

THE HIGH COURT OF SINDH BENCH AT SUKKUR

Const. Petition No.D – 1417 of 2025

[Rehmatullah and another v. Province of Sindh and others]

Applicant by : Mr. Shabbir Ali Bozdar, Advocate

Respondents by : Mr. Haseebullah Lakho, Advocate and Syed
Israr Ali Shah, Assistant Advocate General

Date of Hearing : 29.09.2026

Date of Decision : 29.09.2026

ORDER

ARBAB ALI HAKRO, J.—Through this petition under Article 199 of the Constitution, the petitioners, both Secretaries (BPS-11) of the Sindh Councils Unified Grades (hereinafter referred to as ‘SCUG’) serving in District Ghotki, have called in question the order No.SLGB/SCUG/ AO(U.A)/GEN/2025/1593 dated 15.08.2025 (hereinafter referred to as ‘the impugned order’) issued by the Director-II, Sindh Local Government Board (hereinafter referred to as ‘the Board’), whereby respondent No.5, Secretary, Union Council No.11 Labana, was allowed to hold additional charge of Union Council No.20 Jamal in place of petitioner No.1, who was transferred and posted as Secretary, Union Council No.19 Muhammad Khan Ghoto and was further allowed additional charge of Union Council No.17 Muhammadpur on relieving one Zahid Hussain Kalhoro of that charge. Both arrangements are expressed to operate with immediate effect till further orders.

2. Petitioner No.1 was posted as Secretary, Union Council Jamal, by the Board’s order dated 02.11.2022 and was allowed additional charge of Union Council No.19 Muhammad Khan Ghoto by order dated 04.07.2024. Petitioner No.2 claims to be the Secretary of Union Council No.17 Muhammadpur and in support, has placed on record the pay bill of that council for July 2025, pre-audited by the Local Fund Audit, in which he appears as Secretary. The petitioners’ case is that Union Council No.19 is a closed and non-functional council with neither budget nor bank account, so that the posting of petitioner No.1 there is a posting in name only; that Zahid Hussain Kalhoro was never posted at Union Council No.17, so that his purported relief was a device to

displace petitioner No.2 and that the conferment of charge of three councils on respondent No.5, without any reason recorded, is arbitrary and made to accommodate a favourite. Reliance is placed on the notification of the Election Commission of Pakistan dated 12.08.2022, notifying the returned candidates of District Ghotki, in which the nineteenth council of the district is described as “Kacho Bindi” and the twentieth as “Jamal”. Operation of the impugned order was suspended by this Court on 20.08.2025 and the petitioners have since continued at their previous stations.

3. The Secretary of the Board (respondent No.1) has filed para-wise comments dated 27.10.2025. The Board’s position is that the transfer and posting of SCUG employees are matters of the terms and conditions of their service, lie within the administrative discretion of the competent authority, and confer no vested right to any particular station; that petitioner No.1 was transferred to a council of which he was already holding charge; and that petitioner No.2 was transferred from Union Council No.21 Ali Mahar and posted at Union Council No.14 Khadwari by order dated 18.09.2024, was allowed additional charge of Union Council No.45 Matar Kot by order dated 23.01.2025, was never posted at Union Council No.17, and has misrepresented his posting to remain at a station of his choice. The Board has also referred to a show cause notice issued to petitioner No.2 on 26.09.2017, the withholding of his two increments by order dated 24.01.2018, and a complaint of forgery of an order purportedly issued by Union Council Khadwari on 13.02.2025, reported by the successor Secretary on 22.09.2025 and referred to the Anti-Corruption Establishment on 25.09.2025. The Director, Local Fund Audit (respondent No.3), and the Regional Director, Local Government, Sukkur (respondent No.4), disclaim any role in the matter. Respondent No.5 states that he neither sought nor could confer the additional charges upon himself, that he is bound to obey the orders of his superiors, and that the petitioners themselves hold charge of more than one council.

4. Learned counsel for the petitioners contended that a transfer to a council that does not exist or does not function is no transfer in law; that the impugned order records no reason and was passed solely to accommodate respondent No.5; that the multiplication of additional charges on one officer

offends the principles laid down by the Supreme Court for rule-based postings; and that petitioner No.2, who was drawing his salary from Union Council No.17, could not be ousted by relieving a person who was never there.

