

# **IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR**

Constitution Petition No.D-595 of 2025

**Before:**

*Mr. Justice Zulfiqar Ali Sangi;  
Mr. Justice Abdul Hamid Bhurgri.*

Petitioner : Gul Shair Jalbani,  
through Mr. J.K Jarwar, Advocate.

Respondents : Province of Sindh and others,

**Date of Hearing:** 30.04.2025.

**Date of Judgment:** 30.04.2025.

## **J U D G M E N T**

**Abdul Hamid Bhurgri, J**, The petitioner has invoked the jurisdiction of this Hon'ble Court through this petition, challenging the impugned order No. SLGB/SCUG/AO/ADMIN/2(178)/2025/953 dated 28.03.2025, issued by the Director-I, Sindh Local Government Board, Karachi, whereby the petitioner was transferred from his position as Town Officer, Town Committee Agra, District Khairpur, to the Sindh Local Government Board, Karachi.

**2.** According to the petitioner, he was appointed as a Government Servant (BS-16) under SCUG, Services Admin Branch, and was posted as Town Officer, Town Committee Agra, District Khairpur, via order dated 10.2.2022. Since then, he has been discharging his duties with diligence, without any complaint or allegation of misconduct.

**3.** On 22.11.2024, respondent No. 3 transferred the petitioner to the Sindh Local Government Board and assigned the additional charge of Town Officer, Town Committee Agra to one Sajid Ali Rid. Subsequently, the said transfer order was withdrawn on 23.01.2025; however, the petitioner was not allowed to resume his duties as Town Officer, Agra.

**4.** The petitioner submitted an application to respondent No. 1 regarding the conduct of other respondents who were not permitting him to resume charge as Town Officer, Agra on 24.03.2025, but to no avail. On 28.03.2025, respondent No. 3 issued the impugned order and once again transferred the petitioner to the Sindh Local Government Board,

Karachi, and assigned additional charge of Town Officer, Town Committee Agra to respondent No.4.

**5.** According to the petitioner, the impugned transfer order dated 28.03.2025 issued by respondent No. 3 is violative of law and the settled principles of natural justice and equity. It is liable to be suspended, as it is not sustainable. The respondent acted illegally in issuing the impugned transfer order.

**6.** The petitioner further submitted that in order to have the impugned order cancelled, he moved another application to respondents No. 1 to 3, requesting cancellation of the order, as he continues to discharge his duties honestly as Town Officer, Agra, but no heed was paid.

**7.** It is further submitted by the petitioner that due to the impugned order, he has been deprived of his legal, lawful, valuable, and fundamental constitutional right. Hence, he approached this Hon'ble Court and sought the following reliefs:

- (a) *To declare that the act of the respondents, transferred the petitioner from the post of Town Officer, Town Committee Agra, District Khairpur to Sindh Local Government Board, at Karachi is illegal, improper, ab initio, void and against the principles of natural justice.*
- (b) *To suspend the operation of impugned Order No.SLGB/SCUG/AO/Admin/2(178)/2025/953 dated. 28.03.2025, issued by the respondent No.03 and transferred the petitioner from the post of Town Officer, Town Committee Agra, District Khairpur to Sindh Local Government Board, at Karachi, till the final disposal of the Petition.*
- (c) *To direct the respondents to allow the petitioner to continue his service as Town Officer, Town Committee Agra, District Khairpur, because there is no any complaint against him.*
- (d) *To restrain the respondents from taking any adverse action against the petitioner in respect of his job, due to filing of instant petition before this Honorable Court.*
- (e) *To grant any other relief, which this Honourable Court deems fit and proper in circumstances of the case.*

**8.** Learned counsel for the Petitioner contended that the impugned transfer order is unlawful, asserting that the Petitioner has been

frequently transferred from one post to another within a short span of time. He submitted that there exists no complaint against the Petitioner from any quarter and that he has been discharging his duties diligently and honestly. Nonetheless, respondent No.3 has transferred him from the Town Committee, Agra, without citing any cogent reason or justification. When questioned by the Court under which provision of law the transfer order could be deemed illegal and unlawful, learned counsel could not provide a legal basis and only stated that frequent transfers are impermissible and against the principles of good governance.

In conclusion, he prayed that notices be issued to the respondents and, in the interim, requested suspension of the impugned transfer order.

**9.** We have heard the learned counsel for the petitioner and examined the record. The primary contention of the petitioner is that the impugned transfer order is arbitrary and issued without justification or lawful authority. It is a settled principle of service law that posting and transfer of employees falls exclusively within the domain of the competent authority. Courts ordinarily refrain from interfering in such matters unless the transfer is proved to be mala fide, in violation of statutory rules, or patently discriminatory.

