

Form No: HCJD/C-121.

JUDGEMENT SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P. No. 2117 of 2016

Ms Shagufta Hashmat, etc.

Vs

Federation of Pakistan, through Secretary Cabinet Div., etc.

DATES OF HEARING: 24-02-2017, 03-03-2017, 10-03-2017, 17-03-2017, 07-04-2017,
19-05-2017, 02-06-2017, 09-06-2017, 16-06-2017 and
02-08-2017.

PETITIONERS BY: M/s Muhammad Shoaib Shaheen, Abdul
Rahim Bhatti, Hafiz S.A. Rehman, G.M.
Chaudhry, Hafiz Munawar Iqbal,
Muhammad Nauman Munir Paracha,
Ashfaq Ahmed Khan, Ch. Tanveer akhtar,
Raja Muhammad Khan, MisbahullahKhan,
Haroon ur Rashid, Ali Nawaz Kharal,
Muhammad Umair Baloch, Ashfaq Ahmed
Khan, Kazi Sheharyar Iqbal, Zill e Huma,
Ahmed Abdul Rafey, Ishtiaq Ahmed Raja,
Shafiq ur Rehman Dab, Faisal Bin
Khurshid, Ch. Manzoor Khamboh,
Khawaja Aurangzaib Alamgir,
Muhammad Asif Gondal, Matloob Hussain
Malik, Ali Murad Baloch, Waqar Ahmed,
Rana Samreen Akhtar, Muhammad
Ramzan Khan, Ch. Muhammad Ashraf
Gujjar, Ishtiaq Ahmed Rana, Muhammad
Aftab Alam Rana, Zia Ul Haq Kiyani, Ch.
Saifullah Warriach, Muhammad Sajjad
Bangash, Ahsan Hameed Dogar, Mehr
Muhammd Bakhsh, Hafiz Ali Asghar,
Safeer Khadim, Hafiz Ahmed Rashid,

Muhammad Waqas Malik, Ibrar Hussain, Muhammad Anwar Mughal, Muhammad Aslam Chaudhry, Ishtiaq Ahmed Cheema, Muhammad Umar, Anar Khan Gondal, Muhammad Kashif Tabassam, Muhammad Usman Khan, Muhammad Afzal Khan Jadoon, Syed Sadaqat Ali, Arshad Mehmood and Hafiz Mazhar Maiken *Advocates*.

RESPONDENTS BY: M/s Qausain Faisal Mufti, Ch. Sageer Ahmed, Rai Azhar Iqbal Kharal, Muhammad Ramzan Khan, Muhammad Riaz Akbar, Raja Zubair Hussain Jarral, Muhammad Nauman Munir Paracha and Sadia Naerean Malik *Advocates*.
Mr Afnan Karim Kundi, *Addl. Attorney General*.
Kh. Muhammad Imtiaz, *Assistant Attorney General*.
Mr Munir Ahmed, J.S. Finance Div.
Dr Masood Akhtar Sr. J.S.
S. Ahmed Bahar Zaidi, Director FPSC.
Mr M. Tahir Iqbal, A.D. FPSC.
Mr Muhammad Younas, S.O. Establishment Div.
Mr S.M. Rehan Naqvi, A.D. Legal FDE.
Mr Zaheer Iqbal, S.O. Cabinet.
Mr Khan Hafeez, Dy. Sec. Finance.
Mr Khan Zeb, A.D. Law BECS.
Mr Kashif Ch. Manger Legal USC.
Mr Nadeem Arshad, S.O. Finance.

ATHAR MINALLAH, J.- Through this consolidated judgment I shall decide the instant petition alongwith the petitions listed in 'Annexure-A' attached thereto.

2. The petitioners in all these petitions are seeking regularization of their services. The petitioners were

appointed on contract, daily wage or contingent staff basis. Most of the petitioners are serving as teaching staff at various public schools or colleges. Interestingly, many of them are drawing salaries from the Student Fund. The Student Fund is not part of the approved budget. It is a fund created from contributions collected from the students. Nothing is available on record to show that the appointing authority in the case of public schools or colleges are empowered to appoint teachers on a daily wage basis against private funds collected from the students. However, it was informed that this practice has continued from the time when teachers appointed in these schools were not declared as civil servants. There is also no explanation about why some teachers have been appointed on an honorary basis. The record also indicates that several petitioners had not been appointed through a transparent competitive process, nor were the posts advertised. They include contract employees appointed in various projects on the development side. The majority of the petitioners are seeking regularization, which would have the effect of being appointed as a civil servant. Some of the petitioners are employees of entities established under a statute or have been incorporated as juridical persons under the Companies Ordinance, 1984. In some cases they have been employed for a long period of time and their respective contracts have been extended from time to time. All the petitioners have prayed

for a direction that they be regularized against permanent posts. Most of the petitioners were appointed in grade/pay scale 16 and above. For a better understanding of the questions raised in the instant petitions some material facts need to be recorded, as follows:

04-06-2008.

A summary was sent for the approval of the Federal Cabinet, titled "**Regularization of BS-1 to BS-15 contract employees**".

26-08-2008.

The Cabinet approved the above summary.

29-08-2008.

Office Memorandum, dated 29-08-2008, was issued pursuant to approval granted by the Federal Cabinet. The salient features of the approved regularization policy are;

- a) Employees working on contract basis in pay scale BS-01 to BS-15 in the Federal Ministries/Divisions/Attached Departments/Subordinate offices/ Autonomous/ Semi Autonomous Bodies/ Corporations and

appointed up to 03-06-2008 were entitled to be regularized.

- b) The decision of the Cabinet extended to the contract employees appointed in the Federally Administered Tribal Areas.
- c) Eligibility Criteria.
 - i) *Employees working on contract basis against BS-1 to BS-15 and appointed prior to the decision of the Cabinet, dated 04-06-2008 i.e. up to 03-06-2008 were eligible.*
 - ii) *Employees working against tenure posts, project posts, or on daily wage basis or those who were paid from the contingent or defense budget were declared ineligible for regularization.*
- d) The date for regularization of all contract employees, after completing all formalities, was prescribed as 01-07-2008.
- e) The seniority of regularized contract employees was to take effect from the date of their regularization i.e. 01-07-2008.

f) Age relaxation.

Age relaxation was to be given by the competent authority as per existing rules.

g) Provincial quota was to be adhered to as far as possible.

h) Qualifications.

