

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Const. Petition No. D - 6623 of 2022

Date	Order with signature(s) of Judge(s)
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Before: Justice Muhammad Saleem Jessar
Justice Nisar Ahmed Bhanbhro

1. For orders on office objection
2. For orders on CMA No.29195/2022
3. For hearing of CMA No.5231/2023
4. For hearing of CMA No.33039/2023
5. For hearing of CMA No.280072023
6. For hearing of main case

10.06.2026

Mr. Talha Abbasi, Advocate for the petitioner.
Mr. Zohaib Sarki, Advocate for respondent No.4.
M/s. Hakim Ali Shaikh, Addl. A.G. Sindh and Sagheer Ahmed Abbasi, AAG.

ORDER

MUHAMMAD SALEEM JESSAR, J : Through this petition, the petitioner has challenged the notification dated 19.10.2022, whereby he was transferred from Malir Development Authority (MDA) and directed to report to Sindh Local Government Department.

2. It is the case of the petitioner that he was working as Additional Director in MDA and was absorbed permanently in Malir Development Authority by the orders of the Chief Secretary Sindh vide notification dated 11.04.2017. Before his absorption in the MDA, the petitioner was placed under surplus pool vide notification dated 04.10.2016. The petitioner has served in MDA for his entire career and was promoted in Grade-20. It is further case of the petitioner that he cannot be transferred in any other department as the employment under MDA is non-transferable.

3. On the contrary, learned counsel for respondent No.4 contended that the petitioner was appointed in Grade-16 in DMC Karachi East and he was not an employee of MDA, therefore, he was rightly transferred. He further contended that the petitioner was wrongly absorbed in MDA as he was repatriated pursuant to the orders passed by the Hon'ble Supreme Court in

the case of *Ali Azhar Khan Baloch v. Chief Secretary Sindh and others* (2015 SCMR 456), therefore, he was required to report to DMC Karachi East.

4. Heard the arguments of learned counsel for the petitioner as well as learned Additional A.G. Sindh and perused the material made available before us on record.

5. From perusal of record, it transpires that the petitioner was appointed in DMC Karachi East in Grade-16 and thereafter his services were handed over to MDA where he was promoted from Grade-16 to Grade-20 in accordance with MDA Rules. Pursuant to the judgment of Ali Azhar Khan Baloch (supra), the petitioner was repatriated, but since no vacancy in Grade-20 was available in City District Government Karachi, the petitioner was rendered in the surplus pool vide notification dated 04.10.2016. The Chief Secretary Sindh permanently absorbed the services of the petitioner as Additional Director General (BS-20) in MDA by exercising powers under Rule 9-A of the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974. Since his permanent absorption in MDA the petitioner was the employee of MDA and admittedly under MDA Rules its employees are non-transferable, therefore, the transfer of the petitioner through notification dated 19.10.2022 is without any legal authority. Under the MDA Rules only the post of Director General can be filled by the Government of Sindh.

6. For the foregoing reasons, this petition is allowed, the impugned transfer notification dated 19.10.2022 is hereby declared illegal and set-aside. The petitioner shall continue his services in MDA.

7. The petition along with the listed applications stands disposed of in the above terms.

**JUDGE
HEAD OF CONST. BENCHES**

JUDGE

Approved for reporting.

Azeem