MANDVIWALLA & ZAFAR
ADVOCATES

CASE LAW UPDATES

Pakistan Superior Courts — Verified Judgment Digest

Saturday, 13 June 2026

Upload Window: 11-13 June 2026 (last 3 working days)

SC: 5 judgments | LHC: 9 judgments | FCC/IHC/SHC: no new entries

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The Federal Constitutional Court, Islamabad High Court and Sindh High Court had no reportable judgment uploaded in the 11-13 June window. One Supreme Court item (Crl.P.L.A.852/2026 — Rait Ullah v. The State) uploaded 11 June was a 6-page scanned image PDF without a text layer and could not be processed; not reportable on its face (bail order).

Supreme Court of Pakistan

5 judgments

SERVICE TRIBUNAL MODIFYING PENALTY; PROPORTIONALITY AND PARITY

Director General Pakistan Post Office, Islamabad v. Muhammad Fayyaz and others

PETITION CONVERTED TO APPEAL; ALLOWED; MATTER REMANDED

Civil Petition No.2601 of 2022 · Bench: Justice Muhammad Ali Mazhar; Justice Musarrat Hilali · Decided: 09.03.2026 · Uploaded: 12-06-2026

FACTS

Respondent No.1, while posted as AAO (Loan Account) in Pakistan Post Office, was found in a departmental enquiry to have verified 34 fake schedules amounting to Rs.8,986,030 without comparison with actual schedules, unauthorisedly exercised the powers of A.O. (Concurrent Audit) and passed 36 bogus loans amounting to Rs.12,589,000 and 80 fake loan repayments. He was arrested by NAB on 26.05.2017, placed under suspension and, after disciplinary proceedings under the Government Servants (E&D) Rules, 1973, dismissed from service. The Federal Service Tribunal, Lahore Bench, by judgment dated 29.03.2022, altered the dismissal into compulsory retirement, drawing parity with co-accused Saleem Ahmad whose dismissal had earlier been converted by the Appellate Authority into reduction to a lower post for two years. The Department petitioned this Court for leave to appeal.

LEGAL ISSUE

Whether the Federal Service Tribunal was justified in altering the major penalty of dismissal from service into compulsory retirement on the basis of parity with a co-accused, without separately appraising the two distinct departmental inquiries, the gravity of the proven misconduct (fraud in PLI loans causing loss to the public exchequer) and the principle of proportionality, and what is the proper scope of judicial review by a service tribunal of the quantum of penalty imposed by the competent authority in disciplinary proceedings against a civil servant.

HOLDING

Allowing the petition (converted into appeal), the Court set aside the impugned judgment of the Tribunal and remanded the matter. The Tribunal had altered the penalty in a slipshod manner: it had itself recorded that the charges were proved and that the Respondent had been afforded ample opportunity, yet without skimming through the two separate inquiry reports it accorded the Respondent the benefit of Saleem Ahmad's case under the doctrine of parity. Parity could not be invoked without showing that the role and allegations were virtually analogous; mere reliance on the co-accused's case was insufficient to dislodge the case against Respondent No.1 even for conversion of punishment. Choice of quantum is the employer's prerogative; the Tribunal cannot mitigate punishment without examining the inquiry record and proportionality. In cases of fraud and misappropriation of public money, leniency on the ground of length of service is unjustified. The Tribunal must now decide the appeal afresh, considering both inquiries independently, preferably within three months.

LEGAL SIGNIFICANCE

The judgment consolidates and refines the law on the role of the Federal Service Tribunal in interfering with the quantum of departmental penalty. It treats the Tribunal as a fact-finding forum of exclusive jurisdiction under Article 212 of the Constitution, neither a 'rubber stamp' for the employer nor a 'benefactor' of the employee, and requires it to apply the proportionality test (also articulated as 'least injurious means' or 'minimal impairment') with reference to the inquiry record, gravity of misconduct, past conduct, length of service and impact on discipline. It firmly limits the doctrine of parity in disciplinary matters to cases of virtually analogous roles and allegations, and reaffirms the rule in Allah Ditta v. Deputy Postmaster General (2023 SCMR 770) that misappropriation of public money cannot be diluted into a minor misconduct by reference to long service or refund of the embezzled amount.

LEGAL PROPOSITIONS (VERBATIM)

— It is a well-settled doctrine that in the disciplinary proceedings initiated under the Civil Servant Laws or Labour/Industrial Relations Laws, the employer/competent authority has the exclusive prerogative to decide the quantum of punishment in case of proven misconduct or the employee is found guilty after due process.

— However, the choice of punishment should be complemented and harmonized with the catalogue of penalties and punishments provided under the relevant service/labour laws and rules and not farther than.

— The next important question is that the punishment must be proportionate, fair-minded and nonpartisan vis-à-vis with the allegations and proven guilty of misconduct during regular inquiry rather than outrageous and exceptionally disproportionate to the seriousness of misconduct charges assimilated in the show cause notice and statement of allegations.

— So for all intents and purposes, neither the Service Tribunal should act out as a rubber stamp to the employer's decision nor should it act as benefactor of employee come what may but within the bounds of its exclusive jurisdiction, it is obligated to comprehensively and fair-mindedly examine the merits, discuss the evidence on record, and provide reasons before deciding to confirm or reduce a penalty or even mitigating circumstances.

LEGAL PRINCIPLES EXPOUNDED

Doctrine of parity in disciplinary matters is confined to cases where the role and allegations of the delinquents are virtually analogous; mere reliance on a co-accused's lesser punishment is insufficient to dislodge the case against another delinquent.

Source: *mere reliance on the case of co-accused was not sufficient to dislodge the case against the Respondent No.1 even for conversion of punishment*

Authority:

The Service Tribunal under Article 212 of the Constitution is a preliminary fact-finding judicial forum of exclusive jurisdiction and must independently examine the inquiry record before altering quantum of penalty.

Source: *The Services Tribunal, for the purposes of deciding any appeal, is deemed to be a Civil Court and has the same powers as are vested in such court as a preliminary fact finding judicial right of entry for civil servants with exclusive jurisdiction.*

Authority: *Article 212, Constitution of the Islamic Republic of Pakistan, 1973*

Proportionality test in service jurisprudence requires the court/tribunal to compare the quantum of punishment with the gravity of charges and proof of guilt, and is also exemplified as the 'least injurious means' or 'minimal impairment'.

Source: *The proportionality test in some jurisdictions is also exemplified as the "least injurious means" or "minimal impairment" so as to safeguard fundamental rights of citizens and to ensure a fair balance between individual rights and public interest.*

Authority:

In cases of fraud and misappropriation of public money, leniency by way of conversion of dismissal into compulsory retirement on the ground of long service is impermissible and would erode public confidence in public institutions.

Source: *In case of fraud and misappropriation of public money, the responsible person cannot be let free or exonerated with a low degree of penalty. Merely for the reason that the petitioner served the department for 34 years is no justification to convert the punishment of dismissal from service into compulsory retirement.*

Authority: *Allah Ditta v. Deputy Postmaster General (Admn.), Office of The Postmaster General, Northern Punjab Circle, Rawalpindi and another (2023 SCMR 770)*

OPERATIVE ORDER

In the wake of above discussion, this Civil Petition is converted into an appeal and allowed. As a consequence, the impugned judgment of the learned Tribunal is set aside. The matter is remanded to the learned Tribunal to decide the appeal of the Respondent No.1 on its own merits after providing ample opportunity of hearing to both the parties and after considering both the inquiry proceedings and inquiry reports independently including the allegations of misconduct and evidence against the Respondent No.1 and accused Saleem Ahmed with proof of culpability. It is expected that the matter shall be decided expeditiously preferably within a period of three months.

■ **View Full Judgment**

STRIKING OUT DEFENCE UNDER ORDER XI RULE 21 CPC

Imran Ahmad Khan Niazi v. Mian Muhammad Shahbaz Sharif

CRP NO.1-L/2023 DISMISSED; CRP NO.2-L/2023 ALLOWED BY MAJORITY

Civil Review Petition No.1-L/2023 (heard with C.R.P. No.2-L/2023) · Bench: Mrs. Justice Ayesha A. Malik; Mr. Justice Muhammad Hashim Khan Kakar; Mr. Justice Ishtiaq Ibrahim · Decided: 11.06.2026 · Uploaded: 11-06-2026

FACTS

Mian Muhammad Shahbaz Sharif (Respondent) had on 07.07.2017 instituted a defamation suit against Imran Ahmad Khan Niazi (Petitioner) before the trial court at Lahore claiming Rs.10 billion in damages over certain public allegations. After protracted proceedings (written statement filed in July 2021 after a four-year delay), interrogatories under Order XI CPC were exchanged in February 2022. On 20.10.2022 the Petitioner's objections to the Respondent's interrogatories were dismissed and he was directed to file answers. After adjournments on 26.10.2022, 08.11.2022 and 17.11.2022, the last-mentioned order recording the shooting and hospitalisation of the Petitioner on 03.11.2022, the trial court on 24.11.2022 struck out the Petitioner's defence under Order XI Rule 21 CPC. The Lahore High Court dismissed the revisions on 07.12.2022 and a majority of this Court (judgment dated 29.12.2022, reported as 2023 SCMR 636) dismissed the petitions for leave to appeal. The present review petitions assail that majority judgment.

LEGAL ISSUE

Whether the majority judgment dated 29.12.2022 in CPLA Nos.3436-L and 3437-L of 2022, upholding the trial court's order under Order XI Rule 21 CPC striking out the Petitioner's right of defence, suffers from errors apparent on the face of the record warranting review jurisdiction under Article 188 of the Constitution and Order XLVII Rule 1 CPC, particularly: (i) whether the trial court's reliance on past conduct rather than the immediate medical incapacity following the shooting incident of 03.11.2022 was legally permissible; and (ii) whether the trial court could invoke Order XI Rule 21 CPC suo motu in the absence of a formal application by the interrogating party.

HOLDING

By majority of two-to-one (Muhammad Hashim Khan Kakar, J., dissenting), CRP No.2-L/2023 (concerning the striking out of the defence in CPLA No.3437-L) was allowed and the majority judgment dated 29.12.2022, together with the judgments of the High Court and the trial court, was set aside, with directions to grant the Petitioner reasonable opportunity to file his reply to the interrogatories and to proceed in accordance with law. CRP No.1-L/2023 was dismissed. Ayesha A. Malik, J. (with whom Ishtiaq Ibrahim, J. concurred), reasoned that the default was not 'willful, deliberate and contumacious' as the Petitioner's hospitalisation following the assassination attempt of 03.11.2022 was sufficient cause already accepted by the trial court on 08.11.2022 and 17.11.2022; the penal power under Order XI Rule 21 CPC had been exercised mechanically. Ishtiaq Ibrahim, J. further held that the rule requires a formal written application by the interrogating party as a jurisdictional prerequisite, and that the majority erred in inferring suo motu power. Muhammad Hashim Khan Kakar, J., dissenting, found no error apparent and treated the conduct as willful disobedience.

LEGAL SIGNIFICANCE

The judgment is a leading authority on the proper construction of Order XI Rule 21 CPC. It establishes that the striking out of defence is a 'death knell' penal measure, to be strictly construed and used only as a last resort where the default is willful, deliberate and contumacious; physical incapacity (such as hospitalisation due to a gunshot injury) is not willful default and force majeure is a complete answer (lex non cogit ad impossibilia). The judgment further reads the procedural mechanism of Rule 21 as a tripartite sequence requiring a formal application by the aggrieved party, rejecting any inference of suo motu power from 'repeated oral opposition', and integrates this with the constitutional guarantee of fair trial under Article 10A. The review jurisdiction's contours under Article 188 and Order XXVIII Rule 1 of the Supreme Court Rules, 1980 are also restated, recognising 'error apparent on the face of the record' as extending to a judgment proceeding on an erroneous assumption of material facts.

LEGAL PROPOSITIONS (VERBATIM)

— Order XI, Rule 21 of the CPC is not a routine tool of case management; it is the "death knell" of a party's defense. Its nature is strictly penal.

— The law does not compel a man to do what he cannot possibly perform (Lex non cogit ad impossibilia) thus a default occasioned by a physical catastrophe or force majeure that include circumstances entirely beyond a party's control, cannot be characterized as willful or contumacious as was in the case at hand.

— The use of the phrase 'apply to the Court' is a statutory command that vests the initiative in the hands of the aggrieved party. The legislature has deliberately avoided the use of language such as 'the Court may' which is found elsewhere in the Code when suo motu powers are intended.

— Order XI Rule 21 CPC is penal in nature and does not mandate a mechanical consequence for failure to comply with an order, rather it leaves it to the discretion of the court to decide if penal consequences should follow.

LEGAL PRINCIPLES EXPOUNDED

The penal provisions of Order XI Rule 21 CPC are to be strictly construed and may be invoked only where the default in complying with an order for answers to interrogatories or for discovery is willful, deliberate and contumacious.

