

**JUDGMENT SHEET**  
**IN THE ISLAMABAD HIGH COURT, ISLAMABAD**  
**JUDICIAL DEPARTMENT**

**Intra Court Appeal No.340/2017**

Imran Ahmad and others  
Versus  
Federation of Pakistan and others

Appellants by: M/s Mr. Muhammad Shoaib Shaheen, Muhammad Umair Baloch, Mirza Waqas Qayyum, Ali Murad Baloch, Hafiz S.A. Rehman, Muhammad Anwar Mughal, Zia-ul-Haq Kiani, Muhammad Mohsin Bhatti, Tahir Chughtai, Ch. Muhammad Israr, Muhammad Aftab Alam Rana, and Hafiz Mazhar Maikan, Ali Nawaz Kharral, Raja Saif-ur-Rehman, Ahmad Awais, Amjad Ali, Muhammad Umar, Mohsin Ghaffar, Muhammad Iftikhar Gul, Abid Hussain Ranjha, Muhammad Shah Nawaz Khan Sikandri, Muhammad Umar, Khawaja Aurangzeb Alamgir, Asif Raza Bhatti, Waqar Ahmad, Adnan Bashir Choudhary, Sayyid Murtaza Ali Pirzada, Nabeel Rehman, Muhammad Asif Gujjar, Shahzad Ali Rana, petitioner in-person in WP 3811/2017.

Respondents By: Ch. Abdul Khaliq Thind, DAG.  
Rana Khawar Hussain, AAG.  
Mr. Sadaqat Ali Jahangir, State Counsel.  
Mr. Tariq Fazal Ch., Minister for CADD, and Masood-ul-Hameed, Dy. Director (Legal), CADD  
Mehmood Ullah Farrukh, A.D. (Legal), CADD.  
Muhammad Nawaz, A.D. (Legal), CADD.  
S. M. Rehan Naqvi, A.D. FDE.  
Kamran Raffaqt, DD (Legal) FPSC.  
Qaisar Masood, Addl. Director (Law), FIA.  
Muhammad Sohail Malik, Addl. Secy., Ministry of Climate Change.  
Syed Ali Raza Zaidi, D.D. (Law), Ministry of Climate Change.  
Mr. Muhammad Ramzan Khan, Advocate for Ministry of Science and Technology.  
Umar Sajjad Chaven, Advocate for respondent in ICA No.397/2017.  
Raja Zubair Hussain Jarral, Advocate for Ministry of Defence and Ministry of Finance.  
Ms. Shaista Altaf, Advocate for Respondents in W.P. No.974/2017.  
Mr. Salim Baig & Mr. Khurram Baig, Advocates for Respondent No.4 in W.P. 33811/2017.

Dates of Hearing: 26.03.2018, 25.04.2018, 10.05.2018, 22.05.2018,  
23.05.2018, 24.05.2018.

### JUDGMENT

MOHSIN AKHTAR KAYANI, J:- Through this common judgment, we intend to decide the captioned intra court appeal along with the appeals as well as writ petitions listed in "Annexure-A" attached herewith as common questions of law and facts are involved in the same.

2. Brief facts as referred in ICA No.340/2017 (Imran Ahmad, etc. vs. Federation of Pakistan, etc.) are that Ministry of Federal Education and Professional Training/respondent No.5 published an advertisement dated 14/15<sup>th</sup> November, 2010 inviting applications to fill in different posts on contract basis in the project titled "President's Programme for the Care of Highly Qualified Overseas Pakistanis (PPQP)" against which appellants were selected through transparent selection process, who joined their services in January/February, 2011 and started rendering their respective services. Later on, the Federal Government vide letter dated 09.02.2017 extended the project period up to 03.06.2017, whereafter salaries of appellants have been stopped w.e.f. 01.07.2017 onwards. As a result whereof, appellants filed W.P. No.3961/2016 which has been disposed of vide consolidated judgment dated 01.11.2017 by not extending the relief sought by the appellants. Hence, the captioned ICA No.340/2017.

3. Brief facts referred in the ICA No.361/2017 (Moazzam Shahzad vs. M/o CADD, etc.) are that appellant joined the Federal Education Department as Lecturer on daily wages basis and is working in Islamabad Model College for Boys, G-11/1, Islamabad whereas appellant was regularized vide letter dated 04.02.2013 pursuant to policy introduced by the Government of Pakistan on 29.06.2011 though no formal joining letter is issued to appellant as yet whereupon appellant approached the Islamabad

High Court and directions were issued through ICA No.325/2014 to Government of Pakistan, on which a committee was constituted whereby recommendations regarding regularization of appellant were submitted on 31.03.2016 however respondent by neglecting those recommendations prepared a summary dated 31.05.2016 wherein it was decided that case of appellant will be referred to FPSC with benefit of 5 marks. As a result whereof, appellant filed W.P. No.4598/2016 before this Hon'ble Court which was disposed of vide consolidated judgment dated 01.11.2017. Hence, the captioned ICA No.361/2017.

4. Brief facts referred in the ICA No.371/2017 (Mst. Rashida Yasmin, etc. vs. FOP, etc.) are that appellants are working as Lecturers/JLTs in BPS-16 and BPS-17 in the Islamabad Model College for Girls, F-7/4, Islamabad on daily wages since 2007. As per the Cabinet Sub-Committee recommendations dated 29.06.2011, contract employees who have had completed one year satisfactory service were to be regularized and cases of contract employees of BPS-16 and above would be submitted to the Committee for regularization of their services through Cabinet Division instead of FPSC whereby cases of daily wages employees were considered by the Cabinet Sub-Committee in its meeting held on 13.12.2012 and accordingly Deputy Director (Coord.) CADD issued notification for regularization on 08.02.2013. However, after completing codal formalities including medical examination appellants were not allowed to join/assume duties of their respective posts as regular employees, whereupon they filed W.P. No.4197/2016 with the prayer to enforce the said regularization notification dated 08.02.2013, however their writ petition was disposed of vide consolidated judgment dated 01.11.2017. Hence, ICA No.371/2017 has been filed.

5. Brief facts referred in the ICA No.402/2017 (Mehnaz Rahat, etc. vs. FOP, etc.) are that appellant No.1/Mehnaz Rahat, appellant No.2/Umaira Awan, and appellant No.3/Hina Akhtar were appointed on daily wages as Lecturers (BPS-17) on 02.01.2008, 17.02.2011, and 22.09.2010, respectively, in the Islamabad College for Girls, F-6/2, Islamabad. On 29.06.2011, the Government of Pakistan introduced a policy whereby contract/daily wages employees were to be regularized though present appellants had not been regularized and they were constrained to file W.P. No.1073/2013 and CrI. Org. No.110/2016 whereby directions were issued to quarter concerned to resolve the grievances of appellants, however no relief was granted to appellants by the Committee for Regulation of Services of Contract/Daily Wages Employees vide recommendation dated 18.02.2016 and respondent department advertised the posts held by appellants vide advertisement dated 01.05.2016. As a result whereof, appellants filed W.P. No.3244/2016 which was disposed of vide consolidated judgment dated 01.11.2017 without extending any relief to appellants. Hence, the captioned ICA No.402/2017.

6. Brief facts referred in the ICA No.406/2017 (Uzma Bibi vs. Secretary CADD, etc.) are that appellant was appointed as Lecturer (BPS-17) on daily wages basis in the Islamabad Model College for Girls, F-10/2, Islamabad. On 29.06.2011, the Government of Pakistan introduced a policy whereby contract/daily wages working in different departments of Federal Government were to be regularized whereby appellant was regularized vide notification dated 08.02.2013 though after fulfilling all the codal formalities appellant was not regularized and appellant was constrained to initiate several litigations whereby directions were issued by this Court to quarter concerned to constitute a Committee for resolution of grievances of daily wages/contract employees. As a result whereof, appellant along with

others were regularized by Cabinet Sub-Committee subject to availability of vacancies though Federal Government refused to regularize appellant. Eventually, appellant filed W.P. No.4387/2016 before this Hon'ble Court which was disposed of vide consolidated judgment dated 01.11.2017 with no relief in favour of appellant. Hence, the captioned ICA No.406/2017.

7. Brief facts referred in the ICA No.407/2017 (Najma Tahir Chughtai, etc. vs. FOP, etc.) are that appellant No.1/Najma Tahir and appellant No.2/Nooreen Arif were appointed as Trained Graduate Teachers (BPS-16) on 07.02.2008 and 25.01.2010, respectively. On 29.06.2011, the Government of Pakistan introduced a policy whereby contract/daily wages working in different departments of Federal Government were to be regularized whereby appellants were interviewed by Cabinet Sub-Committee and later on regularized vide notification dated 08.02.2013, however respondents department i.e. FDE and CADD had not issued posting orders. As a result whereof, appellants filed W.P. No.3307/2016 before this Hon'ble Court which was disposed of vide consolidated judgment dated 01.11.2017 with no relief in favour of appellants. Hence, the captioned ICA No.407/2017.

8. Brief facts referred in the ICA No.409/2017 (Tahira Naseem vs. Secretary CADD, etc.) are that appellant was appointed as Lecturer on daily wages in the Islamabad Model College for Girls (PG), F-7/2, Islamabad on 04.10.2006. The Government of Pakistan in the year 2011 introduced a policy for regularization of contract/daily wages employees working in different departments of Federal Government whereby Cabinet Sub-Committee regularized appellant vide notification dated 08.02.2013 subject to availability of vacancies though Committee for Regularization of Services of Contract/Daily Wages through its Chairman (Establishment Division) recommended otherwise. As a result whereof, appellant filed W.P. No.3058/2016 which was disposed of vide consolidated judgment

dated 01.11.2017 without redressal of appellant's grievance. Hence, the captioned ICA No.409/2017.

9. Brief facts as referred in ICA No.360/2017 (Rabia Bibi, etc. vs. Ministry of CADD, etc.) are that appellants have been appointed in the Federal Directorate of Education on contract/daily wages basis. The Government of Pakistan vide letter dated 29.06.2011 introduced regularization policy, pursuant to which Cabinet Sub-Committee approved the cases of appellants for regularization subject to availability of vacancies vide notification dated 08.02.2013 though appellants were not regularized. As a result whereof, appellants filed W.P. No.2962/2016 before this Court though the same was disposed of vide impugned consolidated judgment dated 01.11.2017. Hence, the captioned ICA No.360/2017.

10. Brief facts as referred in ICA No.370/2017 (Saman Bibi vs. Ministry of CADD, etc.) are that appellant was appointed as Lecturer on contract/daily wages in the Islamabad Model College for Girls (PG), F-7/2, Islamabad. The Government of Pakistan in the year 2011 introduced a policy for regularization of contract/daily wages employees working in different departments of Federal Government were to be regularized, however no relief was granted to the appellant. As a result whereof, appellant filed W.P. No.3040/2016 before this Court though the same was disposed of vide impugned consolidated judgment dated 01.11.2017. Hence, the captioned ICA No.370/2017.

11. Brief facts as referred in ICA No.372/2017 (Dr. Arif Saleem Memon, etc. vs. FOP, etc.) are that appellants have been appointed on contract basis in Ministry of National Food Security and Research in the year 2009. The Government of Pakistan vide letter dated 12.08.2011 introduced regularization policy, pursuant to which this Court directed Cabinet Sub-Committee to the cases of appellants for regularization within 90 days.

Meanwhile, the Finance Division converted posts of appellants from development to non-development side after the sanction granted by the President of Islamic Republic of Pakistan and raised objection that converted posts would be filled through afresh recruitment process by FPSC whereas similarly converted posts in Ministry of Port and Shipping have been regularized on the conversion of posts from development to non-development side and no objection was raised by the Ministry of Finance. As a result whereof, appellants filed W.P. No.3370/2016 before this Court which was disposed of vide impugned consolidated judgment dated 01.11.2017. Hence, the captioned ICA No.372/2017.

12. Brief facts referred in ICA No.376/2017 (Maria Javed, etc. vs. FOP, etc.) are that appellants, after fulfillment of all codal formalities, have been appointed in the Federal General Hospital - PMNCH on contract basis in the years 2012 and 2013. The Government of Pakistan vide letter dated 12.08.2011 introduced regularization policy, pursuant to which on the recommendations of the Cabinet Sub-Committee regularized contract/daily wages employees though appellants have been ignored without any cogent reason. As a result whereof, appellants approached this Court by filing a writ petition and a contempt petition whereby directions were issued to concerned departments to decide the cases of appellants, however nothing in favour of appellants came on record and the posts held by appellants were advertised by the department. Resultantly, appellants filed W.P. No.2117/2016 before this Court which was disposed of vide impugned consolidated judgment dated 01.11.2017. Hence, the captioned ICA No.376/2017.

13. Brief facts referred in ICA No.377/2017 (Muhammad Usman, etc. vs. Secretary Establishment Division, etc.) are that appellants have been appointed in the Federal Directorate of Education Cantt and Garrison on

daily wages basis. The Government of Pakistan vide letter dated 12.08.2011 introduced regularization policy, pursuant to which Cabinet Sub-Committee recommended regularization of service of appellants subject to availability of posts, however appellants have not been regularized as Committee for Regularization of Services of Contract/Daily Wages through its Chairman Establish Division, Islamabad observed otherwise. As a result whereof, appellants filed W.P. No.3463/2016 before this Court which got disposed of vide impugned consolidated judgment dated 01.11.2017. Hence, the captioned ICA No.377/2017.

14. Brief facts as referred in ICA No.378/2017 (Syed Mohsin Ali, etc. vs. Establishment Division, etc.) are that appellants have been appointed in the Federal Directorate of Education Cantt and Garrison on daily wages basis. The Government of Pakistan vide letter dated 12.08.2011 introduced regularization policy, pursuant to which Cabinet Sub-Committee recommended regularization of service of appellants subject to availability of posts, however appellants have not been regularized as Committee for Regularization of Services of Contract/Daily Wages through its Chairman Establish Division, Islamabad observed otherwise. As a result whereof, appellants filed W.P. No.3464/2016 before this Court which was disposed of vide impugned consolidated judgment dated 01.11.2017. Hence, the captioned ICA No.378/2017.

