

HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

C.P. No.D-1018 of 2026

[Muhammad Shabbir Ahmed vs. The Province of Sindh and others]

Before:

JUSTICE ADNAN-UL-KARIM MEMON

JUSTICE MUHAMMAD JAFFER RAZA

Petitioner:	Through M/s. Barrister Jawad Ahmed Qureshi & Osama Yousuf, Advocate
Respondents No.4&5	Through Mr. Muhammad Nawaz Baloch, Advocate
Respondents 1 to 3, 6&7	Through Mr. Rafique Ahmed Dahri, Add. A.G
Date of hearing	20.10.2026
Date of Decision	20.10.2026

O R D E R

ADNAN-UL-KARIM MEMON J:- The petitioner seeks declaration that the impugned order is without lawful authority, void ab initio and liable to be set-aside along with all consequential actions, recognition of his substantive affiliation with SDA, restraint against coercive action and imposition of exemplary costs.

2. The petitioner submits that he is a permanent and regularized employee of the Sehwan Development Authority (SDA), presently serving as Director Planning and Development Control (BPS-19), with approximately two years remaining before superannuation. His services were regularized as Assistant Director Planning (BPS-17) vide order dated 30.08.2003, and he has continuously served in the SDA, drawing his salary from its funds. He was subsequently promoted to BPS-19 vide notification dated 16.04.2025, implemented on 09.12.2025.

3. Learned counsel for the petitioner contends that the respondents previously attempted to repatriate him to Taluka Municipal Administration Kotri and revert him to BPS-17 through orders dated 24/25.01.2023, which he challenged in C.P. No. D-196/2023. During the pendency of that petition, the respondents withdrew both orders through notifications dated 01.07.2024 and 03.07.2024, whereupon he withdrew his petition, which was disposed of on 04.09.2025. The petitioner asserts that the matter of his parent department had thus attained finality and constituted a past and closed transaction. He challenges the impugned order dated 02.04.2026, received on 21.04.2026, whereby he was again directed to join Taluka Municipal Administration Kotri, contending that it was issued without lawful authority, jurisdiction, notice, inquiry or opportunity of hearing. According to him, the Director General, SDA, lacks competence to transfer or repatriate a BPS-19 officer without approval of the competent

authority, while the designation of “Deputy Secretary, SDA”, under which the order was signed, is neither a sanctioned post nor vested with delegated powers. He further asserts that TMA Kotri has no sanctioned post corresponding to his substantive position and that his entire service, salary, service record and promotion establish his affiliation with the SDA. The counsel alleges that the impugned order violates the principles of locus poenitentiae, promissory estoppel, legitimate expectation and audi alteram partem, as well as Articles 4, 10-A and 27 of the Constitution. He further alleges mala fide, contending that the action is intended to remove him from his position amid the SDA's financial and administrative developments and to harass him at the verge of retirement, thereby jeopardizing his terminal and pensionary benefits. Accordingly, the petitioner has filed this petition with above prayer.

4. Learned A.A.G. submits that the petitioner was initially appointed by TMA Kotri on daily-wage basis from 16.07.2002 to 31.12.2002, and his services were subsequently regularized as Assistant Director Planning, Grade-Nil, with effect from 01.09.2003. It is contended that the petitioner's promotion to BPS-18 vide order dated 04.06.2009 was purely temporary and subject to confirmation by the Departmental Promotion Committee (DPC), which was never constituted. He added that the said promotion was granted by the then Director General, Sehwan Development Authority (SDA), who is the petitioner's real brother. Consequently, the petitioner's claim to BPS-19 is disputed, particularly as the departmental pay record reflects him as a BPS-17 employee. Learned A.A.G further submits that, in compliance with the judgment of Honourable Supreme Court dated 12.06.2013 in Criminal Original Petition No.89/2011, the petitioner was reverted to BPS-17 and directed to report to the Local Government Department for repatriation to his parent department, TMA Kotri, vide notification dated 25.01.2023. The subsequent notification dated 01.07.2024, issued in relation to the petitioner's repatriation, and withdrawal of C.P. D-196/2023 are also relied upon. It is maintained that the petitioner's promotion and claim to BPS-19 are without lawful confirmation and contrary to the applicable service rules. It is further submitted that, following the order dated 25.11.2025 passed in C.P. D-1391/2024, concerning the rationalization and adjustment of surplus employees, and the Cabinet Committee minutes dated 23.05.2026, the services of 370 SDA employees were placed in surplus pool for further adjustment. Accordingly, respondents 4 and 5 issued notification dated 02.04.2026 repatriating the petitioner to his parent department, TMA Kotri, as a BPS-17 employee. Learned A.A.G. also refers to the petitioner's alleged involvement in ACE FIR No.3/2007, Kotri, and submits that the impugned action was taken in accordance with law. He, therefore, prays that the constitutional petition be dismissed.

5. We have heard learned counsel for the petitioner and learned A.A.G. and have perused the available record.

6. The controversy primarily concerns the petitioner's entitlement to BPS-19, and the legality of impugned order dated 02.04.2026 directing him to report to his parent

department i.e. TMA Kotri. The record reflects that the petitioner was initially engaged by TMA Kotri on daily-wage basis and was subsequently regularized as Assistant Director Planning with effect from 01.09.2003. While the petitioner relies upon his continuous service with SDA and subsequent promotion, the respondents dispute the validity of his promotions, particularly to BPS-19, on the ground that the requisite confirmation by the competent authority/DPC was not obtained. These disputed questions cannot be resolved merely on the basis of the petitioner's salary record or length of service.

7. We have noticed that the earlier repatriation and reversion orders were withdrawn during pendency of C.P. No. D-196/2023. However, withdrawal of those orders, followed by disposal of the petition, does not by itself conclusively determine the petitioner's substantive lien or confer upon him an indefeasible right to remain posted in the SDA, unless such determination is borne out by the relevant service rules and the terms of the withdrawal orders. Similarly, the respondents' reliance upon the rationalization of surplus employees and the Cabinet Committee's decision must be examined in the context of the applicable statutory framework, the petitioner's service status, and the competence of the authority issuing the impugned order.

8. The impugned order is based merely on the assertion that the petitioner belongs to TMA Kotri, and the same cannot be invalidated solely on the basis of his continued service with the SDA. The respondents must demonstrate that the order was issued by the competent authority, in accordance with the applicable rules, and after lawful determination of the petitioner's substantive status. The allegation concerning the petitioner's involvement in an ACE case, by itself, cannot validate an incompetent or unlawful administrative order.

9. Without touching the merits of the case, the petition is disposed of with direction to the competent authority to examine and decide the petitioner's substantive service status, parent department, and entitlement to the claimed promotion in accordance with the applicable rules and the relevant record, through a reasoned order after affording him an opportunity of hearing. Until such determination, no coercive action shall be taken against the petitioner solely on the basis of impugned order dated 02.04.2026. The competent authority shall complete this exercise within eight weeks from receipt of this order. The question of the petitioner's entitlement to BPS-19 and consequential benefits shall remain open for determination in accordance with law by the competent authority. No order as to costs.

JUDGE

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