Source: *The underlying consideration for the Court before invoking Rule 21 of Order XI CPC is to satisfy itself that non-compliance with its order was willful, deliberate and intentional, being contumacious.*

Authority: *Messrs United Bank Limited v. Yousuf Haji Noor Muhammad Dhadhi (PLJ 1987 SC 636); Babar Sewing Machine Company v. Tirlok Nath Mahajan (1978) 4 SCC 188*

Once the trial court accepts a sufficient cause (such as hospitalisation following a gunshot injury), the element of willfulness in subsequent non-compliance on the same ground is legally extinguished and the doctrine of lex non cogit ad impossibilia applies.

Source: *Once the Trial Court accepted the factum of the shooting incident on 08.11.2022, the element of "wilfulness" was legally extinguished.*

Authority:

Order XI Rule 21 CPC follows a tripartite statutory sequence and cannot be invoked suo motu; a formal application by the interrogating or discovery-seeking party is a mandatory jurisdictional prerequisite.

Source: *A literal and contextual reading of Rule 21 reveals a clear, tripartite sequence: first, the existence of a specific order for answer to interrogatories or discovery; second, a failure to comply with said order with penal consequences of suit dismissal, if plaintiff and right to defence struck off, if defendant; and third that the party interrogating or seeking discovery may apply to the Court for an order to that effect.*

Authority: *Order XI Rule 21, Code of Civil Procedure, 1908*

The right to defence is anchored in Article 10A of the Constitution and the court must exhibit utmost judicial restraint before depriving a party of that right, preferring lesser disciplinary measures such as imposition of costs or peremptory orders.

Source: *When a court contemplates a measure that deprives a person of their fundamental right of defense, a right that is anchored in the constitutional guarantee of a fair trial under Article 10A, it must exhibit the utmost judicial restraint and proceed with absolute caution.*

Authority: *Article 10A, Constitution of the Islamic Republic of Pakistan, 1973; Qazi Naveed ul Islam v. District Judge (2023 SCP 32)*

Review jurisdiction under Article 188 of the Constitution read with Order XXVIII Rule 1 of the Supreme Court Rules, 1980 is confined to errors apparent on the face of the record but extends to judgments proceeding on an erroneous assumption of material facts or overlooking a pivotal aspect of the record.

Source: *However, the scope of an 'error apparent' undeniably extends to those instances where a judgment proceeds upon an erroneous assumption of material facts, or where the Court has overlooked a fundamental question of law or a pivotal aspect of the record.*

Authority: *Article 188, Constitution of the Islamic Republic of Pakistan, 1973; Order XXVIII Rule 1, Supreme Court Rules, 1980; Order XLVII Rule 1, Code of Civil Procedure, 1908*

OPERATIVE ORDER

By a majority of two-to-one (Muhammad Hashim Khan Kakar, J., dissenting) Civil Review Petition No.2-L of 2023 is allowed and the majority judgment dated 29.12.2022 is hereby set aside alongwith the judgments of the High Court and the Trial Court. The matter is remanded to the Trial Court with the direction to provide the Petitioner reasonable opportunity to file his reply to the interrogatories and proceed with the suit in accordance with law. Civil Review Petition No.1-L of 2023 is hereby dismissed.

View Full Judgment

FORENSIC REPORT 'FULL PROTOCOLS' UNDER CNSA RULE 6 DIRECTORY

Baz Khan and others v. The State through P.G. Balochistan and others

REFERENCE ANSWERED BY MAJORITY; RULE HELD DIRECTORY

Criminal Appeals No.43, 359-L, 360-L/2020, 232 & 233/2022; Criminal Petitions No.140-K/2018, 1137/2021, 593-L/2017, 939-L, 940-L/23; JPs No.711/19, 564/23 & Crl. MA 1334/24 · Bench: Justice Jamal Khan Mandokhail; Justice Malik Shahzad Ahmad Khan; Justice Muhammad Hashim Khan Kakar; Justice Salahuddin Panhwar; Justice Ishtiaq Ibrahim · Decided: 17.02.2026 · Uploaded: 11-06-2026

FACTS

A five-member larger bench was constituted to resolve a conflict in this Court's jurisprudence on the admissibility and evidentiary value of a Government Analyst's Forensic Report in narcotics prosecutions under section 36 of the Control of Narcotic Substances Act, 1997 and rule 6 of the Control of Narcotic Substances (Government Analysts) Rules, 2001. A first line of cases (Ikram Ullah, 2015 SCMR 1002; Imam Bakhsh, 2018 SCMR 2039; Khair-ul-Bashar, 2019 SCMR 930; Qaiser Javed Khan, PLD 2020 SC 57) had held that the mention of 'full protocols' in the report under unamended rule 6 was mandatory and its omission vitiated the report. A second line (Gul Alam, 2011 SCMR 624; Shazia Bibi, 2020 SCMR 460; Shafa Ullah Khan, 2021 SCMR 2005; Liaquat Ali, 2022 SCMR 1097) had taken the opposite view. Rule 6 was substantively amended by S.R.O. No.1340(I)/2021 dated 02.06.2021. A batch of appeals and petitions was listed for resolution of this divergence.

LEGAL ISSUE

(i) Whether the requirement under unamended rule 6 of the Control of Narcotic Substances (Government Analysts) Rules, 2001, that the Government Analyst's report contain 'full protocols of the test applied', is mandatory or directory, having regard to its relationship with section 36 of the Control of Narcotic Substances Act, 1997 and section 510 Cr.P.C.; and (ii) what constitutes 'full and sufficient compliance' with the protocols requirement, including under amended rule 6 and Explanation-II thereto (S.R.O. 1340(I)/2021).

HOLDING

By majority of four-to-one (Justice Malik Shahzad Ahmad Khan dissenting) the Court declared that the requirement to mention 'full protocols' in the report under unamended rule 6 is directory. Reasoning: (a) under the constitutional hierarchy, a subordinate rule cannot enlarge or override the parent Act, so rule 6 cannot make section 36, which makes the analyst's signed quadruplicate report admissible without formal proof and conclusive unless rebutted, ineffective; (b) the expression 'shall' is to be construed contextually and, since unamended rule 6 imposes a procedural duty on a Government Analyst with no penal consequence for non-compliance and the substantive purpose can be achieved otherwise (including by the court summoning the analyst under section 36(2) and the proviso to section 510 Cr.P.C.), it is directory; (c) omission of full protocols in the report is a curable procedural irregularity, not an illegality. The Court further held that, in respect of amended rule 6, identification and mention of the respective names of the internationally recognised tests described in clauses (i) to (vii) of Explanation-II constitutes 'full and sufficient compliance'. The judgment is to have no retrospective effect, and the linked petitions and appeals are to be listed for hearing on merits as per the roster.

LEGAL SIGNIFICANCE

The decision authoritatively resolves a long-standing intra-court conflict on narcotic-prosecution forensic evidence, restating the constitutional principle that subordinate legislation must remain within the four corners of the parent statute and cannot render a substantive provision (here section 36 of the Control of Narcotic Substances Act, 1997) redundant. By declaring unamended rule 6 of the 2001 Rules directory, the Court overrules pro tanto the line of Ikram Ullah, Imam Bakhsh, Khair-ul-Bashar and Qaiser Javed Khan to the extent of their contrary holding, and aligns the law with Gul Alam, Shazia Bibi, Shafa Ullah Khan and Liaquat Ali. It also clarifies, with reference to amended rule 6 (S.R.O. 1340(I)/2021), Explanation-II and Form-II declaration, the precise standard of compliance and the available statutory safeguards (summoning the analyst, leading rebuttal evidence). The express limitation that the judgment will have 'no retrospective effect' guards concluded matters from re-opening.

LEGAL PROPOSITIONS (VERBATIM)

— Rules cannot create rights or liabilities, impose new conditions, change or override the meaning of any provision of an Act, nor can they enlarge, restrict, or render any provision of the Act ineffective or redundant.

— Thus, omission to mention full protocols in the report is a mere procedural defect, which is curable and rectifiable, hence, it is an irregularity, not an illegality.

— Thus, it is declared that the expression 'shall' mentioned in unamended rule 6 of the Rules of 2001 is directory.

— This common judgment deals with divergent views of first and second categories of cases (mentioned in Para 1 supra), therefore, it will have no retrospective effect.

LEGAL PRINCIPLES EXPOUNDED

An Act is the primary substantive law and prevails over subordinate rules; rules cannot override or render any provision of the parent Act ineffective or redundant.

Source: *The principle is that an Act is a substantive law, called a parent statute, whilst, rules are procedural law, called subordinate legislation. Rules must be within the limits set by the parent Act and shall always be consistent with it.*

Authority: *Messrs Mehraj Flour Mills and Others v. Provincial Government and others (2001 SCMR 1806)*

The word 'shall' may be read as directory where the provision imposes a duty on a public functionary, provides only a procedural guideline, attaches no penal consequence for non-compliance, and the statutory purpose is otherwise achievable.

Source: *When any provision of an Act or rules provides a guideline, instructions or a mechanism for doing something, or imposes a duty on Government officials or the desired purpose is still achieved despite non-compliance, or if no penal consequences are attached for non-adherence, the expression 'shall' used therein is directory.*

Authority: *PLD 2010 SC 759*

Under section 36(2) of the Control of Narcotic Substances Act, 1997 the Government Analyst's signed report is admissible without formal proof and is conclusive unless rebutted; the court may, in the interest of justice, summon the analyst under the proviso to section 510 Cr.P.C., which is a sufficient statutory safeguard for the accused.

Source: *However, the Court while exercising power under Section 36 of the Act of 1997 and the proviso to Section 510 of Cr.P.C., may, if considers necessary in the interest of justice, summon and examine the Analyst along with record in order to testify that the established protocols were observed during the test. This is a sufficient statutory safeguard for the protection of rights and interest of the accused.*

Authority: *Section 36, Control of Narcotic Substances Act, 1997; Section 510 Cr.P.C.*

Under amended rule 6 (S.R.O. No.1340(I)/2021), identification and mention of the respective names of the internationally recognised tests described in clauses (i) to (vii) of Explanation-II constitutes 'full and sufficient compliance' with the protocols requirement.

Source: *It expressly provides that identification and mentioning the respective names of the internationally recognized tests described in clause (i) to (vii) of Explanation II to amended rule 6 of the Rules of 2001 in report amounts to "full and sufficient compliance," of the rule.*

Authority: *Rule 6 (as amended by S.R.O. No.1340(I)/2021), Control of Narcotic Substances (Government Analysts) Rules, 2001*

OPERATIVE ORDER

By majority of four to one (Justice Malik Shahzad Ahmad Khan dissenting), it is declared that the requirement to mention "full protocols" in the report under unamended rule 6 is directory; and identification and mentioning the respective names of the internationally recognized tests described in clause (i) to (vii) of Explanation II to amended rule 6 of the Rules of 2001 in the report amounts to "full and sufficient compliance," of the rule. The judgment shall have no retrospective effect.

■ View Full Judgment

VIDEO RECORDING OF NARCOTICS RECOVERY NOT MANDATORY

Zeeshan Khan v. The State etc.

LEAVE GRANTED; PETITION CONVERTED INTO APPEAL; APPEAL DISMISSED

Criminal Petition No.539-L of 2025 · Bench: Justice Malik Shahzad Ahmad Khan; Justice Muhammad Shafi Siddiqui; Justice Shakeel Ahmad · Decided: 27.04.2026 · Uploaded: 11-06-2026

FACTS

Petitioner Zeeshan Khan was tried by the learned Additional Sessions Judge, Yazman, District Bahawalpur in FIR No.190 dated 06.05.2023 of Police Station City Yazman under section 9(1)3(c) of the Control of Narcotic Substances Act, 1997. As per prosecution evidence, on 06.05.2023 at 09:15 a.m. he was caught red-handed by the local police and 3,600 grams of charas wrapped in three packets of 1,200 grams each was recovered from his possession; three sample parcels of 60 grams each were prepared for chemical analysis. The recovery witnesses (PW-2 ASI Pervez Ahmed/complainant and PW-3 Constable Musawar Hussain) and the safe-transmission witnesses (PWs-1, 4 and 5) gave confidence-inspiring evidence; the laboratory report (Ex.PM) confirmed the contraband as charas. The trial court by judgment dated 07.11.2023 convicted him under section 9(1)3(c) and sentenced him to ten years' R.I. with fine of Rs.200,000 (six months' S.I. in default), with benefit of section 382-B Cr.P.C. The Lahore High Court, Bahawalpur Bench, upheld the conviction by judgment dated 14.10.2024. The sole ground in this Court was the absence of video recording of the recovery.

LEGAL ISSUE

Whether the non-recording of a video film of the recovery of narcotics, in the absence of any other valid ground or proved enmity, can by itself create reasonable doubt sufficient to acquit a convict under section 9(1)3(c) of the Control of Narcotic Substances Act, 1997, having regard to the observations in Zahid Sarfraz Gill v. The State (2024 SCMR 934) and Ndukwe Udoka Peter v. The State (2025 SCMR 1657).

HOLDING

Leave was granted and the petition converted into appeal, but the appeal was dismissed. The Court held that no provision of law or rule mandates the recording of a video film of the recovery proceedings by the complainant/recovery officer. The judgments in Zahid Sarfraz Gill (2024 SCMR 934) and Ndukwe Udoka Peter (2025 SCMR 1657) were rendered on their own peculiar facts (and were bail matters); in Zahid Sarfraz Gill the FIR was a counterblast and the accused's presence at the alleged spot was disproved. The present case, by contrast, involved a fully recorded trial, confidence-inspiring evidence of recovery and safe transmission, a positive PFSA report, and no proven enmity with the local police. The sole ground of non-recording of the video, absent other valid grounds, could not justify either bail or acquittal after trial. The appeal was accordingly dismissed.