Qualifications prescribed for the post were to be strictly followed and in case a contract employee did not meet the required qualifications for the post then he could be regularized against a lower post for which he possessed the requisite qualifications.

i) A Cabinet Sub Committee under the chairmanship of the then Minister of Labour and Man Power was constituted for ensuring regularization of the eligible contract employees in accordance with the approved regularization policy.

29-06-2011.

The Cabinet Sub Committee proposed altogether different terms and conditions/criteria through a summary

sent to the Prime Minister. The proposed policy/criteria was as follows:

1. Contract employees who have completed one year of satisfactory service be regularized.
2. Daily Wage workers employed for 89 days (one spell) and having completed three spells of their service shall be regularized in conformity with the order of the apex Court.
3. The cases of contract employees of BPS-16 and above may be submitted to the Committee for regularization of their services through the Cabinet decision instead of the FPSC.

It was also proposed in the summary that the regularization will take effect from 29-06-2011, pending the approval of the Cabinet. Nothing has been placed on record to show that the above proposed policy was placed for approval before the Federal Cabinet, nor is such a decision on record. The learned Addl. Attorney General, during the course of arguments, made a statement on behalf of the Federal Government that

the above proposed policy was neither placed before nor approved by the Federal Cabinet.

30-06-2011.

The above proposed policy was approved by the Prime Minister of the Islamic Republic of Pakistan.

11-09-2014.

This Court, vide judgment dated 11-09-2014 rendered in W.P. No. 965/2013 and several other connected petitions, declared the policy of regularization as illegal and void.

10-09-2014.

The petitions which were pending before this Court, relating to grievances in respect of regularization, were disposed of through a consent order. The Secretary Cabinet Division, Government of Pakistan, was, inter-alia, directed to constitute a Committee headed by an officer not lower in rank than a Federal Secretary or a retired Hon'ble Judge of the august Supreme Court for this purpose. The order, dated 10-09-2014, passed in W.P. No. 1703/2013 and the connected petitions, attained finality on being confirmed by the august Supreme Court.

09-04-2015.

Intra Court Appeals preferred against judgment, dated 11-09-2014 passed in W.P. No. 965/2013 and connected petitions, were allowed by a Division Bench of this Court pursuant to statement made on behalf of the Federal Government and issuance of Notification, dated 02-04-2015. Moreover, it was observed as follows:

"While implementing the policy irregularities may have been committed in some cases and there is no bar on the respective Departments to proceed in accordance with law on case to case basis. Regularization policy cannot be construed or implement in a manner which may extend legitimacy to illegal appointed employees. Reference in this regard may be made to paragraph 26 of the judgment of the august Supreme Court in "Syed Mubashir Raza Jaffri v. Employees Old Age Benefits Institution" (2013 SCMR 949)."

02-04-2015.

The Notification, dated 02-04-2015, was made an integral part of the judgment, dated 09-04-2015 passed in Intra Court Appeal No. 325/2014 etc. and the same is

reproduced as follows:

To be published in next issue of Gazette of Pakistan (Part-I)
 GOVERNMENT OF PAKISTAN
 CABINET SECRETARIAT
 CABINET DIVISION

Islamabad, the 2nd April, 2015

NOTIFICATION

No.F.2/3/2014-Lit In pursuance of Islamabad High Court orders passed in W.Ps No.1703 and 965/2013 on 10th and 11th September, 2014, respectively and with the approval of the Prime Minister, Committee comprising of the following has been constituted in the Establishment Division:-

Composition:

(a) Mr. Haseeb Athar
 (BS-22 an Officer of Secretariat Group)
 (b) Additional Secretary-III,
 Cabinet Division, Islamabad
 (c) Joint Secretary (Admn),
 Establishment Division, Islamabad
 (d) Joint Secretary/Equivalent,
 Law, Justice and Human Rights Division,
 Islamabad.

Terms of Reference of the Committee:

- i. The Committee shall examine the cases for regularization of Contract/Contingent/Daily Wages employees which are under adjudication in various Judicial For a and have been referred to the Federal Government for consideration/Disposal as per guidelines issued vide O.M. No.10/30/2008-R.II dated 29th August, 2008.
- ii. The prescribed qualification for each post shall be adhered to;
- iii. The Committee shall pass speaking orders in each case after giving an opportunity of hearing to the employees and the respective employers.
- iv. In the event that the Committee comes to the conclusion that there has been discrimination in implementing the policy, the decision shall be communicated to the Secretary, Cabinet Division who shall ensure its implementation without delay.
- v. The Committee shall consider all the petitions deemed to be pending before the Federal Government by treating them as representations.
- vi. The Committee shall identify all such cases in which the employees are eligible under the policy guidelines vide O.M. No.10/30/2008-R.II dated 29th August, 2008 and shall refer them to the respective employers for appropriate action.
- vii. The committee shall also decide the cases referred to by the employers where material irregularities/illegality are identified by the employer and referred to the Committee on case to case basis.

2. Establishment Division will be the Secretariat of the Committee and will provide Secretariat assistance to the Committee.

(Hafiz Shahzad Masood)
 Section Officer (Lit/Coord)

02-06-2016.

The judgment of this Court, dated 11-09-2014 whereby the Intra Court Appeals were allowed and consequently the judgment, dated 11-09-2014, passed in

W.P. No. 965/2013 etc. was set aside attained finality having been up held by the august Supreme Court in the following terms:

- a. That the process of regularization in terms of the Judgment dated 09.4.2015 of the learned Division Bench of Islamabad High Court may be conducted by the competent authority in accordance with the law without being influenced by any extraneous considerations or directions.
- b. After the process is completed, if any, individual has any grievance either for not being regularized or, if any, other person is regularized illegally or with illegal consequences, such individuals may seek their remedies available to them in accordance with law.

It is, therefore, obvious that the regularization policy, the details whereof were described in Office Memorandum, dated 29-08-2008, read with Notification, dated 02-04-2015 attained finality.

11-05-2017.

