

Judgment Sheet

**IN THE LAHORE HIGH COURT LAHORE
JUDICIAL DEPARTMENT
W.P. No.15304 of 2022**

Muhammad Imran Vs. The Federation of Pakistan etc.

JUDGMENT

Date of hearing	03.12.2024
Petitioner by	Mr. Javaid Anwar Janjua, Advocate
Respondents No. 3 to 5 by	Mr. Muhammad Iqbal Bhatti, Advocate
Respondents No.1 and 2	Ms. Deebe Tasnim Anwar, Assistant Attorney General for Pakistan alongwith Muhammad Irfan, Assistant Director, on behalf of respondents No.1 and 2.

ABID AZIZ SHEIKH, J. Through this constitutional petition, the petitioner has challenged his transfer order dated 05.03.2022 (**impugned order**), whereby in compliance of the direction of the Ministry of Industries and Production, Government of Pakistan (**Ministry**) letters dated 17.02.2022 and 04.03.2022, the petitioner has been transferred from the post of Deputy Director (Marketing) BPS-18 Lahore to PITAC Regional Centre (R.C.), Quetta and posted as Regional Manager/Incharge R.C., with immediate effect.

2. Learned counsel for the petitioner submits that the petitioner is not a civil servant but is employee of Pakistan Industrial Technical Assistance (**PITAC**) and posted as Deputy Director (Marketing) PITAC Lahore. Submits that for political

reasons, the petitioner on the direction of the Ministry has been transferred from Lahore to Quetta. Submits that under the relevant rules the Competent Authority to transfer Grade-18 and above officers in PITAC is with the Executive Committee of PITAC and Ministry has no role in the matter, therefore, the impugned order is not sustainable. In response to question of maintainability of this petition, he submits that PITAC was attached Organization of Ministry but subsequently registered under the Societies Registration Act, 1860 (**Act**) and its rules and regulations, 1962 as revised in 2014 were framed by the Federal Government, therefore, the said Rules being statutory, this constitutional petition is maintainable.

3. Learned counsel for respondents No.3 to 5 as well as learned Law Officer on behalf of remaining respondents, on the other hand, supported the impugned order and submits that the concerned Ministry is the Competent Authority to transfer the petitioner for cogent reasons as PITAC is under the administrative control of the concerned Ministry.

4. Arguments heard. Record perused. Before touching merits of the case, I would like to decide question of maintainability of this petition against PITAC. With a view to increase the productivity of industrial units in the Country and to introduce improved productive techniques and to provide an organized and nationwide programme for training managerial and technical personnel the “PITAC” which was an attached Organization of the Ministry of

Industries, was converted into an autonomous agency and registered under the Societies Registration Act, 1860 with Headquarters at Lahore vide Ministry of Industries Resolution dated 26.05.1962. The Central Government made Rules and Regulations, 1962 of PITAC which were notified on 26.05.1962 **(Rules and Regulations)**. Subsequently with approval by the Government of Pakistan, Recruitment and Promotion Rules, 2014 were promulgated to revise the Rules and Regulations of 1962. From above facts, it is manifest that PITAC is a Government owned and controlled entity and its Rules, Regulations and bye-laws, being also framed by the Central Government/Federal Government, have statutory status. In view of above, this constitutional petition for enforcement of aforesaid Rules and Regulations, against PITAC is maintainable. In this regard, reliance is placed on Bashir Ahmad etc vs. The Director General, LDA etc (2020 SCMR 471), Shafique Ahmed Khan etc vs. Nescom through Chairman Islamabad etc (PLD 2016 Supreme Court 377), Zarai Taraqati Bank etc vs. Said Rehman etc (2013 SCMR 642), Pakistan Defence Officers' Housing Authority etc vs. Lt. Col. Syed Jawaid Ahmed (2013 SCMR 1707) and Bashir Ali Shahzad vs. Bank of Punjab etc (2023 PLC (C.S.) 1059). This legal position is also not disputed by the respondents No.3 to 5 in Para “a” of their report and parawise comments

5. On merits, Appendix-1 issued under Clause 59 of the Rules and Regulations (as amended in 2014) *ibid* prescribed the nature of

power and Competent Authority to exercise the said power. Column-4 of Appendix-1 relates to the posting and transfer of the officers of PITAC. For convenience, Column-4 Appendix-1 of the Rules and Regulations is reproduced hereunder:-

Sr. No.	Ref. Of Bye Laws	Nature of Power	Authority Competent to exercise the poser	Items in respect of which power to be exercised	Remarks
4	59	Posting & Transfer	Executive Committee of PITAC	Class-I (BPS-18 to BPS-19) Technical & Non-Technical	Approved by the Executive Committee in its 50 th meeting held on 13-10-2012.
			Director General	Class-I (BPS-17) Class-II (BPS-11-16) Class-III (BPS-03 to BPS-10) Class-IV (BPS-01 to BPS-02) [Technical & Non-Technical]	

6. From above Column-4 of Appendix-I read with Clause 59 of the Rules and Regulations, it is evident that the power to transfer BPS-18 to BPS-19 Technical and Non-Technical officers of PITAC, is with the Executive Committee of PITAC and the Ministry has no jurisdiction to transfer Grade-18 officers of PITAC or to direct Assistant Director (Admn.) to transfer BS-18 officers as happened in the present case.

7. In view of above discussion, the impugned transfer order dated 05.03.2022 passed in compliance with the direction of the Ministry, vide its letters dated 17.02.2022 and 04.03.2022, is patently without jurisdiction, hence is not sustainable. Though there are allegations and counter allegations by respective parties in this Petition and in response thereto, however, as the impugned order is found to be without jurisdiction, therefore, without

discussing any other ground, this constitutional petition is **allowed** on this sole ground. Consequently the impugned transfer order dated 05.03.2022 is **set aside** being without lawful authority and of no legal effect. However, this order will not preclude the Competent Authority to pass appropriate order in respect of the petitioner in accordance with the relevant Rules and Regulations.

(Abid Aziz Sheikh)
Judge

Approved for reporting.

Judge

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