

IN THE HIGH COURT OF SINDH AT KARACHI

CP No.D-1839 of 2022

Date	Order with signature of Judge(s)
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**Present: *Mr. Justice Muhammad Junaid Ghaffar*
*Mr. Justice Agha Faisal***

Petitioner: Sikandar Ali Mallah
Through Mr. Nehal Khan Lashari, Advocate

Respondents: Province of Sindh & another
Through Mr. Abdul Jalil Zubedi, Additional Advocate
General Sindh

1. *For hearing of CMA No. 8369/2022.*
2. *For hearing of Main case*

Date of hearing: 01.12.2022

Date of Order: 01.12.2022

ORDER

Muhammad Junaid Ghaffar, J: Through this petition the petitioner has impugned his transfer order dated 17.03.2022 on the ground that it is illegal and unlawful; hence, liable to be set aside. Learned Counsel for the petitioner submits that the petitioner is being continuously transferred from time to time, which according to him, is against the law as well as rules, and therefore, the impugned transfer order, whereby the petitioner has been once again transferred is liable to be set aside.

2. On the other hand, learned Additional Advocate General has referred to comments and submits that firstly it is not a vested right of the petitioner/civil servant to seek posting of his choice as in terms of Section 10 of the Civil Servants Act, 1973 (“Act”) he can be posted at any place. Secondly, per learned AAG, the petitioner is involved in misconduct and has referred to Order dated 10.9.2021, whereby, he was directed to report to Sindh Local Government Board; hence, no case is made out.

3. Heard learned counsel for the petitioner and learned AAG and perused the record.

4. Perusal of the record reflects that pursuant to impugned order, the Petitioner was transferred and directed to report to Sindh Local Government Board on 17.03.2022, whereas, prior to this he was posted as Superintendent Engineer, District Municipal Corporation (Central) vide order dated 11.11.2021. How this transfer was managed is not clear as prior to this just two months back he was surrendered by the Administrator District Municipal Corporation, Korangi on charges of misconduct and was

directed to report to the Sindh Local Government Board. How he was once again posted to the field department despite allegations of misconduct is a question which has remained unanswered from the Petitioners side. For the present purposes, the impugned order dated 17.03.2022 has cancelled his last posting / transfer order dated 11.11.2021, whereby, he was posted once again at District Municipal Corporation (Central). The facts and circumstances of the case and the orders placed on record does not establish that the Petitioner is being transferred for any personal grudge; rather the same are dependent on the conduct of the Petitioner itself; hence, the argument that he is being frequently transferred without any justification is meritless.

5. The petitioner is a member of Sindh Council Unified Grade Service and Sindh Local Government Board and is required to follow the terms, conditions and rules of service, whereas, Rule 14 of the SCUG Service Rules provides that all matters not expressly provided for in these rules, shall be governed by such general rules as are applicable to Civil Servants. Section 4 of the Act provides that every civil servant shall hold office during the pleasure of the Government, whereas, Section 10¹ of the Act, reflects that every Civil Servant shall be liable to serve anywhere within or outside the Province to any post under Government, Federal Government, or any Provincial Government or local authority, as the case may be. There isn't any concept of a vested right in posting of a Civil Servant who can be posted anywhere and cannot demand or seek posting or transfer at a place of his choice. Moreover, the case of the petitioner does not fall in any exception to the said provisions of law and therefore on this ground no case is made out.

6. In view of such position, no case of indulgence is made out; hence, by means of a short order in the earlier part of the day this petition was dismissed and these are the reasons thereof.

JUDGE

JUDGE

Ayaz P.S.

¹ **“10. Posting and transfers.** ---Every Civil Servant shall be liable to serve anywhere within or outside the Province to any post under Government, Federal Government, or any Provincial Government or local authority, or corporation or body set up or established by any such Government.

Provided that nothing contained in this section shall apply to a Civil Servant recruited specifically to serve in a particular area or region:

Provided further, that, where a Civil Servant is required to serve in a post outside his service or cadre, his terms and conditions of service as to his pay shall not be less favourable than those to which he would have been entitled if he had not been so required to serve.”