JUDGMENT SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD

JUDICIAL DEPARTMENT

W.P. No.1355/2020
Syed Mohsin Shah *versus* Federation of Pakistan & 03 others

W.P. No.2489/2020
Ahmad Hanif Orakzai *versus* Government of Pakistan & 04 others

and

W.P. No.1809/2020
Sheikh Zafar Mehmood *versus* Prime Minister of Pakistan & 02 others

Petitioners by:	Mr. Omar Farouk Adam and Ms. Ghanwa Ejaz Khan, Advocates for petitioner in W.P. No.1355/2020.
	Mr. Muhammad Shaoib Shaheen, Mirza Waqas Qayoom and Saif-ur-Rehman Shah Bukhari, Advocates for petitioner in W.P. No.1809/2020.
	Barrister Zafarullah Khan, Advocate for petitioner in W.P. No.2489/2020.
Respondents By:	Barrister Muhammad Mumtaz Ali, AAG.
	Anita Turab, Joint Secretary (CP-II), Ayesha Bashir Wani, J.S. Litigation, Muhammad Saleem Khattak, D.S. (CP-IV), Ms. Nisha, Deputy Secretary (CP-I), Mehmood Khan Lakho, S.O. Lit.VI, Nadeem Arshad, S.O. Lit.V, Abdul Qayoom Kakar, S.O. (CP-VI), for Establishment Division, Islamabad.
Date of Hearing:	27.05.2021.

JUDGMENT

MOHSIN AKHTAR KAYANI, J:- By way of this common judgment, I intend to decide the captioned writ petitions having same questions of law and facts.

2. Through the captioned writ petitions, the petitioners namely Syed Mohsin Shah, Ahmad Hanif Orakzai and Sheikh Zafar Mehmood have

called in question the vires of the Civil Servants (Directory Retirement from Service) Rules, 2020 (***hereinafter called as impugned Rules***), as such, the latter has also assailed the minutes of 24th Meeting of the High Powered Selection Board (HPSB), held on 5th and 11th June, 2020 for promotion of the civil servants in BPS-22.

3. Brief and consolidated facts are that the Prime Minister of Pakistan while exercising powers conferred by Section 25(1) of the Civil Servants Act, 1973 read with S.R.O.No.120(1)/98, dated 27.02.1998, has promulgated *Civil Servants (Directory Retirement from Service) Rules, 2020*, concerning directory retirement of civil servants after completion of 20 years of service qualifying for pension and other retirement benefits. The petitioners have alleged that there is contradiction between Rule 1(2) and Rule 6 as well as between Rule 5(c) and Rule 6 of the impugned Rules of 2020. Similarly, Sheikh Zafar Mehmood, petitioner in W.P. No.1809/2020, questioned Rule 5(b) of the impugned Rules, whereby a civil servant having not been recommended for promotion twice shall be referred to the Retirement Board, as such, the petitioner having been denied twice for promotion in BPS-22 was referred to the Retirement Board. Hence, the captioned writ petitions.

4. Learned counsel for respective petitioners contended that after accepting the offer of voluntary return under Section 25 of the NAO, 1999, the respondents cannot be allowed to punish the civil servants by enforcing directory retirement from service, as such, the impugned Rules

are made in exercise of delegated powers, whereas the NAO, 1999 has been enacted through the act of parliament; that the impugned rules are contradictory in nature and inconsistent with the acts of parliament, precedents and provisions of NAO, 1999 as well as of Government Servant (Efficiency & Discipline) Rules, 1973, per se, Section 13 of the impugned Rules gives unbridled discretionary powers to the competent authority to pass direction in respect of retirement of a civil servant, even otherwise, Article 13 of the Constitution of the Islamic Republic of Pakistan, 1973 warrants a lawful guarantee against a double jeopardy; that Rule 5 of the impugned Rules is in contradiction and violation of Articles 2A, 3, 4, 8, 9, 10-A, 12, 13, 14, 18, 24 and 25 of the Constitution.

5. Conversely, learned AAG along with representatives of the Establishment Division contended that petitioner in W.P. No.1355/2020 has no legal cause of action for filing the writ petition being a retired employee serving in Government of KPK, therefore, he is not affected by the impugned Rules; that petitioner in W.P. No.1809/2020 for being a retired employee of the Federal Investigation Agency has also no legal cause of action for invoking jurisdiction of this Court, even otherwise, he is not an aggrieved person as per provisions of the impugned Rules; that captioned W.P. No.2489/2020 is based on a mere apprehension that in case HPSB did not find the petitioner fit for promotion to BS-22, he would face directory retirement, as such, the decision of the departmental authority as

to fitness for promotion of a civil servant is not open to judicial review by any Court.

6. Arguments heard, record perused.

7. Perusal of record reveals that all the petitioners have raised common questions and assailed the *Civil Servants (Directory Retirement from Service) Rules, 2020*, whereas the petitioner in W.P. No.2489/2020 namely Ahmad Hanif Orakzai has also assailed the vires of Section 13 of Civil Servants Act, 1973 along with the decision passed in 24th Meeting of HPSB held on 5th and 11th June, 2020, as a result whereof, the said petitioner was not promoted to BPS-22.

