

HIGH COURT OF SINDH CIRCUIT COURT, HYDERABAD

C.P. No.D-1037 of 2025

[Shoukat Ali v. Province of Sindh and others]

BEFORE:

JUSTICE ADNAN-UL-KARIM MEMON
JUSTICE RIAZAT ALI SAHAR

Mr. Ishrat Ali Lohar, Advocate for Petitioner

Mr. Muhammad Arshad S. Pathan, Advocate for the respondent

Rafiq Ahmed Dahri, Asstt: A.G., along with Assistant Director Law SGA&CD, along with Jabir Jabbar, Assistant to Addl. Director Law SGA&CD Karachi.

Date of hearing & decision: 04.12.2025

ORDER

ADNAN-UL-KARIM MEMON J.- The petitioner, through this Constitutional Petition, has prayed as follows:-

- a) That this Honourable court may be pleased to declare the impugned office order 16.05.2025 is arbitrary, void ab initio, and beyond the spirit of section 15(5) of the BISE Act 1972.
- b) That this Honorable court may be pleased to suspend the operation of the office order dated 16.05.2025 till the final adjudication of the instant petition.
- c) That this Honorable court may be pleased to set aside the office order dated 16.5.2025 and liable to be a standstill.

2. The case of the Petitioner is that he was initially appointed as Lecturer BPS-17 in the Education Department through Sindh Public Service Commission. In 2008, he was promoted to Assistant Professor, and in 2019, he was further promoted to Associate Professor. In 2022, the Petitioner was appointed on deputation as Secretary of BISE Hyderabad for a period of one year, which was subsequently extended for another year, effective from 13.05.2023. During this period, the deputation of the Petitioner was recalled through notification dated 23.11.2023. The Petitioner challenged this notification before this Court at Principal Seat, which, on 30.11.2023, suspended the operation of said notification. Later, the deputation period was extended via notification dated 10.02.2025 for an additional year, and further extended by a notification dated 20.02.2025 from 14.05.2024 until the appointment of a regular incumbent. However, on 16.05.2025, the Chairman of BISE Hyderabad, while exercising powers under Section 15(5) of the BISE Act 1972, relieved the Petitioner from the post of Secretary and directed Respondent No.4 to look after the charge, notwithstanding the notification dated 20.02.2025, while allowing the Petitioner to continue

working until the appointment of a regular incumbent. This action prompted the filing of the present Constitutional Petition.

3. Learned counsel for the Petitioner contended that the Chairman, BISE Hyderabad, being an acting Chairman and simultaneously holding the position of Special Secretary of the Universities & Boards Department, was not competent to overrule the notification dated 20.02.2025 issued by the competent authority; that the Chairman could not relieve the Petitioner, who holds 19 Grade post, and that the Chief Secretary is the competent authority in this matter, and he can pass an order either cancelling the deputation or allowing the petitioner to continue till his superannuation. Furthermore, the Petitioner is approaching the age of superannuation, with retirement due on 23.01.2026, and at this stage, his relieving or transfer contravenes service rules he emphasized. It was also argued that the Chairman, by invoking Section 15(5) of the BISE Act, misapplied the law, as that Section does not empower him to relieve the Petitioner from the subject post. The counsel prayed for the Petition to be allowed.

4. Respondents 3 & 4, through their counsel, submitted that the Petitioner is a government servant and cannot claim any benefit in respect of temporary deputation post as a matter of right; that the Petitioner cannot claim entitlement for the period after 13th / 14th May 2025 and that the Petition is barred under Article 212 of the Constitution of the Islamic Republic of Pakistan; that the Petitioner was lawfully relieved upon completion of his deputation period. The respondents counsel argued that the reference to “or till the appointment of a regular incumbent, whichever is earlier” in the notification dated 20.02.2025 was inadvertent and cannot be used for claiming additional benefits. The deputation was clearly temporary, and the Petitioner’s services were neither confirmed nor absorbed in the Secretariat of Universities & Boards, Karachi. He argued that the deputation period had already been extended twice, and any subsequent observation in the notification cannot override the original terms. Therefore, the Petitioner had completed his deputation tenure by 13th /14th May 2025 and was rightfully relieved by the Chairman of BISE Hyderabad. The respondents counsel prayed for dismissal of this Petition.

5. After hearing learned counsel for the parties and perusing the record, it is noted that the Petitioner, being a civil servant, had been appointed on deputation to the post of Secretary, BISE Hyderabad, for a specific period. The deputation period of the Petitioner has already been completed. Under the law, a civil servant cannot continue to hold a post in BISE beyond the deputation period. Therefore, the Petitioner shall be relieved forthwith from the post of Secretary, BISE Hyderabad, without any further action required on the part of Respondent Universities & Boards Department. Accordingly, this Constitutional Petition is

disposed of with direction to the competent authority to appoint the Secretary,
BISE Hyderabad on regular basis within one month.

JUDGE

JUDGE

Karar Hussain/PS*