

JUDGMENT SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD. **JUDICIAL DEPARTMENT.**

W.P. No. 2073/2019.

Jahnzeb, etc.

Versus

Federation of Pakistan, etc.

Petitioners by: Mr. Ali Nawaz Kharal, Advocate.

Respondents by: Barrister M. Mumtaz Ali, AAG.
Mian Aamir, Superintendent, office of
Commissioner Afghan Refugees, KPK.

Date of Decision: 09.07.2020.

MOHSIN AKHTAR KAYANI, J: Through this Writ Petition, the petitioners have prayed for issuance of direction to the respondents for reinstatement and regularization of their services in the light of judgments passed by this Court in ICA No.398/2017, W.P No.2519/2016 and W.P No.3730/2017 dated 21.06.2018.

2. Learned counsel for the petitioners contends that petitioners are working with respondents No.1 & 2 since long but they have not been declared permanent employees of Afghan Commissionerate despite the fact that other employees have been confirmed on the basis of judgment dated 10.09.2014 passed by this Court in W.P No.1703/2014 with direction to the Sub Committee of the Cabinet to consider the cases of employees of Afghan Commissionerate for regularization of their services and they be declared permanent employees for pensionary benefits even under regularization policy but respondents have not considered the cases of the petitioners despite directions passed in different cases. Learned counsel for the petitioners has relied upon 1995 SCMR 650, 2005 SCMR 25, 2001 PLC (CS) 1162 and 2001 SCMR 256 and further contends that denial of regularization and increase in pay is against the doctrine of legitimate

expectancy and is considered to be violation of Articles 4 & 25 of the Constitution of Islamic Republic of Pakistan, 1973.

3. Conversely, learned AAG alongwith official of respondents contend that all the petitioners have been retrenched in the year 1995 and they are not employees of Afghan Commiossionerate and they have performed their duties with NGO namely BEFARe and they have not appended any record to justify that they are employees of Afghan Commissionerate or they have performed their duties with Afghan Commissionerate. Respondents' side has drawn the attention of this Court towards appended letter dated 29.05.2001, issued by Commissionerate, Afghan Refugees in which it is mentioned that petitioners are working in ARPS Hajizai camp under management of GTZ/B.E.F.A.R'e funded by UNHCR budget programme, as such they are not entitled for any relief, nor the writ is competent; that instant writ petition is hit by *laches*, whereby petitioners have failed to explain the delay in filing of instant writ petition against the actions of Afghan Commissionerate or the Federation of Pakistan, even they were on contract having no force to agitate the same through constitutional jurisdiction.

4. Arguments heard, record perused.

5. Perusal of record reveals that petitioners are claiming that they were employees of Afghan Commissionerate and other similarly placed employees were given permanent positions. However, at this stage learned counsel for the petitioners has failed to append any document nor able to demonstrate his case regarding permanent employment of the petitioners. Respondents have taken a specific stance that all the petitioners were appointed on contract basis in education project, which has already been closed and education activities were handed over to an NGO namely Basic Education for Afghan Refugees (BEFARe) after 1995 and petitioners were given retrenchment benefits. The entire record is presently with the international organization GTZ/BEFARe and as such

respondents have nothing to do with the petitioners. Even otherwise, petitioners have slept over for a considerable time over their rights and have failed to satisfy this Court in this regard. The petitioners have otherwise relied upon judgments of this Court passed in ICA No.398/2017, W.P No.2519/2016 and W.P No.3730/2017 dated 21.06.2018, which are presently under adjudication with the Apex Court in C.P No.3431 & 3433/2018 but the case of the petitioners is entirely different from those cases as petitioners in those cases were employees of Afghan Commissionerate and performing their duties whereas petitioners were retrenched and they have not produced any document to justify that they are performing their duties as of today with Afghan Commissionerate and as such petitioners relationship in the cases of Afghan Refugees is governed by the NGO GTZ/BEFARe, which does not fall within the mandate of Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 and no legal right has been accrued in favour of petitioners for adjudication of this Court.

6. In view of above, petitioners have failed to demonstrate their right, hence, instant writ petition is not maintainable and the same is hereby dismissed.

(MOHSIN AKHTAR KAYANI)
JUDGE

Zahid