

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

*Constitutional Petition No.D-2161 of 2024.*  
[Ali Khan and others vs. Province of Sindh and others]

*Constitutional Petition No.D-245 of 2025*  
[Shahzado Chohan and others vs. Province of Sindh and others]

\*\*\*\*\*

*Before:-*  
*Mr. Justice Amjad Ali Bohio,*  
*Mr. Justice Ali Haider 'Ada'.*

Date of hearing : 05.05.2026.  
Date of Decision : 19.05.2026.

M/s Ali Gul Abassi and Zuhaib Azam Rajput, Advocates for Petitioners.

Mr. Khuda Bux Chohan, Advocate for Sukkur Municipal Corporation.

Mr. Ali Raza Balouch, Additional Advocate General Sindh along with Nadir Shehazd Khan, Deputy Commissioner Sukkur and Abdul Hafeez Sahito, Superintending Engineer, PHE (O &M) Circle Sukkur.

\*\*\*\*\*

**ORDER**

Ali Haider 'Ada' J:- Both the above-captioned petitions involve identical questions of law and facts; therefore, the same are being decided through this common judgment.

2. Briefly stated, the petitioners were appointed during the years 2019 and 2020 as Operators/Chowkidars on daily wages basis in the Public Health Engineering Department, Sukkur. Subsequently, under the approval and directions of the competent authority, namely the Chief Secretary, Government of Sindh, a District Transition Committee was constituted for transfer of urban water supply and drainage schemes from the Public Health Engineering Department to the Local Government Department pursuant to the devolution policy of the Government. Thereafter, the said schemes were transferred to Sukkur Municipal Corporation.

3. The grievance of the petitioners is that despite transfer of the schemes and their continued working thereon, the Sukkur Municipal Corporation refused to accept their services and further withheld/non-released their salaries, which according to the petitioners is unlawful and arbitrary.

4. On the other hand, the Chief Engineer, Public Health Engineering Department, Sukkur filed para-wise comments formally admitting that the services relating to the schemes in question had been handed over pursuant to the directions/orders issued by the Chief Secretary, Government of Sindh. However, para-wise comments submitted by Sukkur Municipal Corporation reflect a different stance, wherein it has been stated that although the schemes were transferred, the names of the present petitioners were not reflected in the transferred record relating to such schemes. It is further stated that the Corporation had already deployed and adjusted its own employees against the said schemes. The respondents have also placed on record details regarding handing over/taking over of the schemes from the Public Health Engineering Department to the Sukkur Municipal Corporation. A compliance report was also submitted on behalf of the Corporation stating therein that approximately 192 employees belonging to the Sukkur Municipal Corporation had already been deployed upon the transferred schemes. Furthermore, a joint statement/report submitted by the Secretary, Public Health Engineering Department and Secretary, Local Government Department primarily reflects that the request made by the Administrator/Deputy Commissioner, Sukkur for transfer/adjustment of contingency employees is not legally maintainable, as employees engaged on daily wages/contingency basis are ordinarily not transferable under the relevant service framework. It has further been asserted that the interdepartmental correspondence regarding transfer/adjustment of the petitioners and other similarly situated employees was never duly approved by the competent authority.

5. The Deputy Commissioner, Sukkur, however, has also affirmed through correspondence that the petitioners were proposed to be transferred/deployed with the schemes under the administrative arrangements made between the departments and Sukkur Municipal Corporation.

6. Learned counsel for the petitioners submitted that the petitioners are still continuously performing duties on the respective schemes, yet neither their salaries are being paid nor are they being formally accepted either by the Public Health Engineering Department or by the Sukkur Municipal Corporation. Learned counsel has referred to letter dated 24.02.2023 issued by the Executive Engineer, Public Health Engineering Department, whereby the Administrator/Deputy Commissioner, Sukkur was requested to consider continuation/adjustment of duties of the employees including the present petitioners. He has further referred to letter dated 02.03.2023 issued by the Deputy Commissioner, Sukkur to the Secretary, Local Government Department regarding consideration of the services of such employees working upon the transferred schemes. Learned counsel has also placed reliance upon Notification No.SO(C-IV)SGA&CD/4-12/18 dated 04.11.2022 issued by the Chief Secretary, Sindh, wherein it was provided that upon transfer of schemes from the Public Health Engineering Department to the Local Government Department, the human resources and liabilities attached thereto shall also stand transferred. According to learned counsel, despite the said notification and despite continuous performance of duties by the petitioners, they are being deprived of salaries and service protection due to sheer highhandedness and administrative confusion amongst the public functionaries.

