

IN THE HIGH COURT OF SINDH, KARACHI

Constitutional Petition No.D-4715 of 2023

[Syeda Ana Kazmi v. Government of Pakistan and others]

Before:

Justice Mohammad Karim Khan Agha
Justice Adnan-ul-Karim Memon

Petitioner : Syeda Ana Kazmi through Mr. Tahir Rahim,
advocate

Respondents : through Mr. Khalillah Jakhro, advocate

Dates of hearing
& Order : 10.9.2025

ORDER

Adnan-ul-Karim Memon, J. Petitioner was appointed as a Telex Operator (BS-11) under a government assistance program is seeking regularization of her job. She claims that while her colleagues appointed at the same time were made permanent employees, her own appointment has not been confirmed. She is concerned that instead of being made a permanent Telex Operator, she may be forced into a lower-level position as a Dog Handler (BS-07).

2. The petitioner's lawyer argues that she deserves to be made a permanent Telex Operator (BS-11) under the Prime Minister's Assistance Package, just like other employees. Her position should not be downgraded to a lower-grade job. The lawyer also claims that because her job is similar to that of an Upper Division Clerk (UDC), she should be considered for a promotion to BS-13. The lawyer asserts that the petitioner is being unfairly treated and denied the same rights and benefits guaranteed to other citizens under the Constitution. The petitioner has a clean service record, and the lawyer is asking the Court to allow the petition.

3. The learned Assistant Attorney General, without filling the comments, stated that the employment provision of the Prime Minister's Assistance Package (PMAP) was withdrawn on October 18, 2024, due to a Supreme Court judgment. While other benefits of the package remain, the option for new employment under the PMAP is no longer available for in-service deaths. Previously, the package allowed for both contract and regular appointments. However, in 2022, the government shifted policy to favor regular appointments over contracts to align with the Civil Servants (Appointment, Promotion and Transfer) Rules, 1973.

4. We have heard the learned counsel for the parties on the subject issue and have gone through the record of the case file.

5. Adverting to the question of regularization of service of the petitioner, we may observe that the law on the regularization of service is clear in its concept, according to which regularization and permanent absorption must be granted strictly under the rules of recruitment in force. Principally, this Court, while exercising powers under Article 199 of the Constitution, cannot issue directions for regularization, absorption, or permanent continuance of service of an employee, unless the employee claiming regularization has been appointed in an open competitive process, in pursuance of regular recruitment, under the relevant rules against a sanctioned vacant post.

6. It is a well-settled principle of law that for public employment, unless the appointment is in terms of the relevant rules and after a proper competition amongst qualified persons, the same would not confer any vested right upon the appointee. If it is a contractual appointment, the appointment comes to an end upon expiration of the contract, and if it was an engagement or appointment on daily wages or casual or contract basis, the same would come to an end upon the completion of the agreed assignment or tenure. It is also well-settled that a temporary employee cannot claim permanent status at the end of his term as a matter of right. It is clarified that if the original appointment was not made by following the due/prescribed process of selection, as envisaged by the relevant rules, a temporary / contract employee or a casual wage worker cannot be absorbed in regular service or made permanent merely for the reason that he was allowed to continue the service beyond the terms of his appointment. It is not open for this Court to allow regular recruitment in the case of a temporary / contract employee whose period of work has come to an end, or of an ad-hoc employee, who by the very nature of his designation could not be said to acquire any right in this regard.

7. Having discussed the legal aspect of the case, we have perused the appointment order of the petitioner, which was admittedly a contractual appointment for a certain period or an extended period at the choice of the appointing authority. The case of the petitioner was/is subject to the principle of Master and Servant. It is well-established law that a contractual employee cannot claim any vested right, even for the regularization of his service. In the present case, the petitioner has not established that she has a fundamental right or has acquired any vested right to remain in the contractual post or to seek an extension and/or regularization of her contractual service. However, the service is still intact, the relegation to lower position without hearing is to be determined by the respondent department within reasonable time.

8. In view of the above discussion, the petition is not maintainable either on facts or on the law. However, before parting with this case, it may be observed

that every person has a right to approach a Court of law for redressal of his/her grievance, whether such grievance is against a private party or a public functionary. Article 199 of the Constitution restricts such right only to an aggrieved person, as contemplated under the said Article, who is aggrieved by any action or order of a public functionary or department or the Provincial or Federal Government. A person coming to Court must be fully aware of his/her rights, i.e., whether he/she is entitled to such rights or not. We thus observe that despite the legal position established in view of the plethora of pronouncements by the Hon'ble Supreme Court as discussed above, the present petitioner has filed this petition seeking a relief of which she was/is not entitled to under the law.

9. In light of the above facts and circumstances of the case, this petition is found to be misconceived and is accordingly dismissed, along with the pending application(s), with no order as to costs.

JUDGE

HEAD OF CONST. BENCHES