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

Writ Petition No. 442 of 2021.

Qaiser Rahman

Versus

Federation of Pakistan, through Federal Secretary, Ministry of Science & Technology, Islamabad.

S.No. of order/ proceeding	Date of order/ proceeding	Order with signature of Judge and that of parties or counsel where necessary.
(02)	01.03.2021	Ms. Zill-E-Huma, Advocate for the petitioner. Petitioner has invoked the writ jurisdiction of this Court with the following prayer; ***"i) The instant Writ Petition may kindly be allowed and the respondents may graciously be directed to regularize the services of the petitioners from the date of his appointment with all back benefits, to meet the ends of Justice.*** ***ii) The Respondents may also be directed not to take any vindictive action against the petitioner.*** ***Any other appropriate relief, which this Honourable Court deems fit and proper in the circumstances of the matter, may also be awarded".*** 02. According to facts of the case, the petitioner was appointed as driver on contingency basis for 89 days vide appointment letter dated 30.03.2018, purely on temporary basis. The said appointment was extended with same terms and conditions from time to time and lastly it was extended till 30.09.2020. In the meanwhile the respondent No. 2 has published an advertisement for appointments of the Naib Qasids etc. in the Daily Newspaper. The petitioner applied against the said post.

Subsequently, he was called for interview against the post of Naib Qasid but he did not qualify the same and two persons namely Sakhawat Shah and Noor Din were appointed as Naib Qasids upon the recommendations of Departmental Selection Committee.

03. Learned counsel for the petitioner contends that, as the petitioner has served with respondent No. 2 w.e.f. 30.03.2018 till 30.09.2020, therefore, he is liable to be regularized on the basis of laws laid down in cases titled as *"Aqeel Shahzad and others V. Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa, Peshawar and others* (*2020 SCMR 1425)" and "Pakistan Railways through Chairman, Islamabad and another V. Sajid Hussain and others (2020 SCMR 1664)"*.

04. Arguments heard record perused.

05. It is categorically mentioned in appointment letter dated 30.03.2018, (*appointment on contingency basis for 89-days*), that appointment of the petitioner was purely on temporary basis and shall not be converted into permanent / regularized under any condition or pretext whatsoever. The petitioner accepted the offer and joined the service. Thereafter, the contingency period of the petitioner was extended from time to time with the same terms and conditions.

06. The respondent No. 1 published advertisement in the Daily Newspaper for appointments of Naib Qasids etc. The petitioner

applied for the same and in consequence of the advertisement he undergone through the competitive process of interview etc. but did not qualify, however, two persons namely Sakhawat Shah and Noor Din have been appointed as Naib Qasids on the recommendations of the Departmental Selection Committee, vide offer of appointment letters dated 05.10.2020.

07. The petitioner has not impleaded the selected candidate as respondents in the instant writ petition. The judgments of the Hon'ble Supreme Court of Pakistan relied upon by the learned counsel for petitioner are not helpful to the petitioner, as the facts and circumstances are altogether different.

08. In case titled as ***"Aqeel Shahzad and others V. Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa, Peshawar and others (2020 SCMR 1425)"***, the appointments of the employees were protected under Rule 71(v) of The Khyber Pakhtunkhwa Agricultural & Live Stock Produce Markets Act, (IV of 2007), so the relief was given to the employees on the basis of said rules.

09. In another case titled as "***Pakistan Railways through Chairman, Islamabad and another V. Sajid Hussain and others (2020 SCMR 1664)",*** the employees were appointed on 15.04.2010 and were given the benefit of regularization policy dated 20.12.2012, announced by Federal Government.

10. It is trite that where a citizen seeks relief in constitutional jurisdiction, he must point out a right statutory or constitutional which vests in him and has been denied in violation of law. The petitioner has failed to point out any right to seek regularization on the basis of any constitutional guarantee or statuary law or instrument which may have been denied to him. His terms and conditions of service were governed by his appointment notifications and in my view there was no right of regularization available to the petitioner.

11. For the reasons recorded above, the instant writ petition is dismissed in limine.

(TARIQ MEHMOOD JAHANGIRI)
JUDGE

Bilal