

From: **Asif Siddiq Kasbati** <asif.s.kasbati@professional-excellence.com>

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Subject: HRQC75= Married Woman be at her Husband work City per Wed Lock Policy - SHC

208+ Human Resources (including Training, Health, Precautions & Safety) Commentary – HRQC 75

I. EXECUTIVE SUMMARY

General: Mrs Sanam Soomro has been a PST (BPS-14) with the Education Department since January 30.1.17. Her husband, Mr Adnan Ayoob Soomro, is a Senior Manager at Bank Al-Habib in Hyderabad.

Initially posted in District Naushahro Feroze, Sanam Soomro was transferred to Hyderabad in accordance with the wedlock policy on December 11.12.23, to be with her husband.

Disputed Transfer: Her transfer to Hyderabad was later canceled via a notification dated 21.3.24, which recalled all transfers made due to a recruitment process. This resulted in her being transferred back to Naushahro Feroze.

Legal Arguments: The petitioner's counsel argued that the wedlock policy, established by a notification on 16.4.12, exempts civil servants from transfers if they are posted under this policy. The document cites the Government of Pakistan's wedlock/working women policy from May 13.5.98, which aims to facilitate the posting of spouses at the same station due to socio-economic problems and hardships. This policy was further reinforced by a notification on 16.4.12, explicitly exempting such postings from general transfer rules.

The SHC found that the notification canceling transfers was related to recruitment policy violations and had no relevance to transfers made under the wedlock policy. The policy framework for posting married women at their husband's place of employment is supported by Article 35 of the Constitution, which obligates the state to protect family rights.

The Supreme Court has also protected the WedLock Policy in cases like Ali Azhar Baloch Versus Province of Sindh.

SCP allowed the petition, setting aside the transfer notification dated 21.3.24, specifically for Sanam Soomro. Mrs Sanam Soomro is to be considered as never having been transferred from Hyderabad to Naushahro Feroze and will be reposted to her previous location under the DEO (Primary), Hyderabad.

I. DETAILS

A. Reference of Issues

Further to KQU 3548, **being an important matter**, we would inform you about Sanam Soomro VS Province of Sindh and others, etc - CP D-324/2025 - SHC* (Attachment 75.1) in the ensuing paragraph, in *Italic* with emphasis in **bold** & Underline, heading ours for quick reading.

B. Deliberation

Through this petition, the petitioner has sought for the following reliefs:

a) *To direct the respondent No.1 to recall the Notification No. SO(GA)/Transfer Posting/2024 dated: 21.03.2024 as illegal, unlawful, null and void in eye of law and natural justice.*

b) *To direct the respondents No.1 to 7 to act upon the wedlock policy and transfer the petitioner from her posting place to Qasimabad District Hyderabad in accordance with law.*

c) *To restrain the respondents No.1, 5, 7, 9 & 11 not pressurized the petitioner or not take any adverse action against the petitioner as she filed this petition against them in order to protect her fundamental rights.*

2. Learned Counsel submits that the petitioner has been working with the Education Department as PST (BPS-14) since 30.01.2017; however, her husband, namely Adnan Ayoob Soomro, has been working with Bank Al-Habib as Senior Manager & Area Manager at Area Office, Hala Naka, Hyderabad. The petitioner's first posting was in District Naushahro

Feroze, however, her husband was in Hyderabad; therefore, following the wedlock policy, she was placed at the disposal of DEO (Primary), Hyderabad for her further posting vide order dated 11.12.2023 (Annexure 'D-1', Page 47); hence, she joined her duty at Hyderabad vide order dated 19.12.2023 (Annexure 'D-3', Page 51).

3. However, per learned AAG Sindh, due to recruitment process, such transfers were cancelled by way of notification dated 21.03.2024 (Annexure 'F', Page 91); therefore, the petitioner's posting was also recalled and she was again transferred from Hyderabad to Naushahro Feroze.

4. Learned Counsel for the petitioner, however, contends that by virtue of notification dated 16.04.2012, the wedlock policy of the Civil Servants shall be deemed to be exempted from transfer in any manner. In support of his contention, learned Counsel has also annexed copy of captioned notification (Annexure 'D-7', Page 71).

5. It would be appropriate to reproduce the wedlock / working women policy framed by the Government of Pakistan, Cabinet Secretariat, Establishment Division through notification dated 13.5.98, which reads as under:

No. 10/30/97-R.II

Islamabad, the 13 May, 1998.