LEGAL SIGNIFICANCE

The judgment limits the recent jurisprudence on video-recording of narcotics recoveries (Zahid Sarfraz Gill, 2024 SCMR 934; Ndukwe Udoka Peter, 2025 SCMR 1657) and distinguishes those bail-stage observations from main appeals after conclusion of trial. It clarifies that video recording of recovery is not a statutory or regulatory requirement under the Control of Narcotic Substances Act, 1997 or any rule made thereunder and cannot be elevated into a mandatory ingredient of every narcotic prosecution. The decision reaffirms the long-standing principle that every criminal case is to be decided on its own peculiar facts, preserving the

evidentiary weight of confidence-inspiring police testimony coupled with proof of safe custody/transmission and a positive forensic report, particularly where no enmity is established.

LEGAL PROPOSITIONS (VERBATIM)

— We are, therefore, of the view that the facts of the above-mentioned judgments are distinguishable from the facts of the present case, therefore, the said judgments are of no avail to the appellant.

— As there was no previous enmity of the appellant with the local police, therefore, the video recording of the recovery of narcotics was not mandatory in this case and the same is also not mandatory in each and every case as the said exercise is not the requirement of any law or rule on the subject.

— We are, therefore, of the view that the sole ground of non-recording of the video of the proceedings of recovery of narcotics, in absence of other valid grounds, could not be made basis either to grant bail to an accused or to acquit him of the charge after conclusion of the trial.

LEGAL PRINCIPLES EXPOUNDED

Video recording of the recovery of narcotics is not a statutory requirement and is not mandatory in every case; its absence alone does not warrant bail or acquittal.

Source: *learned counsel was unable to point out any provision of law or any rule whereby it was made mandatory for the recovery officer/complainant to record the video film of recovery proceedings.*

Authority: *Control of Narcotic Substances Act, 1997*

Every criminal case must be decided on its own peculiar facts; precedents rendered on materially different facts (especially in bail matters) cannot be mechanically applied to a main appeal.

Source: *it is by now well settled that every criminal case is to be decided on the basis of its own peculiar facts. The facts of the above-referred case are distinguishable from the facts of the present case.*

Authority: *Zahid Sarfraz Gill v. The State (2024 SCMR 934); Ndukwe Udoka Peter v. The State (2025 SCMR 1657)*

Confidence-inspiring evidence of recovery witnesses, proof of safe transmission of contraband and sample to the Maalkhana and to the Forensic Science Agency, and a positive laboratory report establish the prosecution case under section 9(1)3(c) of the Control of Narcotic Substances Act, 1997.

Source: *The safe transmission of the parcel of contraband material/case property and sample parcel from the place of occurrence to the Maalkhana of Police Station and to the office of Punjab Forensic Science Agency has been established in this case through the confidence inspiring evidence*

Authority: *Section 9(1)3(c), Control of Narcotic Substances Act, 1997*

OPERATIVE ORDER

Learned counsel for the appellant is unable to point out any misreading/non-reading of evidence or material illegality in the impugned judgment, warranting interference by this Court. There is no substance in this appeal, hence, the same is hereby dismissed.

■ **View Full Judgment**

COMPLAINANT ACTING AS INVESTIGATING OFFICER IN NARCOTICS

Fakhar Abbas v. The State etc.

LEAVE GRANTED; APPEAL DISMISSED; MISC. APPLICATION DISMISSED

Criminal Petition No.629-L of 2025 and Criminal Misc. Application No.45-L of 2026 · Bench: Justice Malik Shahzad Ahmad Khan; Justice Muhammad Shafi Siddiqui; Justice Shakeel Ahmad · Decided: 27.04.2026 · Uploaded: 11-06-2026

FACTS

Petitioner Fakhar Abbas was tried by the learned Additional Sessions Judge / Judge, Special Court CNSA, Nankana Sahib in FIR No.93 dated 20.02.2023 of Police Station Syed Wala under section 9(1)3-C of the Control of Narcotic Substances Act, 1997. As per prosecution evidence, on 20.02.2023 at 01:05 p.m. he was caught red-handed by the local police and 1,460 grams of charas in two packets was recovered from his possession; two sample parcels of 50 grams and 23 grams were prepared and sealed for chemical analysis. The recovery witnesses (PW-5 T-ASI Irfan Ali/complainant and PW-4 Constable Siraj Ahmed) and the safe-transmission witnesses (PWs-1, 2, 3 and 5) gave confidence-inspiring evidence and the laboratory report (Ex.PE) confirmed the substance as charas. The trial court by judgment dated 30.11.2023 convicted him under section 9(1)3-C and sentenced him to nine years' R.I. with fine of Rs.80,000 (five months' S.I. in default), with benefit of section 382-B Cr.P.C. The Lahore High Court by judgment dated 23.04.2025 upheld the conviction. A connected Crl. M.A. No.45-L/2026 sought suspension of sentence.

LEGAL ISSUE

Whether the complainant in a narcotics case can also act as the investigating officer of the same case, in light of Raham Gul v. The State (2026 SCMR 584) on the one hand and Zafar v. The State (2008 SCMR 1254) and Advocate General Sindh v. Bashir etc. (PLD 1997 SC 408) on the other, and whether such dual role per se vitiates the trial.

HOLDING

Leave was granted, the petition converted into appeal and the appeal dismissed. The Court held that there is no legal bar on a complainant also acting as investigating officer, citing Zafar v. The State (2008 SCMR 1254) and Advocate General Sindh v. Bashir (PLD 1997 SC 408), each rendered by four-Member Benches and therefore binding over the three-Member Bench decision in Raham Gul (2026 SCMR 584). On facts, Raham Gul was distinguished: there the safe custody of the contraband was not proved, recovery was jointly alleged against four accused, and the story regarding recovery from the feet of accused persons travelling in a vehicle 'did not appeal to a prudent mind'. Here, the petitioner could not show any prejudice from the complainant's investigation. The objection that the case property was not produced was negated as P1 was in fact produced during examination-in-chief of PWs-4 and 5 without objection. Counsel failed to point out misreading/non-reading or material illegality. The connected Crl. M.A. No.45-L/2026 for suspension of sentence was dismissed as infructuous.

LEGAL SIGNIFICANCE

The judgment authoritatively resolves the apparent tension between Raham Gul v. The State (2026 SCMR 584) and the earlier four-Member Bench decisions in Zafar v. The State (2008 SCMR 1254) and Advocate General Sindh v. Bashir (PLD 1997 SC 408) on the dual role of complainant and investigating officer in narcotics prosecutions. Applying the rule of precedent that a judgment of a larger bench has binding effect, it reaffirms that the dual role is not per se impermissible and that an accused who challenges it must demonstrate actual prejudice. The decision also clarifies that Raham Gul turned on a constellation of doubt-raising circumstances (failure of safe custody, joint recovery against multiple accused, improbable recovery narrative) and is not authority for a general proposition that complainant-cum-investigator vitiates a CNSA prosecution.

LEGAL PROPOSITIONS (VERBATIM)

> *— we are of the view that there is no legal bar on the complainant to also act as an investigating officer of the case.*

— It is by now well settled that the judgment passed by a larger bench has a binding effect.

— Moreover, the petitioner could not establish that any prejudice was caused to his case due to the reason that the complainant of this case also investigated the case.

LEGAL PRINCIPLES EXPOUNDED

A police officer who is the complainant and witness of recovery is not legally barred from acting as the investigating officer of the case, so long as no prejudice to the accused is shown.

Source: *a Police Officer is not prohibited under the law to be complainant if he is a witness to the commission of an offence and also to be an Investigating Officer, so long as it does not in any way prejudice the accused person.*

Authority: *Zafar v. The State (2008 SCMR 1254); Advocate General Sindh v. Bashir etc. (PLD 1997 SC 408)*

Where there is a conflict between Supreme Court decisions, the judgment rendered by a larger bench has binding effect over one rendered by a smaller bench.

Source: *The judgments in the case of 'Zafar' supra and 'Advocate General Sindh' supra have been passed by the Benches comprising of four Hon'ble Judges of this Court, whereas the judgment cited by the learned counsel for the appellant in the case of 'Raham Gul' ibid has been rendered by a Bench comprising of three (03) Hon'ble Judges of this Court. It is by now well settled that the judgment passed by a larger bench has a binding effect.*

Authority: *Raham Gul v. The State (2026 SCMR 584); Zafar v. The State (2008 SCMR 1254); Advocate General Sindh v. Bashir (PLD 1997 SC 408)*

The principles in Raham Gul (2026 SCMR 584) are confined to its peculiar facts (failure of safe custody, joint recovery against multiple accused and an improbable recovery narrative) and cannot be applied where safe transmission and confidence-inspiring evidence are established.

Source: *In the case of 'Raham Gul' supra, the safe custody of the contraband material was not proved, the recovery was jointly alleged against four (04) accused and the story of prosecution regarding the alleged recovery of narcotics from the feet of accused persons who were travelling in a vehicle did not appeal to a prudent mind*

Authority: *Raham Gul v. The State (2026 SCMR 584)*

OPERATIVE ORDER

Learned counsel for the appellant is unable to point out any misreading/non-reading of evidence or material illegality in the impugned judgment, warranting interference by this Court. There is no substance in this appeal, hence, the same is hereby dismissed. CRIMINAL MISC. APPLICATION NO. 45-L OF 2026. Since, the main appeal filed by the appellant against his conviction and sentence has been dismissed by this Court today, therefore, this application seeking suspension of sentence has become infructuous and the same is dismissed accordingly.

■ **View Full Judgment**

Lahore High Court

9 judgments

REGULARISATION OF PROJECT CONTRACT EMPLOYEES

Farhat Parveen v. Government of the Punjab through Secretary Population Welfare Department, etc. (and connected W.P. Nos. 76039/2025, 72597/2025, Crl. Org. Nos. 20768/2026 & 20796/2026)

PETITIONS ALLOWED; IMPUGNED ORDERS SET ASIDE; REMAND FOR REGULARISATION CONSIDERATION

Writ Petition No.78377 of 2025 | 2026 LHC 3580 · Bench: Malik Javid Iqbal Wains, J. · Decided: Announced in open court on 25.05.2026; signed on 09.06.2026 (date of hearing 06.05.2026) · Uploaded: 11-06-2026

FACTS

The petitioners were appointed in 2014-2015 as Family Welfare Workers/Assistants/Helpers (BS-08 and allied posts) on contract under the ADP scheme 'Expansion of Family Welfare Centres and Introduction of Community Based Family Planning Workers (2014-2018)' of the Population Welfare Department, Government of the Punjab. The Finance Department vide letter dated 31.03.2021 sanctioned 3,000 posts through SNE and vide letter dated 25.06.2021 converted the scheme from development to non-development side. The then Chief Minister approved extension against sanctioned posts vide order dated 23.12.2021 by relaxing S&GAD policy of 23.07.2014; the Provincial Cabinet thereafter repeatedly extended contracts against BS-01 to BS-09 posts up to 31.03.2026. Despite four rounds of litigation, the Scrutiny Committee vide minutes dated 29.05.2024 and order dated 28.12.2024 rejected regularisation, treating the petitioners as 'project employees' excluded under Section 2(c) of the Punjab Regularization of Service Act, 2018 (amended 2019).

LEGAL ISSUE

Whether petitioners initially appointed under an ADP scheme but whose contracts after creation of 3,000 SNE posts and conversion of the project to non-development side were repeatedly extended by the competent authority against sanctioned posts in BS-01 to BS-09 remain 'project employees' or fall within the definition of 'contract employee' under Section 2(c) of the Punjab Regularization of Service Act, 2018 (as amended in 2019) entitling them to regularisation; and whether denial of regularisation to them while similarly placed employees of the Primary & Secondary Healthcare Department (now merged into the Health & Population Department) have been regularised amounts to discrimination violative of Articles 9 and 25 of the Constitution; further whether the repeal of the Act, 2018 w.e.f. 31.10.2025 extinguishes accrued rights.

HOLDING

The Court held that after the approval dated 23.12.2021 the petitioners were no longer retained as project/ADP-scheme employees but stood continued against sanctioned posts under the current budget through successive Cabinet approvals, and consequently the exclusion of 'project employees' under Section 2(c) ceased to operate. The petitioners completed the requisite three years' continuous service prior to the cut-off date of 31.10.2025 and accordingly fulfilled statutory eligibility under the Act, 2018. The repeal of the Act, 2018 does not defeat their accrued rights in view of Article 264 of the Constitution, Section 4 of the Punjab General Clauses Act, 1956 and the savings clause in Section 2(2) of the Repealing Act, as expounded in Mohsin Abbas v. Secretary Communication (2026 LHC 1419). Denial of regularisation, when similarly placed employees of the Primary & Secondary Healthcare Department (merged with Population Welfare into the Health & Population Department vide notification dated 27.03.2025) have been regularised, amounted to hostile discrimination violative of Articles 9 and 25. The impugned minutes dated 29.05.2024 and order dated 28.12.2024 were set aside and the matter was remanded with directions to process petitioners' cases for regularisation under the (Repealed) Punjab Regularization of Service Act, 2018 within ninety days.