The Federal Cabinet in its meeting held on 12-04-2017 approved yet another policy and details thereof are contained in office Memorandum, dated 11-05-2017 (hereinafter referred to as the "**New Policy**"), which is reproduced as follows:

GOVERNMENT OF PAKISTAN CABINET SECRETARIAT ESTABLISHMENT DIVISION *****	
No F.53/1/2008-SP	Islamabad, the 11 th May, 2017
<u>OFFICE MEMORANDUM</u>	
Subject:-	<u>Amendment in the Recruitment Policy/Mechanism to Ensure Merit Based Recruitment in the Ministries/ Divisions/Sub-ordinate Offices/ Autonomous/ Semi-Autonomous Bodies/Corporations/ Companies / Authorities</u>
<p>The undersigned is directed to state that the Federal Cabinet in its meeting held on 12th April, 2017 has accorded approval of the subject amendment to be inserted as para 1(e) in the Recruitment Policy/Mechanism issued vide this Division's O.M.No.531/2008-SP dated 16th January, 2015 as under:-</p>	
<p>"1(e) Appointment on Regular Basis of Contract/Contingent Paid/Daily Wage/Project Employees</p>	
<p style="padding-left: 40px;">For the purpose of appointment on regular basis of Contract/ Contingent Paid/Daily Wage/Project employees the following criteria shall be observed:-</p>	
<p>(i) All Contract/Contingent Paid/Daily Wage/Project employees who have rendered a minimum of one year of service, in continuity, as on 1-1-2017 (hereinafter referred to as eligible employees) may apply for appointment on regular basis in the manner prescribed hereinafter provided that the condition of continuity shall not be applicable in case of person(s) employed on daily wages who have completed at least 365 days service.</p>	
<p>(ii) For initial appointment to posts in BS-16 and above, the employees shall apply direct to FPSC against relevant/suitable vacancies as and when arising for which they are eligible.</p>	
<p>(iii) For initial appointment to posts in BS-1 to BS-15, the eligible employees may apply as per criteria given vide this Division's O.M.No.53/1/2008-SP dated 16-1-2015 and 3-3-2015 shall be adopted.</p>	
<p>(iv) The eligible employees shall be awarded</p>	

extra marks in interview at the rate of one (01) mark for each year of service rendered upto a maximum of five (05) marks, on the recommendations of the respective selection authorities.

- (v) The period served as contract/contingent paid/daily wage/ project employee, shall be excluded for the purpose of determination of upper age limit in addition to relaxation of upper age limit as per existing rules.

Contd. ..p/2

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- (vi) Qualifications prescribed for a post shall be strictly followed. In case, a person does not possess the prescribed qualifications/ experience for the post he/she is applying for, he/she shall not be considered for the same.

- (vii) The employee must be in good mental and bodily health and free from any physical defect likely to interfere with the discharge of his duties unless appointed against disability quota.

- (viii) The advantage of para 1(e) is a one-time dispensation for all contract/ contingent paid/ daily wage/ project employees for their eligibility to regular employment.

2. This Division's O.M. of even number dated 16th January, 2015 is modified to the above extent. All Ministries/Divisions are requested to take further action accordingly.

-sd-

(Attiq Hussain Khokhar)
Director General
Tel: 051-9103482

All Ministries/Divisions
Rawalpindi/Islamabad

3. With the consent of all the learned counsels appearing on behalf of the petitioners, the petitions were argued by Mr. Hafiz S.A. Rehman, Mr. Abdul Rahim Bhatti and Mr. Shoaib Shaheen ASCs.

4. The learned counsels contended that; in majority cases temporary appointments are made when sanctioned posts are not available or the competent authority, due to the

volume of work, feels it is necessary; most of the petitioners have served for more than five years and their respective service contracts have been extended by the competent authority from time to time; the petitioners legitimately expect that their services would be regularized; the petitioners are entitled to be regularized under the policy which had been proposed by the Cabinet Sub Committee and approved by the Prime Minister of Pakistan on 30-06-2011; other similarly placed employees have been extended the benefit of regularization while the same is being denied to the petitioners; the process of regularization is part of the terms and conditions of service; the petitioners, having served for more than five years, have become entitled to be regularized and a vested right in this regard has also accrued in their favour; the Provincial Governments from time to time have also extended the benefit of regularization to employees appointed on contract basis; rights have accrued in favour of the petitioners pursuant to the regularization policy approved by the Prime Minister of Pakistan on 30-06-2011; under the policy proposed by the Cabinet Sub Committee and approved by the Prime Minister on 30-06-2011, the petitioners have become entitled and, therefore, their right to be regularized cannot be denied; on the recommendations of the Cabinet Sub Committee, employees on contract or daily wage basis have also been regularized in service without the indulgence

of the Federal Public Service Commission (hereinafter referred to as the '**Commission**'); more than one hundred thousand employees have been extended the benefit under the regularization policy proposed by the Cabinet Sub Committee through summary dated 29-06-2011, which was approved by the Prime Minister on 30-06-2011; in several cases representations were made by the petitioners regarding regularization of their services; refusal to regularize the services of the petitioners is in violation of Articles 9, 10-A, 25-A and 27 of the Constitution; the august Supreme Court, in the case titled "Ikram Bari and 524 others v. National Bank of Pakistan through President and another" [2005 SCMR 100], has declared that the right of livelihood is an integral part of the fundamental right guaranteed under Article 9 of the Constitution. The learned counsels also referred to the various legislative enactments relating to the regularization of the employees; they referred to statutes passed by the legislatures of the Khyber Pakhtunkhwa and Sindh in support of their contention that when an employee has served for a long period of time, it gives rise to a right to be regularized; the petitioners cannot be ignored because other similarly placed employees have been extended the benefit of regularization. The learned counsels have placed reliance on case law listed in their respective written arguments.

5. The learned Addl. Attorney General addressed the arguments on behalf of the Federation. It was argued that; the judgment rendered by a Division Bench of this Court, dated 09-04-2015, has attained finality; consequent upon its affirmation by the august Supreme Court vide order, dated 02-06-2016 passed in *Civil Appeal No. 1119 of 2015, CMA No. 513 of 2016 in Civil Appeal No. 1119 of 2015, Civil Appeals No. 1120 to 1126 of 2015, Civil Petitions No. 2925 & 3386 of 2015 and 467 of 2016*; the regularization policy, the details whereof are described in office Memorandum, dated 29-08-2008, had attained finality; Office Memorandum, dated 29-08-2008, has prescribed the eligibility criteria; the Cabinet Sub Committee, constituted by the Federal Cabinet for the purposes of implementation of the regularization policy, was not empowered to propose another policy to the Prime Minister nor was the latter vested with the jurisdiction to approve the same; reliance has been placed on "Messrs Mustafa Impex, Karachi and others v. The Government of Pakistan through Secretary Finance and others" [PLD 2017 SC 808]; initial appointments made in a non-transparent manner are void ab-initio and, therefore, such a person cannot claim a right to be regularized; the purported policy approved by the Prime Minister on 30-06-2011, without seeking approval from the Federal Cabinet, is without lawful authority and jurisdiction; the cases of the petitioners do not fulfill the

conditions prescribed in the OM dated 29-06-2008; the said OM attained finality consequent upon affirmation by the august Supreme Court in the judgment, dated 09-04-2015, rendered by a Division Bench of this Court; the Federal Cabinet has approved a fresh regularization policy and the details thereof are contained in Office Memorandum, dated 11-03-2017; the petitioners who meet the criteria in the said OM will be considered for being regularized.

