FEDERAL CONSTITUTIONAL COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:
Justice Aamer Farooq
Justice Rozi Khan Barrech
Justice Syed Arshad Hussain Shah

F.C.P.L.A. Nos.642 and 643 OF 2026
(Against order dated 16.02.2026 passed by High Court of Sindh at Karachi in CPs No.D-2667 and D-2668 of 2024)

State Bank of Pakistan through its Authorized Officer [in F.C.P.L.A.642/2026]

State Bank BSC through its Authorized Officer [in F.C.P.L.A.643/2026]

...Petitioner(s)

Versus

The Full Bench of National Industrial Relations Commission & others ...Respondent(s) [in both cases]

For the Petitioner(s) : Mr. Muhammad Ahsan Bhoon, ASC
Mehmood Nazeer Rana, Legal Advisor
Manzoor ul Haq, Assistant Legal Advisor
Mian Zaka-ur-Rehman, Law Officer
Syed Ansar-ul-Haq, Joint Director,
(For SBP)

For the Respondent(s) : Malik Saleem Iqbal Awan, ASC
Mr. Rehan Nawaz, ASC
Moiz Khalid, Manager (HR), Prime Human Resource (Pvt) Ltd.

Date of Hearing : 30.09.2026

JUDGMENT OF THE COURT

JUSTICE AAMER FAROOQ: The captioned petitions are being decided through this single judgment as common questions of law are involved.

2. The question of law in hand is whether a "workman" who is working in an establishment on account of a third-party arrangement between the employer and the third-party contractor for a considerable period of time, acquires the status of a "permanent workman" and can

be regularized in the establishment. For the reasons to be discussed hereinafter, our response to the referred legal query is in the 'negative'.

3. The State Bank of Pakistan Banking Services Corporation (**State Bank BSC**) entered into an arrangement with M/s Prime Human Resource Services (Private) Limited/Respondent No. 5 through a contract dated 19.12.2014, whereby the latter agreed to provide human resource with respect to various positions on contract as per the terms agreed. Pursuant to the referred agreement, Respondent No. 4 started working as Dispenser at the site of State Bank BSC. The arrangement continued for a while. However, vide letter dated 13.11.2017, Respondent No. 5 relieved Respondent No. 4 from his services. Feeling aggrieved, Respondent No.4 challenged the termination letter by way of a grievance petition before the National Industrial Relations Commission (**NIRC**), seeking setting aside of the termination letter and regularization of his service. The Single Bench, NIRC, vide order dated 10.05.2022, allowed the referred grievance petition by setting aside the termination order dated 13.11.2017 and directed the State Bank to regularize him as a permanent employee. Appeals were preferred by the State Bank BSC and Respondent No. 5. Through a consolidated judgment, the referred appeals were dismissed. The matter was agitated before the learned Sindh High Court by the petitioners and through a consolidated judgment both the petitions were dismissed, hence the instant petitions.

4. Learned counsel for the petitioners, *inter alia*, contended that this Court in a recent pronouncement titled Muhammad Zubair Khan Khan, etc. vs National Bank of Pakistan through its President, NBP, Karachi and others *(CPLA No. 3615 to 3619 of 2024)* has held that a "workman"

working under a third-party arrangement has no *locus standi* to be regularized. It was contended that even otherwise, in the present scenario, services of Respondent No. 4 were supplied by Respondent No. 5; salary was paid by Respondent No. 5, even the release/relieving of service letter was issued by Respondent No. 5. It was contended that in the referred circumstances and for all practical/legal purposes, Respondent No. 4 was solely an employee of respondent No.5. It was submitted that contract with Respondent No. 5 was entered into by the State Bank BSC, whereas the direction for regularization has been issued to State Bank of Pakistan, which was not even a party. It was contended that the referred direction also merits setting aside. Learned counsel also took the Court through the evidence in order to substantiate his submissions that there was no direct control of the petitioners over the working arrangement of Respondent No. 4.

5. Learned counsel for Respondent No. 4, *inter alia,* contended that State Bank BSC did exercise supervisory role over working of Respondent No. 4, hence he was an employee of State Bank BSC. He took the Court through the terms of contract between State Bank BSC and Respondent No. 5 to substantiate his argument.

