

Order Sheet
IN THE HIGH COURT OF SINDH KARACHI
Constitutional Petition No. D – 5603 of 2021

Date	Order with Signature of Judges
------	--------------------------------

Fresh Case.

1. For orders on CMA No.24236/2021.
2. For order on office objection No.4 & 18.
3. For order on CMA No.23504/2021.
4. For order on CMA No.23505/2021.
5. For hearing of main case :

24.09.2021 :

Mr. Ali Asadullah Bullo, advocate for the petitioner.

1. Urgency granted.
 2. Deferred for the time being.
 3. Granted subject to all just exceptions.
- 4&5. Petitioner is a Civil Servant, has called in question the notification dated 23.04.2021 and show cause notice dated 19.08.2021 issued by the competent authority, whereby he has been repatriated and directed to report to Establishment Division. At this juncture, we inquired from the learned counsel as to how the instant petition is maintainable because of the terms and conditions of his service. In reply to the query, he has submitted that initially petitioner was appointed as Section Officer BS-17 through competitive process vide letter dated 25.09.2013 and subsequently promoted in BPS-18 (OMG). It is urged that due to exigency of service his services were placed at the disposal of the Government of Sindh for further posting in PPHI Sindh on deputation basis under wedlock policy for three years or till the availability of vacant post in the cadre post (OMG) at Karachi vide notification dated 16.04.2018. Per learned counsel his repatriation to the parent department is based on malafide intention, without completing the tenure, on the ground that the Government of Pakistan Cabinet Secretariat Establishment Division issued an office memorandum dated 13.05.1998, whereby a policy was framed for posting of husband and wife at the same station, which was amended from time to time i.e. 28.01.2020 (page-65). He emphasized that his case falls squarely within the ambit of policy decision of the Government of Pakistan as discussed supra, thus his repatriation order dated

23.04.2021 at this stage is a nullity in the eyes of law. Learned counsel in support of his contention has referred to various documents attached with the memo of the petition and argued that the Sindh Government has not yet relieved him from his present posting due to service requirements. However, the respondent-Establishment is bent upon to take coercive action against him by issuing show cause notice dated 09.08.2021 based on the aforesaid analogy; and, there is a strong likelihood that his services may be dispensed with at any point in time, therefore, necessary direction may be issued to the respondents not to take coercive action against him during pendency of this petition.

To appreciate as to whether the case of the petitioner squarely falls within the wedlock policy as enshrined in the office memorandum dated 28.01.2020 or otherwise, let notice be issued to the respondents as well as DAG and AG Sindh for 13.10.2021. In the meanwhile, no coercive action shall be taken against the petitioner in pursuance of the impugned order dated 23.04.2021 and show cause notice dated 19.08.2021.

JUDGE

JUDGE