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

W.P. No. 495/2025

Fahim Khan Afridi

Versus

Federation of Pakistan, etc.

Petitioner by: Mian Shafaqat Jan, Advocate.

Respondents by: Barrister Munawwar Iqbal Duggal, Addl. Attorney General.
Mr. Azmat Bashir Tarar, AAG.
Raja Saim ul Haq Satti, Legal Advisor, Establishment Division.
Jameel Ahmed, DS (Lit-II), Establishment Division.
M. Asif and M. Zubair, Section Officers, M/o Religious Affairs.

Date of Decision: 05.03.2025.

KHADIM HUSSAIN SOOMRO, J: Through this writ petition, the petitioner seeks the following relief:-

> *"By reason of the aforementioned, it is most humbly prayed that the impugned Notification No. PF(1092)/E-5(PAS), dated 04.02.2025, issued by the Respondent No.1 (the* ***"Impugned Notification"****) may kindly be declared as against the law and be set-aside.*
> *Any other relief deemed just and suitable in the circumstances of the case may also be awarded to the petitioner."*

2. The learned counsel for the petitioner submits that the petitioner, a BPS-19 officer of the Pakistan Administrative Service, applied for the post of Director General (BS-19) at the Directorate General of Hajj, Jeddah, Saudi Arabia, pursuant to an invitation for

applications by Respondent No. 2. The petitioner was subsequently selected for the said post, and a notification dated 16.03.2023 was issued, confirming the petitioner's appointment for a fixed tenure of three years, effective from the date of joining. However, unexpectedly, Respondent No. 1 issued a notification dated 04.02.2025, transferring the petitioner and directing him to report to the Establishment Division with immediate effect. The learned counsel has drawn attention to this court to Section 3.2, Clause (xi) of the ESTACODE (Edition-2021), which explicitly states that the tenure fixed for each foreign post shall be strictly adhered to and shall not be extendable. The counsel submits that the said provision implies that the tenure for which an employee is selected cannot be curtailed unless exceptional circumstances arise. Learned counsel further submits that under the compelling circumstances, the petitioner was directed to comply with the impugned order, consequently, on 11.02.2025, he has joined his service at Establishment Division. Learned counsel has relied upon the case laws 2006 PLC (CS) 325, 2024 PLC (CS) 323, PLD 2024 SC 54, 2020 CLC 1945.

3. Conversely, learned Addl. Attorney General submits that the impugned notification has been complied with as petitioner has joined his duties at Establishment Division; that there are various complaints against the petitioner with regard to facilities of Pakistani pilgrims (Hujjaj) at Madina as well as Arfat; that the

petitioner was directed to clarify his position, but he failed to give any reasonable explanation and his reply was found unsatisfactory. Consequently, the impugned notification was issued.

4. I have heard the arguments of learned counsels for the parties and meticulously perused the record with their able assistance.

5. The record reveals that the instant petition was filed on 06.02.2025 and was first presented before the Court on 07.02.2025, when notice was issued to the respondents. Subsequently, on 11.02.2025, the petitioner's counsel filed an application for an early hearing, which was granted, and the matter was listed for hearing on 12.02.2025 and on that day an interim order was passed in favour of the petitioner and the impugned notification was suspended. Astonishingly on 11-02-2025, neither the petitioner nor his counsel informed the Court about the petitioner having assumed his duties on 11.02.2025. Instead, the counsel vigorously argued for an interim order, which was ultimately granted on 12-02-2025, resulting in the suspension of the impugned notification. Now it is important to reproduce the contents of C.M No 468 filed by petitioner for early hearing.

> "That, however, if the impugned Notification is acted upon/ implemented and the petitioner is made to report back to the establishment division, the petitioner's pending writ petition become infectious and will be deprived of his right to avail the

remedy available to him under the law and the constitution of Pakistan"

6. The Learned Additional Attorney General has also submitted the petitioner's joining report, which is annexed as Annexure-III of the para-wise comments, clearly demonstrating that the petitioner joined the Establishment Division on 11.02.2025. When confronted with this joining report, the petitioner's counsel acknowledged that, due to compelling circumstances, the petitioner had indeed assumed his duties. However, the petitioner failed to inform this Court about his joining or the circumstances that necessitated it. Instead, he continued to focus solely on securing the interim order, without disclosing these material facts to the Court. Further, that this Court passed an interim order dated 12.02.2025, during which the learned counsel for the petitioner argued that the impugned notification was issued without consultation with the Prime Minister. The relevant portion of the interim order is reproduced as follows:-

> "It is tentatively observed that the selection of petitioner was made based upon the approval of Prime Minister of Pakistan. However, the contested notification fails to indicate such approval or provide justification for the directive requiring the petitioner to report to the Establishment Division.

