

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Constitutional Petition No. D-6402 of 2024
(Muhammad Sarfaraz versus Federation of Pakistan & others)

Date	Order with signature of Judge(s)
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Before:
Mr. Justice Muhammad Karim Khan Agha
Mr. Justice Adnan-ul-Karim Memon

Date of hearing and order:- 13.10.2025

Mr. Mushtaq Ahmed Awan, advocate for the petitioners

ORDER

Muhammad Karim Khan Agha,J: The Petitioners, through instant Constitutional Petition, prayed as under:

1. *Declare that the failure of Respondents to absorb the petitioners in FIA is illegal, unlawful, unconstitutional, discriminatory, arbitrary, in violation of rules and against principles of natural justice, equity, and fairness;*
2. *Direct the Respondents, their officers, representatives, or anybody acting on their behalf to absorb the petitioners as Constable (BS-05) in FIA, forthwith;*
3. *Restrain the official respondents, their officers, representatives, or anybody acting on their behalf from taking any adverse action against the petitioners, including their transfer or repatriation.*

2. Petitioners seek this Court’s intervention under Article 199 of the Constitution, for their absorption in the Federal Investigation Agency (FIA). They were transferred on deputation from the Sindh Police and are aggrieved by the respondents’ failure to treat them at par with similarly placed employees who were absorbed in the FIA under Rules 15 and 16 of the FIA (APT) Rules, 1975. The petitioners submitted that the denial of equal treatment will cause them serious financial and service hardship. They were initially appointed as Constables (BS-05) in the Sindh Police in 2003, and pursuant to respondent No.4’s requisition dated 10.11.2017 for 26 constables, they were sent on deputation to the FIA for three years.

3. On the maintainability of the petition, the petitioners’ counsel argued that the petitioners have served with honesty, dedication, and zeal throughout their service, including during deputation with respondent No.2. Their deputation period was extended, and they have been serving in the FIA for over six years without any complaints, receiving salaries accordingly. Relying on applicable rules and past practice, they submitted several applications for permanent absorption, duly recommended by their superiors, but respondent No.2 failed to act. The counsel added that the

Additional Director, FIA, had supported their absorption request and therefore prayed for allowing the petition.

4. After hearing counsel and examining the record, this Court has already considered the case of the colleagues of the petitioners vide Judgment dated 27.08.2025 in Constitutional Petition No. D-2740 of 2022, whether they could lawfully seek permanent absorption in the FIA, and dismissed their petition.

5. Rules 15 and 16 of the FIA (Appointment, Promotion & Transfer) Rules, 1975, allow deputation from another department and retention on a regular basis only with the approval of the parent department and the employee's consent. However, these rules do not authorize permanent absorption of deputationists. Deputation, as defined in the ESTACODE 2009 and Rule 20A of the Civil Servants (APT) Rules, 1973, is a temporary arrangement, and the deputationist must return to the parent department after expiry of the term.

6. This Court in the aforesaid judgment held that the FIA has no unlimited power to absorb deputationists, as "absorption" differs from "confirmation" and is permitted only under Section 11A of the Civil Servants Act, 1973, for surplus employees. Rules 15 and 16 must be read with other provisions of the 1975 Rules, which require a formal selection process through the Departmental Selection Committee. Citing Ali Azhar Khan Baloch v. Province of Sindh (2015 SCMR 456), Contempt Proceedings against Chief Secretary, Sindh (2013 SCMR 1752), and Dr. Shafi-ur-Rehman Afridi v. CDA (2010 SCMR 378), this Court reaffirmed that deputationists have no vested right to permanent absorption and can be repatriated at any time. The FIA's decision to repatriate the petitioners to the Sindh Police was therefore lawful and in line with Supreme Court precedents, including the *National Highways & Motorway Police* case.

7. Accordingly, finding no merit in the petitioners' claim for absorption, this petition is liable to be dismissed on the analogy as put forward in the Constitutional Petition No. D-2740 of 2022, therefore, this petition is dismissed in limine along with pending applications.

HEAD OF CONST. BENCHES

JUDGE