LEGAL SIGNIFICANCE

The judgment clarifies that initial designation under an ADP/development scheme does not, by itself, preclude regularisation once posts have been converted to non-development through SNE and contracts repeatedly extended by the competent authority against sanctioned posts. It applies and extends the ratio of

Mohsin Abbas v. Secretary Communication (2026 LHC 1419) to hold that the saving clause in Section 2(2) of the Repealing Act, read with Article 264 of the Constitution and Section 4 of the Punjab General Clauses Act, 1956, preserves accrued statutory rights of contract employees who completed three years' qualifying service before 31.10.2025. It also reaffirms the equality principle drawn from Engineer Naraindas and Ejaz Akbar Kasi, holding that selective denial of regularisation to identically placed employees of a department now merged with another whose employees were regularised amounts to hostile discrimination under Articles 9 and 25 of the Constitution.

LEGAL PROPOSITIONS (VERBATIM)

— The exclusion pertaining to ■project employees■ ceased to operate once the petitioners were adjusted and retained against duly sanctioned posts in BPS-01 to BPS-09, which had been created under the current budget through the Schedule of New Expenditure (SNE) pursuant to the approval accorded by the Ministry of Finance and the then Chief Minister, Punjab, vide order dated 23.12.2021.

— The continuous extensions granted by the competent authority, coupled with the petitioners‘ completion of the requisite qualifying service during the currency of the Act, vested to them a right to have their cases considered for regularization strictly in accordance with the provisions of the Act, 2018.

— Once similarly situated employees working under the projects converted into non-development mode in the Primary & Secondary Healthcare Department have admittedly been extended the benefit of regularization under the Punjab Regularization of Service Act, 2018, denial of the same treatment to the present petitioners, who are identically placed in all material particulars, amounts to hostile discrimination and offends the mandate of Articles 9 and 25 of the Constitution of the Islamic Republic of Pakistan, 1973.

— In such circumstances, the petitioners could not lawfully be denied the status and benefits available to contract employees merely on account of the nomenclature attached to their original appointment orders.

LEGAL PRINCIPLES EXPOUNDED

Where contractual posts have been converted to non-development side and extended against sanctioned posts by the competent authority, the employees cease to be 'project employees' for the purpose of the exclusion under Section 2(c) of the Act, 2018.

Source: *after the approval dated 23.12.2021, the petitioners were no longer being retained as employees of a development project or ADP scheme. Rather, their contractual engagements stood continued against sanctioned posts created under the current budget*

Authority: *Punjab Regularization of Service Act, 2018 (as amended 2019), Section 2(c)*

The repeal of the Punjab Regularization of Service Act, 2018 does not defeat the right of an eligible contract employee who completed three years' continuous service prior to 31.10.2025, in view of Article 264 of the Constitution, Section 4 of the Punjab General Clauses Act, 1956, and the savings clause in Section 2(2) of the Repealing Act.

Source: *where a contractual employee had completed the requisite three years‘ of continuous service during the subsistence of the Regularization Act, said employee is entitled that his case be dealt with as if the Regularization Act is still holding the field*

Authority: *Mohsin Abbas v. Secretary Communication (2026 LHC 1419); Article 264, Constitution of Pakistan, 1973; Section 4, Punjab General Clauses Act, 1956*

Hostile and selective denial of a beneficial statute to identically placed employees, while extending the benefit to others, violates the equality clause under Articles 9 and 25.

Source: *denial of the same treatment to the present petitioners, who are identically placed in all material particulars, amounts to hostile discrimination and offends the mandate of Articles 9 and 25*

Authority: *Engineer Naraindas v. Federation of Pakistan (2002 SCMR 82); Tehsil Municipal Administration, Rahimyar Khan v. Hanif Masih (2008 SCMR 1058); Ejaz Akbar Kasi v. Ministry of Information & Broadcasting (PLD 2011 SC 22)*

When a project is transferred to the non-development side as a permanent department of the Government, the nature of the project itself becomes permanent and employees become entitled to consideration for regularisation in the non-development department.

Source: *when the project itself has been transferred to a non-development side as a permanent department of the Government, the nature of the project itself became permanent by the act of Government; therefore, the services of respondents cannot be terminated rather they are entitled to be considered for permanent employment*

Authority: *Government of the Punjab v. Maqsood Ahmed (Civil Appeals No. 275 & 276 of 2014, SC); Rana Saifullah v. Province of Punjab (WP No.68220/2020)*

Specific approvals granted by the competent authority through express relaxation of policy and successive Cabinet decisions prevail over general policy guidelines so as to defeat reliance on those guidelines to deny the consequent statutory benefits.

Source: *Once the policy guidelines stood relaxed by the then Chief Minister, Punjab, and the subsequent continuance of the petitioners was repeatedly sanctioned by the Provincial Cabinet, the said policy instructions ceased to have any controlling effect upon the status of the petitioners‘ appointments*

Authority: *S&GAD letters dated 23.07.2014 and 06.06.2022*

OPERATIVE ORDER

Consequently, in view of the foregoing reasons, the impugned Minutes of Meeting dated 29.05.2024 of the Scrutiny Committee, along with the order dated 28.12.2024 passed by the respondents, are hereby set aside, being illegal and without lawful authority. The matter is remanded to the concerned Security Committees, which shall, after scrutinizing the credentials of the petitioners, forward their cases to the competent authority for consideration of regularization under the (Repealed) Punjab Regularization Act, 2018 (as amended in 2019). The entire exercise shall be completed within a period of ninety (90) days from the date of receipt of a certified copy of this judgment. Accordingly, these writ petitions are allowed in the above terms. Meanwhile, no adverse action shall be taken against the petitioners so as to ensure continuity of services to the general public at the Population Welfare Centers.

■ **View Full Judgment**

MURDER CONVICTION ALTERED TO 302(C) PPC

The State v. Muhammad Atif and connected Criminal Appeal No.44191/2023 (Muhammad Atif v. The State)

CONVICTION ALTERED FROM 302(B) TO 302(C) PPC; DEATH NOT CONFIRMED

Murder Reference No.147/2023 & Crl. Appeal No.44191/2023 | 2026 LHC 3560 · Bench: Farooq Haider, J. and Ali Zia Bajwa, J. · Decided: Dictated, pronounced, prepared and signed on 02.06.2026 (date of hearing 02.06.2026) · Uploaded: 11-06-2026

FACTS

Per FIR No.465/2022 dated 04.12.2022 under Sections 302/109 PPC at PS Bhalwal Saddar, Sargodha, complainant Muhammad Rizwan Aslam (PW-6) alleged that at about 10:00 a.m., as his brother Muhammad Sajjad was walking ahead, the appellant Muhammad Atif accosted Sajjad in front of the appellant's house over an alleged theft of an iron-cutting tool, grappled with him, took out a knife and gave a blow that landed on the left side of Sajjad's chest; Sajjad died on the way to hospital. Investigation revealed that the appellant himself was found at his house in injured condition and was medically examined the same day, showing two incised wounds (below left clavicle and above left nipple). The defence version was that the deceased, armed with a dagger, called the appellant out and attacked him first. The trial court (Additional Sessions Judge, Bhalwal) by judgment dated 24.05.2023 convicted the appellant under Section 302(b) PPC and sentenced him to death with Rs.20,00,000/- compensation under Section 544-A Cr.P.C.

LEGAL ISSUE

Whether on the peculiar facts — where both prosecution and defence concealed parts of the occurrence, the appellant himself bore two incised injuries on a vital part inflicted the same day, motive and immediate cause remained unproved, the deceased came to the appellant's door and the appellant exercised the right of private defence but exceeded it by striking the deceased on a vital part causing immediate death — the case falls within Section 302(b) PPC or within the ambit of Section 302(c) PPC read with the principle that cases falling within the erstwhile Exception 2 to old Section 300 PPC are now to be dealt with under Section 302(c) PPC.

HOLDING

The Court adopted the 'third view' from the evidence and concluded that the deceased came armed with a knife to the appellant's door, gave two blows on the appellant's chest, and the appellant, after getting hold of the knife, gave a single blow to the deceased's chest below left nipple causing damage to the heart and immediate death. Although the appellant was justified in defending himself, by selecting a vital part with full force he exceeded the right of private defence and his act fell within Exception 2 of the old Section 300 PPC which, following Ali Muhammad v. Ali Muhammad (PLD 1996 SC 274) and Muhammad Daniyal (2026 SCP 23), is now to be dealt with under Section 302(c) PPC. Motive and immediate cause stood unproved; the parties were close relatives; only one blow was given without repetition. The conviction was converted from Section 302(b) to Section 302(c) PPC and sentence reduced to 15 years' R.I. with Rs.10,00,000/- compensation (six months S.I. in default). The murder reference was answered in the negative and death sentence was not confirmed.

LEGAL SIGNIFICANCE

The judgment reaffirms and applies the settled rule that cases falling within the erstwhile Exceptions to old Section 300 PPC, read with old Section 304 PPC, are now to be dealt with under Section 302(c) PPC — in particular Exception 2 (excess of the right of private defence). It illustrates that where the prosecution suppresses injuries to the accused and the accused does not disclose the full mechanism of the deceased's injury, the Court must not be deterred by the incompleteness of the tale and may adopt a third view based on the evidence, following Syed Ali Bepari v. Nibaran Mollah (PLD 1962 SC 502), Muhammad Daniyal (2026 SCP 23) and Mst. Hussan Zari v. Sher Bahadur (2006 SCMR 1906). The Court underscored that a defence plea need only be shown to be reasonably probable, not proved beyond reasonable doubt (Manzoor Hussain v. Nadeem alias Billa, 2003 SCMR 459).

LEGAL PROPOSITIONS (VERBATIM)

— Supreme Court of Pakistan in the case of “ALI MUHAMMAD versus ALI MUHAMMAD and another” (PLD 1996 Supreme Court 274) has categorically held that cases earlier falling in Exception 2 to the old (erstwhile) Section: 300 PPC read with old (erstwhile) Section: 304 PPC were intended to be dealt with under the present Section: 302 (c) PPC

— it is trite law that in such circumstances, when both the parties concealed actual detail of the occurrence, minimized their roles and attempted to burden opposite party with entire responsibility, then in such circumstances, the Courts apply principle regarding perusal of evidence and determination of criminal liability; furthermore, in such situation, the Courts are not deterred by the incompleteness of the tale and must draw inference from the available evidence

— It is settled principle of law that accused was not required to prove the defence plea beyond reasonable doubt rather he is only required to show that the plea is reasonably probable/possible

LEGAL PRINCIPLES EXPOUNDED

Where the accused, while exercising the right of private defence, exceeds the power given to him by law and causes death on a vital part of the body, the case falls under Exception 2 to the erstwhile Section 300 PPC and is now to be dealt with under Section 302(c) PPC.

Source: *when he (appellant) selected left chest near nipple of the deceased and gave blow of knife with full force/magnitude there, causing his immediate death, then of course, appellant has exceeded the power given to him by the law for exercising his right of self defence*

Authority: *Ali Muhammad v. Ali Muhammad (PLD 1996 SC 274); Muhammad Daniyal v. The State (2026 SCP 23); Amir Khan v. The State (2025 SCMR 1572)*

Where both parties suppress the true detail of the occurrence and minimise their roles, the Court is not deterred by the incompleteness of the tale and may adopt a third view drawn from the evidence on record.

Source: *in such circumstances, when both the parties concealed actual detail of the occurrence, minimized their roles and attempted to burden opposite party with entire responsibility, then in such circumstances, the Courts apply principle regarding perusal of evidence and determination of criminal liability*

Authority: *Syed Ali Bepari v. Nibaran Mollah (PLD 1962 SC 502); Muhammad Daniyal v. The State (2026 SCP 23); Mst. Hussan Zari v. Sher Bahadur (2006 SCMR 1906)*

An Investigating Officer's verification of an injured accused's defence version from independent witnesses on the day of occurrence lends material support to that version.

Source: *when Investigating Officer i.e. Khizar Hayat, Inspector (PW-9) has categorically stated that he verified aforementioned statement of the accused from independent witnesses on 04.12.2022 on the day of occurrence, then it provides support to said statement of the accused*

Authority: *Umer Jan v. The State through AG, Khyber Pakhtunkhwa (2026 SCMR 122)*

Medical opinion as to the probable duration of an injury is approximation, and a 2 to 3 hour variance is scientifically justifiable.

Source: *opinion of Doctor regarding time elapsed between injury and medical examination of the injured is largely based on approximation and not an exact fact rather 2 to 3 hours window is a very standard and acceptable margin*

Authority: *Modi's A Textbook of Medical Jurisprudence and Toxicology (27th Ed., Ch. 27, p. 755)*

Defence plea is required only to be shown as reasonably probable, not proved beyond reasonable doubt.