The para-wise comments submitted by the Learned Additional Attorney General clarify that the impugned notification was issued following consultation with the Prime Minister of Pakistan.

7. The petitioner has annexed a notification dated 16.03.2023, available at page No. 8 of the court file, ostensibly to substantiate his claim that he was posted as Director General Hajj, Jeddah, Saudi Arabia, for a period of three years effective from his joining. However, the Learned Additional Attorney General has presented a notification dated 07.04.2023, which, in fact, pertains to the petitioner's actual posting, while the earlier notification (16.03.2023) merely relates to his selection. Notably, the petitioner chose to annex the notification dated 16.03.2023 instead of the one dated 07.04.2023, thereby securing an interim order based on an incorrect or improperly cited notification.

8. Securing an interim order based on incorrect facts or improperly cited documents is a serious matter in the judicial system, as it undermines the integrity of the legal process and can lead to miscarriages of justice. When a party seeks interim relief, such as a stay order or injunction, they are under a legal obligation to present all relevant facts truthfully and accurately. This duty is rooted in the principle of *uberrima fides* (utmost good faith), which requires parties to act honestly and transparently before the court. The parties must rely on accurate and relevant documents when seeking relief. Citing

incorrect or irrelevant documents to support a claim is considered a breach of the duty.

9. In English law, when a party seeks interim relief, such as an injunction or stay order, the party is under a strict duty to fully disclose all material facts. This duty is rooted in the principle of uberrima fides (utmost good faith), which requires parties to act honestly and transparently before the court. The reliance can be placed in Halsbury's Laws of England, Volume 12A (2023), Civil Procedure, para. 1657, states as under:-

> "A party applying for an interim injunction must make full and frank disclosure of all material facts known to them. Failure to do so may result in the discharge of the injunction, even if the non-disclosure was innocent or inadvertent."

10. The writ jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, is an extraordinary, equitable, discretionary, and prerogative remedy. It is invoked primarily for the enforcement of fundamental rights and to rectify instances of illegality or irregularity committed by the Executive. Given the extraordinary nature of this jurisdiction, it is imperative that a petitioner approaching this Court must do so with clean hands, presenting all relevant facts fully and transparently, without any concealment or suppression. Failure to make an honest and complete disclosure of all material facts may render the

petitioner guilty of misleading the Court, warranting the dismissal of the petition.

11. In the present case, it is a matter of fact and record that the petitioner had assumed his duties on **11.02.2025**. A careful perusal of the joining report reveals no indication of any reluctance or displeasure on the part of the petitioner regarding his assumption of duties in the Establishment Division. Moreover, the joining report, prepared and submitted by the petitioner himself, conspicuously omits any mention of the pendency of the instant petition before this Court. This lack of disclosure raises serious questions about the petitioner's candor and transparency, particularly in light of his simultaneous pursuit of interim relief from this Court while actively performing his official duties. Such conduct underscores the petitioner's failure to fully and fairly disclose all material facts, which is a fundamental requirement when invoking the Court's extraordinary writ jurisdiction.

12. While the Court has adopted a lenient approach in this instance and chosen not to take any action against the petitioner, such conduct highlights the critical importance of candor and good faith when invoking the Court's extraordinary writ jurisdiction. The writ jurisdiction, being an exceptional and discretionary remedy, demands the highest standards of honesty and transparency from those who seek its intervention. Any attempt to withhold material facts or mislead the Court not only undermines the integrity of the

judicial process but also risks eroding public confidence in the administration of justice. This case serves as a reminder that litigants must approach the Court with clean hands, fully disclosing all relevant facts to ensure the fair and equitable exercise of this extraordinary jurisdiction.

13. Having acted upon the impugned notification of transfer by formally assuming his duties, the petitioner has effectively acquiesced to the terms and conditions outlined therein. By doing so, the petitioner has rendered the subject matter of the petition moot, leaving no live controversy for adjudication. Consequently, the petition merits no further consideration and is hereby ***dismissed,*** along with all pending applications, with no order as to cost.

(KHADIM HUSSAIN SOOMRO)
JUDGE

Approved for Reporting

Zahid