Historical Perspective of Section 13 of the Civil Servants Act, 1973

8. Before going into the question of vires of the impugned Rules, it is necessary to go through historical perspective of Section 13 of the Civil Servants Act, 1973, which was notified on 29.09.1973 with the purpose *to regulate the appointment of persons to and the terms and conditions of service of persons in the service of Pakistan*. Originally, Section 13(1) of the Civil Servants Act, 1973 was in the following shape:-

> ***13. Retirement from service.*** *A civil servant shall retire from service---*
> *(i) in the case of a person holding the post of Additional Secretary to the Federal Government or any equivalent or higher post, on such date as the competent authority may, in the public interest, direct*
> *(ii) In any other case, on such date after he has completed twenty-five years of service qualifying for pension or other retirement benefits as the competent authority may, in the public interest direct; or*
> *(iii) Where no direction is given under clause (i) or, as the case may be, under clause (iii), on the completion of the fifty-eighth year of his age.*
>
> *Explanation – In this section, "competent authority" means the appointing authority or a person duly authorized by the appointing authority in this behalf, not being a person lower in rank than the civil servant concerned.*

9. However, the said provision had been amended through *Civil Servants (Amendment) Ordinance, 1988* on 28.11.1988, whereby 25 years of service remained intact but, the same has been merged with the concept that competent authority may take a decision for retirement of civil servant in the public interest, however under Section 13(1)(ii) of the *Civil Servants Act, 1973*, the retirement of civil servant has been fixed on completion of 60th years of age. The third amendment was made on 01.06.2000 through *Civil Servants (Amendment) Ordinance, 2000*, whereby Section 13(2) has been amendment only, in which word "*order*" has been replaced with "*direction*". The last and fourth amendment was made on 04.08.2001, through *Civil Servants (Amendment) Ordinance, 2001*, whereby Section 13(1)(i) has been amended and the qualifying service of ***25 years*** has been substituted with ***20 years*** i.e. the minimum required length of service for retirement.

10. Admittedly, Section 13 of the Civil Servants Act, 1973 has a checkered history where Section 13(1) was initially enacted without any prescribed rule to deal with the situation that a civil servant shall retire from service after completion of 20 years of service qualifying for pension and other retirement benefits, as such, the Establishment Division issued ***guidelines for review*** of cases of civil servants by Review Committee on certain parameters, whereby a civil servant is recommended for retirement in cases where two or more penalties have been imposed upon him under the *Government Servant (Efficiency & Discipline) Rules, 1973* or his overall

grading of ACRs is average qua his integrity, reliability, output of work, behavior, etc. or he has twice been recommended for supersession by Supervisory Board or DPC, even his persistent reputation is being corrupt or he is in possession of properties disproportionate to his known source of income or in some cases his frequent unauthorized absence from duty, per se, based on such concept, the case of a civil servant for retirement under Section 13(1) of the Civil Servants Act, 1973 is to be considered.

Guidelines for Review of Cases of Civil Servants

11. The primary arguments advanced by the petitioners side are that Section 13(1) of the Act of 1973 is ultra vires on the touchstone of Articles 2A , 3, 4, 8, 9, 10, 12, 13, 14, 18, 24 and 25 of the Constitution of the Islamic Republic of Pakistan, 1973. Similarly, the legislative history of Section 13 and its amendments are considered to be draconian legislation started from *General Yahya Khan's era*, leading towards *General Zia ul Haq* and then followed by *General Pervaiz Musharaf*, in this period, 25 years of service has been reduced to 20 years as minimum consideration for the purpose of retirement, though in past, the amendments made to Section 13 of the *Civil Servants Act, 1973* were struck down by the Appellate Shariat Bench of the apex Court being un-Islamic and un-constitutional as reported in ***PLD 1987 SC 304 Shariat Appellate Bench (Pakistan, etc. vs. Public-at-Large***), whereby such concept of retirement has been considered as stigma and disgrace in the public eyes, especially when it has been declared that the retirement is in the public interest, though it is without any fault or deficiency on the part of civil servant. The Shariat Appellate Bench

considered such type of retirement harmful to the reputation, self respect and dignity of a civil servant, which is against the injunctions of Islam, rather considered to be a *Zulm*, as such, the amendments in Section 13 of Civil Servants Act, 1973 have been declared unconstitutional for not extending any right of hearing to civil servant before retirement under Section 13(1)(i) of the Civil Servants Act, 1973. The five members larger bench of the apex Court upheld the decision of the Federal Shariat Court and observed that since there is no concept of issuance of notice or personal hearing before passing the order under Section 13(1)(i) of Civil Servants Act, 1973, the provision was declared repugnant to Islam, as a result whereof, the apex Court allowed the period of 06 months for new enactment so that amendment could be made and right of personal hearing can be given, otherwise, Section 13 was to be considered within four corners of law. The detailed judgment of the apex Court further highlights the reasons and elements of public interest to be determined on its factual side in each case and, as such, a difference should have been elaborated between compulsory retirement due to misconduct and retirement in the public interest, per se, no safeguard or distinction has been provided. A close analysis of the case ***PLD 1987 SC 304 Shariat Appellate Bench (Pakistan, etc. vs. Public-at-Large***) discloses that if opportunity of show cause has not been given to a civil servant, who has completed 25 years of service at that time, he may be subject to exploitation and the provision can be used in oppressive or capricious manner or being misused against such