Source: *In a criminal case, the accused are not required to prove the defence plea beyond reasonable doubt but they have merely to show the version put up by them was reasonably possible*

Authority: *Manzoor Hussain v. Nadeem alias Billa (2003 SCMR 459)*

OPERATIVE ORDER

For what has been discussed above, conviction recorded under Section: 302 (b) PPC is converted into conviction under Section: 302 (c) PPC and since neither motive nor immediate cause of occurrence could be established, any deep routed enmity between the parties is not discernible from the record rather they are close relatives and furthermore, present appellant gave only one blow with knife without repetition, therefore, he is sentenced to undergo Rigorous Imprisonment for 15-years and though through impugned judgment, he was directed to pay Rs.20,00,000/- as compensation under Section: 544-A Cr.P.C. to the legal heirs of the deceased and in default thereof to undergo simple imprisonment for 06-months yet same is also reduced to Rs.10,00,000/- and in default whereof to further undergo Simple Imprisonment for 06-months. Benefit under Section 382-B Cr.P.C. shall be given to the appellant. In view of above, instant appeal is dismissed with aforementioned modifications in the conviction as well as sentence. Murder Reference No.147/2023 is answered in negative and death sentence awarded to Muhammad Atif is not confirmed.

■ **View Full Judgment**

BURN-VICTIM DYING DECLARATION; RAPE AND MURDER

The State v. Ahmad Ali and connected Criminal Appeal No.7522-J/2023 (Ahmad Ali v. The State)

APPEAL DISMISSED; DEATH SENTENCE CONFIRMED; MURDER REFERENCE ANSWERED IN AFFIRMATIVE

Murder Reference No.138/2023 & Crl. Appeal No.7522-J/2023 | 2026 LHC 3546 · Bench: Farooq Haider, J. and Ali Zia Bajwa, J. · Decided: Dictated and pronounced on 08.06.2026; signed on 10.06.2026 (date of hearing 08.06.2026) · Uploaded: 11-06-2026

FACTS

Per FIR No.1744/2021 dated 05.09.2021 of PS Factory Area, Sheikhupura (initially under Sections 324/34 PPC; later 302/336-B/376 PPC added), Zaka Ullah ASI (PW-3) on receiving wireless message reached Khanpur canal where he found a woman, Iram Bibi, in critical condition; she with difficulty disclosed her name and that 'Ahmad etc.' after setting her on fire had thrown her into the canal with intent to kill. She was shifted by 1122 to DHQ Sheikhupura and then to Mayo Hospital, Lahore. The victim made four successive statements identifying the appellant Ahmad Ali (with whom her sister-in-law Mst. Noor Akhtar's marriage was in the pipeline) as the assailant: at the scene in Fard Bayan (Ex.PC), as history to Dr. Fozia Khalil (PW-4), as a dying declaration (Ex.PG) recorded by the complainant in presence of Dr. Muhammad Adnan Anjum (PW-10), and finally as a statement under Section 174-A Cr.P.C. (Ex.PQ) recorded by a Judicial Magistrate (PW-13). She narrated that the appellant took her on motorcycle to Khanpur Head, raped her in bushes, beat her, threw her in the canal, then sprinkled petrol on her shawl and his shirt and set them ablaze. PFSA DNA report (Ex.PU) showed Ahmad Ali's DNA on the vaginal sperm fraction; trace chemistry report (Ex.PT)

confirmed gasoline on the recovered Sprite bottle. She died on 24.10.2021 of extensive burns leading to sepsis. The trial court convicted the appellant under Sections 376 PPC (10 years' RI with fine of Rs.2,00,000/-) and 302(b) PPC (death) with compensation of Rs.5,00,000/-.

LEGAL ISSUE

Whether the multiple dying declarations of the victim recorded successively in Fard Bayan, as medical history, before the police in presence of a doctor, and before a Judicial Magistrate under Section 174-A Cr.P.C., when corroborated by medical evidence and PFSA reports on DNA and gasoline as well as recoveries, are confidence-inspiring, trustworthy and sufficient to sustain conviction under Sections 302(b) and 376 PPC and warrant confirmation of the death sentence; and the scope and evidentiary status of statements recorded under Section 174-A Cr.P.C. after death of the burn victim.

HOLDING

The Court held that the dying declaration of Iram Bibi was confidence-inspiring, trustworthy, truthful and reliable, supported by medical evidence (initial MLC Ex.PH, postmortem Ex.PF showing 35-40% burns with sepsis as cause of death), corroborated by the PFSA DNA Analysis Report (Ex.PU) showing the appellant's DNA on the vaginal sperm fraction approximately 13 quadrillion times more likely than an unrelated individual, the PFSA Trace Chemistry Report (Ex.PT) confirming gasoline in the recovered bottle, and the recovery of the petrol bottle and motorcycle at the appellant's pointing out. The use of the word '■■■■■' with '■■■■' in Fard Bayan was held not fatal given the victim's critical condition. The Court further held that statements recorded under Section 174-A Cr.P.C. by a Medical Officer or Magistrate are acceptable as 'dying declaration' upon the victim's death in light of the statutory scheme, and elucidated that Section 174-A was introduced to promptly preserve evidence in burn-injury cases without waiting for registration or commencement of investigation. The defence plea of being falsely implicated by the sister-in-law's husband ("nandoi") in league with the complainant was held to be bald denial unsupported by evidence. Convictions and sentences were upheld in toto; death sentence was confirmed and Murder Reference No.138/2023 answered in the affirmative.

LEGAL SIGNIFICANCE

The judgment clarifies the statutory architecture and evidentiary value of Section 174-A Cr.P.C., distinguishing it from Section 164 Cr.P.C. and holding that statements under Section 174-A can be recorded by the Medical Officer on duty or Magistrate without waiting for FIR registration or commencement of investigation, and become admissible as dying declarations upon the victim's death. It reaffirms that a properly recorded dying declaration, made honestly and free from consultation, tutoring or adulteration, is a strong piece of evidence requiring no independent corroboration when consonant with the surrounding circumstances, following Niamat Ali (1981 SCMR 61), Farmanullah (2001 SCMR 1474), Abdul Khaliq (2021 SCMR 325) and Muhammad Saeed (2024 SCMR 1421). The standard of proof for the accused's defence plea remains lower than that for the prosecution, requiring only reasonable probability.

LEGAL PROPOSITIONS (VERBATIM)

— *Statement recorded under Section: 174-A Cr.P.C. of the victim is acceptable in evidence as “dying declaration” if the injured person expires*

— *The “dying declaration” if has been proved as made without any adulteration or consultation or tutoring from any corner and appears that it has been made with honesty and is having consonance with other facts and circumstances of the case then, it (dying declaration) is a strong piece of evidence against the appellant and it needs no independent corroboration*

— *while keeping in view gravity of offence of causing injuries by burns as well as noticeable increase in the number of such occurrences, for the purpose of preserving version of the victim at once without loss of time and even without any hindrance including waiting for registration of case or commencement of investigation, legislature brought the provision of Section: 174-A Cr.P.C. on the statute to cater this state of affairs*

LEGAL PRINCIPLES EXPOUNDED

Statement of a burn victim recorded under Section 174-A Cr.P.C. by the Medical Officer on duty or by a Magistrate is admissible in evidence as a dying declaration upon death of the injured.

Source: *Statement recorded under Section: 174-A Cr.P.C. of the victim is acceptable in evidence as "dying declaration" if the injured person expires*

Authority: *Section 174-A, Code of Criminal Procedure, 1898*

A dying declaration shown to have been made honestly, without consultation, tutoring or adulteration, and consonant with the surrounding circumstances is a strong piece of evidence requiring no independent corroboration.

Source: *The "dying declaration" if has been proved as made without any adulteration or consultation or tutoring from any corner and appears that it has been made with honesty and is having consonance with other facts and circumstances of the case then, it (dying declaration) is a strong piece of evidence against the appellant and it needs no independent corroboration*

Authority: *Niamat Ali v. The State (1981 SCMR 61); Farmanullah v. Qadeem Khan (2001 SCMR 1474); Abdul Khaliq v. The State (2021 SCMR 325); Muhammad Saeed v. The State (2024 SCMR 1421); Article 46, Qanun-e-Shahadat Order, 1984*

Section 174-A Cr.P.C. is a special remedial provision enacted for the prompt preservation of the burn-victim's version, dispensing with the need to wait for registration of an FIR or commencement of investigation, and operates to forestall fabrication or false implication.

Source: *for the purpose of preserving version of the victim at once without loss of time and even without any hindrance including waiting for registration of case or commencement of investigation, legislature brought the provision of Section: 174-A Cr.P.C. on the statute*

Authority: *Section 174-A, Code of Criminal Procedure, 1898*

Minor discrepancies in a dying declaration do not impair its acceptability where the overall narration consistently reflects the true picture of the occurrence.

Source: *Though minor discrepancies do occur in the evidence of the witnesses yet when overall consensus from narration of the facts is that "dying declaration" reflects true picture of the occurrence, then it is to be taken into consideration*

Authority:

A heinous murder of a woman without justification merits exemplary punishment as a deterrent; the deterrent aspect cannot be overlooked where mitigating circumstances are absent.

Source: *Such like person does not deserve any leniency in sentence particularly when there is no evidence of mitigation of any nature available on the record. In the peculiar facts and circumstances of the case, deterrent aspect of sentence cannot be overlooked*

Authority:

OPERATIVE ORDER

In view of what has been discussed above, prosecution has proved its case against the appellant up to hilt, beyond any shadow of doubt; therefore, appellant has been rightly convicted as mentioned above. As far as question of quantum of sentence is concerned, it has been observed that appellant has taken life of a woman aged about 35-years without any justification. Such like person does not deserve any leniency in sentence particularly when there is no evidence of mitigation of any nature available on the record. In the peculiar facts and circumstances of the case, deterrent aspect of sentence cannot be overlooked because such persons who take law in their hands in such a callous manner without any justification deserve exemplary punishment. Hence, convictions recorded and sentences awarded to Ahmad Ali (appellant) through impugned judgment are upheld in toto and his Criminal Appeal No. 7522-J/2023 is, dismissed. Resultantly, death sentence awarded to Ahmad Ali (appellant) is CONFIRMED and Murder Reference (M.R. No.138 of 2023) is answered in AFFIRMATIVE.

■ **View Full Judgment**

PEEDA DISCIPLINARY DISMISSAL; ADLR CONTRACT EMPLOYEE

Mohsin Iqbal Cheema v. Government of Punjab & 03 others

CONSTITUTIONAL PETITION DISMISSED ON MERITS AND LACHES

Writ Petition No.17407 of 2026 | 2026 LHC 3532 · Bench: Khalid Ishaq, J. · Decided: Announced in open court on 25.05.2026; signed on 02.06.2026 (dates of hearing 18.03.2026, 15.04.2026 & 12.05.2026) · Uploaded: 11-06-2026

FACTS

The petitioner was appointed Assistant Director Land Records (ADLR) on contract on 07.03.2013 by the SMBR in the Directorate of Land Records, Board of Revenue Punjab, on PPSC recommendation. Upon promulgation of the Punjab Land Records Authority Act, 2017, he stood transferred to PLRA under Section 31(1)(f), with his service governed by the PLRA Act and PLRA (Appointment and Conditions of Service) Regulations, 2020 which converted contracts into perpetual contracts up to superannuation. An inquiry was initiated against him on 05.07.2024 on a complaint by PLRA's Intelligence and Vigilance Wing alleging evasion of duties/taxes under Sections 236C and 236K of the Income Tax Ordinance, 2001; the Director Operations PLRA was appointed Inquiry Officer under PEEDA. After regular inquiry, the Inquiry Report dated 26.09.2024 found the petitioner guilty of misconduct but recommended the minor penalty of withholding increments for five years. The Competent Authority (DG PLRA), after Show Cause Notice dated 24.10.2024 and personal hearing, disagreed with the Inquiry Officer and imposed the major penalty of dismissal from service under Section 4(1)(b)(vi) PEEDA vide Dismissal Order dated 11.11.2024. The petitioner's departmental appeal under Section 16 PEEDA was dismissed by SMBR vide Impugned Order dated 03.06.2025. The petitioner then filed a second purported appeal before the Chief Secretary on 27.01.2026, which was declined on 30.01.2026, and only thereafter approached the High Court after a delay of 9 months from the Impugned Order.

LEGAL ISSUE

Whether the Constitutional Petition under Article 199 of the Constitution against the Dismissal Order and the SMBR's Appellate Order is maintainable in respect of a contract employee of PLRA; whether the DG PLRA was the competent authority to initiate inquiry against the petitioner having regard to Section 2(f)(ii) PEEDA read with Section 31(1)(f) of the PLRA Act and the Supreme Court's settled position in Province of Punjab v. Ashi; whether the disciplinary proceedings complied with the mandatory procedure under Section 13 PEEDA as expounded in Muhammad Arshad v. Deputy District Officer Food, Multan (2025 SCMR 2071); whether the imposition of major penalty of dismissal from service was disproportionate; and whether the petitioner is disentitled to discretionary relief on grounds of laches and conduct.

