

ORDER SHEET

HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

C.P No. D-21 of 2025

[Muhammad Usman vs. Province of Sindh and others]

DATE: ORDER WITH SIGNATURE(S) OF JUDGE(S)

20.3.2025

Mr. Meer Ahmed Mangrio, Advocate for the Petitioner
Mr. Muhammad Ismail Bhutto, Addl. Advocate General Sindh.

Mr. Ayaz Ahmed, Additional Director (Training) on behalf of
respondent No.3.

Mr. Mohsin Ali Soomro, Additional Director, Agriculture
Extension, Jamshoro.

Arbab Ali Hakro, J. Through the present petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 (“**the Constitution**”), the Petitioner seeks the cancellation/suspension of Notification No. SO(A-III)(SGA&CD)01/01/2024 (AGRI-04), dated 16th December 2024 (“**impugned Notification**”), issued by the Section Officer (A-III), Government of Sindh, Services, General Administration and Coordination Department. By way of the aforementioned Notification, the Petitioner, serving as Additional Director (BS-19), Agriculture Extension, District Jamshoro, has been transferred and posted as Senior Chemist (BS-19), Pesticide Testing Laboratory, Agriculture Extension, Rohri, Sukkur.

2. Having heard the arguments of the learned counsel for the Petitioner as well as the learned Additional Advocate General Sindh at length and upon perusal of the material available on record, it appears that the Petitioner, through the present petition, has raised grievances regarding the impugned transfer notification. The Petitioner claims that he conducted a raid along with other staff members at the Kisan Agro

Services Factory located in SITE area Nooriabad and discovered that the factory was being operated illegally by one Nazim Shahzad Malik, without a license, with the assistance of agricultural office staff member Bashir Pirzado and Director of Plant Protection Shankar Lal. Following the raid, the Petitioner disclosed these facts to his superior, Mohsin Ali Soomro, who allegedly directed him not to disclose the matter further, warning that disclosing such facts could jeopardize the Petitioner's employment. Nonetheless, the Petitioner lodged an FIR regarding the incident, which subsequently led to the withdrawal of his powers. The Petitioner contends that he was transferred through the impugned Notification upon raising his voice against such actions. Furthermore, during arguments, the learned counsel for the Petitioner has also invoked the Wedlock Policy as a ground of challenge, arguing that the Petitioner's wife, Mst. Sarwari Bano, currently serving as a PST at Government Girls Primary School, Jamshoro Colony, would be adversely affected by the transfer. It is contended that the Petitioner's posting to Rohri, Sukkur, violates the Wedlock Policy, which is designed to facilitate the posting of spouses at the same station.

3. The primary issue in the present matter revolves around the maintainability of the petition filed by the Petitioner. Admittedly, the Petitioner is a Government/Civil Servant, as defined under the Sindh Civil Servants Act, 1973 "**the Act of 1973**"). The question of maintainability is pivotal, as it touches upon the jurisdictional competence of this Court to entertain the matter in light of the Constitution, statutory provisions, and judicial pronouncements.

4. Under Section 10 of the Act of 1973, every civil servant is expressly obligated to serve anywhere within or outside the Province in any post under the Government, the Federal Government, any Provincial Government, or local authorities and corporations established by such Government. This provision underscores the competent authority's discretionary authority to regulate civil servants'

postings and transfers as part of their service obligations. It is evident from the language of Section 10 that postings and transfers fall squarely within the scope of the "**terms and conditions of service**" of a civil servant, as envisaged under the Act of 1973. The impugned Notification through which the Petitioner has been transferred and posted must, therefore, be examined in light of this statutory framework. There is no allegation of mala fide or violation of any specific statutory rule governing the transfer process, except for the claim that the transfer violates the Wedlock Policy, which will be addressed later. In the absence of mala fide or infringement of statutory provisions, the transfer remains an administrative matter, falling exclusively within the domain of the competent authority.

5. Article 212 of the Constitution is a constitutional provision that plays a decisive role in determining the maintainability of the present petition. Article 212 begins with a non-obstante clause, which establishes its overriding effect over other constitutional provisions and allows one or more administrative courts or tribunals to exclusively exercise jurisdiction in matters concerning the terms and conditions of civil servants. Sub-Article (2) of Article 212 further reinforces this exclusivity by explicitly barring any court other than an administrative court or tribunal from granting injunctions, issuing orders, or entertaining proceedings in matters within the jurisdiction of such administrative forums. The language of the Constitution is clear and categorical in declaring that administrative courts and tribunals are vested with exclusive jurisdiction in service matters. The constitutional scheme under Article 212 aims to provide specialized forums for resolving disputes arising from the terms and conditions of service of civil servants, including matters pertaining to postings, transfers, promotions, and disciplinary actions. This exclusivity is intended to ensure the expeditious and efficient resolution of service-related disputes by specialized forums well-versed in service laws and practices.

6. The Supreme Court of Pakistan has consistently upheld the bar under Article 212 and emphasized the exclusive jurisdiction of service tribunals in matters connected with the terms and conditions of service. In the case of **Asadullah Rashid**¹, the Supreme Court held that a constitutional petition under Article 199 of the Constitution is not maintainable by a civil servant in respect of any matter related to the terms and conditions of service, as such matters fall within the jurisdiction of the Service Tribunal. Similarly, in the case of **Peer Muhammad**², the Supreme Court categorically affirmed that the issue of postings and transfers relates to the terms and conditions of service and falls within the exclusive jurisdiction of the Service Tribunal. The Court observed that entertaining constitutional petitions in such matters would negate the constitutional mandate of Article 212 and undermine the legislative intent behind the establishment of specialized administrative forums.

7. In the case at hand, the Petitioner's grievance pertains to his transfer through the impugned Notification, which is directly connected with his terms and conditions of service. The law laid down by the Supreme Court of Pakistan leaves no room for doubt that such matters fall exclusively within the jurisdiction of the Service Tribunal, and this Court is barred from entertaining the present petition.

8. During arguments, the learned counsel for the Petitioner raised an additional ground of violation of the Wedlock Policy, contending that the Petitioner's wife is serving as a Primary School Teacher (PST) at Government Girls Primary School, Jamshoro Colony and that the Petitioner's posting to Rohri, Sukkur, is in violation of the policy designed to facilitate the posting of spouses at the same station. While the Wedlock Policy aims to promote the welfare of married couples serving as government employees, it must be noted that such policies are administrative in nature and do not override statutory provisions or

¹ *Asadullah Rashid vs. Haji Muhammad Muneer & others* (1998 SCMR 2129)

² *Peer Muhammad vs. Government of Balochistan* (2007 SCMR 54)

constitutional mandates. The competent authority retains the discretion to consider such policies while making decisions on postings and transfers, but the enforcement of such policies does not confer a legal right upon civil servants to challenge their transfer orders through constitutional petitions.

9. In the absence of any allegation of mala fide or violation of statutory rules, the Petitioner's claim based on the Wedlock Policy does not alter the legal position regarding the maintainability of the petition. The appropriate forum to address such grievances remains the Service Tribunal, which is vested with exclusive jurisdiction under Article 212.

10. In view of the above discussion, it is evident that the impugned Notification through which the Petitioner has been transferred and posted falls within the scope of the terms and conditions of service of a civil servant. Accordingly, the instant petition is devoid of merit and is therefore **dismissed** along with pending application. The Petitioner is advised to avail the appropriate remedy before the Service Tribunal, as provided under the law.

JUDGE

JUDGE

Irfan Ali