civil servant, though the factor considering for application under Section 13(1)(i) is the employee's performance, which might not be up to the mark, but he otherwise attains the highest position on account of his seniority and action against him is not possible under the *Government Servant (Efficiency & Discipline) Rules, 1973*, however where action has been taken whimsically or capriciously or on account of malafide, the civil servant can avail the remedies available under the law. After the announcement of the judgment by the apex Court in the case of *Pakistan supra*, the amendment was made and right of hearing was incorporated in the law and, as such, the only lacuna referred in Section 13 of the *Civil Servants Act, 1973* stands cleared.

Effect of Civil Servants (Directory Retirement from Service) Rules, 2020

12. Now question arises as to whether the impugned Rules have been promulgated in accordance with the law or otherwise, the same has been answered by learned AAG Barrister Muhammad Mumtaz Ali, who has drawn the attention of this Court towards Rule 5 of the impugned Rules, in which following yardstick has been provided:

> *5. Grounds for retirement. (1) No civil servant shall be recommended for directory retirement under these rules, unless any one or more of the following conditions is/are fulfilled in his/her case---*
>
> *(a) Has earned average performance evaluation reports (PERs) or adverse remarks have been recorded in three or more PERs from three different officers, for a period not less than six months and have attained-finality after appeal there against if any;*

(b) Has been twice recommended for supersession by the Central Selection Board (CSB), Departmental Selection Board (DSB) or Department Promotion Committee (DPC), as the case may be, or twice not recommended for promotion by the High Powered Selection Board and such recommendations have been approved by the appointing authority and the matter has attained finality;

(c) Has been found guilty of corruption or has entered into plea bargain or voluntary return with National Accountability Bureau or any other investigating agency;

(d) Has been on more than one occasion placed in category 'C' by the CSB, DSB or, as the case may be, DPC under the Civil Servants Promotion (BPS-18 to BPS-21) Rules, 2019; or,

(e) Has conduct unbecoming.

13. While going through the above mentioned factors, it has been argued on behalf of the petitioners side that the impugned Rules have been notified on 15.04.2020 and under interpretation of statutes, the statutory rules are to be applied prospectively as in absence of a stipulation to contrary, any change in law affecting substantial rights has prospective application only. Reliance is placed upon ***2018 SCMR 301 (Secretary Housing and Environmental and PHE Department, Government of Punjab vs. Muhammad Ramzan, etc.)*** and ***1987 PLC (CS) 531 (Muhammad Ramiz ul Haq vs. Secretary Establishment Division, Rawalpindi)***.

Prospective or Retrospective Effect of Rules

14. It has also been argued that every statute, *prima facie*, has prospective application unless it is expressly provided that same will have retrospective operation. It is also known principle of interpretation that

legislation that touches the vested rights of individual cannot be given retrospective effect unless clearly indicated by the legislature as held in ***2020 PTD 679 Karachi (The Collector of Sales Tax and Federal Excise v. Agro Chemical (Pvt.) Ltd.)***. The general rule of interpretation is that the legislation touching vested right of an individual cannot be given retrospective effect, however the civil servants cannot claim their vested right that they would continue to serve after completion of 20 years of their service till age of superannuation as it has already been part of their terms and conditions under Section 13(1)(i) of the Civil Servants Act, 1973 that they be given protection for their continuation of service till 20th year of service unless they have been hit by the concept of misconduct, as such, the terms and conditions of service clearly stipulated in the Civil Servants Act, 1973 do not create any other right as interpreted by the petitioners, except provided in the statute.

Status of Delegated Legislation

15. This Court is of the view that delegated legislation could not override the statute either by exceeding authority or by making provision inconsistent with parent statute. The general power to make rules or legislation for carrying out or giving effect to statute was strictly ancillary to its nature and could not enable the authority on whom the power was conferred to extend the scope of general operation of the statute. Similarly, the rulemaking authority cannot extend the purpose of statute or add new or different meaning of carrying them out or to depart from or vary its terms. Any rule / regulation which the rulemaking authority has power to