6. The learned counsels have been heard and the record perused with their able assistance.

7. The petitioners are seeking their regularization. Admittedly, several employees have been regularized pursuant to the decision of the Federal Cabinet on 26-08-2008 and the purported policy approved by the Prime Minister on 30-06-2011. The petitioners can broadly be divided into two categories, firstly, those who upon regularization will attain the status of civil servants and, secondly, employees of entities either established through an Act of the Majlis-e-Shoora or which have been incorporated as juridical persons under the Companies Ordinance, 1984. The petitioners who would attain the status of civil servants are essentially seeking to be appointed on a permanent basis under the Civil Servants Act 1973 (hereinafter referred to as the "**Act of**

1973"). In the case of the latter category their appointments will be governed under the relevant statute or Memorandum and Articles of Association, as the case may be. Before discussing the regularization policy, it would be beneficial to survey the applicable law regulating the appointment of a civil servant.

8. The Act of 1973 regulates the appointment of a person to the service of Pakistan and their terms and conditions. The appointment of a civil servant is, therefore, governed under the provisions of the Act of 1973. The other relevant legislation for the purpose of adjudication of the instant petitions is the Civil Servants (Appointment, Promotion and Transfer) Rules, 1973 (hereinafter referred to as the "**APT Rules**"). It would be beneficial for the adjudication of these petitions to examine the scheme of the Act of 1973 and the APT Rules.

9. The Act of 1973 was enacted and notified in the official gazette on 29-09-1973. The object and purpose of the enactment is to regulate, by law, the appointment of persons to the service of Pakistan and their terms and conditions. Sub section (2) of section 1 declares that the Act of 1973 shall apply to all civil servants wherever they may be. The expression 'civil servant' is defined in section 2(b) as 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. However, clauses (i) to (iii) excludes from the definition of a civil servant, inter-alia, a person who is on deputation or is employed on contract or work charge basis or falls in the definition of a 'worker' or 'workman'. Section 2(a) defines 'ad hoc appointment' as meaning an appointment made otherwise than in accordance with the prescribed method of recruitment, pending recruitment. The expression "initial appointment" is defined in section 2(c) as meaning appointment made otherwise than by promotion or transfer. Likewise, 'permanent post' is defined in section 2(e) as meaning a post sanctioned without limit of time. The expression 'selection authority' has been defined as meaning the Federal Public Service Commission, a Departmental Selection Board, Departmental Promotion Committee or other authority or body on whose recommendation any appointment or promotion is made in the prescribed manner. The next relevant definition is that of 'temporary post' which means a post other than a permanent post. Section 5 provides that appointments to an All-Pakistan Service or to a civil service of the Federation or to a civil post in connection with the affairs of the Federation, including any civil post connected with defence, shall be made in the

prescribed manner by the President or by a person authorized by the latter in that behalf. 'Prescribed' means prescribed by rules and, therefore, in the context of the appointment of a civil servant, the APT Rules have been made. Section 7 provides that a person appointed on probation shall, on satisfactory completion of his probation, be eligible for confirmation in a service or, as the case may be, a post as may be prescribed. Sub section (3) of section 7 provides that there shall be no confirmation against any temporary post. Sub section (5) of section 7 provides that confirmation shall take effect from the date of occurrence of permanent vacancy in that service or post or from the date of continuous officiation, in such service or post, whichever is later. Section 11 A is in respect of absorption of a civil servant, who is rendered surplus. Section 25 empowers the President or any person authorized by him or her in this behalf to make such rules as appear to be necessary or expedient for carrying out the purposes of the Act of 1973. The APT Rules were, therefore, made and notified in the exercise of powers conferred under the said provision.

10. The APT Rules were made and notified vide SRO 1498(I)/73, dated 20-10-1973, in exercise of the powers conferred under section 25 of the Act of 1973. The expressions 'appointing authority', Selection Board,

Commission and Departmental Promotion Committee are defined in clauses (a), (b), (c) and (d) respectively of rule 2. Rule 3 prescribes three methods of appointment i.e. (a) by promotion, (b) by transfer, and (c) by initial appointment. Sub rule (2) of rule 3 provides that the method of appointment and the qualifications and other conditions applicable to a post shall be as laid down by the Ministry or Division concerned, in consultation with the Establishment Division. For the purposes of adjudication of the instant petitions, this Court would restrict its examination to the provisions which relate to initial appointment.

11. The provisions relating to an 'initial appointment' are contained in Part-III of the APT Rules i.e. from Rule 10 to Rule 17. Rule 10 explicitly provides that initial appointment in basic pay scale 16 and above or equivalent, except those which under the Federal Public Service Commission (Function) 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 latter. Rule 11 provides that initial appointment to a post in basic pay scales 1 to 15 and equivalent, other than those mentioned in Rule 10 shall be made on the recommendation of the Departmental Selection Committee after the vacancies have been advertised in newspapers. Rule 12 mandates that the

candidates for initial appointment to a post must possess the prescribed educational qualifications and experience and that he or she must be within the age limit, except if otherwise provided in the rules framed for the purposes of relaxation thereof. Rule 13 makes it mandatory for a candidate to be a citizen of Pakistan, provided that the requirement may be relaxed with the approval of the Establishment Division or if such an appointment is made on 'temporary basis' against a post in the Pakistan Missions abroad. However, such relaxation cannot be accorded for a period exceeding one year at a time. Rules 14, 15 and 16 are in respect of provincial or regional quotas. Part-IV of the APT Rules is in respect of ad hoc and temporary appointments. Rule 18 prescribes the conditions and procedure in case of a post which is required to be filled through the Commission. It is the obligation of the appointing authority to immediately forward a requisition to the Commission in the prescribed form. In exceptional cases an ad hoc appointment may, however, be made for a period of six months or less in accordance with the procedure and conditions mentioned under Rule 19 and after obtaining prior clearance from the Commission. Rule 19 prescribes that if the appointing authority considers it to be in the public interest to fill a post on an urgent basis, falling within the purview of Commission, pending the nomination of a candidate by the Commission, it

