

[Supreme Court of Pakistan]

Present: Manzoor Ahmad Malik, Syed Mansoor Ali Shah and Amin-ud-Din Khan, JJ
DEPUTY DIRECTOR FOOD FAISALABAD DIVISION, FAISALABAD and others---

Petitioners

Versus

MUHAMMAD TAUQIR SHAH and others---Respondents

C.P. No. 43-L/2021 to C.P.58-L/2021, decided on 10th March, 2021.

(Against the order of Punjab Service Tribunal, Lahore dated 26.10.2020, passed in Appeals Nos.321 to 336 of 2020)

Punjab Regularization of Service Act (XV of 2018)---

---Ss. 2(f), 3, 6(1)(a) & 6(1)(b)---Contract employees regularized in service under the Punjab Regularization of Service Act, 2018 ('the 2018 Act')---Whether regularization operated from the date of regularization of the service of the employee or from the date of initial appointment of the employee on contract basis---Held, that provisions of the 2018 Act were unambiguous and clearly mentioned that regularization shall be with immediate effect i.e., from the date of regularization---Regularization of contract employees under the 2018 Act shall be considered from the date of their regularization.

Rana Shamshad Khan, Additional A.G. for Petitioners (in all cases).

Hafiz Tariq Naseem, Advocate Supreme Court for Respondents (in all cases).

Date of hearing: 10th March, 2021.

ORDER

SYED MANSOOR ALI SHAH, J.---The services of the respondents were admittedly regularized under The Punjab Regularization of Service Act, 2018 ("Act"), therefore, the sole question before us is the determination of the date of regularization i.e., whether it is from the date of regularization of the service of the employee or whether from the date of initial appointment of the employee on contract basis. The Punjab Service Tribunal through impugned consolidated order dated 26.10.2020 found that the regularization of the respondents shall be from the date of their initial appointment under the contract, but the impugned order has failed to discuss the provisions of the Act.

2. We have heard the learned counsel for the parties and have gone through the provisions of the aforesaid Act. The Act provides for appointment on regular basis of employees serving on contract.¹ The Act is applicable to persons employed in a department, who have completed three years continuous service before or after commencement of the Act.² "Regularization" under the Act means the appointment of an eligible contract employee on regular basis, with immediate effect, in accordance with the Act.³ The Act further provides that the contract employees who have continuously been serving as such for a period not less than three years shall be eligible to be considered for appointment on regular basis if; (a) a regular vacancy allocated for initial recruitment is available for regularization; (b) he is qualified for the post; (c) he has not been appointed on a special pay package; (d) his performance during the period of contract has remained satisfactory; and (e) he does not opt to continue as contract employee.⁴ The procedure for regularization provided under the Act is that the contract employee appointed on the recommendations of the Punjab Public Service Commission ("Commission") shall be submitted to the appointing authority for regularization without reference to the Commission or the Scrutiny Committee as constituted under Section 5 of the Act. However, if the post in question falls within the purview of the Commission and the contract employee is appointed otherwise than on the recommendations of the Commission, the case shall be referred to the Commission for recommendations⁵ and if the post is outside the purview of the Commission, the case of a contract employee shall be placed before the Scrutiny Committee constituted under the Act for recommendations. The appointments made under Section 4 of the Act shall be with immediate

effect.⁶ The service rendered by a contract employee shall not be counted for pensionary benefits or for any other purpose whatsoever.⁷ Contract employee, who is not recommended for regularization by the Commission or, as the case may be, the Scrutiny Committee, shall be terminated forthwith.⁸ A contract employee, who is regularized, shall be placed at the bottom of the seniority list of the respective cadre and shall rank junior to the other civil servants.⁹ A contract employee, regularized under the Act, shall cease to be governed by the Contract Appointment Policy 2004 and the terms and conditions of the contract and shall be regulated under the Punjab Civil Servants Act, 1974 and the rules framed thereunder.¹⁰

3. The scheme of the Act clearly shows that the regularization of a contract is with immediate effect i.e., from the date of regularization. Learned counsel for the respondents has placed reliance on certain orders of this court in the matter of regularization.¹¹ We have perused the said orders and noticed that they did not discuss the Act or its provisions and the regularization in the said orders was on the basis of the Policy announced by the Government, therefore, they are not relevant for our purposes. The provisions of the Act are unambiguous and clearly mention that regularization shall be with immediate effect i.e., from the date of regularization.

4. In this view of the matter, the impugned consolidated order is set aside. The regularization of the respondents shall be considered from the date of their regularization. Resultantly, these petitions are converted into appeals and allowed in the above terms.

MWA/D-6/SC Petitions allowed.