

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI  
C.P. No.D-4907 of 2025  
(Eijaz Ali v Province of Sindh & others )

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Date	Order with signature of Judge
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Before:-

Mr. Justice Adnan-ul-Karim Memon

Mr. Justice Zulfiqar Ali Sangi

Date of hearing and order:- 09.03.2026

Mr. Haider Waheed advocate for the petitioner

Mr. Talha Abbasi advocate for the Respondent No.4

Mr. Abdul Jalil Zubedi AAG

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**ORDER**

**Adnan-ul-Karim Memon, J.** – This petition has been filed by Eijaz Ali under Article 199(1)(a)(ii) of the Constitution of the Islamic Republic of Pakistan, 1973, seeking issuance of a writ of quo warranto, challenging the appointment of Respondent No.4 as Inspector General Prisons (BS-21) (IGP) vide Notification dated 05.06.2025 and praying that he be declared ineligible to hold the said post.

2. Learned counsel for the petitioner contended that the impugned notification dated 05.06.2025, whereby Respondent No.4, a BS-20 officer of the Police Service of Pakistan (PSP), was appointed as Inspector General Prisons (BS-21), is illegal, arbitrary, and issued in violation of the applicable statutory framework. He argued that under Rules 6-A, 7(3), and 8 of the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974 (APT Rules, 1974), appointments to posts in BPS-18 and above by way of promotion or transfer must be made on the recommendation of the Provincial Selection Board (PSB). According to him, no such recommendation was obtained before issuing the impugned notification, thereby bypassing a mandatory statutory requirement. It was further submitted that the Home Department's Notification dated 16.09.2022 prescribes the eligibility criteria and qualifications for appointment to the post of IG Prisons, including completion of the National Management Course (NMC) and promotion from amongst serving Deputy Inspectors General of Prisons. Learned counsel maintained that Respondent No.4 neither fulfills these prerequisites nor belongs to the Sindh Prisons and Corrections Service (SPCS), which is a distinct cadre established under the Sindh Prisons and Corrections Services Act, 2019. He argued that the impugned appointment amounts in substance to a promotion from BPS-20 to BPS-21 without PSB recommendation, which is impermissible under the APT Rules. Even otherwise, if treated as an appointment by transfer, the same would still be unlawful because transfers under

Rule 9(1) of the APT Rules can only be made within the same pay scale, whereas Respondent No.4 was holding a lower scale, which violates the decision of the Supreme Court in the Own Pay Scale (OPS) cases. Learned counsel further argued that although the Sindh Prisons and Corrections Services (Amendment) Act, 2025, enlarged the pool of candidates by allowing officers from other services to be considered for the post of IG Prisons, the amendment does not dispense with the procedure prescribed under the APT Rules, 1974, for making such appointments. According to him, both statutes must be read conjunctively, and the amendment merely expanded eligibility but did not eliminate the mandatory requirement of PSB evaluation regarding the fitness and suitability of candidates. He maintained that bypassing the PSB defeats the purpose of ensuring transparent and merit-based appointments to senior posts. Reliance was placed upon reported judgments, including **2022 SCMR 627** and **PLD 2013 Lahore 343**, to contend that promotions or transfers to Senior Civil Service posts without following the statutory procedure and PSB recommendations are unsustainable in law. He prayed to allow this petition.

3. Conversely, the learned counsel for Respondent No.4 opposed the petition and argued that the subject appointment is lawful and has been made strictly in accordance with Section 15(1) of the Sindh Prisons and Corrections Services Act, 2019, as amended by the Amendment Act, 2025. It was submitted that the amended provision expressly authorizes the Chief Minister of Sindh to appoint the Inspector General of Prisons from amongst BS-21 or BS-20 officers of the Pakistan Administrative Service, Police Service of Pakistan, Executive Provincial Civil Service, or Provincial Management Service, in addition to officers of the Prison Service. Therefore, Respondent No.4, being a BS-20 officer of the Police Service of Pakistan, fully satisfies the statutory requirement for the post. He prayed to dismiss the petition.

4. The learned AAG submitted that the impugned posting was made in the larger public interest following a serious jail-break incident and in the context of administrative reforms in the prison department. According to him, matters relating to the transfer and posting of officers fall within the executive domain of the Government and are not ordinarily subject to judicial review. He also argued that the Amendment Act, 2025, being a special law, prevails over any contrary departmental rules or earlier criteria, including the notification dated 16.09.2022, relied upon by the petitioner. It was also contended that the present petition, seeking issuance of a writ of quo warranto, is not maintainable because such relief is discretionary and cannot be granted on mere technical objections. The learned AAG alleged that the petitioner is acting as a proxy for interested persons who are aggrieved by the appointment and have invoked this Court's jurisdiction with ulterior motives. According to him, the petitioner has failed to demonstrate any violation of the law or

any mala fide on the part of the authorities. In view of these submissions, the learned AAG prayed that the petition be dismissed as being devoid of merit, maintaining that the impugned appointment is lawful and made strictly in accordance with the Sindh Prisons and Corrections Services (Amendment) Act, 2025.

5. We have heard the learned counsel for the parties on the maintainability of the petition and have perused the material available on record as well as the case law cited at the bar.