OFFICE MEMORANDUM

Subject:- POSTING OF SERVING HUSBAND / WIFE AT THE SAME STATION.

The undersigned is directed to state that Government has taken note of the socio-economic problems and hardships faced by husbands and wives in Government service due to posting at different stations of duty, and it has been decided to prescribe the following guidelines to facilitate posting of husband and wife at the same station:;

- (a) *Where a request is made for posting at a different station in the same department/service/cadre in which an employee is already serving, the request may be accepted subject to availability of a post in the same BPS.*
- (b) *If a request involves temporary deputation to another department, it may be processed in consultation with the concerned department, and may be accepted on the prescribed terms of deputation subject to availability of a post in the same BPS.*
- (c) *When a request is made for permanent transfer to/absorption in another department/agency, the request may be processed in consultation with the department concerned, subject to the condition that in the event of permanent transfer, seniority shall be determined in accordance with Rule 4 of the Civil Servants (Seniority) Rules, 1993*
- (d) *If there is a tie between two or more Government servants for posting at the same station in the same department/unit of an organization, the Government servant with greater length of service may be preferred.*
- (e) *Request for posting by a spouse facing serious medical problems may be accorded highest priority.*
- (f) *Spouses already posted at one station, including those posted on deputation beyond the prescribed maximum period, may normally not be disturbed without compelling reasons of public interest. Requests for extension of deputation period beyond the permissible limit may be considered with compassion if interests of public service would permit.*

2. *The above guide-lines are subject to the following conditions:*

- (i) *Posting of husband and wife at the same station should not be made by dislocation of any Government servant already serving at a particular station unless his transfer is necessitated by compelling reasons of public interest or within the frame work of general policy of postings and transfers.*
- (ii) *The prescribed selection authority should be consulted in each case.*

3. *All Government servants whose spouses are in Government service may be asked to furnish at the end of every calendar year the particulars of their spouses to their controlling Ministries/Divisions so as to facilitate maintenance of ICP Charts and upto-date monitoring of the situation.*

4. *The above guidelines may be circulated to the autonomous bodies under the charge of Ministries / Divisions for adoption, with such modifications, as may be considered necessary*

6. Furthermore, the Federal Government devised a policy for posting place of the unmarried women through notification dated 17.12.1999, which is as follows:

No. 10/30/97-R-2,

Islamabad, the 17th December, 1999

OFFICE MEMORANDUM

Subject:- POSTING OF UNMARRIED FEMALE GOVERNMENT SERVANTS AT THE PLACE OF RESIDENCE OF PARENTS/FAMILY.

The undersigned is directed to state that it has been brought to the notice of Government that unmarried female Government servants face socio-economic and security problems when they are posted at stations other than the place of residence of their parents/family. The Government has taken note of this difficulty and it has been decided to prescribe the following guidelines for dealing with requests of unmarried female Government servants for posting at the place of residence of their parents/family:

- (i) *Where a request is made for posting at a different station in the same department/service/cadre in which an employee is already serving, the request may be accepted subject to availability of a post in the same BPS.*
- (ii) *If a request involves temporary deputation to another department, it may be processed in consultation with the concerned department, and may be accepted on the prescribed terms of deputation subject to availability of a post in the same BPS.*
- (iii) *When a request is made for permanent transfer to absorption in another department/agency, the request may be processed in consultation with the department concerned, subject to the condition that in the event of permanent transfer, seniority shall be determined in accordance with Rule 4 of the Civil Servants (Seniority) Rules, 1993.*
- (iv) *If there is a tie between two or more Government servants for posting at the same station in the same department/unit of an organization, the Government servant with greater length of service may be preferred.*
- (v) *Request for posting by an unmarried female Government servant facing serious medical problems may be accorded highest priority.*
- (vi) *Unmarried female Government servants already posted at a station, including those posted on deputation beyond the prescribed maximum period, may normally not be disturbed without compelling reasons of public interest. Requests for extension of deputation period beyond the permissible limit may be considered with compassion if interests of public service would permit.*

2. The above guide-lines are subject to the following conditions:

- (i) *Posting of unmarried female Government servants at the station of residence of their parents/family should not be made by dislocation of any Government servant already serving at a particular station unless his transfer is necessitated by compelling reasons of public interest or within the frame work of general policy of postings and transfer.*
- (ii) *The prescribed selection authority should be consulted in each case. It has also been decided that the above guidelines shall also be followed by Autonomous / Semi-Autonomous Bodies / Corporations etc. under the control of the Federal Government.*

3. It has also been decided that the above guidelines shall also be followed by Autonomous / Semi-Autonomous Bodies / Corporations etc. under the control of the Federal Government.

