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Article:	**Rights of Contractual Employees under the Existing Service Laws of Pakistan**
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ABSTRACT

There are four broad categories of employees subject to service laws of Pakistan. First, there are civil servants, then persons falling under the definition of workmen as provided in labour laws. Thirdly, we have statutory body employees and finally the contractual employees. To enforce the terms and conditions of their service, the first category may approach the administrative tribunals created under article 212 of the constitution, and also to the Supreme Court in its appellate jurisdiction. The second category of employees can invoke the jurisdiction of labour courts including National Industrial Relations Commission (NIRC) to redress their grievance. The third category has further two sub- categories, employees governed by statutory rules and those governed by non-statutory rules. Whereas the former can appeal to high courts under article 199, and can also resort to service tribunals, the other sub- category, i.e., non-statutory employees have no such rights and are largely at the mercy of the employer, with the right to turn to the Supreme Court. The fourth category called contractual employees are governed by master-servant relationship, and having been wedded to the terms of the contract can take their grievance nowhere but to civil courts. This article will plead that in order to put an end to the exploitation of contractual/ non-statutory employees at the hands of employers, the archaic principle of master-servant relationship will have to be redefined. Since the trend across the world is to recruit contractual employees as they do not become a liability on the employer in terms of post-retirement benefits, to make this option more attractive, changes will have to be brought in mechanism put in place to redress their job-related grievances.

Keywords: Service laws, contractual employees, constitution, jurisdiction, fundamental rights, statutory , equity and remedies.

Introduction

According to recent decisions of our courts, contractual employees have no vested rights for regularization or continuation in service as their relationship with the employer is governed by the principle of master and servant. This article will shed light on exact nature of this relationship and the remedies a contractual employee may have against breach of his service-related rights. It will be argued that although power to hire and fire in a contractual employment, rests solely with the employer and rights of employees are tied to employment agreement, contractual employees can still invoke constitutional jurisdiction of the high court under certain extraordinary circumstance. However, their main remedy lies in filing a civil suit for damages for wrongful termination or compensation for breach of contract.

In conformity with some judgements of our superior courts, the constitutional relief may be available to a contractual employee upon denial of due process rights such as service of show cause notice and holding regular inquiry. Similarly, it has been held that contractual employees cannot be discriminated against in comparison with equally and similarly placed employees in the matter of regularization. This right to invoke constitutional jurisdiction has its basis in equity rather than statutory law. Albeit the indefinite and irregular nature of these rights, our superior courts are slowly coming to realise that contractual model of employment is more viable in current scenario than the permanent one. The reason is that contractual model does not add much to the cost of doing business as there is no expenditure in the form of pensions, the relationship between employer and employee is flexible and the procedure of hiring and firing is straight forward. Nonetheless, to make contractual employment more desirable, it is imperative that the employer-employee relationship must be even-handed and the right of due process must be respected as a matter of right not grace.

In a nutshell, the article will advance the argument that contractual employees being citizens of Pakistan have all fundamental rights as are promised to all other employees, including right to life and livelihood, right to dignity and freedom to choose profession of one's own choice. Consequently, they cannot be non-suited only because their employment is temporary.

Article 38 of the constitution declares that state shall endeavour to promote social and economic well being of the people by inter-alia reducing disparities in the income and earnings of individuals. Correspondingly, article 37 affirms that state shall ensure equitable and just rights between employer and employee and provide for all citizens facilities of work and adequate livelihood, with reasonable rest and leisure. Considering that, efforts should be made to decrease inequalities as regards terms of service between contractual employees and other types of employees.

