

**HIGH COURT OF SINDH, CIRCUIT COURT MIRPURKHAS**

**C.P No.D-644 of 2024**

*[Rehana & Others vs. Province of Sindh & Ors.]*

**Before:**

**Justice Muhammad Saleem Jessar**

**Justice Nisar Ahmed Bhanbhro**

Petitioners	Rehana and Others: <b>Through Barrister Jawad Ahmed Qureshi advocate</b>
Respondents	Province of Sindh & Ors: <b>Through Mir Naeem Talpur Additional A.G Sindh a/w Health Education Officer (Mohan Lal)</b>
Date of hearing	15.10.2025
Date of Judgment	22.10.2025

**J U D G M E N T**

**NISAR AHMED BHANBHRO, J:** Through this petition, the petitioners seek following reliefs:

- a) *Direct the respondents to regularize the service of petitioners from date of their appointment.*
- b) *Direct the respondents to release the salaries of the petitioners.*

2. Barrister Jawad Ahmed Qureshi, representing the petitioners argued that in view of the advertisement dated 28.02.2020, issued by the Health Department Government of Sindh inviting the interested aspirants for walk-in-interviews for the posts of Community Midwives (CMWs) in the office of District Health Officer Tharparkar @ Mithi, the petitioners applied for the subject post and they were declared successful in the interview; that,

however, the process of employment conducted through walk-in-interview was challenged before this Court through C.P No.D-34 of 2021 [*Re: Sandeep Kumar vs. Government of Sindh & Ors.*] and vide Order dated 07.01.2021 the said petition was allowed with directions to conduct recruitment through third party; that pursuant to directions of this Court, posts were readvertised; that the petitioners again applied and they were declared successful in recruitment test and appointed as CMWs on contract basis initially for a period of six months vide appointment order dated 21.12.2021; that respondent No.4 vide letter dated 28.12.2022 requested the respondents No.1 and 2 for extension in contract services of petitioners till 31.12.2024; that though the petitioners are regularly performing their duties without any negligence or complaint, however, they were lastly paid their salary in the month of February 2023 and since then they have been deprived of their salary which is their fundamental right and only source of their livelihood; that on 31.03.2023 the respondent No.3 issued a letter to respondent No.4 regarding extension of service of petitioners and payment of salaries from head of account of respondent No.4, but to no avail compelling the petitioners to seek indulgence of this Court for the payment of salaries and regularization of their services from the date of their appointment; lastly he prayed to allow the petition.

3. Contrary, learned Additional A.G contended that in the year 2019 a summary regarding restructuring of the Maternal Newborn and Child Health (MNCH) Program into the new designed CMWs cadre was approved by the competent authority/Chief Minister Sindh for five districts i.e Tharparkar, Kamber-Shahdadkot, Thatta, Sujawal and Jamshoro; that the recruitment process was initiated through advertisement and appointment letters were issued to successful candidates in the month of December 2021, specifying therein that the appointment is purely on contract basis; that then extension was granted to 95 CMWs with the approval of the competent authority i.e Chief Minister Sindh w.e.f 01.07.2023 to 30.06.2025; that the appointment letters contain a clause clearly specifying that these appointments are purely on contract basis, as such there is no legal instrument allowing the Health Department to consider the services of the petitioners for regularization; that two draft bills viz: The Sindh Contract Appointment (CPS-01 to 05) Act 2023 and The Sind Contract Appointment

(CPS-06 to 08) Act 2023 are under consideration with Service General Administration & Coordination Department Government of Sindh; that both these enactments relate to retention of the services of contractual employees for a longer period, however, have not yet been finalized; that presently there is no legal instrument, which may enable the Health Department to consider the contractual services of the petitioners for regularization, however, Health Department shall move a summary before the competent authority/Chief Minister Sindh for extension of service contract of 95 CMWs for two years w.e.f 01.07.2025 to 30.06.2027. He prayed for dismissal of the Petition.

