

REGISTERED



ORDER

GOVERNMENT OF THE PUNJAB  
SPECIAL EDUCATION DEPARTMENT

No. LO(Writ)16-5/2024. WHEREAS, Mr. Shahid Iqbal and 11 others, who are engaged as Daily Wagers filed Writ Petition No. 28914 of 2024 before Hon'ble Lahore High Court, Lahore with following prayer:

*"Under the above mentioned circumstances and forgoing submissions, it is, therefore, most respectfully prayed that this writ petition may very kindly be accepted and all pending applications of the petitioners may kindly be decided and petitioners may very kindly be regularized.*

*It is further prayed that respondents may very kindly be restrained from stoppage of salary and continue to work till the final decision of this writ petition*

*Any other relief which this honourable court may deems fit and proper in the facts and circumstances of this case may also be awarded to the humble petitioners."*

The Hon'ble Lahore High Court, Lahore vide order dated 10.05.2024, disposed of the case with following order:

xxx. 3. In view of the above, this petition is disposed of with the direction to the Secretary, Special Education Department, Government of Punjab, Lahore (respondent No.1) to take decision on the applications of the petitioners (available at pages 32 to 42 of this petition) within four weeks positively as per law, relevant rules, policies applicable thereto with specific reference to Guidelines.

4. Before parting with this order, it is observed that till decision of the applications of the petitioners by respondent No.1, their services shall not be dispensed with provided they are serving the department till date.

2. **AND WHEREAS**, Mr. Waseem Akram and 02 others, who are engaged as Daily Wager also filed Writ Petition No. 29336 of 2024 before Hon'ble Lahore High Court, Lahore with following prayer:

*"Under the above mentioned circumstances and forgoing submissions, it is, therefore, most respectfully prayed that this writ petition may very kindly be accepted and all pending applications of the petitioners may kindly be decided and petitioners may very kindly be regularized.*

*It is further prayed that respondents may very kindly be restrained from stoppage of salary and continue to work till the final decision of this writ petition*

Laini Saad

*Any other relief which this honourable court may deems fit and proper in the facts and circumstances of this case may also be awarded to the humble petitioners."*

The Hon'ble Lahore High Court, Lahore vide order dated 13.05.2024, **disposed** of the case with following order:

*"xxx. 2. Send copy of this petition along with annexures to the respondent No.1 who will look into the matter and if any such aforementioned applications are still pending, as claimed, the same shall be disposed of by either the said functionary himself or through and authorized delegate within 30 days of receipt of certified copy of this Order by passing appropriate orders on own merits in accordance with law after opportunity of hearing to all concerned. Disposed of with such observations".*

3. **AND WHEREAS**, in order to comply with the directions of Hon'ble Court contained in orders dated 10.05.2024 and 13.05.2024, all the petitioners of both Writ Petitions alongwith all necessary parties were afforded an opportunity of personal hearing on **10.06.2024**. The petitioners, except Mr. Muhammad Ishaq and Ms. Sajida Parveen, appeared on the fixed date. The petitioners in attendance requested that their submissions may be considered as submissions made by Mr. Muhammad Ishaq and Ms. Sajida Parveen. The petitioners were provided full, complete and ample opportunity of hearing and they while reiterating the stance already taken by them in their applications and Writ Petitions, *inter alia*, contended that their services were engaged as daily wagers through publication of an advertisement, after seeking approval of Chief Executive Officer, District Education Authority, Khushab and after fulfilling all codal formalities vide order dated 24.08.2021 for a period of 89-days which was extended from time to time. Whereas, services of Mr. Mehboob ur Rehman were engaged vide order dated 31.01.2024 without publication of any advertisement by the Chief Executive Officer, District Education Authority, Khushab; that due to their satisfactory work and conduct, their services were re-engaged from time to time and they are still performing their duties without any complaint from any corner. They lastly requested that they are discharging their duties in different Government Special Education Centers of District Khushab and keeping in view their long tenure as daily wagers which span over 03-years, their services may be regularized.

4. **AND WHEREAS**, on behalf of Directorate General of Special Education, Punjab, **Director (Admin)**, Directorate General of Special Education, Lahore, Punjab attended the hearing. Whereas, from the field formation, **Mr. Anayat Ullah Niazi**, Headmaster, Govt. Special Education Centre (H.I), Khushab, **Mr. Abdul Hameed**, Incharge, Govt. Special Education Centre, Nurpur Thal and **Mr. Ali Faizan**, Incharge Headmaster, Govt. Special Education Centre, Khushab also attended the hearing. The stance taken by all the Departmental Representatives can be summed in the manner that the services of the petitioners, except Mr. Mehboob Ur Rehman, were engaged as daily wagers for a period of 89-days on the recommendations of Engagement Committee

