

**IN THE HIGH COURT OF SINDH KARACHI**

**Const. Petition No.D- 4515 of 2025**

(Javed Iqbal Arain v. Province of Sindh & Another)

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| Date | Order with signature(s) of Judge(s) |
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Hg:/Priority.

1. For orders on office objections.
2. For hearing of Misc. No.25299/25
3. For hearing of Misc. No.18810/25
4. For hearing of main case.

**15.01.2026.**

Mr. Ali Asadullah Bullo, Advocate for Petitioner.

Mr. Rajesh Kumar, Advocate for Respondent No.2.

Mr. Abdul Jalil Zubedi, Assistant Advocate General Sindh.

**O R D E R**

**Nisar Ahmed Bhanbhro, J.** Through this petition petitioner has challenged the transfer notification/order dated 28.08.2025 (Impugned order) issued by Respondent No.2, whereby he was transferred from Thatta to district Shaheed Benaizrabad.

2. Learned counsel for the petitioner contends that the petitioner will retire in the month of April, 2026, within a period of three and a half months, hence the displacement of the petitioner at this juncture through the impugned order is ultra vires the provisions of law, as it caused hurdles in the smooth disbursement of the petitioner's pensionary benefits and tantamount violation of fundamental rights enshrined under article 4 & 9 of the Constitution of Islamic Republic of Pakistan 1973( the Constitution). Therefore, he prayed that the impugned order be set aside by allowing this petition.

3. Contrary to the submissions, Learned Counsel for Respondent No. 2 contended that the petitioner is a civil servant; that the impugned order whereby the petitioner was transferred from Thatta to Shaheed Benazirabad, falls within the terms and conditions of the petitioner's service; as such, the instant petition is not maintainable and is barred under Article 212 of the Constitution. He prayed to dismiss the petition.

4. Learned AAG supported the contentions raised by the counsel for Respondent No.2.

5. Heard arguments and perused the material available on record.

6. The petitioner admittedly is an employee of the Sindh Technical Education & Vocational Training Authority (STEVTA), created under STEVTA, Act 2009. Petitioner was serving in Technical Education Department Government of Sindh. On promulgation of STEVTA Act, the services of Petitioner were transferred to Authority (STEVTA). Section 2 of the STEVTA Act defined STEVTA as an autonomous body. The employees working under the Authority (STEVTA) are deemed to be public servants as defined under section 19 of the STEVTA Act. To regulate the services of employees of STEVTA, the STEVTA Employees' (Appointment, Promotion and Transfer) Rules, 2012 (STEVTA Rules) were framed by exercising the powers conferred under section 22 of the STEVTA Act. Since the services of the petitioner are governed by the STEVTA Rules, 2012, they fall outside the ambit of the Sindh Civil Servants Act, 1973 and the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974.

7. It was informed by the Counsel for Respondent No 2 that prior to the promulgation of STEVTA Act, the Petitioner was an employee of Technical Education Department Government of Sindh, as such his services were regulated under the provisions of Sindh Civil Servants Act 1973 and rules framed thereunder, therefore, Petitioner may file service appeal before the Service Tribunal. The contention so advanced does not find support from record. Pursuant to the promulgation of STEVTA Act, the services of the Petitioner and other employees of Technical Education Department were transferred to STEVTA. Section 15 of the STEVTA, Act protected the rights of employees transferred from Government of Sindh and merged in STEVTA. It would be conducive to reproduce herein below section 15 for the STEVTA, Act, that reads as follows:

*15. Transfer of the Employees of the Institutions: (1) The Authority shall take over all the technical education and vocational training institutions in the Province to run and control such institutions in accordance with this Act.*

*(2) The employees of the institutions taken over by the Authority under sub-section(1) shall be transferred by Government for service under the Authority on the terms and conditions as may be determined by Government but such terms and conditions shall not be less favourable than those admissible to them immediately before their transfer to the Authority.*

(3) *The service rendered by such employees shall be deemed to be the service rendered in the Authority.*

