

IN THE HIGH COURT OF SINDH, KARACHI

Before:

Justice Muhammad Saleem Jessar

Justice Nisar Ahmed Bhanbhro

CP No.D-5962 of 2025

(Muhammad Sohail Ali v. the Province of Sindh and others)

CP No.D-5963 of 2025

(Muhammad Sohail Ali v. the Province of Sindh and others)

CP No.D-5964 of 2025

(Muhammad Sohail Ali v. the Province of Sindh and others)

CP No.D-5965 of 2025

(Muhammad Sohail Ali v. the Province of Sindh and others)

CP No.D-5966 of 2025

(Muhammad Sohail Ali v. the Province of Sindh and others)

CP No.D-5967 of 2025

(Muhammad Sohail Ali v. the Province of Sindh and others)

CP No.D-5968 of 2025

(Muhammad Sohail Ali v. the Province of Sindh and others)

CP No.D-5969 of 2025

(Muhammad Sohail Ali v. the Province of Sindh and others)

CP No.D-5970 of 2025

(Muhammad Sohail Ali v. the Province of Sindh and others)

M/s. Imtiaz Ali Solangi and Muhammad Ajmal Solangi,

Advocates for the petitioner in all petitions

Mr. Abdul Jalil A. Zubedi, Assistant Advocate General

Date of hearing and order: 20.01.2026

ORDER

Nisar Ahmed Bhanbhro, J. Since all the captioned petitions involve common questions of law and fact, we propose to decide them through a single order.

2. In all the captioned petitions, the petitioner has challenged Notifications dated 15th September 2025, 06th November 2025, 11th November 2025, 1st September 2025, 2nd September 2025 & 9th October, 2025, whereby

private respondents have been allowed to hold additional charge of the posts respectively.

3. Learned counsel for the petitioner in all the captioned petitions had filed an application for urgent hearing, which is granted. Counsel was confronted as to the maintainability of the captioned petitions by this Court vide order dated 12.12.2025. Learned Counsel contended that the private respondents are unlawfully occupying public offices in blatant violation of the rules and regulations framed by the legislature, thereby defeating the very spirit of justice. It was urged that such appointments are in direct conflict with the law laid down by the Hon'ble Supreme Court of Pakistan in the case of *Province of Sindh and others V Ghulam Fareed and others (2015 SCMR 456)*, *Province of Sindh through Chief Secretary and others V. Ghulam Shabir and others (2023 SCMR 686)*, as well as the pronouncements of this court in numerous cases. Learned counsel submitted that Honorable Supreme Court has consistently discouraged appointments on OPS basis. It was further argued that a perusal of the relevant record and notifications clearly revealed that private respondents derived illegal gains through impugned notifications by holding additional charge, without following any prescribed method of transfer or posting. Such illegal benefits, having been acquired unlawfully, cannot be allowed to perpetuate in any manner whatsoever. According to the learned counsel, the official respondents have acted in excess of their jurisdiction and authority and in violation of their own rules; therefore, the impugned orders and notifications, through which such illegal gains were conferred, are void ab initio and do not require formal setting aside. Learned counsel further assailed the transfer notifications dated 15th September 2025, 06th November 2025, 11th November 2025, 1st September 2025, 2nd September 2025 & 9th October, 2025, terming it questionable and contrary to the prescribed procedure, as no lawful mechanism exists for frequent and arbitrary transfers of an employee from one place to another. It was also submitted that, in addition to the acts of maladministration and abuse of authority already committed, the private respondents are reportedly being conferred further unlawful benefits by assigning them additional charges. Learned counsel maintained that the impugned actions of the respondents constitute a clear violation of Articles 4, 9, 14, 18, 25(1) and 38 of the Constitution of the Islamic Republic of Pakistan, 1973, particularly as the private respondents are holding public office

without lawful authority or jurisdiction and lastly prayed for allowing instant petitions.

4. Learned Assistant Advocate General, in rebuttal, contended that these petitions are based on mere allegations and conjectures, without any supporting material. No illegality, mala fide or violation of statutory rules has been demonstrated. It was contended that the postings of the private respondents were made by the competent authority in accordance with law and administrative exigencies. The judgments relied upon by the petitioner are distinguishable and do not render temporary arrangements per se illegal. Learned AAG further submitted that the petitioner lacks locus standi, having failed to show any personal legal injury. Transfers being an incidence of service, the impugned notifications do not call for judicial interference in the absence of mala fide. He attacked upon the locus standi of the Petitioner and contended that Petitioner with mala fide intentions and ulterior motives has challenged the notifications of private respondents who are assigned the task to complete development projects. He argued that arrangement so made through impugned notifications was temporary in nature and upon availability of suitable officers in the cadre the notifications shall be withdrawn by appointing officers of relevant grade. It was lastly argued that no violation of fundamental rights has been made out; hence, they are liable to be dismissed.

