

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD**

C.P No. D-96 of 2024
[Arif Masih and others v. Province of Sindh and others]

Before:
JUSTICE ADNAN-UL-KARIM MEMON
JUSTICE RIAZAT ALI SAHAR

Petitioners: Arif Masih and others through
Mr. Muhammad Irfan Chandio,
Advocate

Respondents: Province of Sindh & others
through Mr. Rafique Ahmed
Dahri, Assistant AG along with
Ahmed Khan RFO, SBA.

Date of Hearing: 11-11-2025

Date of Judgment: 11-11-2025

JUDGMENT

RIAZAT ALI SAHAR, J: - Instant petition was dismissed for non-prosecution vide order dated 24.02.2025. However, petitioners filed Miscellaneous Application No.1877/2025, which is allowed and the matter is restored to its original number as it stood on 24.02.2025. Through this Constitutional Petition, the petitioners seek the indulgence of this Court for the protection of their fundamental rights, having served the Forest Department for several years with honesty and dedication but being unjustly denied regularisation despite entitlement under law. Thus, seeking following reliefs:

“a. To direct the respondents to regularize the services of the petitioners in the Forest Department, Government of Sindh, as earlier other employees working on work-charge/contract basis have already been regularized under the orders of the Honourable Supreme Court of Pakistan and the Honourable High Court of Sindh, Circuit Court Hyderabad, vide orders dated 16.11.2017 and 11.01.2023 passed in Civil Petition No.687-K/2016, 613-K/17 in CP 687-K/2016 & 614-K/17 in CP 687-K/16 and Constitutional Petition No.D-2454/2015.

b. Any other relief, which this Honourable Court may deem fit and proper, may also be awarded to the petitioners.”

2. Learned counsel for the petitioners submits that the petitioners are law-abiding citizens who have been serving the Forest Department in various capacities for several years on a work-charge and fixed-pay basis. Despite rendering long, honest, and satisfactory service without any complaint, their services have not been regularised, whereas other similarly placed employees have already been granted such benefit pursuant to the judgments of the Honourable Supreme Court of Pakistan and this Court. It is further contended that the petitioners have been continuously approaching the authorities for regularisation, but their genuine requests have been ignored without lawful justification, amounting to discrimination and violation of Articles 25 and 27 of the Constitution. Hence, the petitioners have invoked the constitutional jurisdiction of this Court under Article 199 for enforcement of their fundamental rights and for directions to the respondents to regularise their services in accordance with law.

3. Upon notice, the Divisional Forest Officer submitted comments, wherein the claims of the petitioners were partially denied. It was stated that petitioner No.1 had been engaged purely on a **work-charge basis** as a Tube Well Chowkidar at a fixed pay of Rs.2,500/- per month for a limited period from 01.07.2004 to 30.06.2005, under the development scheme titled “*Poverty Alleviation in Lower Sindh through Adoption of Apiculture Practices*” as recommended by the Director Sericulture, Sindh Forest Department, Hyderabad. Upon completion of the said scheme, his services were discontinued. The respondents further alleged that the appointment documents produced by petitioners No.2 and 3 were fake, fabricated, and **managed**, asserting that no such record existed in the Hyderabad Division. It was maintained that the petitioners did not fall within the ambit of *The Sindh (Regularization of Adhoc and Contract Employees) Act, 2013*, as

they were engaged on daily-wage or work-charge basis, which is excluded from the scope of the Act. Regarding petitioner No.4, it was explained that he had been engaged as a Protection Beldar on work-charge basis at a fixed pay of Rs.13,000/- per month for a specific period ending on 30.06.2017, and his services were discontinued thereafter due to lack of funds under the non-development budget. The respondents categorically denied any demand of money for regularisation, contending that all other employees had been regularised strictly in compliance with orders of the Courts. It was further asserted that no violation of any law or constitutional provision had been committed by the respondents, and that the petitioners' claim for regularisation was neither sustainable nor supported by law. The respondents maintained that if the petitioners wished to continue service in the Forest Department, they may apply afresh as and when posts are advertised in accordance with the prescribed recruitment rules, where preference would be given to work-charge employees subject to available vacancies. Accordingly, it was prayed that the instant petition be decided by this Court as deemed appropriate.

