

THE HIGH COURT OF SINDH KARACHI

Present:
Mr. Justice Adnan Iqbal Chaudhry &
Mr. Justice Abdul Mobeen Lakho.

Const. Petition No. D - 4286 of 2024
[Fareed Ahmed v. Federation of Pakistan and others]

Petitioner : Fareed Ahmed son of Muhammad Aslam through Mir Murtaza Abro, Advocate.

Respondents 1, 2, 4 & 5 : Federation of Pakistan through Secretary, Ministry of Interior and others through Mr. Khaleeq Ahmed, Deputy Attorney General for Pakistan.

Respondent 3 : Nemo.

Date of hearing : 25-10-2024

Date of order : 25-10-2024

ORDER

Adnan Iqbal Chaudhry J. - The Petitioner, a police constable in BPS-05 serving the Federal Investigation Agency [FIA] on deputation, claims to be aggrieved by Office Order No.166/2024 dated 12-08-2024 whereby the FIA has repatriated him to his parent department *viz.* the Sindh Police. The repatriation order reads:

"PART-IV OFFICE ORDER NO.166/2024

Upon cumulatively serving for over 06 years on deputation in FIA, Constable Fareed Ahmed Belt No. 739 of Sindh Police, presently posted at FIA Crime Circle Hyderabad is hereby repatriated to his parent department i.e. Sindh Police.

02. *In the light of the decision of the Honourable Supreme Court of Pakistan vide order dated 22-10-2021 passed in C.A No.547 of 2021 titled Muhammad Amir Raza vs Secretary Ministry of Railways & others, the officer stands repatriated & relieved with the direction to join his parent department with immediate effect. He shall not be considered for deputation in FIA in future.*

03. *This issues with the approval of Director General FIA.*

Sd/-
(Saim Sultan)
Deputy Director (HRM)

2. Learned counsel submits that after serving the FIA on deputation for more than 5 years the Petitioner is entitled to be absorbed in the FIA under Rules 15 and 16 of the Federal Investigation Agency (Appointment, Promotion and Transfer) Rules 1975. Learned counsel places reliance on a previous absorption of police constables in the FIA in like circumstances. However, we find the argument to be misconceived in law. Rule 16 does not give any 'right' of absorption to a person on deputation with the FIA, rather it is an enabling provision for the FIA to retain such person on regular basis with the consent of the parent department. Nowhere has the FIA sought to absorb the Petitioner. It is settled law, as held in the case of *Shafi-ur-Rehman Afridi v. CDA Islamabad* (2010 SCMR 378), that a civil servant has no vested right in the period of deputation, and therefore, upon repatriation to his parent department he cannot claim to be an 'aggrieved person' within the meaning of Article 199 of the Constitution of Pakistan.

3. The order of the Petitioner's repatriation issued by the FIA is premised on the order dated 22-10-2021 passed by the Supreme Court of Pakistan in Civil Appeal No. 547/2021, *Muhammad Aamir Raza v. Secretary/Chairman, Ministry of Railway*, which holds:

"6. We have noted with deep concern that though SL No.27 of the Estacode issued by the Establishment Division Islamabad, provides for deputation but also fixed period of such deputation to be three years and extendable for further period of two years; beyond this five years' period, there cannot be any deputation. If any person on deputation beyond this period is retained, the same will be contrary to law and, thus, illegal."

7. The Director General (DG), FIA is directed to look into the affairs and take immediate curative measures with regard to the requisition of the appellant by the FIA and allowing him to serve in FIA for extended period, not permissible by law, rather being contrary to law together and the judgment of this Court. Any one found responsible in giving much protection to the appellant, shall also be taken to task by the DG FIA. The DG FIA shall submit his report for our perusal within four weeks."

Therefore, in respect of persons on deputation with the FIA, the Supreme Court held that retention of such persons by the FIA beyond a period of 5 years is unlawful. Admittedly, the Petitioner was on deputation with the FIA for more than 5 years. Thus, the order to

repatriate him to his parent department is in furtherance of the law declared by the Supreme Court. We do not see how the Petitioner can challenge the repatriation.

4. In view of the pronouncements of the Supreme Court of Pakistan in *Shafi-ur-Rehman Afridi* and *Muhammad Aamir Raza* discussed above, the petition is not maintainable. Dismissed *in limine*.

JUDGE

JUDGE

SHABAN*