

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

C.P. No.D-2038 of 2026

[Zafran V. Federation of Pakistan and others]

Date	Order with signature of Judge(s)
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Before:

Mr. Justice Adnan-ul-Karim Memon

Mr. Justice Zulfiqar Ali Sangi

Date of hearing and Order: 13.05.2026

M/s Muhammad Nadeem Qureshi and Asghar Ali, Advocates for the Petitioner.

Mr. Shah Hussain, Assistant Attorney General.

Mr. Ali Raza, Sqn. Ldr., PAF.

ORDER

Adnan-ul-Karim Memon, J. – The petitioner, Zafran, has filed this constitutional petition under Article 199 of the Constitution seeking a declaration that the impugned transfer/posting order dated 21.01.2026 was/is illegal, void, and without lawful authority. He also sought restoration of his original posting, release of withheld salary, and a declaration that his forcible eviction from official accommodation was unlawful.

2. Learned counsel for the petitioner submitted that the petitioner is a permanent civilian employee of the Pakistan Air Force, who was initially selected through Air Headquarters, Peshawar, against a regular vacancy in the year 2004. He contended that a show-cause notice dated 12.12.2025 was issued to the petitioner, to which a detailed reply was submitted through the proper channel. However, without considering the said reply and without assigning any lawful justification, the respondents issued the impugned posting/transfer order dated 21.01.2026 on so-called administrative grounds. It was further argued that being aggrieved by the impugned order, the petitioner submitted various representations before the competent authorities seeking cancellation of the transfer order and also requested temporary retention of official accommodation. Despite such requests, the petitioner and his family were forcibly evicted from the official accommodation on 03.02.2026 without any prior notice and in violation of the principles of natural justice. Learned counsel further submitted that the respondents also stopped the salary of the petitioner from February 2026 without issuance of any notice, disciplinary proceedings, or lawful authority, causing severe financial hardship and mental agony to the petitioner, who is the sole

breadwinner of his family. Learned counsel maintained that the impugned actions of the respondents were arbitrary, mala fide, unlawful, and violative of Articles 4, 9, and 18 of the Constitution, as no proper opportunity of hearing was afforded to the petitioner before his transfer, stoppage of salary, and eviction from official accommodation. He contended that the respondents failed to follow due process and service rules, leaving the petitioner with no other adequate remedy except to invoke the constitutional jurisdiction of this Court. Accordingly, he prayed that the impugned transfer/posting order be declared illegal and set aside, the petitioner be restored to his original place of posting, his withheld salary be released, and the respondents be restrained from taking coercive action against him and his family.

3. Learned Assistant Attorney General, assisted by Mr. Ali Raza, Squadron Leader, PAF, opposed the petition and submitted that the same is not maintainable before this Court in view of the provisions of the Service Tribunals Act, 1973, as all matters relating to terms and conditions of service, including disciplinary proceedings, fall within the exclusive jurisdiction of the Service Tribunal. He contended that the constitutional jurisdiction of this Court was therefore barred in the present matter. On merits, he submitted that the petitioner was appointed in PAF as Lower Division Clerk in the year 2004 and was liable to be posted anywhere in accordance with service exigencies. He argued that while serving at PAF Base Faisal, the petitioner was found involved in running a private jewelry business, which was in clear violation of the Government Servants (Conduct) Rules, 1964. Consequently, disciplinary proceedings were initiated against him under the Civil Servants (Efficiency & Discipline) Rules, 2020, by issuance of a show cause notice dated 12.12.2025. The petitioner was also afforded an opportunity of personal hearing and, in his written reply, admitted that the shop was registered in his name. He further submitted that after considering the petitioner's reply and his conduct, the competent authority transferred him to PAF Base Shahbaz, Jacobabad, on administrative grounds. However, instead of reporting at the new place of posting, the petitioner absented himself from duty without leave with effect from 16.02.2026, whereafter further disciplinary proceedings were initiated against him through the issuance of a charge-sheet and statement of allegations dated 27.04.2026. It was also argued that the petitioner's request for retention of official accommodation was duly considered at the appropriate level, but could not be accepted due to the long waiting list for accommodation of PAF civilian employees. Learned counsel denied all allegations of mala fide, illegality, and violation of fundamental rights, maintaining that the petitioner had been dealt with strictly in accordance with law and applicable service rules. He therefore prayed that the petition, being not maintainable and devoid of merit, be dismissed with costs.

4. During the proceedings, learned counsel for the petitioner, when confronted regarding maintainability of the petition under Article 199(3) of the Constitution, submitted that although the petitioner was associated with the department concerned, he was a civilian employee and entitled to protection under Articles 4 and 10-A of the Constitution. He further agreed that the matter could be disposed of with directions to the department to conclude disciplinary proceedings after providing due opportunity of hearing and defence, while ensuring that the petitioner's salary was not withheld in the meantime. He further submitted that, meanwhile, the proceedings have culminated into its logical conclusion, he may not be disturbed from the present posting.

5. The learned Assistant Attorney General, however, considering the settled law laid down by the Supreme Court that mere initiation of disciplinary proceedings does not constitute a final order amenable to the Tribunal's jurisdiction, if this is the position of the case, the petitioner could only avail the remedy before the Service Tribunal once final order is passed by the competent authority, which is not the case at hand for the time being.

6. So far as the issue of stoppage of salary of the petitioner is concerned, it is an admitted position that no final order of dismissal, removal, compulsory retirement, or reduction in rank has yet been passed against the petitioner under the Civil Servants (Efficiency & Discipline) Rules, 2020. Mere pendency of disciplinary proceedings does not automatically deprive a civil servant of his salary and other service benefits unless such action is supported by lawful authority. Under the settled principle embodied in Fundamental Rule 17, pay and allowances are admissible for the period during which a government servant discharges duties of his post, whereas in cases of absence from duty or suspension, the competent authority is required to pass a specific order regulating the period and determining entitlement to pay, leave, salary, or subsistence allowance in accordance with law.

7. In the present case, the respondents have taken the stance that the petitioner failed to report at his transferred place of posting and remained absent from duty with effect from 16.02.2026. If that be so, the respondents were legally required to proceed strictly in accordance with the applicable service rules by passing an appropriate order regarding unauthorized absence and regulation of pay and allowances. However, salary cannot be withheld indefinitely or arbitrarily without a lawful determination by the competent authority. Any action affecting the livelihood of a civil servant must satisfy the requirements of due process contemplated under Articles 4 and 10-A of the Constitution. Therefore, while the respondents are competent to regulate the salary of the petitioner in accordance with the outcome of disciplinary proceedings and the law governing unauthorized absence from duty, such exercise must be undertaken through a reasoned and

lawful order. Until the culmination of disciplinary proceedings, the matter of the petitioner's salary and admissibility of pay for the relevant period shall be decided strictly in accordance with the relevant service rules and after affording the petitioner an opportunity of hearing. However, it is made clear that if any adverse order is passed, the petitioner may have a remedy under the law to avail before a competent forum.

8. Consequently, without touching the merits of the case, this petition is disposed of with the understanding that the respondents will conclude the disciplinary proceedings, if any, strictly in accordance with law, after affording the petitioner an opportunity of meaningful hearing/including regular inquiry proceedings. All pending applications are also disposed of.

JUDGE

JUDGE

Shafi