

JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT,
ISLAMABAD

Writ Petition.No.2715/2018

Lt.Col.(Retd) Dr.Muhammad Amjad Khan etc.

Vs.

Federation of Pakistan etc.

Petitioners by : Raja Saif ur Rehman, Advocate
Respondents by : Mr.Muhammad Salman Ajaib.
G.M.Jakhrani, Deputy Director Litigation,
Ministry of National Health.
Date of decision : 15.10.2019

MOHSIN AKHTAR KAYANI J. Through this writ petition, the petitioners have prayed for the following relief:-

In the light of what has been stated above it is humbly requested that a declaration may kindly be passed in favour of petitioners to the effect that:-

- i) Petitioners are regular employees after successfully completing their probation period and cannot be treated as temporary employees.*
- ii) Petitioners termination by way of issuance of a "Lable" on plain paper is against the law and liable to be set aside and petitioners be reinstated back into service with all back benefits.*
- iii) Petitioners have been meted with discrimination which needs to be removed by treating petitioners in similar manners as done in case of their colleagues.*
- iv) Any other relief not specifically prayed for may also be granted if deemed appropriate by this Honourable Court.*

2. Learned counsel for the petitioners contends that petitioners were appointed on different posts in Directorate of Tuberculosis/National TB Control Program on contract starting from 24 December, 2007. It is further contended that upto 2005 Directorate of Tuberculosis was an attached department of Ministry of Health and later on it became a subordinate office of Ministry of Health whereby petitioners have successfully completed their probation period and they are entitled to be treated as confirmed employees in terms of law and

have become regular employees but the respondent department has terminated their services without any show cause notice or inquiry in an unlawful manner whereas some other colleagues of the petitioners have been placed in different positions after completion of probation period and they are still working, therefore, the services of the petitioners be declared regular and their orders of termination of services be set-aside.

3. Conversely, learned counsel for respondents and learned Assistant Attorney General contend that petitioners were engaged on contract in National TB Control Program which was funded by the Global Fund to fight against AIDS, T.B. & Malaria and as such they could not claim regularization of their services as their contract stands expired on 31.12.2017, therefore, they have ceased to be employees of respondent No.3. It is further contended that writ petition is not competent as terms and conditions of service of petitioners are based upon contract which otherwise are non-statutory.

4. Arguments heard. Record perused.

5. Perusal of record reveals that petitioners were appointed on contract basis on different positions in National TB Control Programme which was funded by the Global Fund to fight against AIDS, T.B & Malaria. The terms and conditions of the contract spells out their status referred in Clause I in which tenure/period of contract has been referred as one year. The terms of the contract spells out that the terms and conditions are governed NTP Global Fund Project HR Policy. The relevant extract of Clauses 1, 8, 13 and 15 are hereby reproduced as under:-

1. **Tenure/Period of Contract.** *This contract shall be enforced from 1st January, 2017 and shall expire on 31st December2017. The contract will be renewed after the approval of competent authority (National Program Manager) subject to funds availability.*

8. **Discipline & General Conduct.** *The employee shall conform and abide by the rules and regulations of the program and carry out all directives enunciated under NTP GF Project service rules.*

13. **Incentives.** You would be entitled for an incentive based enhancement of your basic salary on your Annual Performance Evaluation as per NTP GF Project HR Policy in line with salary survey recommendations.

15. **Other Matters.** In respect of other matters not specified in this contract you will be governed by the rules/regulations defined in NTP's GF Project HR Policies.

6. There is no denial to the proposition that the contract of the petitioners has already been expired and contract employees neither allowed to claim reinstatement of service nor they are entitled to claim the regularization of services under any circumstances rather they are debarred from approaching the High Court in its Constitutional jurisdiction. The only remedy available to a contract employee was to file a suit for damages alleging breach of contract or violation to extend the contract. The reliance is placed on case law titled **Qazi Munir Ahmed Versus Rawalpindi Medical College and Allied Hospital (2019 SCMR 648).**

7. Keeping in view the above, instant writ petition is not competent and same is hereby **dismissed.**

(MOHSIN AKHTAR KAYANI)
JUDGE

M.S.ZAKI.