make was liable to be declared invalid if powers entrusted for one purpose were deliberately used with design of achieving other or if it shows on its face misconstruction of law or failure to comply with conditions prescribed under the parent statute for the exercise of the powers or if it was not capable of being related to any purpose mentioned in the parent statute. All these principles have been explained in ***PLD 2019 Lahore 206 (Ahmad Mehmood vs. Government of Punjab)***. The criteria to consider the subordinate/delegated legislation to be given protection or to declare them otherwise is to be settled by way of a test, whether the same surpasses the parent statute, per se, the said principle has been highlighted in ***2005 SCMR 186 (Khawaja Ahmad Hassan v. Government of Punjab), 2003 SCMR 370 (Pakistan through Secretary Finance v. Aryan Petro Chemical Industries (Pvt.) Ltd., Peshawar)*** and ***2013 SCMR 642 (ZTBL vs. Said Rehman)***. The test laid down by the apex Court in the above mentioned cases has been considered while going through the provision of Section 25 of the Civil Servants Act, 1973 which extends the rule making authority to *the President or any person authorized by the President in this behalf, may make such rules as appear to him to be necessary or expedient for carrying out the purposes of this Act.* The plain meaning of said provision extends the authority to the President to make such rules *for carrying out the purpose of the Act*. The President has delegated its authority to the Prime Minister of Pakistan in exercise of powers conferred by sub-Section 1 of Section 25 of the Civil Servants Act, 1973 vide SRO Notification No.120(i)/98, dated

27.02.1998, to make rules under the said Act and in this case the Prime Minister of Pakistan promulgated the impugned Rules, hence the salient characteristics qua the rulemaking authority are the powers conferred in the statute. The second characteristic is the approval of the Government or statutory sanction which has clearly been observed as the rules have been notified through SRO No.230(i)/2020, therefore, the minimum requirements of law have been fulfilled.

16. At this stage, question arises whether the impugned rules fulfill the purpose of the Civil Servants Act, 1973, as such, it has to be seen on the concept of retirement provided in Section 13(1), ***where a civil servant completing 20 years of service could be retired by the competent authority in the public interest?*** The plain language of the said provision spells out that the civil servant has to serve up to 20th year of his service as of his right, except in case of misconduct, whereafter the concept of vested right has been substituted with the discretion of the competent authority in the public interest. In this background, civil servant cannot claim to perform his service beyond the period of 20 years of service till the age of superannuation i.e. 60 years being his predetermined right, as such length of service is subject to condition which essentially refers the right through the evaluation by the competent authority, likewise in cases of promotion, the determination of the eligibility criteria for promotion is essential administrative matter falling within the exclusive domain and policy making of the Government, which could not be interfered with by the

Courts, even no vested right has been given to a Government employee in the matter of promotion or rules determining their eligibility of fitness. Reliance is placed upon ***PLD 2003 SC 143 (Dr. Muhammad Hussain v. Principal, Ayub Medical College), 2016 SCMR 1021 (Government of Khyber Pa khtunkhwa v. Hayat Hussain)*** and ***PLD 1960 SC 81 (The Central Board of Revenue, Government of Pakistan v. Asad Ahmad Khan)***.

Concept of Public Interest

17. The plain language of Section 13 of the Civil Servants Act, 1973 reveals that a civil servant could be retired after 20 years of completion of service on the direction of the competent authority in the public interest, however the Civil Servants Act, 1973 is silent qua the phrase ***"public interest"***, hence the said phrase could only be considered in the light of ordinary dictionary meaning. As per Black's Law Dictionary (8th Edition), "***public interest***" means ***"the general welfare of public that warrants recognition and protection or something in which the public as a whole has a stake, esp: an interest that justified governmental regulation***", even otherwise, the said phrase has been explained by the superior Courts in the manner that something in which public at large had some interest or by which their rights or liabilities were affected, but would not mean interest of a particular person. Reliance is placed upon ***2005 CLD 264 Karachi (English Biscuits Manufacturers (Pvt.) Ltd. Vs. Monopoly Control Authority and another)***. The phrase public interest has also been explained

by the Supreme Court of India in ***AIR 1993 SC 892 (Janata Dal V. H.S. Chowdhary and others)*** in the following manner:

> *51. In Shrouds Judicial Dictionary, Vol. 4 (IV Edition), 'public interest' is defined thus:*
>
> > *PUBLIC INTEREST (1) A matter of public or general interest "does not mean that which is interesting as gratifying curiosity or a love of information or amusement' but that in which a class of the community have a pecuniary interest, or some interest by which their legal rights or liabilities are affected." (per Cambell C.J., R. v. Bedfordshire 24 L.J.Q.B. 84).*
>
> *52. In Black's Law Dictionary (Sixth Edition), 'public interest' is defined as follow:*
>
> > *Public Interest - Something in which the public, the community at large, has some pecuniary interest, or some interest by which their legal rights or liabilities are affected. It does not mean anything so narrow as mere curiosity, or as the interests of the particular localities, which may be affected by the matters in question. Interest shared by citizens generally in affairs of local, state or national government....”*

In view of above discussion, the paramount consideration for retiring a civil servant after completion of his 20 years of service is the will and choice of the competent authority as to whether they are interested to allow the civil servant to continue his service or otherwise but, the predominant factor is the public interest, which could only be evaluated by the competent authority, hence the exclusive domain of the competent authority could not be questioned if it is based on the concept of fitness i.e. whether the particular post and position necessitate a qualified person amongst his peers having eligibility to tackle the highest skill position in the larger public interest.