6. Learned counsel for Respondent No. 3 and 5 adopted the submissions made by learned counsel for the petitioners.

7. The factual background leading to filing of instant petitions has been mentioned hereinabove.

8. As noted, State Bank BSC i.e. petitioner in CPLA No.643 of 2026, entered into an agreement with Respondent No. 5 for providing human resource as and when required with respect to different locations and positions mentioned therein. For resolution of the present controversy,

certain clauses of the agreement are of significance. Firstly, in the definition clause, Clause 1.4 is as follows:

> *"The Services shall be performed at such locations as are specified in Appendix-A in the Specification and, where the location of a particular task is not so specified, at such locations, as the Bank may approve in Pakistan."*

Clause 1.6 reads as follows:

> *"The Service Provider shall permit the Bank to inspect its accounts and records relating to the performance of the Services and have them audited by auditors appointed by the Bank, if so required by the Bank."*

Clause 3.4 is as follows:

> *"The Service Provider shall obtain the Bank's prior approval in writing before taking any of the following actions:*
>
> *(a) Entering into a subcontract for the performance of any part of the Services;*
>
> *(b) Appointing such members of the Personnel not listed by name in Appendix-C ("Key Personnel and Sub-contractors");*
>
> *(c) Changing the schedule of activities; and*
>
> *(d) Any other action that may be specified in the SCC."*

Clause 5 provides for the description of services of Dispenser and is as follows:

> *"The Dispenser will carry out day-to-day activities connected with the preparation and supply of medicines:*
>
> - *To dispense medication as stated on prescriptions, maintaining accurate dispensing records and ensuring that the medication is labelled with the correct drug name, strength, quantity, directions for use, patient's name and includes any additional required information;*
> - *To adhere to practice policies and procedures for dispensing medicines and particularly those relating to expensive and controlled drugs;*
> - *To provide a second check on all medication issued;*
> - *To maintain maximum stock levels of medicines, checking expiry dates and storage conditions;*

- *To place accurate and timely orders with suppliers and accept deliveries of medications, adding them to the computerized stock control records.*
- *To maintain dispensary equipment ensuring it is clean, accurate and in a good state of repair;*
- *To endorse prescriptions accurately by checking prices with suppliers as necessary;*
- *To ensure the safe disposal of returned and out-of-date medications.*

Still/ Qualification: Minimum matric with relevant accredited certificate/diploma Dispensary and 3 years of relevant experience."

09. The referred contract as well as other documents on record makes it abundantly clear that services of Respondent No. 4 were to be rendered at the location of State Bank BSC solely on the basis of a contract/arrangement between State Bank BSC and Respondent No. 5. Even otherwise, Respondent No. 4 has never denied this arrangement. However, he only claims regularization on the basis that he has worked since long and is working as a "permanent workman". Documentary understanding between the parties was further highlighted in the evidence led by the parties. In this regard, Manthar Ali Jatoi, appearing as RW-1, Senior Manager HR (Operations) of Respondent No. 5, in his cross-examination categorically stated that Respondent No. 4 was an employee of Respondent No. 5 and was deputed by the company to work at the premises of State Bank BSC. In view of the oral and documentary evidence available on record, the arrangement is as clear as daylight that services of Respondent No. 4 were through a third-party contractor, viz. Respondent No. 5. The State Bank BSC never directly hired Respondent No. 4, nor terminated his services, and even otherwise did not pay salary directly to the said Respondent.

10. The legal question arising out of the above factual position is that

whether under such an arrangement, Respondent No. 4 acquires any right to be regularized or made permanent. Respondent No. 4 has taken shelter under the definition of "permanent workman" as provided in the Sindh Terms of Employment (Standing Orders) Act, 2015 and Industrial and Commercial Employment (Standing Orders) Ordinance, 1968 (**Ordinance of 1968**). The definition and classification of 'workman' is provided, in the referred statutes. The said classification and definition read as follow:

> *"1. Classification of Workmen: (a) Workmen shall be classified as-*
>
> *(1) Permanent;*
>
> *(2) Probationers;*
>
> *(3) badlis;*
>
> *(4) temporary;*
>
> *(5) apprentices;*
>
> *(6) [contract worker]*
>
> *(b) A "permanent workman" is a workman who has been engaged on work of a permanent nature likely to last more than nine months and has satisfactorily completed a probationary period of three months in the same or another occupation in the industrial or commercial establishment, and includes a badli who has been employed for a continuous period of three months or for one hundred and eighty-three days during any period of twelve consecutive months, including breaks due to sickness, accident, leave, lock-out, strike (not being an illegal lock-out or strike) or involuntary closure of the establishment [and includes a badly who has been employed for a continuous period of three months or for one hundred and eighty-three days during any period of twelve consecutive months].*
>
> *……*
>
> *(g) A "contract worker" means a workman who works on contract basis for a specified period of remuneration to be calculated on piece-rate basis."*

11. In the first place, as noted above, services of Respondent No. 4 were never hired by either of the petitioners, and it was only through a third-party arrangement. In this contractual arrangement, even though Respondent No. 5 worked for a considerable time (more than 9 months), to say that he has become a permanent workman working at State Bank BSC would be negating the arrangement entered into between the State Bank BSC and Respondent No. 5. Nowadays, third-party arrangements are very common and are employed by employers to avoid hazards of engagement of services of workmen directly, without retaining the power to hire, fire, manage and control the said manpower. The said arrangement is not in any way a sham or an attempt to bypass the labour laws, rather it is a modern, practical arrangement. The Supreme Court in State Oil Company Limited vs Bakht Siddique *(2018 SCMR 1181)* has held that regularization depend on the length of service rendered by an employee. We do not subscribe to this view that length of service solely is the criterion for regularization of services, and the circumstantial arrangement / understanding is to be looked into.

12. Likewise, where the employee is hired by an employer on contract, that also does not attract Standing Order 1(b), as the spirit of law is very different, inasmuch as it does not cover third-party arrangements or even hiring someone/employee on contract. In somewhat similar circumstances, this Court in the case of Muhammad Zubair Khan Khan, etc. vs National Bank of Pakistan through its President, NBP, Karachi and others *(CPLA No. 3615 to 3619 of 2024)* held that there is no vested right to regularization of service generally, and especially in cases where services are hired through a third-party arrangement. It was also observed in the referred case that where

services are to be regularized, the entire scheme of arrangement and law has to be examined.

13. There can be no regularization of service unless it is supported by any law, policy, rules or regulations with respect to the employment in question. Even otherwise, the protection under labour laws provided in the Standing Orders under the Ordinance of 1968 only provides certain definitions, and nothing beyond. The reading of the definition with respect to permanent workman, *viz.* who is engaged on work of permanent nature likely to last for nine months and has completed probation period of three months, only lays down the definition of permanent workman. It does not provide that on lapse of period of nine months; such workman is liable and entitled to be regularized and confirmed. That would be reading into the statute, which cannot be done. Neither in the Ordinance of 1968 nor in any written Standing Orders has any right been conferred upon any employee, including a workman, to be regularized in service merely upon the lapse of nine months, even if he has worked for nine months or more on work of a permanent nature.

14. It is reiterated that no employee has any vested right of regularization against his employer. The said right must be conferred by law or policy. The Supreme Court of Pakistan in State Oil Limited vs Ghulam Ali and others, *(CPLA No. 95-K of 2013)* dated 17.05.2013 has held that NIRC has no authority to regularize any employee or workman. We endorse the referred view of the Supreme Court.

15. On the basis of the above legal and factual position, not only the NIRC but also the learned High Court erred in ordering regularization of Respondent No. 4 and issuing direction to the State Bank of Pakistan,

whereas the State Bank had no role at all in the entire arrangement. The contract was purely between the State Bank BSC and Respondent No. 5. In the present case, the NIRC had no jurisdiction to issue any order or direction for regularization. Respondent No. 4 does not even fall within the definition of a "permanent workman", because the arrangement was through a third-party contract and the State Bank BSC was never the direct employer of Respondent No. 4. In light of the discussion on law and facts, the judgments/orders under consideration before us cannot be sustained, therefore they are set aside.

