

THE HIGH COURT OF SINDH BENCH AT SUKKUR

C. P. No. D – 505 of 2026

[Abdul Qayoom Wagho and another v. Province of Sindh and others]

Before:

Justice Arbab Ali Hakro

Justice Muhammad Osman Ali Hadi

Petitioners by : Mr. Jamil Ahmed Gabol, Associate of
Mr. Achar Khan Gabol, Advocate

Respondents by : Mr. Ghulam Abbas Kubar, Assistant
Advocate General Sindh

Date of Hearing : **20.08.2026**

Date of Decision : **20.08.2026**

ORDER

ARBAB ALI HAKRO, J. – Through this constitutional petition instituted under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, the petitioners have assailed letter/advice dated 10.03.2026 issued by the Finance Department, Government of Sindh, whereby the sanctioned posts of Principal (BPS-19) and Senior Principal (BPS-20) pertaining to Government Boys Higher Secondary School, Pano Aqil, District Sukkur and Government Boys Higher Secondary School, Kamo Shaheed, District Ghotki, were proposed to be shifted on a vice versa basis from one cost centre to another. The petitioners seek declaration of the said advice as being without lawful authority and of no legal effect, coupled with ancillary reliefs for protection of their service interests.

2. Briefly stated, petitioner No.1, Abdul Qayoom Wagho, was posted as Principal (BPS-19) at Government Boys Higher Secondary School, Pano Aqil, District Sukkur, under Notification dated 02.03.2026 against an existing vacancy, whereas petitioner No.2, Wajid Ali, was serving as Senior Principal (BPS-20) at Government Boys Higher Secondary School, Kamo Shaheed, District Ghotki, under Notification dated 27.02.2026. Both petitioners claim to occupy duly sanctioned budgetary posts, from which salaries are regularly drawn. The record further reveals that respondent No.4, Director Schools Education (Elementary, Secondary & Higher Secondary), Sukkur Region,

Sukkur, moved a proposal dated 08.01.2026 for the mutual shifting of the posts of Principal (BPS-19) and Senior Principal (BPS-20). The proposal was based on administrative considerations, i.e., Government Boys Higher Secondary School, Pano Aqil, having substantially higher enrolment and functioning as a hub cluster institution, required the services of a Senior Principal (BPS-20), whereas Government Boys Higher Secondary School, Kamo Shaheed, having comparatively lesser enrolment, could suitably function with a Principal (BPS-19). It was also asserted that such an adjustment would involve no financial implication. Subsequently, the School Education & Literacy Department forwarded the proposal to the Finance Department by letter dated 18.02.2026, after which the Finance Department issued the impugned advice dated 10.03.2026 agreeing to the shifting of both posts, subject to fulfilment of codal formalities and authentication. The said advice further provided for reflection of the proposed re-appropriation in the Budget Book for the financial year 2026-27. The petitioners objected to the proposal through representations dated 05.03.2026 on the ground that both posts were already occupied by regular incumbents and that shifting sanctioned posts from one cost centre to another would adversely affect their service status and salary entitlement, besides creating a situation whereby they may be deemed to be serving against unsanctioned posts.

3. The Finance Department submitted a compliance report pursuant to the order of this Court dated 19.03.2026. In that report, it was categorically stated that although the Finance Department had agreed to the proposal in advice dated 10.03.2026, the proposal had not been implemented because the Administrative Department had not forwarded the matter for authentication. It was further stated in unequivocal terms that the Finance Department had agreed to keep the said advice in abeyance until the final decision on the instant petition.

4. Respondent No.4 filed para-wise comments asserting that the proposal was initiated purely on administrative grounds and in the best interests of education. The respondents highlighted that Government Boys Higher Secondary School, Pano Aqil, has considerably larger enrolment, superior infrastructure, and has been functioning as a higher secondary institution for several decades, whereas Government Boys Higher Secondary

School, Kamo Shaheed, is a recently upgraded institution with comparatively fewer students. It was thus maintained that the proposed shifting of the posts was based on objective educational requirements and not for the benefit of any individual. The respondents further stated that, under the proposal, the post, along with the incumbent, was intended to be shifted on a vice versa basis; therefore, no prejudice whatsoever was likely to be caused to either petitioner. It was specifically pleaded that posts in BPS-17 and above are Sindh-based and that the petitioners had not acquired any vested right to remain attached to a particular cost centre or institution.