15. Brief facts referred in ICA No.379/2017 (Dr. Uzma Ahmed, etc. vs. FOP, etc.) are that appellants have been appointed in the Federal Medical and Dental College (FMDC). The posts held by appellants had been advertised by the concerned department which the appellants have assailed before this Court by filing W.P. No.2310/2016 and prayed for suspension of the advertisement as well as regularization of their services, however the



same was disposed of vide impugned consolidated judgment dated 01.11.2017. Hence, the captioned ICA No.379/2017.

16. Brief facts referred in ICA No.380/2017 (Shaheen Akhtar, etc. vs. Establishment Division, etc.) are that appellants have been appointed in the Federal Directorate of Education Cantt. and Garrison on daily wages basis. The Government of Pakistan vide letter dated 12.08.2011 introduced regularization policy, pursuant to which Cabinet Sub-Committee recommended regularization of service of appellants subject to availability of posts, however appellants have not been regularized as Committee for Regularization of Services of Contract/Daily Wages through its Chairman Establish Division, Islamabad observed otherwise. As a result whereof, appellants filed W.P. No.3635/2016 before this Court which was disposed of vide impugned consolidated judgment dated 01.11.2017. Hence, the captioned ICA No.380/2017.

17. Brief facts as referred in ICA No.385/2017 (Khurram Nazir, etc. vs. FOP, etc.) are that D.G. National Talent Pool, Ministry of Federal Education and Professional Training advertised contractual posts in the project titled "President's Programme for the Care of Highly Qualified Overseas Pakistanis (PPQP) against which appellants were selected through transparent selection process, who joined their services in January/February, 2011 and started rendering their respective services. Later on, the Federal Government vide letter dated 29.08.2016 extended the project period up to December, 2016, whereafter services of the appellants were transferred from Development to non-development and their salaries have been stopped w.e.f. 01.07.2016 and onwards. Despite the fact that Rs.15 million for fiscal year (2016-2017) was allocated whereas Cabinet Sub-Committee recommended regularization of similarly placed employees whereupon appellants approached concerned departments but all in vain.

As a result whereof, appellants filed W.P. No.3961/2016 which was disposed of vide impugned consolidated judgment dated 01.11.2017. Hence, the captioned ICA No.385/2017.

18. Brief facts as referred in ICA No.387/2017 (Arshad Khursheed, etc. vs. Secretary Establishment Division, etc.) are that appellants have been appointed in the Federal Directorate of Education Cantt. and Garrison on daily wages basis. The Government of Pakistan vide letter dated 12.08.2011 introduced regularization policy, pursuant to which Cabinet Sub-Committee recommended regularization of service of appellants subject to availability of posts, however appellants have not been regularized as Committee for Regularization of Services of Contract/Daily Wages through its Chairman Establish Division, Islamabad observed otherwise. As a result whereof, appellants filed W.P. No.3795/2016 before this Court which was disposed of vide impugned consolidated judgment dated 01.11.2017. Hence, the captioned ICA No.387/2017.

19. Brief facts as referred in ICA No.388/2017 (Fahad Mairaj Khan, etc. vs. Ministry of CADD, etc.) are that appellants were appointed as Lecturers (BPS-17), Trained Graduate Teachers (BPS-16) and Junior Lady Teachers (BPS-16), on contract/daily wages in different institutions of Federal Directorate of Education, Ministry of CADD, Islamabad. The Government of Pakistan in the year 2011 introduced a policy for regularization of contract/daily wages employees working in different departments of Federal Government were to be regularized, however no relief was granted to the appellant. As a result whereof, appellants filed W.P. No.3257/2016 before this Court though the same was disposed of vide impugned consolidated judgment dated 01.11.2017. Hence, the captioned ICA No.388/2017.

20. Brief facts as referred in ICA No.396/2017 (Dr. Saman Waqar, etc. vs. FOP, etc.) are that appellants, after fulfillment of all codal formalities, were appointed on contract basis in the Federal Medical & Dental College, Prime Minister's National Health Complex (PMNHC), Cabinet Division, Islamabad in the years 2012 and 2014. The Government of Pakistan vide letter dated 12.08.2011 introduced regularization policy, pursuant to which Cabinet Sub-Committee approved the cases of other similarly placed employees but appellants have been ignored without any cogent reason. As a result whereof, appellants filed writ petitions before this Court whereby directions were issued vide orders dated 28.02.2016 and 11.09.2014 to consider the cases of appellants, however no such steps have been taken by the concerned departments, rather the posts held by appellants were advertised through FPSC, whereupon appellants filed W.P. No.2310/2016 which was disposed of vide impugned consolidated judgment dated 01.11.2017. Hence, the captioned ICA No.396/2017.

21. Brief facts as referred in ICA No.166/2018 (Waseem Riaz, etc. vs. FOP, etc.) are that appellants were appointed as Lecturers (BPS-17) and Junior Lady Teachers (BPS-16), on contract/daily wages in different institutions of Federal Directorate of Education, Ministry of CADD, Islamabad in the year 2007, 2009, 2010, 2011, & 2012. The Government of Pakistan in the year 2011 introduced a policy for regularization of contract/daily wages employees working in different departments of Federal government were to be regularized, however no relief was granted to the appellant. As a result whereof, appellants filed W.P. No.3220/2016 before this Court though the same was disposed of vide impugned consolidated judgment dated 01.11.2017. Hence, the captioned ICA No.166/2018.

22. Brief facts as referred in ICA No.535/2016 (Ch. Saeed Iqbal, etc. vs. Government of Pakistan, etc.) are that appellants were appointed on contract basis in Special Program for Food Security and Productivity Enhancement of Small Farmers CMP-II in the year 2009. However, pursuant to office order/minutes dated 21.01.2013 issued in the light of the Cabinet Sub-Committee in its meeting held on 29.11.2012, respondent No.1/Cabinet Division has not regularized the services of appellants. Whereafter, appellants filed W.P. No.1944/2016, which was dismissed by learned Single Judge in Chambers. Hence, the captioned ICA No.535/2016.

23. Brief facts as referred in ICA No.383/2017 (Ali Asad, etc. vs. FOP, etc.) are that after fulfilling codal formalities appellants were appointed in the project named as "Basic Education Community Schools Project (BECS) vide orders dated 25.03.2010 and 06.08.2010, however, their services were terminated vide orders dated 26.03.2012 and 13.04.2012 without conducting regular inquiry and adopting legal procedure. Resultantly, appellants filed their respective writ petitions which were disposed of by the learned Single Judge in Chambers vide consolidated judgment dated 11.09.2014 passed in W.P. No.965/2013 with the direction to the Secretary Cabinet Division to constitute a Cabinet Sub-Committee and to treat their writ petitions as representations, whereupon the Committee vide its recommendations dated August, 2016 observed that discrimination has been caused to appellants and the matter was further remanded to the Ministry of Education to probe into the matter though of no effect. Resultantly, appellants filed writ petition which was disposed of vide consolidated judgment dated 01.11.2017 by the learned Single Judge in Chambers. Hence, the captioned ICA No.383/2017.

24. Brief facts as referred in ICA No.384/2017 (Irfan Yasin, etc. vs. FOP, etc.) are that after fulfilling codal formalities appellants were appointed in

the project named as “Basic Education Community Schools Project (BECS) vide orders dated 25.03.2010 and 06.08.2010, however, their services were terminated vide orders dated 07.02.2011, 15.02.2012, 26.03.2012, and 13.04.2012 without conducting regular inquiry and adopting legal procedure. Resultantly, appellants filed their respective writ petitions which were disposed of by the learned Single Judge in Chambers vide consolidated judgment dated 11.09.2014 passed in W.P. No.965/2013 with the direction to the Secretary Cabinet Division to constitute a Cabinet Sub-Committee and to treat their writ petitions as representations, whereupon the Committee vide its recommendations dated August, 2016 observed that discrimination has been caused to appellants and the matter was further remanded to the Ministry of Education to probe into the matter though of no effect. Resultantly, appellants filed W.P. No.3567/2016 which was disposed of vide consolidated judgment dated 01.11.2017 by the learned Single Judge in Chambers. Hence, the captioned ICA No.384/2017.

25. Brief facts referred in ICA No.122/2018 (Rajab Ali, etc. vs. FOP, etc.) are that appellants were appointed in project titled “National TB Control Program” on contract basis. However, after introduction of regularization policy by the Federal Government and pursuant to Cabinet Sub-Committee meetings, several contract/daily wages employees were regularized though appellants have been ignored without any cogent reasons. Resultantly, appellants filed W.P. No.2904/2016 before this Court which has been dismissed vide the impugned judgment dated 24.01.2018. Hence, the captioned ICA No.122/2018.

26. Brief facts as referred in W.P. No.1869/2016 (Fozia Rani, etc. vs. FOP, etc.) are that petitioners were appointed on contract in Ministry of Climate Change, status of which was approved by the Cabinet Sub-Committee for regularization vide its minutes dated 13.03.2013.

Whereas, this Hon'ble Court in W.P. No.901/2016 and W.P. No.3086/2015 extended benefit to similarly placed employees, benefit of which orders has been sought by present petitioners through the instant case. Hence, the captioned W.P. No.1869/2016.

27. Brief facts as referred in W.P. No.3666/2017 (Mazhar Abbas Shah, etc. vs. FOP, etc.) are that petitioners were appointed on contract in the Ministry of Climate Change, status of which was approved by the Cabinet Sub-Committee for regularization vide its minutes dated 13.03.2013. Whereas, this Hon'ble Court in W.P. No.901/2016 and W.P. No.3086/2015 extended benefit to similarly placed employees, benefit of which orders has been sought by present petitioners through the instant case. Hence, the captioned W.P. No.3666/2017.

28. Brief facts as referred in W.P. No.747/2018 (Ghulam Abbas, etc. vs. FOP, etc.) are that petitioners were appointed on contract basis in the Ministry of Climate Change. Pursuant to the Regularization Policy, the Cabinet Sub-Committee approved the names of petitioners for regularization subject to conversion of their project from development to non-development, however the concerned Ministry with mala fide intention refused to issue regularization notification in favour of petitioners despite the fact their project has been converted from development to non-development. Hence, the captioned W.P. No.747/2018.

29. Brief facts as referred in W.P. No.1533/2017 (Muhammad Harmain, etc. v. Ministry of Narcotics Control Division, etc.) are that petitioners were appointed during the period of 2005 to 2010 on contract basis in Anti Narcotics Force, an attached department of Ministry of Narcotics Control Division under PC-1, which was later on converted into PC-4 and posts were converted from temporary to regular but the respondent department remained adamant to issue notification of regularization of services of

petitioners despite the fact that similarly placed employees were regularized after conversion of their project from PC-1 to PC-4. Hence, the captioned W.P. No.1533/2017.

30. Brief facts referred in W.P. No.2446/2016 (Saima Sadaf v. FOP, etc.) are that petitioner is working with Pakistan Broadcasting Corporation since 2014 as Guest/Program Producer and eligible to be regularized as per the recommendations of the Cabinet Sub-Committee as well as judgments passed by this Hon'ble Court and the Hon'ble Supreme Court of Pakistan as some of the colleagues of petitioner in similar position filed W.P. No.766/2016 (Muhammad Farrukh Lund, etc. v. FOP, etc.) which was decided in their favour. Accordingly, petitioner requested the Pakistan Broadcasting Corporation to forward her case to the Committee but respondent department refused to forward the same with the stance that Pakistan Broadcasting Corporation is an autonomous and independent institution and its Board has complete mandate and powers to regularize any number of Pakistan Broadcasting Corporation employees, whereas the Board had already regularized several employees in the past but refused to grant similar benefit to the petitioner. Hence, the captioned W.P. No.2446/2016.

31. Brief facts as referred in W.P. No.2883/2016 (Syed Zeeshan Ahmad, etc. v. Ministry of Interior, etc.) are that petitioners were appointed in the year 2004/2005 in the respondent department for the past 12 years. Later on, the posts held by petitioners were converted from Development Budget to Non-Development Budget whereas DG Immigration and Passports time and again requested Ministry of Interior for regularization of appellants. The petitioners also filed writ petition before this Hon'ble Court whereby respondents were directed to constitute a Committee who shall decide such cases within a period of 90 days, on which the respondent department

requested the Establishment Division for regularization of employees who had been recommended by the Cabinet Sub-Committee, whereby employees from BPS-15 have been regularized and petitioners have been treated discriminately. Hence, the captioned W.P. No.2883/2016.

32. Brief facts as referred in ICA No.403/2017 (Syed Ali Raza Zaidi vs. Ministry of CADD, etc.) are that appellant was appointed as Lecturer (BPS-17) on contract/daily wages in Islamabad Model Postgraduate College, H-8, Islamabad. The Government of Pakistan in the year 2011 introduced a policy for regularization of contract/daily wages employees working in different departments of Federal Government were to be regularized, however no relief was granted to the appellant. As a result whereof, appellant filed W.P. No.4731/2016 before this Court though the same was disposed of vide impugned consolidated judgment dated 01.11.2017. Hence, the captioned ICA No.403/2017.

33. Brief facts as referred in ICA No.424/2017 (Abu Bakar Kiani, etc. vs. Ministry of CADD, etc.) are that appellants have been appointed as Lecturers (BPS-17) in the Federal Directorate of Education on daily wages basis. The Government of Pakistan introduced regularization policy in the year 2008 and 2011, pursuant to which Cabinet Sub-Committee approved the cases of appellants for regularization subject to availability of vacancies vide notification dated 08.02.2013 though appellants have not been regularized. As a result whereof, appellants filed W.P. No.3973/2016 before this Court though the same was disposed of vide impugned judgment dated 22.11.2017. Hence, the captioned ICA No.424/2017.