18. Besides the concept of public interest, Section 4 of the Civil Servants Act, 1973 highlights the *tenure of office of civil servant whereby every civil*

servant shall hold office during the pleasure of Government. The pleasure doctrine was not based on any special prerogative of the Government but was based on public policy and was in public interest / good. The basis of pleasure doctrine was that public was vitally interested in efficiency and integrity of civil services, therefore, public policy required public interest and public could demand that a civil servant, who is inefficient, dishonest or corrupt and had become a security risk should not continue in service. Reliance is placed upon ***2019 PLC (CS) 266 Lahore (Malik Muhammad Bashir Lakhesar, Assistant General Punjab v. Government of Punjab)***.

19. Learned counsel for petitioners further submits that Section 3 of the Civil Servants Act, 1973 also plays an important role, whereby the terms and conditions could not be varied to the disadvantage of civil servant as word "***shall***" has been used and those terms and conditions of a civil servant have to be regulated under the ***Act*** and the ***Rules***, which provide a guarantee to a civil servant. The language of Section 3 of the Civil Servants Act, 1973 though confirms the rights of the civil servants but the same have to be regulated under the law and it is settled that no adverse action be taken against the civil servant, except in accordance with law. Even, the impugned Rules are within the framework of the Civil Servants Act, 1973 and same do not create a disadvantageous position for a civil servant in any manner.

20. The above referred discussion leads to an irresistible conclusion that when a civil servant acknowledges his offer letter and joins the service, he

is bound by the terms and conditions highlighted in the Civil Servants Act, 1973 and the rules framed thereunder, therefore, law of estopple applies, which precludes the civil servant to challenge the provisions of law, especially when Section 13 has already been considered on the touchstone of Holy Quran and Sunnah by the Shariat Appellate Bench of the Supreme Court, even the concept of directory retirement was previously regulated through guidelines notified by the Government of Pakistan on 27.06.2000, which has been considered by the apex Court in ***2006 SCMR 1415 (Abdul Majeed v. Government of Pakistan)***, hence, the petitioners could not challenge the *vires* of Section 13, as the principle of *res judicata* comes into their way. The apex Court has already approved and maintained the amendment in Section 13 of the Civil Servants Act, 1973, which is in the interest of Government and civil servants as well, reliance is placed upon ***2003 PLC (CS) 1389 (Muhammad Qadeer v. Secretary Defence Production)***. In ***2004 PLC (CS) 707 (Chairman Censor Board vs. Muhammad Ali Shah)*** the Hon'ble Supreme Court set aside the judgment of FSC and confirmed the retirement of civil servant under Section 13(1)(i) by the competent authority while referring to the guidelines of Establishment Division, dated 27.07.2000, and held that procedure under Section 13 read with guidelines is independent to that of the regular inquiry in case of departmental action. There is no cavil to proposition that previously competent authority was empowered to invoke power under Section 13(1)(i) in accordance with the guidelines of 2000.

Directory Retirement vs. Compulsory Retirement

21. The arguments rendered by the petitioners are also not tenable, especially when they are in agreement to the terms and conditions provided in the *Civil Servants Act, 1973*, which includes Section 13(1)(i) as part of terms and conditions and they can be retired at any time after serving 20 years of service, however such provision needs a detailed procedure, which has been provided in the impugned Rules, though majority of conditions in Rule 5 of the impugned Rules, are synonymous to the conditions provided for compulsory retirement, which is a concept of punishment as provided in misconduct under the *Government Servant (Efficiency & Discipline) Rules, 1973*. Now the question arises as to whether the Government cannot consider the retirement of civil servant in terms of Section 13(1)(i) after completion of 20 years of service in the public interest on the criteria of fairness, reasonableness and protection of the fundamental rights of a civil servant, per se, the minimum requirement is whether the mandate of the Constitution in terms of Article 240 has been observed, which deals with the service, appointment to and conditions of service of person in the service of Pakistan, whereas Article 241 of the Constitution extends the authority to legislature to make a law, whereby the Civil Servants Act, 1973 has been made to deal with the terms and conditions of service, therefore, in the entire scheme of law whether any malafide has been referred by the petitioners, the answer is in negative. The petitioners, though not highlighted any special event of bad faith or unfairness qua the impugned Rules, just focused upon Rule 5 i.e.

concerning different factors to determine the eligibility and recommendation of a person for directory retirement. In this regard, this Court is of the view that the competent authority of a civil servant is the best judge to decide what factors are to be given preference and to what extent, per se, after due consideration and the powers available under Section 25 read with Section 13(1)(i) of the Civil Servants Act, 1973, the conditions were highlighted, therefore, the test, criteria, qualification, eligibility and methodology provided in the impugned Rules are based on subjective evaluation of each case and for that matter a committee in terms of Rule 4 (for the purpose of retirement of civil servants in BPS-16 & BPS-17 to 19) and for the purpose of retirement of civil servant in BPS-20 or above is through a Retirement Board constituted under Rule 3 of the Rules, which is the best judge to consider each case and decide whether a civil servant has earned average performance or adverse remarks qua his efficiency and if he has been recommended twice for supersession by the CSB, though he has some time to serve till his age of superannuation but, such position might acquire a high standard on the administrative side of different key positions in which an inefficient civil servant is not required and if he continues to serve, he will not be considered as an asset, rather he is a burden to the exchequer, such persons have to be given a safe exit through a directory retirement concept, especially when they do not fall within the concept of compulsory retirement under the term of misconduct, hence impugned rules were framed while considering the dignity of civil servant

in terms of Article 14 of the Constitution of Islamic Republic of Pakistan, 1973.

