

THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD

C.P No. D- 3495 of 2016

Before:
Mr. Justice Nadeem Akhtar
Mr. Justice Adnan-ul-Karim Memon

Petitioner : Nemo for the petitioner.

Respondents : Through Mr. Allah Bachayoo Soomro, Addl. A.G., Sindh.

Date of hearing & decision. : 12.12.2019

ADNAN-UL-KARIM MEMON, J: - Through this petition, the petitioner has impugned his transfer and posting order dated 8.12.2016.

2. Article 212 of the Constitution of Pakistan ousts the jurisdiction of this Court in respect of the matters pertaining to terms and conditions of Civil Servants. The expression “terms and conditions” includes transfer and posting, we are fortified by the decision of Hon’ble Supreme Court in the case of **Ali Azhar Khan Balouch and others v. Province of Sindh and others (2015 SCMR 456)**. The ouster clause under Article 212 of the Constitution is a Constitutional command, which restricts the jurisdiction of this Court under Article 199 of the Constitution on the subject which squarely falls within the exclusive domain of the Tribunals.

3. Admittedly, the petitioner is a Civil Servant and his case falls within the ambit of Section 3(2) of the Federal Service Tribunals Act, 1973, which says that Tribunal shall have the exclusive jurisdiction in the matters relating to terms and conditions of Service of Civil Servants as under Section 4 of the Service Tribunal Act a Civil Servant has a right to file an appeal against the impugned orders adversely affecting the terms and condition of their service before the Tribunal subject to the qualification provided therein.

4. It is a well settled principle of law that a Civil Servant has no vested right to remain on a particular post forever or for a stipulated period. He can be transferred at any time under Section 10 of the Civil

Servant Act 1973. Reference may be made to the case of Peer Muhammad V. Government of Balochistan and others (2007 SCMR 54).

5. Keeping in view the above mentioned facts and circumstances of the case, we do not see any infringement of right of the Petitioner which could be called in question by way of Writ Petition, hence the instant petition, is dismissed along with pending application(s). However, the Petitioner may seek appropriate remedy as provided under the law.

JUDGE

JUDGE

Fahad Memon