7. Conversely, learned counsel appearing on behalf of Sukkur Municipal Corporation as well as learned Additional Advocate General submit that the Secretaries of the concerned departments have already clarified that the correspondence exchanged between

subordinate offices/departments did not amount to approval by the competent authority. It is further contended that although the schemes were transferred, the petitioners, being daily wagers/contingency employees, do not possess any vested or enforceable right either for regularization or absorption in the Sukkur Municipal Corporation. It is also argued that since the Corporation had already deployed its own employees on the transferred schemes, no legal obligation exists to adjust the petitioners therein.

8. Heard learned counsel for the parties and perused the material available on record with their able assistance.

9. In order to properly appreciate and determine the controversy involved in the present matter, it is necessary to examine the pivotal question as to whether the water supply and drainage schemes were validly transferred, and if so, under what method, mechanism, and manner such transfer was effected. In this regard, the notification issued by the Chief Secretary, Government of Sindh, assumes considerable significance and requires careful examination. For ready reference, the relevant notification is reproduced below:-

**GOVERNMENT OF SINDH**  
**SERVICES, GENERAL ADMINISTRATION**  
**& COORDINATION DEPARTMENT**  
 (Implementation & Coordination Wing)  
 Karachi, dated the 04th November, 2022.

**NOTIFICATION**

No.SO(C-IV)/SGA&CD/4-12/18; With the approval of competent authority i.e Chief Minister, Sindh, "District Transition Committee" is hereby constituted for transfer of Urban Water Supply & Drainage Schemes from Public Health Engineering Department to Local Government Department for Implementation of Orders of Hon'ble Chief Minister Sindh with the following composition & TORs:-

S.No.	Name	Designation
1	Deputy Commissioner (concerned District)	Chairman

2	Executive Engineer (O&M) PHE Division (concerned District)	Member
3	Representative of Local Council concerned	Member

Terms of References (TORS)

- i. To maintain and verify the inventory of record and certificates on Handing over/Taking over by concerned department.
- ii. Handing and taking over of assets of Urban Schemes will be made by Executive Engineer (O&M) PHE concerned and representative of Local Council connected.
- iii. Human recourses and liability if any will stand transferred from PHE (O&M) to Local Council concerned on the date of handing/taking over.
- iv. The Handing/Taking over process shall be completed within a period of 02 months.

DR. MUHAMMAD SOHAIL RAJPUT  
Chief Secretary, Sindh

No.SO(C-IV)/SGA&CD/4-12/18; Karachi, dated the 5th October, 2022.

10. Now, a bare perusal of the Terms of Reference (TORS), particularly **Condition No.iii** thereof, makes it abundantly clear that the **“human resources and liabilities, if any, will stand transferred from the Public Health Engineering Department (O&M) to the concerned Local Council on the date of handing over and taking over of the schemes.”**

11. In the present case, it is an admitted position that the water supply and drainage schemes were duly taken over by the Sukkur Municipal Corporation pursuant to the policy decision and notification issued by the Chief Secretary, Government of Sindh. However, despite accepting and assuming control over the said schemes, the Sukkur Municipal Corporation has taken the stance that it was entitled to deploy and engage its own employees on such schemes instead of accepting the services of the petitioners. Such stance prima facie appears to be contrary to and inconsistent with the express mandate and spirit of the aforesaid Terms of Reference.

12. Once the policy decision and notification specifically contemplated transfer of human resources along with the schemes, the respondents could not selectively accept the schemes while simultaneously refusing to recognize or consider the employees who were already performing duties thereon, particularly without undertaking any proper verification or lawful determination regarding their status and deployment.

13. The material available on record, including the orders annexed with the petitions, prima facie reflects that the petitioners had been appointed and deployed on different schemes prior to their transfer. Therefore, the act of the Sukkur Municipal Corporation in disregarding the petitioners altogether and engaging its own employees in their place, without adhering to the prescribed policy framework and transfer mechanism, appears to be arbitrary, discriminatory, and beyond the lawful scope of authority. Such action, prima facie, cannot be sustained in law as it defeats the very object and purpose of the transfer policy approved by the competent authority and amounts to acting in excess of jurisdiction and contrary to the governing notification and administrative framework.

