

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**Present:**

Mr. Justice Amin-ud-Din Khan  
Mr. Justice Muhammad Ali Mazhar  
Mr. Justice Irfan Saadat Khan

**Civil Petition No.3520 of 2020**

Against the judgment dated  
22.09.2020 passed by Lahore High  
Court, Rawalpindi Bench, in  
W.P.No.2572/2018

Province of Punjab thr. Chief Secretary, Lahore & ...Petitioners  
others

**Versus**

Qasim Mehmood & others ...Respondents

For the Petitioners: Barrister Muhammad Mumtaz Ali, Addl.  
AG. Punjab

For Respondent No.1,3,4, Mr. Muhammad Shoaib Shaheen, ASC  
& 6-8:

Date of Hearing: 09.10.2024

**Judgment**

**Muhammad Ali Mazhar, J.** This Civil Petition for leave to appeal is directed against the judgment dated 22.09.2020, passed by the learned Lahore High Court, Rawalpindi Bench, in W.P.No.2572 of 2018.

2. The short-lived facts of the case are that the respondents were performing their duties as Teachers in the School Education Department, Government of Punjab, under the Continuous Professional Development (**CPD**) scheme, for which the Governor of the Punjab sanctioned a hefty budget through the Supplementary New Estimate (SNE) during the year of 2006 and 2007, for the creation of a number of posts of District Teacher Educators (**DTEs**)

at the Cluster Training Sports Centre (**CTSC**). According to the terms and conditions, the DTEs were required to serve at least for a period of 3 years from the date of joining under the CPD programme, which was discontinued on 05.05.2017, and their services were repatriated to their parent department for adjustment *vide* letter dated 19.06.2017. According to the petitioners, the Punjab Regularization of Service Act, 2018 ("**Act**") was promulgated for the regularization of contract employees only, whereas the respondents were hired against temporary posts created under the CPD programme which discontinued on 05.05.2017. The respondents, after the discontinuation of the CPD programme, filed the Writ Petition No.2572/2018 in the Lahore High Court, Rawalpindi Bench, which was disposed of *vide* the impugned order, with the observation that the petitioners/respondents were contract employees for more than 3 years hence the department is liable to consider them for regularization under the Act. While relying on an earlier judgment of the same High Court in the case of Mst. Nabila Niaz etc. v. Secretary Health etc. (**2020 PLC (C.S.) 675**), the learned High Court held that the Scrutiny Committee shall forward its recommendations to the appointing authority, after due verification of academic records and scrutiny of the relevant documents to determine whether the conditions stipulated in Section 3 (2) of the Act are fulfilled. Subsequently, the contract employees who fulfill the conditions to the satisfaction of the Scrutiny Committee or the Commission shall be entitled to regularization under the aforesaid Act.

3. The learned Additional Advocate General, Punjab ("AAG"), argued that the respondents concealed the facts of the earlier litigation whereby they challenged their repatriation to their parent departments but the Constitution Petition was dismissed and the judgment was upheld by this Court. He further argued that the High Court had ignored a crucial fact that the services of the respondents were discontinued on 05.05.2017 and they were repatriated on 19.06.2017. The learned AAG referred to ground (f) of the paper book and argued that the respondents are already regular civil servants and so, they cannot be considered for regularization under the law, hence the impugned judgment passed by the Lahore

High Court is based on a misreading and/or non-reading of the entire record.

4. The learned counsel for the respondents argued that the respondents were selected through a competitive process and appointed as DTEs. The Government of Punjab regularized the services of the employees working in the Education Department, however, on 05.05.2017, *vide* the Punjab Government's notification, 4515 posts of District Training & Support Centers were abolished on account of discontinuation of the CPD programme on the pretext that the Finance Department will be approached for the creation of new posts for addressing the shortage of Secondary School Educators. He further argued that *vide* letter dated 19.05.2017, all DTEs were ordered to be repatriated to the posts where they were working before their selection, despite the fact that the CPD programme was not a time-bound project as the teachers' training for the enhancement of their professional skills and providing mentorship in the classroom for coaching the teachers for the improvement in the overall quality of education is an ongoing and permanent activity. It was further contended that the petitioners are discriminating against the DTEs and favoring their counterparts, the Teacher Educators (TEs), who were selected through a similar process but have been regularized. Therefore, the respondents had approached the learned High Court for restoration of their previous status and also sought directions in the Writ Petition against the department to regularize their services as DTEs (BS-16).

