

**IN THE HIGH COURT OF SINDH, CIRCUIT
COURT HYDERABAD**

C.P No. D-1005 of 2023

[Mst. Farkhanda Yasmeen Sahar v. Province of Sindh and another]

Before:

Mr. Justice Arbab Ali Hakro

Mr. Justice Riazat Ali Sahar

Petitioners : Mst. Farkhanda Yasmeen Sahar
through Mr. Manzoor Ahmed
Panhwar, Advocate.

Respondents : Province of Sindh and another
through Mr. Rafique Ahmed Dahri,
Assistant Advocate General Sindh
along with Mukhtiar Ali, A.E.O.
Tando Muhammad Khan.

Date of Hearing : **03.03.2026**

Date of Judgment : **19.03.2026**

JUDGMENT

RIAZAT ALI SAHAR. J., - Through this petition, the petitioner is seeking following reliefs:-

- a) This Honourable Court may be pleased to direct the Respondents to issue Permanent Transfer/absorption to the Petitioner under wedlock Policy, ESTA CODE along with all back benefits from the date of Joining.
- b) This Honourable Court may be pleased to Set aside the impugned order Dated 04-11-2022 being illegal, Unlawful, Void, ab initio & Contrary to the Law.
- c) That any other relief which this Honourable court deems fit & proper may be awarded to the petitioner.

2. In her petition, the petitioner has stated that she was appointed as Secondary School Teacher (SST) in the School Education Department, Government of Punjab, vide order dated 09.10.2009 and

was posted as Headmistress at Government Elementary School Azeem Bux Dhareja, District Rahim Yar Khan. During service she contracted marriage with one Asghar Ali Laghari, a Primary School Teacher serving in District Tando Muhammad Khan, Province of Sindh. On account of wedlock, the petitioner applied through proper channel for inter-provincial transfer to Sindh under the Wedlock Policy. Her request was forwarded by the Government of Punjab to the Government of Sindh and a No Objection Certificate was issued allowing her deputation initially for a period of three years. Consequently, the petitioner was relieved by the parent department on 31.03.2012 and reported to the School Education Department, Government of Sindh, where she was posted at Government Girls High School, Dando, District Tando Muhammad Khan and joined duty on 05.04.2012. Subsequently, she was relieved without pay on 06.08.2013 for repatriation, whereupon she filed Constitutional Petition No.1662 of 2013 before this Court which later abated. The petitioner approached the Supreme Court of Pakistan through CPLA No.372/K of 2016, wherein directions were issued regarding payment of outstanding dues and the matter was disposed of. Thereafter, the respondents issued a fresh notification dated 06.02.2017 allowing the petitioner to continue her service in the Education Department, Government of Sindh, on deputation basis under the Wedlock Policy, where she resumed duty on 14.02.2017. The petitioner continued to serve and moved departmental applications seeking permanent transfer/absorption under the Wedlock Policy; however, her request was declined through order dated 04.11.2022. Consequently, the petitioner filed Service Appeal No.442 of 2023 before the Sindh Service Tribunal, which was dismissed in *limine* on the ground of maintainability, leading to the filing of the present petition.

3. In response to the Court's notice, respondent No.2 filed comments stating that there exists no policy of the Government of Sindh providing for permanent transfer or absorption under the Wedlock Policy. It is submitted that the petitioner initially moved an application dated 15.11.2021 to the Minister, Education and Literacy Department, Government of Sindh and thereafter submitted another application dated 21.03.2023 to the Secretary, School Education and Literacy Department, seeking permanent transfer/absorption. The said request was forwarded to the Regulation Wing of the Services, General

Administration and Coordination Department (SGA&CD), which informed through its communication, dated 07.11.2018 that the petitioner's case was not covered under any existing policy. It is further stated that the petitioner filed Service Appeal No.442 of 2023 before the Sindh Service Tribunal against the impugned order dated 04.11.2022; however, the same was dismissed in *limine* on 15.05.2023 for being not maintainable. The respondents contend that the petitioner is a civil servant of the Government of Punjab and is serving in the School Education and Literacy Department, Government of Sindh, merely on deputation basis; therefore, the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974 are not applicable to her case, nor is she entitled to claim any back benefits thereunder, as such, the instant petition is not maintainable and liable to be dismissed.

4. Learned counsel for the petitioner, while reiterating the contents of the petition, contended that the petitioner has been continuously serving in the Education Department, Government of Sindh, since 2012 and has completed more than eleven years of service in the same cadre and scale, thus entitling her to permanent absorption under the Wedlock Policy and the provisions of the ESTA Code. He contended that the impugned order dated 04.11.2022 was passed without affording the petitioner an opportunity of hearing and in violation of the applicable service laws. Learned counsel further relied upon the judgment dated 04.12.2025 passed by the Honourable Supreme Court of Pakistan in CPLA No.4701 of 2024, reported case 2023 PLC (C.S.) 711 and order dated 19.08.2025 passed by this Court in C.P. No.D-324 of 2025. According to learned counsel, the deputation cannot be allowed to continue indefinitely and that the petitioner is entitled to regularization of her status along with back benefits.