4. Heard arguments and perused the material made available before us on record.

5. Scanning of the record reveals that the petitioners were appointed on contract basis as CMWs on completing all codal formalities, way back in the year 2021, and since then they are working against the subject post. Contract of service of Petitioners has been extended from time to time by the respondents. Perusal of the advertisement reflects that the petitioners were employed in Health Department under the provisions of Sindh Civil Servants Act 1973 and their services were subjected to the terms and conditions of disciplinary proceedings under Sindh Civil Servants (Efficiency and Discipline) Rules 1973, however it is admitted position that the services of the petitioners were hired on contract basis which they agreed to.

6. It is by now a settled principle that an employee cannot claim regularization in service as a matter of right. In absence of any statutory or legal backing, and in the absence of such a framework, courts cannot impose any obligation on the government to regularize the services of the employees on any ground including efflux of time. An employee who accepts the terms and conditions of the service on contract cannot claim regularization as his fundamental right and knock on the door of the Courts for the same purpose. The process of appointment is an internal affair of the department, if the department takes the service of an employee on contract basis, then the claim of the regularization cannot be accepted unless backed by the statute or any provision of law.

7. In the case of VICE-CHANCELLOR AGRICULTURE UNIVERSITY, PESHAWAR and others Versus MUHAMMAD SHAFIQ and others reported as 2024 S C M R 527 Honorable Supreme Court of Pakistan has held that:

*5. In order to understand the issue at hand, it is expedient to understand the regime of regularization which in essence means to make regular or permanent. Once the contractual services are regularized, the appointment can become substantive or permanent and cannot be terminated without due process. Therefore, the regularization of a contractual employee is a fresh appointment into the stream of regular appointment. The differences between a contractual employee and a regular employee is material for both the employee and the employer and, inter alia, include: (i) Duration of employment; a contractual employee is usually employed for a specific period or task, with a set end date. (ii) Benefits; contractual employee generally do not receive the same benefits or statutory protection as a regular employee. (iii) Scope of work; contractual employee is engaged for specific project or task. (iv) Flexibility; contractual employee often has more flexibility in terms of work hours and location. (v) Cost Considerations; a contractual employee can be less costly in the short term as it does not require benefits and other long-term financial commitments. (vi) Risk Management; hiring regular employee is often a long-term commitment, so organizations opt for contractual workers to manage risks associated with fluctuating market demands. Therefore, any institution opting for regularization of its employees must be either mandated by law or must carry out regularization through a well-thought out policy of the institution concerned laying down the criteria and the process for regularization; performance evaluation of the contractual employee must be assessed to determine if the employee meets the standards required for a regular position; there must be availability of positions that match the skills and experience of the contractual employee; the budgetary considerations and financial implication of a regular employee be weighed and considered. There must be a fair assessment of the employee's qualifications, performance and merit, so as to ensure only competent and committed employees be granted permanent*

*employment status.<sup>2</sup>Regularization is, therefore, not a ritualistic and mechanical exercise. It requires fresh assessment of the candidature of the contractual employee by the competent authority before he is made a regular employee as any such act carries long term financial implications on the institution concerned. The process of regularization is grounded in principles of fairness, openness, transparency, non-discrimination and public interest. Regularization therefore has a close nexus with institutional policy and autonomy.*

*6. It is well settled that there is no vested right to seek regularization for employees hired on contractual basis unless there is any legal or statutory basis for the same. The process of regularization requires backing of any law, rules or policy. It should adhere to the relevant statutory provisions and government policies. In the absence of any of the same, a contractual employee cannot claim regularization. Applying the principles settled by this Court to the proposition at hand, it becomes clear that the Respondents have no automatic right to be regularized unless the same has specifically been provided for in law or policy which in the present case is not available. Any regularization without the backing of law offends the principles of fairness, transparency and meritocracy and that too at the expense of public exchequer. The Impugned Judgment has also erred in law by failing to take into account that where a contractual employee wishes to be regularized, he must demonstrate statutory basis for such a claim, in the absence of which, relief cannot be granted solely on the principle of similarly placed persons. Article 25 of the Constitution has no application to a claim based upon other unlawful acts and illegalities. It comes into operation when some persons are granted a benefit in accordance with law but others, similarly placed and in similar circumstances, are denied that benefit. But where a person gains, or is granted, a benefit illegally, other persons cannot plead, nor can the court accept such a plea, that the same benefit must be allowed to them also in violation of law. Thus, the ground of discrimination also does not stand, because in order to establish discrimination it is important to show that the earlier act was based on law and policy, which has not been the case here. Thus, with respect to the first question raised, we are of the view that the regularization of the Respondents cannot take place without*

