

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

Constitution Petition No.D-1105 of 2025

Date	Order with signature of Judge
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Before;
Mr. Justice Arbab Ali Hakro;
Mr. Justice Abdul Hamid Bhurgri.

Petitioner : Sohail Ahmed son of Muhammad Mithal
Soomro, through Mr. Safdar Ali Ghouri,
Advocate.

Respondents : Federation of Pakistan and 6 others.

Date of Hearing : ***20.10.2025.***
Date of Order : ***20.10.2025.***

ORDER

Abdul Hamid Bhurgri, J.- Through instant petition, the petitioner has challenged the order dated 16.09.2025, issued by the borrowing department, i.e., the National Highways & Motorways Police (NHMP), whereby he has been repatriated to his parent department, the Pakistan Post Office, upon completion of his deputation tenure. The petitioner seeks suspension of the said order and directions to the competent authority for deciding his pending representation dated 03.03.2025, wherein he requested an extension of two years in his deputation on the basis of satisfactory performance.

2. The petitioner was appointed as a Lower Division Clerk (LDC) in the Pakistan Post Office Department on 04.06.2012, and was later posted to NHMP on deputation against a vacant LDC (BS-09) post for a period of three years, with effect from 12.04.2022. Before the expiry of his deputation tenure, he submitted various applications requesting extension, supported by internal recommendations. However, the borrowing department issued the impugned repatriation order on 16.09.2025, which is the subject of challenge.

3. Learned counsel for the petitioner contended that the petitioner's performance during deputation remained satisfactory and unblemished, and he received favorable recommendations from his

supervisory officers for continuation of service on deputation, the petitioner had submitted a representation/application for extension of deputation on 03.03.2025, followed by reminders, yet no formal decision was communicated to him prior to the issuance of the impugned repatriation order. He further contended that non-consideration of the petitioner's request amounts to arbitrary exercise of discretion, and violates the principles of fairness, natural justice, and Section 24-A of the General Clauses Act, 1897, which obligates public functionaries to decide matters within a reasonable time and to provide reasons for their decisions. It was further argued that other similarly placed employees in the same department were either granted extension or absorbed, and the petitioner has been singled out without justification, rendering the action discriminatory and malafide. He maintained that the petitioner had a legitimate expectation of extension based on past practice and favorable recommendations, and prayed that the impugned order be set aside, and directions be issued to the respondents to reconsider his extension request in accordance with law.

4. We have heard the learned counsel for the petitioner and perused the record. It is admitted that the petitioner, a civil servant of the Pakistan Post Office Department, was serving on deputation at the time of the impugned order.

5. Deputation, by its very nature, is a temporary and discretionary arrangement, which does not confer any vested right upon a deputationist to continue or to seek its extension as a matter of right. The competent authority, therefore, acted well within its lawful discretion in repatriating the petitioner to his parent department. No illegality, mala fide, or violation of law has been demonstrated warranting interference by this Court. Reliance is placed on the case of **Dr. Shafi-ur-Rehman Afridi v. C.D.A Islamabad through Chairman and others, 2010 SCMR 378**, wherein the Honourable Supreme Court held as under:-

“8. We have also examined the controversy from another angle that as to whether the Constitutional petition was maintainable or otherwise? As mentioned hereinabove it is well settled by now that a civil servant has no vested right to complete the deputation period and matter relating to the terms and conditions of service, the Constitutional jurisdiction as conferred upon High Court under Article 199 of the Constitution of Islamic Republic of Pakistan cannot be invoked. In this regard reference can be made to the dictum laid down in the following cases:---

Pakistan v. Moazzam Hussain Khan and another PLD 1959 SC 13, *PLD 1964 (W.P.) Lah. 376*, *Abdul Qayyum v. Nasrullah Khap Draishak and others* 1975 SCMR 320, *Ala-ud-Din Akhtar v. Government of Punjab and another* 1982 CLC 515, *Ch. B Muhammad Bakhsh v. Government of Punjab* PLD 1989 Lah. 175, *Ayyaz Anjum v. Government of Punjab and others* 1997 PLC (C.S.) 123, 1997 SCMR 169, *Rafique Ahmad Chaudhry v. Ahmad Nawaz Malik and others* 1997 PLC (C.S.) 124, 1997 SCMR 170 and *Abdul Khaliq Anjum v. Secretary Education* 1998 PLC (C.S.) 839.

