

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

**Constitutional Petition No.D-682 of 2023**

*(Farman Ali and others versus Federation of Pakistan and others)*

Before:

**Justice Muhammad Karim Khan Agha**

**Justice Adnan-ul-Karim Memon**

**Date of hearing & Order: 07.10.2025**

Mr. Malik Altaf Hussain, advocate for the petitioners.

Mr. Mohsin Shahwani, Additional Attorney General.

-----  
**ORDER**

**Muhammad Karim Khan Agha, J.** Through this petition, the petitioners seek the following relief(s):-

- i. *To hold and declare all appointments, which were made through absorbing deputationists during the last two decades in violation of the orders of the Honorable Apex Court, illegal, unlawful, unconstitutional, mala fide, and non-est; and consequently, to set aside the same.*
- ii. *Direct the Respondents No. 2 to 6 to repatriate all the absorbed deputationists to their parent departments immediately who are working at Pakistan's Missions abroad and headquarters, and the seniority of the Petitioners be considered retrospectively.*
- iii. *Pending adjudication of the captioned petition, restraining orders may be passed, restraining the Respondents from posting the absorbed deputationist to Pakistan Missions Abroad made vide Office Order No. Estt(IV)-1/2/2011 dated 15 November 2022, and making any further absorption in violation of the orders of the Honorable Apex Court.*
- iv. *Initiation of Contempt of Court proceedings against the Respondents and Absorbees for willful defiance of the orders of the Honorable Supreme Court of Pakistan.*

2. The petitioners, through the instant petition, seek annulment of orders passed by the Respondents in violation of the binding dicta of the Supreme Court, particularly in Contempt Proceedings against Chief Secretary Sindh (2013 SCMR 1752) and Ali Azhar Khan Baloch v. Province of Sindh (2015 SCMR 456). Despite clear directions of the Apex Court, the Respondents have illegally absorbed deputationists in the Ministry of Foreign Affairs and related departments, under the garb of Section 10 of the Civil Servants Act, 1973, which only provides for transfers and postings, not permanent absorption. It is submitted that such absorptions are void ab initio, mala fide, and amount to contempt of court, as they were made without following the prescribed recruitment process or provincial and promotional quotas. It is urged that Posts meant to be filled through competitive selection by the FPSC, such as Assistant Private Secretary (BPS-16) and Steno typist (BPS-14), have been unlawfully occupied by deputationists from various departments, despite their parent organizations still being functional. The Petitioners have repeatedly approached the Respondents for

repatriation of such employees in compliance with the Apex Court's judgments; however, instead of corrective action, the Respondents further regularized and posted such employees to Pakistan Missions Abroad. These actions not only violate merit and provincial quotas, particularly of Sindh and Baluchistan, but also block legitimate promotions and appointments. Hence, the Petitioners invoked Article 187 (2) of the Constitution, seeking enforcement of the Supreme Court's directions and annulment of all illegal absorptions made in contravention thereof.

3. Learned counsel for the Petitioners contended that the Supreme Court, in the judgments cited in paragraph No. 4 of the petition, has categorically held that absorption of employees is permissible only when a post or department is abolished. In the present case, no such situation exists; hence, the impugned absorptions are in clear violation of the Apex Court's directions and Section 10 of the Civil Servants Act, 1973, which deals only with transfers and not permanent absorptions. He argued that the en bloc absorption of employees is unlawful, unconstitutional, and contrary to merit, depriving eligible aspirants of their right to compete for posts through due process. He emphasized that the permanent absorption of deputationists against promotional posts has exhausted the Petitioners' promotion quota and blocked their legitimate career progression. Counsel further submitted that the Respondents have unlawfully adjusted their blue-eyed persons, disregarding the Apex Court's binding dicta, thereby undermining meritocracy and the constitutional principles of fairness, equality, and social justice. Such actions, he contended, amount to contempt of court and violation of Article 9 of the Constitution, as they deprive the Petitioners and other eligible candidates, particularly from Sindh and Baluchistan, of their lawful opportunities to compete. He, therefore, prayed for allowing the petition and for the enforcement of the Supreme Court's judgments in letter and spirit.

4. Learned Additional Attorney General opposed the petition and contended that this Court lacks territorial jurisdiction to entertain the instant constitution petition under Article 199 of the Constitution, 1973, as the Ministry of Foreign Affairs and its officers (Respondents No. 2-6) operate from Islamabad. He submitted that the Supreme Court and Islamabad High Court have already addressed similar issues in Mst. Nusrat Rasheed case (2021 PLC CS 777) and Chairman Board of Governors (2021 SCMR 867), and under Article 189 of the constitution, their decisions are binding upon this Court. He further submitted that issues relating to service terms, including appointments, promotions, and postings, fall within the exclusive jurisdiction of the Federal Services Tribunal, Islamabad, under Article 212 of the Constitution. He emphasized that matters of posting, transfer, and policy-making are to be handled by the Executive, and courts should ordinarily refrain from interference. It was also contended that

under Section 4 of the Federal Services Tribunals Act, 1973, appeals may be filed within 30 days or after 90 days of representation, which the petitioners have not done, thus failing to exhaust alternative remedies. Moreover, the petitioners lack locus standi as they are serving abroad, with only one recently returned, and are not aggrieved. Finally, the petition is incompetent due to misjoinder and non-joinder of relevant parties regarding alleged illegal appointments. He prayed to dismiss the petition.

