

ORDER SHEET

**IN THE HIGH COURT OF SINDH BENCH AT SUKKUR**

**C. P. No. D – 1388 of 2023**

Date of hearing	Order with signature of Judge
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Present:

**Mr. Muhammad Iqbal Kalhoro, J.**

**Mr. Arbab Ali Hakro, J.**

**Fresh case**

1. For orders on office objection at Flag-A
2. For orders on CMA No.5849/2023 (Ex./A)
3. For orders on CMA No.5850/2023 (Stay/A)
4. For hearing of main case

**03.10.2023**

Mr. Qurban Ali Malano, Advocate for petitioner.

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**Muhammad Iqbal Kalhoro, J. –** On the last date of hearing, following order was passed:

“Petitioner, a civil servant, is Senior Medical Officer (BPS-19), working in the Health department is aggrieved by a Notification dated 11.09.2023, whereby he has been transferred and directed to report to the Health Department with immediate effect. His case is that since May, 2023 in the span of four months, he has been quadruply transferred, which is against his fundamental rights and the law set up by the Supreme Court and the ban imposed by the Election Commission. However, we have reservations over maintainability of this petition before this Court in the light of Article 212 of the Constitution, as the transfer and posting is the part of job/service and can be challenged before the Service Tribunal.”

2. We have heard learned Counsel on the issue of maintainability in the light of above observations. He has relied upon case of Syed Mehmood Akhtar Naqvi and others versus

*Federation of Pakistan and others* (2013 SCMR 1) and an interim order passed by this Court at Karachi in **C. P. No. D-4227 of 2023**, suspending operation of a notification dated 30.08.2023, placing the petitioner in that petition under suspension, to establish maintainability of this petition.

3. The facts and issues in the cited case law are entirely different to the facts and issues agitated in this petition, and mainly relate to the proceedings faced by civil servants in the context of impeding elections. As to the order passed in C. P. No. D-4227 of 2023, it is interim in nature and is largely based on consideration qua suspension of the civil servants on the basis of an enquiry in which no final order was stated to have been passed.

4. In the present matter, however, the order, final in nature, transferring the petitioner, who is a civil servant, has been passed. The transfer and posting of a civil servant is undisputedly part of terms and conditions of his service and, therefore, bar under Sub-Article (2) of Article 212 of the Constitution of Islamic Republic of Pakistan, 1973, is expressly attracted to the jurisdiction of this Court. Hence, this petition, being not maintainable, on the facts and circumstances, as above, is **dismissed in limine** along with listed applications.

J U D G E

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Abdul Basit