HOLDING

The Court held that the Constitutional Petition was maintainable on the ground that even where service rules are non-statutory, Article 199 jurisdiction may be invoked where an act of a statutory authority is violative of relevant service rules/regulations or where the grievance rests on violation of statutory provisions of the enactment under which the petitioner was proceeded against, i.e. PEEDA. On the merits, the Court held that under Section 31(1)(f) of the PLRA Act the petitioner stood transferred to PLRA by operation of law (as conclusively settled by the Supreme Court in Province of Punjab v. Ashi, CPLA No.1559-L/2021 dated 21.03.2025, review dismissed 01.10.2025), so the SMBR was no longer the competent authority and the DG PLRA was competent to initiate inquiry; the ground under Section 2(f)(ii) PEEDA read with Section 31(1)(f) PLRA Act was inconsequential. The reliance on Muhammad Arshad (2025 SCMR 2071) was held distinguishable because in that case the inquiry officer had concluded that misconduct was not proved (attracting mandatory recourse to Section 13(3) & (6) PEEDA), whereas here misconduct was duly proved, and the Section 13(4) Show Cause Notice and Section 13(5) proceedings were lawfully followed. Departmental standard of proof is the balance of probabilities, not proof beyond reasonable doubt. Determination of quantum of punishment is the prerogative of the Competent Authority and the case does not fall within the four exceptions enumerated in Shafique Ahmed v. PPO KP (2026 SCP 34) for setting aside dismissal. The petitioner's conduct — filing a second departmental appeal long after the first was dismissed

and approaching the High Court after 9 months' delay — also disentitles him to equitable relief.

LEGAL SIGNIFICANCE

The judgment consolidates and applies several recent Supreme Court rulings to disciplinary proceedings under PEEDA. It reaffirms (i) that contractual employees transferred to the PLRA by operation of Section 31(1)(f) of the PLRA Act are no longer under the Board of Revenue's control — settling the competence question for inquiries against ADLRs (Province of Punjab v. Ashi, CPLA No.1559-L/2021); (ii) that constitutional jurisdiction under Article 199 lies even in respect of non-statutory service rules where statutory provisions of a regulating enactment such as PEEDA are alleged to have been breached (Capt. Muhammad Ali Khan v. Port Qasim Authority; Bashir Ahmad; Haroon Ur Rasheed; Muhammad Rafi; Pakistan Defence Forces Housing Authority); (iii) that Muhammad Arshad (2025 SCMR 2071) is confined to cases where the Inquiry Officer's conclusion is that misconduct has not been proved, requiring Section 13(3) & (6) PEEDA route; (iv) that the standard of proof in departmental proceedings is balance of probabilities; and (v) the four-fold taxonomy for setting aside dismissals laid down in Shafique Ahmed v. PPO KP (2026 SCP 34) — procedural irregularity, technicality/lenient view, disproportionality, or misconduct not proved — outside which interference is not warranted.

LEGAL PROPOSITIONS (VERBATIM)

— the Constitutional jurisdiction under Article 199 of the Constitution may be invoked where the act of a statutory authority is violative of relevant service rules or regulations, even if such regulations are non-statutory or the petitioner has agitated his grievance on the touchstone of violation of statutory provision of an enactment, under which enactment/statute, the Petitioner has been proceeded against i.e. PEEDA

— Once the misconduct was proved in the lawfully conducted inquiry proceedings, it was not binding upon the Competent Authority to necessarily follow the recommendations of the inquiry officer, hence, it was well within the jurisdiction of the Competent Authority to enhance or reduce the quantum of penalty in accordance with law

— a judgment cannot be generalized beyond its context, as it is only applicable to the situation at hand and does not serve as a precedent for matters that lie outside its explicit scope – a judgment is precedent for its own facts

— the standard of proof in the departmental proceedings is based on the balance of probabilities or preponderance of evidence and not a strict proof beyond any reasonable doubt

LEGAL PRINCIPLES EXPOUNDED

Article 199 jurisdiction lies against a statutory authority where it acts in violation of relevant service rules or regulations even if non-statutory, or where statutory provisions of the enactment governing the proceedings (e.g. PEEDA) have been violated.

Source: *the Constitutional jurisdiction under Article 199 of the Constitution may be invoked where the act of a statutory authority is violative of relevant service rules or regulations, even if such regulations are non-statutory or the petitioner has agitated his grievance on the touchstone of violation of statutory provision of an enactment, under which enactment/statute, the Petitioner has been proceeded against i.e. PEEDA*

Authority: *Capt. Muhammad Ali Khan v. Port Qasim Authority (CA No.112-K/2024, FCC, 30.03.2026); Bashir Ahmad v. DG LDA (2020 SCMR 471); Haroon Ur Rasheed v. LDA (2016 SCMR 931); Muhammad Rafi v. Federation of Pakistan (2016 SCMR 2146); Pakistan Defence Forces Housing Authority v. Lt. Col. Syed Jawaid Ahmed (2013 SCMR 1707)*

ADLRs were transferred to PLRA by operation of law under Section 31(1)(f) of the PLRA Act and are no longer under the control of the Board of Revenue.

Source: *the respondents were transferred under section 31(f) of the Act as contractual employees to the Authority and, therefore, cannot invoke the provisions of the Regularization Act for their regularization*

Authority: *Province of Punjab v. Ashi etc. (CPLA No.1559-L/2021, SC, decided 21.03.2025; Review dismissed 01.10.2025)*

The standard of proof in departmental proceedings is the balance of probabilities or preponderance of evidence, and not proof beyond reasonable doubt.

Source: *the standard of proof in the departmental proceedings is based on the balance of probabilities or preponderance of evidence and not a strict proof beyond any reasonable doubt*

Authority: Amir Waseem v. Provincial Police Officer (2026 SCP 131); Faisal Ali v. DPO Gujrat (2025 SCMR 92); MD NBF v. Muhammad Arif Raja (PLD 2006 SC 175); Usman Ghani v. Chief Postmaster (2022 SCMR 745)

Annulment of dismissal in disciplinary proceedings is warranted only in four specified circumstances: procedural irregularity (de novo inquiry), technicality/lenient view, disproportionality of penalty, or where misconduct is not proved.

Source: *the decision to annul a dismissal typically arises in one of four specific circumstances. Firstly, this may occur when it is determined that the punishment was enacted due to a procedural irregularity … Secondly, a punishment order may be rescinded based on a technicality or on taking a lenient view … Thirdly, dismissal may be overturned if this punishment is deemed disproportionate … Lastly, a dismissal is set aside when the alleged misconduct is not proven*

Authority: Shafique Ahmed v. PPO KP (2026 SCP 34)

Determination of the quantum of punishment is the prerogative of the Competent Authority once misconduct is established through due process; interference on the touchstone of proportionality is exceptional and must be structured and reasoned.

Source: *as soon as the act of misconduct is established and the employee is found guilty after due process of law, the prerogative of the employer to decide the quantum of punishment out of various penalties provided in law, cannot be questioned in every other case*

Authority: Secretary, Law and Parliamentary Affairs v. Ali Ahmad Khan (2025 SCMR 708); Sabir Iqbal v. Cantonment Board, Peshawar (PLD 2019 SC 189); Saeed Ahmed v. Nestle Pakistan Ltd. (2026 SCMR 105); Chairman POF v. Akhtar Tanveer (2025 SCMR 374); Sakhib Zar v. KE (2024 SCMR 1722)

OPERATIVE ORDER

For the foregoing, the Constitutional Petition in hand has no merits and the same is accordingly dismissed.

■ View Full Judgment

CIVIL SUIT BYPASSING REVENUE HIERARCHY; JURISDICTIONAL DEFECT IGNORED

Mushtaq Hussain Shah (deceased) through Legal Heirs v. The Province of Punjab through District Collector, Sialkot & others

CIVIL REVISION PARTIALLY ALLOWED; CASE REMANDED

Civil Revision No.70734 of 2023 | 2026 LHC 3523 · Bench: Muhammad Sajid Mehmood Sethi, J. · Decided: 03.06.2026 · Uploaded: 11-06-2026

FACTS

The petitioners claimed rights in suit property by virtue of a compromise decree dated 21.06.1987 passed in a pre-emption suit, in implementation of which Mutation No.335 was sanctioned in their favour on 25.01.1996. The original vendors (respondents) challenged the mutation before the Assistant Commissioner who, by order dated 07.03.1998, cancelled it. Instead of pursuing the appellate/revisional remedies under the West Pakistan Land Revenue Act, 1967, the petitioners instituted a civil suit in 2000 for declaration that the cancellation order was illegal and void. The trial court dismissed the suit on 24.09.2022 for want of jurisdiction; the appellate court affirmed on 28.04.2023. Hence the civil revision before the High Court.

LEGAL ISSUE

Whether the civil suit was maintainable in the face of the bar under Sections 161 and 172 of the West Pakistan Land Revenue Act, 1967, where the petitioners had not exhausted statutory remedies; and, independently, whether the Assistant Commissioner possessed jurisdiction at all to cancel a mutation which had been sanctioned in implementation of a civil court decree, and whether the proceedings before him were instituted within limitation.

HOLDING

The Court upheld the concurrent findings that the petitioners failed to avail the statutory remedy under Section 161 of the West Pakistan Land Revenue Act, 1967 and that recourse to civil jurisdiction without exhausting such remedy was impermissible. However, two material issues had not been adjudicated by the

courts below: (i) whether the Assistant Commissioner possessed jurisdiction to cancel a mutation sanctioned pursuant to a civil court decree, and (ii) whether the proceedings before him were within limitation. Failure to determine such material issues amounted to failure to exercise jurisdiction and attracted Section 115 CPC. The matter was accordingly remanded to the trial court for fresh decision on these two unresolved questions.

LEGAL SIGNIFICANCE

The judgment reaffirms the general bar against bypassing the revenue hierarchy under the West Pakistan Land Revenue Act, 1967, while carving out a critical analytical space: where a mutation is sanctioned in implementation of a civil court decree, the question of the revenue authority's competence to cancel it raises a distinct jurisdictional issue going beyond ordinary maintainability. The decision underscores that courts must decide material issues of jurisdiction and limitation expressly raised by parties, and that non-determination of such issues is itself a jurisdictional defect under Section 115 CPC. It also restates that mere absence of pleadings of fraud or mala fide does not foreclose scrutiny where the foundational jurisdictional competence is genuinely in question.

LEGAL PROPOSITIONS (VERBATIM)

— where the legislature has provided a special forum along with an adequate and efficacious mechanism for redressal of a grievance, the aggrieved party is required, in the first instance, to avail such remedy before invoking the jurisdiction of the civil Court.

— A mutation entered on the basis of an ordinary private transaction stands on a different footing from a mutation sanctioned in consequence of a decree passed by a competent Civil Court.

— A decree passed by a Court of competent jurisdiction remains valid, binding and operative unless and until it is set aside, modified or varied by a forum recognized by law.

— Failure to determine material issues amounts to failure to exercise jurisdiction vested in the Court and attracts the supervisory jurisdiction of this Court under Section 115 CPC.

LEGAL PRINCIPLES EXPOUNDED

Statutory remedies under a special forum must be exhausted before invoking civil court jurisdiction.

Source: *where the legislature has provided a special forum along with an adequate and efficacious mechanism for redressal of a grievance, the aggrieved party is required, in the first instance, to avail such remedy before invoking the jurisdiction of the civil Court.*

Authority: *Muhammad Siddique v. Mst. Noor Bibi (2020 SCMR 483); Bashir Ahmed v. Muhammad Saleem (2008 SCMR 1272); Jamshed Khan v. Akbar Khan (PLD 2026 Lahore 146)*

Revenue authority's jurisdiction to cancel a mutation derived from a civil court decree is a distinct jurisdictional question requiring inquiry.

Source: *the question whether such authority extends to cancelling a mutation that owes its existence to a civil Court decree raises a distinct issue relating to jurisdiction itself.*

Authority: *Allah Ditta v. Ghulam Muhammad (2008 SCMR 1021)*

A decree of a competent court remains binding until set aside; actions effectively nullifying it invite jurisdictional scrutiny.

Source: *if a Court is competent to hear and decide a suit, it is equally competent to decide it either rightly or wrongly; and so long as its decision remains unreversed by a superior forum in appeal or other lawful proceedings, the decree continues to be valid, binding and enforceable upon the parties.*

Authority: *Messrs Lyallpur-Sahiwal Bus Service (Recd.), Lahore v. Appellate Authority (PLD 1970 Lahore 775)*

Limitation is a material question which the court is duty-bound to decide; the law of limitation rests upon public policy and finality.

Source: *The law of limitation is founded on public policy with the common sense and wisdom of attaining finality to the judgments.*

Authority: *Sindh Irrigation and Drainage Authority v. Province of Sindh (2026 SCMR 190)*

Non-determination of material issues is failure to exercise jurisdiction and attracts revisional supervision under Section 115 CPC.