5. We have heard learned counsel for the parties and considered the record and case law cited at the bar.

6. It is a settled principle that a deputationist has no vested right to continue on deputation, and the borrowing department may terminate such deputation at any time, directing the officer to report to the parent department. In Dr. Shafi-ur-Rehman Afridi v. C.D.A., Islamabad (2010 SCMR 378), the Supreme Court held that a deputationist cannot claim to serve the full deputation period and may be repatriated by the competent authority in the exigency of service, an order that cannot be questioned.

7. In Mst. Nusrat Rasheed (2021 PLC (C.S.) 777), the Islamabad High Court held that a deputationist cannot be appointed without undergoing a process of selection, and any deputation made without such a process is void. Deputationists in the FDE not selected through the proper procedure have no right to continue or seek absorption, and the competent authority must repatriate them to their parent departments. It was further held that under Section 10 of the Federal Public Service Commission Ordinance, 1977, the Federal Government framed the FPSC (Functions) Rules, 1978, whereby the FPSC conducts recruitment for all posts in BPS-16 and above. The notification dated 15.03.2019 prescribes no quota for appointment by transfer to such posts. Appointments in BPS-16 and above can only be made by transfer if no eligible candidate is available for promotion or if the FPSC's competitive process yields no suitable candidate. Any appointment by transfer made without observance of these requirements is contrary to the prescribed method and hence unlawful.

8. In the case of the *Chairman Board of Governors* (2021 SCMR 867), the Supreme Court held that deputationists have no vested right to continue on deputation, and their services may be terminated by the competent authority without assigning any reason. The Supreme Court observed that the High Court erred in overlooking this principle; hence, the writ petition was not maintainable, and the impugned judgment was set aside.

9. Rule 20A of the APT Rules provides that deputation appointments may not exceed three years, extendable by two years with the Federal Government's approval in consultation with the lending organization. The legal framework for

appointments is set out in the Civil Servants Act, 1973, under which appointments must be made in the prescribed manner (Section 5). Methods of appointment, qualifications, and related conditions are specified in Recruitment Rules framed under Rule 3(2) of the Civil Servants (Appointment, Promotion and Transfer) Rules, 1973, while Rule 6 prescribes the competent authorities for appointments up to BS-19 within respective Ministries or Divisions. Rule 21(1) of the APT Rules provides a one-year probation for appointments by initial appointment, promotion, or transfer. Under the Civil Servants (Confirmation) Rules, 1993, a civil servant on probation becomes eligible for confirmation upon satisfactory completion. Confirmation confers a lien on the permanent post, which is retained even when holding a temporary post, while any previously held lien ceases. Fundamental Rule 14-A(a) ensures that a government servant's lien cannot be terminated if it would leave them without a permanent lien.

10. Section 1(2) of the Civil Servants Act, 1973 extends its application to all civil servants, while Section 2(b)(i) excludes from this definition any person serving on deputation to the Federation from a Province or other authority. Although the Act does not define “deputation,” the Supreme Court in *Israr-ul-Haq* (PLD 1981 SC 531), *Muhammad Arshad Sultan* (PLD 1996 SC 771), and *Ikram-ul-Haq* (1986 SCMR 1994) endorsed the definition in the Establishment Manual, which describes a deputationist as a government servant temporarily appointed or transferred to a post outside his parent department until confirmation or reversion. This definition of “deputation” has been accepted by the Superior Courts. In *Province of Punjab v. Ikram-ul-Haq*, it was held that this interpretation carries the effect of a statutory rule, a view earlier endorsed by the Supreme Court in *Israr-ul-Haq* supra.

11. In *Contempt Proceedings against Chief Secretary Sindh and others* (2013 SCMR 1752), the Supreme Court noted that deputation issues have caused unrest among civil servants and reaffirmed the definition of “deputation” given at Serial No. 29 of the Establishment Code, identical in both the 1989 and 2009 editions.

12. In *Rasheed Tareen v. Chairman Workers Welfare Board, Balochistan* (2012 PLC (C.S.) 54), the Baluchistan High Court held that a deputationist is a government servant temporarily appointed or transferred to a post outside his parent department, retaining that status until absorption in the new post or reversion to his substantive position.

13. In *Muhammad Ali v. Province of Khyber Pakhtunkhwa* (2012 SCMR 673) and *Syed Mubashir Raza Jaffari v. EOBI* (2014 SCMR 949), the Supreme Court emphasized that all government appointments must strictly follow relevant rules and codal formalities. Similarly, in *Dr. Shamim Tariq v. International Islamic University, Islamabad* (2020 PLC (C.S.) 499), it was held that adherence to

statutory procedures ensures merit, equal opportunity, and fairness in public appointments, and any deviation undermines the principles of good governance and justice.

