

IN THE HIGH COURT OF SINDH AT KARACHI
CP. No. D-7230 of 2022
(*Muhammad Sajid Farooqui & others v Federation of Pakistan & others*)

Date	Order with signature of Judge
	Before: Mr. Justice Muhammad Karim Khan Agha Mr. Justice Adnan-ul-Karim Memon

Date of hearing and Order: 28.08.2025

Mr. Ali Ahmed Turabi advocate for the petitioners
Ms. Wajiha Mehdi, Assistant Attorney General

ORDER

Adnan-ul-Karim Memon, J: The Petitioners request this Court to direct the respondents to regularize them as permanent LDCs based on the rule of consistency and settled law by the Supreme Court as well as this Court in C.P. Nos. D-2703/2009, Cp. No. D-2603/2010 (upheld by the apex court in Civil Appeal No. 2-K/2015 on 20.04.2017 and in C.P. No.D-7251/2017), to reinstate their pre-regularization basic salaries, declare the current Regularization Allowance unlawful, and affirm their right to pension and long-term benefits calculated from their initial date of joining based on their original salaries. Additionally, they ask the Court to direct respondents to issue orders for the regular promotion of the petitioners to the post of LDCs from the date they have been working in the post permanently.

2. The petitioners' counsel contends that the respondents have violated the petitioners' vested rights by treating them as temporary or officiating Lower Division Clerks (LDCs) despite them serving in this capacity for over 17 years. The counsel argues that since the petitioners were duly promoted to vacant LDC posts and have passed subsequent qualification tests, their promotions have become permanent with the passage of time. The counsel further claims that Respondent No. 1 is unlawfully interfering and usurping the authority of the respective Collectorates, which are the competent authorities for such promotions. The petitioners should be considered regular promotees and not temporary employees. In support of his

contention he relied upon the unreported order dated 11.04.2022 passed by this court. He lastly prayed for allowing the instant petition.

3. The Assistant Attorney General argued that the petitioners have no right to be promoted to positions reserved for direct recruits. They were only given a temporary "officiating charge" as LDCs to address a staff shortage due to a hiring freeze. She stated that the petitioners' claims are based on assumptions, as no orders have been issued to affect their rights. She further contended that the petitioners have already exceeded their promotion quota of 10% for Class-IV staff as per SRO 248(1)/88. The petitioners were never regularly promoted and cannot be considered permanent LDCs without being cleared by a Departmental Promotion Committee (DPC). She also noted that simply passing a typing test does not qualify them for regular promotion. The Assistant Attorney General concluded that the respondents have not violated any laws or subjected the petitioners to discrimination, and she requested the court to dismiss the petition.

4. We have heard the learned counsel for the parties and perused the record with their assistance.

5. The petitioners, who have been working as officiating employees for over a decade, filed a petition to be regularized. Their petition was granted based on previous court rulings that regularized other employees under similar circumstances. Prima facie, this is a matter of equality, not a dispute over terms and conditions of service, so the constitutional bar under Article 212 is not applicable.

6. In a previous case (Civil Appeal No. 2-K/2015), the Supreme Court of Pakistan upheld a High Court judgment that regularized employees who had been working in officiating capacities for over a decade. The Supreme Court's decision, dated April 20, 2017, affirmed that the employees were seeking regularization based on the principle of equality and previous

court rulings. The Supreme Court determined that the petition was not barred by Article 212 of the Constitution because it was not a matter of the employees' terms and conditions of service. As a result, the appeal was dismissed, and the regularization of the employees was allowed to stand.

7. The result of the above discussion is that the captioned constitutional petition is allowed in the terms of the ratio of the order dated 20.04.2017, as well as a judgment passed by the Hon'ble Supreme Court of Pakistan in the case of Director General Intelligence and Investigation, F.B.R., Islamabad, and others Vs. Muhammad Aslam Khan **2020 SCMR 1846**. The competent authority of respondents is directed to consider the serving petitioner as LDC with effect from the date when they were holding the post of LDC on an acting/ look after/officiating charge basis; and the benefits accrued thereon shall also be given to the petitioners, if not already paid to them. The aforesaid exercise shall be undertaken within two weeks, and a compliance report be submitted through MIT-II of this Court.

JUDGE

Head of the Cost. Benches