Source: *Once such questions were specifically raised and formed part of the controversy between the parties, the learned Courts below were under an obligation to address them and record definite conclusions thereon.*

Authority: *Section 115 CPC*

OPERATIVE ORDER

> *Consequently, this Civil Revision is partially allowed. The judgments and decrees dated 24.09.2022 and 28.04.2023 passed by the learned Civil Judge and the learned Additional District Judge, Sialkot, respectively, are set aside to the limited extent indicated above, and the case is remanded to the learned Trial Court for a fresh decision on the unresolved questions arising in the matter. The learned Trial Court shall specifically determine: (i) whether Mutation No.335 was sanctioned in execution and implementation of the civil Court decree dated 21.06.1987 and, if so, whether the Assistant Commissioner possessed jurisdiction under the West Pakistan Land Revenue Act, 1967 to cancel such mutation; and (ii) whether the proceedings initiated before the Assistant Commissioner culminating in the order dated 07.03.1998 were within limitation and, if not, the legal effect thereof. The learned Trial Court shall afford the parties an adequate opportunity of hearing and shall decide the aforesaid questions through a reasoned and speaking judgment in accordance with law. The findings of the learned Courts below, as affirmed herein, regarding the petitioners' failure to avail the statutory remedy provided under Section 161 of the West Pakistan Land Revenue Act, 1967, shall not prejudice the learned Trial Court from independently determining the aforesaid questions of jurisdiction and limitation. All contentions of the parties on the remanded issues shall remain open for fresh determination. The observations made in this judgment are tentative in nature and shall not prejudice either party. The learned Trial Court shall endeavour to conclude the proceedings expeditiously, preferably within a period of two (02) months from the date of receipt of a certified copy of this judgment.*

■ **View Full Judgment**

ORAL GIFT (HIBA); ESSENTIAL INGREDIENTS AND PLEADINGS

Imtiaz Ahmad & others v. Abdul Hameed alias Majeed (deceased) through Legal Heirs & another

CIVIL REVISION DISMISSED; CONCURRENT APPELLATE FINDING UPHELD

Civil Revision No.158 of 2019 | 2026 LHC 3516 · Bench: Muhammad Sajid Mehmood Sethi, J. · Decided: 03.06.2026 · Uploaded: 11-06-2026

FACTS

The petitioners instituted a suit for declaration and permanent injunction asserting that one Muhammad Rafique (unmarried, issueless), the owner of 18 Kanals 10 Marlas, had during his lifetime made an oral gift (Hiba) of the suit property in their favour, that offer, acceptance and delivery of possession had occurred, and that Mutation No.218 dated 22.02.2012 was entered on that basis with the donor recording his statement before revenue authorities; the donor died on 02.04.2012 before formal attestation of mutation. The respondent denied the alleged gift. The trial court decreed the suit on 14.03.2017. The Additional District Judge, Shakargarh accepted the respondent's appeal on 11.12.2018 and dismissed the suit. The petitioners assailed that judgment in revision.

LEGAL ISSUE

Whether the petitioners had established a valid oral gift (Hiba) under Muhammadan Law by proving the three essential ingredients of declaration/offer, acceptance, and delivery of possession with proper pleading of material particulars; and whether Mutation No.218 could substitute for proof of the underlying gift transaction itself.

HOLDING

The Court held that the petitioners failed to discharge the burden of proving a valid oral gift. The plaint omitted basic particulars of the alleged transaction (date, time, place, manner of declaration/acceptance, identity of original witnesses). Evidence was largely directed to mutation proceedings rather than the underlying Hiba. Mutation No.218 lost its limited evidentiary value as the foundational transaction itself was unproved. Several circumstances, including deposit of mutation fee after the donor's death (09.04.2012), non-production of the originating Rapt Roznamcha Waqiati entry, and irregularities in the revenue process, cast serious doubt on authenticity. The appellate court's reappraisal was lawful and warranted no interference under revisional

jurisdiction.

LEGAL SIGNIFICANCE

The judgment consolidates the strict, three-pronged proof requirement for oral Hiba under Muhammadan Law and emphasises that pleadings must disclose material particulars of the gift transaction (date, time, place, witnesses) failing which subsequent oral evidence cannot create a new factual case. It reaffirms that mutation entries are merely evidentiary and not constitutive of title, and that where the foundational transaction itself is unproved, the mutation loses even its limited evidentiary worth. The decision also restates the limited scope of revisional interference under Section 115 CPC where concurrent or appellate findings rest on proper appreciation of evidence.

LEGAL PROPOSITIONS (VERBATIM)

— It is settled beyond cavil that under Muhammadan Law a gift is not established merely by asserting its existence.

— evidence must remain within the confines of pleadings.

— where the basic transaction forming the basis of a mutation is not established, the mutation loses even the little worth attached to it and cannot be treated as a validly executed document.

— weakness in the defence cannot relieve a plaintiff of the obligation to prove his own case.

LEGAL PRINCIPLES EXPOUNDED

Three essential ingredients (offer, acceptance, delivery of possession) must be affirmatively proved by the donee to establish Hiba.

Source: *The person claiming title on the basis of Hiba must affirmatively prove the three indispensable ingredients thereof, namely: (i) a clear and unequivocal declaration or offer of gift by the donor; (ii) acceptance of the gift by or on behalf of the donee; and (iii) delivery of possession in pursuance thereof.*

Authority: *Hayat Muhammad through LRs. v. Muhammad Riaz (2023 SCMR 2012)*

Material particulars of the gift (date, time, place, offer, acceptance) must be specifically pleaded; failure renders the plea untenable.

Source: *A careful examination of the plaint reveals that the petitioners failed to furnish even the basic particulars of the alleged oral gift. Neither the date, time nor place of the alleged transaction was disclosed.*

Authority: *Abrar Hussain v. Mst. Bibi Shahida (PLD 2026 Supreme Court 42)*

Parties are bound by their pleadings and cannot lead evidence inconsistent with them or build a new case through oral testimony.

Source: *While evidence may explain a pleaded case, it cannot be permitted to create an altogether new factual foundation.*

Authority: *Muhammad Arif Tarar v. Matloob Ahmad Warraich (PLD 2025 Supreme Court 691); Sardar Muhammad Naseem Khan (2015 SCMR 1698)*

Mutation is not constitutive of title; once the basic gift transaction is unproved, the mutation loses its evidentiary value.

Source: *Mutation proceedings are merely evidentiary in nature and may, at best, furnish corroboration of an otherwise proved transaction.*

Authority: *Ghulam Farid v. Sher Rehman through LRs. (2016 SCMR 862)*

Unchallenged testimony alone cannot relieve the plaintiff's burden of proof in a declaration of title.

Source: *A decree for declaration of title cannot rest merely upon the absence of extensive cross-examination when the essential ingredients of the alleged transaction remain inadequately established.*

Authority:

OPERATIVE ORDER

> *Consequently, the impugned judgment and decree dated 11.12.2018 passed by the learned Additional District Judge, Shakargarh do not suffer from any illegality, material irregularity, misreading or non-reading of evidence warranting interference in revisional jurisdiction. This civil revision petition, being devoid of merit, is accordingly dismissed. No order as to costs.*

■ View Full Judgment

PRE-EMPTION; STRICT PROOF OF TALBS; MISREADING OF EVIDENCE

Rab Nawaz etc. v. Mumraiz Khan

CIVIL REVISION ALLOWED; PRE-EMPTION SUIT DISMISSED

C.R. No.675 of 2009 (with C.R. No.499 of 2009) | 2026 LHC 3508 · Bench: Syed Ahsan Raza Kazmi, J. · Decided: 05.05.2026 · Uploaded: 11-06-2026

FACTS

This was the second round of litigation, the Supreme Court having on 16.02.2026 remanded the matter for fresh decision on merits. The respondent (pre-emptor) had instituted a suit for possession by way of pre-emption against the petitioners (vendees) seeking pre-emption of a sale effected through Mutation No.1960 dated 30.04.2005. The trial court decreed the suit on 15.06.2007. Both parties appealed; the appellate court dismissed both appeals on 18.08.2009, maintaining the decree. The respondent (PW-4), serving in the Pakistan Army, deposed that on his return home on 23.06.2005 he was informed of the sale at about 8:15 p.m. by one Mian Ahmed; thereafter notices of Talb-i-Ishhad were dictated on 24.06.2005 and sent on 25.06.2005. The petitioners challenged the concurrent findings as based on misreading and non-reading of evidence regarding strict compliance with the mandatory Talbs.

LEGAL ISSUE

Whether the pre-emptor proved strict compliance with the mandatory three Talbs (Talb-i-Muwathibat, Talb-i-Ishhad and Talb-i-Khasumat) required under Section 13 of the Punjab Pre-emption Act, 1991, including the complete chain of source of information regarding the sale, exact date/time/place of first knowledge, immediate spontaneous assertion of the right, identity of attesting witnesses to the Talb-i-Ishhad notice and the admissibility of secondary evidence relating thereto; and whether concurrent findings could be disturbed in revisional jurisdiction.

HOLDING

The Court held that the respondent failed to establish the basic source from which the informer (Mian Ahmed) acquired knowledge of the sale; the informer himself admitted his information was hearsay (relayed by Bashir Ahmed). The pre-emptor failed to specify the exact place where the alleged knowledge was acquired. Even on the respondent's own version, after the informer expressed inability to purchase the property he suggested the respondent do so, after which the respondent expressed the intention — falling short of the immediacy required. Names of attesting witnesses to Talb-i-Ishhad were not pleaded or proved; copies of the notices were produced as secondary evidence without permission of the Court, in violation of Article 76 of the Qanun-e-Shahadat Order, 1984. The joint family circumstance rendered the plea of belated knowledge inherently improbable. Concurrent findings were the result of misreading and non-reading of material evidence. The civil revision was allowed and the pre-emption suit dismissed; the connected revision filed by the pre-emptor was rendered devoid of merit and dismissed.

LEGAL SIGNIFICANCE

The judgment reinforces the strict statutory regime governing pre-emption, restating that pre-emption is a weak and predatory right that can only be enforced upon strict and literal compliance with the Punjab Pre-emption Act, 1991. It consolidates the requirement that the complete chain of information about the sale be proved — from the first eye-witness source to the pre-emptor — and that exact date, time and place of first knowledge be established, together with immediate and spontaneous assertion of the right. It also reiterates that names of attesting witnesses to Talb-i-Ishhad must be pleaded and proved and that secondary evidence of such notices is inadmissible absent compliance with Article 76 of the Qanun-e-Shahadat Order, 1984. Importantly, the judgment confirms that concurrent findings based on misreading or non-reading of material evidence can be disturbed in revisional jurisdiction.

LEGAL PROPOSITIONS (VERBATIM)

> *— the right of pre-emption is a weak and predatory right which places a restriction upon the otherwise unfettered right of an owner to transfer his property.*

— in a suit for pre-emption, it is incumbent upon the pre-emptor to establish not only the factum of knowledge but also the complete chain through which such knowledge was acquired.

— It is a cardinal requirement of law that the pre-emptor must clearly establish the exact date, time and place where he first acquired knowledge of the sale.

— Where such findings are demonstrably based on misreading or non-reading of material evidence, or suffer from patent perversity, they constitute an error of law warranting interference by this Court.

LEGAL PRINCIPLES EXPOUNDED

Pre-emption is a weak and predatory right requiring strict compliance with statutory Talbs.

Source: *such right can only be enforced upon strict and literal compliance with the statutory requirements prescribed under the Punjab Pre-emption Act, 1991.*

Authority: *Punjab Pre-emption Act, 1991, Section 13*

The complete chain of source of information regarding the sale must be proved up to the pre-emptor.

Source: *Failure to establish the source and transmission of information is fatal to the claim.*

Authority: *Suhanuddin v. Pir Ghulam (PLD 2015 SC 69); Farid Ullah Khan v. Irfan Ullah Khan (2022 SCMR 1231); Muhammad Riaz v. Muhammad Akram (2024 SCMR 692)*

Exact date, time and place of first knowledge and immediate assertion of right are required.

Source: *The immediacy of Talb-i-Muwathibat can only be assessed when the precise place or Majlis where such knowledge was conveyed is clearly established.*

Authority: *Allah Ditta v. Muhammad Anar (2013 SCMR 866); Muhammad Anayat v. Muhammad Razzaq (PLJ 2026 Lahore 124)*

Names of attesting witnesses to Talb-i-Ishhad must be pleaded and proved; secondary evidence requires compliance with Article 76 QSO.

Source: *It is settled law that a pre-emptor is required not only to plead but also to prove all material particulars relating to the performance of Talb-i-Ishhad, including the identity of the attesting witnesses.*

Authority: *Kashmali Khan v. Mst. Malalla (2023 SCMR 1176); Muhammad Akram v. Mst. Fareeda Bibi (2007 SCMR 1719); Sher Asfandyar Khan v. Neelofar Shah (PLJ 2025 SC 322)*

Any doubt regarding execution of Talbs operates in favour of the vendee.

Source: *if any doubt arises regarding the execution of the talbs, the benefit of that doubt must favour the vendee.*

Authority: *Abdul Majeed v. Haji Haq Nawaz (2026 SCMR 138)*

OPERATIVE ORDER

Consequently, the instant Civil Revision is allowed. The judgments and decrees dated 15.06.2007 and 18.08.2009 passed by the learned Courts below are set aside, and the suit instituted by the respondent for possession by way of pre-emption is dismissed. As a necessary consequence of the above finding, Civil Revision No. 499 of 2009 filed by the respondent has become devoid of merit and is accordingly dismissed.