5. Learned Assistant Advocate General and learned counsel for respondent No. 5 contended that section 121(5) of the Sindh Local Government Act, 2013 (hereinafter referred to as ‘the Act of 2013’) expressly empowers the Government to transfer a member of SCUG from one council to another; that neither petitioner has any legal right to a particular council; that the arrangement was made in the exigencies of service; and that, on the Board’s own record, petitioner No. 2 was not posted at Muhammadpur at all.

6. The petition raises the following points: (i) whether a petition under Article 199 by members of SCUG against an order of transfer is maintainable; (ii) within what limits such an order is open to judicial review; (iii) whether the transfer of petitioner No.1 is shown to be without lawful authority, in breach of any statutory provision or rule, or mala fide; (iv) whether the posting against Union Council No.19 and the conferment of multiple additional charges on respondent No.5 furnish an independent ground for interference; (v) whether petitioner No.2 is a person aggrieved by the impugned order; and (vi) what order should follow.

7. Section 121(1) of the Act of 2013 constitutes SCUG as a service comprising such posts in councils as may be specified; section 121(3) continues the Sindh Councils Unified Grades Service Rules, 1982 (hereinafter referred to as ‘**the Rules of 1982**’) save in so far as they are inconsistent with the Act and section 121(5) provides that “Government may transfer a person belonging to the Sindh Councils Unified Grades from one Council to another Council”. Members of the service are employees of councils and not civil servants within the meaning of the Sindh Civil Servants Act, 1973. In dealing with persons inducted into SCUG, the Supreme Court described them as non-civil servants and held that the Rules of 1982 regulate the terms and conditions of employees appointed thereunder.¹ This Court has held that an employee of a council governed by the Rules of 1982 is outside the pale of

¹ Ali Azhar Khan Baloch v. Province of Sindh 2015 SCMR 456, para 121

the Sindh Service Tribunals Act, 1973 and of Article 212(2), and that his relationship with the employer, being regulated by statutory rules, is not one of master and servant.² Petitions by members of SCUG against transfer orders of the Board have accordingly been entertained and decided on their merits, including by this Bench.³ The bar of Article 212, which the Supreme Court has reaffirmed to be complete in respect of the transfer and posting of civil servants even where mala fides or want of jurisdiction is alleged,⁴ is therefore not attracted; no notification bringing employees of councils within the jurisdiction of the Sindh Service Tribunal has been shown to us and the official respondents have not pressed the point. The petition is maintainable. That, however, settles only the forum. It does not enlarge the ground on which this Court may interfere with an order of transfer.

8. The principles are settled. Drawing inferences from section 10 of the Civil Servants Act, 1973, the Supreme Court held that it is within the competence of the authorities to transfer an employee from one place or post to another to meet the exigencies of service or administration, provided his terms and conditions of service are not adversely affected; that he has no vested right to claim posting or transfer to any particular place of his choice, nor any right to continue to hold a particular post at a particular place; and that his transfer and posting are limited to the given tenure or at the pleasure of the competent authority.⁵ A three-member Bench of the Supreme Court, following that decision, went on to hold that the question whether a posting or transfer made by the competent authority was in the public interest “is not open to judicial review by a tribunal or court” and that such decisions “must not be subjected to judicial scrutiny unless a law has been clearly violated or mala fide and malice is established without the need for making an inquiry”.⁶ The desire to be posted to a particular post is “a desire simpliciter” which “cannot be equated to that of legal right”.⁷ The proposition that “the employee has no vested right to claim any particular post or transfer to any specific

² Ghulam Sarwar v. Municipal Corporation PLD 1993 Karachi 415

³ Fazal Ahmed Samtio v. Province of Sindh 2010 PLC (C.S.) 215; Gul Shair Jalbani v. Province of Sindh 2025 PLC (C.S.) 1192

⁴ Muhammad Hassanullah v. Chief Secretary, Government of Balochistan 2025 SCMR 134; Peer Muhammad v. Government of Balochistan 2007 SCMR 54