4. We have heard the learned counsel for the petitioner, learned A.A.G. Sindh for the respondents and perused the material available on record very carefully. It is observed that the process of regularisation falls within the ambit of policy matters and constitutes an exclusive prerogative of the Executive, which ordinarily does not warrant judicial interference, particularly in the absence of any declared or existing policy framework. Reliance in this regard is placed upon the judgment of the Honourable Supreme Court in the case of Government of Khyber Pakhtunkhwa v. Sher Aman (2022 SCMR 406), wherein it was held as follows:—

“14. Regularization is a policy matter which necessarily requires backing of the law. In the absence of any law, policy or rules, an employee cannot knock on the door of the High Court for regularization of his/her services.....

16. *It is not denied by either side that all of the Respondents were appointed on temporary posts as stipulated in their employment contracts. We note that the learned High Court has not adverted to this aspect of the case and has simply applied the principle of “similarly placed employees” to grant relief to the Respondents. It has specifically been mentioned in the appointment orders of the Respondents that they cannot claim regularization and further, that they are employed on contract for a specific period of time. In this view of the matter, the learned High court has incorrectly applied the law to the cases of the respondents. We find the view of the learned High Court is neither supported by the law nor the policy of regularization and is patently erroneous. Further, it is not in consonance with the settled principles of law on the subject and is therefore unsustainable”.*

Likewise, in the case of **Province of Punjab v. Ahmed Hussain (2013 SCMR 1547)**, the Honourable Supreme Court of Pakistan was pleased to hold as follows:

“No regularization can be claimed as a matter of right unless there is a clear policy decision or legislative backing. Daily wages employment does not create a vested right for absorption in permanent service”.

Similarly, in the case of **Faraz Ahmed v. Federation of Pakistan through Secretary, Ministry of Communication, Government of Pakistan, Islamabad (2022 PLC 198)**, the Honourable Supreme Court was pleased to hold as under:

“8. The bone of contention was whether the petitioner, being a contractual employee, had any vested right for regularization or absorption in the newly created cell, and whether a certain length of contractual services could be considered to give rise to a legitimate right to be permanently absorbed. On the contrary, in the various dictums laid down by this Court it was repeatedly held that contractual employees have no vested right to regularization, but their regularization may be considered subject to the fitness, suitability and the applicable laws, rules and regulations of the Department. In the case of Khushal Khan Khattak University through Vice-Chancellor and others v. Jabran Ali Khan and others (2011 SCMR 977), this Court held that it is settled law that there is no vested right to

seek regularization for employees hired on contractual basis unless there was legal and statutory basis for the same. In the case of Government of Khyber Pakhtunkhwa, Workers Welfare Boarded through Chairman v. Raheel Ali Gohar and others (2020 SCMR 2068), this Court held that contractual employees have no automatic right to be regularized unless the same has specifically been provided for in the law. The judgment of this Court in Civil Petitions Nos.4504 to 4576,4588 and 4589 of 2017 dated 08.01.2013 was also quoted in which it was held that contractual employees have no right to be regularized until there is a law provided to that effect and we are not confronted with any such legal proposition. They have to serve till the pleasure of their master and, in case of any wrongful termination, they cannot seek the reinstatement. At the best, they can only have the compensation for the wrongful termination by applying to the competent court of law. Whereas in the case of Chairman NADRA, Islamabad, through Chairman, Islamabad and another v. Muhammad Ali Shah and others (2017 SCMR 1979), it was held that till such time that the employees were regularized they would continue to be governed by the terms and conditions of the contract which they had with NADRA. The writ or constitutional jurisdiction of the High Court under Article 199 of the Constitution could not be invoked by a contractual employee of a statutory organization, such a NADRA (see Pakistan Defence Officers' Housing Authority v. Jawaid Ahmed reported as 2013 SCMR 1707, Pakistan Telecommunication Co. Ltd. v. Iqbal Nasir reported as PLD 2011 Supreme Court 132 and P.T.C.L v. Masood Ahmed Bhatti reported as 2016 SCMR 1362). In the next case of Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and others v. Intizar Ali and others (2022 SCMR 472), it was held that temporary employees have no vested right to claim reinstatement/regularization. This Court in a number of cases has held that temporary/contract/project employees have no vested right to claim regularization. The direction for regularization, absorption or permanent continuance cannot be issued unless the employee claiming regularization had been appointed in pursuance of a regular recruitment in accordance with relevant rules and against the sanctioned vacant posts, which admittedly is not the case before us. In the case of Vice-Chancellor, Bacha Khan University Charsadda, Khyber Pakhtunkhwa and others v. Tanveer Ahmed and others (2022 PLC (C.S) 85), it was held that a person employed on a contract basis