34. Brief facts as referred in ICA No.425/2017 (Dr. Muhammad Idrees Mufti, etc. v. Secretary Establishment Division, etc.) are that appellants were appointed on contract basis initially for one year in the year 2011. Pursuant to meetings of Cabinet Sub-Committee, some of the colleagues of appellants



were regularized while appellants were not granted with such relief. Feeling aggrieved, appellants approached this Hon'ble Court whereby directions were passed to Secretary Cabinet Division to constitute a committee within 15 days to consider the grievances of appellants. The committee that cases of appellants are not covered under the guidelines issues by the Establishment Division OM dated 29.08.2008. Resultantly, appellants filed W.P. No.3553/2016 which was disposed of vide consolidated judgment dated 01.11.2017 without granting any relief to the appellants. Hence, the captioned ICA No.425/2017.

35. Brief facts referred in ICA No.426/2017 (Saqib Shahzad, etc. vs. FOP, etc.) are that after fulfilling all codal formalities the appellants were appointed on contract basis initially for two years, whereas pursuant to introduction of regularization policy by the Federal Government, Cabinet Sub-Committee conducted several meetings whereby several contract/daily wages employees were regularized but appellants have been ignored. Resultantly, appellants filed writ petitions before this Court whereby directions were passed to the concerned department to consider the cases of appellants in accordance with law, whereafter the Committee for Regularization of Services of Contract/Daily Wages Employees decided the same negatively. As a result whereof, appellants filed W.P. No.3706/2016 which was disposed of vide impugned consolidated judgment dated 01.11.2017. Hence, the captioned ICA No.426/2017.

36. Brief facts referred in ICA No. 427/2017 (Kiran Farooq vs. M/o CADD, etc.) are that appellant was appointed as Junior Lady Teacher (BPS-16), on contract/daily wages in Islamabad Model College for Girls, F-11/1, Islamabad. The Government of Pakistan in the year 2011 introduced a policy for regularization of contract/daily wages employees working in different departments of Federal Government were to be regularized,

however no relief was granted to the appellant. As a result whereof, appellant filed W.P. No.3257/2016 before this Court though the same was disposed of vide impugned consolidated judgment dated 01.11.2017. Hence, the captioned ICA No.427/2017.

37. Brief facts referred in ICA No.428/2017 (Raja Shahbaz Javed, etc. vs. FOP, etc.) are that appellants were appointed on daily wages and had served 3 to 5 years, whereas the Federal Government has introduced regularization policy whereby Cabinet Sub-Committee also decided that contract/daily wages employees to be regularized but respondents have not regularized the appellants rather stopped their salaries. Resultantly, appellants filed W.P. No.3663/2016 which was dismissed by the learned Single Judge in Chambers. Hence, the captioned ICA No.428/2017.

38. Brief facts as referred in ICA No.438/2017 (Mst. Sumera Kousar, etc. vs. The Secretary Establishment Division, etc.) are that appellants were appointed on 23.11.2001 and 20.01.1991 in the Federal Directorate of Education Cantt and Garrison on daily wages honorary basis. The Government of Pakistan introduced policy for regularization of contract/daily wages employees in 2008 as well as in 2011, whereby Federal Government employees were regularized whereas Cabinet Sub-Committee vide notification dated 27.02.2013 passed an order for regularization of services of appellants subject to available of posts. Now the posts are available but appellants have not been regularized by respondent department with the stance that they do not fulfill the criteria laid down in Para-2(b) of the Policy guideline issued vide OM No.10/30/2008-R-II. Resultantly, appellants preferred a writ petition which was dismissed vide consolidated judgment dated 01.11.2017. Hence, the captioned ICA No.438/2017.

39. Brief facts referred in W.P. No.1503/2017 (Muhammad Nisar, etc. v. FOP, etc.) are that appellants were appointed in the Civil Aviation Authority as daily wages employees with assurance that they will be regularized after serving for a specific period though respondents deviated from their promise and refused to regularize services of the appellants. Resultantly, some of the appellants filed HRC No.3423/2007 and HRC No.7444/2009 before the apex Court whereby directions were passed in favour of those applicants whereas appellants for having been falling in the same category were eligible to be regularized but they have not been regularized, rather the posts held by appellants are going to advertise by the respondents. Hence, the captioned W.P. No.1503/2017.

40. Brief facts as referred in W.P. No.3114/2017 (Basharat Ali v. FOP, etc.) are that petitioners, after fulfilling codal formalities, were appointed in the Federal Investigation Agency on contract basis under the project namely "Integrated Border Management System" (IBMS), which project was later on converted from development to non-development project vide order dated 16.11.2015. Right from their initial appointed vide letters dated 17.02.2011, their contract appointment has been extended from time to time without regularizing them. Resultantly, cases of petitioners were moved for necessary action with the proposal to regularize them, however no such action has been taken by Ministry of Interior/respondent No.1 till date. Hence, the captioned W.P. No.3114/2017.

41. Brief facts as referred in W.P. No.3463/2017 (Siraj-ud-Din vs. FOP, etc.) are that petitioner was appointed as Office Boy (BPS-02) on contract basis in Ministry of Climate Change on 28.02.2007, status of which was approved as regular post by the Cabinet Sub-Committee on 13.09.2011 in accordance with the Policy dated 07.02.2011, whereupon the Establishment Division time and again directed the concerned Division for

implementation of decision of Cabinet Sub-Committee but of no avail. Hence, the captioned W.P. No.3463/2017.

42. Brief facts as referred in W.P. No.3783/2017 (Muhammad Ajmal, etc. v. FOP, etc.) are that Ministry of Interior/Respondent No.1 directed FIA/respondent No.2 to announce 223 contractual vacancies against which petitioners were appointed on contract basis through transparent manner in a development project namely "Integrated Border Management System" (IBMS) in the year 2011. Later on, the FIA with the approval of Ministry of Interior converted the said project from development to non-development project with further order to regularize petitioners but nothing as such was carried out. Accordingly, petitioners agitated the matter with the FIA whereby the FIA authorities time and again moved summaries and reminders for regularization of petitioners to respondent No.1 on which no heed was paid. Hence, the captioned W.P. No.3783/2017.

43. Brief facts as referred in W.P. No.3811/2017 (Muhammad Sohail-ur-Rehman, etc. v. Establishment Division, etc.) are that petitioners were appointed in the year 2015 & 2016 for the project of LNG namely "Pipeline Infrastructure Development Plan for LNG" through due process of law. Pursuant to policy issued by the Federal Government vide O.M. dated 11.05.2017 whereby petitioners for having more than 1 year of experience were required to be regularized but they were issued termination letters by the respondent department. Hence, the captioned W.P. No.3811/2017.

44. Brief facts as referred in ICA No.157/2018 (Muhammad Farooq v. Office of Chief Commissioner, Islamabad, etc.) are that appellant was appointed as Khateeb on contract basis after fulfillment of codal formalities and has served for more than six years whereas five members Ulema Mushawarti Committee Board as well as Cabinet Sub-Committee recommended the appellant as fit for regularization of services, but

appellant was not regularization by the respondent department. Resultantly, appellant filed W.P. No.3588/2016 praying for regularization of services, however the same was dismissed vide order dated 27.02.2018 by the learned Single Judge in Chambers. Hence, the captioned ICA No.157/2018.

45. Brief facts as referred in W.P. No.2725/2017 (Amanullah, etc. v. FOP, etc.) are that petitioners were appointed in the respondent department on contract basis. Pursuant to Regularization Policy and meetings of Cabinet Sub-Committee, 9254 colleagues of petitioners, who were appointed along with petitioners on the same terms and conditions, were regularized but petitioners have been ignored without any cogent reasons. As a result whereof, petitioners filed W.P. No.1495/2016 before this Hon'ble Court whereby grievances of 20 colleagues of petitioners were redressed but petitioners have been ignored again. Hence, the captioned W.P. No.2725/2017.

46. Brief facts as referred in ICA No.120/2018 (Syed Ishtiaq Hussain Kazmi, etc. vs. Secretary M/o Information Broadcasting & National Heritage, Islamabad, etc.) are that appellants were appointed on daily wages basis in Ministry of Information Broadcasting & National Heritage, Islamabad, though they were relieved from their services without giving any reasons. Pursuant to introduction of Regularization Policy by the Federal Government, Cabinet Sub-Committee approved the cases of appellants for regularization subject to availability of vacant posts but the respondent department held that appellants do not fulfill the criteria laid down in the policy guideline. As a result whereof, appellants filed W.P. No.467/2018, which was disposed of without granting any relief to appellants. Hence, the captioned ICA No.120/2018.

47. Brief facts as referred in W.P. No.4750/2016 (Muhammad Arif, etc. vs. Secretary CADD, etc.) are that petitioners were appointed on daily wages by the DG National Institute of Science and Technical Education. The Cabinet Sub-Committee on the recommendations of the Secretary CADD approved the cases of petitioners for regularization but their services have not been regularized, rather the post held by petitioners were advertised despite the fact that petitioners are entitled and eligible to be appointed on the same. Hence, the captioned W.P. No.4750/2016.

48. Brief facts as referred in ICA No.419/2017 (Shakeel Badshah, etc. vs. Ministry of Science and Technology, etc.) are that appellants were appointed on contract basis in permanent nature development project titled "Provision of Safe Drinking Water" under Ministry of Science and Technology after completing all codal formalities, whereas the said project was dropped from PSDP in fiscal year 2014-15 budget, due to this sudden action of the Planning Commission, the respondent department has not made extension in the services of appellants. Feeling aggrieved of, appellants filed W.P. No.3139/2014 before this Hon'ble Court whereby the same accepted and direction was passed to constitute a committee to decide the cases of appellants, however, the said committee communicated to the respondent department that committee only deals with specific cases where the appellants do not fall. Later on, the Planning Division extended the existing project and recommended the PC-IV regarding which Ministry of Finance agreed to shift 158 posts to non-development budget, whereby existing project employees/appellants undergone through second selection process by DPC/DSC. The minutes of the said DPC/DSC have been submitted to the respondents for issuance of regularization orders of appellants though no action has been taken on the same. As a result whereof, appellants filed W.P. No.4104/2016, which has been dismissed

vide impugned order dated 17.11.2017. Hence, the captioned ICA No.419/2017.

49. Brief facts as referred in W.P. No.3612/2016 (Rubab Sohail Khan, etc. vs. FOP, etc.) are that petitioners were appointed on contract in the Ministry of Climate Change though pursuant to Regularization Policy, the respondent department had not sent the names of petitioners to the Cabinet Sub-Committee for regularization despite the fact that criteria of the Cabinet Sub-Committee. Hence, the captioned W.P. No.3612/2016.

50. Brief facts referred in ICA No.357/2017 (Muhammad Imran Khan v. FOP, etc.) are that appellant was appointed as Master Trainer (BPS-18) on contract basis vide order dated 18.02.2010 in Ministry of Information Technology. The Federal Government introduced Regularization Policy 2011, however appellant has not been regularized. Resultantly, appellant filed W.P. No.181/2017 which has been disposed of vide the impugned judgment dated 01.11.2017. Hence, the instant ICA No.357/2017.

51. Brief facts referred in ICA No.418/2017 (Umer Jawaid Gandapur v. FOP, etc.) are that appellant was appointed in the respondents' organization as Lawyer (BPS-18) on contract basis after fulfilling all codal formalities and served his duties for the period of one and half year. Later on, his services were ended due to non-extension of the contract. Whereafter, appellant filed W.P. No.1919/2016 for regularization of his services with respect to Regularization Policy of 2011, however the same has been disposed of vide impugned judgment dated 01.11.2017 without granting relief to the appellant. Hence, the captioned ICA No.418/2017.

52. Brief facts referred in ICA No.250/2018 (Ms. Naseem Mughal v. The Secretary Establishment Division, etc.) are that appellant was appointed on 20.01.1991 in Federal Directorate of Education Cantt and Garrison on daily wages basis. Pursuant to introduction of Regularization Policy of 2011 by

the Federal Government, Cabinet Sub-Committee recommended regularization of daily wages employees subject to availability of posts. Now the posts are available but appellant has been denied for appointment against the vacant posts with the objection that appellant does not fulfill the criteria laid down in the policy guidelines. Resultantly, appellant filed writ petition before this Court which was disposed of vide impugned consolidated judgment dated 01.11.2017. Hence, the captioned ICA No.250/2018.

53. Brief facts referred in W.P. No.974/2018 (Usman Ilyas, etc. v. DG Pakistan Broadcasting Corporation, etc.) are that petitioners were appointed on daily booking/monthly consolidated contract in Pakistan Broadcasting Corporation, Headquarters, Islamabad and had been performing their duties since long and have performed their duties diligently, honestly, and up to the entire satisfaction of their superiors, therefore, they are entitled for their regularization due to their long services. Hence, the captioned W.P. No.974/2018.

54. Learned counsel for appellants in ICA No.340/2017, ICA No.372/2017, ICA No.376, and ICA No.396/2017 contended that the impugned judgment dated 01.11.2017 passed by the learned Single Judge in Chambers is against the facts and law, and the learned Single Judge in Chambers also failed to appreciate the law and the controversy involved in the matter and exercised suo motto powers while setting aside the Regularization Policy of 2011; that it is settled law that if rights are already accrued, subsequent amendments shall not adversely affect the rights of the parties; that learned Single Judge in Chambers has failed to notice the fact that more than 100,000 similarly placed employees have already been regularized, whereas the petitioners have been treated differently in violation of fundamental rights guaranteed under Articles 4, 9, 10-A, and 25



of the Constitution of the Islamic Republic of Pakistan, 1973; that the impugned judgment is in violation of the law laid down by the Superior Courts in favour of the employees with regard to exploitation at the hands of the departmental authorities and, thus, the regularization orders of different categories of employees have been passed in pursuance of the judgments referred as 1985 SCMR 946, 1993 SCMR 609, 1997 SCMR 1514, PLD 2001 SC 176, 2002 SCMR 71, 2002 SCMR 82, PLD 2003 SC 724, 2005 SCMR 100, 2010 SCMR 739, 2010 SCMR 253, 2011 PLC(CS) 419 & 1553, 2011 SCMR 1004, 2012 PLC(CS) 1220, 2015 SCMR 1257, and 2016 SCMR 1375, therefore, the impugned judgment dated 01.11.2017 may kindly be set-aside.