*the backing of any law, rule or policy and without an open and transparent process based on an objective criteria, as discussed above.*

*7. At this juncture, it is underlined that the process of regularization is a policy matter and the prerogative of the Executive which cannot be ordinarily interfered with by the Courts especially in the absence of any such policy. It does not befit the courts to design or formulate policy for any institution, they can, however, judicially review a policy if it is in violation of the fundamental rights guaranteed under the Constitution. The wisdom behind non-interference of courts in policy matters is based on the concept of institutional autonomy which is defined as a degree of self-governance, necessary for effective decision making by institutions of higher education regarding their academic work, standards, management, and related activities. Institutional autonomy is usually determined by the level of capability and the right of an institution to decide its course of action about institutional policy, planning, financial and staff management, compensation, students, and academic freedom, without interference from outside authorities. The autonomy of public institutions is not just a matter of administrative convenience, but a fundamental requirement for the effective functioning of a democratic society, as public sector organizations are guardians of the public interest. Democracy, human rights and rule of law cannot become and remain a reality unless higher education institutions and staff and students, enjoy academic freedom and institutional autonomy. More recently, the concept has in its longstanding and idealized form been well captured in the Magna Charta Universitatum 2020 that states ...intellectual and moral autonomy is the hallmark of any university and a precondition of its responsibilities to society*

*8. Courts must sparingly interfere in the internal governance and affairs of educational institutions i.e., contractual employments. This is because the courts are neither equipped with such expertise, nor do they possess the relevant experience that would allow for interference in such policy matters. Under this autonomous realm, educational institutions are entitled to deference when making any decisions related to their mission. At the same time, any transgression by Courts would amount to the usurpation of the power of another,*

*which would be against the spirit of Article 7 of the Constitution as it is not the role of the Courts to interfere in policy decisions. The judicial pronouncement of the Courts in other jurisdictions i.e., United States of America, United Kingdom and India also provide that that courts should not interfere in the internal affairs of educational institutions.*

8. Appointment in the civil service was purely the prerogative of the concerned department. The process of the recruitment depends upon availability of resources, need of the employees whether on regular or temporary basis. Appointment in civil service is basically a policy matter which falls squarely within the domain of the Executive, any interference in the policy issues may amount to usurpation of the executive powers and every possible effort be made by the Courts of law to avoid encroaching upon the exclusive domain of the executives. Pronouncements of the Honorable Supreme Court on the issue of regularization of the services of the employees underscored that regularization is not merely a procedural formality but a prerogative of the executive, reflecting its autonomy in determining institutional priorities and resource allocation, therefore, it should not be interfered with under the writ jurisdiction of this Court:

9. Honorable Supreme Court of Pakistan in the case of MOHSIN RAZA GONDAL and others Versus SARDAR MAHMOOD and others reported as 2025 S C M R 104 has held that:

*14. Even otherwise, any institution opting for regularization of its employees must be either mandated by law or must carry out regularization through a well-thought-out policy of the institution concerned laying down the criteria and the process for regularization; performance evaluation of the contractual employee must be assessed to determine if the employee meets the standards required for a regular position; there must be availability of positions that match the skills and experience of the contractual employee; the budgetary considerations and financial implication of a regular employee be weighed and considered. There must be a fair assessment of the employee's qualifications, performance and merit, so as to ensure only competent and committed employees be granted*