6. The petition challenges the appointment of Respondent No.4 as Inspector General Prisons (BS-21) via Notification dated 05.06.2025, claiming it bypassed the Provincial Selection Board (PSB) and violated eligibility criteria under APT Rules, 1974.

7. We have been informed that earlier, this Court, in C.P. No. D-5270 of 2023 (*Re: Aijaz Ali vs. Province of Sindh & Others*), vide order dated 19.02.2024, struck down the impugned notifications dated 13.10.2023 and 01.11.2023 and directed the competent authority to fill the post of Inspector General of Prisons, Sindh (BPS-21), strictly in accordance with the Recruitment Rules within one month. It was further directed that, in the interim period, the respondent department shall follow Rule 8-A of the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974, by appointing the senior-most officer of the same cadre as a stop-gap arrangement. Subsequently, in pursuance of the said judgment, the competent authority amended the relevant recruitment rules through Gazette Notification dated 18.08.2025, providing that the Inspector General shall be appointed by the Chief Minister from amongst the Deputy Inspectors General of the Service or from amongst BS-21/20 officers of the Pakistan Administrative Service, Police Service of Pakistan, Executive Provincial Civil Service, or Provincial Management Service.

8. The Sindh Prisons and Corrections Services (Amendment) Act, 2025 amended Section 15 of the 2019 Act, expanding eligibility to BS-20/21 officers of the Police Service, PAS, Ex-PCS, PMS, and the prison service. It appears that respondent No.4, being a BS-20 officer of the Police Service of Pakistan, falls within the statutory eligibility. The subject amendment grants the Chief Minister discretion to appoint from this enlarged pool, and the appointment was made with proper governmental approval. While the APT Rules, 1974, prescribe PSB recommendations for promotions or transfers to BPS-18 and above, these rules govern procedure, whereas the Amendment Act determines eligibility for the subject post. In our view, both statutes operate in complementary spheres; the Act enlarges the field of selection, and the Rules ensure procedural safeguards. However, there is no direct conflict arises.

9. On the matter of issuance of writ of quo warranto, which lies only where the office-holder lacks legal authority or statutory qualifications. Here, we have noticed that respondent No.4, prima facie, meets the statutory criteria as envisaged under the recruitment rules for the subject post, and it seems that the appointment is within the parameters of law. The writ of Quo warranto cannot be used to challenge administrative discretion, merit, or policy choices, and in the absence of these exceptions as discussed supra, this petition under Article 199(1)(a)(ii) of the Constitution of the Islamic Republic of Pakistan, 1973, is therefore not maintainable and liable to be dismissed.

10. So far as the contentions of the petitioner that Respondent No.4's appointment bypassed the PSB recommendation under Rules 6-A, 7(3), and 8 of the APT Rules, 1974. However, the Sindh Prisons and Corrections Services (Amendment) Act, 2025, specifically allows the appointment of IG Prisons from officers outside the SPCS cadre Section 5(1)), which overrides general APT Rules. The Supreme Court has held that a special statute prevails over general service rules, making the PSB's role argument untenable.

11. Regarding eligibility, the petitioner claims Respondent No.4 lacked NMC completion and prior promotion within SPCS. The Amendment Act enlarges eligibility to other services, and such internal cadre requirements cannot be imposed on them. It is well settled that cadre officers may validly be appointed if competent and suitable, subject to the law. While merit and transparency are important, the Amendment Act grants discretion to the government in assessing suitability. It is also well settled principle of law that administrative discretion under a specific statute is lawful even if general procedural rules are not followed.

12. The petitioner's claim of an unlawful "transfer" is also misplaced. The recruitment rules for the subject post authorize the appointment at BPS-21 from other services, and the pay scale is determined by the statute. It is also well settled that statutory appointments cannot be invalidated merely for deviation from general rules.

13. Finally, the PSB recommendation is not mandatory, as the principle of *lex specialis* applies here. The Amendment Act, being a special law, overrides general APT Rules. Thus, Respondent No.4's appointment is statutorily valid, lawful, and in compliance with all requirements of the Amendment Act and relevant notifications.

14. In view of the above facts and circumstances of the case, we are of the considered view that the appointment of Respondent No.4 as Inspector General Prisons (BS-21) vide Notification dated 05.06.2025 has been made in accordance with the Sindh Prisons and Corrections Services (Amendment) Act, 2025, which

expressly authorizes the Chief Minister to appoint the IG from officers of BS-21/20 belonging to the Police Service of Pakistan, Pakistan Administrative Service, Executive Provincial Civil Service, Provincial Management Service, or the Sindh Prisons and Corrections Service. Respondent No.4, being a BS-20 officer of the Police Service of Pakistan, prima facie fulfills the statutory eligibility criteria for the post. The Amendment Act enlarges the pool of eligible candidates and grants the Government discretion in appointments, and such statutory discretion cannot be questioned through a writ of quo warranto unless a clear illegality is established. The procedural requirements under the APT Rules, 1974, including PSB recommendation, do not override the specific statutory authority granted by the Amendment Act. Reliance on general service rules or prior notifications cannot invalidate a statutory appointment made in accordance with a special law. There is no evidence of mala fide or unlawful exercise of discretion, and the appointment does not violate any statutory provision.

15. In view of the above, the petition seeking issuance of a writ of quo warranto against Respondent No.4 is dismissed along with pending application(s).

JUDGE

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