7. The above policies were also followed in the subsequent notification dated 16.04.2012, which reads as under:

Islamabad, the 16th April, 2012

NOTIFICATION

S.R.O. 375, (1)/2012.--In exercise of the powers conferred by sub-section (1) of section 25 of the Civil Servants Act, 1973 (LXXI of 1973), read with Notification No. SRO 120(1)/98, dated the 27th February, 1998, the Prime Minister is pleased to direct that the following further amendment shall be made in the Civil Servants (Appointment, Promotion and Transfer) Rules, 1973, namely:-

In the aforesaid Rules, in rule 20-A after sub-rule (3) the following proviso shall be inserted and shall deem to have always been so inserted, namely:-

“Provided that posting of serving husband and wife at the same station, unmarried female government servants at the place of residence of their parents/family and that of married female government servants at the place of residence/posting of their husbands who are not in government employment shall be exempted from the said rule”.

8. The Policy framework for the posting of a married women, at the posting place of her husband in case he is under employment and the residential place of her husband in case he is not employed has the backing and was within the constitutional command. Article 35 of the Constitution obligated the organs of the state to protect the family rights of the individuals. It would be quite irrational and unreasonable to keep a female employee away from her family, it will amount to the punishment for no any offence. Therefore, it is imperative upon the executive authorities to ensure that while making transfer and posting of the female employees, they are not displaced from their ordinary place of abode. Though a Civil Servant under the provisions of Section 10 of the Sindh Civil Servants Act, 1973 was under an obligation to serve at the place where department/ government desired, but this policy which was equally applicable to the employees of province of Sindh, excluded the operation of the said provisions in posting and transfer of the female employees.\

9. We have also examined the Notification dated 21.03.2024 issued by the School Education and Literacy Department Government of Sindh, wherein the transfers and posting of the teachers with effect from 06.09.2023 till the date of notification were withdrawn as they were done in violation of clause 14 of the recruitment policy 2021. **The notification dated 21.03.2024 which prompted the Respondents to cancel the transfer of the Petitioner has got no relevancy with the wedlock policy. The notification reads as under:**

*Government of Sindh
School Education & Literacy Department
Karachi dated 21st March 2024*

Notification

No SO(GA) / Transfer / Posting / 2024: Transfer and posting / allowed to work orders issued in respect of all primary school teachers BS-14 / Junior School Teachers BS-14 w.e.f. 06.09.2023 till to date are hereby cancelled / withdrawn as these were issued in contradiction with the department notification No SO(GA)SELD(Recruit/Policy2021 Karachi dated 2nd March 2023, issued in pursuance of the clause 14, sub clause ix of Recruitment Policy 2021.

The Director School Education / District Education Officer (all) shall ensure compliance of this order.

The Director (HRMIS/IT) shall revert the biometric of transferred teachers to their previous place of posting

*Zahid Ali Abassi
Secretary to Government of Sindh*

10. The School Education Department through notification dated 25.03.2021 framed transfer and posting policy of the teachers, wherein it has been held that the posting place of the female teacher would be preferably the same that of her husband. Transfer and posting order of the Petitioner was withdrawn in the wake of the above notification, which was issued pursuant to Recruitment Policy 2021. The notification had no relevance with the transfers and postings done under wedlock policy. The Petitioner was disturbed under the blanket cover of an order which was issued to regulate the recruitment policy, thus had no bearing to the transfer order of the Petitioner.

11. In order to protect the sacred bond of the marital relations it is imperative that the married women should be posted at the place where her husband works. In the case of the Petitioner her husband was employed in a bank and posted at Hyderabad, therefore, she was rightly transferred from Nauhsehro Feroze and placed at the disposal of District Education Officer Hyderabad for further posting.

12. The Wedlock policy with regard to the transfer / posting, absorption of the married / unmarried daughters, wives, has also been protected by the Hon'ble Supreme Court in the case of Ali Azhar Baloch Versus Province of Sindh reported as 2015 SCMR 456 wherein the Honorable Supreme Court of Pakistan while dealing with the absorption issue of the married women has held as that the absorption of the married women to the posting place of her spouse was valid in terms of the wedlock policy, the para No 172 and 173 of the Judgment being relevant are reproduced for the sake of convenience.

