

IN THE HIGH COURT OF SINDH, KARACHI

Present:

Mr. Justice Muhammad Saleem Jessar

Mr. Justice Nisar Ahmed Bhanbhro

Const. Petition No. D-170 of 2025

*(Pakistan International Airlines Corporation Limited v. Saima Hafez Soomro and
2 others)*

Petitioner : through Mr. Khalid Mehmood Siddiqui,
Advocate

Respondent No.1 : Through M/s. Faizan Hussain Memon and
Muhammad Nasir advocates

Respondents : Through Ms. Shazia Hinhrah, Deputy Attorney
General

Date of hearing : **11.03.2026**

& Order

ORDER

NISAR AHMED BHANBHRO, J. This petition is directed against the concurrent findings of the Courts below; wherein the Grievance Petition filed by the respondent No 1 was allowed by Single Bench of the National Industrial Relations Commission Karachi (**SB-NIRC**) vide order dated 04.10.2024 and the appeal filed by the petitioner was declined vide order dated 12.12.2024 by Full Bench of NIRC (**FB-NIRC**). The dismissal from service order dated 11.06.2018 was set aside and Respondent No 1 was reinstated in service with back benefits.

2. Learned counsel for the petitioner contends that the respondent No 1 is an employee of the petitioner /PIA. In the year 2017, she was found absent from duty on a regular basis, therefore, a show cause notice was issued to her; that on failure to satisfy the charge under show cause notice, authority constituted an inquiry committee to probe into the charge; that Inquiry Officer found Respondent No 1 guilty; therefore, a major penalty of dismissal from service was imposed upon her. He contended that both

the Courts below set aside the dismissal order and reinstated the respondent No 1 in service with back benefits through a non speaking order which suffered from misreading and non reading of the evidence. He contended that the respondent No 1 had failed to justify her unauthorized absence from duty, which was a sufficient ground to award punishment of dismissal from service. He contended that the Petitioner in order to maintain discipline in the establishment taken the disciplinary action against the Respondent No 1, which was well within the bounds of law. He contended that both the fora below committed illegality, irregularity while exercising the jurisdiction and misread the evidence on record. He contended that the impugned orders were passed in stereotyped style, thus required interference by this Court. He placed reliance upon the cases of **Postmaster General Balochistan v. Amanat Ali (2024 SCMR 1484)**, **Sakhil Zar v. Messrs K-electric Limited (2024 SCMR 1722)** **Divisional Superintendent, Postal services, D.G. Khan v. Nadeem Raza and another (2023 SCMR 803)**, **Government of Khyber Pakhtunkhwa through Secretary Health, Civil Secretariat, Peshawar and others v. Dr. LIAQAT ALI and others (2023 PLC (CS) 794)** and **Deputy Inspector General of Police, Lahore and others v. Sarfraz Ahmed (2021 SCMR 1886)**.

3. Learned counsel for the respondent No.1 contended that the respondent No.1 remained absent from duty on account of an ailment of father, who sustained a cardiac problem and was hospitalized. The respondent No 1 confirmed the leave availability and requested the HR department for grant of leave, which was declined. He contended that the respondent No 1 had more than sixty days leaves in her account, but the petitioner, instead of approving the leave, declared her absent. He contended that during disciplinary proceedings a committee was constituted to enquire into the matter but Respondent No 1 was not allowed to cross-examine the witnesses. Moreover, the charge sheet for the alleged misconduct was issued beyond the statutory period of one month; therefore, all the proceedings were nullity in the eyes of law. He contended that the concurrent findings of the courts below were well-reasoned and based on concrete material and the appraisal of evidence, and therefore did not warrant interference by this Court in its writ jurisdiction.

4. Learned DAG has supported the stance of the petitioner and contended that the respondent No.1 was a habitual absconder; therefore, she cannot be allowed to retain in service. She, therefore, prayed to allow the petition.

5. Heard arguments of the parties and perused the material made available before us on record.

6. Scanning of the material available on record reveals that on account of absence from duty in the month of October 2017, the respondent No.1 was served with a show cause notice in the month of January 2018 under the charge of habitual absence from duty. The show cause notice was replied to, wherein the respondent No.1 pleaded that she was unavailable for duty as her father was ailing and was hospitalized, she applied for leave, which was not approved. Reply to show cause notice did not satisfy the authority, therefore, an inquiry committee was constituted. The Inquiry Officer conducted the inquiry, recorded evidence of witnesses. In its findings Inquiry Officer concluded that the respondent No 1 was guilty of the misconduct; however, recommended that the concerned Human Resource Unit be asked why leave was not allowed to the Respondent No 1, despite the availability of sufficient leave in her account. For the sake of convenience, the findings of the Inquiry Officer is reproduced below:

“During enquiry proceedings it was revealed that the accused employee remained absent from, duty without prior approval of leave from competent authority. The accused employee submitted her statement along with pay slip of December 2017. This clearly shows that 54 PL, 4 S/L and 9 C/L leaves were available in her account. She also stated that although she had sufficient leave in her account however her several requests for leave were declined She also stated in her statement that the cause of her absence was "CARDIAC ARREST" of her father which also causes "EMOTIONAL DISTRESS" of her mother. She was of the view that whenever she applied for leave she did not get it from management

On the basis of evidence that accused employee is found guilty of the charges leveled against her. Because she could not produce any documentary provide that she got the prior approval of the

management before going on leave Concerned HR Unit may be asked why she could not be allowed on leave despite of that she had sufficient leave were balance in her account."