16. In view of above, the instant petitions are allowed and converted into appeals, which are also accepted. The impugned orders/judgment(s) are set aside; consequently, the grievance petition filed by Respondent No. 4 stands dismissed.

Judge

Judge

I will write my dissenting note, as announced.

Judge

Islamabad
30.09.2026
Zawar
Approved for reporting

Dissenting Note

Syed Arshad Hussain Shah, J. With utmost respect to the views of my learned brothers, I am unable to agree with the conclusion reached on the question of law formulated in paragraph 2 of the judgment. In my view, a workman engaged through a third-party contractor may be held to be a permanent workman of the principal establishment and may be entitled to regularization, if the facts establish an employer–employee relationship and the requirements of the applicable labour law are satisfied. The mere involvement of a contractor or the description of the arrangement as outsourcing does not, by itself, determine the workman's legal status or disentitle the workman to regularization.

2. Respondent No. 4 (in both petitions) was engaged through M/s Prime Human Resource Services (Private) Limited as a dispenser at a dispensary situated within the premises of the State Bank of Pakistan (the Bank). The record before the National Industrial Relations Commission (NIRC) shows that the dispensary provided regular medical services to the Bank's employees. Respondent No. 4 dispensed medicines and provided medical treatment and first aid. He served from 2015 until his termination by letter dated 13.11.2017. By order dated 10.05.2022, the NIRC Single Bench set aside his termination. It directed his reinstatement with back benefits and continuity of service, treating him as a permanent worker of Respondent No. 2. The NIRC Full Bench upheld this decision. The High Court also dismissed the challenges to the NIRC orders. The NIRC Single Bench considered evidence that the Bank provided the premises, medicines, electrical equipment and other facilities. The dispensary served the Bank's employees. Its operations were supervised by the Bank's doctors and the person in charge. The

Full Bench also relied on the cross-examination of the contractor's senior human-resources manager. He acknowledged that the dispensary operated under the Bank's supervision, that staff were posted there, and that treatment was provided to the Bank's employees. Clause 5 of the contractual arrangement separately describes the services required of a dispenser. It specifies the preparation and supply of medicines, dispensing medication according to prescriptions, maintaining dispensing records, checking medicines before issuance, managing stock and expiry dates, placing orders with suppliers, and maintaining dispensary equipment. These duties indicate defined operational responsibilities requiring consideration of the relevant qualifications, experience and actual functions of the employee. The separate heading and detailed description of these services are relevant to determining the nature and scope of the engagement. They must be considered alongside the contractual arrangement as a whole and cannot be disregarded merely because the services were provided through a contractor. Taken together, these circumstances were relevant to determining the true nature of the employment relationship and the respective roles of the Bank and the contractor. The mere fact that Respondent No. 4 was engaged and paid through a contractor does not, by itself, conclusively determine his legal status.

3. *The question before this Court is whether the findings and relief granted by the fora below can lawfully be set aside solely because Respondent No. 4 was engaged and paid through a contractor.*

4. The question must be examined in light of the principles laid down by the Supreme Court of Pakistan (the then apex court) in its earlier judgments. Their precedential value must be determined under the applicable constitutional provisions and rules of judicial precedent.

The doctrine of *stare decisis* promotes certainty and consistency in the administration of justice. In applying an earlier judgment, the Court must consider the facts, the legal question decided, and the reasons for the decision. The *ratio decidendi* is the legal principle necessary for deciding the case. It is binding in accordance with the applicable rules of judicial precedent. Observations not essential to the decision, known as *obiter dicta*, are generally persuasive rather than binding. A judgment that has not been set aside or overruled cannot be disregarded merely because a subsequent case involves differently described circumstances. Its governing legal principle must be applied where the relevant facts and legal issues warrant its application. In *Pir Bakhsh v. Chairman Allotment Committee* **(PLD 1987 SC 145**), the Supreme Court discussed the distinction between findings determining the dispute between the parties and the ratio decidendi governing subsequent cases. Recently **a three member bench of this court while deciding Crl.Org. Petition No. 1,3,4 & 22 of 2024 in C.R.P. No. 292 of 2021** has observed:

> "It is imperative to underline that in a constitution democracy the rule of law is not just a principle but the foundation upon which the legitimacy of and the good governance in any system of government rests. The Supreme Court of Pakistan and, after the 27th amendment, this being the apex court of the country is entrusted with performing the responsibility of interpreting the law, ensuring justice and upholding the Constitution of Islamic Republic of Pakistan**. The orders of the Supreme Court, as the then apex court, are not merely recommendations or advisories but they are legal mandate, that must be followed. Such decisions are culmination of vigorous legal scrutiny and deliberation intended to reflect upon the values and laws of the land**."

