

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI  
**C.P No. D-6221 of 2021**

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DATE                      ORDER WITH SIGNATURE(S) OF JUDGE(S)  
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**Fresh Case:**

1. For order on Misc No.26367/2021:
2. For order on office objection No.04 & 18.
3. For order on Misc No.26368/2021.
4. For order on Misc No.26369/2021.
5. For hearing of main case.

**15.10.2021**

Mr. R.B. Qureshi, advocate for the petitioner.

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- 1) Urgency granted.
  - 2) To be complied with within 07 days.
  - 3) Granted subject to all just exceptions.
- 4&5) Petitioner is a Civil Servant and Cadre Officer has called in question his transfer and posting orders vide notifications dated 12.10.2021 and 13.10.2021, inter-alia, on the ground that his case explicitly falls within the ambit of the decision of Hon'ble Supreme Court rendered in the case of Mehmood Akhtar Naqvi v. Federation of Pakistan and others (PLD 2013 SC 1), which has binding effect under Article 189 of the Constitution of Islamic Republic of Pakistan, 1973. Per learned counsel the Hon'ble Supreme Court vide order dated 16.06.2021 assigned task to the petitioner in respect of Anti Encroachment Drive within the precincts of Karachi Development Authority (KDA) in C.P No. 09 of 2010. However, the respondent-department in violation of the law laid down by the Hon'ble Supreme Court and in total defiance of the directives of the Hon'ble Supreme Court in C.P No.9 / 2010 has made an abortive attempt by transferring his services by placing the junior-most officer on the post of Director General BS-20 Karachi Development Authority vide impugned notifications discussed supra. At this stage, we confronted him with section 10 of the Sindh Civil Service Act 1973, whereby a Civil Servant can be transferred and posted in the Province of Sindh. Learned counsel in reply to the query has submitted that the tenure of the officer has been protected in the Aneeta Turab case (PLD 2013 SC 195), thus no exception could be taken to that effect. We again asked him that transfer and posting fall within the ambit of terms and conditions of Civil Servant, he emphasized that the case of the petitioner is based on political victimization as well as within the ambit of term of frequent transfer. Learned counsel in support of his contention has relied upon the order dated 07.10.2021 passed by this Court in C.P No.D-4434/2020 and argued that the Civil / Public Servant is not entitled to hold the higher post, on OPS, however, subject to all just exceptions as provided under the law; that since

in the present case a junior officer has been posted on the higher post, therefore, impugned notifications need to be suspended.

To ascertain as to whether the case of the petitioner falls within the ambit of frequent transfer as dilated upon by the Hon'ble Supreme Court in the case of Ms. Aneeta Turab reported as (PLD 2013 SC 195) or otherwise, notice be issued to the respondents as well as AAG for 21.10.2021. In the meanwhile, if the petitioner has not relinquished his charge his posting shall not be disturbed.

JUDGE

JUDGE

Shahzad Soomro