may proceed to fill it on an ad hoc basis for a period of six months or less after obtaining prior clearance of the Commission. Even in such an eventuality the post is required to be advertised. Rule 20 provides that short term vacancies in the posts falling within the purview of the Commission and vacancies occurring as a result of the creation of temporary posts for a period not exceeding six months, may be filled by the appointing authority otherwise than through the Commission on a purely temporary basis after advertising the vacancy. Rule 21 makes it mandatory that a person appointed by initial appointment, promotion or transfer, shall be on probation for a period of one year. Sub rule (2) of rule 21 empowers the competent authority to curtail the period of probation for good and sufficient reasons, to be recorded, or, if considered necessary, it may be extended for a period not exceeding one year as may be specified at the time of appointment. Sub rule (3) explicitly provides that on successful completion of the probation period, the appointing authority shall, by specific order, terminate the probation. Sub rule (4) provides that if no order is issued under sub rule (3) then on the expiry of the first year of the probation period, the period of probation shall be deemed to have been extended under sub rule(2).

12. A combined reading of the provisions of the Act of 1973 and the APT Rules shows that it is a comprehensive and self contained law governing the making of appointments to the posts described in section 5 *ibid*. A person, therefore, can only be appointed as a civil servant in accordance with and in the manner prescribed i.e under the APT Rules. The APT Rules prescribe three distinct modes of making an appointment; by promotion, transfer or through initial appointment. After initial appointment, the civil servant remains on probation till confirmation under section 7 of the Act of 1973. For the purposes of these petitions 'initial appointment' shall be examined in detail.

13. Part III of the APT Rules covers 'initial appointment' to a post described in section 5 of the Act of 1973. The qualifications and other conditions relating to eligibility for a post are laid down by the concerned Ministry or Division in consultation with the Establishment Division. The posts have been divided into two categories; in basic pay scale 16 and above or equivalent and in basic pay scale 1 to 15 or equivalent. Appointment to the former posts are required to be filled through tests and examinations conducted by the Commission and in the case of the latter on the recommendation made by the relevant Departmental Selection Committee after the vacancies have been

advertised. A candidate for any post would be eligible to be considered if he or she possesses the prescribed educational qualifications, experience and other conditions. Age limit is also a relevant factor. All the posts, whether permanent or temporary, have to be filled strictly in accordance with the Act of 1973 and the APT Rules.

14. For filling a post in basic pay scale 16 and above or equivalent, the appointing authority is required to send a requisition to the Commission. Only in 'exceptional' circumstances, and that too after seeking prior clearance from the Commission, may the appointing authority make an ad hoc appointment if the latter considers it in the public interest to fill the post urgently till a candidate is nominated for the initial appointment by the Commission. Such an ad hoc appointment can only be made for a period of six months. The APT Rules explicitly provide that even for making an ad hoc appointment it is mandatory to advertise the post and to observe the qualifications and other conditions prescribed in the case of making an initial appointment. A plain reading of the APT Rules as a whole shows that there is no provision which authorizes an appointing authority to make an ad hoc appointment against a post in basic pay scale 1 to 15. The APT Rules unambiguously provide that the principles of transparency, inter alia, advertising the vacant post and

inviting applications from eligible candidates are mandatory for filling a post. Moreover, the nomination or recommendation by the Commission or the Departmental Selection Committee, as the case may be, are sine quo non for making an initial appointment.

15. In these petitions most of the petitioners are seeking relief which would essentially lead to an initial appointment under the Act of 1973. The provisions of the Act of 1973 and the APT Rules would, therefore, be attracted. The petitioners are also relying on the policies relating to regularization, formulated and implemented by the Federal Government from time to time. The policies shall be discussed later. However, it is observed that a policy cannot be which is inconsistent with a primary legislation, such as the Act of 1973. Through a policy the Federal Government is not empowered to bypass or render statutory provisions redundant. Likewise, a delegated legislation, such as the APT Rules, will prevail to the extent of conflict with a policy. A policy of the Federal Government has to be interpreted in conformity with the statutory provisions or delegated legislation made there under.

16. It is also pertinent to examine the precedent law and principles laid down by the august Supreme Court in relation to making appointments. In the case titled "Dr Naveeda Tufail

and 72 others v. Government of Punjab and others' [2003 SCMR 291] the august Supreme Court has observed and held as follows:

“The making of recruitment on ad hoc basis with or without advertisement of the post in the normal circumstances, amounts to curtail the legitimate right of appointment of deserving persons on regular basis and is against the policy of law. The concept of ad hoc appointment against the posts in public sector is a stopgap arrangement which is not the permanent character of the civil service. It is not proper in the public sector to occupy the posts required to be filled through the method prescribed by law by making ad hoc appointments and allow the incumbents to continue in the same position beyond the terms of their employment without taking any step for the filling the posts on regular basis. It was observed by this Court in Abdul Jabar Memon and others (1996 SCMR 1349) that there can be no justification to take keep

the posts nationally vacant by making ad hoc appointments and keep the ad hoc employees hanging in the same situation for number of years with the understanding of their adjustment on permanent basis and ultimately they are informed that they are no more required. This method of appointments in the public sector by the functionaries is misuse of the authority of law as in the normal circumstances, recruitment against the posts in the Government Department, the statutory bodies and organizations should be filled within reasonable time by following the procedure provided under the law for fulfilling such posts on the basis of open merit through Public service Commission. There can be no exception to the policy of law that the ad hoc appointments should be made only in exceptional circumstances in exigencies of service and should not be allowed to prolong beyond the period for which the appointment was made and keeping a person continuously as an ad hoc employee by extending his period of

service would definitely create a legitimate expectancy in his mind for regularization.”