Legal Status of contractual employees

According to recent views of superior courts, the relationship between a contractual employee and his employer is that of master -servant. The courts cannot compel the employer in the exercise of its constitutional jurisdiction to reinstate the employee or to alter and amend his terms and conditions of service. The obvious reason for this is that contractual employment is governed by terms of the contract and there is no legislative backing to protect the rights of the

employees, rendering the courts powerless to provide relief. Obviously, under constitutional jurisdiction, the High Court can only interfere in service matters when there has been a breach of statutory or constitutional obligation. In master-servant relationship, the employer is free to hire and fire the employees as per terms of the contract which is signed with free consent of the parties. Usually, service contracts are terminable by either side on one month's notice or pay in lieu thereof. Last but not least, the courts can order regularization of temporary employees, if the contract specifically includes a clause on regularization. In contrast, if it is an open contract, the services can be terminated at any time without giving any reasons. Due to private nature of the relationship, the superior courts rarely interfere in suchlike cases. However, there have been instances when the courts did come to the aid of contractual employees against violation of fundamental rights. Thus, it was held in Asma Parween v. Secretary School Education Lahore that the master who wrongfully dismisses his servant is bound to pay him such damages as will compensate him for the wrong he has sustained. If the contract expressly provides that it is terminable upon a month's notice, damages will ordinarily be a month's wages. Other than that, a contractual employee has a right to file suit for damages for wrongful dismissal and suit for damages for breach of the contract in the civil court.

In the opinion of Supreme Court, the subordinate courts should be cautious when they are adjudicating a lis from private employees regarding the permanent absorption or regularization based on non-discrimination between equally qualified and similarly placed employees. In case titled I.A Sherwani v. Government of Pakistan, it was held that the principle of non- discrimination should be applied keeping in view practical difficulties of the employer, such as budgetary constraints, redundancy factor and structural requirements.

One of the most noticeable features of this type of employment is that it does not matter how many years of service an employee has put in to serve the company. He or she would not have any vested right to be considered for permanent absorption or regularization. The word 'vested' has been defined by the Supreme Court in Government of Punjab v. Muhammad Bashir as something completely or definitely belonging to a person as opposed to something contingent. Such right cannot be taken away without the consent of the person holding such right. In legal terms, vested rights are claims enforceable under law. In case titled Federal Secretary Law v. Muhammad Azam Chattha, the Supreme Court held that a contract employee even if dismissed from service, instead of pressing for his re-instatement to serve for left over period, can at best claim damages to the extent of unexpired period of service. The High Court would have no basis to exercise jurisdiction under article 199. In case titled Govt. of KPK v. Saeed ul Hassan, it was held that long length of service is no ground for regularization of a contractual employee. To invoke the constitutional jurisdiction of the High Court, the claim of the employee must have some constitutional or statutory foundations, and neither of these requirements are fulfilled in a contractual employment. Sometimes, the relief may be provided to a contractual employee out of sympathetic consideration rooted in equity rather than law, but the modern practise of the courts is to desist from interfering in contractual matters.

Civil servants and Persons in service of Pakistan.

Besides contractual employees, there are civil servants and persons in service of Pakistan. In case reported as Deputy Commissioner Upper Dir v. Nusrat Begum, it was held that only those employees are deemed civil servants who are appointed in a prescribed manner, through public service commission. By contrast, service of Pakistan has been defined under section 260 of the constitution as any service, post or office in connection with the affairs of the Federation or of a Province, and includes an All-Pakistan Service, service in the Armed Forces and any other service declared to be a service of Pakistan by or under Act of Majlis-e-Shoora.

As already mentioned, the terms and conditions of these employees are governed either by Civil Servants Act 1973/ corresponding Provincial Acts or by article 240 of the constitution. In the opinion of the Supreme Court, article 240 is the bedrock against which appointments to the service of Pakistan are to be made. The constitution gives right to these employees to invoke jurisdiction of the provincial and federal service tribunals if the department has violated terms and conditions of their service. Service tribunals have exclusive jurisdiction under article 212 (1) of the constitution to adjudicate upon disputes arising from appointment, promotion and disciplinary matters of the persons in service of Pakistan including civil servants. Persons in service of Pakistan is a genus of which civil servants is a specie. Every civil servant is necessarily a person in service of Pakistan but a person in service of Pakistan is not essentially a civil servant. A person in service of Pakistan includes an employee of the statutory corporation regulated by statutory rules.