5. Conversely, learned Assistant Advocate General Sindh, while relying upon the comments filed by respondent No.2, opposed the petition and contended that **the petitioner is a civil servant of the Government of Punjab and is serving in the Province of Sindh purely on deputation basis pursuant to a No Objection Certificate issued by the competent authorities. He contended that there exists no policy or statutory rule in the Government of Sindh permitting permanent transfer or absorption of employees from another province under the Wedlock Policy.**

Learned A.A.G further contended that the petitioner's request had been duly considered and was declined after consultation with the Regulation Wing of the Services, General Administration and Coordination Department, which opined that her case was not covered under any policy. He also contended that the provisions of the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974 are not applicable to the petitioner, as she was not appointed in connection with the affairs of the Province of Sindh, therefore, she cannot claim any benefit under the said rules. Lastly, he contended that the appeal filed by the petitioner before the Sindh Service Tribunal had already been dismissed as not maintainable and therefore the instant petition is liable to be dismissed.

6. We have heard learned counsel for the parties at length and have also carefully examined the material placed on record as well as the relevant provisions of law.

7. Admittedly, the petitioner was initially appointed in the School Education Department, Government of Punjab and continues to hold her lien in the said department. Her posting in the Province of Sindh was made pursuant to a No Objection Certificate issued by the competent authorities, whereby she was permitted to serve on deputation basis in the School Education and Literacy Department, Government of Sindh, on account of her marriage. **The record further shows that such deputation arrangement was initially allowed for a limited period and thereafter continued through subsequent administrative orders, including notification dated 06.02.2017 permitting the petitioner to continue her service on deputation basis under the Wedlock Policy. The primary grievance raised by the petitioner pertains to the refusal of the respondents to grant her permanent transfer or absorption in the services of the Government of Sindh. In this regard, it is important to note that transfer or absorption of a civil servant from one province to another is not a matter of right but is subject to the existence of a statutory rule or policy framed by the competent authority.** Learned counsel for the petitioner has relied upon the provisions of the ESTA Code and certain judicial pronouncements to support the claim of permanent absorption. However, a careful examination of the record reveals that no specific

rule or policy of the Government of Sindh has been placed before this Court, which provides for permanent transfer or absorption of an employee from another province merely on the basis of wedlock.

8. The Wedlock Policy, as referred to by the petitioner, essentially facilitates the posting of husband and wife at the same station in order to mitigate the social and economic hardships arising from their posting at different places. However, such facilitation does not automatically confer a legal right upon a civil servant to seek permanent absorption in another province where she is serving on deputation. In the absence of a clear statutory framework permitting such transfer or absorption, the claim of the petitioner cannot be enforced as a matter of right through constitutional jurisdiction. Furthermore, the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974, relied upon by the petitioner, regulate appointments and transfers of civil servants appointed in connection with the affairs of the Province of Sindh. The petitioner, admittedly, was appointed by the Government of Punjab and therefore remains a civil servant of that province. Consequently, the benefit of the said rules cannot be extended to her for the purpose of seeking permanent absorption in the Government of Sindh.

9. As regards the judgments relied upon by the learned counsel for the petitioner, the same are distinguishable on facts. The judgment of the Honourable Supreme Court of Pakistan in CPLA No.4701 of 2024 pertains to employees serving under a federal department, whereas the **present matter relates to an inter-provincial arrangement between two separate provincial governments**. Similarly, the reported judgment cited by the learned counsel as well as the order passed by this Court in C.P. No.D-324 of 2025 relate to cases involving transfers within the same provincial framework, which is not the situation in the present case. Therefore, the ratio laid down in those cases does not advance the petitioner's claim for permanent absorption in the services of the Government of Sindh. **The record also reflects that the petitioner had earlier approached the Sindh Service Tribunal by filing Service Appeal No.442 of 2023, which was dismissed in *limine* on the ground that the petitioner does not fall within the definition of a civil servant under the relevant law applicable to the Province of Sindh. This**

finding further reinforces the position that the petitioner cannot claim the status of a civil servant of the Government of Sindh for the purpose of invoking the relevant service rules governing provincial employees.

10. While this Court is mindful of the personal circumstances highlighted by the petitioner, including her marriage and continued residence with her family in District Tando Muhammad Khan, such considerations, though deserving of sympathy, cannot override the statutory framework governing service matters. The constitutional jurisdiction of this Court cannot be invoked to compel the respondents to grant a relief which is not supported by any rule, policy, or legal provision. In view of this position, we are of the considered opinion that the impugned order dated 04.11.2022 does not suffer from any illegality or jurisdictional defect warranting interference by this Court. The petitioner, being an employee of the Government of Punjab and serving in the Province of Sindh on deputation basis, cannot claim permanent transfer or absorption in the absence of any enabling policy or rule.

11. For what has been discussed above, the petition being devoid of merit is **dismissed** along with pending applications, if any. However, the competent authorities of the respective provincial governments may, if so advised, consider the petitioner's case sympathetically in accordance with law and applicable policies.

JUDGE

JUDGE