Saima Saeed

Khushab and after obtaining approval of the then Deputy Commissioner, Khushab; that the petitioners have not been appointed as contract employee and they are drawing their salary from the Head of Contingent Paid Staff; that Mr. Mehboob Ur Rehman filed application before Deputy Commissioner for his engagement as daily wager and accordingly after seeking prior approval he was enrolled as daily wager for a period of 89-days in the year 2023; that it is settled principle of law that a contingent paid employee cannot claim regularization as a matter of right; that the petitioners were engaged purely on contingent basis for a specific time period which never exceeded 89 days and they were re-engaged from time to time keeping in view administrative exigencies; that services of the petitioners were not hired on sanctioned posts rather they being engaged as daily wagers are discharging their duties as such; that the petitioners being daily wagers are not entitled for regularization under the Punjab Regularization of Services Act, 2018 which ousts the persons engaged as daily wager from the definition of 'employee'; that the petitioners are not work charge / contractual employee and they were engaged purely on daily wages basis for some specific period. The said hiring of contingent paid staff was only allowed for effective service delivery to the special students of the Centres. The Departmental Representatives further apprised that for contingent paid staff / daily wager, there is no vested right to be regularized in the service because regularization is an executive function requiring sanctioned post and a competitive merit-based recruitment process to be carried out by the relevant competent authority as prescribed in the service rules of a sanctioned post because it involves financial considerations upon Government exchequer. In the instant case, there is sufficient record available that shows that the petitioners were not recruited through competitive process on contract basis against any sanctioned post of the Centres in accordance with service rules of the post, but were temporarily engaged/employed and as daily wager, thus their services could not be regularized. They further stated that stance of the petitioners that they are enrolled as daily wager for last 03 years, hence their services are liable to be regularized is based on misconception because it is settled by now that mere length of service cannot be made sole basis to seek regularization.

5. **AND WHEREAS**, during the course of hearing the petitioners were confronted with the query *'whether they accepted the terms and conditions contained in the advertisement of temporary daily wage engagement?'* In response to that the petitioners replied in affirmative and admitted that they accepted the terms and conditions while their engagement as daily wagers. The petitioners were also confronted with the query, *'whether they ever participated in competitive process for recruitment against any sanctioned post during their engagement as Daily Wager?'* In response to that the petitioners replied in negative. The petitioners were also asked *'whether they are aware of the fact that a person engaged as Daily Wager cannot claim regularization of their services and their engagement is purely temporary in nature?'* In response, they stated that they are aware of this fact and they have filed instant application for consideration on compassionate grounds. The petitioners were also asked *'whether they are aware of their Competent / Appointing Authority and had they filed any application before said authority for regularization of their services?'* In reply the petitioners stated that Headmaster

concerned is their Competent / Appointing Authority and they have not filed any application before said authority.

6. **AND WHEREAS**, after hearing all concerned and examining the record/material related to the case, it is observed that the petitioners were engaged as daily wager for a specific period of 89-days and had been granted extension in their term of engagement only for 89-days (*from time to time*). The petitioners having been engaged temporarily as daily wagers are drawing remuneration from head of account Contingent Paid Staff. They were never hired against any sanctioned post as per procedure prescribed under the rules, nor are they drawing their remuneration against any sanctioned post. It is admitted at all hands that the petitioners were engaged as Contingent Paid Staff on daily wage basis and they were not recruited against any sanctioned post. The jurisprudence evolved on the subject holds that there is no vested right to seek regularization for employees hired on daily wages and enrollment through daily wages, without any prescribed criteria, standards and transparent procedure, cannot be a route to become a civil servant or regular employee in Public Sector. It is imperative to observe that the process of regularization requires backing of any law, rules or policy. The applicable law regulating the regularization of services of employees i.e., the Punjab Regularization of Services Act, 2018, Section 2(c) of which expressly excludes the daily wager / persons appointed as work charged employees from the ambit of this law. Moreover, the services of the petitioners were engaged in the year 2021 and one of the petitioner, namely Mr. Mehboob ur Rehman was engaged *without advertisement in the year 2024* and it is also settled by now that mere length of service or efflux of time cannot be made sole basis to seek regularization. It is also important to observe here that undersigned is not Competent nor Appointing / Hiring Authority of daily wagers. The petitioners instead of filing application before the concerned appointing authority have filed application before the undersigned which is not maintainable. Moreover, the August Supreme Court of Pakistan in case reported as **PLJ 2022 SC 35** has held as under;

*“Daily Wagers cannot be regularized, untill and unless the posts, where against they were working, are advertised, as per rules--In all fairness, they may be given a maximum five percent additional marks, for their past service as daily Wagers, while evaluating their candidature on open merit, after public advertisement.”*

Whereas, the petitioners admitted during the hearing that they have not participated in any recruitment process of any sanctioned post as per service rules of the posts. As far as stance of the petitioners that their services were hired after advertisement and they are entitled for the relief claimed for is also misconceived because terms and conditions contained in the advertisement specifically provides that this engagement is purely temporary in nature and can be revoked / terminated at any time without notice. It has further been provided therein that said engagement is only for 89-days and no right of regularization is available. It is noted that the petitioners have failed to persuade through record and also failed to place on record any law/rule/policy through which it could be established that what they are claiming through their applications is lawfully permissible.