55. Learned counsel for appellant(s) in ICA No.361/2017, ICA No.377/2017, ICA No.378/2017, ICA No.380/2017, and ICA No.387/2017 contended that the learned Single Judge in Chambers had not addressed the issue pertaining to discrimination and ignored the judgment of the Hon'ble Supreme Court and passed the impugned judgment dated 01.11.2017; that appellant has long experience of service in relevant post and the Cabinet Committee approved the case of appellant for regularization; that the impugned judgment is against the law and facts and has resulted injustice to appellant by ignoring law laid down by the Hon'ble Supreme Court in different and relevant cases, therefore, the impugned judgment dated 01.11.2017 may be set-aside and accept the prayer made in the writ petition of appellant.

56. Learned counsel for appellants in ICA No.371/2017 contended that there were three types of cases i.e. contract employees who were asking for regularization, daily wagers/contingent paid employees, and those were notified by the departmental authorities as regular employees and medically fit but were not being allowed to join as regular employees,

whereas the learned Single Judge in Chambers had touched the initial two types of cases and ignored the later type to which appellants belonged was neither discussed nor decided; that the Hon'ble Supreme Court in the case of Safia Bano (Crl. O.P. No.82/2016) directed respondents to regularize the services of petitioner from the date of passing the order; that this Hon'ble Court in the case of Saima Malik (W.P. No.4634/2016) directed the respondents vide order dated 07.06.2017 to post the petitioner against a permanent available post; that the CADD vide letter dated 06.08.2011 directed the FPSC that selection process initiated should be discontinued and recruitment be made as per guidelines given by the Cabinet Sub-Committee with regard to contract and daily wages employees; that the impugned judgment dated 01.11.2017 is not sustainable as appellants have already been notified to be regular employees and only direction was to be issued to the respondents to allow to join their respective posts as regular employees, therefore, the same may be set-aside and directions may be issued to respondents for implementation of the notification dated 08.02.2013.

57. Learned counsel for appellants in ICA No.402/2017 contended that the impugned judgment dated 01.11.2017 passed by the learned Single Judge in Chambers is against the facts and law, and the learned Single Judge in Chambers also failed to appreciate the law and the controversy involved in the matter and exercised suo motto powers while setting aside the Regularization Policy of 2011; that it is settled law that if rights are already accrued, subsequent amendments shall not adversely affect the rights of the parties; that learned Single Judge in Chambers has failed to notice the fact that more than 100,000 similarly placed employees have already been regularized, whereas the petitioners have been treated differently in violation of fundamental rights guaranteed under Articles 4,

9, 10-A, and 25 of the Constitution of the Islamic Republic of Pakistan, 1973; that the impugned judgment is in violation of the law laid down by the Superior Courts in favour of the employees with regard to exploitation at the hands of the departmental authorities and, thus, the regularization orders of different categories of employees have been passed in pursuance of the judgments referred as 1985 SCMR 946, 1993 SCMR 609, 1997 SCMR 1514, PLD 2001 SC 176, 2002 SCMR 71, 2002 SCMR 82, PLD 2003 SC 724, 2005 SCMR 100, 2010 SCMR 739, 2010 SCMR 253, 2011 PLC(CS) 419 & 1553, 2011 SCMR 1004, 2012 PLC(CS) 1220, 2015 SCMR 1257, and 2016 SCMR 1375; that this Hon'ble Court has already granted relief to the similarly placed employees vide judgments dated 14.12.2011, 28.03.2012, and 18.06.2012, hence, the appellants are also entitled for the same relief as once a question of law is decided by this Hon'ble Court, the benefit of the same is also required to be extended to others as well, therefore, the impugned judgment dated 01.11.2017 may kindly be set-aside and the writ petition filed by appellants may kindly be accepted with the prayer in the interest of justice.

58. Learned counsel for appellant in ICA No.406/2017 contended that the impugned judgment dated 01.11.2017 passed by the learned Single Judge in Chambers is highly unjust and resulted into miscarriage of justice mainly on the ground of misreading and non-reading of the material facts of the case; that legal grounds raised in the main case were not appreciated in proper perspective; that the learned Single Judge in Chambers erred in law in not appreciating the dictum laid down by the apex Court, therefore, the impugned judgment dated 01.11.2017 may be set-aside and respondents may be directed to issue notification for regularization of appellant.

59. Learned counsel for appellants in ICA No.407/2017 contended that the impugned judgment passed by the learned Single Judge in Chambers is

against the facts and law; that the learned Single Judge in Chambers has erred in law in not appreciating the controversy involved and passed the impugned judgment; that the learned Single Judge in Chambers committed an error by setting aside the Regularization Policy of 2011 while exercising suo motto powers and ignoring the dictum laid down by the august Supreme Court of Pakistan in judgment reported as PLD 2014 SC 122, therefore, the impugned judgment dated 01.11.2017 may kindly be set-aside and writ petition filed by appellants may be accepted with prayer therein.

60. Learned counsel for appellant in ICA No.409/2017 contended that the impugned judgment dated 01.11.2017 is against the facts and law; that the learned Single Judge in Chambers has erred in law by not appreciating the controversy involved and has rendered the impugned judgment; that the learned Single Judge in Chambers has ignored the discriminatory conduct on the part of respondents against appellants as other similarly placed employees were regularized under the Regularization Policy of 2011 but appellants were subjected to prejudice; that the august Supreme Court of Pakistan has regularized services of contractual and daily wages employees in several cases whereas appellants for sailing in the same boat are also entitled for the same relief; that if the impugned judgment is not set-aside, appellants would suffer irreparable loss, therefore, the impugned judgment dated 01.11.2017 may be set-aside and writ petition filed by appellants may be accepted with directions to respondents to issue notification for regularization of appellants.

61. Learned counsel for appellants in ICA No.360/2017 contended that the learned Single Judge in Chambers overlooked the issue of discrimination and the impugned judgment dated 01.11.2017 is against the law and facts; that similarly placed employees have been regularized but appellants were subjected to discriminatory treatment and not regularized

against the permanent posts; that the respondents may kindly be restrained from advertisement of posts and the impugned judgment dated 01.11.2017 may be set-aside.

62. Learned counsel for appellant in ICA No.370/2017, ICA No.388/2017, ICA No.403/2017, and ICA No.166/2018 contended that the learned Single Judge in Chamber vide the impugned judgment dated 01.11.2017 declared the policy of 2013 illegal while ignored the well settled principle of law that the judgment is to be applied prospectively and not retrospectively as referred in cases reported as PLD 1990 SC 99 and 2009 SCMR 1169; that as per Article 189 and 190 of the Constitution of the Islamic Republic of Pakistan, 1973, the judgment of the apex Court is binding on all the organs of the State, including the High Courts, and any judgment passed contrary to judgment of the apex Court is a judgment per-incuriam but the learned Single Judge in Chambers had kept aside the judgments of apex Court and passed the impugned judgment; that the impugned judgment is outcome of misreading/non reading of documentary evidence as well as pleadings of the appellants; that this Hon'ble Court in other cases has held that policy of 2011 must be implemented and accepted many other writ petitions while regularizing similarly placed contract/daily wages employees though this fact went missing from the kind notice of the learned Single Judge in Chambers while passing the impugned judgment dated 01.11.2017, which is also violation of the settle principle of law that earlier judgment of equal Bench is binding upon the second bench; that the appellant(s) were being paid by the Government through the AGPR from the National Treasury but not from the student funds, therefore, the impugned judgment dated 01.11.2017 may kindly be set-aside.

63. Learned counsel for appellants in ICA No.379/2017 contended that the impugned judgment passed by the learned Single Judge in Chambers

suffers from serious legal infirmities; that impugned judgment is violation of Section 24-A of the General Clauses Act, 1897 which mandates that every functionary, be it judicial, is required to pass order supported with reasons; that the learned Single Judge in Chambers assumed *suo moto* powers with respect to setting aside the Policy of 2011 in violation of the law and dictum laid down by the Hon'ble apex Court in judgment reported as 2014 SCMR 122 (Dr. Sofia Waqar Khattak); that the impugned judgment suffers from the principle of *stare decisis* as earlier this Hon'ble Court has already upheld the Policy of 2011 whereby Cabinet Division was directed to ensure implementation of the policy without delay and that the committee shall identify all such cases in which the employees are eligible under the policy to be considered and, thereafter, a Cabinet Sub-Committee shall be constituted to consider the cases referred by the Committee; that the matter of regularization of the appellants and consideration thereof in terms of the Policy of 2011 comes within the ambit of past and closed transaction, and thus cannot be revisited or altered at this very stage; that Policy of 2017 is not applicable on the appellants as appellants cannot be regulated through a policy formulated subsequent to their accrual of rights, therefore, the impugned judgment dated 01.11.2017 may kindly be set-aside and the writ petition may very graciously be ordered to has been accepted.

64. Learned counsel for appellants in ICA No.385/2017 contended that the learned Single Judge in Chambers while passing the impugned judgment made certain observations which are not related to the case of appellants as it was not the case of Cabinet Sub-Committee but a case of transfer of project from development to non-development side; that facts involved in the case of present appellants were not at all addressed in the impugned judgment; that similarly placed project employees who were appointed even after the appellants, their project was transferred from

development to non-development by the Planning Commission though the learned Single Judge in Chambers did not appreciate this fact; that the apex Court in 2016 SCMR 1375 has held that when projects were brought under the regular budget and became permanent than the status of project employees ended once their services were considered to be services of an attached department instead of project though this law has also escaped noticed by the learned Single Judge in Chambers; that the apex Court in 2017 PLC (CS) 428 has held that employee of a project which is converted from development to non-development be allowed to continue the job and back benefits were also to be awarded to him, therefore, the impugned judgment dated 01.11.2017 may kindly be set-aside.

65. Learned counsel for appellants in ICA No.535/2016 contended that the learned Single Judge in Chambers passed a non-speaking order without touching the merits of the case; that the impugned order is unreasonable, against the principles of natural justice, illegal, and against the Constitution of the Islamic Republic of Pakistan, 1973; that in the interest of justice the impugned order dated 07.11.2016 may be set-aside and the writ petition of appellants may be accepted.

66. Learned counsel for appellants in ICA No.383/2017 and ICA No.384/2017 contended that the impugned judgment is not based on the facts of the case of appellants; that pursuant to the meeting of Cabinet Sub-Committee, instead of regularizing the appellants, they were terminated from their services; that similarly placed employee has been reinstated but representations of appellants have not been decided as per law; that termination orders of the appellants passed by the respondents are devoid of sound reasoning and are also violation of Section 24-A of the General Clauses Act, 1897; that as per Articles 4, 5, 8, 9, 10-A, 14, and 25 of the Constitution of the Islamic Republic of Pakistan, 1973, the appellants could

not be terminated from service without adopting proper procedure; that appellants are jobless, overage, and are not able to get Government service, therefore, the impugned judgment dated 01.11.2017 may kindly be set-aside.

67. Learned counsel for appellants in ICA No.438/2017 contended that the impugned judgment dated 01.11.2017 is against the facts and law; that the learned Single Judge in Chambers has erred in law in appreciating the controversy involved and has rendered the impugned judgment; that the learned Single Judge in Chambers has exercised suo motto powers while setting aside the regularization policy of 2011; that non-implementation of the notification dated 27.03.2013 is not justified in any manner whatsoever and is against the rights of the appellants as respondents are legally bound to implement the same; that posts held by appellants are permanent one in terms of Section 2(e) of the Civil Act, 1973 which defines the permanent post a post which is sanctioned without limits of time whereas appellants had been holding the posts for almost 17 and 27 years; that the act of respondents and the impugned judgment dated 01.11.2017 are illegal, unlawful, unjust, an whimsical having adverse effects upon the rights of the appellants, therefore, the same may kindly be set-aside.

68. Appellant in-person in ICA No.427/2017 contended that the impugned judgment is against the facts, which facts were not appreciated by the learned Single Judge in Chambers and also failed to realize that judgment is to be applied prospectively and not retrospectively; that while passing the impugned judgment the learned Single Judge in Chambers escaped notice of the earlier judgment passed by the learned Division Bench whereby direction for regularization of contract/daily wages employees was passed; that the learned Single Judge in Chambers ignored the earlier judgment of equal bench which is binding upon the second bench; that after



introduction of regularization policies of contract/daily wages employees, numerous contract/daily wages employees working in different departments have been regularized though appellant has not been granted similar relief, therefore, the impugned judgment dated 01.11.2017 may kindly be set-aside.

69. Learned counsel for appellants in ICA No.425/2017 contended that the learned Single Judge in Chambers failed to appreciate the controversy involved in the matter and passed the impugned judgment in hasty manner; that the learned Single Judge in Chambers committed an error by setting aside the regularization policy of 2011 and also failed to interpret the O.M. dated 11.05.2017 which only relates the recruitment policy mechanism concerning appointments of contract/daily wages employees; that rights once accrued should not be recalled at later stages; that similarly other thousands of employees have been regularized but the learned Single Judge in Chambers failed to notice this aspect, therefore, the impugned judgment dated 01.11.2017 may kindly be set aside.

70. Learned counsel for appellants in ICA No.426/2017 contended that Observation/Recommendation of the Committee for Regularization dated 09.05.2016 is *void-ab-initio*, illegal, unlawful and liable to be set-aside but the learned Single Judge in Chambers has not adjudicated upon this fact; that the declaration of the learned Single Judge in Chambers regarding the fact that the regularization policy dated 03.06.2011 is invalid, is illegal and void; that the Federal Government regularized services of contract/daily wages employees in various government departments but respondents with discriminatory treatment have not regularized the appellants; that the impugned judgment dated 01.11.2017 is based on surmises and conjectures, therefore, liable to be set-aside.