9. It is worth mentioning that a deputationist could not be treated as an aggrieved person provided he had been placed in the same grade and status in borrowing cadre which he was enjoying before his status of deputationist. It may not be out of place to mention here that a deputationist has no vested right to remain on a post as deputationist forever or for a stipulated period as mentioned in the notification and can be repatriated at any time. In this regard reference can be made the case titled *Muhammad Rafique v. Secretary, Wafaqi Mohtasib's Secretariat, Islamabad and 2 others* 1998 SCMR 2631”.

Similar view was taken in the case of **S.Masood Abbas Rizvi. Federation of Pakistan through Secretary Establishment and others, 2014 SCMR 799**, as under:-

“4. We have heard the petitioner and have perused the record. It is settled principle that a deputationist does not have any vested right to remain on the post as deputationist forever or for a stipulated period, he could be ordered to be repatriated to the parent Department at any time without assigning any reason. This issue was raised in the case of *Dr. Shafi-ur-Rehman Afridi v. C.D.A., Islamabad through Chairman and others* (2010 SCMR 378) wherein this Court has held that a deputationist does not have vested right to continue for the stipulated period”.

Reliance is also placed on the case of **Asma Shaheen and 19 others v. Federation of Pakistan through Secretary, Ministry of Education, Islamabad and 3 others, 2013 PLC (C.S) 391**, wherein following observations were made:-

“The deputation is a contract and if borrowing department does not need the services of a deputationist, he or she must

go back to parent department and thus no fundamental rights of the petitioners have been infringed and no provisions of Constitution have been violated”.

6. The borrowing department (NHMP) was within its lawful authority to repatriate the petitioner upon completion of the deputation term. While the petitioner may have had favorable recommendations, these are not binding, and do not confer a legal entitlement to extension. As for the petitioner's grievance that his representation was not formally decided, it is sufficient to state that the issuance of the repatriation order amounts to refusal of the extension request. No illegality or procedural irregularity has been demonstrated in this regard.

7. Moreover, the Honourable Supreme Court of Pakistan, in a catena of judgments, has deprecated the practice of frequent deputations and absorptions in the borrowing departments, holding that such arrangements not only undermine merit but also disturb the service structure of regular employees. Deputation, being an exception to the normal method of recruitment, cannot be treated as a mode of appointment or absorption. The Apex Court has repeatedly emphasized that the borrowed employee must return to his parent department upon completion of deputation and that absorption without lawful authority is void ab initio. Reliance in this regard may be placed upon ***Ali Azhar Khan Baloch v. Province of Sindh and others (2015 SCMR 456)***, wherein the Honourable Supreme Court has held as under:-

“8. The quintessence of the paragraphs reproduced above is that the appointments made on deputation, by absorption or by transfer under the garb of exigencies of service in an outrageous disregard of merit impaired efficiency and paralyzed the good governance and that perpetuation of this phenomenon, even for a day more would further deteriorate the state of efficiency and good governance.”

8. The plea of discrimination remains unsubstantiated. The petitioner has failed to provide specific details or evidence regarding the similarly placed individuals allegedly retained or absorbed. Mere disparity of treatment, without material proof of malafide or arbitrariness, does not justify judicial interference. Lastly, it is settled

that writ jurisdiction under Article 199 is not available to create or establish rights that are not grounded in statute, rules, or regulations. The petitioner has failed to point to any legal provision that grants him an enforceable right to claim extension of deputation.

9. In view of the above discussion, the petition is ***dismissed in limine*** along with listed application if any, as no vested right accrues to the petitioner to continue on deputation or to seek its extension as a matter of right. The competent authority acted within its lawful discretion in repatriating the petitioner to his parent department, and no illegality, mala fide, or jurisdictional error has been shown warranting interference by this Court in the exercise of its constitutional jurisdiction. Let a copy of this order be transmitted to the concerned department(s) for information.

JUDGE JUDGE

Irshad Ali M/Steno