assistant Cook in M/s. Pakistan Steel Mill Hadeed Welfare Trust in the years of 1997 to 2008 on contract basis. That the Respondent No.3 was working under the Management and Control of Pakistan Steel Mills. The Petitioners are on contract daily wages basis in the capacity of Workers. Pursuant to decision of Federal Cabinet dated 04.08.2008 a Notification was issued dated 29.08.2008, whereby, all the Departments were directed to Regularize the services of employees who were working on contract, daily wages and Workers. That the said policy was not implemented by the Pakistan Steel Mills and its subsidiary Organizations, therefore, the colleagues of the Petitioners preferred Petition No.327 of 2011 which was *disposed of* vide Order dated 02.10.2012 directing the Respondents to Regulate the services of the employees in the said petition. That the petitioners also preferred an Application for impleading them as a party to the Petition No.327 of 2011 but the said Judgment has not yet been implemented. That the petitioners are employees of Pakistan Steel Mills and working there for last many years but the Respondents failed to Regularize their services. The petitioners prayed for issuance of directions to the Respondents to Regularize their services.

3. The Respondent / Pakistan Steel Mills denied the claim of the Petitioners and averred that the Petitioners were employees of Respondent No.3 / M/s. Hadeed Welfare Trust and the Pakistan Steel Mills has no role in their appointments. The Pakistan Steel Mills had no statutory Regulations; therefore, this Petition was not maintainable under the Law.

4. The Respondent No.3 in its Reply stated that the Petitioners were appointed purely on contract basis by the Hadeed Welfare Trust. They were Labourers and they had an option to file their grievance Application before the Department and the

Labour Court in case the Respondent No.3 was engaged in any kind of unfair Labour practice. The Petitioners joined the services of the Trust by accepting the terms and conditions of their appointment which clearly state that the services of the Petitioners were purely on contract and temporary basis. The M/s. Hadeed Welfare Trust has been dissolved in the meeting held on 09.04.2021 by the Board of Trustees. The Petitioners cannot claim Regularization, the Petition be *dismissed*.

5. We have heard the arguments and perused the material available on record.

6. It has been pointed out that the Petitioners No.3, 4, 6, 8, 11, 13, 14, 15, 17, 18, 19, 20, 21, 22, 23, 27, 31, 38, 39, 40, 42 and 43 have expired or retired from services on attaining the age of superannuation, therefore, this Petition on their part was *withdrawn*.

7. The remaining Petitioners through the instant Petition have sought Regularization of their services. The Petitioners admittedly were appointed on contract basis in the Education Department of M/s. Pakistan Steel Mill Hadeed Welfare Trust which is a Private entity and does not fall within the definition of Person discharging its function in connection with the affairs of the Province or the Federation. The Petitioners by accepting their appointment Orders joined the services with Respondent No.3. The Petitioners engagement Orders were specific in nature that they were the employee of the Respondent No.3 and subject to termination without any prior notice. The Petitioners have been registered with Employees Old Age Benefits Institution and Sindh Employees of Social Security Institutions by the Respondent No.3, *wherein*, the contribution for their Welfare and Pensionary Benefits has also been paid. The Registration of the Petitioners with EOBI and SESSI implies that they were the Workers defined under Sindh Industrial Relations Act, 2012 and Sindh Terms of Employment [Standing Orders] Act, 2015. The Petitioners have not alleged any unfair Labour Practice on the part of the

Respondent No.3. Under the provisions of Sindh Terms of Employment [Standing Orders] Act, 2015 an employee becomes a permanent Worker, when he renders services continuously for a period of nine months. Petitioners have been serving with the Respondent No.3 since 1997, 2005, 2008 and onwards.

8. The Petitioners being Workers cannot invoke the Writ Jurisdiction of this Court under Article-199 of the Constitution, as a separate Tribunal to adjudicate their rights regarding services has been established under the provision of Sindh Industrial Relations Act, 2012.

9. The Petitioners would be at liberty to agitate their grievance before the competent forum as discussed supra in the eventuality of any action taken by the Respondent in violation of law.

10. In view of the above discussion, we are of the considered view that instant Petition is not maintainable under the Constitutional jurisdiction of this Court and the same is *dismissed* accordingly along with pending application[s] if any.

Judge

Head of Const. Benches