71. Learned counsel for appellants in ICA No.122/2018 contended that the impugned judgment dated 24.01.2018 passed by the learned Single Judge in Chambers is against the facts and law; that learned Single Judge in Chambers has erred in law in appreciating the controversy involved and has rendered the judgment, which is not in consonance with the law; that similarly placed employees/colleagues of appellants have been regularized but appellants have not been issued notification for regularization rather the respondents vide impugned orders dated 18.07.2016 and 19.07.2016 informed the appellants that their services shall be terminated after 31.07.2016, and that too without issuing any show cause notice and opportunity of personal hearing to the appellants; that action of respondents is against the principle of legitimate expectancy as the appellants' services are being wasted without any reason and rhyme, therefore, the impugned judgment dated 24.01.2018 may kindly be set-aside and the writ petition filed by the appellants may kindly be accepted with the prayer.

72. Learned counsel for appellant in ICA No.357/2017 contended that the impugned judgment dated 01.11.2017 passed by learned Single Judge in Chambers is against the facts and law; that appellant was appointed on fulfilling all the codal formalities; that the Regularization Policy has been implemented in favour of hundreds of the employees but with pick and choose approach; that the case of appellant has not even been evaluated by the regularization committee nor he was ever summoned for the sake of principle of *audi alteram partem* and the impugned consolidated judgment is suffering from contradictions of its paragraphs by facts, therefore, the same may kindly be set aside.

73. Learned counsel for appellant in ICA No.250/2018 contended that impugned judgment dated 01.11.2017 is against the facts and law; that the

learned Single Judge in Chambers has erred in law in appreciating the controversy involved and has rendered a judgment; that the learned Single Judge in Chambers has committed an error while exercising *suo motto* powers while setting aside the Regularization Policy of 2011 without any prayer from any of the parties; that respondents are legally bound to implement the notification dated 27.02.2013 issued regarding regularization of the services of appellant in light of the approval of Cabinet Sub-Committee; that post held by appellant is permanent one in terms of Section 2(e) of Civil Act, 1973; that appellant has served as teacher for almost 27 years but her services have not been regularized; that the acts of respondents and the impugned judgment dated 01.11.2017 are illegal, unlawful, unjust, and whimsical having adverse effects upon the rights of appellant, therefore, the same may kindly be set aside.

74. Learned counsel for appellant in ICA 418/2017 contended that the impugned judgment dated 01.11.2017 passed by the learned Single Judge in Chambers is against the law and facts; that the learned Single Judge in Chambers has erred in law in appreciating the controversy involved and has rendered the judgment, which is not in consonance with the law; that the learned Single Judge in Chambers has committed an error while exercising *suo motto* powers while setting aside the Regularization Policy of 2011 without any prayer from any of the parties; that the learned Single Judge in Chambers has failed to appreciate the settled law by august Supreme Court of Pakistan wherein the Regularization Policy was approved and directions were issued to the concerned quarters to regularize the services of the employees; that respondents have treated the appellant with discrimination as several employees have been regularized and appellant has not been granted the benefits of the regularization; that

the impugned judgment is illegal, unlawful, arbitrary and *void ab-initio*, therefore, the same may kindly be set-aside.

75. Learned counsel for petitioners in W.P. No.1503/2017 contended that the apex Court has settled that benefit of point of law decided by higher Courts shall be also extended to those who may not be party to the litigation, therefore, on this score petitioners are also entitled for relief already granted in HRC No.3423/2007 and HRC No.7444/2009; that failure of respondents by not issuing notification of regularization of petitioners in the same manner is in violation of Article 4 and 25 of the Constitution of the Islamic Republic of Pakistan, 1973, therefore, respondents may be directed to issue letters of regularization in the same manner as done in the case of similarly placed employees, who were petitioners in HRC No.3423/2007 and HRC No.7444/2009.

76. Learned counsel for petitioners in W.P. No.974/2018 contended that according to the length of service, the petitioners are entitled to be regularized into their service as per rules/policy of the Federal Government; that petitioners have not been equally treated under the Constitution of the Islamic Republic of Pakistan, 1973 and they have been deprived from their bread and butter, therefore, respondents may kindly be directed to regularize the petitioners from their date of appointment while keeping in view their length of service, qualification, and experience.

77. Learned counsel for petitioner in W.P. No.2446/2016 contended that respondents may kindly be directed to forward the case of petitioner to the Committee for regularization in view of the order dated 18.05.2016 passed by this Hon'ble Court in W.P. No.766/2015 regarding regularization.

78. Learned counsel for appellant in ICA No.157/2018 contended that the order of the learned Single Judge in Chambers is not based on correct readings of the documents as case of appellant is based upon the

recommendation of Cabinet Sub-Committee, which Committee duly recommended to regularize the appellant; that services of other two employees were regularized by the respondent department while appellant was refused to grant such relief; that respondent department was duty bound to implement the recommendations of the Cabinet Sub-Committee; that the act of respondent department to advertise the post held by appellant is sheer violation of law; that the impugned order dated 27.02.2018 may be set-aside and respondent department may be directed to regularize the appellant as duly approved by the Cabinet Sub-Committee.

79. Learned counsel for appellants in ICA No.425/2017 contended that the order of the learned Single Judge in Chambers is erroneous; that the learned Single Judge in Chambers erred in deciding the petition without appreciating that the cases of appellants have already been considered by Chairman Sub-Committee (Regulation of Service)/respondent No.4 and has recognized discrimination with appellants; that the learned Single Judge in Chambers erred in appreciating the fact that one Associate Professor and 13 Assistant Professors appointed along with the appellants were regularized but appellants have been treated discriminatorily, therefore, the impugned judgment dated 01.11.2017 may kindly be set-aside along with directions to respondents to regularize the services of appellants.

80. Learned counsel for petitioners in W.P. No.2883/2016 contended that pursuant to Regularization Policy of the Federal Government and judicial intervention, thousands of employees of different departments have been regularized; that this Hon'ble Court also directed in W.P. No.3533/2013 to constitute a Committee whereby the Committee requested the Ministry of Interior for their comments regarding the matter of regularization of petitioners but Ministry of Interior changed his stance and started treating the posts held by petitioners as vacated and initiated advertising of the

same through FPSC, which clearly violates the Federal Government's regularization policy; that Cabinet Sub-Committee affirms the petitioners and matter is now pending before the Committee; that respondent department has already regularized hundreds of employees but petitioners have been treated differently; that prolongation of employment of petitioners indicates that the posts occupying by the petitioners are of permanent nature and it amounts to most nefarious kind of exploitation on the part of respondent department that instead of timely regularization of their services, they have kept them on tenterhooks; that under Section 13 of the General Clauses Act, 1897, once the competent authority concedes the regularization of service of a civil servant by virtue of the Act, it creates a valuable rights in favor of civil servant, which under the rule of *locus poenitentiae* could not be reversed by taking contradictory plea; that the act of advertising posts held by petitioners is illegal, capricious, and malafide, therefore, the same may be declared as null and void with further direction to respondent department to regularize the petitioners as decided by the Cabinet Sub-Committee.

81. Learned counsel for petitioners in W.P. No.3811/2017 contended that petitioners have become over aged and if not regularized, they shall be unable to opt for another Government job; that petitioners are working against the permanent post because the same will last for several coming years and as per Ikram Bari case, petitioners shall be regularized; that the impugned termination letters may kindly be declared as illegal and respondents may kindly be directed to consider the petitioners for regularization policy introduced by the Federal Government.

82. Learned counsel for petitioners in W.P. No.3783/2017 contended that retention of petitioners for more than 12 years and repeated renewal of their contracts of employment clearly shows that posts held by the appellants are

of permanent nature; that petitioners have become overage and would not be able to seek public appointment; that petitioners were appointed through transparent manner and ought to have been regularized, therefore, respondent department may kindly be directed to issue formal notification/orders of the services of petitioners on regular basis.

83. Learned counsel for petitioners in W.P. No.2725/2017 contended that impugned orders of respondent department is illegal and has no legal effect; that verbal termination orders are not to be considered valid orders in the eye of law; that pursuant to Regularization Policy services of many employees and colleagues of petitioners have been regularized but petitioners have been treated differently in violation of Article 4 and 25 of the Constitution of the Islamic Republic of Pakistan, 1973; that the impugned orders/actions of respondent department are against the principle of legitimate expectancy, therefore, the impugned verbal orders dated 28.04.2017 may kindly be set-aside and respondents may kindly be directed to regularize the services of the petitioners.

84. Learned counsel for petitioners in W.P. No.1533/2017 contended that respondent department instead of allowing petitioners to continue and work as regular employees have hired some daily wages staff; that it is held in 2009 SCMR 1 that if a set of employees has been granted benefit, such benefits shall also be extended to those who were not party to the petition.

85. Learned counsel for petitioners in W.P. No.3114/2017 contended that petitioners are entitled to be regularized and they cannot be subjected to discrimination; that the apex Court in the case of Ikram Bari has regularized the services of contractual employees; that the impugned inaction is misconceived and without lawful authority, therefore, respondents may kindly be directed to act in accordance with law and finalize the requisite process of regularization of services of petitioners.

86. Learned counsel for appellants in ICA No.424/2017 contended that the learned Single Judge in Chambers failed to address the issue pertaining the discrimination and did not relied on decision/judgment of the apex Court as well as High Court; that appellants were appointed through due process of selection and working continuously since then; that the Federal Government regularized the services of contract/daily wages employees in various Government departments but respondent department had not regularized the services of appellants despite the fact posts of Lectures (BPS-17) are laying vacant; that the impugned judgment dated 22.11.2017 is against the law and facts and has resulted injustice to the appellants, therefore, the same may kindly be set-aside.

87. Learned counsel for appellants in ICA No.120/2018 contended that the learned Single Judge in Chambers failed to address the issue pertaining the discrimination and did not relied on decision/judgment of the apex Court as well as High Court; that appellants were appointed through due process of selection and working continuously since then; that the Federal Government regularized the services of contract/daily wages employees in various Government departments but respondent department had not regularized the services of appellants; that the impugned judgment dated 07.02.2018 is against the law and facts and has resulted injustice to the appellants, therefore, the same may kindly be set-aside.

88. Learned counsel for petitioners in W.P. No.4750/2016 contended that petitioners possessed the prescribed qualifications and experience at the time of their initial appointment; that similarly placed employees have been regularized vide the directions passed by this the apex Court and this Hon'ble Court and discriminatory treatment has been meted out to the petitioners; that non-action of the respondents No.3 & 4 in regularization of service of petitioners violative of Article 18 and 25 of the Constitution,



therefore, respondents may kindly be restrained from filling the posts held by the petitioners.

89. Learned counsel for petitioner in W.P. No.3463/2017 contended that petitioner had served for eight years but despite approval by Cabinet Sub-Committee, no action has been taken to regularize the petitioner; that similarly placed employees have been regularized by the direction of the apex Court and this Hon'ble Court, therefore, respondent No.3 may kindly be directed to implement the decision of the Cabinet Sub-Committee and regularize the services of petitioner.

90. Learned counsel for petitioners in W.P. No.3612/2016 contended that it has been held by the apex Court that if a set of employees have been granted benefit, the same may go to those who were not party to the petition; that this Hon'ble Court has already dealt with similar matter in W.P. No.901/2016 and W.P. No.3086/2015 filed by similarly placed employees in the same department, benefit of which order should also be extended to present petitioners and respondent department may be directed to act in accordance with Article 4 and 25 of the Constitution of the Islamic Republic of Pakistan, 1973.

91. Learned counsel for petitioners in W.P. No.1869/2016 and W.P. No.3666/2017 contended that it has been held by the apex Court that if a set of employees have been granted benefit, the same may go to those who were not party to the petition; that Article 4 and 25 of the Constitution clearly envisages that there shall be no discrimination amongst the same set of employees and all to be treated equal; that writ petition of present petitioners is identical to W.P. No.901/2016 and W.P. No.3086/2015 whereby services of petitioners were directed to be regularized, petitioners are entitled to the benefit of the orders of this Hon'ble Court passed in the said writ petitions.

92. Learned counsel for petitioners in W.P. No.747/2018 contended that it has been held by the apex Court that if a set of employees have been granted benefit, the same may go to those who were not party to the petition; that Article 4 and 25 of the Constitution clearly envisages that there shall be no discrimination amongst the same set of employees and all to be treated equal; that writ petition of present petitioners is identical to W.P. No.901/2016 and W.P. No.3086/2015 whereby services of petitioners were directed to be regularized, petitioners are entitled to the benefit of the orders of this Hon'ble Court passed in the said writ petitions.

93. Learned counsel for appellants in ICA No.419/2017 contended that the learned Single Judge in Chambers has erred in law in appreciating the controversy involved and has rendered the order; that the learned Single Judge in Chambers failed to appreciate the fact that the formalities with regard to regularization of the appellants' services i.e. holding of the DPC and approval of the competent authority have already been completed; that the reason of the learned Single Judge in Chambers to firstly formulate rules and notify and then consider the cases appellants for regularization is neither convincing nor with in accordance with the spirit of the policy of regularization; that the learned Single Judge in Chambers has also failed to appreciate that the subject project namely Provision of Safe Drinking Water (PSDW) has already been converted into regular but appellants have not been granted the status of regular; that the learned Single Judge in Chambers has failed to consider that the respondents were obliged to release the salaries of appellants; that the act of respondents is based on exploitation which is highly unjustified, illegal and against the provisions of Article 37 and 38 of the Constitution, therefore, the impugned order dated 17.11.2017 may kindly be suspended and respondents may kindly be restrained to pass any adverse order against the interest of appellants.

94. Conversely, learned AAG, along with departmental representation contended that Federal Government has issued different regularization policies to deal with the situation, however majority of the cases have been decided by the Cabinet Sub-Committee for regularization and some of the departments have not referred the cases of the present appellants/petitioners before the Committee due to certain discrepancies, e.g., non completion of requisite criteria given in the policy or in some cases confirmation of the record; that all those employees of daily wages/ad-hoc appointees or contract employees have no right to claim regularization under the law as majority of them were appointed without due process of law and authorities are well within their rights to declare all those employees are not suitable for the job, even in some cases certain employees/appellants have been terminated due to their unsatisfactory performances and in few of the cases the project stand closed, therefore, the services of those employees could not be regularized. The learned AAG has further called Dr. Tariq Fazal Ch., the Minister for CADD, who appeared before the Court and recorded his statement whereby he categorically stated that the services of all those teachers who are working in the Federal Directorate of Education and other allied staff of BPS-1 to BPS-15 will be regularized as he under the instructions of the Federal Government managing the cases of these employees for the approval of the Federal Government and he recorded his statement being Minister in-charge, who is responsible for conducting the business of his Division, whereby he contended that all those employees will not be terminated and their services will be regularized within next few days by the Federal Government. However, he further contended that the services of BPS-16 and above have to be dealt by the FPSC in accordance with law.

