

JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT

W.P No. 972/2020

Mohib Ullah

Versus

Ministry of Education & Professional Training through its Secretary & another

Serial No. of order/ proceeding.	Date of order/ proceedings	Order with signatures of judge, and that of parties or counsel, where necessary.
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04

27.4.2020

Mr. Muhammad Akhtar Anjum, Advocate for petitioner.

Ghulam Azam Qambrani, J.: This writ petition has been filed with the following prayer;-

"It is, therefore, humbly and respectfully prayed that the instant petition may graciously be accepted and the impugned notification dated 11.03.2020 to the extent of petitioner may kindly be set aside by declaring as void ab initio, illegal, unlawful and in consequence thereof respondents may kindly be directed to allow the petitioner to continue to perform his duties at IMSB (VI-X) G-7/3-1, Islamabad or if his transfer is necessary for the exigency of the service, he may be transferred from IMSB (Vi-X) G-7/3-1, Islamabad to any other IMSB (VI-X) in Islamabad not in primary school, in the interest of justice.

It is further prayed that the operation of impugned transfer/posting notification order 11.03.2020 to the extent of petitioner may kindly be suspended till final disposal of the instant petition.

Any other relief, which this Hon'ble Court deems fit and proper in the circumstances of the case may also be awarded to the petitioner in paramount interest of justice."

2. Brief facts of the case are that the petitioner was appointed as Trained Graduate Teacher (BPS-15) on 1.09.1987. Thereafter, the petitioner was promoted as Deputy Headmaster (BPS-17) on 31.05.2004 and lastly promoted as Vice Principal (BPS-18) on 11.07.2013. The petitioner was transferred along with post from Islamabad Model College for Boys (VI-X) G-7/3-1, Islamabad to IMSB (I-V) Nilore (F.A) Islamabad (IBO185), vide impugned notification dated 11.03.2020 hence the instant writ petition.

3. Learned counsel for the petitioner contended that the impugned transfer notification of the petitioner dated 11.03.2020 is void ab initio, illegal, unlawful, arbitrary and without lawful authority and the same has been passed in violation of Article 24-A of the General Clauses Act, 1897; that the impugned notification is against the principle of natural justice, fair play and equity.

4. Arguments heard, record perused.

5. Perusal of the record reveals that the petitioner along with sixty others has been transferred. It is a settled principle of law that this Court has no jurisdiction to interfere in the policy matter of the Federal Government so far as these policy matters remain within the domain of concerned statute, rules and regulations. Question of posting of a government servant squarely falls within the jurisdictional domain of competent authority, subject to law and rules made therefor. It is also settled principle of law that where a particular statute provides a self contained mechanism and well defined forum of

redressal for the determination of question of law or fact by way of appeal or revision or representation to another tribunal or committee or authority or officer, the petitioner without exhausting the said remedy cannot be allowed to invoke the constitutional jurisdiction of this Court. In the instant case, the petitioner, without exhausting the remedy of departmental appeal before the competent authority, has filed the instant constitutional petition which is not maintainable. Reliance in this regard is placed upon case law titled as “ *Messers Associated Industries Ltd. Vs Federation of Pakistan through Secretary Economic Affairs & two others*” [2014 PTD 552], “*Peer Muhammad Vs Government of Balochistan through Chief Secretary & others*” [2007 SCMR 54] & “*Punjab Small Industries Corporation Vs Ahmad Akhtar Cheema*” [2002 PLC (C.S) 182].

6. Keeping in view the above facts and circumstances, this writ petition is not maintainable on the ground that the petitioner has not only an alternative efficacious remedy available to him, but also that the assertion of malafide alleged by the petitioner lacks essential attributes which are required under the law for the Constitutional Court to take cognizance thereof.

7. For the reasons stated above, this writ petition having no force, is **dismissed** in limine.

~~(GHULAM AZAM QAMBRANI)~~
JUDGE