*permanent employment status. Reference in this regard may be made to the cases of Federation of Pakistan through Secretary, Ministry of Law and Justice Islamabad and another v. Fazal-e-Subhan and others (PLD 2024 SC 515); Government of Khyber Pakhtunkhwa through Secretary Forest, Peshawar and others v. Sher Aman and others (2022 SCMR 406); and Messrs State Oil Company Limited v. Bakht Siddique and others (2018 SCMR 1181). In the instant case, the regularization process of the petitioners lacks the backing of law, rules, or policy. In the absence of any of the same, an employee cannot claim regularization.*

10. The Sindh Civil Servants Act, 1973 (SCSA) is the governing law regulating the recruitment in civil service in the province of Sindh, whereas the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974 ('APT Rules') framed under section 25 of the SCSA govern the method of appointment. Rule 11 of the APT Rules provides that initial appointment to a post in basic pay scales 1 to 15 and equivalent shall be made on the recommendation of the Departmental Selection Committee after the vacancies have been advertised in newspapers. Rule 12 mandates that the candidates for initial appointment to a post must possess the prescribed educational qualifications and experience and must be within the age limit, except if otherwise provided in the rules framed for the purposes of relaxation thereof. Rule 3 of the APT Rules empowers the administrative department to determine the method of appointment and the qualifications and other conditions applicable to a post in consultation with the services department. The minutiae of the reply filed by the Health Department revealed that the appointment process of the petitioners was undertaken under the APT Rules, but their appointment letters clearly specified that the appointment was purely on contract basis and said fact too finds place in advertisement. It is for the department to take a decision with regard to the services of Petitioners and this Court cannot pass an order to straight away regularize the service of the Petitioners in absence of any law or statutory backing.

11. In the Case of GOVERNMENT OF THE PUNJAB through Chief Secretary, Punjab, Lahore and another Versus ZAKA ULLAH and others reported as 2025 SCMR 443 Honorable Supreme Court of Pakistan held that:



*12. In view of the aforesaid, we are of the opinion that the High Court totally exceeded its jurisdiction by misconstruing the para-wise comments and ignoring the record. Primarily, it was essential for the High Court to establish that regularization of the posts of zakat paid audit staff numbering 236 was approved by the cabinet and that the finance department had sanctioned the required budget. Secondly, the High Court should have considered the numerous judgments of this Court which set out the principles to be considered in cases pertaining to regularization and cannot in a slipshod manner direct the Chief Secretary, Punjab to regularize the Respondents and create provisioning from the supplementary grant. Issuing of such a direction clearly does not fall within the jurisdiction of the High Court. In this case, there is no approval by the cabinet and no approval by the finance department because the letter dated 28.05.2018 was in the context of cabinet committee's recommendation dated 06.11.2018. As per the record, the matter of regularization was never placed before the cabinet, hence, any recommendations as such create no right in favour of the Respondents. Had the record been examined and duly considered, this fact would have guided the order of the High Court.*

12. The stance taken by the Health Department for regularizing the services of the petitioners is correct that in absence of any statutory backing no such step can be taken. But at the same time anxiety of petitioners, for their future career cannot be ignored. More particular when the department is of the view that their services would be continued for a long period of time. The Petitioners by the passage of time have gained sufficient experience in the field and had become an invaluable asset for the department.

13. History of contractual appointments made by the Sindh Government in its various Departments reveals that, Government has remained vigilant to secure the future of contract employees, in order to regularize the services of contract employees, the Provincial Assembly of Sindh invented legislative instrument paving way for induction in regular service of employees appointed on contract and adhoc basis. The Sindh (Regularization of

Contract and Adhoc Employees), Act 2013 was enacted by the Provincial Assembly of Sindh to provide for regularization of the services of certain employees appointed on adhoc and contract basis or otherwise (excluding the employees appointed on daily-wages and work-charged basis) in the Province of Sindh. In compliance to such beneficial legislation services of the thousands of employees working in grade 1 to 18 in various departments and projects of the Government of Sindh were regularized in terms of the provisions of Section 3 of the Act which contained a non obstante clause, which reads as under:

*3. Notwithstanding anything contained in the Act or rules made thereunder or any decree, order or judgment of a court, but subject to other provisions of this Act, an employee appointed on adhoc and contract basis or otherwise (excluding the employee appointed on daily-wages and work-charged basis), against the post in BS-1 to BS-18 or equivalent basic scales, who is otherwise eligible for appointment on such post and is in service in the Government department and it's project in connection with the affairs of the Province, immediately before the commencement of this Act, shall be deemed to have been validly appointed on regular basis.*

14. In furtherance to protect the future of teachers appointed on contract, the provincial Assembly of Sindh enacted the Sindh (Regularization of Teachers appointed on Contract Basis) Act, 2018, which was again amended through ACT No XXX of 2021 to include and extend the benefits of regular service to the teachers appointed on contract basis in the years 2013, 2014, 2015, 2016 and 2017. In another legislative development on the subject of regularization, the Provincial Assembly of Sindh enacted "The Regularization of Doctors Appointed on Contract or Adhoc Basis Act 2018", SINDH ACT NO. XLII OF 2018 to provide for regularization of the services of all categories of doctors appointed on contract or adhoc basis in the Health Department or working in its Projects, Programs and Health Facilities. Section 3 of the Act read as under:

*3. Notwithstanding anything contained in the Act or rules made thereunder or any decree, order or judgment of a court, but subject to other provisions of this Act, all categories of Doctors appointed on*

*Regularization of services of doctors. contract or adhoc basis in the Health Department or its Regular Projects, Programs and Health Facilities, and holding such appointment on the commencement of this Act, shall be deemed to have been validly appointed to that post as a civil servant on regular basis, with effect from the date of commencement of this Act:*

*Provided that the orders of the regularization of services of a doctor shall be issued by the appointing authority subject to verification of his or her required qualifications by Health Department, Government of Sindh.*

15. The Sindh Assembly passed the Sindh (Regularization of Contract Employees of Khairpur Medical Colleged, Khairpur) Act, 2018, and in view of its Section 3(2) & (3), a committee was constituted to scrutinize the eligibility/qualification of employees appointed on adhoc or contract basis in the College by the Health Department, whereby the services of 83 contractual employees were regularized.

16. To the credit of the provincial Assembly of Sindh, to provide a legal cover and statutory backing to the contingency paid employees enacted “The Sindh (Regularization of Contingent Paid or Work-Charged Employees of Left Bank Outfall Drainage (LBOD) ACT, 2018” SINDH ACT NO. XL OF 2018, to provide for regularization of the services of employees appointed on contingent or work-charged basis in the Left Bank Outfall Drainage (LBOD) of Irrigation Department of Government of Sindh. This Act has its uniqueness that for the first time in the legislative history a legal cover was provided to the contingency paid employees working in any government department or establishment.

17. The legislation through the enactments referred supra extended the benefits of regular service to the employees appointed on contract or ad-hoc basis in various departments and projects including NPIW, National Program for Family Planning and Primary Healthcare, Doctors, Teachers Lady Health Worker, COVID – 19 Doctors etc. In the given situation, if the petitioners are left out and no decision as to their regularization is made, it will tantamount to an act of disparity and discrimination. According to the own admission of the respondents, the petitioners are working against the

subject post in five Districts of Sindh under Maternal Newborn and Child Health Program since 2021, their jobs are of regular in nature and the summary floated to the Chief Minister Sindh by the Health Department reveals that the said program is designed to ensure the quality services including anti-natal care, post-natal care, immunization, family planning and nutrition support besides the regular medical care and saving the lives of premature born child and mother. Looking to the importance of the project and the sacred services rendered by the petitioners, the Health Department has recommended for continuation of their services. It further transpires from the comments of the health department that two drafts bills viz: The Sindh Contract Appointment (CPS-01 to CPS-05) Act, 2023 and The Sindh Contract Appointment (CPS-06 to CPS-08) Act, 2023 are under consideration. The draft enactments are aimed at addressing the grievance of contractual employees in Health Department so that their services may be retained for longer period of time.

