## ORDER SHEET IN THE HIGH COURT OF SINDH AT KARACHI

## CP NO.D-3386/2021

Determine Conference (Inches

Date Order with signature of Judge

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## 25.08.2021

Mr. Kamran Iqbal Bhtta advocate for petitioner.

Mr. Muhammad Asghar Malik advocate for respondent.

Mr. Muhammad Nishat Warsi, DAG

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Heard learned counsel for respective parties as well as learned DAG. Prior to filing of this petition, petitioner filed CP No.D-4003/2019 that was disposed of by judgment dated 22.04.2021. it would be conducive to refer para 5 of that judgment:-

"In view of order dated 28.08.2019 passed by the learned full bench of NIRC in appeal NO.12(176)/2019-K whereby their appeals were dismissed for no prosecution, which order is still holding the field. We are clear in our mind that this court has no jurisdiction to adjudicate upon the matter in view of the aforesaid legal position of the case. The petition is accordingly dismissed alongwith the listed application leaving the petitioners are liberty to avail their remedy before the appropriate forum in accordance with law."

- 2. Learned counsel for petitioner contends that pursuant to judgment petitioners have approached NIRC but Bench is not available therefore having no other remedy they have approached this court by filing this petition. Petitioners are seeking restraining order with regard to their transfer from Karachi to Islamabad. Learned counsel for petitioner's contends that by wedlock policy petitioners are required to serve in Karachi only and they cannot be transferred to Islamabad whereas learned counsel for PIAC has referred section 18 of the Services and Disciplinary Rules 1985.
- 3. It is pertinent to mention that services of the petitioners fall within the ambit of master and servant hence servant cannot

compel the master with regard to his posting on the plea of wedlock policy as in field but that alone shall not be a reason and terms and conditions are to be followed. Without prejudice to the issue pending before the NIRC which presently is not available, at present we are not inclined to grant relief and stay transfer of the petitioners hence petition is dismissed. However petitioners will be at liberty to agitate their issue before NIRC as and when bench is available and this order shall not be used against them.

- 4. With regard to show cause notice or enquiry proceedings by the employer, petitioners shall be at liberty to approach the forum for remedy available under the law as fresh cause of action.
- 5. At this juncture learned counsel for petitioners contends that petitioners will not pursue with regard to their transfers by the respondent (PIAC) however seek one month's time to join the duties at Islamabad as per earlier posting order. Learned counsel for PIAC contends that due to filing of this petition no action will be taken against the petitioners.

JUDGE

JUDGE