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Absorption of Civil Servants and its Limitations

Concept of Absorption

Absorption in service law refers to the permanent induction of a civil servant into the service or cadre of another government department, autonomous body, or authority, usually without undergoing the normal process of recruitment. It is a mechanism mainly designed to safeguard the service rights of government employees who may otherwise become surplus due to structural or administrative changes.

Statutory Provisions in the Balochistan Civil Servants Act, 1974

The Balochistan Civil Servants Act, 1974 lays down two specific situations in which absorption is legally permissible. First, Section 5-A, introduced after the 18th Constitutional Amendment, provides for the absorption of federal civil servants belonging to devolved ministries, divisions, or attached departments who were transferred to the Province of Balochistan. Upon absorption, such employees become provincial civil servants, and the statute safeguards their terms and conditions of service, ensures their seniority is determined under provincial rules, and authorizes the creation of equivalent posts where none exist.

Second, Section 11-A addresses the case of surplus employees who are rendered redundant owing to reorganization, abolition of departments, or abolition of posts. Such surplus civil servants may be appointed either to an equivalent post in another department, provided they meet the required qualifications, or, if no equivalent post exists, to a lower post with the protection of last drawn pay. Thus, the statutory scheme under the 1974 Act permits absorption only in limited circumstances: devolution of federal institutions and redundancy of provincial posts.

Absorption under the BINUQ Act, 2015

The **Balochistan Institute of Nephrology and Urology Quetta Act, 2015** establishes BINUQ as an autonomous statutory body and expressly deals with the service matters of its employees. Section 11 is of particular importance. Sub-section (2) provides that all employees appointed under the Balochistan Civil Servants Act, 1974 for BINUQ prior to the commencement of the Act shall be deemed employees

of the Institute, continuing on the same terms and conditions. Sub-sections (3) and (4) then grant such employees an option: either to continue as civil servants under the 1974 Act or to opt for absorption into the Institute's service structure. Once the option is exercised in favor of absorption, the employee ceases to be a civil servant and becomes a permanent employee of the Institute, with seniority and service matters regulated by BINUQ's own rules.

This option, however, must be read together with sub-section (2). Only those employees who were originally appointed under the Civil Servants Act, 1974 for service in BINUQ fall within the scope of the option.

Policy Framework

The **Balochistan Civil Servants' Deputation Policy, 2012** further underscores the limited nature of absorption. Paragraph 20 of the Policy, titled "***Absorption of Deputationist***," stipulates that a proposal for absorption must originate from the borrowing department at least six months before the expiry of the deputation period. **The deputationist's written consent is mandatory, as is the concurrence of the lending (parent) department and consultation with the Services and General Administration Department. Most crucially, the deputationist must relinquish lien in the parent department before he can be confirmed in the borrowing organization.** The Policy also ensures that pensionary liability is shared, thereby safeguarding the deputationist's past service rights.

This framework establishes that even where deputationists are considered for absorption, it is possible only as an exception and after fulfilling codal requirements. Absorption cannot occur unilaterally, nor can mere continuance on deputation ripen into a right.

Judicial Authorities on Absorption

The judiciary has consistently treated absorption as an exception to the ordinary recruitment process. The Supreme Court in **Ali Azhar Khan Baloch v. Province of Sindh (2015 SCMR 456)** declared that any absorption without express statutory sanction is invalid and amounts to backdoor entry. The Court was categorical that transfer or deputation cannot be converted into absorption in the absence of law.

Similarly, in **Hamid Nasrullah Ranjha v. Chief Commissioner, ICT (2022 PLC (C.S.) 73)**, the Islamabad High Court reaffirmed that deputation is not a pathway to absorption. The Court held that only civil servants can be deputed, and even then, absorption may be considered only in circumstances of genuine exigency of service. It is not a vested right and requires the borrowing department to justify indispensability and the absence of suitable alternatives. At paragraph 14, the Court elaborated that if absorption is contemplated, a detailed procedure must be followed: the deputationist must provide written consent to terminate lien in the parent department; the lending department must concur; and the competent authority under

service law must grant final approval. This judicial approach closely harmonizes with the Deputation Policy of Balochistan, 2012, which codifies these safeguards.

Synthesis of Law

Absorption is not an independent mode of appointment; it is permissible only where the *statute expressly provides*. Under the Civil Servants Act, 1974, absorption is confined to federal employees devolved to the province under Section 5-A and surplus employees under Section 11-A. **Under the BINUQ Act, 2015, the option of absorption is granted only to those employees who were validly appointed under the Civil Servants Act, 1974 and were in service in BINUQ; Where deputationists are exceptionally absorbed, the process must conform strictly to the 2012 Policy, which requires a written option, concurrence of the parent department, termination of lien, and approval of the competent authority.** The judiciary, most notably in **Ali Azhar Khan Baloch (2015 SCMR 456)** and **Hamid Nasrullah Ranjha (2022 PLC (C.S.) 73)**, has consistently rejected irregular absorptions as illegal backdoor entries.

Conclusion

Absorption remains an exceptional statutory device in Balochistan's service law. Its primary function is to safeguard the careers of employees adversely affected by devolution, redundancy, or statutory restructuring. Under the CSA 1974, it is confined to devolved federal and surplus provincial employees, while under the BINUQ Act, 2015, *it is restricted to civil servants appointed under the CSA for service in the Institute.*