Accordingly, earlier judgments concerning workers engaged through contractors must be examined in light of their ratio decidendi, the facts of each case, and the applicable labour legislation. If the principles laid down in those judgments apply to Respondent No. 4, the mere description of the arrangement as outsourcing cannot, by itself, justify disregarding those principles. The decisive question is whether the

nature and continuity of Respondent No. 4's duties, the actual relationship between the parties, and the applicable statutory provisions bring his case within the scope of those precedents and entitle him to the relief claimed.

5. In *Fauji Fertilizer Company Limited v. National Industrial Relations Commission* **(2013 SCMR 1253**), the Supreme Court held that the existence of an employer–employee relationship must be determined by examining the substance of the arrangement. The mere engagement of a worker through a contractor is not conclusive. The relationship may be established where the principal establishment controls the manner and means of their work, or where the workers are directly involved in its affairs under its supervision and control. All relevant factors must be considered, including the nature of the work, the authority to appoint and dismiss, payment of wages, the contractor's actual role, and the integration of the workers into the establishment. Applying this principle to the present case, the respondent No.4's employment status must be determined on the basis of the evidence as a whole. Particular attention must be paid to the actual arrangement, the nature of his duties, the degree of supervision and control, and the contractor's independent role, if any. The contractual description alone cannot determine the issue.

6. Similarly, In *M/s. State Oil Company Limited v. Bakht Siddique* **(2018 SCMR 1181)**, the Supreme Court held that outsourcing may be treated as a sham or pretence where the evidence shows that workers have been engaged for permanent work through an artificial arrangement. In that case, the Court also considered their prolonged service and the principle of parity. It directed their regularization in the

particular circumstances of the case. Likewise, in *Abdul Ghafoor v. President, National Bank of Pakistan* **(2018 SCMR 157),** the Court held that the employer could not defeat workers' rights merely by describing them as contractors, where the substance of the arrangement showed that they were engaged by the Bank to perform manual duties and were paid monthly for their services. These judgments support the principle that the true nature of an employment arrangement must be determined from its substance and the evidence, rather than its label alone. Applying these principles to the present case, the respondent's engagement through a contractor is not, by itself, decisive. The nature of his duties, the duration and continuity of his service, the degree of the establishment's control, the contractor's actual role must be examined.

7. Respondent No. 4's claim to permanent-worker status must be examined under Standing Order 1(b) of the Schedule to the Sindh Terms of Employment (Standing Orders) Act, 2015. He worked as a dispenser at the State Bank of Pakistan's dispensary from 2015 until his services were discontinued on 13.11.2017. The NIRC found that the dispensary provided continuing medical services to the Bank's employees and that the respondent performed work of a permanent nature. The record also shows that the Bank provided the premises, medicines and equipment, while the dispensary operated under the supervision of the Bank's doctors and the person in charge. The contractor's HR manager also acknowledged the Bank's supervision of the dispensary. These circumstances support the finding that the work was of a continuing nature. However, permanent-worker status depends on fulfilment of the statutory requirements, including satisfactory completion of the prescribed probationary period. The

respondent's claim must therefore be decided in light of these requirements and the evidence on record.