⁵ Fida Hussain Shah v. Government of Sindh 2017 SCMR 798, para 16

⁶ Dr. Muhammad Saleem v. Government of Balochistan 2023 SCMR 2119, para 5

⁷ Peer Muhammad (n.4 above), paras 3 and 4

station or post” has been reiterated by the Supreme Court as recently as this year.⁸ These principles rest on the nature of the power of posting and not on the forum in which it is questioned; this Court has applied them, without qualification, to members of SCUG. In *Gul Shair Jalbani*, a Town Officer of the same service transferred by the Board and replaced by an officer holding additional charge was refused relief because counsel “failed to point out any illegality or malice in the impugned order”, it being held that transfer orders “can only be challenged if shown to be issued for extraneous reasons or in breach of statutory rules”.⁹ The protection which the law extends is limited to two situations: where a tenure has been prescribed by law or rules, in which case it “must be respected and cannot be varied, except for compelling reasons, which should be recorded in writing and are judicially reviewable” and where a transfer is shown to have been made at the instance of political figures for reasons foreign to the exigencies of service, in which case it is not legally sustainable.¹⁰

9. On these principles, the transfer of petitioner No.1 discloses no ground for interference. The impugned order was issued by the Board, the same office which posted him at Jamal in 2022 and gave him charge of Union Council No.19 in 2024 and whose competence he has not questioned. Section 121(5) of the Act of 2013 provides express statutory authority for a transfer from one council to another. The transfer is within the same district, in the same grade, and to a post whose charge the petitioner was already holding; no loss of pay, seniority or status is pleaded. Neither the Act of 2013 nor the Rules of 1982, so far as they were brought to our notice, prescribe a tenure for the Secretary of a Union Council and no transfer policy of the Board or of Government has been placed on record. Even by the three-year norm noticed in *Zahid Akhtar*, petitioner No.1 had, by August 2025, completed nearly three years at Jamal. The allegation that respondent No.5 is a favourite is a bare assertion: no letter, recommendation, or endorsement of the kind that revealed the political hand in *Zahid Akhtar* is on record, and mala fides cannot be inferred from the mere fact that another officer has been

⁸ Naheeda Aziz v. Chief Secretary, Government of the Punjab 2026 SCP 156, para 10

⁹ Gul Shair Jalbani (n.3 above), paras 9, 11 and 15

¹⁰ Syed Mahmood Akhtar Naqvi v. Federation of Pakistan PLD 2013 SC 195, paras 16 and 22; Zahid Akhtar v. Government of Punjab PLD 1995 SC 530

accommodated. An order of transfer, unlike an order of penalty, need not record reasons where no tenure or rule so requires. The complaint that the petitioners were transferred “without any reasons” thus reduces itself to a preference for the existing station, which is precisely the claim this Court declined to entertain in Gul Shair Jalbani, observing that a prayer to be allowed to continue at the previous post reveals a desire to retain a posting rather than to correct an illegality and that the judicial forum cannot be used to legitimize attempts to secure postings of choice.¹¹ Prayer (c) of the present petition, which seeks suspension of the impugned order so that the petitioners continue where they are, is to the same effect.

10. The point about Union Council No.19 has more substance than the rest, but not enough to carry the petition. The Election Commission’s notification shows the nineteenth council of the district as “Kacho Bindi,” and a Secretary can be posted only against a post borne on the Schedule of Establishment of a council under section 123 of the Act of 2013. But the Board’s record, which petitioner No.1 himself accepted without demur, treats Union Council No.19 Muhammad Khan Ghoto as a council with a post of Secretary, the charge of which was given to him in July 2024 in place of an officer transferred out of it. Whether that council exists as a functioning body, whether it has a sanctioned post, budget and bank account and whether the numbering in the departmental orders simply predates the current delimitation are questions of fact on which the parties are at issue and on which the record is silent. A controversy of that kind cannot be resolved in the constitutional jurisdiction.¹² What this Court can do is to require the Board to verify the position and, if the council or the post does not exist, to post petitioner No.1 against an existing vacancy. It cannot, on this material, hold the transfer void.

11. The grievance about the three charges held by respondent No.5 fails for a different reason. An arrangement under which one Secretary looks after other councils “till further orders” is by its nature a stop-gap, to be brought to an end by regular postings, and the law does not countenance its

¹¹ Gul Shair Jalbani (n.3 above), para 12

¹² Noorullah Abro v. Province of Sindh 2018 PLC (C.S.) N 98

perpetuation; the Supreme Court has required that decision-making in relation to tenure, postings and transfers remain rule-based and “not susceptible to arbitrariness or absolute and unfettered discretion”.¹³ However, the petitioners are not persons whose legal right is invaded by that arrangement. Petitioner No.1 has himself held two councils since July 2024 and petitioner No.2, on the Board’s account, holds Khadwari and Matar Kot; neither can approbate the practice when it favours him and reprobate it when it does not. A person who has no right to a post cannot complain that another holds it in addition to his own. Prayer (a), which seeks a declaration that the conferment of the additional charges on respondent No.5 is void, is therefore not one which the petitioners can maintain, although the state of affairs it discloses is a fit subject for a direction to the Board to regularise postings in the district.