14. No doubt, the petitioners, being daily wage employees, cannot claim any vested or indefeasible right of regularization as a matter of course. However, it is an admitted position that they have remained continuously engaged in the field and have been performing their duties for more than seven years on the schemes in question. Furthermore, the transfer policy/notification was duly approved and issued by the competent authority of the Province, namely the Chief Secretary, Government of Sindh. The petitioners had no role, authority, or discretion whatsoever either to obstruct the transfer of the schemes or to determine how their services were to be adjusted or transferred from one department to another. The entire exercise of transfer and handing over/taking over of the schemes was

undertaken at the governmental and departmental level pursuant to official policy decisions. Therefore, at this stage, the precise status of the petitioners as daily wage employees is not the sole determining factor. Rather, the core issue requiring consideration is whether, after utilizing their services for several years and after transfer of the schemes along with human resources under the approved policy framework, the respondents could legally abandon or ignore the petitioners without adopting a lawful, fair, and transparent mechanism. Such action, prima facie, offends the principles of fairness, legitimate expectation, and good governance expected from public functionaries.

15. Though being public functionaries, the respondents are under a constitutional and legal obligation to act fairly, reasonably, transparently, and in accordance with law. It is a settled principle that no individual should be made to suffer on account of unlawful acts, omissions, arbitrariness, or administrative lapses attributable to public authorities. The august **Supreme Court of Pakistan in Sunni Ittehad Council v. Election Commission of Pakistan PLD 2025 Supreme Court 67**, has authoritatively held that no person should suffer or be prejudiced due to an unlawful act or omission of public functionaries, and where any person suffers loss of a right or benefit because of such unlawful act or omission, he is entitled, on the principles of justice and fairness, to be restored to the same position, as far as possible, in which he would have been had such illegality or omission not occurred.

16. The **Honourable Federal Constitutional Court of Pakistan, in C.P.L.A. No.2470-L of 2017**, has observed that the exercise of powers by public authorities is circumscribed not only by the constitutional mandate contained in Article 4 of the Constitution of the Islamic Republic of Pakistan, 1973, which guarantees that every citizen shall be dealt with in accordance with law, but also by the statutory requirement embodied in Section 24-A of the General Clauses Act,

1897. The said provision mandates that where any authority is vested with the power to make a decision, issue directions, or take action, such power must be exercised reasonably, fairly, justly, and in furtherance of the object and purpose of the enactment. The relevant paragraph reads as under:-

*7. It is a settled proposition of law that the exercise of powers by public authorities is circumscribed not only by the constitutional mandate contained in Article 4 of the Constitution of the Islamic Republic of Pakistan, 1973, which ensures that every citizen shall be dealt in accordance with law, but also by the statutory requirement embodied in Section 24-A of the General Clauses Act, 1897. The said provision obligates that where any authority is conferred with the power to make a decision, issue directions, or take action, such power must be exercised reasonably, fairly, justly, and for the advancement of the purposes of the enactment. By now the legal position is that public authorities must act strictly within the bounds of law and in a fair and reasonable manner. Pakistan Broadcasters Association and others v. Pakistan Electronic Media Regulatory Authority and others PLD 2016 SC692 (Per Maqbool Baqar, J) ad-rem. It is further well-established that the right to be treated in accordance with law encompasses the principles of due process and natural justice, which require that no adverse action affecting the rights of a person be taken without affording a fair opportunity of hearing. Tahira Begum and others v. Federation of Pakistan 2025 SCMR 1887 (Per Muhammad Ali Mazhar, J) ad-rem. The public functionaries are duty-bound to perform their functions in good faith and within the limits prescribed by law so as to ensure equal and fair treatment. Province of Punjab through Chief Secretary versus Qasim Mehmood and others 2025 SCMR 14 (Per Muhammad Ali Mazhar, J) ad-rem.*

17. Applying the aforesaid principle to the present case, prima facie, the respondents were under an obligation to address and determine the status of the petitioners lawfully and transparently instead of leaving them in a state of uncertainty despite continuous utilization of their services on the transferred schemes.

18. In view of the foregoing facts and circumstances, Respondent No. 4, Sukkur Municipal Corporation, is directed to adhere to and implement the policy/framework approved by the Chief Secretary, Government of Sindh, particularly in terms of the notification referred to hereinabove, and to consider and accept the joining of the

Petitioners and thereafter adjust them against the transferred water supply and drainage schemes, in accordance with law.

19. So far as the question of regularization of the Petitioners, as well as financial liabilities in the shape of arrears and salaries, is concerned, the same shall be examined and decided by a Committee to be constituted by the competent authority, the Chief Secretary, Government of Sindh, comprising representatives from the Public Health Engineering Department, the Local Government Department, and such other members as may be deemed appropriate.

20. These petitions stand disposed of in the above terms. Order accordingly.

*J U D G E*

*J U D G E*