**10.** Transfer and posting of employees constitutes internal administrative management. It is well established in service jurisprudence that no employee can claim transfer or posting as a matter of right. The authority to assign or transfer lies within the administrative discretion exercised by the employer to ensure operational efficiency, discipline, and the smooth functioning of the department.

**11.** We are of the view that transfers and postings do not attract the protection of fundamental rights guaranteed under the Constitution of Pakistan. Articles concerning equality or the right to life cannot be interpreted so broadly as to encompass matters of administrative transfers and postings, provided they do not breach principles of natural justice or result in arbitrary discrimination. In this case, the petitioner has not made out a case of legal infringement. An employee does not possess an enforceable legal right to remain posted at a specific station

or to seek transfer to a place of personal preference. The apex court has repeatedly held that transfer orders are administrative in nature and can only be challenged if shown to be issued for extraneous reasons or in breach of statutory rules. The petitioner's argument of frequent transfers carries little weight, as the record shows that he was posted at Town Committee Agra at the District Khairpur in year 2022 and only transferred in November 2024 after more than two and half years and again in March 2025, which is not excessive by any service standard.

**12.** The conduct of the Petitioner, on the face of the record, prima facie suggests an attempt to have his initial transfer order annulled through political influence. Upon withdrawal of the said order by the competent department, the Petitioner has now approached this Court seeking to retain his current posting at the same location where he has been stationed since the year 2022. **Clause 'c'** of the prayer in the petition clearly reveals that the Petitioner is desirous of continuing his posting as Town Officer, Town Committee Agra, District Khairpur, rather than assuming charge at the location to which he has been duly transferred. This Court is constrained to observe that such practices, whereby civil servants seek to manipulate their postings through extraneous and unauthorized means, must be firmly discouraged. The judicial forum cannot be used to legitimize such conduct which undermines the discipline and neutrality of public service. We are, therefore, of the considered view that the Petitioner has not approached this Court with clean hands and has sought discretionary relief whilst being tainted by mala fide intent and extralegal conduct.

**13.** Wheels of administration should be allowed to run smoothly and Courts are not supposed to interdict the working of the administrative system by transferring officers to place it considering properly. This Court rely upon the case of **Peer Muhammad v. Government of Balochistan through Chief Secretary and others, 2007 SCMR 54**, wherein the Honourable Supreme Court held as under:-

*“4. Admittedly the petitioner had no legal right to be posted against a particular post hence the question of its infringement does not arise as pressed time and again by the learned Advocate Supreme Court on behalf of petitioner. It is well-settled by now that the question of posting of al Government servant squarely falls within the jurisdictional domain of the Competent Authority subject to law and rules made thereunder”.*

In the case of **Muhammad Aslam Jan v. Government of N.W.F.P through Secretary Home and Tribal Affairs, Peshawar and 3 others, 2005 SCMR 442**, the Honourable Supreme Court has held as under:-

*“5. According to Civil Servants Act, 1973, every civil servant under the Federal Government is liable to serve anywhere within or outside Pakistan, in any post under the Federal Government, or any Provincial Government or local authority or a corporation or body set up or established by any such Government. Similarly in the Provincial Civil Servants Acts, every civil servant is liable to serve anywhere within or outside the Province in any post under the Provincial Government or the Federal Government or any Provincial Government or a local authority or a corporation or a set up or established by any such Government. The above principle is mainly based on the criteria that it is within the domain of the Government to utilize the services of a civil servant anywhere it deems fit in public interest. Even according to Civil Servants Act, 1973, right of posting vests in the exclusive jurisdiction of the competent authority and the said posting cannot be challenged unless it is against the law and rules or mala fide. Section 10 of the Act also stipulates that every civil servant shall be liable to serve anywhere within or outside the Province, in any post under the Federal Government, or any Provincial Government or local authority or a corporation or body set up or established by any such Government. This Court in the case of Nazir Hussain (Ex. Director Excise and Taxation), Administrator, Auqaf, N.-W.F.P., Peshawar v. N.-W.F.P. through the Chief Secretary/Secretary, Services and General Administration Department, Government of N.-W.F.P., Peshawar and 2 others (1992 SCMR 1843) while examining the provisions of section 10 of the Act held that it was within the power of transferring authority to transfer the petitioner and that the transfer cannot be legally assailed as the same is not suffered from any legal infirmity. In the case of Zahid Akhtar V. Government of Punjab through Secretary, Local Government and Rural Development, Lahore and 2 others PLD 1995 SC 530 though it was alleged that the transfer order was malicious and was not passed by the competent authority, yet it was not interfered with and petition was dismissed being not maintainable”.*

