

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

SUIT NO.2121/2023

Date

Order with signature of Judge

11.01.2024

Malik Altaf Hussain advocate for plaintiff

Mr. Altaf Ahmed Sehar, Assistant Attorney General

Mr. Mehram Khan, AAG

.....

Through this suit plaintiff has prayed that:-

- i) A declaration that the plaintiff's elected tenure is protected under section 17(2) of the Act 2019
- ii) Consequently and otherwise, a declaration that the impugned notification is illegal, unlawful and ultra vires the Act 2019 and Election Act 2017.
- iii) Permanent injunction suspending operation of the impugned notification.
- iv) A permanent injunction restraining the defendants including persons acting under them, through them and or on their behalf, from interfering with, obstructing and or hindering the plaintiff's discharge of duties
- v) Grant all other relief(s) as may be deemed permissible, appropriate and just in the given circumstances
- vi) Grand costs of proceedings.

2. At the outset learned counsel for plaintiff while referring sub-section 2 of section 17 of the Police Act 2019 contends that plaintiff being SSP was posted in District Matiari, that is official tenure post and by impugned notification he alongwith other officers has been transferred to other districts, that is against the law. Further he has referred section 42 of the Specific Relief Act as well as section 9 of CPC and Article 190 of the Constitution of Pakistan while

referring the case of Khawaja Muhammad Asif reported in 2013 SCMR 120.

3. Learned Assistant Attorney General and learned Assistant Advocate General contend that by way of notifications in different districts various officers have been transferred with the permission of the Election Commission hence issue of ban will not come in way of such transfers and postings. Besides, they have referred article 212 of the Constitution of Pakistan 1973 which bars the jurisdiction of this Court.

4. Since there is no cavil in the proposition of law that this court can invoke article 190 of the Constitution of Pakistan if matter is decided and require execution hence law enunciated by the apex court as referred is not applicable as the case of plaintiff is *in-personam* hence that judgment is not applicable in present case. Moreover suit is barred under article 212 of the Constitution of Pakistan 1973 and plaintiff being civil servant cannot challenge the transfer order hence suit is dismissed.

J U D G E