

HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

C.P No. D-2171 of 2014

[Ali Muhammad vs. The Director General Military Lands & Cantonment Department & Ors]

C.P No. D-559 of 2017

[Ghulam Hyder vs. The Director General Military Lands & Cantonment Department & Ors]

BEFORE:

JUSTICE MUHAMMAD SALEEM JESSAR

JUSTICE NISAR AHMED BHANBHRO

For Petitioners: Mr. Muhammad Arshad Pathan, advocate

For Respondents:

Cantonment Board Mr. Aslam Pervez Sipio, advocate for
Mr. Bashir Ahmed Almani,
Assistant Attorney General For Pakistan

Date of hearing & decision: 23.10.2025

ORDER

MUHAMMAD SALEEM JESSAR, J:- Through petition No.D-2171 of 2014 petitioner Ali Muhammad has challenged the Order dated 21.11.2014 whereby his services were transferred from Cantonment Board Hyderabad to Cantonment Board Pano Aqil; whereas in C.P No.D-559 of 2017 the petitioner Ghulam Hyder has impugned the Order dated 22.02.2017 whereby his services were transferred from Cantonment Board Hyderabad to Cantonment Board Sargodha.

2. Since common question of fact and law is involved in both these Petitions; therefore, both are proposed to be decided through this common order.

3. Learned counsel for the petitioners contended that the impugned orders are based on malafide and have been issued lawful authority; that both petitioners are low paid employee and residents of locality and as such they were not liable to be transferred except under mutual agreement; that

Cantonment Board is a local body and performs municipal functions in the areas notified by the Federal Government in terms of Section 4 of the Cantonment Act 1924; that the employees of Board are neither Governments servants nor civil servants as they are not paid from the government exchequer but are being paid by the Board from its own budget, therefore, this petition is maintainable since petitioners have no other adequate remedy; that the posts held by the petitioners fall within the regional cadre, hence they are not liable to be transferred out of the region.

4. Conversely learned counsel, representing the respondent Cantonment Board opposed the petitions and argued that these petitions are not maintainable since the transfer posting of an employee is internal arrangement of an Institute/Department; that according to Notification dated 03.11.1999 lower staff can also be posted at any station; that the Board is fully empowered under the law to transfer its employees at any station where office of the Board exists; that even otherwise petitioners have the remedy before the Board and these petitions are not maintainable and liable to be dismissed.

5. Learned Assistant Attorney General adopted the arguments advanced by the counsel for Board.

6. Arguments heard and record perused.

7. It appears that impugned transfer order in respect of the petitioner Ali Muhammad was issued on 21.11.2014 that was subsequently suspended by this Court vide Order dated 26.11.2014; whereas impugned transfer order of petitioner Ghulam Hyder was issued on 20.02.2017 which was also suspended by this Court through Order dated 28.02.2017 and since then both the petitioners are continuously performing their duties at Cantonment Board Hyderabad. Record reflects that during intervening period of pendency of these petitions counsel for the respondent Cantonment Board did not take pains to get these petitions fixed before this Court, as such the matters were being adjourned.

8. By the passage of time these transfer orders have lost their efficacy, as during the intervening period of about 11 and 8 years respectively both petitioners remained posted at their respective place viz: Cantonment Board Hyderabad, and the purpose of the Petitioners' transfer stood served.

9. Admittedly the transfer posting of an employee is purely an administrative and internal affair of a Department and cannot be enforced in a routine manner by this Court, however, keeping in view the Civil Servants (Appointment, Transfer and Promotions) Rules 1973, which mandated that appointments in Grade-01 to 15 are to be made on local basis, it is incumbent upon the executive authority to deal with the transfers of employees in Grade-01 to 15 in the purview of their appointment mechanism and while making their transfer and relocating their place of posting, it should be kept in mind that the financial constraint could deprive the family of employee reasonable bread and butter on his transfer to far off places. Therefore, in the fitness of things and keeping in view the scope of transfer and posting as laid down by Honorable Supreme Court in Anita Turab case reported as PLD 2013 SC 195, wherein it has been held that administrative authorities are required to keep in consideration the rights of the employees, the employees working in grade 1 to 15 should be retained near to their residential places, it will help in reducing the cost of living and would be helpful for the administration to manage the affairs of the office properly.

10. It appears that petitioners in this case have not been dealt in accordance with law and by due process of law enshrined under article 4 & 9 of the Constitution of the Islamic Republic of Pakistan, of 1973. On relocation of the employee his family gets disturbed and it becomes very difficult for him to manage two houses separately. It also results in mental distress and agony for the family of employee. Under the principles of Policy the state is obligated to protect family as a unit and protection of the family for low paid employees like petitioners lies to reside as a unit at a single place.

11. For the above reasons, the Petitioners have made out a case for indulgence of this Court under its writ jurisdiction to exercise the powers of judicial review under article 199 of the Constitution. Consequently; this petition is allowed. The impugned transfer and posting orders dated

21.11.2014 and 22.02.2017 are set at naught. Nevertheless, this order will not preclude the respondents to relocate the place of posting of petitioners, keeping in view the guidelines laid down in Anita Turab case (supra) and the relevant rules emphasizing the appointment of local persons for the ministerial assignments.

Captioned petitions stand disposed of in the above terms. Office to send copy of this order to the Respondents for compliance.

JUDGE

JUDGE

Sajjad Ali Jessar

Approved for reporting

23.10.2025