Unbecoming of a Civil Servant

22. Similarly, Rule 5(e) defines the concept of unbecoming of a civil servant, the term has been defined in Rule 2(c) of the impugned Rules, which highlights the efficiency, standing amongst peers as well as in the public, in which the civil servant is not fit to serve, such civil servant may be retired not through compulsory retirement as a punishment, rather to give him a safe exit. The term "unbecoming" was referred in military laws in British Armed Force, as referred by *(i) Roger Norman Buckley in "The British Army in the West Indies: Society and the Military in the Revolutionary Age", (ii) Exh. Samuel in the "An Historical Account of the British army: and of the Law Military William Clowes", (iii) Rees, N. in "Why Do We Say ...?" and (iv) William Loney RN in the "Background - The Naval Discipline Act, 1861"*, as such, the relevant extract is as under:

> *"The phrase was used as a charge in courts martial of the British Armed Forces in the 18th and early 19th centuries, although it was not defined as a specific offence in the Articles of War.[1] For instance, in 1813, Colonel Sir J Eamer was brought before a court martial "For behaving in a scandalous, infamous manner, such as is unbecoming the character of an officer and a gentleman, towards Captain B V Symes of the same regiment..."[2] The charge seems to have been first codified under the British Naval Discipline Act of 10 August 1860,[3] which says; "Article 24: Every Officer subject to this Act who shall be guilty of Cruelty, or of any scandalous or fraudulent Conduct, shall be dismissed with Disgrace from Her Majesty's Service; and every Officer subject to this Act who shall be guilty of any other Conduct unbecoming the*

> *Character of an Officer shall be dismissed, with or without Disgrace, from Her Majesty's Service."[4]"*

Besides the above historical nomenclature of the term "unbecoming", this Court is also guided by the judgment of the Supreme Court of India, reported as ***(2012) 3 SCC 178 (Krushnakant B. Parmar v. Union of India)***, wherein it was held that an officer of civil service is under obligation to maintain integrity, devotion to duty, and do nothing which is unbecoming of a Government servant in terms of Rule 3(1)(ii) of Central Civil Servants (Conduct) Rules, 1964. Similarly, unauthorized absence from duty is also considered as behavior of a civil servant unbecoming of a Government servant in the same case. I have also been confronted with other examples, such as in case reported as ***2003 SCMR 392 (Muhammad Asad Ullah Sheikh v. Government of Pakistan)*** a civil servant was living abroad for more than six years and had not visited Pakistan to answer the charges framed against him, such conduct was quite unbecoming of a civil servant. In ***1998 SCMR 1579 (Wazir Zada v. Chief of Air Staff, Pakistan Air Force)***, it was held that in previous service record of a civil servant also indicated that he was given number of opportunity to improve his behavior but he failed to do so, such behavior of civil servant was unbecoming of a civil servant. While taking stock from the said definition and case law, the inclusion of term unbecoming of civil servant in terms of rule 5(e) of the impugned Rules, though a negative phrase but an exception has been created from the definition of misconduct provided in Government Servant (Efficiency & Discipline) Rules, 1973, in order to protect a civil servant from

a stigma and to give him a way out from the civil service with his pensionary benefits without declaring him guilty under the concept of misconduct.

23. All these discussions leads to a conclusion that it is not a vested right of a civil servant to serve after completion of his 20 years of service till age of superannuation, rather it depends upon the will of the competent authority or pleasure of the Government as highlighted in Section 4 of the Civil Servants Act, 1973, such discretion has to be regulated through a criteria mentioned in Rule 5 of the *Civil Servants (Directory Retirement from Service) Rules, 2020*.

Compliance of Article 10-A of the Constitution of the Islamic Republic of Pakistan, 1973

24. One of the main reason for striking down the previous amendments by the superior Courts with reference to the concept of retirement in terms of Section 13 of the Civil Servants Act, 1973 is the non provision of remedy of appeal, revision or review of civil servant, if he has been retired from his service, this aspect has specifically been addressed in the impugned Rules by incorporation of Rule 8, whereby the aggrieved civil servant has been given a special right of appeal or review against the order for directory retirement, which could be assailed in accordance with *Civil Servants (Appeals) Rules, 1977.* Article 10-A of the Constitution of the Islamic Republic of Pakistan, 1973 provides a right to fair trial and due process at all forums, which is the fundamental right, as such, any deviation from such principle conclusively vitiates the proceedings, if any. Similarly,

