

(Original/Appellate/Review Jurisdiction)

Justice Syed Hasan Azhar Rizvi
Justice Rozi Khan Barrech
Justice Syed Arshad Hussain Shah

(On appeal from order of the Registrar dated 30.5.2025
returning the Const. Petition being not entertainable)

C.M.A. No.1238 of 2026 in Civil Appeal No.326 of 2022

Muhammad Arsalan Aslam and others (in both cases)

Versus

Respondents

Date of hearing: 29.4.2026

Syed Hasan Azhar Rizvi, J – We have heard the

learned counsel for the applicants in C.M.A. No.1238 of 2026 and appellant No.1, in person as well in C.M. Appeal No.44 of 2025. They have failed to point out that the order dated 26.9.2024 passed by the Supreme Court of Pakistan in Civil Appeals No.326 & 328 of 2022 and order dated 22.4.2025 passed in Civil Review Petitions No.828 and 831 of 2024 were obtained by committing fraud or misrepresentation on the part of other side, which is a pre-condition seeking relief under Section 12(2) CPC. Regarding C. M. Appeal

against the order dated 30.5.2025 passed by the Registrar declaring the Constitutional Petition filed by the appellant as not entertainable, suffice it to observe that appellant has not been able to point out any legal flaw therein, which is hereby sustained.

2. In view of the above, titled C.M.A. as well as C. M. Appeal against the order of the Registrar are hereby dismissed by a majority of two to one (Syed Arshad Hussain Shah, J. dissenting).

Judge

Judge

Judge

Islamabad

29th April, 2026

Approved for reporting

Riaz

Syed Arshad Hussain Shah, J – I have had the privilege of perusing the order authored by Mr. Justice Syed Hasan Azhar Rizvi and concurred with by Mr. Justice Rozi Khan Barrech, whom I hold in the highest esteem for their legal acumen.

2. We are seized of C.M.A. No.1238 of 2026 under section 12(2) CPC and C.M. Appeal No.44 of 2025 against the office objections/order of Registrar regarding maintainability of the Constitutional Petition. So far as application under section 12(2) CPC is concerned, I concur with the opinion of my learned brothers and dismiss the same. As regard C.M. Appeal against office objections/order of Registrar regarding maintainability of Constitutional Petition, I respectfully differ from my learned brothers and record my own opinion.

3. In order to arrive at a definite conclusion, brief background of the case needs to be elaborated. The petitioners were appointed in the Punjab Revenue Authority (hereinafter referred to as the “Authority”) in the year 2014. They invoked Constitutional jurisdiction of the Lahore High Court, Lahore, seeking regularization of their services under the Regularization Policy, 2009, by way of filing writ petitions, which were allowed and the Authority was directed to regularize their services vide consolidated order dated 31.1.2019. The Authority/Government of the Punjab filed I.C.A. against the order of the learned Single Judge, which was dismissed and order of the learned Single Judge was upheld. This order was assailed before the Supreme Court. The Supreme Court allowed the appeals and non-suited the petitioners vide order dated 26.9.2024 on the ground that, being daily wager, they did not fall within the ambit of the Regularization Policy, 2009. Review petitions filed against the said order were also dismissed vide order dated 22.4.2025.

4. Grievance of the petitioners is that they have been deprived of their fundamental rights envisaged/guaranteed under the Constitution. Thus, the question arises whether regularization of services of the petitioners falls within the ambit of fundamental rights guaranteed under the Constitution. In this regard a reference may be made to Article 9 of the Constitution, which guarantees the right to life, including the right to livelihood, as has been fortified by the superior judiciary in the case reported as *Ikram Bari versus National Bank of Pakistan* **2005 SCMR 100** (paragraph No.15 at pages 115 & 116 refers), *Pir Imran Sajid versus Managing Director/ General Manager (Manager Finance) Telephone Industries of Pakistan* **2015 SCMR 1257**, the court observed that the right to life includes the right to livelihood, necessitating regularization for those performing permanent duties "right to life as envisaged by Article 9 of the Constitution, includes the right to livelihood" and *State Oil Company Limited versus Bakht Siddique* **2018 SCMR 1181**, it was observed that regularization is linked with the length of service and the

enforcement of fundamental rights under Articles 9 and 25 of the Constitution. Regularization of the employees is not a part of the terms and conditions of service of the employees for which there need to be some statutory rules but it depends upon the length of service and in terms of equity that a person who has given his prime life and youth to a department is always kept in dark and his services were taken in a very explorative manner. So it is on the principle of the above that they have approached the learned High Court for regularization of their service, where there is no statutory rules or law while exercising its jurisdiction for the purposes of enforcement of the fundamental right to life particularly Articles 9 and 25 of the Constitution. Thus, the issue of regularization in service is intrinsically connected with fundamental rights guaranteed under the Constitution.

5. In view of the above, I hold that in the given circumstances regularization of services of the petitioners falls within the ambit of fundamental rights, hence the Constitution Petition is very much competent. Accordingly, the office objections/order of Registrar are set aside/removed and it is directed that the Constitution Petition be entertained/registered/numbered and fixed before the Court for hearing.

(Syed Arshad Hussain Shah)
Judge

Islamabad the
29th April, 2026
Approved for reporting.
Riaz

Order of the Court:

Titled C.M.A. as well as C. M. Appeal against the order of the Registrar are hereby dismissed by a majority of two to one.

Judge

Judge

Judge

Islamabad.
29th April, 2026
Riaz