Article 212 of the constitution bars all other courts from issuing any order, injunction, judgement or conducting any other proceeding in a matter falling within the jurisdiction of service tribunals established under article 212 of the constitution. This means in addition to Civil Courts, jurisdiction of the High Courts under article 199 is also precluded in disputes pending before the service tribunals. However, under subsection (3) of article 212, an appeal lies directly to the Supreme Court against the final order of the tribunal.

i- Case law on civil servants and persons in service of Pakistan.

To give an instance, according to AJ& K Civil Service Rules 1997 (hereinafter Rules), age relaxation can be given under clause 4 of the Rules to a person continuously working in the government service as well as to an officer of the armed forces who joins civil service subsequent to his retirement. In the former case, relaxation in upper age limit is equal to number of years a government servant has worked in a government department before applying. For example, if the age limit is fixed as 25 years and the applicant is 27 years old, his two years of service shall be excluded from his actual age while calculating his eligibility to be within the requisite age bracket. By contrast, an armed officer when retired, the time lapse between his retirement and re-joining of government service shall be excluded from consideration when calculating whether or not the officer concerned satisfies the upper age requirements of the civil service. Thus, in the case reported as Abad ul Haq v. Secretary Elementary & Secondary Education, the AJ&K Supreme Court held that 2 years' waiver cannot be denied as the petitioner was a civil servant at the time of applying.

On the other hand, the Lahore High Court held in Ghulam Mahmmod Dogar v. Federation of Pakistan, that in cases involving transfer, posting and disciplinary proceedings of civil servants,

the jurisdiction of High Court under article 199 is expressly barred. Therefore, a civil servant aggrieved of an action against him in regard to terms and conditions of service shall approach the service tribunals established under article 212 of the constitution. As per the facts, the officer concerned was transferred by the federal government from Punjab but was not allowed to relinquish the charge by the provincial government. The federal government issued show cause notice to initiate disciplinary proceedings against the petitioner for non-compliance of its orders. The concerned officer challenged the order of federal government in writ jurisdiction under article 199 before the Lahore High Court, but the court declined to interfere. Conforming to its ruling, a specific mechanism is provided to resolve disputes arising out of terms and conditions of service of the civil servants. Therefore, pursuant to article 212, no court including high court shall assume jurisdiction to resolve disputes pertaining to appointment, promotion, seniority, regularization and disciplinary matters of the civil servants as the same will contravene express provisions of article 212 of the constitution. Article 212 provides that these disputes shall be decided by the service tribunals in exclusion of all other courts, even the issues relating to enforcement of fundamental rights may as well be decided by the service tribunal.

In case titled Faraz Naveed v. DPO Gujrat, the concerned police official was charged with the crime of terrorism and was convicted by the ATC court. However, the High Court acquitted him by giving the benefit of doubt. When his conviction was pending appeal, departmental proceedings were initiated against him and after service of show cause notice and conducting inquiry, he was dismissed from service. After his acquittal from the criminal case, he challenged his dismissal from service in service tribunal, which failed. Thereafter, he preferred an appeal in the Supreme Court which met the same fate on the ground that the departmental and criminal proceedings were conducted in the exercise of two separate jurisdictions as the requirement of proof is different for the two proceedings. Whereas a criminal conviction calls for establishment of guilt beyond reasonable doubt, the departmental proceedings require preponderance of evidence or superiority of evidence to decide the case either way. On account of this, an acquittal in a criminal case does not serve as res-judicata in departmental proceedings. According to police rules 1934, the departmental proceedings shall not abate if the acquittal in a criminal case is obtained on the basis of compromise, technical grounds or witness turning hostile. Furthermore, in cases of acquittal based on benefit of the doubt the competent authority can look into criminal antecedents of the civil servant and his fitness for the service before considering his reinstatement. Clearly, therefore, rights of civil servants are well defined and a proper mechanism is provided for their protection under the constitution.

Employees of statutory bodies regulated by statutory rules

Apart from civil servants and persons in service of Pakistan, there are regular employees of statutory bodies. Being creation of law, these entities are amenable to constitutional jurisdiction of the High Court. In addition to remedy before the High Court, these employees usually have right of departmental representation, and in a majority of cases right of appeal before service tribunals. In view of the fact that their terms of service are guaranteed by statutory rules, these employees have vested right or legally enforceable right to regularization, fixation of seniority, non-

discrimination in promotion/ regularization, right of hearing and due process along with pensionary and other retirement benefits.

