

**IN HIGH COURT OF SINDH, CIRCUIT COURT  
HYDERABAD**

**C.P. No.D-491 of 2026**

[Mehmood Chandio v. Federation of Pakistan and others]

Before:

Mr. Justice Adnan Iqbal Chaudhry

Mr. Justice Riazat Ali Sahar

Mr. Ali Nawaz Chandio advocate for petitioner.

Mr. Ghulam Abbas Sangi, Assistant Attorney General for Pakistan.

Mr. Muhammad Ismail Bhutto, Additional Advocate General Sindh.

Date of hearing and order: 21.04.2026.

**ORDER**

**RIAZAT ALI SAHAR, J.** - Through this constitutional petition, the petitioner has sought the following reliefs:-

- a) *To pass order for setting aside the undue/unjust notice/transfer order vide No.940-E/21/BCS/07/P-1, issued on Dated 23.02.2026.*
- b) *To pass order for retaining/restore the notice/order vide No.941-E/21/Booking/P-1 as the duration/time period of the transfer is not yet been completed by the petitioner and so also the post at Kotri Railway station is not vacant.*
- c) *To direct the respondents to issue notices/orders in accordance with rules and regulations of the Pakistan Railways.*
- d) *Costs of the petition may be saddled upon the respondents.*
- e) *Any other relief(s) which this Honourable court deems fit, just and proper in favour of the petitioner.*

**2.** The background of the case is that the petitioner was appointed in Pakistan Railways on 02.06.1990 as Junior Commercial Assistant (JCA/B) and through continuous service marked by diligence and satisfactory performance, he was subsequently promoted to the post of Commercial Supervisor

(CSR/B/HDR). Initially posted at Kotri, the petitioner was transferred to Hyderabad vide notification dated 05.06.2025 issued by respondent No.2 (Divisional Superintendent Pakistan Railway Karachi), where he joined and performed his duties regularly. However, vide subsequent transfer order dated 23.02.2026, the petitioner was again transferred from Hyderabad to Kotri as Commercial Supervisor (Booking), despite the said post allegedly being already occupied by respondent No.5 (Muhammad Ejaz Ali), who had not been transferred. The petitioner stated that such transfer has been effected within a short span, contrary to the applicable policy requiring a minimum tenure of three years and without the availability of a vacant post. He further stated that upon reporting at Kotri, the petitioner found respondent No.5 continuing on the same post, thereby rendering his transfer arbitrary and without lawful justification. The impugned action is stated to have caused mental distress and inconvenience to the petitioner and is alleged to be violative of his fundamental rights guaranteed under the Constitution. Aggrieved by the said actions, the petitioner has invoked the constitutional jurisdiction of this Honourable Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973.

**3.** Subject to maintainability, notice of this petition was issued to the respondents as well as learned Additional Advocate General Sindh and D.A.G. The learned counsel for the petitioner was also directed to assist the Court with the service rules applicable to the petitioner as railway employee.

**4.** Learned counsel for the petitioner contends that the impugned transfer order dated 23.02.2026 is arbitrary, *mala fide* and without lawful authority, as the petitioner has been transferred within a short span of about eight months, in violation of the settled policy requiring a minimum tenure of three years. He contends that the petitioner has been posted against a non-vacant post at Kotri, where respondent No.5 is already performing duties, rendering the transfer order illogical

and unworkable. He further contends that such abrupt displacement has caused serious prejudice and mental distress and amounts to colourable exercise of authority. learned counsel lastly contends that the impugned action infringes the petitioner's fundamental rights and is liable to be set aside in exercise of constitutional jurisdiction.

**5.** Learned Assistant Attorney General opposes the petition and contends that transfer/posting is an incidence of service and lies within the exclusive domain of the competent authority, in which ordinarily no interference is warranted. He contends that no *mala fide*, illegality or violation of any statutory provision has been established by the petitioner. The learned A.A.G. further contends that administrative exigencies necessitated the transfer and the petitioner cannot claim posting at a particular place as a matter of right. Learned A.A.G., Sindh raises a preliminary objection with regard to maintainability and contends that the petitioner, being an employee of Pakistan Railways, is a federal government servant, and thus any service dispute falls within the exclusive jurisdiction of the Federal Service Tribunal under Article 212 of the Constitution. He further contends that the instant petition under Article 199 is not maintainable before this Court, as the petitioner has an adequate alternate remedy before the Federal Service Tribunal. He, therefore, prays for dismissal of the petition.

**6.** Learned A.A.G. Sindh supports the contentions advanced by learned A.A.G. for Pakistan.

**7.** After hearing the learned counsel for the parties and examining the available record, it appears that the core controversy revolves around the legality of the petitioner's transfer and the maintainability of the present constitutional petition. At the outset, it is an established principle of service jurisprudence that transfer and posting are incidents of service, primarily falling within the administrative discretion of

the employer and ordinarily do not call for judicial interference unless tainted with *mala fide*, arbitrariness or patent illegality. The petitioner has mainly assailed the impugned transfer on the grounds of short tenure and alleged non-availability of a vacant post; however, such considerations, in the absence of strong evidence of *mala fide* or violation of a statutory rule, do not by themselves warrant interference by this Court in constitutional jurisdiction.

**8.** More importantly, the preliminary objection raised by the learned A.A.G. goes to the root of the matter. The petitioner is admittedly an employee of Pakistan Railways, which is a Federal Department and persons serving therein are generally treated as civil servants. Under Article 212 of the Constitution of the Islamic Republic of Pakistan, 1973, the jurisdiction to adjudicate upon service matters of such employees vests exclusively in the Federal Service Tribunal. The consistent practice and service jurisprudence further reinforce that employees of Pakistan Railways seek redress of their service grievances, including matters of transfer, promotion and seniority, before the Federal Service Tribunal after availing departmental remedies. In this context, the Honourable Supreme Court of Pakistan in 2024 SCMR 1852 has reiterated the importance of adherence to the proper statutory forum and the principle that legal remedies must be pursued within the framework provided by law. Although the cited case pertains to labour matters, the basic doctrine that disputes relating to terms and conditions of service must be adjudicated by the competent forum established under the law remains fully applicable. The constitutional scheme clearly bars the jurisdiction of this Court in service matters where an adequate alternate remedy exists before a service tribunal. It is relevant to mention that the petitioner is working under the Federal Government in Pakistan Railways. Employees in the department may broadly be categorized based on the nature of their duties. As per section 2 (b) of the Civil Servants Act, 1973

those falling within the definition of “**workman**” as defined in the Factories Act, 1934, or the Workman’s Compensation Act, 1923, are excluded from the definition of Civil Servant and seek redressal of their grievances before the National Industrial Relations Commission (NIRC). However, employees not falling within the definition of “workman” and hold a civil post in connection with the affairs of the Federation are Civil Servants and cannot invoke the jurisdiction of NIRC. Therefore, employees of Pakistan Railway who are not workman, are civil servants.

**9.** For what has been discussed above, we are of the considered opinion that the instant petition is not maintainable before this Court in view of the constitutional and statutory bar contained in Article 212 of the Constitution of Islamic Republic of Pakistan, 1973. The proper course available to the petitioner is to approach the appropriate forum, i.e., the Federal Service Tribunal, after exhausting the departmental remedies, if so advised. Consequently, instant constitutional petition is **dismissed** on the ground of non-maintainability along with pending application.

**JUDGE**

**JUDGE**

**\*Abdullahchanna/PS\***