5. Learned counsel for the petitioners contended that the impugned advice is not a simple matter of transfer or posting but concerns sanctioned budgetary posts on which the petitioners are lawfully serving. He argued that shifting occupied posts from one cost centre to another would effectively amount to the abolition of sanctioned posts at their existing stations and may inevitably affect salary drawal and service status. Learned counsel further submitted that the petitioners were never afforded meaningful consideration of their objections despite the submission of written representations. It was argued that the impugned action is arbitrary, administratively impracticable, and aimed at accommodating favoured individuals under the guise of administrative restructuring. He therefore prayed for a declaration that the impugned advice is illegal, without lawful authority, and is liable to be recalled.

6. Conversely, learned Assistant Advocate General Sindh opposed the petition and argued that no cause of action had accrued to the petitioners. He submitted that the impugned advice dated 10.03.2026 never attained finality, was never authenticated, and, as admitted, remained unimplemented. He further contended that the entire grievance projected by the petitioners is founded upon apprehensions and speculative consequences rather than any actual infringement of a legal right. According to him, neither salary of the petitioners has been withheld nor has their rank, cadre, tenure, or service status been adversely affected. It was also argued that matters relating to transfer, posting, sanctioned posts, and other conditions of service fall squarely within the ambit of Article 212 of the Constitution; therefore, constitutional jurisdiction could not be invoked in the presence of the

exclusive jurisdiction vested in the Service Tribunal. He accordingly sought dismissal of the petition.

7. We have heard learned counsel for the petitioners and the learned Assistant Advocate General Sindh, and have carefully examined the material on record.

8. The central question for determination is whether the petitioners have demonstrated infringement of any accrued legal right that warrants the exercise of constitutional jurisdiction under Article 199 of the Constitution. After anxious consideration of the matter, we find that the very foundation of the petition is substantially undermined by the compliance report submitted by the Finance Department. The report unequivocally declares that the impugned advice dated 10.03.2026 has not been implemented and that the Administrative Department never forwarded the matter for authentication. More importantly, the Finance Department itself agreed to keep the advice in abeyance until disposal of the present proceedings.

9. The settled law of the Supreme Court in **Special Secretary-II (Law & Order), Home & Tribal Affairs Department**¹ lays down that a constitutional petition under Article 199 is maintainable only where a clear and subsisting legal right has actually been infringed. Constitutional jurisdiction is not ordinarily exercised against speculative or contingent injury. The Court does not issue declarations against apprehended consequences that may or may not materialize.

10. Even otherwise, the grievance raised by the petitioners essentially relates to service matters. The petitioners themselves allege adverse effects on their service position, salary and sanctioned posts. Such matters squarely fall within the expression “terms and conditions of service”.

11. The legal position is no longer *res integra*. In **Muhammad Azam Channa**², following authoritative pronouncements³, it was held that transfer and posting matters fall within the exclusive jurisdiction of the Service Tribunal, and that a civil servant does not possess a vested right to remain

¹ Special Secretary-II (Law & Order), Home & Tribal Affairs Department v. Fayyaz Dawar (2023 SCMR 1442)

² Muhammad Azam Channa v. Province of Sindh (2019 PLC (C.S.) 1533)

³ Ali Azhar Khan Baloch v. Province of Sindh (2015 SCMR 456), Peer Muhammad v. Government of Balochistan (2007 SCMR 54) and Government of KPK v. Hayat Hussain (2016 SCMR 1021)

posted to a particular post or station. Likewise, in **Dr.Muhammad Saleem**⁴, the Supreme Court reiterated that transfer and posting are matters within the executive domain and that judicial interference is warranted only where patent illegality or mala fide is established by cogent material. Mere allegations are insufficient.

12. In the present matter, apart from a bald allegation regarding the accommodation of “blue-eyed persons”, no particulars, supporting material or consequential order have been placed before this Court. Such allegations are incapable of sustaining constitutional interference.

13. We are therefore persuaded that the challenge is both premature and speculative. No order has been implemented and brought before us. No salary has been withheld. No adverse service consequence has ensued. The petitioners thus cannot presently be regarded as persons aggrieved within the contemplation of Article 199 of the Constitution.

14. For the foregoing reasons, this petition, being devoid of merit, is **dismissed**. However, it is clarified that if, at any future stage, the impugned advice dated 10.03.2026 is authenticated and implemented by a final order that adversely affects the pay, rank, cadre position, lien, tenure, salary entitlement or any legally protected service right of the petitioners, they shall be at liberty to avail themselves of remedy available to them under the law before the competent forum.

The pending applications, if any, stand **disposed of** accordingly.

J U D G E

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Abdul Basit

⁴ Dr.Muhammad Saleem v. Government of Balochistan (2023 SCMR 2119)