It has been further observed as follows:

“There is no cavil to the proposition that an ad hoc employee has no right to hold the post beyond the period for which he was appointed and it is also not right for the Government to continue ad hoc appointments for number of years without undertaking the exercise of selection on regular basis in the prescribed manner. The ad hoc appointment is appointment of a duly qualified person made otherwise in accordance with prescribed method of recruitment and is made only in exceptional circumstances. This stopgap arrangement as a temporary measure for a particular period of time does not by itself confer any right on the incumbent for regular appointment or to hold it for indefinite period but at the same time if it is found that incumbent is qualified to hold the post despite his appointment being in

the nature of precarious tenure, he would carry the right to be considered for permanent appointment for considerable length of time would create an impression in the mind of the employee that he was being really considered to be retained on regular basis. “

17. In the case titled ‘Mushtaq Ahmad Mohal and others v The Honourable Lahore High Court, Lahore and others’ [1997 SCMR 1043] the august Supreme has held:

“We reiterate that the appointment to various posts by the Federal Government, Provincial Governments, Statutory Bodies and other Public Authorities, either initial or ad hoc or regular, without inviting applications from the public through the press, is violative of Article 18 read with Article 2A of the Constitution, which has incorporated the preamble to the Constitution as part of the same and which inter alia enjoins equality of opportunity and guarantees for creation of an egalitarian society through a new order,

which objective cannot be achieved unless every citizen equally placed or situated is treated alike and is provided equal opportunity to compete inter alia for the posts in aforesaid Government set-ups/institutions.”

18. In the case titled “Syed Mubashir Raza Jaffri and others v. Employees Old Age Benefits Institutions (EOBI) through President of Board, Board of Trustees and others” [2014 SCMR 949] the august Supreme Court, after examining the precedent law, has observed and held as follows:

“All the cases discussed above reveal that the jurisdiction of this Court has been clear and consistent with regard to the manner in which appointment to public offices are to be made strictly in accordance with applicable rules and regulations, without any discrimination and in a transparent manner. Thus, it is essential that all appointments to public institutions must be based on a process that is palpably and tangibly fair and within

the parameters of its applicable rules, regulations and bye-laws.”

19. The august Supreme Court, in the case titled “Suo Motu Action Regarding Eligibility of Chairman and Members of Sindh Public Service Commission etc” [2017 SCMR 637], has held as follows:

“If through a discriminatory selection process civil servants are selected and appointed it would infringe Article 27 of the Constitution which states that, “No citizen otherwise qualified for appointment in the service of Pakistan shall be discriminated against.” Article 25, prescribing the equality of citizens, is another Fundamental Right which is attracted if all those who are tested and interviewed are not treated equally.”

20. In the case titled “Muhammad Ashraf Tiwana and others v. Pakistan and others” [2013 SCMR 1159] the august Supreme Court has emphasized that due diligence must be exercised while making appointments and that in doing so a fair and transparent selection process ought to be adhered to. In the case titled ‘Muhammad Yasin v Federation of Pakistan

through Secretary, Establishment Division, Islamabad and others' [PLD 2012 S.C. 132] the august Supreme Court has observed that adherence to a credible and transparent selection process with due diligence is a pre requisite. The august Supreme Court has also emphasized that in order to ensure good governance it is inevitable to observe the highest standards of diligence, transparency and probity in selecting a person for a post.

21. In the case titled "Asaf Fasihuddin Khan Vardag v. Government of Pakistan and others" [2014 SCMR 676] the august Supreme Court has held that a public authority possessed powers only to use them for the public good and this imposed a duty to act fairly. In relation to making an appointment the august Court has held as follows:

"It is to be noted that in the cases of Muhammad Ashraf Tiwana v. Pakistan and others (2013 SCMR 1159) and Khawaja Muhammad Asif v. Federation of Pakistan (2013 SCMR 1205) this Court in exercise of powers under Article 184(3) of the Constitution has concluded that in the public interest and also to enforce their Fundamental Rights, appointments must be made on merit, lest it should cause damage

to the institutions responsible for running different affairs of the Government and also generating funds for the purpose of spending on the welfare of the citizens with a view to improve standard of their life in terms of Article 9 of the Constitution. If there is corruption and corrupt practices on account of appointment of the concerned functionaries, including in pursuance of unlawful exercise of power or by causing loss in running of the affairs of public institutions, the citizens are bound to be affected directly or indirectly. Therefore, their Fundamental Rights under Article 9 of the Constitution are not enforced in letter and spirit.”

22. In the case titled “Chief Secretary Punjab and others v Abdul Raof Dasti” [2006 SCMR 1876] the august Supreme Court, in relation to the appointment of a person in public service, has held as follows:

“We need to remind ourselves that choosing persons for public service was not just providing a job and the consequent

livelihood to the one in need but was a sacred trust to be discharged by the ones charged with it, honestly, fairly, in a just and transparent manner and in the best interest of the public. The individuals so selected are to be paid not out of the private pockets of the ones appointing them but by the people through the public exchequer. Therefore, we must keep it in mind that not selecting the best as public servants was a gross breach of the public trust and was an offence against the public who had right to be served by the best. It is also blatant violation of the rights of those who may be available and whose rights to the said posts are denied to them by appointing unqualified or even less qualified persons to such posts. Such a practice and conduct is highly unjust and spreads a message from ones in authority that might was right and not vice versa which message gets gradually permeated to the very gross root level leading ultimately to a society having no respect for law, justice and fair play. And it is the said evil norms which ultimately lead to anarchic and

chaotic situations in the society. It is about time we suppressed such-like evils tendencies and eliminated them before the same eliminated us all."

23. In the case titled "Government of N.W.F.P through Secretary Forest Department, Peshawar and others v Muhammad Tufail Khan" [PLD 2004 Supreme Court 313] the august Supreme Court reiterated the law expounded in the earlier judgments titled "Munawar Khan v. Niaz Muhammad" [1993 SCMR 1287], "Mushtaq Ahmed Mohal v. Lahore High Court" [1997 SCMR 1043], "Obaidullah v. Habibullah" [PLD 1997 S.C. 835] and "Abdul Rashid v. Riazuddin" [1995 SCMR 999] by observing as follows:

"The Courts are duty bound to uphold the Constitutional mandate and to keep up the salutary principle of rule of law. In order to uphold these principles it has been stated time and again by the superior Courts that all the appointments are to be made after due publicity in a transparent manner after inviting applications through Press from all those who are eligible, deserving and desirous."

24. The principles and law laid down by the august Supreme Court in the above judgments may, therefore, be summarized as follows:

(i) The posts in government departments and statutory organizations ought to be filled within reasonable time by following the procedure prescribed under the relevant law.

