HCJD/C-121

**JUDGMENT SHEET**

# ISLAMABAD HIGH COURT
# ISLAMABAD

## W.P. No. 2726 of 2016

**Muhammad Shahzad, etc.**

*VERSUS*

**Oil and Gas Regulatory Authority.**

| | | |
|---|---|---|
| Petitioners by | : | **Hafiz Arfat Ahmad Chaudhry and Ms Kashifa Niaz Awan, Advocates.** |
| Respondent by | : | **Khawaja Azhar Rashid, Advocate.** |
| Date of Hearing | : | **22.02.2018.** |

**ATHAR MINALLAH, J:-** Through this consolidated order, I shall decide the instant petition alongwith W.P. no. 964 of 2017 (Muhammad Ramzan, etc vs. FOP, etc) and W.P. no. 1080 of 2017 (Muhammad Ramzan, etc vs. FOP, etc).

2. The facts, in brief, are that the petitioners in all the petitions are employees or officers working in the Oil and Gas Regulatory Authority (hereinafter referred to as the ***"Authority"***) on contract basis. The petitioners were appointed on contract basis and, therefore, are seeking their regularization. The petitioners have also assailed advertisements published in various newspapers, whereby the Authority has invited applications to fill the vacant posts described therein.

3. The learned counsel for the petitioners has been heard at length. The learned counsel has mainly argued that the petitioners have been serving the Authority since a long time and, therefore, vested right has accrued in their favour. The learned counsel has stressed that a large number of similarly placed employees in various other organizations have benefited from the regularization policies notified by the Federal Government. The learned counsel has placed reliance on the cases titled *"Chairman NADRA, Islamabad through Chairman, Islamabad and another vs. Muhammad Ali Shah and others" [2017 SCMR 1979], "Irfan Ahmed and others vs. FOP and others" [2016 PLC (C.S) 491], "Piyar Ali Gadiwan vs. Province of Sindh through Chief Secretary and 05 others" [2012 PLC (C.S) 968], "National Assembly of Pakistan through Speaker vs. Muhammad Aslam Shami and others" [2012 PLC (C.S) 984], "Abdul Hamid Khan vs. Government of Pakistan and Central Public Service Commission, Karachi" [PLD 1972 Lahore 336], "Muhammad vs. Town Committee, Fatehjhang through Chairman and 03 others" [1994 CLC 2214], "Abdul Sattar Chughtai Malik vs. Pakistan Bar Council through Secretary and another" [PLD 2007 Lahore 170], "Abdul Ghafoor and others vs. The President National Bank of Pakistan and others" [2018 SCMR 157], "Pir Imran Sajid and others vs. Managing Director/General Manager (Manager Finance) Telephone Industries of Pakistan and others" [2015 SCMR 1257], "Govt. of Khyber Pakhtunkhwa through Secretary, Agriculture and others vs. Adnanullah" [2016 SCMR 1375], "Rizwan Javed and others vs. Secretary Agriculture Livestock and others" [2016 SCMR 1443], "Safdar Mahmood and 02 others vs. FOP*

*through Secretary Establishment Division, Islamabad and 07 others" [2016 PLC (C.S) 936], "Ms. Najaf Haider and 51 others vs. FOP through Secretary Establishment Division, GOP, Islamabad and 03 others" [2012 PLC (C.S) 1220], "Province of Punjab and others vs. Aftab Ahmad and others" [2012 PLC (C.S) 1402], "Sajjad Ahmad and another vs. Chairman, Board of Intermediate and Secondary Education, Rawalpindi and another" [2012 PLC (C.S) 1280], "Iram Zahra and 03 others vs. PTCL through President/CEO, Headquarters, Islamabad and 05 others" [2010 PLC (C.S) 1260] and "Zarai Taraqiati Bank Ltd. vs. Muhammad Asim Rafique and others" [2016 SCMR 1756].*

4. The learned counsel for the respondent / Authority on the other hand has argued that; grievances of the petitioners relate to the terms and conditions of their service; the terms and conditions of service of employees of the Authority are not governed under statutory rules or regulations; likewise, the petitioners have not raised any grievance relating to violation of any rule so as to attract the law laid down by the august Supreme Court in the case titled *"Muhammad Rafi and another vs. FOP and others"* [2016 SCMR 2146]; the Authority enjoys autonomy in matters relating to the terms and conditions of service of its employees and officers; no vested right has accrued in favour of the petitioners to seek their regularization.

5. The learned counsels for the parties have been heard and record perused with their able assistance.

6. It is noted that a Division Bench of this Court vide judgment rendered in W.P. no. 2657 of 2015 titled "Farrukh Nadeem, etc vs. OGRA, etc", examined in detail the service regulations which govern the terms and conditions of service of employees of the Authority. The relevant portion is reproduced as follows;-

> *"When the Ordinance of 2002 is read as a whole it becomes obvious that to the extent of appointment of the employees of the Authority and determination of their terms and conditions of service, the Federal Government has not reserved to itself any role or power. The Authority is exclusively empowered to make the regulations in respect of the terms and conditions of the employees. Moreover, the regulations made by the Authority under section 42 read with section 14 of the Ordinance of 2002 definitely extends only to the employees of the Authority. The Regulations of 2005 do not have an overarching reach, as is the case of the Regulations, which were considered by the august Supreme Court in the case of "Shafique Ahmed Khan and others vs. NESCOM through Chairman, Islamabad and others" supra. The legislative intent of the Ordinance of 2002 unambiguously creates a relationship between the Authority and its employees based on entering into a contract freely i.e. there being no fetters placed on the rule making authority in relation to determination of the terms and conditions. Approval of the government is not required. The composition of the Authority is free from control of the Federal Government. The power to make*

*rules under section 42 vests in the Authority without seeking approval from the government. The Regulations of 2005 have, therefore, been made by the Authority without formal or implicit approval of the government. We, therefore, hold that the status of the Regulations of 2005 is non-statutory."*

7. In the petitions at hand, the petitioners are not alleging violation of any rule which may attract the law laid down by the august Supreme Court in the case titled *"Muhammad Rafi and another vs. FOP and others"* [2016 SCMR 2146]. Needless to mention that the august Supreme Court in the judgments rendered in the cases titled *"Muhammad Yasin vs. FOP through Secretary, Establishment Division, Islamabad and others"* [PLD 2012 S.C. 132] and "Engineer Iqbal Zafar Jhagra and others vs. FOP and others"[PLD 2013 S.C. 224] has acknowledged the statutory autonomy of the Authority. Section 7 of the Oil and Gas Regulatory Authority Ordinance, 2000 (hereinafter referred to as the ***"Ordinance of 2000"***) explicitly provides that in order to carry out the purposes of the Ordinance ibid, the Authority may from time to time employ officers, members of its staff, experts, consultants, advisers and other employees on such terms and conditions as it may be deem fit. The legislature has intended to ensure autonomy of the Authority in matters relating to the terms and conditions of its employees, consultants and advisers, etc. The Authority may consider a policy formulated and notified by the Federal Government relating to the terms and conditions of service of employees, but the same is not binding since the

legislative intent in enacting the Ordinance of 2000 is otherwise. Despite the able assistance extended by the learned counsel for the petitioners, no right has been shown to have accrued in favour of the petitioners for the purposes of issuance of an appropriate writ.

8. For what has been discussed above, the instant petitions are not maintainable and, therefore, accordingly ***dismissed***.

**(ATHAR MINALLAH)**
**JUDGE**

Announced in the open Court on 16-05-2018

**JUDGE**

*Asad K/**

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