7. From the findings of Inquiry, it can be safely concluded that the Respondent No 1, in fact had applied for leave which was not granted by the Human Resources Department. The reason for grant of leave and absence from duty assigned by Respondent No 1 too appeared to be plausible. On conclusion of inquiry, Respondent No 1 was afforded an opportunity of personal hearing on 16.05.20218. The result of personal hearing was transmitted to the Chief Human Resources Officer vide letter dated 28.05.2018 by the Chief Daily Operations Manager (available at page No 91). It transpired from the Note of Personal hearing that the authority was predetermined to impose a major penalty of dismissal from service upon the Respondent No 1. For the sake of convenience, Para-5 of the note of personal hearing is reproduced below:

"5. The case was accordingly processed and the punishment of dismissal from service was proposed by the Competent Authority. However, she was afforded an opportunity of personal hearing to defend her case on 16.05.2018 (Wednesday) at 1500 hours with the undersigned. The accused appeared for personal hearing on the scheduled date and time but failed to convince."

8. The respondent No.1 was dismissed from service vide order dated June 11, 2018. The respondent No.1 filed Grievance Petition before SB - NIRC after serving grievance notice to the petitioner. SB-NIRC ordered reinstatement of the respondent No.1 on the grounds that She was issued show cause notice beyond the statutory period of one month of the alleged misconduct, as such show cause notice was not tenable under Standing Order No.15 of the Industrial and Commercial Employment (Standing Orders) Ordinance, 1968 and during the inquiry She was not granted a right of cross-examination from the witnesses of Petitioner. The SB-NIRC on assessment of the evidence and material placed on record upheld the judgment of SB-NIRC and observed that the punishment of dismissal from service was harsh particularly when there was no recommendation by the Inquiry Officer to impose such punishment.

9. Findings of both the Courts below on legal issue are correct and within the bounds of law, as under Standing Order No. 15, the employer is required to initiate proceedings for misconduct within a period of one month from the date of knowledge of alleged misconduct. It is an admitted position on the record that the respondent No 1 was accused of the alleged misconduct of absence from duty for the month of October, 2017, whereas show cause notice was issued to her in the month of January, 2018 which was delayed by more than two months that too without any explanation. Petitioner initiated disciplinary proceedings against the respondent No.1 for alleged absence though record evidenced that Respondent No 1 had applied for leave and competent authority did not sanction the leave despite of availability of leave balance. As such the proceedings initiated for punishment did not meet the statutory requirements envisaged under Standing Order 15 (4) of the Ordinance, which starts with a negative direction that no order of dismissal shall be made unless workman concerned is informed of the alleged misconduct within one month of the date of such misconduct, which reads as under:

“15. Punishments.— (1) A workman may be reprimanded or fined in the manner prescribed under the Payment of Wages Act, 1936 (IV of 1936), up to three paise in the rupee of the wages payable to him in a month, for any of the following acts or omissions, namely:—

2)

(3)

(4) No order of dismissal shall be made unless the workman concerned is informed in writing of the alleged misconduct within one month of the date of such misconduct or of the date on which the alleged misconduct comes to the notice of the employer and is given an opportunity to explain the circumstances alleged against him. The approval of the employer shall be required in every case of dismissal and 2 [the employer shall] institute independent inquiries before dealing with charges against a workman

Provided that the workman proceeded against may, if he so desires for his assistance in the enquiry, nominate any workman employed in that establishment and the employer shall allow the workman so nominated to be present in the enquiry to assist the workman proceeded against and shall not deduct his wages if the enquiry is held during his duty hours.]

(5) Where, for the purposes of conducting an inquiry into the alleged misconduct of a workman, the employer considers it necessary, he may suspend the workman concerned for a period not exceeding four days at a time 5 so, however, that the total period of such suspension shall not exceed four weeks except where the matter is pending before an Arbitrator, a Labour Court, Tribunal or Conciliator. The order of suspension shall be in writing and may take effect immediately on delivery

to the workman. During the period of suspension, the workman concerned shall be paid by the employer to the same wages as he would have received if he had not been suspended.

10. On the factual accounts, learned Counsel for the Petitioner has failed to point out any act of omission or misreading or non reading of the evidence on record by the two forums below. Admittedly the charge sheet of alleged misconduct issued to the respondent No.1 was vague in nature and as it evidenced from the Show Cause Notice wherein period of absence was not specifically mentioned. During inquiry the respondent No.1 was not held guilty of the misconduct in entirety, the Inquiry Officer observed that Human Resource Department was responsible for not sanctioning the leave of the respondent No.1, despite availability of sufficient leave balance in her account.

11. It is a settled proposition of law that this Court under its writ jurisdiction sparingly interferes in the concurrent finds of fact and that too in the cases where findings of the Courts below suffered from jurisdictional defect or misreading or non reading of the evidence, and same is not the case in the instant petition.

12. With huge reverence case laws relied upon by the Learned Counsel for the Petitioner are on different facts thus distinguishable.

13. In the wake of the above discussion, no illegality or perversity has been pointed out in the concurrent findings of two Courts below, calling for interference by this Court under its writ jurisdiction. This petition being devoid of merits, therefore fails and is accordingly dismissed with no order as to costs along with pending application(s).

JUDGE

JUDGE

HEAD OF CONST. BENCHES

Nadir /PS*

Approved for reporting

