

Dr. Zill-E-Huma, Ex. Consultant Gynecologist (BS-18) Vs.
Chief Secretary, Punjab & another

Appeal No. _____

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08.04.2025

PRESENT

1. Mr. Allah Nawaz Khan Khosa Advocate,
Counsel for the appellant.
2. Mian Muhammad Azam, D.A.
3. Ms. Ayesha Yasmin, Law Officer, D.R.

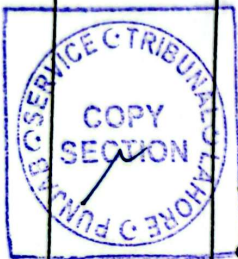
Through this appeal filed under Section 4 of the Punjab Service Tribunals Act, 1974 read with Section 19 of the PEEDA Act, 2006 the appellant has assailed the vires of the orders dated 26.02.2024 and 29.07.2024 passed by the respondents.

2. 3 . Brief facts of the case are that the appellant was proceeded against under the provisions of PEEDA Act, 2006 on the charge of absence from duty w.e.f. 15.09.2020 to 01.10.2023. An inquiry in the matter was carried out and finally the competent authority, vide order dated 26.02.2024 imposed upon the appellant the major penalty of "removal from service". The departmental appeal of the appellant was rejected on 29.07.2024. Hence, this appeal.

3. Learned counsel for the appellant maintained that the alleged absence of the appellant was not willful, but it was the result of compelling and unavoidable circumstances; that the appellant had duly applied for her posting at Rawalpindi under the Wed-lock Policy as her husband was serving as a Senior Medical Officer at Islamabad, but despite repeated requests and representations, her application remained undecided. Learned counsel for the appellant further maintained that notwithstanding the appellant's requests for adjustment, she was transferred vide order dated 14.09.2020



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		<p>to Tehsil Headquarters Hospital, Jand, District Attock i.e. a far-flung and remote location lacking proper transport and accommodation facilities, however, being a female officer and a mother the appellant found it impracticable to comply with such posting order due to personal and logistical constraints. Learned counsel for the appellant added that the appellant continued to pursue her case before the competent authority seeking adjustment at Rawalpindi, but instead of addressing her grievance, the department failed to take any concrete steps and ultimately initiated disciplinary proceedings after an inordinate delay of three years on the ground of unauthorized absence, which was not justified. In this regard, learned counsel for the appellant placed reliance on Clause-III of the Notification No.SORI(S&G\AD)-1-25/2001, dated 09.09.2013 issued by Services & General Administration Department, Punjab, which reads as under:</p> <p style="text-align: center;"><i>"The relevant authorities must ensure that disciplinary proceedings under the relevant laws/rules are initiated against such persons within 30 days of his/her reporting for duty after unauthorized absence."</i></p> <p>It was further contended by learned counsel for the appellant that the departmental authorities failed to initiate action against the appellant within the prescribed time and instead extended false assurances to her, which shows malafide intention. In support of his contentions, learned counsel for the appellant placed reliance on PLJ 2024 Lahore 229 and 2024 PLC (C.S.) 129, wherein it was held that <u>if absence from duty is caused by compelling circumstances beyond the</u></p>



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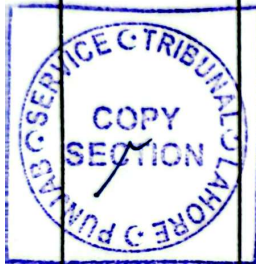
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employee's control, it cannot be treated as willful. With these submissions, learned counsel for the appellant prayed for acceptance of this appeal. On the other hand, learned District Attorney opposed this appeal while supporting the impugned orders.

4. Arguments heard, available record perused.

5. 2 After carefully considering the arguments advanced by both the sides and after having gone through the available record, I tend to agree with the submissions made by learned counsel for the appellant. It is an admitted fact that the appellant was transferred to a remote station lacking basic facilities including transport and accommodation etc. Being a female Medical Officer and a mother as well, her inability to comply with such posting orders in the absence of departmental support was plausible and justified. The Wedlock Policy mandates that efforts be made to post spouses at the same station, with a preference to the wife being posted at the place of her husband's service. This policy is in consonance with Article 35 of the Constitution of the Islamic Republic of Pakistan, 1973 which obliges the State to protect the family, the mother and the child. Despite numerous representations made by the appellant, the department neither rejected nor accepted the request of the appellant, nor did communicate her any decision. Such silence and inaction on the part of the department amounts to administrative apathy. Admittedly Section 7(f)(ii) of the Punjab Employees Efficiency,



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Discipline and Accountability Act, 2006 provides for major penalties, including removal from service, in cases where unauthorized absence exceeds one year. However, in the present case, the absence cannot be classified as willful as it was occasioned under compelling and documented personal circumstances. The superior courts have consistently held that absence due to unavoidable circumstances and on account of reasons beyond control cannot be treated as deliberate or willful so as to justify imposition of major penalties. In such a situation, the impugned orders passed against the appellant do not carry weight and hence are not sustainable in the eyes of law.

6. In view of the foregoing, the appeal in hand is accepted, the impugned orders dated 26.02.2024 and 29.07.2024 are set aside, the appellant is reinstated into service from the date when she was removed from service and the intervening period for which she remained out of service is treated as "leave of the kind due".

ANNOUNCED
08.04.2025

ANBREEN SAJID
MEMBER-IV

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