5. Heard arguments and perused the material made available before us on record.

6. The petitioner has sought indulgence of this Court to issue a writ in the nature of quo warranto on the ground that vide notification dated 15.09.2025 Asif Ali Kalhor Assistant Engineer BS -17 has been assigned the additional charge of the post of Executive Engineer BS -18, vide notification dated 15.09.2025 Mukhtiar Ahmed Samejo a BS - 20 Officer has been assigned the charge of Project Director in Sindh Coastal Highways Thatta, vide notification dated 06.11.2025 Arif Hassan Rajper Executive Engineer BS -18 has been assigned the additional charge of Superintending Engineer BS -19, vide notification dated 11.11.2025 Syed Shahbaz Ali Shah Executive Engineer BS -18 has been assigned the additional charge of Superintending Engineer BS -19, vide notification dated 01.09.2025 Muhammad Waseem Qaimkhani Superintending Engineer BS -19 Works & Services Department has been assigned the additional charge of Superintending Engineer BS -19

Provincial Buildings Circle Karachi, vide notification dated 02.09.2025 Muhammad Ameer Younus Senior Chief Development (Secretariat) BS - 20 has been assigned the additional charge of Chief Engineer Provincial Buildings Circle BS -20, vide notification dated 08.09.2025 Bahaluddin Shaikh Executive Engineer BS -18 has been assigned the additional charge of Superintending Engineer BS -19, vide notification dated 15.09.2025 Saeed Ahmed Shaikh Executive Engineer BS -18 has been assigned the additional charge of Superintending Engineer BS -19 and vide notification dated 06.11.2025 Altaf Ahmed Khuwaja Superintending Engineer BS -19 works and services has been assigned the additional charge of Chief Engineer BS -20 Judicial Works. It is contended that the impugned notifications assigning additional charge to the private Respondents in all these petitions were not supported by service laws and appointment rules, hence, it was a fit case of issuance of writ in the nature of Quo Warranto.

7. To lay the claim for issuance of writ of quo warranto, the petitioner has to satisfy, inter alia, that the office in question is a public office and it is held by usurper without lawful authority and the petitioner is not having any special kind of interest against the alleged usurper and he being a member of the public was acting under bonafide. Once this junction is crossed, then the Court will proceed further to make an inquiry as to whether the appointment of the alleged usurper has been made in accordance with the law or not. A writ of quo warranto is maintained to settle the legality of holder of a statutory or commercial office and to decide whether he was holding such public office in accordance with the law or against the law.

8. It appears from the record that the Respondents have been assigned the additional charge of either same or higher grade against the positions lying vacant. Rule 9(4) of the Sindh Civil Servants (Appointment, Promotion & Transfer) Rules 1974 (APT Rules) deals with the appointments by way of transfer on stop-gape arrangement. For the purpose of understanding Rule 9(4) is reproduced below:

9. (1) *Appointments by transfer shall be made from amongst the persons holding appointment on regular basis in the same Basic Scale in which the post to be filled exists.*

(2)

(3)

(4) Where the transferring authority is of the opinion that any, post whose incumbent has been transferred cannot be kept vacant, without being detrimental to the work he may order any officer under his control to hold the said post, in addition to his own duties, until a substitute is appointed or for a period of one month whichever is earlier.

9. From the perusal of Rule 9(4) of the APT Rules it can be deduced that it has two tentacles. Under the referred Rule where the transferring authority is of the opinion that any post whose incumbent has been transferred cannot be kept vacant, the authority may order any officer under his control to hold the said post in addition to his own duties until the substitute is appointed or for a period of one month whichever may be earlier. From a cursory glance at the impugned notifications it transpired that the posts against which the private Respondents were directed to hold additional charge were lying vacant. The positions being important in nature related to the execution of development schemes cannot be kept vacant for a long time thus were filled as stop-gape arrangement. Though law required that the positions be filled for a period of one month and it is an admitted position on record that private Respondents were holding these positions for more than one month but learned Counsel for the Petitioner failed to furnish the proof that any substitute officer was available in the concerned department eligible for appointment against the posts in questions, when confronted he frankly conceded that he was not in knowledge of availability of any other officer for appointment against the posts in question. This brings the case of Respondents within the bracket of first tentacle which empowers the authority to continue such appointment by way of transfer until the availability of substitute officer.

10. It further transpired from the record that the petitioner had filed a similar petition bearing CP No.D-5882 /2025 against the appointments of the private Respondents in all these petitions. The Petition was dismissed vide order dated 05.12.2025, though learned Counsel for the Petitioner had made a statement that he wanted to file separate petitions in respect of each of the posts separately, however, permission to file fresh petition was not accorded. These petitions were thus hit by the principle of Res Judicata, which is a

principle of peace and debarred multiple litigation on the same subject matter against the same parties.