(4) *Pension, gratuity and other service benefits admissible to such employees including the employees who retired or died while serving in relation to an institution before the commencement of this Act shall be the Audit and accounts.*

(5) *The employees transfer under sub-section (1) shall cease to be employees of Government and would become the employees of the Authority and shall be governed by rules and regulations applicable to other employees of the Authority: Provided that in case of winding up of the Authority, such employees shall stand repatriated to the Government as if they were never transferred to the Authority.*

(6) *Government shall in accordance with the relevant rules contribute to the pension gratuity in respect of such employees for the period they served the Government and transfer their provident fund to the Authority.*

8. From the bare perusal of above provision of law it is crystal clear that on transfer from Government of Sindh in STEVTA an employee shall be dealt by the STEVTA on the terms and conditions as may be determined by Government but such terms and conditions shall not be less favourable than those admissible immediately before transfer to the Authority. The employees transferred to STEVTA shall cease to be employees of Government and would become the employees of the STEVTA and shall be governed by rules and regulations applicable under STEVTA Act and Rules.

9. To manage the matters relating to appointment, transfer and promotion of employees the STEVTA Rules were framed. Petitioner was transferred by the competent authority by exercising its powers conferred under the said rules. Since on transfer from Government of Sindh to STEVTA, the petitioner was no more a government servant. Petitioner was transferred by the competent authority under the STEVTA Rules. The officers of STEVTA discharged their functions in connection with the affairs of province of Sindh, therefore, any action taken against under the provisions of STEVTA Act and Rules was amenable to judicial review of this court under its powers conferred under article 199 of the Constitution. The petition is therefore held to be maintainable.

10. Adverting to the core issue involved in the instant lis, which is the transfer of Petitioner at the verge of his retirement. There is no denial to the fact that the petitioner is due to retire on 03.04.2026 on attaining the age of superannuation, within a period of about three and a half months from today. Transfer of the Petitioner at this stage would cause difficulties in the disbursement of his post-retirement benefits.

11. No doubt, an employee is required to serve at any place where the employer desires; however, in the peculiar facts and circumstances, the employer ought to restrain from dislocating an employee at the verge of retirement, he should be allowed to retire from the said place. The matters relating to appointment, promotion and posting/transfer of the employees are purely the internal affairs of the department, this Court sparingly interferes with such functions of the executive authority, that too only in the cases where it was found that such powers were exercised in arbitrary manner or in deviation of the rules or instructions and resulted in miscarriage of justice. The transfer of an employee is purely a discretion of employer but such discretion must be exercised in fair and transparent manner. From the perusal of impugned transfer order it transpired that the petitioner was transferred as a routine matter against a post lying vacant and on his transfer the incumbent position will also fall vacant.

12. Petitioner being an employee enjoyed the equal protection of law. It is an inalienable fundamental right of an employee to dealt in accordance with law, as articulated under Articles 4, 9, and 14 of the Constitution. The Petitioner was not dealt in accordance with law rather through arbitrary exercise of discretionary powers petitioner was victimized. The conduct of the Respondents reflected the lack of good governance at the helm of affairs in STEVTA, as such is highly deprecated.

13. Transfer and postings are a routine departmental action, taken to ensure good governance. An employee ordinarily should not disturbed and dislocated from the place where he is posted when his retirement is within sight, except in the case of any exigency or in the case where the employee was facing any disciplinary proceedings. The employee should be allowed to retire respectfully, not as a bounty or grace but as a matter of respect for his devotion he earned for the years of service he rendered in the department. .

14. In the wake of the above discussion, this Court has reached to an irresistible conclusion that the Petitioner has not been dealt in accordance with law and the impugned order dated 28.08.2025 has been issued without any lawful justification, thus warrants interference by this Court to exercise the powers of judicial review conferred under Article 199 of the Constitution. Consequently this petition is accepted, the impugned order dated 28.08.2025 is hereby set aside, and the instant petition is allowed with no order as to costs.

**JUDGE**

**JUDGE**  
**HEAD OF CONST. BENCHES**

**Approved for reporting.**