

**IN THE HIGH COURT OF SINDH, KARACHI**

**C.P.No.D-5468 of 2023**

**Syed Ali Muhammad Vs. Province of Sindh & Others**

**C.P No. 5663 of 2023**

**Syed Ali Muhammad Vs. Province of Sindh & Others**

Before: **Mr. Justice Muhammad Junaid Ghaffar**  
**Mr. Justice Adnan ul Karim Memon**

Date of hearing: **29.02.2024.**  
Date of order: **29.02.2024.**

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|-------------------------------|---|
| Petitioner through            | Mr. Ali Asadullah Bullo advocate  |
| Respondents No.2 to 5 through | Mr. Khalid Javed advocate   |
| Respondent No.1 through       | M/s. Kashif Nazir Assistant Attorney General along with Khalid Ahmed Bablani, Director (Finance) PSQCA, Zubair Nomani, Director (Legal), PSQCA and Khalid Ali Lashari, Assistant Director (Legal) PSQCA |

**ORDER**

**Adnan-ul-Karim Memon, J.** By this common order, we intend to dispose of both the petitions, which have a common cause of action and question of law and facts.

2. Petitioner Syed Ali Muhammad, presently serving as Deputy Director (Finance) Karachi in Pakistan Standards and Quality Control Authority (**PSQCA**) has questioned the Transfer and posting orders issued by the respondent-authority vide Notification dated 6.11.2023 and office order dated 8.11.2023, whereby he has been directed to report to the office of Standards Development Centre, Lahore, department of PSQCA; and, in the intervening period, look after charge of his post has been assigned to another officer for which he claims to be junior most. Be that as it may, this Court has confronted the learned counsel for the petitioner about the scope of interference with the executive function of postings and transfers of government officials on the premise that the transfer of a government official from one place or post to another, to meet the exigencies of service was within the exclusive domain and competence of the competent authorities of the executive organ of the State and, ordinarily, it is not amenable to interference under Article 199 of the Constitution, more particularly in terms of the ratio of the judgments passed by the Supreme Court in the cases of *Fida Hussain Shah and others v. Government of Sindh and others* (2017 SCMR 798), *Khan Muhammad v. Chief Secretary Government of Baluchistan* 2018 SCMR 1411 and *Khalilullah Kakar v. Provincial Police Officer* 2021 SCMR 1171 and *Dr Muhammad Saleem v. Government of Baluchistan* 2024 PLC CS 77.

3. The learned counsel for the petitioner agrees to the aforesaid proposition, however, his only anxiety is that he may be transferred to serve to the office of Standards Development Centre, Lahore against his actual posting i.e. Deputy Director (Finance), which is not existent at the movement at Standards Development Centre,

Lahore in terms of PSQCA Service Regulation 2015. He further submitted the Department Promotion Committee (DPC) considered the case of promotion of the petitioner against the post of Director non-technical BS-19 vide minutes of the meeting of DPC available on pages 107 to 109. However the same has not yet been finalized, meanwhile the respondents have withdrawn the acting charge assigned to him for the post of Director (Finance) vide letter dated 21.09.2023 and the same was assigned to another junior officer without lawful justification. We reminded him that his service carries with it an obligation to serve the PSQCA, whichever place he is required to be posted in accordance with the exigencies of service or administrative requirements. It is for the PSQCA to take appropriate decision and such decision shall stand, unless it is vitiated either by mala fide or by extraneous consideration without any factual background or foundation.

4. The learned counsel for the petitioner finally submits that he is ready to serve at Standards Development Centre, Lahore, subject to his posting as Deputy Director (Finance) on a current charge basis vide letter dated 01.08.2023, as he is holding the same post at PSQCA Karachi. Prima facie, this proposal seems to be reasonable, but the learned counsel for the respondent department has objected to the aforesaid stance of the petitioner on the ground that the terms and conditions of service of the petitioner will not be adversely affected at any cost and he will be provided with the same pay scale at the place of his new posting. Moreover, the petitioner has no vested right to claim to be posted/transferred to any particular place of his choice or posting, nor does he have a vested right to continue to hold a particular post at a particular place. He added that the transfer and posting of PSQCA employees is at the pleasure of the competent authority, who have taken the decision and that is not liable to be rescinded under the writ jurisdiction of this Court. Learned counsel further submitted that the number of complaints have been received against the petitioner and transferred accordingly. He prayed for the dismissal of both the petitions.

5. We have heard the learned counsel for the parties and have perused the entire material available on record.

6. Since in view of the above it is an admitted position that so far as the post of Deputy Director (Finance) at Lahore is concerned, the same does not exist at the present moment and therefore the transfer of the petitioner on a post which does not exist, would put the petitioner to a disadvantageous position as to his appointment and promotion and holding of the post of Deputy Director (Finance) Karachi. Respondent's counsel has been unable to justify that any such post has been created. In that case the impugned action taken by the respondent, which does not appear to be in consonance with their rules and the availability of the post.

7. In view of the above facts and circumstances of the case, these petitions are disposed of with direction to the competent authority of PSQCA to ensure proper

posting be given to the petitioner, as per his appointment by way of promotion at the Standards Development Centre, Lahore where he has been transferred.

8. As a result, these petitions are disposed of in the above terms.

**JUDGE**

**JUDGE**

**Shafi**