12. The impugned order does not transfer petitioner No.2 at all. Its second part relieves Zahid Hussain Kalhoro of an additional charge and confers it on respondent No.5. Petitioner No.2’s grievance is that he, not Zahid Hussain, was the Secretary at Muhammadpur, so that the order in substance vacates his post. To make that good, he must show a lawful posting at Union Council No.17. He has produced no posting order; the pay bill on which he relies is a document prepared and signed by himself, and the Board’s order dated 18.09.2024 posting him at Khadwari has neither been challenged nor explained. Against that stands the Board’s own order dated 23.01.2025, which describes him as “Secretary (BPS-11/SCUG) Union Council Muhammadpur District Ghotki” and for which the Board has offered no explanation either, while its letter of 25.09.2025 to the Anti-Corruption Establishment is endorsed to him as “then Secretary Union Council No.14 Khadwari”. On this state of the record we cannot, without an inquiry, find where petitioner No.2 stood lawfully posted on 15.08.2025, and a finding that requires an inquiry is one this Court should not make in these proceedings.¹⁴ If the Board is right, the impugned order does not touch him, and he is not a person aggrieved by it. If he is right, his remedy is to have the Board determine his place of posting on its own record, not to have the order set aside.

¹³ Syed Mahmood Akhtar Naqvi (n.10 above), para 23

¹⁴ Dr. Muhammad Saleem (n.6 above), para 5

13. The disciplinary history and the anti-corruption reference relied upon by the Board call for restraint. The show cause notice of 2017 and the withholding of increments in 2018 are old and closed matters; the reference of 25.09.2025 post-dates the petition, concerns a document said to have been produced by a third person, and has resulted in no finding. None of this can be invoked to justify the order passed on 15.08.2025, and we have not taken it into account against petitioner No.2. Equally, it cannot assist him. It confirms only that his standing at Muhammadpur is contested and that the contest belongs, in the first instance, to the department.

14. The petitioners have failed to show that the impugned order was passed without lawful authority, in breach of any statutory provision or rule, or mala fide. The challenge to the impugned order therefore fails, and the interim order dated 20.08.2025 is recalled, leaving the Board free to give effect to the impugned order. The matter does not, however, end there. The record placed before us by the Board itself discloses that the two statutory conditions on which its own power rests, namely that a transfer under section 121(5) of the Act of 2013 must be from one council to another council and that a Secretary can be posted only against a post borne on the Schedule of Establishment of a council under section 123, have not been shown to be satisfied in respect of Union Council No.19, and that the Board holds two irreconcilable versions of the place of posting of petitioner No.2. Under Article 199(1)(a)(i) of the Constitution, this Court may direct a person performing functions in connection with the affairs of the Province to do anything he is required by law to do, and that power is not exhausted by the refusal of the principal relief; the Supreme Court has itself declined relief on the merits while requiring the department to decide the question of posting fairly and in accordance with law. We therefore direct that (i) the Board shall, within thirty days, verify from its record whether Union Council No.19 Muhammad Khan Ghoto is an existing council with a sanctioned post of Secretary within the meaning of sections 121(5) and 123 of the Act of 2013, and if it is not, shall post petitioner No.1 against an existing vacancy in District Ghotki in accordance with law, and (ii) the Board shall, within the same period and after affording petitioner No.2 an opportunity of hearing, determine by a speaking order, on its own record, his lawful place of posting as on 15.08.2025 and

post him accordingly. We further observe that an arrangement by which one Secretary holds charge of several councils is a stop-gap measure by its very nature, and we expect the Board to bring the additional-charge arrangements in District Ghotki, including those held by respondent No.5, to an end by regular postings within a reasonable time. Subject to the above, the petition stands **disposed of**. Pending applications, if any, also stand disposed of. There shall be no order as to costs.

J U D G E

J U D G E

Naveed Ali