

JUDGMENT SHEET
PESHAWAR HIGH COURT, PESHAWAR
(JUDICIAL DEPARTMENT)

WP No. 1823-P/2016

J U D G M E N T .

Date of hearing: **24.1.2017**

Petitioner: _____

Respondent: _____

WAQAR AHMAD SETH, J:- Through the instant

Writ Petition, the petitioner seeks issuance of an appropriate

writ with the following prayer:-

“On acceptance of this writ petition an appropriate Writ may please be issued, declaring the petitioners fit and eligible for the post, having the requisite qualification for the posts, correctly mentioned against their names, they were gone through the rigors of the selection process, by fulfilling all the legal and codel formalities, upon which they were selected/appointed on contract basis on posts occupied by the petitioner, and now the respondents revamping the selection process and re-advertising the above posts is illegal, unlawful, without lawful authority, colourable exercise of powers, arbitrary, of no legal effect and liable to be set at naught”.

2. In essence, case of the petitioners is that they were appointed against the posts of Management Teacher, Mathematics Teacher & Junior Instructor respectively on contract basis and are performing their duties with zeal and

devotion. That recently, the respondents advertised various posts including the posts occupied by the petitioners, as such, having no other efficacious and adequate remedy, the petitioners have filed the instant Writ Petition.

3. Respondents No. 2 to 4 have filed their requisite comments and denied the assertion of petitioners by stating that petitioners were neither appointed on contract basis nor their contract was extended rather they were engaged on stop gape arrangement by the Principal out of college fund for three or four months. However, if the petitioners are interested in the post held by them, they can apply for the post advertised and appear in the selection process.

4. Arguments heard and record perused.

5. Record is suggestive that petitioners were hired purely on contract basis from the student fund, due to acute shortage of teaching staff in the year 2013 & 2014, by the Principals concerned. Learned counsel for petitioners was directed to address the Court that under which law they are seeking protection as regularization Act, 2005 nor regularization Act No. IX 2009 are applicable to the case of petitioners due to their date of appointments. Learned counsel for petitioners failed to convince the Court in this respect.

6. Record is further suggestive that no legal and codal formalities were adopted for making the appointments of the petitioners and presently the answering respondents

have advertised various posts for various colleges in the FATA. The principals of the concerned colleges had appointed the petitioners as per need and as such no legal right has accrued to them on the basis of said appointment which was on stop gape arrangement from college funds by the principals.

7. Even otherwise, petitioners have no right whatsoever to challenge the appointment process initiated by the competent authority after advertising the said post, simply for the reasons that they were not appointed through any advertisement or selection process.

8. For the reasons recorded hereinabove this writ petition being devoid of legal substance is hereby dismissed, in **limine**.

ANNOUNCED.
Dated: 24.1.2017

J U D G E

J U D G E

Nawab Shah

=====