

Transfer of IHC Judges Raises Concerns

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ISLAMABAD: The Ministry of Law and Justice has formally notified the transfer of three judges from the Islamabad High Court (IHC) to other high courts under Article 200 of the Constitution, following approval by the Judicial Commission of Pakistan (JCP).

According to an official notification issued on Wednesday, the president approved the transfers on the recommendation of the JCP. Justice Mohsin Akhtar Kayani has been transferred to the Lahore High Court, Justice Babar Sattar to the Peshawar High Court, and Justice Saman Rafat Imtiaz to the Sindh High Court. The decision comes shortly after the JCP, in its April 28 meeting, endorsed the transfers by a majority of its members.

Under Article 200(1) of the Constitution, the president is empowered to transfer judges between high courts upon the JCP's recommendation. Clause (2) ensures that a transferred judge retains seniority based on

their original date of appointment.

Despite the constitutional backing, the move has sparked strong criticism from legal circles, particularly in Islamabad. The Islamabad Bar Council (IBC) expressed serious concern, stating that the transfers appeared to lack transparency and raised questions about possible mala fide intent. The council emphasized the need for a structured and periodic rotation policy for judges, based on clear and uniform criteria.

The IBC warned that isolated and non-uniform transfers without defined standards could undermine public trust and judicial integrity. It called for a system free from arbitrariness and external influence.

Similarly, the Islamabad High Court Bar Association (IHCBA) acknowledged that transfers fall within constitutional provisions but stressed that such decisions must adhere to principles of transparency, uniformity, and consistency. The association urged authorities to establish a comprehensive and fair rotation mechanism to strengthen confidence in the judicial system.

The transfers also follow a recent amendment to Article 200, introduced through the 27th Constitutional Amendment, which removed the requirement for judges' consent in transfer decisions. Previously, judges had to agree before being moved to another high court. The revised provision now grants the JCP full authority to recommend transfers without requiring consent. It also states that refusal to accept a transfer could lead to proceedings under Article 209 before the Supreme Judicial Council.

Notably, the judges being transferred were among those who had previously raised serious concerns about alleged interference in judicial affairs. In March 2024, six judges, including the three now transferred, wrote to members of the Supreme Judicial Council, alleging pressure tactics by elements within the intelligence apparatus, including surveillance and coercion through family members.

These judges were also among a group that opposed, in February 2025, the potential appointment of Justice Dogar as chief justice of the IHC, arguing that the move would violate constitutional norms. Despite

their objections, Justice Dogar was appointed acting chief justice on February 13, 2025, and later took oath as chief justice on July 8, 2025.

Tensions within the IHC deepened following his appointment. Several senior judges, including those now transferred, boycotted the oath-taking ceremony. Subsequently, administrative changes within the court led to a significant restructuring of key committees, reducing the role and influence of senior judges such as Justice Kayani.

The reconstitution of the IHC Administration Committee shifted decision-making authority to the chief justice and his nominees, sidelining dissenting judges. In September last year, five senior judges filed petitions in the Supreme Court, raising concerns over bench composition, case transfers, and internal governance issues within the IHC.

The latest transfers are being viewed in the broader context of these developments, highlighting ongoing tensions within the judiciary and raising questions about transparency, judicial independence, and institutional balance.

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