Noticeably, statutory rules differ from non-statutory rules in the sense that the former is legislated by the parliament/ provincial assembly or have been notified by the federal government. Conversely, non-statutory rules are made for internal administration of a corporation and are not enforceable in law. Needless to mention that jurisdiction under article 199 of the constitution can be exercised for violation of a constitutional or statutory rights. Thus, where an aggrieved employee is governed by statutory rules, he or she can invoke the constitutional jurisdiction of the High Courts and may file an appeal before tribunal. On top of that, such employee can further invoke the jurisdiction of the High Courts for violation of their fundamental rights as guaranteed by the constitution, including, right to fair trial, equal treatment of law, non-discrimination, right to life and livelihood and right to dignity, and freedom to adopt the profession of their choice. If any of these rights are breached by the employer, the High Court can be approached under its constitutional jurisdiction to enforce fundamental rights by issuing the appropriate writ.

i. Employees of statutory bodies governed by non- statutory rules

Together with employees governed by statutory rules, there can be public sector corporations such as PASCO and PEPCO where terms and conditions of service are governed by non-statutory rules. This means that service rules applicable therein are neither passed by the parliament nor approved by the federal government as such. In essence, these rules are meant for internal administration of the company. Consequently, the relationship between employer and employee is contractual and the employee has no legally enforceable right to approach the High Court for violation of his rights. The only advantage these employees have over contractual employees is that the matters pertaining to their terms of service are set forth in a non-binding policy which is generally followed in recruitment, promotion and disciplinary proceedings, along with the contract. Nevertheless, the policy being non-statutory, its violation cannot be challenged in the High Court under its constitutional jurisdiction.

Thus, for example, the High Court cannot not order re-instatement of a non-statutory employee whose services have been dispensed with arbitrarily because it would be beyond the scope of its powers to alter or amend the service agreement between employer and employee. The employee having freely chosen to sign the agreement has given up his right to invoke jurisdiction of the court in employment disputes.

Sometimes, such non- statutory rules provide for right to representation before an appellate authority of the department. However, such appellate authority seldom differs with the original decision of the competent authority. Nonetheless, it has been held that the right of non-statutory employees to approach the supreme court under article 184 (3) remains intact.

ii- Precluding High Court jurisdiction in non-statutory cases.

According to three historic judgements of the superior courts, the employees whose terms and conditions are not regulated by statutory rules do not have the right to invoke constitutional jurisdiction of the High Court. For example, it was noted in Khushhal Khan Khattak University v. Jabran Ali that if the terms and conditions of so-called permanent employees are regulated by the

internal HR policy, constitutional jurisdiction shall be barred. Similarly, where the employment is seasonal, temporary or is based on daily wages, the internal policy shall regulate the same. Since both these types of employments, contractual and seasonal are non-statutory, that is, neither legislated by the parliament nor approved by the federal government as such, the employees of such bodies shall not be competent to invoke constitutional jurisdiction of the High Court against violation of their service conditions.

In the case titled Abdul Shakoor Sheikh v. Secretary Civil Aviation, Civil Aviation advertised the positions of General Manager and Deputy General Manager on one year's contract basis, extendable subject to satisfactory performance. However, after several years of service, when some of these employees approached the High Court for regularization, their petition was dismissed with the observation that if terms and conditions of service were not creation of law, the concerned employees could not challenge their violation in the constitutional courts. Admittedly, the federal government had a role in the operations of Civil Aviation Authority (CAA), its service rules continued to be non -statutory. The so-called 'permanent' employees working therein were appointed by promotion or borrowed on deputation from other departments. This policy was called HR policy 2011, and being non-statutory, was not enforceable in the High Court.

Similarly, in the case of Zarai Tarqiati Bank limited, it was laid down that the bank is a body corporate with perpetual succession and common seal, yet, its employees are contractual because their services are regulated by rules made by board of directors for internal administration. The employees may seek their remedy from labor court as well as NIRC but they have no right to raise their claims before the High Court under its constitutional jurisdiction.