8. The proposition that regularization must have the support of a specific law, policy or rule cannot, however, be examined in isolation from the Constitution, from which every law, policy and rule derives its validity and authority. The Constitution is the supreme law of the land, and all subordinate legislation, rules, policies and administrative arrangements must conform to its commands and underlying guarantees. Articles 4 and 25 of the Constitution protect lawful treatment and equality before law, while Article 3 expressly provides that "the State shall ensure the elimination of all forms of exploitation." These provisions require statutory labour protections to be given their full effect and prohibit contractual arrangements from defeating rights conferred by law. What could constitute a greater form of exploitation than a situation in which a worker is denied, on the one hand, the rights and protections to which he is legally entitled by the principal establishment, and, on the other hand, is subjected to unfair treatment by the contractor through whom his services are engaged? The worker is thus placed between two entities, each of which derives benefit from the arrangement, while his lawful entitlements remain unprotected. Such a situation becomes even more concerning when it arises within an institution like a Bank, which is expected to uphold the rule of law and act as a model employer. It is a matter of concern that even certain private establishments demonstrate greater regard for the rights and welfare of their employees, whereas arrangements adopted by public institutions may, in practice, leave workers exposed to exploitation. The constitutional mandate contained in Article 3 cannot be reconciled with an arrangement that, in substance, enables the

principal establishment and the contractor to shift responsibility between themselves at the expense of the worker. The issue is not confined to a particular category of employees or a single department. Across the country, many workers serve in federal and provincial government departments for years, sometimes for decades, performing duties similar to those of regular employees while remaining classified as temporary or contractual workers. Despite the length and continuity of their service, they are being denied benefits associated with regular employment, including pension, annual increments and social security. Such cases require an examination of the actual nature of the work and the employment relationship, rather than reliance solely on the designation of the worker as temporary or contractual. The State, as a model employer, must act in accordance with the constitutional guarantees of equality and fairness. Any distinction between employees must be assessed in the light of the applicable law and must rest on lawful and relevant grounds. Where the nature of the duties, continuity of service and actual terms of employment raise a question about the justification for treating workers differently, the matter must be examined in accordance with the applicable statutory framework and the constitutional guarantee of equality. The constitutional objective of eliminating exploitation would be undermined if an establishment could continuously obtain the services of a worker performing duties of a permanent nature, yet avoid the legal benefits attached to that employment merely by placing an intermediary contractor between itself and the worker. Constitutional supremacy requires obedience to lawful recruitment rules; it equally requires that administrative policies not be used as a shield to deny a worker the statutory protection to which he is otherwise entitled.

9. The concurrent findings of the NIRC's Single Bench and Full Bench, subsequently maintained by the High Court, also deserve due weight. Concurrent findings are not immune from appellate scrutiny, particularly where they disclose an error of law, disregard a material statutory provision, proceed on no evidence, or are otherwise perverse. Nevertheless, they cannot be displaced merely because another view of the evidence is possible or because the contractual documents admit of a different interpretation. A party seeking interference must demonstrate a substantial legal or factual infirmity warranting such intervention. In the present case, the findings regarding Respondent No. 4's duties, the functioning of the dispensary, the continuity of his work and the circumstances of termination were recorded by the specialized labour forum and upheld by the High Court. Such findings warrant interference only where they are unsupported by the evidence, suffer from a material misreading or non-reading of the record, or rest on an erroneous application of law. The mere fact that Respondent No. 4 was formally engaged through a contractor does not, by itself, justify setting aside those findings or defeat his claim to statutory protection.

10. The legality of the termination is a related question. If the respondent No.4 falls within the scope of the applicable standing-orders legislation, the termination must comply with its mandatory requirements. The NIRC found that the termination lacked adequate justification and was affected without a proper inquiry, and those findings were upheld by the High Court. Their legal effect must be assessed in light of the specific statutory provisions governing the termination. A contractual clause permitting discontinuance cannot

prevail over mandatory statutory and constitutional protections where those protections apply.

11. For above reasons, *I would answer the question formulated in paragraph 2 of the judgment in the affirmative*. In the present case, the respondent No.4's duties in the Bank's dispensary, the continuity and nature of his work, the supervision exercised in practice and the actual role of the contractor must be assessed cumulatively. The contractual description alone is insufficient to displace the findings of the NIRC and the High Court.

12. I, therefore, do not set aside the concurrent orders merely on the ground that the respondent No.4 was engaged through a third-party contractor or that no regularization policy has been shown. I dismiss the petitions and maintain the impugned judgment of High Court and the orders of the NIRC Single Bench as well as Full Bench.

(Syed Arshad Hussain Shah)