JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P.No.3552/2016
Qari Ghulam Rasool
Versus
Chief Commissioner Islamabad and others

Date of Hearing:	19.11.2019
Petitioner by:	Ms. Kashifa Niaz Awan, Advocate
Respondents by:	Mr. Muhammad Nadeem Khan Khakwani, learned Assistant Attorney-General. Mr. Aloudin, Admin Officer. Mr. Mushtaq Ahmad, Assistant, Auqaf.

MIANGUL HASSAN AURANGZEB, J:- Through the instant writ petition, the petitioner, Qari Ghulam Rasool, impugns the advertisement dated 23.09.2016 published by the Office of the Chief Commissioner, Islamabad Capital Territory (respondent No.1) in the daily Express to the extent of inviting applications for appointment against the post of *Moazin* (*Deobandi*) (BPS-05).

2. Learned counsel for the petitioner submitted that on 25.10.2012, the petitioner was appointed as a *Moazzin* on daily wages basis for a period of three months; that vide office order dated 25.10.2012 issued by the Auqaf Directorate, Islamabad (respondent No.3), the petitioner was posted/transferred for duty as *Moazzin* in Masjid Al-Habib, G-7/3-3, Islamabad; that the period of the petitioner's appointment was extended from time to time; that on 31.01.2013, respondent No.3 forwarded the petitioner's name for the regularization of his services; that instead of regularizing the petitioner's services, respondent No.1 has issued the impugned advertisement inviting applications for the appointment of *Moazzin*; that since the petitioner has been performing his duties as a *Moazzin* since the past seven years, he had acquired a legitimate expectation for his services to be regularized; that the respondents had regularized one person in the list dated 31.01.2013; and that the order dated 02.12.2016 passed by this Court shows that Molana Arif Naqshbandi had confirmed that the petitioner was performing his duties as a

Moazzin. Learned counsel for the petitioner prayed for the writ petition to be allowed in terms of the relief sought therein.

3. On the other hand, learned Assistant Attorney-General submitted that the petitioner's employment on daily wages basis was not extended beyond the initial three-month period; that there is nothing on the record to show that he was paid for the period beyond the initial three months of his appointment on daily wages basis; that on the expiry of his initial appointment for a period of three months, his services were terminated on 25.01.2013; that the petitioner's services have not been regularized at any material stage; that the petitioner did not even fulfill the criteria for the regularization of his services; and that the petitioner had not completed three consecutive tenures of eighty nine days of employment on daily wages basis. Learned Assistant Attorney-General prayed for the writ petition to be dismissed.

4. I have heard the contentions of the learned counsel for the petitioner as well as the learned Assistant Attorney-General and have perused the record with their able assistance.

5. The record shows that vide memorandum dated 25.10.2012 issued by respondent No.1, the petitioner was appointed as a ***Moazzin*** on daily wages basis for a period of three months. One of the terms of his appointment was that the period of his appointment could be extended or curtailed. Vide office order dated 25.10.2012, the petitioner was posted to perform duties of ***Moazzin*** in Masjid Al-Habib, G-7/3-3, Islamabad.

6. There is nothing on the record to show that the petitioner's appointment on daily wages basis was extended beyond a period of three months. There is also nothing on the record to show that the petitioner was paid his salary by the respondents beyond the first three months of his employment.

7. The petitioner has not been regularized at any material stage. The mere fact that he was proposed to be considered for regularization would not give him a vested right to be regularized. The petitioner did not go through any competitive process when he was appointed on daily wages basis for a period of three months. If the petitioner feels that he has the requisite qualifications and

ability to be appointed as a *Moazzin*, he should not hesitate in participating in the competitive process for such an appointment in response to the impugned advertisement published by respondent No.1.

8. Since the petitioner's employment was admittedly on daily wages basis, his case is not on a better footing than that of a contractual employee. Recently in the case of Chairman NADRA, Islamabad Vs. Muhammad Ali Shah (2017 SCMR 1979), it has been held that a contractual employee of a statutory organization cannot invoke the Constitutional jurisdiction of the High Court under Article 199 of the Constitution. Furthermore, in the case of Pakistan Telecommunication Company Limited Vs. Iqbal Nasir (PLD 2011 S.C. 132), held as follows:-

> ***"All the employees having entered into contracts of service on the same or similar terms and conditions have no vested right to seek regularization of their employment, which is discretionary with the master. The master is well within his rights to retain or dispense with the services of an employee on the basis of satisfactory or otherwise performance. The contract employees have no right to invoke writ jurisdiction, particularly in the instant case where their services have been terminated on completion of period of contract."***
> **(Emphasis added)**

9. In view of the above, I do not find any merit in this petition which is accordingly dismissed with no order as to costs.

(MIANGUL HASSAN AURANGZEB)
JUDGE

ANNOUNCED IN AN OPEN COURT ON _____/2019

(JUDGE)

Qamar Khan*

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