

IN THE HIGH COURT OF SINDH AT KARACHI

CP No.D-5186 of 2022

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

Petitioner: Muhammad Altaf Hussain Shaikh
Through Syed Samiullah Shah, Advocate

Respondent: Mr. Ali Safdar Depar
Assistant Advocate General Sindh

1. *For orders on office objection No.18*
2. *For hearing of C.M.A. No.22150/2022*
3. *For hearing of Main case*

Date of hearing: 13.10.2022

Date of Order: 13.10.2022

ORDER

Muhammad Junaid Ghaffar, J: Through this petition the petitioner has impugned his transfer order dated 26.08.2022 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 Assistant 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 gross misconduct and corrupt practices, whereas inquiry is pending against him, therefore, he was directed to report to Local Government office for further proceedings; hence, no case is made out.

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

4. As to the argument that the petitioner is being frequently transferred from one place to the other, we have time and again confronted the petitioner’s counsel to refer to such orders, however, he was unable to do so. As per record, he was posted on 11.03.2022 as Chief Accounts Officer, Municipal Corporation, Mirpurkhas and though as contended, he may have been transferred to other places; however, for the present

purposes, the impugned order dated 26.08.2022 has cancelled his last posting / transfer order dated 18.08.2022, whereby, he was posted once again at Municipal Corporation Mirpurkhas. 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.

5. On perusal of comments, it further reflects that the petitioner who is working as Chief Accounts Officer, is allegedly involved in misconduct and corrupt practices as well as misappropriation of funds and also remains absent from duties, which causes great inconvenience to the general public visiting the accounts office of Municipal Corporation Mirpurkhas. It has been further stated that an enquiry is being conducted as well. This conduct of the petitioner, for the present purposes, alone is a ground not to exercise any discretion in favour of the petitioner.

6. In view of such position, this petition appears to be misconceived and therefore the same was dismissed by means of a short order in the earlier part of the day and these are the reasons thereof.

JUDGE

JUDGE

Khuhro/PA

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.”