95. Arguments heard, record perused.

96. It is pertinent to mention here that above referred writ petitions were pending before the learned Single Bench, however by the order of the Hon'ble Chief Justice, Islamabad High Court, Islamabad, the same were transferred to this Division Bench as the subject matter involved in these writ petitions was subjudice before this Division Bench.

97. From the perusal of record, it has been observed that in all the captioned ICAs the appellants have assailed the common judgment dated 01.11.2017, passed by learned Single Judge in Chambers in writ petitions referred above in annexure-A. This Court has also heard the writ petitions referred in Annexure-A as in these writ petitions the subject matter is common i.e. regularization of service. All the appellants have been aggrieved with the judgment passed by the learned Single Judge in Chambers with the claim that they were appointed on different positions on contract basis for projects, daily wages in colleges, schools as lecturers and even on contract basis from the different intervals of time and their colleagues have already been regularized by the Cabinet Committee on the strength of regularization policy on two different occasions, first regularization policy dated 29.08.2008 and second regularization policy dated 12.08.2011. Learned Single Judge in Chambers while addressing the issues of regularization has considered the law in detail and has also gone through the judgments rendered by the High Courts as well as Apex Court in different intervals of time.

98. In order to understand the recruitment process, it is necessary to go through the service laws to ascertain the procedure of recruitment, whereas the basic law in Pakistan, which deals with the appointment of persons and

its terms & conditions of service is Civil Servants Act, 1973, which provides the definition of a civil servant in Section 2(b) as under:-

*"civil servant" means a person who is a member of an All-Pakistan Service or of a civil service of the Federation, or who holds a civil post in connection with the affairs of the Federation, including any such post connected with defence, but does include-*

- (i) *a person who is on deputation to the Federation from any Province or other authority;*
- (ii) *a person who is employed on contract, or on work-charged basis or who is paid from contingencies; or*
- (iii) *a person who is "worker" or "workman" as defined in the Factories Act, (XXV of 1934), or the Workman's Compensation Act, 1923 (VIII of 1923):"*

99. Therefore, in order to seek remedy to be called a civil servant every person has to be appointed in a manner referred in the said law as well as Civil Servant (Appointment, Promotion, Transfer) Rules, 1973.

100. From the careful examination of the said law, we have come across two different concepts of appointment i.e. (i). Ad hoc appointment, (ii). Initial appointment, whereas the relevant definitions under Civil Servant Act, 1973 are as under:-

***2(a) "ad hoc appointment"** means appointment of a duly qualified person made otherwise than in accordance with the prescribed method of recruitment, pending recruitment in accordance with such method;*  
***2(c) "initial appointment"** means appointment made otherwise than by promotion or transfer.*

101. Similarly, the concept of permanent post and temporary post has also been given in Section 2(e) and 2(j) of Civil Servant Act, 1973, respectively. However, in all these ICAs appellants are seeking regularization of their services against permanent post which means the post sanctioned without limit of time, whereas Section 5 of the Act deals with the concept of appointment where all appointments to be made on civil post or in all Pakistan Civil Service or Civil Service of the Federation shall be made "in the prescribed manner by the President or by a person authorized by the President on that behalf". Similarly, in exercise of powers conferred by Section 25 of the Civil Servant Act, 1973, the President of

Pakistan is pleased to make a rule called the Civil Servant (Appointment, Promotion & Transfer) Rules, 1973, which provides the concept of Appointing Authority, Selection Board and Commission under Rules 2(a), (b) & (c), whereas any person who has been authorized to exercise the powers for appointment on various posts have been defined by the Rules started from BPS-1 to BPS-20 or above. The basic line drawn between two sets of employees i.e. BPS-1 to BPS-15 fall within the authority of Secretary of the Ministry or Division concerned or the Head of Department and on the posts of BPS-16 and above, the appointing authority is Establishment Secretary or the Prime Minister of Pakistan but the concept of initial appointment in Part-III under Rules 10, 11, and 12 of the Rules *ibid* further elaborates in the following manner:-

*[10. Initial appointment to the All Pakistan Services, the Civil Services of the Federation and posts in connection with the affairs of the Federation in basic pay scales 16 and above or equivalent, except those which under the Federal Public Service Commission (Functions) Rules, 1978, do not fall within the purview of the Commission, shall be made on the basis of tests and examinations to be conducted by the Commission.*

*[11. Initial appointments to posts in basic pay scales 1 to 15 and equivalent shall be made on the recommendations of the Departmental Selection Committee after the vacancies have been advertised in newspapers.*

*12. A candidate for initial appointment to a post must possess the educational qualifications and experience and, except as provided in the rules framed for the purpose of relaxation of age limit, must be within the age limit as laid down for the post.*

*Provided that unless otherwise specified in the method of appointment, qualifications and other conditions applicable to a post as laid down under sub rule (2) of rule 3, the experience prescribed for initial appointment shall be the post-qualification experience."*

102. The above referred rules clearly reveal that any person intended to be appointed on the post of BPS-16 and above has to be processed under Federal Public Service Commission (FPSC), who conduct the test, examination and interview under the said law except those who have specifically been excluded from the application of FPSC Ordinance.

103. The above referred rules also provide the minimum standard for application against a civil post i.e. the post must be advertised in the newspaper with eligible criteria, qualification, age, nomenclature and other pre-requisites through which a candidate has to pass through the procedure and process provided under the law and the same is published in the advertisement in a prescribed manner.

104. All vacancies on different posts shall also be filled on all Pakistan basis in accordance with the merit and Provincial, Regional quota prescribed by the Government from time to time and it requires domicile of the person from the particular Province or Region concerned, as advertised by the competent authority prior to advertisement of the posts. Besides above referred requirements, a candidate must be citizen of Pakistan having good physical and mental bodily health, free from any physical defect, which likely to interfere in discharge of his duties except a person appointed on disable quota.

105. In terms of Rule 18 of the Civil Servant (Appointment, Promotion & Transfer) Rules, 1973, Ad hoc and temporary appointments has to be made in exceptional cases only for the period of six months or less with the prior clearance of the FPSC and as such all these Ad hoc appointment or short time vacancies shall be called the temporary post for the period not exceeding six months but the same have to be processed after advertising the vacancies in terms of the Rule 20 of the Civil Servants (Appointment, Promotion & Transfer) Rules, 1973.

108. The above referred background clearly establishes the stringent criteria for appointment of initial post or on Ad hoc or on temporary basis. From the perusal of above referred laws, this Court comes to the conclusion that:-

- i) Every post must be advertised in the Newspaper.

- ii) Advertisement shall contain the description of post, its nature, scale, eligibility, qualification and experience as prescribed and determined by the Competent Authority.
- iii) Candidate must be citizen of Pakistan.
- iv) Candidate must be in good physical, mental and bodily health free from physical defect (unless appointed on disable quota).
- v) Every post have to be processed through FPSC, if the same is for BPS-16 and above, even for initial appointment or for Ad hoc or temporary appointment.
- vi) Any post for BPS-16 and above if advertised for Ad hoc or temporary post, it must be processed through FPSC and in extreme emergency case the concerned authority may appoint the persons subject to other requirements on temporary post after advertisement directly after obtaining NOC from FPSC.
- vii) Every candidate has to be processed through the said selection process of test and interview.
- viii) Regional, Provincial quota has to be applied on all posts on the basis of domicile.
- ix) Advertisement must contain the categories of posts for women, disable, minorities, etc. as prescribed in the relevant laws.
- x) Appointments of BPS-1 to 15 through a Competent Authority on similar criteria referred above except the application of process by FPSC, rest of the requirements are similar.

109. The concept of "Regularization" under the law is not available and law is silent on this term, although there is a concept of permanent post as well as temporary post defined in Section 2(e) and Section 2(j) of the Civil Servant Act, 1973, which has to be seen on the basis of its first



advertisement given in the newspaper as to whether the appointing authority has notified the post keeping in view the position from sanction post without limit of time or for the period of six months or for shorter time and as such this particular position could not be changed subsequently. However, temporary posts are time bound with specific nature of work for a shorter period and they will not be converted into permanent posts in any manner.

110. In recent past, we have also come across with other new phenomena called the "project posts" as the political governments have started different projects in different times on the recommendations of Planning Commission upon the requirement and while considering the national goals fixed for the development of Pakistan. The Planning Commission has proposed different programs while considering the needs in the deficient areas including engineering, medicine/surgery, physical sciences, energy, agriculture, economics, management, IT, education and in other social sectors and created different projects, after the approval of the said projects, PC-I has been prepared in this regard and the same would be placed before the CDWP for final approval before its authorization. Every such project has to be given administrative approval by the Federal Government subject to concurrence of the Ministry of Finance and others related ministries, divisions as it is necessary to take the consent from the Ministry of Finance, who shall calculate the expenditure and subject to allocation of funds in the fiscal year the project is approved, whereafter the same is implemented. All such projects are on development budget at the initial stage which depends upon the nature of project as to whether the same will be completed in a fix time referred in the PC-I and the required result have been achieved or otherwise. The main component of the said development projects is the manpower required to run the project. The basic objective of the project is

to provide and enhance the development of Pakistan and all these projects have been conceived while considering one goal i.e. "Development of Pakistan", however, it is the Planning Division and the will of the political government which is reflected from the goals and objectives of the projects.

111. We have gone through the number of project documents in all these cases, some program are meant for highly qualified overseas Pakistani, some projects are for the information technology development, some are based upon educational requirement of the country to lower the drop out level and majority of the programs are based upon the food, agriculture and other areas. When the project has been conceived, it has been divide into component/year wise physical activities, component/year wise financial phasing, mode of financial benefits, implementation schedule and the requirement of manpower and management structure. Such kind of parameters fixed in a project clearly establishes that they have their specific time span without considering the other contingency unless the Federal Government consider it appropriate to convert it from development to non-development phase. There is no doubt that any project, which is meant for specific period of time could not be consider extended without its proper authorization based upon the same procedure, which was earlier adopted at its birth or inception.

112. We are dealing with the situation where projects have been closed at the first instance, in such like situation any person who has been appointed in project lost his job and he could not claim any benefit for conversion of his appointment into a permanent post, however, the second category is based upon those employees whose job in the said project is on a permanent basis and the Federal Government considers to convert such kind of projects from the development to non-development phase on the recommendations of the Planning and Development Commission.

Whereafter, Finance Division gives its approval and as such the Federation consider it appropriate to make the said program/project as part of the Federal Government requirements, and as such all those posts have to be given a permanent position as required in Section 2(e) without limit of time under the Civil Servants Act, 1973. However, at this stage, the problem originates when the project becomes permanent on the non-development side and the Government adopted the same and consider it as necessary for the development of Pakistan. All those positions have to be given status of sanctioned posts under the law and the President of Pakistan is the competent authority in terms of Section 5 of the Civil Servants Act, 1973 to declare the same in this regard.

113. This Court while dealing with the proposition comes to the considered view that all projects jobs, vacancies and posts have no legal right to be claimed as permanent posts unless the Federal Government declare the same with the approval as contemplated in the case of M/s Mustafa Impex Karachi vs. The Government of Pakistan (PLD 2016 SC 808). Only in such eventuality when the post declared by the President of Pakistan and project has been converted into non-development budget, all those persons, who have been recruited earlier if working on the posts of BPS-16 and above have to be processed through FPSC as required under the Civil Servant Act, 1973. The relevant provision referred to this Court was Section 11(B) of the Civil Servants Act, 1973, which for the purpose of clarity is reproduced as under:

*“11B.\_\_\_\_ (1) Where it is brought to the notice of the appointing authority that appointment of a person to a civil post was made without observing the prescribed procedure or without fulfilling the prescribed qualification, experience and age limit, it may send a reference to the Federal Public Service Commission for determination whether he is fit to hold the post to which he was appointed and, if not, whether he is fit to hold any other post compatible with his qualification and experience.*

*(2) On receipt of the advice of the Federal Public Service Commission on a reference made under subsection (1), the appointing authority may pass such order of appointment or termination of service as may be considered by it to be just and equitable:*

*Provided that if it is proposed to pass order of termination of service in the light of the advice of the Commission, a reasonable opportunity of showing cause against the order of termination, shall be provided.*

*(3) Where an order of appointment is made on the advice of the Commission, it shall be treated as a case of fresh appointment and seniority of such an appointee shall be determined in accordance with the Civil Servants (Seniority) Rules, 1993."*

The above referred concept answers the situation in hand and the competent authority who have appointed all those civil servants have to send reference to the FPSC for determination of their fitness to hold the posts and it is the prerogative of the FPSC to decide such question under the Federal Public Service Commission (Functions) Rules, 1978 whereby the relevant rule 5 is as under:

*"5. The Commission shall, on a reference made by the appointing authority, test persons, who may have been appointed to a civil post without observing the prescribed procedure or without fulfilling the prescribed qualifications, experience and age limits, and advise whether they are fit to hold the post to which they were appointed, and, if not, whether they are fit to hold any other civil post in the same or lower Basic Scale compatible with their qualifications and experience."*

The above referred concept is dealing with the situation where ad-hoc appointment has been made without observing the requirements and such official has worked in the organization or Government office for a considerable period. In similar case, the apex Court in case reported as 1998 SCMR 969 (Dr. Sher Wali Khan vs. Dr. M. Hassan Khan Ammacha) has held as under:

*"It is after 14 years of his service with the Department when the issue arose in 1989 about the ad hoc nature of the initial appointment of the appellant when A.G.P.R. raised the question. Keeping in mind that the appellant had already served for about 14 years in the Northern Areas, the Establishment Division was*