In Abdul Shakoor Sheikh v. Secretary Civil Aviation, it was held that a corporation might have permanent as well as contractual employees and the terms of their service could have been governed by instrument(s) adopted for internal administration by the directors. If the post of an employee was advertised as contractual, and was made extendable subject to satisfactory performance, this wording creates no vested right to regularization. Similarly, a deputationist could not be absorbed in the host department because this would compromise the seniority of regular employees at the host institution.

In the like manner, in case reported as Muhammad Aslam v. Federation of Pakistan, some of the daily wagers challenged their termination after 85 days but their challenge remained unsuccessful on two grounds, firstly, the advertisement against which they were recruited clearly stated that seasonal workers are wanted for storage and harvesting of wheat. Secondly, the terms of their services were regulated by non-statutory rules. When these workers challenged their termination on the ground that some of their co-workers were regularized while they had been discriminated against, the respondent Pasco argued that the HR's internal policy provided for recruitment of around 85 employees on work charge or seasonal basis and the corporation was empowered to make some of these workers permanent. Since these rules were not protected by a statutory legislation, the High Court refused to interfere in its constitutional jurisdiction.

Invoking Constitutional jurisdiction if statutory rules are enforced.

In the case titled Engineer Bismillah Kakar v. Federation of Pakistan, the court held that the petitioner was governed by non-statutory rules, therefore, he could not have invoked the constitutional jurisdiction of the High Court. For invoking constitutional jurisdiction, the petitioner would need to prove that either his services were regulated by statutory rules or some statutory rules, such as PEEDA Act 2006 were applied against him to his detriment by the authority and such legislation was violated in action against him. In suchlike cases, the petitioners could invoke constitutional jurisdiction even if they were being governed by non-statutory rules. This view stands reinforced by the Supreme Court in its landmark judgement in case tiled Noreen Butt v. Chairman PIA.

To cut it short, such employees of statutory corporations whose terms are governed by non-statutory rules, neither have a remedy in service tribunal nor in the High Court under its constitutional jurisdiction because no law is breached in violation of their service conditions. Having said this, they can still challenge the violation of their rights in civil courts as well as in the supreme court under article 184 (3) of the constitution.

Employees falling under the definition of workman under labour laws.

A large number of employees fall within the definition of workman under the workman Compensation Act 1923, the Factories Act 1934 and Industrial Relations Act 2012. The term workman is applicable to a certain kind of employees working in all industrial and commercial establishments, not being part of Federal or Provincial governments or any local authority, and generally performing menial or labour job. The terms and conditions of the service of workman are protected under labour laws, enforceable in the Labour Courts and National Industrial Relations Commission (NIRC). Since the rights of these workmen are defined by a number of statutory enactments, they can also agitate their claims before the High Court in its appellate and constitutional jurisdiction.

In one labour appeal decided by NIRC, it was held that anybody falling within the definition of workman is entitled to file a grievance petition before the Labour court for violation of his rights guaranteed by labour code. Whether or not a person is workman shall be be determined by following a defined criterion. Thus, in Bilal Bakht v. The President Askari Bank the petitioner was inducted into service as Officer Grade-II. According to the bank's policy, he was not a workman under the labour laws. However, the NIRC held while relying on Supreme Court's judgements that the status of a workman should not be determined by his designation, rather the same should be ascertained by looking at the kind of work he has been doing. Although the petitioner was recruited as Officer Grade-II, what he had been actually doing was to draw checks, handle deposits, had no one to work under him, was the junior most officer of the bank and most importantly, the nature of his work was menial and physical. Therefore, taking into account the nature of the work assigned to him, there remained no doubt that he would be deemed a workman entitled to due process and fair trial rights as available under the applicable labour laws.