Criminal Review Petition No.38 of 2014 (Mrs. Asma Shahid Siddiqui, in person)

172. *The petitioner, in person, submitted that she was serving in the Forest Department, Government of Punjab as Forest Ranger in BS-16 on regular basis. On 11-2-1997, her services were transferred to the Forest Department, Sindh Government, in the same grade while placing her seniority at the bottom. She was posted as Forest Officer in BS-16 in the Department with the consent of both the Provincial Governments and subsequently, she was absorbed in the Sindh Province in terms of the provisions of Sl. No.4 of the ESTA CODE which deal with the wedlock policy. Her absorption in Sindh Forest Department was made in conformity with section 24 of the Act read with Rule 9-A of the Rules of 1974. The petitioner has stated that she had been serving as District Forest Officer in the Province of Sindh for the last 17 years and she was repatriated to the Province of Punjab in compliance with the judgment under review.*

173. *In the peculiar circumstances of the case, we are of the considered view that her case is an exception to the findings recorded by us in the judgment under review as she was transferred and absorbed in terms of the provisions of ESTA CODE on the basis of wedlock policy, in the same Basic Scale and Department in Sindh, in which she was serving in the Province of Punjab since 1997. Therefore, she was wrongly de-notified. We, accordingly, direct the Chief Secretary, Sindh to immediately withdraw the notification of her repatriation and restore her posting to her original position in the Province of Sindh as if she was never repatriated. She shall be given all the salaries and perks of the intervening period. The compliance report shall be submitted by the Chief Secretary, Government of Sindh, which shall be placed for our perusal in Chambers within two weeks from the judgment.*

174. For the aforesaid reasons, the Criminal Review Petition No.38 of 2014, is allowed in the above terms.

13. The Government of Sindh has adopted the wedlock policy and spouses are being allowed to work at the same stations. By issuing impugned notification the respondents have also failed to take into consideration Wedlock Policy of the Government of the Sindh dated 25.03.2021 which requires that utmost efforts should be made to bring the spouse together at a same station in order to avoid psychological/economical strains.

14. Furthermore, impugned Notification (to the extent of Petitioner) is also violative of the Article 35 of the Constitution of Islamic Republic of Pakistan, The said principle of policy as enshrined in the Constitution, enjoins the State/respondents to protect the marriage, the family, the mother and the child to secure the well being of the people. Transfer and posting of appellants to a far off places have caused irreparable hardship for their families in establishing home and life together, thus offends the principles of policy enunciated under article 35, which is reproduced here in below:

"35 Protection of Family, etc.

The state shall protect the marriage the family, the mother and the child."

15. The impugned Notification (to the extent of Petitioner), is also negation of Article 9 of the Constitution which guarantees the right of security of persons. Word "life" occurring in Article 9 of the Constitution has been interpreted by the Hon'ble superior courts in numerous cases reported in PLD 2005 SC 193, PLD 1994 SC 693 by laying down principle that "life does not only means vegetative or animal life it would include all such rights which are necessary for leading proper and comfortable life, worthy of citizens of a free country . It includes all such amenities and facilities which a person born in a free country is entitled to enjoy with dignity, legally and constitutionally. It covers all facets of human existence.

16. We, are conscious of the fact that the transfer and postings are within the domain of the Respondents, and fall within the terms and conditions of the service. But the instant petition seeks enforcement of the fundamental rights as to family, which this court can enforce under its powers conferred under article 199 of the constitution.

17. In view of above legal position, the petitioner has successfully made out her case in terms of the prayers so made. Therefore, instant petition is hereby allowed. Consequently, the impugned transfer notification dated 21.03.2024 (Annexure 'F', Page 91) is hereby set aside to the extent of petitioner Sanam Soomro. The petitioner shall be deemed to have never been transferred from Hyderabad to Naushahro Feroze, and she will again be posted at the place along with her biometric ID, under DEO (Primary), Hyderabad, where she was earlier working.

III. FURTHER DETAILS & SERVICES

Should you require any clarification or explanations in respect of the above or otherwise, or require Income Tax, Federal & Provincial Sales Tax or Withholding Tax Statement, Advisory, Return Filing or Review services, please feel free to email Mr Amsal at amsal@kasbati.co with CC to info.kasbati@professional-excellence.com, asif.s.kasbati@professional-excellence.com.

Best regards for Here & Hereafter

Asif S Kasbati (FCA, FCMA & LLB)

Managing Partner

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