■ **View Full Judgment**

CONTEMPT; COSMETIC COMPLIANCE WITH JUDICIAL DIRECTION

Syeda Amira Batool v. Rao Abdul Karim, I.G. Police Punjab Lahore

CONTEMPT PETITION DISPOSED; OPPORTUNITY TO PURGE GRANTED

Crl.Org.No.27244 of 2026 | 2026 LHC 3496 · Bench: Raheel Kamran, J. · Decided: 21.05.2026 · Uploaded: 11-06-2026

FACTS

The petitioner qualified the PPSC selection for Sub-Inspector (Sargodha Region, women quota) but was denied appointment on the alleged ground of her father and brother's involvement in drug-trafficking cases. By judgment dated 01.12.2020 in W.P. No.31667 of 2014, the High Court set aside the I.G.'s rejection and directed issuance of appointment letter. The department filed ICA No.4161/2021 (without obtaining stay) and issued a conditional appointment order dated 17.09.2021 expressly subject to the outcome of the ICA. The petitioner, then serving as Assistant Education Officer on a permanent post, declined to join under such conditional terms, expressing willingness to join after final adjudication. The department withdrew the appointment on 02.03.2022. The ICA was ultimately dismissed as withdrawn on 27.01.2026. The petitioner again sought implementation; by speaking order dated 08.05.2026 the DPO Bhakkar declined. The present contempt petition followed.

LEGAL ISSUE

Whether a conditional appointment expressly made subject to the outcome of the department's own ICA constituted effective compliance with the judgment dated 01.12.2020; whether the petitioner's refusal to relinquish her existing permanent service in such circumstances could be construed as abandonment of the appointment; and whether the withdrawal order dated 02.03.2022 and the speaking order dated 08.05.2026 could lawfully be relied upon to deny implementation once the ICA stood withdrawn and the judgment had attained finality.

HOLDING

The Court held that the conditional appointment order dated 17.09.2021 was not effective compliance but merely an interim cosmetic step taken to avoid contempt during the appeal. The petitioner's refusal to abandon her permanent post for a conditional appointment was not abandonment; a party cannot be permitted to derive advantage from a situation it itself created. The withdrawal order dated 02.03.2022 had no independent legal basis but flowed from the conditional appointment and thus could not curtail rights under the judgment. The speaking order dated 08.05.2026 merely perpetuated those administrative measures and ignored the finality of the judgment after withdrawal of the ICA. Compliance must be real, effective and faithful — not cosmetic, conditional or illusory. Bearing in mind that contempt jurisdiction primarily secures compliance rather than punishes, the Court disposed of the petition without initiating punitive proceedings, affording the respondent thirty days to purge the contempt by full implementation.

LEGAL SIGNIFICANCE

The judgment is significant for its clear articulation that pendency of an appeal, without a stay, does not absolve the executive of the obligation to implement a judicial determination, and that 'conditional' appointment orders expressly subject to the outcome of the executive's own appeal do not amount to effective compliance. It frames a working test: compliance must be real, effective and faithful to the command of the Court, not cosmetic, conditional or illusory. It also reinforces that subsequent administrative orders built on a legally unsustainable conditional step cannot defeat rights crystallised by the original judgment, and treats withdrawal of an ICA as a moment when implementation duties become unequivocal. The decision balances the deterrent purpose of contempt jurisdiction with its primary function of securing compliance.

LEGAL PROPOSITIONS (VERBATIM)

— a judgment remains operative, binding and enforceable unless stayed, modified or set aside by a competent forum.

— executive and administrative authorities are bound to faithfully implement judicial determinations and cannot dilute, circumvent or frustrate them through subsequent administrative measures.

— Compliance with a judicial determination cannot be cosmetic, conditional or illusory. It must be real, effective and faithful to the command of the Court.

— A party cannot be permitted to derive advantage from a situation brought about by its own conduct.

LEGAL PRINCIPLES EXPOUNDED

A judgment is binding and enforceable unless stayed by a competent forum; mere pendency of appeal is no excuse for non-compliance.

Source: *Mere pendency of an appeal does not absolve a party from compliance with a subsisting judicial determination.*

Authority:

A conditional appointment expressly subject to the outcome of the executive's own appeal is not effective compliance with a directive judgment.

Source: *At best, the said order amounted to a conditional offer extended to the petitioner as an interim arrangement, expressly made subject to the final outcome of ICA No.4161 of 2021.*

Authority:

Subsequent administrative orders built upon a legally unsustainable premise cannot defeat rights vested by the judgment.

Source: *Once the very premise upon which the appointment was made is found to be inconsistent with the judgment dated 01.12.2020, the withdrawal order built upon that premise cannot be allowed to curtail or nullify the rights flowing from that judgment.*

Authority:

Implementation of judicial orders is a constitutional obligation; contempt jurisdiction secures the rule of law.

Source: *implementation of judicial orders is a constitutional obligation resting upon the organs of the State, particularly the Executive and that the contempt jurisdiction of the superior Courts exists to ensure obedience to judicial commands and preservation of the rule of law.*

Authority: *Baz Muhammad Kakar v. Federation of Pakistan (PLD 2012 SC 923); Article 204 of the Constitution; Contempt of Court Ordinance, 2003*

Contempt jurisdiction is primarily restorative, intended to secure compliance rather than punish; Section 18 requires substantial detriment.

Source: *bearing in mind the nature of contempt jurisdiction, which is intended primarily to secure compliance rather than to punish, and keeping in view the statutory safeguards embodied in the Contempt of Court Ordinance, 2003.*

Authority: *Sections 3, 4, 5 and 18 of the Contempt of Court Ordinance, 2003*

OPERATIVE ORDER

In view of what has been discussed above, this contempt petition is disposed of at this stage without initiating punitive contempt proceedings. The respondent is afforded an opportunity to comply with and implement judgment dated 01.12.2020 passed in Writ Petition No.31667 of 2014 in its true letter and spirit within a period of thirty days from the date of receipt of certified copy of this judgment and shall submit a compliance report before the Deputy Registrar (Judicial) of this Court. In the event of failure to comply with the aforesaid judgment within the stipulated period, the petitioner shall be at liberty to institute contempt proceedings afresh against the official(s) responsible for such non-compliance.

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ARTICLE 199(5) BAR; ADMINISTRATION COMMITTEE ACTS NON-JUSTICIABLE

Syed Khurshid Anwer Rizvi v. The Registrar, Lahore High Court and another

WRIT PETITIONS DISMISSED AS NOT MAINTAINABLE

W.P. No.215163 of 2018 (with W.P. No.230528 of 2018) | 2026 LHC 3486 · Bench: Raheel Kamran, J. · Decided: 02.06.2026 · Uploaded: 11-06-2026

FACTS

By Order dated 09.02.2017 issued by the Additional Registrar (B&F) for the Registrar, Lahore High Court, a Superior Executive Allowance of Rs.4,00,000/- per month was sanctioned with effect from 26.01.2017 for the Registrar, Lahore High Court. The petitioner in the titled petition, posted as Registrar at the relevant time, drew the allowance until his transfer on 07.02.2018. The petitioner in the connected W.P. No.230528 of 2018, posted as Director General, Punjab Judicial Academy, Lahore, also drew the same allowance on the basis of parity of pay and perks with the Registrar. By order dated 27.03.2018 issued pursuant to the decision of the Administration Committee of the Lahore High Court in its meeting dated 05.03.2018, the sanction was withdrawn from the date of issuance, and recovery of amounts already received was ordered. The petitioners assailed the withdrawal and recovery directions in constitutional jurisdiction; the respondents raised a preliminary objection on maintainability under Article 199(5).

LEGAL ISSUE

Whether a constitutional petition under Article 199 of the Constitution lies before the High Court against an order issued consequent upon an administrative decision of the Administration Committee of that Court withdrawing the Superior Executive Allowance and directing recovery; and whether the petitioners (a District & Sessions Judge posted as Registrar; and a Director General Punjab Judicial Academy drawing allowance on parity with the Registrar) ought instead to have approached the Punjab Subordinate Judiciary Service Tribunal.

HOLDING

The Court held that the impugned order dated 27.03.2018 and the consequential recovery letters stem from the decision of the Administration Committee of the Lahore High Court dated 05.03.2018. In view of Article 199(5) of the Constitution and the law laid down in Gul Taiz Khan Marwat (PLD 2021 SC 391), no writ petition is maintainable against such executive, administrative or consultative act. The constitutional bar cannot be overcome by describing the impugned order as a recovery order or by relying on accrued/vested rights — the source of the action remains decisive. For the petitioner posted as Registrar, the grievance also fell within service matters of the subordinate judiciary, the proper forum being the Punjab Subordinate Judiciary Service Tribunal under the Act of 1991. For the petitioner-DG (Punjab Judicial Academy), the allowance was extended only on the basis of parity with the Registrar, so its withdrawal traced back to the same non-justiciable administrative decision. Plea of post-retirement recovery did not advance maintainability. Petitions dismissed as not maintainable, without prejudice to recourse before a competent forum.

LEGAL SIGNIFICANCE

The judgment authoritatively applies Gul Taiz Khan Marwat (PLD 2021 SC 391) at the High Court level to confirm that executive, administrative or consultative acts of the Chief Justice, Judges or Administration Committee of a High Court are not amenable to writ jurisdiction under Article 199(5), and that this bar is determined by the nature and source of the impugned action rather than its consequential form. It clarifies that arguments based on accrued/vested rights, retrospective withdrawal or good-faith receipt go to the merits and cannot enlarge constitutional jurisdiction where the bar applies. It also locates parity-based allowances within the same constitutional bar where the foundation lies in an Administration Committee decision, and confirms that subordinate-judiciary service grievances must travel to the Punjab Subordinate Judiciary Service Tribunal.

LEGAL PROPOSITIONS (VERBATIM)

— a petition under Article 199(5) does not lie against the executive, administrative or consultative acts of the Chief Justice, the Judges or the Administrative Committee.

— The nature and source of the impugned action remain decisive and once it is found that the action flows from an administrative decision of the Administration Committee of the High Court, the bar contained in Article 199(5) is attracted.

— members of the subordinate judiciary are required to avail the remedy before the relevant Service Tribunal in service matters and cannot bypass the statutory forum by filing a civil suit or a writ petition.

— The petitioners cannot overcome the constitutional bar by describing the impugned order as an order of recovery or by contending that vested rights have been affected.

LEGAL PRINCIPLES EXPOUNDED

Chief Justice, Judges and Administration Committee of a High Court, when exercising executive/administrative/consultative powers, act for the Court and not as persona designata; such acts are not amenable to Article 199.

Source: *the Chief Justice or Judges of a High Court, while exercising executive, administrative or consultative powers, do not act as persona designata but act for and on behalf of the High Court. Consequently, such acts are not amenable to the constitutional jurisdiction of a High Court under Article 199 of the Constitution.*

Authority: *Gul Taiz Khan Marwat v. The Registrar, Peshawar High Court (PLD 2021 SC 391); overruling Ch. Muhammad Akram v. Registrar, Islamabad High Court (PLD 2016 SC 961)*

Maintainability turns on the source of the impugned action, not its consequential form; recharacterisation as a recovery order does not defeat the Article 199(5) bar.

Source: *The order dated 27.03.2018 is merely consequential to the decision of the Administration Committee dated 05.03.2018.*

Authority: *Article 199(5), Constitution of Pakistan, 1973*

Subordinate-judiciary service grievances lie before the Punjab Subordinate Judiciary Service Tribunal, not the High Court in writ.

Source: *A grievance relating to emoluments, allowances or monetary benefits attached to such posting is, in essence, connected with terms and conditions of service.*

Authority: *Abdullah Channah v. The Administrative Committee (2024 SCMR 1250); Punjab Subordinate Judiciary Service Tribunal Act, 1991*

A parity-based allowance falls with the principal sanction; challenge to its withdrawal travels back to the principal administrative decision.

Source: *when the allowance sanctioned for the Registrar was withdrawn pursuant to the decision of the Administration Committee, the very foundation for claiming the same allowance by the Director General on the basis of parity also disappeared.*

Authority: *Punjab Judicial Academy Act, 2007*

Merits arguments (vested rights, retrospective withdrawal, good-faith receipt) cannot enlarge constitutional jurisdiction where Article 199(5) excludes the High Court from the definition of 'person'.

Source: *such submissions cannot enlarge the constitutional jurisdiction of this Court where the Constitution itself, through Article 199(5), excludes the High Court from the definition of "person" for purposes of issuance of writs.*

Authority: *Article 199(5), Constitution of Pakistan, 1973*

OPERATIVE ORDER

For the foregoing reasons, this Court is persuaded to hold that the preliminary objection raised by learned counsel for the respondents is well-founded. The impugned order dated 27.03.2018 and the consequential recovery letters stem from the decision of the Administration Committee of this Court dated 05.03.2018. In view of Article 199(5) of the Constitution and the law laid down by the Supreme Court in the case of Gul Taiz Khan Marwat (supra) no writ petition is maintainable before this Court against such executive, administrative or consultative act of the Administration Committee. The petitions, therefore, are not maintainable. Resultantly, both these writ petitions are dismissed as not maintainable. It is, however, clarified that dismissal of these petitions on the ground of maintainability shall not preclude the petitioners from recourse to such remedy, if any, as may be available to them before the competent forum in accordance with law. There shall be no order as to costs.

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