

Order Sheet

IN THE HIGH COURT OF SINDH AT KARACHI

**Const. Petition No. D – 5344 of 2020**

Date	Order with signature of Judge
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Before :

Mr. Justice Nadeem Akhtar

Mr. Justice Adnan-ul-Karim Memon

**29.10.2020** : Mr. Tarique Ahmed Jakhrani, advocate for the petitioner.

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**NADEEM AKHTAR, J.** – It is contended that despite successful completion of the process of appointment and issuance of posting order dated 06.10.2020 (page 25) in pursuance thereof, the petitioner is not being allowed to join his duties. It is stated that a representation in this behalf has been filed by the petitioner before respondent No.1 / Administrator KMC, but till date no action has been taken thereon. If any application / representation / complaint has been filed by the petitioner before the competent authority, the same must be decided by the said authority within fifteen (15) days from receipt of this order strictly in accordance with law. Let notice be issued to respondent No.1 / Administrator KMC for compliance. The petition and pending applications stand disposed of in the above terms with no order as to costs.

It has now become a common practice that constitutional petitions are filed before this Court seeking posting or questioning transfer. Such petty issues should not be brought before this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, and the Secretary or Head of the relevant department should be approached first in case posting is denied or delayed after appointment or the employee is aggrieved by his transfer. It may be observed that once the process of recruitment / appointment is successfully completed by the candidates and appointment letters / orders are issued in their favour, the department concerned is duty-bound to ensure that they are posted at the relevant post as soon as possible. Any unreasonable delay by the department concerned in posting the appointee would result not only in hardship for the appointee, but also lack of strength, output and efficiency in such department.

It is, therefore, directed that in case of unreasonable delay and/or failure on the part of the department concerned in the case of posting, or if the employee is aggrieved by his transfer, the appointee or employee, as the case may be, shall first approach the Secretary / Head of such department through

an application / representation. The Secretary / Head of such department shall decide the matter strictly in accordance with law within fifteen (15) days from the date of receipt of his application / representation. In case the matter pertains to transfer, the application / representation shall be decided through a speaking order after providing opportunity of hearing to the applicant-employee. Office is directed not to entertain any constitutional petition relating to posting and/or transfer unless the above remedy is exhausted by the person approaching the Court.

The Chief Secretary Sindh is directed to ensure that in future postings should not be denied or delayed by the department concerned, and in any such event if an application / representation / complaint seeking posting is filed by the appointee before the Secretary / Head of the department concerned, the same must be decided by the said Secretary / Head within fifteen (15) days strictly in accordance with law. The above direction shall also be followed in case of applications / representations / complaints by an employee against his transfer. Let notice be issued to the Chief Secretary Sindh, the Secretaries of all the departments in the Government of Sindh, and the Heads of KMC, KDA, MDA and SBCA for compliance.

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