(ii) If a person is qualified to hold a post and fulfills all other conditions prescribed under the law, then a right may accrue to be considered for permanent appointment if the temporary appointment of the latter has continued for a considerable length of time and the conduct of the employer has created an impression in the mind of such a person that he may be retained on a regular basis.

(iii) Appointments of any nature, whether initial or ad hoc, permanent or temporary, if made in violation of the principles of competitive transparency, inter alia, without inviting applications from the public, is in violation of the Constitution and, therefore, void.

(iv) Appointment to a post in the public sector made in a non transparent and discriminatory manner offends the fundamental rights guaranteed under Articles 25 and 27 of the Constitution.

(v) Selecting a qualified, eligible and most deserving person is a sacred trust which is to be discharged honestly and fairly in a just and transparent manner and in the best interest of the public.

25. Having discussed the provisions of the Act of 1973, the APT Rules and the principles and law laid down by the august Supreme Court, I shall now advert to the various policies announced by the Federal Government from time to time regarding regularization of contract employees. The Federal Government had approved a policy regarding regularization and the details thereof were described in the Office Memorandum dated 29-08-2008 (hereinafter referred to as the "**First Regularization Policy**"). The said policy covered only such contract employees who were appointed up to 03-06-2008. The policy explicitly excluded employees working against tenure posts, project posts, on daily wage basis or who were paid out of a contingent or defence budget.

The contract employees in pay scale 16 and above or equivalent were also excluded. The First Regularization Policy had taken into consideration all the relevant factors in the context of the Act of 1973 and the APT Rules. Factors such as age relaxation, provincial quota, prescribed qualifications etc were in consonance with the APT Rules. The Cabinet Sub Committee was to oversee the implementation of the policy and could not have substituted the Departmental Selection Committee nor perform its functions under Rule 11 of the APT Rules. The august Supreme Court vide judgment, dated 02-06-2016, passed in *Civil Appeal No. 1119 of 2015, CMA No. 513 of 2016 in Civil Appeal No. 1119 of 2015, Civil Appeals No. 1120 to 1126 of 2015, Civil Petitions No. 2925 & 3386 of 2015 and 467 of 2016* upheld the judgment dated 09-04-2015 rendered by a Division Bench of this Court in ICA No. 325/2014 and, therefore, the Notification, dated 02-04-2015, stood affirmed. As a consequence the First Regularization Policy was endorsed to the exclusion of any other policy.

26. The learned counsels appearing on behalf of the petitioners have heavily relied on the purported policy which was forwarded by the Cabinet Sub Committee vide summary, dated 29-06-2011, and approved by the Prime Minister on 30-06-2011 (hereinafter referred to as the "**Committees Policy**"). It was explicitly mentioned in the summary that the proposals shall be subject to approval by the Federal Cabinet.

However, there is nothing on record to show that the Cabinet at a later stage had given its approval. The Committees Policy, therefore, cannot be termed as a policy of the Federal Government in the light of the law laid down by the august Supreme Court in the case titled "Messrs Mustafa Impex, Karachi and others v The Government of Pakistan through Secretary Finance and others" [PLD 2016 SC 808]. Moreover, the terms of the purported policy were in violation of the Act of 1973 and the APT Rules. Admittedly, the APT Rules were not amended to bring them in conformity with the Committees Policy. The APT Rules, having the status of delegated legislation, could neither be bypassed nor made redundant through a policy. The Committees Policy was, therefore, illegal and without legal effect.

27. During the course of proceedings in the instant petitions, the learned Additional Attorney General had informed the court that the Cabinet had approved a fresh policy regarding regularization of contract employees. In this regard he placed on record a copy of the Office Memorandum dated 11-03-2011 (hereinafter referred to as the "**New Policy**"). The policy covers all contract, contingent paid, daily wage and project employees who have rendered a minimum of one year service as on 01-01-2017. A plain reading of the New Policy shows that it is not in conflict with the APT Rules. In any case, while implementing the New Policy the

appointing authority shall ensure that the provisions of the Act of 1973 and the APT Rules are not violated in the case of making appointments to the posts described in section 5 *ibid*.

28. It is, therefore, obvious from the above, that the First Regularization Policy and the New Policy have not been found inconsistent with the Act of 1973 or the APT Rules. The Committees Policy, being in violation of the Act of 1973 and the APT Rules, and not being a policy of the Federal Government, was invalid, illegal and void. However, the period between the First Regularization Policy and the New Policy cannot be left void. The New Policy has extended the benefit of regularization to categories which had been excluded in the First Regularization Policy, such as contingent paid, daily wage or contract employees. The New Policy, therefore, has to be given a purposive interpretation by holding that it would extend to the eligible categories during the period between the First Regularization Policy and the New Policy.

29. The learned counsels have raised the argument relating to discrimination on the ground that other similarly placed persons had benefited from the Committees Policy and, therefore, the same could not be denied in the case of the petitioners. I am afraid that this argument is without force. An illegality cannot be pleaded as a ground for

discrimination, nor can it be allowed to be perpetuated while exercising powers under Article 199 of the Constitution. It was for this reason that a Division Bench of this Court, vide judgment dated 02-04-20015, had left it open to the respective employers to proceed in accordance with the law if irregularities had been committed or illegal appointments had been made. This was explicitly observed and affirmed by the august Supreme Court vide judgment, dated 02-06-2016, passed in *Civil Appeal No. 1119 of 2015, CMA No. 513 of 2016 in Civil Appeal No. 1119 of 2015, Civil Appeals No. 1120 to 1126 of 2015, Civil Petitions No. 2925 & 3386 of 2015 and 467 of 2016.*

30. It is noted, however, that the cases of employees who are not governed under the Act of 1973 or the APT Rules are on a different footing. They would be governed under the relevant statute or the articles of association, as the case may be. If an entity has been established under a statute and the Federal Government has administrative or financial control over it, then unless such statute has expressly made the policies of the Federal Government binding, the decision making authority shall be at liberty to formulate a policy of its own. An example in this regard may be the National Database and Registration Authority established under the National Database and Registration Authority Ordinance, 2000. The Board of the Authority is empowered to formulate its own

policy, different from the policy of the Federal Government, if the relevant statute empowers it in this regard. The same would be the case of juridical persons incorporated under the Companies Ordinance, 1984.