11. When confronted as to how the petitioner was aggrieved and in what manner any of the rights of the petitioner were infringed. Counsel for the Petitioner argued that Petitioner was lawyer by profession and issue agitated by him related to good governance which is the fundamental right of an individual. No doubt good governance and rule of law are the basic requirements of a society to flourish, but petitioner has failed to demonstrate that how the appointment and posting of the private respondents resulted in bad governance. The frequent filing of the petitions against transfer and postings demonstrated the interest of the relator that he intended to pressurize the appointees for his personal interest, as has been usually complained by the members of society against the legal fraternity. The frequent filing of the petitions by the petitioner aimed nothing but to harass the Respondents, this act of the Petitioner tantamount to stain the noble profession of law, coupled with the fact that the petitioner failed to demonstrate his bona fide for filing of writ petitions for the enforcement of good governance in the Province of Sindh.

12. The view rendered above finds support from the judgment of Hon'ble Supreme Court of Pakistan in the case of JAWAD AHMAD MIR Versus Prof. Dr. IMTIAZ ALI KHAN, VICE CHANCELLOR, UNIVERSITY OF SWABI, DISTRICT SWABI, KHYBER PAKHTUNKHWA and others, reported as 2023 SCMR 162, wherein it is held that by the Hon'ble Supreme Court in para-8 has been pleased to held that:

8. The writ of quo warranto is in the nature of setting forth an information before the High Court against a person who claimed and usurped an office, franchise or liberty. The rationality of the writ of quo warranto is to settle the legality of the holder of a statutory or Constitutional office and decide whether he was holding such public office in accordance with law or against the law. The writ of quo warranto can be instituted by a person though he may not come within the meaning of words "aggrieved person". For the purpose of maintaining a writ of quo warranto there is no requirement of an aggrieved person, and a whistle blower need not to be personally aggrieved in the strict sense and may relay the information to the court to enquire from the person holding public office. The purpose of the writ of quo warranto is to pose a question to the holder of a public office: "where is your warrant of appointment by which you are holding this office?" In the writ of quo warranto no special kind of interest in the relator is needed, nor is it necessary to explain which of his specific legal rights is infringed. It is enough for this issue that the

relator is a member of the public and acts bona fide. This writ is more in the nature of public interest litigation where undoing of a wrong or vindication of a right is sought by an individual for himself, or for the good of the society, or as a matter of principle. The conditions necessary for the issuance of a writ of quo warranto are that the office must be public and created by a statute or Constitution itself; the office must be a substantive one and not merely the function of an employment of a servant at the will during the pleasure of others; there has been contravention of the Constitution or a statute or statutory instrument by appointing such person to that office. The essential grounds for issuing a writ of quo warranto are that the holder of the post does not possess the prescribed qualification; the appointing authority is not the competent authority to make the appointment and that the procedure prescribed by law has not been followed. The burden of proof is then upon the appointee to demonstrate that his appointment is in accordance with the law and rules. It is clear that before a person can claim a writ of quo warranto, he must satisfy the court, inter alia, that the office in question is a public office and is held by a usurper without legal authority, and that necessarily leads to the enquiry as to whether the appointment of the said alleged usurper has been made in accordance with law or not. The concept and aftermath of the writ of quo warranto has been articulated in different jurisdictions with the following approach and frame of mind:-

Halsbury's Laws of England (Third Edition), Volume 11, page 145:

Quo warranto. An information in the nature of a quo warranto took the place of the obsolete writ of quo warranto which lay against a person who claimed or usurped an office, franchise, or liberty, to enquire by what authority he supported his claim, in order that the right to the office or franchise might be determined.

An information in the nature of quo warranto lay only if the office was substantive in character, that is, an office independent in title, and if the holder of the office was an independent official, not one discharging the functions of a deputy or servant at the will and pleasure of others. An information in the nature of a quo warranto lay in respect of an office held at pleasure, provided the office was one of a public and substantive character.

Halsbury's Laws of India, Volume 35, Page 145:

Quo warranto proceeding affords a judicial remedy by which any person, who holds an independent substantive public office or franchise or liberty, is called upon to show by what right he holds the said office, franchise or liberty so that his title to it may be duly determined, and in case the finding is that the holder of the office has no title, he would be ousted from that office by judicial order in other words, the procedure of quo warranto gives the judiciary a weapon to control the executive from making appointments to public office against law and to protect a citizen from being deprived of public office to which he has a right. These proceedings also tend to

protect the public from usurpers of public office, who might be allowed to continue either with the connivance of the executive or by reason of its apathy.