*requested through a summary dated 9-7-1989 of the Ministry of Kashmir Affairs and Northern Areas to regularize the ad hoc appointment of appellant for the period from 26-9-1975 to 8-10-1981. The case was referred to the Federal Public Service Commission by the Establishment Division for advice. Under the then existing rule 4 of the Federal Public Service Commission (Functions) Rules, 1978, the cases of appointment made during the period between 1-1-1972 to 5-7-1977 were required to be sent to the Commission for regularization only with the approval of the President. The said rule reads as follows:*

*“4. The Commission shall test civil servants appointed at any time between the first day of January, 1972 and the fifth day of July, 1977, or promoted to a higher post or grade during the said period whose case may be referred to the Commission by the President, and make a report to the President whether they are fit to hold the post to which they were appointed or promoted, as the case may be, and, if not, whether they are fit to hold any other civil post in the same or lower grade; compatible with their qualifications and experience.”*

*As the appointment of the appellant was made in 1975 i.e. during the aforesaid period from 1-1-1972 to 5-7-1977, the concerned department moved a summary through proper channel for orders of the President for regularization of the ad hoc appointment of the appellant. The President made certain remarks on the said summary yet passed orders for referring the case of the appellant to the Federal Public Service Commission in terms of the then rule 4 of the Federal Public Service Commission (Functions) Rules, 1978 whether he was fit to hold the post in Grade-17 as Medical Officer to which he was appointed (in 1975). In view of the aforesaid orders of the President, appellant was interviewed by the Federal Public Service Commission who found him suitable for appointment as Medical Officer in Grade-17 (in 1975). In the light of the orders of the President, mentioned hereinabove, and the opinion of the Federal Public Service Commission after interviewing the appellant, the competent authority passed formal orders regularizing the ad hoc appointment of the appellant in Grade-17 with effect from 26-9-1975 when he had initially joined service of the Department. Once his service had been regularized in Grade-17 with effect from 1975, the competent Authority passed further orders for regularization of his promotion to Grade-18 with effect from 8-10-1981, i.e. the date when he had earlier been promoted.”*

The above referred precedent of the apex Court clearly carved out a way to deal with a situation where ad-hoc employees, project employees, or temporary employees, who have performed their duties for considerable

period against the posts of BPS-16 and above or now who have been terminated or likely to be terminated for no fault of their own, then the authorities have to see that it is a case of hardship and injustice as they have been subjected to an adverse situation created by the Government functionaries and the law does not prescribe any favour to those employees except in a manner and procedure provided and referred above. However, keeping in view the ratio settled in the case of Dr. Sher Wali Khan *ibid*, an exceptional situation emerges on the scene although the number of employees who are in this hardship is in thousands but in our humble view all this mess is created by the incompetent political will and by the high ups of the Government.

114. All such candidates working on BPS-16 and above in any such project have their legitimate right of expectancy to be appointed on the similar post if the post which they are occupying is declared as permanent post but it is made clear that the Courts have no legal authority in terms of Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 to declare any post as permanent as it is defined job of the President of Pakistan under the law, even such kind of recommendation could not be given in any manner as it is the role of relevant ministries and divisions to perform such functions of President of Pakistan as defined in Rules of Business, 1973.

115. In majority ICAs another important aspect has also been raised that some of the colleagues of the present appellants have been regularized in BPS-14, 17 and above despite a stringent criteria referred in Civil Servant Act, 1973 as well as Civil Servant (Appointment, Promotion, Transfer) Rules, 1973 and even the Federation conceded before this Court in different writ petitions, ICAs that majority of the persons have given regularization by the order of the Court or on the conceding statements given by the

Federation in the Courts and as such the competent authority while considering and the honoring the judgments of the Courts issued different orders in terms of regularization of services and converted all such appointees of daily wages, contract and short term appointees into a permanent post although we believe that such kind of practices are not admissible in terms of Civil Servant Act, 1973, Civil Servant (Appointment, Promotion, Transfer) Rules, 1973 and have been adopted in violation of constitutional guarantees. There is no denial to the fact that principle of legitimate expectation is applicable in these cases. However, at this stage we have considered the following judgments dealing with the issue of ad-hoc appointments, absorption, reinstatement, which judgments are reported as 1985 SCMR 946 (Inspector General of Police, Punjab v. Ali Abbas), 1993 SCMR 609 (Federation of Pakistan vs. Rais Khan), 1997 SCMR 1514 (Muhammad Siddique Ahmad Khan v. Pakistan Railways), PLD 2001 SC 176 (M.D. Sui Southern Gas Co. Ltd. vs. Saleem Mustafa Sheikh), 2002 SCMR 71 (Abdul Samad vs. Federation of Pakistan), 2002 SCMR 82 (Engineer Naraindas vs. Federation of Pakistan), PLD 2003 SC 724 (M.D. Sui Southern Gas Co. Ltd. vs. Ghulam Abbas), 2010 SCMR 739 (Secretary (Schools), Government of Punjab vs. Yasmeen Bano), 2010 SCMR 253 (Pakistan Telecommunication Company Ltd. vs. Muhammad Zahid), 2011 PLC (C.S) 419 Lahore (Faisal Sultan vs. EDO Education), 2011 PLC (C.S) 1553 Lahore (Samina Kanwal vs. Director Punjab Forestry Research Institute, Faisalabad), 2011 SCMR 1004 (Government of NWFP vs. Kaleem Shah), and 2012 PLC (C.S) 1220 Islamabad (Ms. Najaf Haider vs. Federation of Pakistan).

116. The above referred case laws hold the following principles:-

- i) If appointment on temporary post has been made despite the availability of permanent post, the person so appointed

should be considered against the permanent post with effect from the date of appointment.

- ii) Ad-hoc appointments belong to families of officiating, temporary and until further order.
- iii) Once an incumbent is appointed, his seniority has to be counted from the date of his appointment and not from the date of his confirmation.
- iv) Company (SSGC) could keep the employees on probation for maximum period of two years and, therefore, they were either to be confirmed or otherwise terminated if their work or conduct is found unsatisfactory and the Company (SSGC) should not terminate the employees after four years of service without any reason assigned in the termination orders.
- v) In absence of any justifiable reasons, services could not be terminated.
- vi) Discriminatory treatment should not be made in any origination where one set of employees employed on daily wages were regularized and other set of similarly placed employees were denied of such rights.
- vii) Removal of employee from public sector employment without due process offends Article 9 of the Constitution of the Islamic Republic of Pakistan, 1973 because right to life includes right to lawful and meaningful livelihood.
- viii) Policy evolved by the Government regarding regularization of contract/daily wages employees must be implemented in letter and spirit.

117. The second principle which has been argued before this Court is based upon the principle of equal treatment and discrimination, which is



based upon the cases reported as 1995 SCMR 650 (Walayat Ali Mir vs. PIAC), 2005 SCMR 25 (Abid Hussain vs. PIAC), 1990 SCMR 999 (Muhammad Sarwar vs. Government of Punjab), 2001 SCMR 256 (Allah Yar vs. General Manager Railways), and 2009 SCMR 187 (Mehtar Muhammad Nawaz vs. M.D. Small Business Finance Corporation).

118. The above referred case laws hold the following principles:

- i) Equal treatment of all similarly placed employees is the basic principle based on equity, justice and fair play. If even handed justice is not administered, it can have many adverse and negative effects on the Society. It can cause discontentment and frustration in the social setup. There can be no denial that social justice is an objective and enshrined in our Constitution.
- ii) Discretion becomes an act of discrimination only when it is improper or capricious exercise or abuse of discretionary authority, and the person against whom the discretion is exercised faces certain appreciable disadvantages which he would not have faced otherwise.
- iii) Exercise of discretion is circumscribed by principle of justice and fairness and authority should not act arbitrarily, unreasonably, and in complete disregard of relevant rules and regulations.
- iv) Functionaries of any organization, or establishment cannot be allowed to exercise discretion at their whims, sweet will or in an arbitrary manner, rather they are bound to act fairly, evenly and justly.

119. Therefore, in view of above legal principles this Court has gone through each and every case which has been referred before this Court for

the advancement of concept of term "Regularization". The following elaborated judgments have been considered by this Court:-

- i. 2005 SCMR 100 (Ikram Bari, etc. vs. NBP)
- ii. 2003 PLC (C.S) 796 SC (MD SSGCL vs. Ghulam Abbas)
- iii. 2015 SCMR 1257 (Pir Imran Sajid vs. Muhammad (Manager Finance) Telephone Industries of Pakistan)
- iv. 2010 SCMR 1466 (Dr. Muhammad Anjad vs. Dr. Israr Ahmad)
- v. 2012 SCMR 965 (WAPDA vs. Haji Abdul Aziz)
- vi. 2012 SCMR 864 (Senior Member BOR vs. Sardar Bakhsh Bhutta)
- vii. PLD 2016 SC 808 (Mustafa Impex, Karachi vs. Government of Pakistan)
- viii. 2018 PLC (C.S) 387 Peshawar (Zahid Saeed vs. DG Technical Education and Manpower Training, KP.)

120. In order to consider the rational approach adopted by the Apex Court in the cases of regularization, we have to consider each and every judgment for the purpose of decision of these ICAs/W.Ps..

- i) The reported judgment 2005 SCMR 100 (Ikram Bari and 524 others V/s. National Bank of Pakistan) has been given in the cases of employees of NBP while considering the principle of Section 24-A General Clauses Act, 1987 when temporary and daily wages employees have been terminated. All the petitioners in Ikram Bari case are temporary Godown keeper/Chowkidars, Assistants, Cashiers, Steno-typists, Typists, Messengers, Canteen Boys, Key Punch Operators, Drivers, Watermen, etc. and have completed three years of their service without break.
- ii) 2003 PLC (C.S) 796 Managing Director Sui Southern Gas Company Ltd., Karachi V/s. Ghulam Abbas, in this case the

employees have completed more than four to five years and Government in Sui Southern Gas Transmission Company Limited Executive Service Rules, 1982 and they have completed their probation period.

- iii) 2015 SCMR 1257 Pir Imran Sajid, etc. V/s. Managing Director/General Manager (Manager Finance) Telephone Industries of Pakistan, the employees of TIP who are on contract for more than 12 years of service have been regularized by the order of Apex Court and their contract were renewed on year to year basis while considering the principle of Socio Economic Justice.
- iv) 2012 PLC (C.S) 1220 Ms. Najaf Haider V/s. Federation of Pakistan through Secretary Establishment Division Government of Pakistan, Islamabad, in this case appellants were appointed by the respondent authority on contract/daily wages on different posts were-after policy of regularization of service has been introduced and appellants were threatened for the termination of their services, employees are from PHA. Islamabad High Court, Islamabad Division Bench has allowed the writ petition on the basis of prevalent policy of the Government as minutes of the Cabinet Committee has given approval and the cases have been considered by the Committee on the touch stone of policy eligibility criteria, however, no law has been discussed in this case.
- v) 2018 PLC (C.S) 387 Zahid Saeed V/s. Director General Technical Education and Manpower Training Khayber Pakhtunkhwa, Peshawar the petitioners are Junior Lecturers in Technical College appointed on the order of D.G Technical

Education, KPK. The writ petition has been dismissed mainly on the ground that petitioners were hired purely on the contract from the student funds.

- vi) 1985 SCMR 946 LMPEETOR-General of Police, Punjab, Lahore V/s. Ali Abbas & others, the petitioner was recruited against temporary post with permanent post was available on the date of appointment. The Apex Court has refused to grant leave on the analogy that as soon as permanent post is available the services of respondent was confirmed against the same and department could not justify as to why they have appointed a person on temporary post when permanent post is available.
- vii) 1997 SCMR 1514 Muhammad Siddique Ahmad Khan V/s. Pakistan Railways, the Apex Court has declared that according to Section 6 of Civil Servant Act an initial appointment to a service or post referred to in Section 5 not being an Ad hoc appointment and Ad hoc appointment could not be call on probation and in the same manner appointment on probation could not be called as Ad hoc.
- viii) 2002 SCMR 82 Engineer Narain Das V/s. Federation of Paksitan, all the petitioners succeeded in obtaining induction into service of SSGC Ltd. as Trainee Engineers for the period of six months in the year 1994 & 95 and they have been absorbed in the respective departments on the same line and the analogy drawn from case titled Saleem Mustafa Sheikh & others as they have completed one year initial service under the rules.

- ix) 2010 SCMR 739 Secretary (Schools) Government of Punjab, Education V/s. Yasmeen Bano, the respondent was appointed on contract basis in the education department through a notification and subsequently the notification has been withdrawn in the said case service of the school teacher has been regularized through notification on the order of Chief Minister, Punjab and the teacher who has crossed the age limit has been granted age relaxation according to rules. The order has been passed on the policy decision of the Government of Punjab.
- x) 2010 SCMR 253 PTCL through General Manager V/s. Muhammad Zahid & others, whereby the appellant has filed an appeal against order of Lahore High Court, whereby respondents services have been regularized on the ground of discrimination the appeal has been dismissed as the similarly placed employees have already been regularized, although they were also working on daily wages and all the respondents have completed the period of two years as a contractual employees.
- xi) 2011 SCMR 1004 Government of NWFP (Now KPK) through its Chief Secretary V/s. Kaleem Shah, case of the contractual employees that appointed on project works have been declared under the ambit of Section 19(2) of North West Frontier Service Act, 1973, respondents are working on various posts, who have been selected through departmental selection committee and working on contract, which has been extended from time to time. Respondents were recruited through advertisement. The objection of NWFP Government

that respondents are not appointed in a prescribed manner to the post, therefore, their services could not be given regular effected has been turned down.