18. To enjoy the protection of law and to be treated in accordance with the law is the inalienable right of every citizen. Under articles 4, 9, 14, 25 and 27 of the Constitution an assurance of equality before law or equal protection of law, and no action detrimental to the life and liberty of any person can be taken without due process of law and no discrimination in any walk of life including services has been tendered. The objective of good governance can be achieved by exercising discretionary powers reasonably by adhering to the rules of justness, fairness and openness within the precincts of Articles 4 and 25 of the Constitution.

19. In the case of PROVINCE OF PUNJAB through Chief Secretary, Lahore and others Versus QASIM MEHMOOD and others reported as 2025 S C M R 14 Honorable Supreme Court of Pakistan has held that:

*9. To enjoy the protection of law and to be treated in accordance with law is an inalienable right of every citizen. The sagacity of Article 4 of the Constitution of the Islamic Republic of Pakistan, 1973 ("Constitution") accentuates the doctrine of equality before law or equal protection of law and no action detrimental to the life, liberty, body, reputation, or property of any person can be taken except in*

*accordance with law. In all fairness, the public functionaries are duty-bound to perform in good faith with sheer dedication but within the peripheries of their powers, to ensure equal treatment, being mindful to the tenets and precepts enshrined under Article 3 of the Constitution wherein the State is obligated to ensure the elimination of all forms of exploitation and commit to the gradual fulfillment of the fundamental principle: "from each according to his ability, to each according to his work," which is further fortified under Article 38 of the Constitution (Principles of Policy) wherein, yet again, the State has a duty to secure the well-being of the people by raising their standards of living and ensuring equitable adjustment of rights between employer and employees and providing for all citizens, within the available resources of the Country, facilities for work and adequate livelihood, and reducing disparity in income and earnings of individuals.*

20. Petitioners are rendering services in a remote area like Tharparkar, where finding a reasonable source of livelihood like civil service is a blessing of Almighty Allah. The Petitioners discharge their duties relating to the prenatal and postnatal care of the mothers and new born babies. The significance of the project can be measured from the fact that infant and child mortality rates according to the recent statistics, Pakistan falls high on the list. Pakistan is one of the countries that has the highest mortality rate for children under-five, surpassing the global rate of 37 deaths per 1000 livebirths as of 2020, leading with a child mortality rate of 65.2/1000. Around 70% of childhood deaths are due to infectious diseases, which can be attributed to the fact that only 58% of children at risk are vaccinated in Pakistan. The infant and child mortality rate in Tharparkar is much higher than the other parts of the country, for which the government of Sindh has initiated the MNCH program and Petitioners are working in the program since year 2021.

21. In our view, the provincial government should consider the case of the Petitioners for regularization through appropriate legislation, as issue of the financial implications is not involved and as per reply of the Health Department the MNCH program is likely to continue for many years to come. If the petitioners are retained in service for an indefinite period on

contract basis, the petitioners would not be able to get fruits of the blood burnt by them as they will not get any benefits of service at the end of the innings. This will result in disparity and tantamount to an act of exploitation, whereas it is obligation of the State to eliminate all kinds of exploitations as enshrined under Article 3 of the Constitution of Islamic Republic of Pakistan, 1973, which reads as under:

*“3. The State shall ensure the elimination of all forms of exploitation and the gradual fulfillment of the fundamental principle, from each according to his ability to each according to his work.”*

22. For the aforementioned reasons, we are of the considered view that the Petitioners have made out a case for indulgence of this Court under its writ jurisdiction. Consequently; this petition is allowed. In consequence whereof the respondent Health Department is directed to send proposal to the competent authority to consider the regularization of Petitioners, through appropriate legislation, as enacted to benefit the Contract Doctors, Teachers, employees of LBOD and NPIW project, mentioned supra. The respondent Health Department is also directed to release the salaries of the petitioners forthwith, if they have not been paid earlier.

23. Instant petition stands disposed of in the above terms. Office to send the copy of the order to the respondents for compliance.

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**J U D G E**

Sajjad Ali Jessar  
Approved for reporting  
22.10.2025  
Mirpurkhas