



NO.SOIII(S&GAD)POL-6-III/93
GOVERNMENT OF SINDH
SERVICES, GENERAL ADMINISTRATION
AND COORDINATION DEPARTMENT

Karachi dated 08th November, 2017

To

The Secretary,
Establishment Division
Government of Pakistan,
Islamabad

SUBJECT:- **POSTING OF INSPECTOR GENERAL OF POLICE SINDH**

Sir,

I am directed to refer to the subject noted above and to state that Mr. Allah Dino Khaowaja, an Officer of Police Service of Pakistan (BS-21) was posted as Inspector General of Police (PPO) in his Own Pay & Scale by the Establishment Division, Government of Pakistan, Islamabad vide Notification dated 12.03.2016 (Flag-A).

2. Lateron, the Government of Sindh decided to surrender the services of Mr. Allah Dino Khowaja, IGP Sindh. Accordingly, the Establishment Division, Government of Pakistan, Islamabad was requested to issue posting order of any one of the following officers as Inspector General of Police Sindh, in place of Mr. Allah Dino Khowaja, an officer of PSP (BS-21) vide letter dated 31.03.2017 (Flag-B):-

- 1) Sardar Abdul Majeed
PSP (BS-21)
Additional Inspector General of Police,
Research, Development, Inspections & Enquires, Sindh.
- 2) Mr. Ghulam Qadir Thebo,
PSP (BS-21),
Chairman, Enquiries & Anti-Corruption Establishment Sindh
- Mr. Khadim Hussain Bhatti
Additional Inspector General of Police, Traffic, Sindh

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3. Subsequently, Mr. Allah Dino Khowaja, PSP (BS-21), Inspector General of Police, Sindh, Karachi was relieved from the said post and directed to report to the Establishment Division, Government of Pakistan, Islamabad. Simultaneously, Sardar Abdul Majeed, PSP (BS-21), Additional IGP / Research, Development, Inspections & Enquires, Sindh, Karachi, was allowed to hold the charge of the post of Inspector General of Police, Sindh, Karachi, in addition to his own duties, till appointment / posting of regular incumbent by the Establishment Division, Government of Pakistan, Islamabad vide this Department's Notification dated 01.04.2017 (Flag-C).

-1 (Transferred)

4. The Honourable High Court of Sindh in its Judgment dated 07.09.2017 in C.P No.D-7097 of 2016 and C.P NO.D-131 of 2017 passed orders (**Flag-D**) which inter-
alia, quashed the correspondence addressed by the Provincial Government to the
Federal Government on 31.03.2017 and the follow up notification of 01.04.2017, as
being contrary to law and no legal effect.

5. Besides, it was directed to note, inter-alia, following orders / directions:

- a) There is associated with the post of Inspector General a term or tenure as set
out in the Sindh Government Rules of Business, 1986.
- b) The term is part of the law of the land insofar as this Province is concerned. It
cannot be disregarded, disobeyed or flouted by the Provincial Government. It has
mandatory and binding effect. It must also, as explained herein above, be given
due recognition by the Federal Government.
- c) The present incumbent of the post of Inspector General, the Respondent No.7, is
therefore entitled, subject to what is said below, to have the benefit of the term
associated with the post.
- d) Since the post of Inspector General has a fixed term associated with it, the rule
laid down by the Supreme Court in the Anita Turab case is applicable. Therefore,
if at all an incumbent can be removed during the term that can only be for
compelling reasons within the meaning of the rule.
- e) If at all the Provincial Government (meaning the Provincial Cabinet) is of the
view that the continuation in office of the Respondent No.7, on account of his
having been appointed on OPS basis, is contrary to the law enunciated by the
Supreme Court in the Ghulam Fareed case, and that this constitutes a compelling
reason it must follow the proper procedure in accordance with law, as explained
in detail herein above. The role to be played in such circumstances by the
Federal Government has also been elaborated.

6. However, the Honourable High Court of Sindh in its Judgment dated
07.09.2017 passed in C.P No.D-7097 of 2016 and C.P No.D-131 of 2017 has specified
the procedure for removal / transfer of the Inspector General of Police Sindh vide para-
67 of the Judgment. The said relevant para of the Judgment is reproduced below:

"What of the situation where either the Provincial or the Federal
Government wish to remove an officer during the term of officer?. Here,
the law enunciated by the Supreme court in the Anita Turab case would
apply. The relevant portion, para-22(ii), is again reproduced for
convenience: "When the ordinary tenure for a posting has been specified
in the law or rules made thereunder, such tenure must be respected and
cannot be varied, except for compelling reasons, which should be
recorded in writing and are judicially reviewable". Thus, if the Provincial
Government (here meaning the Provincial Cabinet) seeks to surrender the
incumbent to the Federation or otherwise remove him from the post,
then the decision must be taken at a duly convened meeting of the
Cabinet, and the agenda circulated for the same, which must set out the
compelling reasons for which it is proposed to remove him. Proper notice
must be given to the incumbent Inspector General and the relevant
papers provided to him so that he can make a representation and, if he

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so desires, attend the Cabinet meeting to explain his position. If the decision is taken to remove or surrender the incumbent then the reasons for the same must be fully and duly recorded in the minutes of the meeting. The decision, along with the relevant record, must be transmitted to the Federal Government to which also the incumbent may make representations. The Federal Government must properly apply its mind to the situation. If it disagrees with the Provincial Government, namely that the stated circumstances or reasons are not compelling, then the incumbent cannot be removed or surrendered to the Federation. It is only if the Federal Government concludes that the circumstances or reasons are compelling that the incumbent can then be removed and/or surrendered to the Federation. And of course, as held by the Supreme Court, the entire exercise would be subject to judicial review. Furthermore, while the exercise is being carried out, neither the Provincial nor the Federal Government (either unilaterally or even acting together) can remove, surrender, recall or replace the incumbent, whether by way of an "interim" measure or otherwise. It must also be kept in mind that any replacement would not follow automatically at the behest or desire of the Provincial Government. This is so because once the post is vacated it must then be filled in as a collaborative effort in the manner as indicated above."

7. Accordingly, the matter was placed before the Cabinet in its meeting held on 28.10.2018 (Flag-E). The minutes of the said Cabinet meeting are attached at Flag-F.

8. The Cabinet discussed the issue in detail and it was informed that a PSP Officer (BS-22) should be posted as Inspector General of Police, Sindh as per Judgment of the Honourable Supreme Court of Pakistan and not a PSP Officer of BS-21 on Own Pay and Scale (OPS). Out of 11 the PSP officers of BS-22, only two officers i.e. Captain (Retd.) Arif Nawaz Khan who has been posted as Inspector General of Police, Punjab and Sardar Abdul Majeed who has been posted as OSD (BS-22) in Government of Sindh vide Notification dated 23.10.2017 have sufficient length of service left before retirement.

9. It is, therefore, recommended that Sardar Abdul Majeed, an Officer of PSP (BS-22) already at the disposal of Government of Sindh be posted as Inspector General of Police, Sindh.

Muhammad Riazuddin
(MUHAMMAD RIAZUDDIN)
SECRETARY (SERVICES)