Reliance is also placed on a Judgment cited as **Muhammad Mansha Javed v. Secretary to Government of Punjab and others, 1998 SCMR 263**, wherein the Honourable Supreme Court of Pakistan has held as under:-

*“----S. 9---Constitution of Pakistan (1973). Art. 212(3)---Civil Servant's seeking postings of their choice by using political influence and illegal means-- Respondent having got himself posted at 'N' through political influence, was made to leave that place when petitioner used his political influence and got himself posted there---Service Tribunal directed Government that both civil servants be deprived of posting at 'N' which had led to present race inter se them and which was obviously for the purpose not activated with desire for service to people---Validity---Service Tribunal's judgment indicated that in order to discourage tendency on part of civil servants to get postings of their choice by using illegal means, Service Tribunal had passed just and appropriate order-- Department concerned must decide fairly and justly who should be posted at "N"---Neither petitioner nor respondent had any vested right to remain or get posted at relevant place---Leave to appeal was refused in circumstances”.*

In a case cited as **Tahir Mehmood Abbasi and another v. District Coordination officer, Rawalpindi and another, 2009 PLC (CS) 320**, the Honourable apex Court has held as under:

*“R. 3-Constitution of Pakistan (1973), Art.199-Constitutional petition-Transfer of employee-Petitioners had assailed order passed by virtue of which they were transferred from one place of working to another-Petitioners had been transferred from one Local Council to another in the same District by Coordination Officer, which powers had been conferred upon him by the Government vide its letter-Validity-Transfer of government functionary from one place of posting to another was neither punishment nor violation of terms and conditions of service-Nothing was in the appointment letter of the petitioners that they would remain posted at a particular station of their choice and sub-rule (2) of R.3 of Punjab Local Councils Servants (Service) Rules, 1997, did not give any such mandate---Authority had the prerogative to utilize services of the petitioners at a place and against a position of its discretion keeping in view the administrative consideration confronting the Authority---Sub-rules (1) & (2) of R.3 of Punjab Local Councils Servants (Service) Rules, 1997, were 'independent sub-rules and those did not control each other-Sub-Rule (2) of R.3 of Punjab Local Councils Servants (Service) Rules, 1997 did not debar appointing Authority to transfer an employee only on his request and consent-No restriction existed under the law to transfer an employee from*

*one Local Council to another without his consent-Petitioners having rightly been transferred, constitutional petition was dismissed”.*

Further reliance is placed on in the case of **Asadullah Memon v. Pakistan Electric Power Company (PEPCO) and others, 2010 CLC (C.S) 662**, wherein it is held as under:-

*“Perusal of the case record shows that the petitioner has been transferred by PEPCO authorities, which are exercising control over the WAPDA companies created in different areas. No documentary proof has been brought on record to show that PEPCO Authorities are not competent to issue such transfer order of the petitioner from one company to another Power Company. Furthermore, as the fact that the petitioner has been relieved from his present posting to join his new assignment, has not been rebutted by the petitioner side except, oral contention of the learned counsel for the petitioner that he has not left complete charge of his present post. Again it is well-settled law that one cannot claim the posting of his choice while remaining in (government) service. It is for the administration of a department/company as to where an employee is to be posted to get maximum benefits of his capabilities, therefore, the petitioner cannot claim posting of his choice while remaining in service. In our view no prima facie case has been made out by the petitioner for grant of interim relief and furthermore in case the temporary injunction is issued it would amount to interference in the affairs of the WAPDA authorities, which according to law is not permissible”.*

The Supreme Court of India has also taken view in an order dated 06.09.2021 passed in **Petition for Special Leave to Appeal No.36717/2017 titled Namrata Varma v. The State of Uttar Pradesh and others** by observing as under:-

*“2. It is not for the employee to insist to transfer him/her and/or not to transfer him/her at a particular place. It is for the employer to transfer an employee considering the requirement.*

*3. The Special Leave Petition is dismissed”.*

**14.** In light of the foregoing analysis, it is well-settled that the power of transfer and posting lies squarely within the exclusive domain of the competent authority and constitutes an administrative prerogative. While such discretion must be exercised in a just and equitable manner, it is not

amenable to judicial scrutiny on the basis of unsubstantiated or frivolous assertions. Accordingly, employees possess no vested or enforceable right to challenge or obstruct their transfer, save in strict accordance with the law.

**15.** The learned counsel for the petitioner failed to point out any illegality or malice in the impugned order consequently this petition being devoid of merits is ***dismissed*** in ***limine*** along with listed applications, if any.

*Judge*

*Judge*

ARBROHI