JUDGMENT SHEET.
ISLAMABAD HIGH COURT, ISLAMABAD,
JUDICIAL DEPARTMENT.

W.P No.3473 of 2020

Capital Development Authority
Vs.
National Industrial Relations Commission, Islamabad and others

W.P No.3475 of 2020

Capital Development Authority
Vs.
Full Bench, NIRC, Islamabad, etc

Petitioner by:	Mr. Muhammad Nazir Jawad, Advocate.
Respondents by:	Mr. Muhammad Akhtar Anjum, Advocate.
Dates of Hearing:	**19.02.2025 & 21.02.2025.**

INAAM ANEEN MINHAS, J:- Through this single judgment, I shall decide the above captioned writ petitions involving similar questions of fact and law.

2. Through these writ petitions, the petitioner has assailed the order dated 11.05.2020, passed by the learned Single Bench, NIRC and the order dated 10.08.2020, passed by the learned Full Bench, NIRC in appeal, whereby grievance petitions filed by respondent No.2 (in writ petition No.3473/2020) and respondents No.2 to 36 (in writ petition No.3475) were concurrently allowed and their services were regularized.

3. Brief facts as per memo of the petitions are that respondent No.2 (in writ petition No.3473/2020) and respondents No.2 to 36 (in writ petition No.3475) **(hereinafter collectively referred to as respondents)** were appointed as Horticulture Supervisor (BS-01) and

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Ordinary Grade Mali **("Mali")** BS-01 in the organization of the petitioner on 01.01.2011 on Muster Roll/daily paid basis initially for a period of one year and after expiry of one year, their engagement was extended for further period of six months till 31.12.2013 and on 02.01.2014 their services were engaged for a period of 89 days basis and the same period of 89 days was regularly extended till filing of the grievance petitions. The respondents filed their grievance petitions before the learned Single Bench, NIRC, which were allowed vide order dated 11.05.2020 with the observations that the respondents have been working on permanent nature of job continuously since, 2010, they have attained the status of permanent workman and are entitled to be regularized and be placed in seniority in the manner that they are appointed on the date of this order. However, they will be considered regular for fixation of pay and pensionary benefits from the date of their initial appointment on a Muster roll/daily wage basis. Feeling aggrieved of the order of the learned Single Bench, NIRC, the petitioner filed appeals before the learned Full Bench, NIRC, which were dismissed vide order dated 10.08.2020, hence, the writ petitions.

4. Learned counsel for the petitioner at the very outset apprised the Court that the impugned orders dated 11.05.2020 and 10.08.2020 passed by learned Single Bench, NIRC and learned Full Bench, NIRC, have been complied with by regularizing the services of the respondents, in accordance with the decision of CDA Board dated 17.06.2022, based on the recommendations of the Departmental Recruitment Committee and now the issue before this Court is only limited to the date of regularization of the respondents.

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5. The learned counsel for the respondents has also confirmed the stance of learned counsel for the petitioner.

6. The sole issue to be adjudicated by this Court is:-

> *Whether the regularization of the respondents would take effect retrospectively from the date of their initial appointments on a Muster roll/ daily wage basis in the year 2010, or prospectively from the date when the regularization order was passed by the CDA Board on 17.06.2022.*

7. This issue has been conclusively settled by Supreme Court in Province of Punjab through ***Chief Secretary, Lahore and others vs. Prof. Dr. Javed Iqbal and others,*** **2022 PLC (CS) 947** by affirming that regularization of contractual employees takes effect prospectively from the date, on which the regularization order is passed. An employee cannot unilaterally choose the date of regularization as the decision to regularize remains within the exclusive prerogative of the executive authority and cannot be arbitrarily interfered with by the Court.

8. Similarly, Supreme Court in ***Vice Chancellor, Agricultural University Peshawar & Others vs. Muhammad Shafique & Others*** **(2024 SCMR 527)** declared that regularization is contingent upon several considerations, including an assessment of the employee's competence, ability, financial impact, and the long-term legal obligations of the employer institution. Regularization is a deliberate and conscious decision to be made by the employer institution at an appropriate time and, therefore, cannot be applied retrospectively. Consequently, an employee cannot claim ante-dated regularization.

9. Keeping in view the above precedents of the Supreme Court, it is held that the respondents' services shall be deemed to have been

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regularized from the date of decision of CDA Board dated 17.06.2022.

The titled writ petitions stands **disposed of** in above terms.

(INNAM AMEEN MINHAS)
JUDGE

Announced in open Court on 11.03.2025.

JUDGE

R.Anjam.

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