Article 4 acknowledged the right of due process where a person shall have a notice of proceedings which affected his right, such person must be given a reasonable opportunity to defend himself, the adjudicatory tribunal or forum must be so constituted as to convey a reasonable assurance of its impartiality and that such tribunal or forum must possess composite jurisdiction as held in ***PLD 1999 SC 1126 (New Jubilee Insurance Co. Ltd. v. National Bank of Pakistan)***. The right of fair trial meant grant of proper hearing to accused person by an unbiased competent forum and that justice should not only be done but be seen to be done. The adjudicatory tribunal or forum is duty bound to treat a person in accordance with law, to grant him a fair hearing, and for itself to be an impartial and fair tribunal. These aspects have fully been covered by the apex Court in **PLD 2012 SC 553 (Suo Motu Case No.4/2020)**. On comparison, right of appeal or review as enshrined in Rule 8 of the *Civil Servants (Directory Retirement from Service) Rules, 2020* fulfills the constitutional requirements, which expand the principle of natural justice, well defined in our jurisprudence and same are treated as inherent right with underline element of fairness, both in terms of hearing as well as impartiality of the forums. Hence, the minimum requirement of Article 10-A of the Constitution of the Islamic Republic of Pakistan, 1973 has also been adhered to in the impugned Rules by the rulemaking authority. Such preconditions fulfill the minimum conditions of due process, fair trial and other fundamental rights protected by the Constitution of the Islamic Republic of Pakistan, 1973.

Effect of Voluntary Return or Plea Bargain in terms of Section 25(a) of NAO, 1999

25. One special category of civil servant has been dealt with separately in Rule 5(1)(c), where a civil servant *has been found guilty of corruption or has entered into plea bargain or voluntary return with National Accountability Bureau or any other investigation agency.* Such aspect has been argued by Mr. Omar Farouk Adam, Advocate for Syed Mohsin Shah in W.P. No.1355/2020, whereby he contends that Rule 5(1)(c) could not nullify the substantive provision of Section 25(a) of the NAO, 1999 for the reason that a subordinate delegated legislation could not be used to curtail the existing right based on a separate enactment. Such argument raises a question as to whether any civil servant found guilty of corruption and corrupt practices under the NAO, 1999 and has opted for voluntary return to the Chairman, NAB, prior to authorization of investigation against him i.e. voluntarily comes forward and offers to return the assets or gains acquired or made by him in the course, or as the consequence, of any offence under the Ordinance the Chairman NAB may accept such offer and after determination of due amount from such person and its deposit with NAB *discharge such person from all his liability in respect of matter or transaction in issue*, such plain language of the NAO, 1999 has rightly given an effect of discharge to such civil servant from criminal liability and he could not be called as an accused person for the purpose of ascertaining his criminal liability, even the legislature has not used the term "***accused person***",

therefore, such person could not be considered criminally liable for any action. .

26. Mr. Omar Farouk Adam, Advocate while relying upon ***2019 SCMR 282 (PTVC v. Inland Revenue (LTU), Islamabad)*** contended that the impugned Rules being delegated legislation could not supersede the Act of the Parliament. I have gone through the said judgment dealing with the levy of sales tax, wherein it was held that a tax under Article 77 of the Constitution could only be levied by or an authority of the Act of the parliament. It is levied under the charging Section of the Act, and, as such, the SRO being delegated legislation cannot be used for levy of tax unless an amendment has been made in the parent Act. The said judgment has settled the principle in relation to SRO made under the Sales Tax Act, 1990 and it has rightly been held that delegated legislation does not fill in the gap which has not been provided in the parent Act but, the case in hand is entirely different as the impugned Rules have clarified the situation provided in Section 13(1)(i) of the Civil Servants Act, 1973 which is the parent law and, as such, the principle laid down in *PTVC case supra* is not applicable in this case, as said judgment deals with the concept of taxation, which is not the subject matter of this case. Learned counsel has also taken the ground of prospective application of the impugned Rules while relying upon ***2018 SCMR 301 (Secretary Housing and Physical Environmental Planning and PHE v. Muhammad Ramzan)***, wherein it was held that in absence of stipulation of contrary any change in law affecting substantial

right has prospective application only, no doubt, such is the scheme of law but, the impugned Rules have envisaged the grounds for retirement in terms of Rule 5, which do not mean that the impugned Rules have been applied retrospectively, rather the grounds enumerated in Rule 5 are the factors made for making a decision of directory retirement in terms of Section 13(1)(i) by the Federal Government in the public interest. If we borrow the arguments of learned counsel for petitioners that the impugned Rules have to be applied prospectively, it means that after the notification if factors of Rule 5 have been observed in the upcoming years, then directory retirement would apply, such argument is misconceived as Section 13(1)(i) has already existed in statute books where previous guidelines of 2000 have been applied to retirement case of a civil servant, who has completed 20 years of service but, he was not found fit for further service of Pakistan and the said guidelines have now been converted into the impugned Rules in a more efficient manner, as such, there is no restrospectivity effect, rather Section 13(1)(i) has already laid down the criteria prior to said impugned Rules, therefore, the petitioners cannot claim that any existing right has been diminished or their *locus poenitentiae* has been affected.