- xii) PLD 2001 SC 176 Managing Director SSGC Ltd. V/s. Saleem Mustafa Sheikh, the respondents were appointed as Trainee Engineers in SSGC Ltd. and their services have been terminated. The respondents were appointed for a period of six months extendable at the discretion of company and their services have been regularized despite availability of posts. Some of the employees have been retained although they are in similar positions and as such the Apex Court has passed the judgment on the ground of discrimination and uphold the judgment of the Tribunal whereby services of the petitioners were regularized.
- xiii) 2017 PLC (C.S) 428 Qayyum Khan V/s. Divisional Forest Officer, Mardan, the appellant was appointed as Wild Life Watcher on contract basis. Project was taken over by the Provincial Government and the contract post of Wild Life Watcher was converted into permanent post and he was appointed after all codal formalities and after the change of office the Provincial Government started cherry picking and appellant was discriminated. The Apex Court while considering the North West Frontier Province Employees (Regularization Service Act), 2009 allowed the appeal and appellant was reinstated and his service has been regularized.

121. In view of above background, this Court is fully convinced that the concept of initial appointment referred in the Civil Servant (Appointment, Promotion, Transfer) Rules, 1973 is the basic concept of induction which has

been taken as the concept of permanent post, there is no other concept to claim the civil servant post on permanent basis in any other form. We have seen that majority of the regularization policies have been issued in violation of statutory law and the same have been considered illegal as the Government is bound to act in accordance with law in terms of the constitutional guarantees and if the Government themselves violated the statutory provision by arranging a stop gap for regularization of employees it will create a chaos and as such the illegality could not be condoned by issuance of Federal Government policy, rather they need to change the law as made by Provincial Governments e.g. *the Khyber Pakhtunkhwa Regularization of Services of Teaching Assistants as Lecturers Act, 2017*, *the Khyber Pakhtunkhwa Planning & Monitoring Cell, Irrigation Employees (Regularization of Services) Act, 2017*, *the Punjab Regularization of Service Act, 2018*, and *the Sindh Civil Servants (Regularization of Ad-hoc Appointments) (Amendment) Act, 2014*.

122. The Federal Government has not played its role to settle the issue of present appellants/petitioners in a justified manner rather they are not interested to resolve the issue of thousands of employees who are facing difficulties and hardships in their social life despite the fact that Constitution provides a guarantee on behalf of State to all the citizens of Pakistan from discrimination, economic frustration and job security, therefore, in our humble view the regularization policy is not the solution of such menace, which was created by the Federal Government on their political arena. It has been noted with great concern by this Court that last three regularization policies have neither given the required results, nor settled the issues of daily wages, contract employees, or project employees in any manner, therefore, we hold that Federal Government shall not issue any new regularization policy in future from now onwards as there must be

an end to any illegal action and we should take first step to stop such kind of temporary arrangements which are not protected by law.

123. In view of above background, we hereby uphold the impugned judgment dated 01.11.2017 of the learned Judge in Chambers with reference to Para-32 along with its direction passed in W.P. No.2117/2016 (Mst. Shagufta Hashmat, etc. vs. Federation of Pakistan through Secretary Division). However, in addition to the said judgment, we are constrained to give the following directions:

- i. No one is allowed to hire any person on daily wages, contract basis, in any project, organization, office, ministries, divisions, etc., except in accordance with law.
- ii. All persons have to be appointed on permanent posts only and appointment on Ad hoc basis could not be considered for regularization and no individual could any claim legal right for regularization under any consideration while appointed on Ad-hoc basis.
- iii. All project employees who are appointed in BPS-16 and above on project could not claim regularization of their services unless their projects have been converted from development to non-development phase by the Government of Pakistan. In such eventuality, all those employees who are working on those projects shall continue to work and if their initial appointments in the project have been made through a transparent manner i.e. advertisement, test, and interview, then their cases be sent to FPSC in terms of Section 11(b) of the Civil Servants Act, 1973 read with the powers referred in Rule 4 & 5 of the FPSC (Functions) Rules, 1978. Their posts and their appointments shall be considered regularized subject to



decision of the FPSC on the question of their eligibility, qualification and fitness merely on the basis of opinion of FPSC or conducting test and interview within a period of six Months.

- iv. All project employees of BPS-1 to BPS-15 working in projects, which have been converted from development to non-development, shall be considered for the purpose of their regularization of services by their competent authorities while considering their qualification, eligibility, and fitness on case to case basis within the period of six (06) months (as one time exercise), subject to the condition that their initial selection was made through transparent manner i.e. advertisement, test and interview.
- v. All persons, appellants/petitioners who have been appointed on the posts of BPS-16 and above for temporary and ad-hoc basis may also be given similar treatment and their cases be sent to FPSC in terms of Section 11(b) of the Civil Servants Act, 1973 read with the powers referred in Rule 4 & 5 of the FPSC (Functions) Rules, 1978 and it is the prerogative of the commission to decide their fitness and eligibility on the basis of their qualification after obtaining fresh test/interview or directly by giving opinion on the fitness and eligibility of appellants/petitioners, the Federal Government shall issue approval of those employees as regularized subject to the decision of the FPSC, however till the completion of the entire process their services shall not be terminated (if they are still working against those posts). It is made clear that this is one time dispensation on the basis of exceptional and hardship

cases and not to be considered as alternate mode of appointment in future. The process must be completed within six months.

- vi. All employees who have been appointed from BPS-1 to BPS-15 under control of Ministry of CADD on any civil post (not on a project) be absorbed, regularized against permanent post subject to one time concurrence given by the Federal Government as Minister for CADD, Dr. Tariq Fazal Chaudhry, got recorded his statement before this Court to the extent of all those departments which are under the administrative control of Ministry of CADD, wherein he made a categorical statement on behalf of the Federal Government that Federal Government has no objection for regularization of jobs of BPS-1 to BPS-15 to the extent of employees covered, controlled and who fall under the Ministry of CADD, therefore, the Minister for CADD is directed to place the case of teachers, employees and other allied staff of departments under the control of Ministry of CADD before the Federal Cabinet who shall give their approval within a period of 90 days, notification in this regard shall be issued forthwith. However, all those employees who are in service are protected and they shall not be terminated till the final decision of the Federal Government, however, this will be subject to the condition that they have been appointed in a transparent manner.
- vii. All employees who are working on different positions in the statutory organization/companies (controlled by the Federal Government) having their own Board of Directors or Board of

Governors, has to decide the cases of their employees in accordance with their own service rules independently and regularize the services of those employees without seeking any further approval from the Government of Pakistan, however, such kind of exercise is permissible for one time and in future they shall not hire any person on temporary, daily wages or contract basis.

- viii. All employees, who have been regularized by the Government of Pakistan/competent authority through Cabinet Committee, who have not been given joining due to the restriction imposed by the Government and they are only waiting for their posting orders, the concerned Ministries and Divisions are directed to issue their posting orders within a period of 90 days subject to fulfillment of other codal formalities, however, their appointments will be considered permanent from the issuance of notification/joining orders.
- ix. Employees who are already working in different Ministries, Divisions, etc. whose their services have been regularized; they should not be disturbed as their cases fall within the ambit of past and closed transaction, subject to conditions that they were appointed in accordance with law in a transparent manner.
- x. In case any department, Ministry, or organization who has referred their cases of regularization for the purpose of opinion from FPSC and the Commission has given its opinion in favour of the employees after considering eligibility qualification and fitness of the person with or without test/interview, their services shall be deemed to be

regularized under the law and the relevant department/ministry shall issue final letters of confirmation of their services in their respective grades.

- xi. The employees, petitioners/appellants (BPS-1 to BPS-15) of those projects which were closed/expired/completed will not be regularized, however they will be given preference as well as additional marks in future jobs due to their experience, qualification and they will also be given age relaxation under the rules.
- xii. The appellants/petitioners/employees whose services have been terminated due to disciplinary proceedings or unsatisfactory performance could not claim regularization in these cases and their cases will not be taken up by the authorities.
- xiii. In cases of Pakistan Council of Research and Water Resources (PCRWR), the Board of Governors of the Council in terms of Section 6 of the Pakistan Council of Research and Water Resources Act, 2007 can create posts of officers and servants and engage such consultants or experts as it may consider necessary for the efficient performance of the function of the council on such terms and conditions as it may deem fit under Section 8(e) and in terms of Section 12, the Chairman can appoint such officer on terms and conditions prescribed under the rules, therefore, any appointment made beyond the scope of rules are illegal and if the rules are not notified in the official Gazette by the Federal Government no such appointment shall be made by the Chairman.

xiv. In cases of employees of Ministry of Climate Change, under the Pakistan Climate Change Act, 2017, the Minister in-charge shall make regulations with the approval of the Federal Government for the purpose of appointments of officer, advisors, experts, consultant, and employees with reference to Section 19(2)(e) and powers confirmed under Section 17 of the Pakistan Climate Change Act, 2017. However, if relevant rules and regulations are not promulgated/notified the officers who have been hired are not to be considered validly appointed. In other case, the services of all those employees have to be dealt in accordance with regulations and rules notified by the Federal Government referred in the Act.

124. In view of the above observation, instant ICA as well as cases listed in "Annexure-A" stands *disposed of*.

(AAMER FAROOQ)  
JUDGE

(MOHSIN AKHTAR KAYANI)  
JUDGE

Announced in open Court on: 21<sup>st</sup> June, 2018.

JUDGE

JUDGE

Approved for reporting.

Khalid Z

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**Intra Court Appeal No.340/2017**  
(*Imran Ahmad & others v. Federation of Pakistan & others*)

**ANNEXURE-A**

S.No.	Appeal/W.P.	Title
1.	ICA No.361/2017	Moazzam Shahzad vs. M/o CADD, etc.
2.	ICA No.371/2017	Mst. Rashida Yasmin, etc. vs. FOP, etc.
3.	ICA No.402/2017	Mehnas Rahat vs. FOP, etc.
4.	ICA No.406/2017	Uzma Bibi vs. Secretary CADD, etc.
5.	ICA No.407/2017	Najma Tahir Chughtai, etc. vs. FOP, etc.
6.	ICA No.409/2017	Tahira Naseem vs. Secretary CADD, etc.
7.	ICA No.360/2017	Rabia Bibi, etc. vs. Ministry of CADD, etc.
8.	ICA No.370/2017	Saman Bibi vs. Ministry of CADD, etc.
9.	ICA No.372/2017	Dr. Arif Saleem Memon vs. FOP, etc.
10.	ICA No.376/2017	Maria Javed, etc. vs. FOP, etc.
11.	ICA No.377/2017	Muhammad Usman vs. FOP, etc.
12.	ICA No.378/2017	Syed Mohsin Ali, etc. vs. FOP, etc.
13.	ICA No.379/2017	Dr. Uzma Ahmed, etc. vs. FOP, etc.
14.	ICA No.380/2017	Shaheen Akhtar, etc. vs. FOP, etc.
15.	ICA No.385/2017	Khurram Nazir, etc. vs. FOP, etc.
16.	ICA No.387/2017	Arshad Khursheed, etc. vs. FOP, etc.
17.	ICA No.388/2017	Fahad Mairaj Khan, etc. vs. M/o CADD, etc.
18.	ICA No.396/2017	Dr. Saman Waqar, etc. vs. FOP, etc.
19.	ICA No.166/2018	Waseem Riaz, etc. vs. M/o CADD, etc.
20.	ICA No.535/2016	Ch. Saeed Iqbal, etc. vs. FOP, etc.
21.	ICA No.383/2017	Ali Asad, etc. vs. FOP, etc.
22.	ICA No.384/2017	Irfan Yasin, etc. vs. FOP, etc.
23.	ICA No.122/2018	Rajab Ali, etc. vs. FOP, etc.
24.	ICA No.427/2017	Kiran Farooq vs. M/o CADD.
25.	ICA No.438/2017	Sumaira Kousar vs. FOP, etc.
26.	ICA No.428/2017	Raja Shahbaz Javed, etc. vs. FOP, etc.
27.	ICA No.426/2017	Saqib Shahzad vs. FOP, etc.
28.	ICA No.357/2017	Muhammad Imran Khan vs. FOP, etc.
29.	ICA No.250/2018	Ms. Naseem Mughal v. The Secretary Establishment Division, etc.
30.	ICA No.418/2017	Umer Jawaid Gandapur v. FOP, etc.
31.	W.P. No.1503/2017	Muhammad Nisar, etc. v. FOP, etc.

32.	ICA No.157/2018	Muhammad Farooq v. Office of Chief Commissioner, Islamabad, etc.
33.	ICA No.403/2017	Ali Raza v. Ministry of CADD, etc.
34.	ICA No.424/2017	Abu Bakar Kiani, etc. vs. M/o CADD, etc.
35.	ICA No.120/2018	Syed Ishtiaq Hussain Kazmi, etc. vs. Secretary M/o Information Broadcasting & National Heritage, Islamabad
36.	ICA No.419/2017	Shakeel Badshah, etc. vs. Ministry of Science and Technology, etc.
37.	W.P. No.974/2018	Usman Ilyas, etc. v. DG Pakistan Broadcasting Corporation, etc.
38.	W.P. No.2446/2016	Saima Sadaf v. FOP, etc.
39.	ICA No.425/2017	Dr. Muhammad Idrees Mufti, etc. v. Secretary Establishment Division, etc.
40.	W.P. No.2883/2016	Syed Zeeshan Ahmad, etc. v. Ministry of Interior, etc.
41.	W.P. No.3811/2017	Muhammad Sohail-ur-Rehman, etc. v. Establishment Division, etc.
42.	W.P. No.3783/2017	Muhammad Ajmal, etc. v. FOP, etc.
43.	W.P. No.2725/2017	Amanullah, etc. v. FOP, etc.
44.	W.P. No.1533/2017	Muhammad Harmain, etc. v. Ministry of Narcotics Control Division, etc.
45.	W.P. No.3114/2017	Basharat Ali v. FOP, etc.
46.	W.P. No.4750/2016	Muhammad Arif, etc. vs. Secretary CADD, etc.
47.	W.P. No.3463/2017	Siraj-ud-Din vs. FOP, etc.
48.	W.P. No.3612/2016	Rubab Sohail Khan, etc. vs. FOP, etc.
49.	W.P. No.1869/2016	Fozia Rani, etc. vs. FOP, etc.
50.	W.P. No.3666/2017	Mazhar Abbas Shah, etc. vs. FOP, etc.
51.	W.P. No.747/2018	Ghulam Abbas, etc. vs. FOP, etc.

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