In the light of above, it is clear that status of contractual employees is altogether different from that of a workman. Whereas the former has no vested right for reinstatement or regularization, the latter is fully protected by labour laws and can get his/ her statutory rights enforced by filing a

grievance petition in Labour Courts or NIRC. On the contrary, the only assured remedy available to a contractual employee is right to file a suit for illegal dismissal or recovery of breach of contract in the civil court.

i- **Case law on workman.**

In PTCL v. Member NIRC, the Supreme court held that any public or private limited company having a specific number of employees not under the control of federal or provincial government is subject to the provisions of Industrial Relations Act 2012 and Workman Compensation Act 1923. Accordingly, the employees working therein are entitled to the rights guaranteed by labour laws and they can file grievance petition under section 33 of IRO in labour court for denial of these rights. Appeals against the decision of the labour court will be heard by NIRC. Appeals against decisions of full bench of NIRC will be decided by the High Court. In the case reported as Muhammad Saeed v. Pakistan Telecommunication Company Limited, the Islamabad High Court (IHC) held everyone is entitled to equal protection of law and to be treated in accordance with law, pursuant to article 4 of the constitution. Furthermore, no action detrimental to life, liberty, body, property or reputation can be taken save in accordance with law. Additionally, no person can be prevented from doing what is not prohibited by law and no person can be compelled to do what the law does not require him to do. Therefore, a workman is entitled to file a petition in the High Court under article 199 of the constitution for violation of his rights under article 4.

Likewise, in Pharmatech Pakistan (Pvt) Ltd v. Muhammad Tariq & others, the SHC held that although the employee was inducted as OG-II officer but as the statutory law was silent on the proposition of whether or not to consider him a workman, the doctrine of casus omissus was invoked. According to this doctrine, in the absence of a clear statutory provision, the matter shall be decided in accordance with the dictates of common law. In keeping with the judgements of superior courts, designation shall not be looked into while ascertaining the status of person, instead nature of his job should to be examined.

Evidently, rights of all classes of workers are adequately protected by laws of Pakistan but contractual employees are left to deal with their grievances by themselves under the archaic rule of master and servant.

Rights of contractual employees recognized by constitutional courts.

Even though recent decisions of the superior courts indicate that they are not in favour of interfering with matters of contractual employment, in regard to some issues, they have expressed willingness to exercise constitutional jurisdiction to enforce fundamental rights. For example, in a case reported as Dr. Maha Fatima Tariq v. Government of Punjab, the Lahore High Court provided relief to a candidate who was not being appointed against a contractual post in spite of having been declared successful by the Departmental Selection Committee. The court held that the department had itself invited applications against the subject post and declared the petitioner successful. Now, it had no locus poenitentiae to withhold the notification as the appointment would be mere formality after declaration of result. In Fatima v. Federation of Pakistan, the court laid down that under the principle of promissory estoppel, the department was precluded from changing its position. This would also breach the age-old principle of approbate and reprobate, i.e., what I

approve I cannot disapprove in the same breath. The issuance of notification was mere formality, the process of recruitment was complete when the result was declared by the selection committee. Likewise, in a case reported as the Chairman Agriculture Policy institute v. Zulqurnain Ali, the court held that it is a fundamental right of an employee to know the reasons of his termination or discontinuation of service irrespective of the nature of the employment. No one can be deprived of his livelihood on verbal order.

Correspondingly, there have been cases where the contractual employees were dismissed verbally from service by levelling stigmatic allegations, like those of fraud, forgery, cheating and misconduct. In suchlike cases, the superior courts have taken the view that due process rights of the employees must be respected regardless of the nature of their employment by conducting an independent inquiry after issuance of a show cause notice. Termination of service on verbal orders is alien to the service laws of the country. In other words, if an employee is to be laid off on the basis of stigmatic allegations, he must be given a fair opportunity to clear his name.

In the like manner, courts have impressed upon the employers to give opportunity to employees to apply for regularization if they have spent considerable length of service on contractual basis. Thus, in case titled Khwaja Muhammad Asif. Federation of Pakistan, it was observed that long length of ad hoc/ contractual service creates a 'legitimate expectation' in the mind of employee that his services will be retained. Therefore, such an employee must be given an opportunity to get himself regularized by following the standard procedure as and when the permanent vacancy arises. In simple words, such an employee should be allowed to compete with the others in filling up a permanent vacancy.

