

IN THE HIGH COURT OF SINDH, AT KARACHI

Before:

Mr. Justice Salahuddin Panhwar

Mr. Justice Adnan-ul-Karim Memon

C.P No. D- 5455 of 2021

Innayatullah

Petitioner

through : Mr. Liaqat Ali Khaskheli, advocate.

Respondents

through : Nemo.

Date of hearing

& order : 13.09.2021

ORDER

ADNAN-UL-KARIM MEMON, J. The petitioner has filed this petition under Article 199 of the Constitution, wherein he has challenged the notification dated 02.09.2021, in respect of his posting and transfer order as Principal (BS-20) National AGRO Technical Training Centre Hyderabad on the ground, *inter alia*, that the impugned notification was issued to post him under the junior officer. Per learned counsel, the impugned notification is based on political victimization, even though respondent No.3 is junior to him in all respect.

2. We have heard learned counsel for the petitioner on the maintainability of the instant petition and perused the material available on record.

3. We are of the view that Article 212 of the Constitution ousts the jurisdiction of this Court in respect of the matters about terms and conditions of Civil Servants. The ouster clause under Article 212 of the Constitution is a Constitutional command, which restricts the jurisdiction of this Court under Article 199 of the Constitution on the subject which squarely falls within the exclusive domain of the Sindh Service Tribunal (SST). The expression "terms and conditions" includes transfer and posting. Admittedly, the Petitioner is a Civil Servant and his case falls within the ambit of Section 3 (2) of the Sindh Service Tribunals Act, 1973 which says that Tribunal shall have exclusive jurisdiction in respect of matters relating to the terms and conditions of service of Civil Servants as under Section 4 of the

Service Tribunal Act a Civil Servant has a right to file an appeal against the impugned order adversely affecting his terms and condition of service, before the learned SST subject to the qualification provided under the law.

4. In principle, a Civil Servant cannot insist on transfer to a particular location and it is for the Government to shift the employee based on the requirement. *Prima facie*, we do not see any infringement of the right of the Petitioner, which could be called in question by way of Writ Petition, in terms of Section 10 of the Sindh Civil Servant Act, 1973. On the aforesaid proposition, our view is supported by the decision of the Hon'ble Supreme Court of Pakistan in the case of *Khan Muhammad v. Chief Secretary, Government of Balochistan Quetta and others*, **2018 SCMR 1411**.

5. Considering the case of the Petitioner in the above perspective, we find no merit in the instant petition, which is dismissed in limine. However, Petitioner may seek appropriate remedy as provided under the law.

JUDGE

JUDGE

Nadir*