American Jurisprudence (Second Edition), Volume 16, page 578:

Quo warranto is intended to prevent the exercise of powers that are not conferred by law, and is not ordinarily available to regulate the manner of exercising those powers. It cannot be used to test the legality of official actions of public corporations or officers, though it has been held that it may be used to determine whether a constitutional officer is attempting to usurp power not granted him by the constitution or laws.

Corpus Juris Secundum, Volume LXXIV, page 174-175

The writ of quo warranto is an ancient common law, prerogative writ and remedy. Indeed, it is one of the most ancient and important writs known to the common law. The ancient writ was in the nature of a writ of right for the king, against him who claimed or usurped any office, franchise, or liberty, to inquire by what authority he supported his claim, in order to determine the right, or, in the case of nonuser, long neglect, misuser, or abuse of a franchise, a writ commanding defendant to show by what warrant he exercised such franchise, never having had any grant of it, or having forfeited it by neglect or abuse.

Black's Law Dictionary (Tenth Edition), page 1447:

Quo warranto 1. A common-law writ used to inquire into the authority by which a public office is held or a franchise is claimed.

"Quo warranto means 'by what warrant?' - or authority? - and was a proceeding to inquire whether authority existed to justify or authorize certain acts of a public character or interest. Originally the proceeding of quo warranto was a criminal one instituted by the crown, the purpose of which was to find out, in the course of a formal inquiry, whether or not persons or corporations were exercising a privilege or franchise, illegally, or if persons who had no right to do so were occupying some public office. If it were found that the person or corporation was in fact illegally interfering with the prerogative power of the crown, or was in fact doing some other illegal act, it was ousted from the illegal practice or office. Accordingly, it can be seen at once that the proceeding on quo warranto was not one to be used by private parties in the conduct of ordinary litigation." Charles Herman Kinnane, A First Book on Anglo-American Law 662 (2d ed. 1952).

9. In our jurisdiction, compliant with the dictum laid down by this Court in various judgments, such as the case of *Masudul Hassan v. Khadim Hussain and another* (PLD 1963 SC 203), it was held that writ of quo warranto was in its nature an information lying against a person who "claimed or usurped an office, franchise or liberty" and was intended to enquire by what authority he supported his claim in order that the right to the office may be determined. In the case of *Capt. (Retd.)*

Muhammad Naseem Hijazi v. Province of Punjab and others (2000 SCMR 1720), this Court held that in the writ of quo warranto, under Article 199 of the Constitution of the Islamic Republic of Pakistan the High Court in exercise of its Constitutional jurisdiction is competent to enquire from any person, holder of a public office to show that under what authority he is holding the said office. Whereas in the case of Hafiz Hamdullah v. Saifullah Khan and others (PLD 2007 SC 52), it was held that the object of writ of quo warranto is to determine legality of the holder of a statutory or Constitutional office and decide whether he was holding such office in accordance with law or was unauthorizedly occupying a public office. For issuance of a writ of quo warranto, the person invoking the jurisdiction of High Court under Article 199 of the Constitution is not required to fulfill the stringent conditions required for bringing himself within the meaning of an aggrieved person. Likewise, in the case of Imran Ahmad Khan Niazi v. Mian Muhammad Nawaz Sharif (PLD 2017 SC 265), this Court held that Constitutional petition in the nature of a writ of quo warranto was maintainable against a Member of the Majlis-e-Shoora (Parliament), if he was disqualified or did not possess or had lost his qualification, in such behalf. Power to disqualify a member in cases where for some reason he escaped disqualification at the time of filing his/her nomination papers but such fact/event was discovered subsequently, could, in appropriate cases and subject to availability of admitted facts or irrefutable evidence be exercised by the High Court under Article 199 and by the Supreme Court under Article 184(3) of the Constitution.

13. Petitioner, through this petition seeks rectitude of actions taken by the Government authorities, for that purpose he has to demonstrate his honesty and fairness for filing of the petition, least to say that choice to invoke the equitable writ jurisdiction of court must demonstrate the aforementioned moral compass. Honorable Supreme Court and this Court have unanimously held that for issuance of writ of quo warrant it must be established that the holder of public office suffered from the prescribed qualification, the appointing authority was not a competent authority to make the appointment and the prescribed procedure of law was not followed. The Petitioner has failed to point out any illegality or perversity in the impugned notifications warranting for issuance of a writ in nature of quo warrant.

14. With profound humbleness, the case laws relied upon by the Learned Counsel for the Petitioner pertained to appointments on OPS and acting charge basis as such were distinguishable from the facts and circumstances of the captioned petitions.

15. In the wake of above discussion the captioned petitions fail and are accordingly dismissed along with pending application(s) if any.

Office to place signed copy of this order in the connected petitions.

JUDGE

JUDGE

HEAD OF CONST. BENCHES

Nadir/PS*

Approved for reporting