Lama Saad

7. **NOW, THEREFORE**, in the light of above stated facts, I, **Saima Saeed**, Secretary Special Education / Respondent No. 1 in the instant case, after having considered all the aspects, material related to the case alongwith applicable laws/rules, verbal submissions of the petitioners, am of considered view that I am neither Competent nor Appointing / Hiring Authority of the petitioners and they have not filed any application before the authority who is their Appointing Authority. Moreover, the petitioners are daily wagers and excluded from the definition of "employee" under the provisions of applicable law i.e., the Punjab Regularization of Services Act, 2018. The relief claimed by the petitioners through their applications is contrary to the applicable law/rules/policies. Hence, the applications of the petitioners are found to be not maintainable and devoid of merits. In view thereof, applications of the petitioners are hereby **dismissed** being not maintainable, contrary to the law/rules/policies and devoid of merits, substance and legal force. The orders dated **10.05.2024** and **13.05.2024** passed by Hon'ble Lahore High Court, Lahore in Writ Petition Nos. **28914/2024** and **29336/2024** are hereby complied with in above stated terms.

*Saima Saeed*

(SAIMA SAAED)

SECRETARY to

GOVERNMENT OF THE PUNJAB  
SPECIAL EDUCATION DEPARTMENT /  
RESPONDENT NO. 1

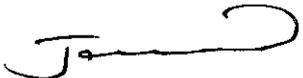
Dated Lahore, the  
June 12<sup>th</sup>/ 2024

**No. & Date Even:**

A copy is forwarded for information and necessary action to the: -

1. Deputy Registrar (Judicial), Lahore High Court, Lahore in compliance of orders dated 10.05.2024 and 13.05.2024 passed in Writ Petition Nos. 28914/2024 and 29336/2024.
2. Director General, Special Education, Punjab, Lahore.
3. Director (Admin), Directorate General of Special Education, Punjab, Lahore.
4. District Education Officer (Special Education), Sargodha to ensure delivery of this order to the petitioners under intimation to this department.
5. Mr. Anayat Ullah Niazi, Headmaster, Govt. Special Education Centre (H.I), Khushab to ensure delivery of this order to the petitioners under intimation to this department.
6. Mr. Abdul Hameed, Incharge, Govt. Special Education Centre, Nurpur Thal to ensure delivery of this order to the petitioners under intimation to this department.
7. Mr. Ali Faizan, Incharge Headmaster, Govt. Special Education Centre, Khushab to ensure delivery of this order to the petitioners under intimation to this department.
8. Mr. Shahid Iqbal, Resident of Mohallah Hussain Abad Khushab.
9. Mr. Sammar Abbas, Resident of House No. 09 Mohallah L Type Jauharabad Distt Khushab.

10. Mr. Hassan Zeeshan, Resident of Street No. Mohallah Ali Pur Khushab.
11. Mr. Mehboob ur Rehman, Resident of Post Office Khas, Rajar Khushab
12. Mr. Muhammad Shoaib, Resident of Gunjjal Janoobi Post Office Khas Tehsil Quidabad District Khushab.
13. Mr. Mujahid Hussain, Resident of Rahdari Tehsil Noor Poor Distt. Khushab.
14. Mr. Khadim Hussain, Resident of Khaliqabad Tehsil & Dist. Khushab.
15. Mr. Muhammad Noman, Resident of Tehsil Noor Pur Distt. Khushab.
16. Mr. Muhammad Ishaq, Resident of Mohallah Awananwala Distt. Khushab.
17. Mr. Muhammad Azeem, Resident of Khaliqabad Tehsil and Dist. Khushab.
18. Ms. Tayyaba Ali, Resident of Gulzar e Madina Mohallah Shabir Colony, Jauharabad.
19. Mr. Waseem Akram, Resident of Nawan Saggu Tehsil Noor Pur Thal Distt. Khushab
20. Ms. Sajida Parveen, Resident of Post Office Khas Hassan Pur Tiwana, Hamoka, Tehsil Noor Poor Distt. Khushab.
21. Mr. Amir Iqbal, Resident of Post Office Khas Sabhraal Tehsil Noshera Dist. Khushab.
22. Master File.

  
**SECTION OFFICER (ESTT.)**  
**SPECIAL EDUCATION DEPARTMENT**