31. It is also noted that the question of legitimate expectation cannot be adjudicated while exercising jurisdiction under Article 199 of the Constitution since it involves disputed questions of fact. Whether or not the conduct of an employer has created an impression in the mind of the employee that the former intends to retain him on a regular basis is definitely a question of fact and not justiciable while exercising powers under Article 199 of the Constitution. Moreover, even if a case is made out in terms of legitimate expectation yet no appointment can be validly made in violation of the relevant lawm e.g the Act of 1973 and the APT Rules. The case law cited at the Bar has been carefully perused and the same has been found to be distinguishable, inter alia, after approval of the New Policy. .

32. For what has been discussed above, it is held and directed as follows:

- (i) The case of each petitioner shall be considered and decided by the

relevant competent authority, having regard to the above discussion.

(ii) The appointments of petitioners, which were made without advertising the posts and observing the principles of competitive transparency, are illegal, void and tantamount to misconduct on the part of the appointing authority.

(iii) The petitioners appointed as teachers, who may fall within the ambit of clause (ii) above, have been serving for a considerable time. The failure of Federal Government is obvious in taking timely measures. The Federal Government, therefore, owes a duty of care towards such petitioners as well. It would, therefore, be just and proper to direct the Federal Government to consider and take appropriate decisions in accordance with law relating to the fate of such petitioners. The Federal Government may, inter alia, consult the Commission in this regard, because the petitioners fall in the category of pay scale 16 and above. It is the duty of the

respondent department and the Federal Government to pay salaries to the teachers employed in public schools or colleges from the approved budget rather than burdening the students, which is a serious violation. Before taking any adverse action against the petitioners who may fall within the ambit of clause (ii) above, they shall be afforded reasonable opportunity of hearing.

(iv) The cases of those petitioners who were appointed through a transparent recruitment process and are seeking regularization against the posts in pay scale 1 to 15, described in section 5 of the Act of 1973, shall be scrutinized by the respective respondent departments in the light of the New Policy. The cases of the eligible employees shall be placed before the Departmental Selection Committee, as required under Rule 11 of the APT Rules. The latter, having regard to the APT Rules, shall give its recommendation in each case. The petitioners in pay scale 16 and above or

equivalent shall apply directly to the Commission, strictly in accordance with clause (ii) of the New Policy i.e OM dated 11-05-2017.

(v) In the case of petitioners who are employees of entities established under a special statute wherein the Federal Government has a control, administrative or financial, their cases shall be scrutinized and placed before the competent authority for its decision, having regard to the New Policy.

(vi) In the case of juridical persons incorporated under the relevant laws, the cases of the petitioners who are its employees shall be placed before the respective Board for a decision, inter alia, having regard to the New Policy.

(vii) This Court expects that all cases shall be processed and decided, preferably within ninety days from the date of receiving this judgment.

(viii) The contempt petitions at this stage have become infructuous in the light of

the above. However, it shall be open to any petitioner to file a fresh petition in case of a grievance regarding violation of this judgment.

33. This Court, while exercising jurisdiction under Article 199 of the Constitution, cannot ignore the obvious violation of the fundamental rights of the public at large, particularly the students enrolled in the schools and colleges where most of the petitioners are employed. The state of governance observed during the proceedings in these petitions, which essentially and directly affects the fundamental rights of the general public, present an alarming and abysmal picture in respect of the most important and noble sector i.e. education, and that too in public schools and colleges where the privileged classes of the society, particularly the policy makers, seldom send their children to be educated. The educational institutions where most of the petitioners are employed have been established for the benefit of the general public who cannot afford to send their children to the private elitist schools. Most of the petitioners were appointed without observing the principles of transparency and that too on a daily wage basis. Payment of salaries of teachers from the Student Fund is a gross violation since nothing has been placed on record to show that the appointing authorities are vested with such a power. It offends Article 25-A of the

Constitution. The petitioners' competence may not be in doubt, but it is a fundamental right of every student who is enrolled in these schools or colleges to be taught by the best and most suitable person, which can only be ensured through a selection process that is competitive and transparent. A non transparent process opens avenues for nepotism at the cost of the fundamental rights of the citizens, particularly in this case of children who are the future of Pakistan. It is astonishing that the majority of the petitioners are being paid out of the Student Fund or have been appointed on an honorary basis, that too through a non transparent process. Would the policy makers and those entrusted with the daunting task of implementing and enforcing the policies of the government allow this to happen if their children were going to these schools. This is a classic case which clearly indicates the priority given by the policy makers, the Federal Government and the Parliament to public schools. It has become obvious from these proceedings that the Federal Government has given public schools the least priority, and they are being managed on an ad hoc basis. This needs to be strongly deprecated because it inevitably leads to a flagrant violation of the fundamental rights guaranteed by the Constitution to every citizen of Pakistan. A teacher plays a pivotal role in society since he or she is in a position to influence impressionable minds. A teacher is an architect of

the future of Pakistan and, therefore, it is a fundamental right of every child, including those who go to a public school, to have the best amongst the best as a teacher.

34. The individual rights of the petitioners, if any, are subservient to the fundamental rights of the people at large. The alarming situation observed in these petitions warrants immediate steps to be taken by the Federal Government. This Court can only wonder whether the Chief Executive of the country, the incharge Minister or the concerned Federal Secretary would enroll their children in public schools where teachers are appointed on a daily wage basis, and that too in a non-transparent manner and paid out of the Student Fund. If not, then they definitely have breached a sacred trust and have failed in discharging their fiduciary duties in an honest, just and fair manner. It is a constitutional obligation of the Federal Government to take urgent steps to ensure that the fundamental rights of every child enrolled in the public schools remains protected. The Federal Government may consider constituting a Commission consisting of educational experts to probe into the obvious irregularities highlighted in these petitions and to make recommendations for its redressal. It is a sacred trust to be discharged by the competent authorities to ensure that no person is appointed illegally or in a non transparent manner, so that every student has access to the best amongst the best of the

teachers. The fundamental rights of every student enrolled in a public school would stand protected the day the Chief Executive of this country, the concerned Federal Secretary and other privileged persons feel confident about enrolling their children as students in these public schools. This is the only test which would confirm that the fundamental rights of every child enrolled in public schools, where the petitioners are employed, have been secured.

35. This Court records its appreciation for the able, professional and valuable assistance rendered by all the learned counsels named above.

36. The petitions, therefore, stand disposed of in the terms of paragraph 32 of this judgment.

(ATHAR MINALLAH)
JUDGE

Announced in open Court on 1st November, 2017.

JUDGE
Approved for reporting.