In the same vein, it was held in Abdul Gafoor v. President NBP, that consent to sign an unfavourable contract by a temporary employee is not free consent at all. The employee being jobless and in fear of being shown the door has no option but to accept and continue with the appointment on whatever terms offered by the employer. A person so employed is not in a position to bargain with the employer who is in a disproportionately dominating position as compared to the employee. The employer could always coerce the latter to waive off his legal protection and accept the terms on offer or face the risk of losing job. Therefore, cases of suchlike employees should be dealt with by following the principles of equity and good conscience.

By the same token, in case titled Quetta Development Authority v. Abdul Basit the contention of the petitioners was that similarly and equally placed employess were awarded relief of reinstatement. Hence, they too should be given the similar relief, having been hired on similar terms and conditions. The defence of respondent (department) was that the petitioners were project employees and they were liable to be terminated without assigning any reason. Another defence was that the litigants who were cited to have been re-instated, applied earlier, whereas the present petitioners filed their applications with a delay of 2 years and 6 months, thus their case was hit by laches. The supreme court held that both these reasons were insufficient to deprive the petitioners of their fundamental right of being treated alike to equally and similarly placed litigants. Laches cannot be allowed to be a stumbling block to enforce fundamental right under article 25 of the constitution.

Notwithstanding the above decisions, current view of the courts is not to interfere in contractual relationships as it amounts to altering or amending clauses of the contract at the detriment of employer and to the advantage of employee. The LHC has recently laid down that the employee signs a contract with his free will and being aware of the fact that such employment is temporary, still if he is unhappy with the termination, he should go to civil court for claiming damages for wrongful termination.

Conclusion.

In the light of above, it is obvious that contractual employees are still being governed by the outdated master-servant principle. They do not have the right to approach Labour Court or High Court in relation to enforcing terms and conditions of their service. On the other hand, employees having the status of workman can take their grievance to Labour court and NIRC. Against the decision of full bench of NIRC they have a further right to file an appeal before High Court. Similarly, persons in service of Pakistan also have multiple remedies against their grievances. Initially, they can file representation before departmental authority, then they can approach service tribunal to redress their grievance and finally to the Supreme court to challenge the decision of the tribunal. In the same way, employees of statutory corporations whose terms of service are being regulated by statutory rules can invoke the constitutional jurisdiction of the High Courts. This being said, there are employees of statutory corporations whose terms and conditions are regulated by non-statutory rules. These are not much better off than contractual employees because their recruitment, promotion and disciplinary matters are regulated by an internal policy coupled with a contract not enforceable in the High Court. However, they too have the option to go to the Supreme Court under article 184(3) to agitate the violation of their rights.

This scheme of things indicates that contractual employees are least protected against breach of their service conditions. In the past, superior courts have been giving them relief by following the principles of equity. Additionally, contractual employees were also given relief for violation of fundamental rights. However, the scope for these reliefs has been significantly reduced in recent times. Now the superior courts would only intervene in matters like discrimination, not holding inquiry in cases involving stigmatic allegations, not issuing appointment letter in spite of the candidate having been declared successful and verbal termination. Yet to the extent of these remedies, position of superior courts differs on case-to-case basis. Therefore, it may not be wrong to argue that the only definite remedy a contractual employee may have is a suit for recovery of damages for wrongful dismissal or suit for damages for breach of the contract.

Against this background, it is suggested that the laws may be promulgated requiring the employer to necessarily add certain clauses into contract aimed at protecting fundamental rights, in particular due process rights of the contractual workers. Moreover, the constitutional courts should not as a rule desist from exercising their jurisdiction in cases involving master-servant relationship. This will lead to continued exploitation of the hapless workers at the hands of resourceful employers. Keeping oneself aloof from the problems of master-servant relationship amounts to endorsing the application of an unjust rule. Without a doubt, contractual employees are as much deserving of rights protection as are civil servants and workman, especially when

contractual mode is deemed more popular in the industrialized world. For all these reasons, when deciding cases of contractual employees, the courts should take into account the dictum laid down in Sui Southern v. Ghulam Abbass that consent of a contractual employee should not necessarily be seen as free consent because it may have been obtained under the threat of 'take it or leave it.

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