14. In Muhammad Sharif Tareen v. Government of Balochistan (2018 SCMR 54), the Supreme Court held that posts requiring initial recruitment cannot be filled by promotion, transfer, absorption, or any method not authorized by law. Citing Ali Azhar Khan Baloch v. Province of Sindh (2015 SCMR 456), the Supreme Court emphasized that unauthorized appointments via deputation or transfer undermine merit, efficiency, and good governance.

15. In Sudhir Ahmed v. The Speaker, Balochistan Provincial Assembly (2017 SCMR 2051), the Supreme Court held that the post of Liaison Officer, which under the 2009 Recruitment Rules could only be filled by promotion, could not lawfully be filled by deputation or absorption.

16. Section 5 of the Civil Servants Act, 1973 mandates that appointments to All-Pakistan Services, the civil service of the Federation, or posts connected with the Federation's affairs be made in the prescribed manner by the President or an authorized person. Under Section 25, the President framed the APT Rules, providing three modes of appointment: promotion, transfer, and initial appointment. Transfers (Rules 7–9) require recommendations from departmental promotion committees or selection boards and consideration only of eligible candidates holding regular appointments in equivalent posts. Although the APT Rules do not explicitly mention absorption, the Supreme Court in Contempt Proceedings against Chief Secretary Sindh (2013 SCMR 1752) held that absorption constitutes an appointment by transfer, subsequently reviewed in the case of Ali Azhar Khan Baluch. In such a situation, absorption of a deputationist is not the sole mode of appointment by transfer.

17. The practice of appointing deputationists to posts meant for promotion or initial recruitment has been strongly condemned by the superior courts. Such appointments create unrest, deny regular employees their rightful consideration for promotion, and undermine merit. In Zubair v. Federation of Pakistan (2016 PLC C.S. 259), this Court noted that deputation is permissible only when no suitable candidate is available or in the public interest. Officials facilitating such appointments without following proper procedures commit inefficiency, misconduct, and misuse of authority.

18. In Rashid Gul v. Controlling Authority, BISE Mardan (2017 PLC (C.S.) Note 32), the Peshawar High Court held that deputation appointments are generally discouraged, as they undermine the promotion and seniority of departmental employees, create unrest, and violate principles of justice, equity,

and good governance. Discretion in making such appointments must be exercised judicially and in accordance with sound principles.

19. In Syed Imtiaz Ali Shah v. Government of Sindh (2012 PLC (C.S.) 1232), this Court noted that deputation appointments deprive eligible departmental officers of their rightful promotions, causing lasting resentment. Similarly, in Safdar Ali Sahito v. Province of Sindh (2011 PLC (C.S.) 956), this Court observed that posting outsiders on deputation, and later absorbing them, creates unrest, frustration, and obstructs the promotion of deserving employees.

20. In Suo Motu Case No.24/2011 (PLD 2011 SC 277), the Supreme Court set aside the re-employment of a retired police officer on contract for non-compliance with Section 14 of the Civil Servants Act, 1973, and the Establishment Code (2007). Similarly, in Pir Muhammad Qureshi v. Chairman, P.O.F. Board (1998 PLC (C.S.) 476), the Court held that departmental promotion authorities must strictly follow the Establishment Code when determining promotion criteria.

21. Rule 20A, inserted in the APT Rules via SRO 365(I)/2007, limits deputation appointments from provincial governments or federal organizations to a maximum of three years, extendable by two years with Federal Government approval in consultation with the lending organization. There is no provision for extending deputation beyond five years. Upon completion of this period, the borrowing department must repatriate the deputationist; failure to do so constitutes actionable wrong and unnecessary financial burden. A deputationist must resume duties in the parent department after five years, and non-compliance may amount to misconduct under the Civil Servants (Efficiency and Discipline) Rules, 1973, as reinforced by Establishment Division O.M. No.1/28/75-D.II(CV) dated 04.11.1980.

22. A deputationist has no vested right to remain in a post indefinitely or to be absorbed in another department. The parent or borrowing department may repatriate the deputationist at any time without assigning a reason. This principle is settled in S. Masood Abbas Rizvi v. Federation of Pakistan (2014 SCMR 799), recognizing that deputation tenure is not guaranteed and may be curtailed as per service exigencies.

23. In view of the foregoing, this Court directs the Secretary Establishment Division to constitute a committee, headed by him and co-opted by the Secretary, Ministry of Foreign Affairs, and to review deputationists in the respondent department and their subsequent absorption on permanent basis strictly, in compliance with the judgment of Supreme Court in the case of Contempt Proceedings against Chief Secretary Sindh (2013 SCMR 1752) and Ali Azhar Khan Baloch v. Province of Sindh (2015 SCMR 456) is deputationists, who were

subsequently absorbed falling within the ratio of these judgments, they must be repatriated to their parent departments/ units along with batch-mates after hearing all concerned. This exercise shall be completed within three months, positively without fail. Compliance report should be submitted to this Court accordingly.

24. The petition stands disposed of in the above terms. A copy of this order shall be transmitted to the Secretary of Establishment Division and the Secretary, Ministry of Foreign Affairs for compliance.

HEAD OF CONST. BENCHES

JUDGE

SHAHZAD SOOMRO