5. Heard the arguments. The inventiveness and prescience of the Act was to provide an opportunity to certain employees, serving on contractual basis, to be appointed on a regular basis, and the Act was made applicable to all contractual employees performing their duties in different Government Departments having completed 3 years of continuous service before or after the commencement of the Act. According to Section 2 (Definitions clause), clause (c), "contract employee" means an eligible person appointed on contract in a department immediately before the commencement of the Act but does not include a person appointed to a post in a project, programme, project management unit, project management office,

time bound (one-time) development activity or as work-charged employee or an employee on daily wages, and according to clause (f), "regularization" means the appointment of an eligible contract employee on regular basis, with immediate effect, in accordance with the Act. The Act depicts the intention of legislature that in order to strengthen the enforceability of the aforesaid Act across the board without any discrimination, by clearly expounding under Section 3 that notwithstanding the mode or manner of appointment, or any deficiency or defect in the procedure or anything contained in the Punjab Civil Servants Act 1974, the rules framed thereunder or any recruitment policies, any person appointed on contract, immediately before the commencement of the Act, shall be deemed to have been validly appointed and such appointment shall not be called in question. [*Emphasis supplied*]

6. If we look at Section 4 of the Act in juxtaposition, it in fact bifurcates the procedure of the regularization of contract employees in different stages and categories. For instance, the case of a contract employee appointed on the recommendations of the Commission (Punjab Public Service Commission) shall be submitted to the appointing authority for regularization without reference to the Commission or the Scrutiny Committee, but if the post falls within the purview of the Commission yet the contract employee was appointed otherwise than on the recommendations of the Commission, the case shall be referred to the Commission for recommendations, and finally, if the post is outside the purview of the Commission, the case of the contract employee shall be placed before the Scrutiny Committee constituted under the Act for recommendations.

7. Seemingly with the aim of dealing and tackling with the issue of regularization of services of those contract employees who are found far afield the dominion of the Commission, the Scrutiny Committee constituted under the Act is to be entrusted for recommendations, and Section 5 commands that the appointing authority shall constitute one or more Scrutiny Committees for the purposes of the Act to scrutinize the academic record and other relevant documents of the contract employee and verify that the contract employee is eligible and qualified for regularization and then forward

recommendations to the appointing authority. According to the acumen of the legal framework articulated under Section 11 of the Act, all contract employees, upon their regularization, cease to be governed by the Contract Appointment Policy, 2004, and the terms and conditions of their service shall be regulated under the Punjab Civil Servants Act, 1974, and the rules framed thereunder.

8. By the same token, it is too attention-grabbing that in the same Act, a window for an aggrieved person has been created in the form of Appeal and Review under Section 12, whereby a contract employee being aggrieved and dissatisfied by a final order of the appointing authority may, except where the order has been made by the Chief Minister, within thirty days from the date of communication of the order, prefer an appeal through the concerned department to the Appellate Committee constituted by the Chief Minister by notification in the official Gazette, and in case the final order is passed by the Chief Minister, the aggrieved contract employee may submit a review petition within thirty days through the concerned department to the Chief Minister. Both the remedies are provided with the rider that the decision of the competent authority shall be final.

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.

10. There is no improbability in our mind to put into clear words that the Act was promulgated with the fair intention to accommodate and regularize the services of the contractual employees who gave their blood, toil, tears, and sweat for many years. Therefore, it is the responsibility of the Government to apply and allow the benefit to all employees placed in equal and similar circumstances without any discrimination, and not to pick and choose the employees for conferring the benefit or advantage of this law. The implementation of the Act should be unbiased and nondiscriminatory, rather it should be evenhanded, fair and square. When the law giver enacts any beneficial law, it must be implemented across the board with assiduousness and meticulousness without any conservative or rigid approach. It is often seen that the implementation of beneficial statutes meant for civil servants and labourers are unnecessarily delayed, which forces the deprived persons to knock the doors of the courts. If the implementation is made in its letter and spirit within a reasonable period of time, then this of course would also decrease unnecessary burden on the court's docket.

11. Last but not least, if we look at the pith and substance of the impugned judgment of the High Court, it only holds that the respondents are liable to be considered for regularization under the Act and the appointing authority was directed to send their cases for consideration to the competent authority and, till the determination of eligibility, the services of the respondents shall not be terminated. However, the learned AAG came up with an alternative plea that the respondents are already regular civil servants and they cannot be considered for regularization under the law, and further, that they could not invoke writ jurisdiction keeping in mind the bar contained under Article 212 of the Constitution. If according to the learned AAG, the respondents are

already regular employees or civil servants, then this case has become even simpler: the matter is then only required to be sent to the Scrutiny Committee, who shall scrutinize the credentials and antecedents of the respondents, including their status to determine whether they are already regular employees or are still contractual employees, and if they are found to be contractual employees, then their future will be decided as to whether they are entitled to the benefit of regularization under the provisions of the Act or not, which cannot be decided summarily or in a cursory manner, unless the matter goes to the Scrutiny Committee for their impartial consideration, with the proper application of mind, and in accordance with the law, forward their recommendations to the appointing authority, as rightly directed by the learned High Court.

12. In the wake of the above discussion, we do not find any lawful justification to cause any interference in the impugned judgment of the learned High Court. The Civil Petition is dismissed and leave is refused.

Judge

Judge

Judge

Islamabad  
9<sup>th</sup> October, 2024  
Khalid  
Approved for reporting