has no vested right to regularization. Similarly, in the case of Pakistan Telecommunication Company Ltd. V. Muhammad Samiullah (2021 SCMR 998), it was held that an ad hoc, temporary or contractual appointment does not create any vested right of regularization in favour of the appointee. In the case of Government of Khyber Pakhtunkhwa through Secretary Forest, Peshawar and others v. Sher Aman and others (2022 SCMR 406), it was held that contract employee have no vested right to be regularized. While in the case of Deputy Director Finance and Administration FATA through Additional Chief Secretary FATA, Peshawar and others v. Dr. Lal Marjan and others (2022 SCMR 566), it was held by this Court that that regularization is not a vested right but requires a statutory basis which is admittedly absent in the instant case. Where a contractual employees wishes to be regularized, he must demonstrate stator basis for such a claim, in the absence of which, relief cannot be granted solely on the principle of “similarly placed persons”.

5. Furthermore, it is submitted that the petitioners were engaged purely on a **daily-wages** and fixed monthly salary basis, and as such, their appointments do not fall within the ambit of *The Sindh (Regularization of Adhoc and Contract Employees) Act, 2013*. The statutory language of Section 3 of the said Act explicitly provides that “***an employee appointed on adhoc and contract basis or otherwise (excluding the employee appointed on daily wages and work-charged basis)***” may be considered for regularisation. The legislative intent behind this exclusion is clear — the benefit of regularisation was intended solely for employees appointed on an **adhoc** or **contractual basis**, and not for those engaged on a **daily-wages** or **work-charge** arrangement, which by their very nature are temporary, non-pensionable, and dependent upon the continuity of specific schemes or funds. In the present case, the petitioners were appointed under time-bound development schemes, which were subsequently discontinued in 2017, thereby automatically terminating their engagement. Once the project came to an end, the contractual relationship between the petitioners and the department ceased to exist in

law. The petitioners have also failed to satisfactorily explain the inordinate delay and laches in approaching this Court after the cessation of their employment, which further weakens their claim for discretionary relief under Article 199 of the Constitution. It is now a well-settled principle of law that the regularisation of service is not a vested right, and the Court must exercise utmost restraint in interfering with matters concerning executive policy and administrative discretion, particularly when the appointments were made without following due process or outside sanctioned strength. In these circumstances, and given that the underlying scheme itself has been halted, no direction for regularisation can be judicially sustained, as such intervention would not only contravene the express provisions of the 2013 Act but would also disturb the established financial and administrative discipline of the department.

6. However, when it comes to the aspect of discrimination, it is vividly clear that the petitioners have been subjected to departmental discrimination, whereby certain employees, namely *Ali Gul* and *Arbab Khoso*, were regularised upon the advice of the Learned Advocate General pursuant to the order of this Court. It is pertinent to note that in their respective appointment orders, it is clearly mentioned in Clause 1 that, ***“his employment is purely temporary and his services can be terminated at any time without assigning any reason.”*** Despite such a temporary nature of employment, they were regularised, whereas the same treatment has not been extended to the petitioners, who have rendered long and blemish-free service to the Department. Conversely, the respondents have contended that the petitioners may apply for the said posts through proper channel, subject to availability of vacancies, while asserting that ***“first preference will be given to work-charge employees.”*** This stance, however, reinforces the discriminatory treatment meted out to the petitioners, who squarely fall within the same category. In view thereof, it is just

and proper that the petitioners be permitted to apply through proper channel, if they so wish to continue serving in the Forest Department, and the respondents be directed to accord them due preference, particularly in light of their long-standing service record free from any complaint.

7. In view of the foregoing discussion, the instant petition stands **disposed of in the above terms**, with direction to the respondents to consider the case of the petitioners for appointment through proper channel, if they so desire to continue serving in the Forest Department, while ensuring that due preference is accorded to them in accordance with law and departmental policy, keeping in view their past service record which remained without any complaint.

JUDGE

JUDGE

Abdullahchanna/PS