27. Now the question arises as to whether a person having been found guilty of corruption but, prior to conclusion or initiation of investigation he comes before the NAB authorities and submits the proceeds of crime which he gained in the course of his service, as the legislature has used the word

"*or as a consequence of an offence under this Ordinance*", which has separately been referred in Section 2(n) of the NAO, 1999 i.e., "*offence of corruption and corrupt practices defined in the Ordinance and includes the offences specified in the schedule to the Ordinance*". The plain reading of the words used by the legislature in NAO, 1999 does not preclude a civil servant to be dealt with on its departmental side, though he has gained the status of discharged from the criminal liability. The legislative intent clearly spells out from the language used whereby only a criminal liability has been avoided but, it does not mean that a person who is involved in such type of practices has been given a premium for his wrong doing so that he might continue with his services, though the effect of discharge means discharge of all liabilities as highlighted in ***PLD 2019 Islamabad 566 (Dan Gunnar Bjarne Anderson v. Federation of Pakistan through Secretary, Ministry of Interior, etc.)*** and ***2013 PLC (CS) 795 Islamabad (Muhammad Islam Khan v. ZTBL)***. It has also been argued that if an effect of Section 25(a) of the NAO, 1999 is diluted, it requires amendment in Section 15 of the NAO, 1999 and without said amendment, a civil servant could not be prosecuted on departmental side or he could not be burdened with the concept of disadvantageous position, such argument is misplaced on the ground that when any civil servant who has voluntary returned the proceeds of corruption, though considered as discharged from a criminal liability but, his act falls within the ambit of misconduct, which could be proceeded on its departmental side as held by the apex Court in the public interest in ***2016 SCMR 2031***

(State vs. Hanif Haider). This Court is also guided by the principle settled by the apex Court in ***2016 SCMR 943 (Ishtiaq Ahmad v. Hon'ble Competent Authority)***, whereby it was held that:

> *6. The difference between the proceedings of a Disciplinary Tribunal from the proceedings of a Court of law extends beyond the absence of checks imposed by the procedural statutes governing the Court proceedings. It is a well settled proposition of law that the result of disciplinary proceedings is not bound by or disciplinary dependent upon the outcome of criminal proceedings initiated for the same wrongful act against the same accused officer. Reference may be made to Nawaz Khan v. Federal Government (1996 SCMR 315), Arif Ghafoor v. Managing Director HMC (PLD 2002 SC 13). The rationale for this rule is founded upon the suitability and the fitness of an accused officer to remain in Government service when he has not been acquitted on the merits of the charge alleged against him. The distinction between disciplinary fora and courts of law is highlighted again by the rule of law that the burden of proof in disciplinary proceedings is lighter than it is in criminal proceedings for the same wrong and against the same accused.*

28. Similar view has also been highlighted by the apex Court in ***2001 SCMR 2018 (Habib Bank Limited v. Shahid Masou Malik)***, and, as such, there is no bar for parallel proceedings against a civil servant on departmental side.

29. I am of the view that directory retirement is not a punishment or stigma upon the civil servant, rather the absolute authority vests with the Federal Government to consider a person to continue with his job after 20 years of his service based on certain objective criteria as laid down in the impugned Rules and it is not a choice of the civil servant to claim

exemption from the impugned Rules, which have been made by the competent authority after due consideration and subject to a transparent process including but not limited to right of hearing, evaluation, show cause notice, etc. This court has already held above that it is not a vested right, especially when the matter falls within the purview of policy qua the retirement, which has been settled through the rules.

30. The last argument advanced by the learned counsel for petitioners is regarding the prospective application of the impugned Rules on the strength of ***1987 PLC (CS) 531 (Muhammad Ramiz Ullah v. Secretary Establishment Division, Rawalpindi and others)***, and as such, there is no cavil to proposition that the rules have to be applied prospectively but, the argument advanced by the learned counsel qua prospective application with the view that the rules have to be applied after the year 2020 upon those civil servants who have been appointed after the said year is misplaced, rather it applies to all those who have completed 20 years of their service as the precondition of Section 13(1)(i) of the Civil Servants Act, 1973 is completion of 20 years of service by a civil servant and, as such, the rules are made applicable to those civil servants only.

Test Laid Down By Hon'ble Supreme Court And The Concept Of Public Interest

31. At last, I have gone through three judgments of the apex Court reported as ***2003 PLC (CS) 1389 SC (Muhammad Qadeer v. The Secretary, Defence Production Division), 2004 PLC (CS) 707 SC (Chairman, Central Board of Film Censors, Islamabad v. S. Muhammad Ali Shah)*** and ***2006***

SCMR 1415 (Abdul Majeed v. Government of Pakistan through Secretary, Establishment Division), wherein Section 13 of the Civil Servants Act, 1973 has been considered on the touchstones of legislative wisdom, public interest and fundamental rights. As such, it was also held that the discretionary powers available to the Government could not be exercised without sufficient material and valid grounds, per se, the absolute authority has been regulated through the impugned Rules, as such, the rules have provided a separate remedy of appeal and review to retired servant if he is aggrieved by the decision of the competent authority, this substantive provision creates an exception in this case when due protection of Article 10-A of the Constitution has been envisaged in the impugned Rules, hence it is not justified to declare the *Civil Servants (Directory Retirement from Service) Rules, 2020 ultra vires* to the Constitution as the test laid down in different pronouncements of the apex Court has fully been observed while making the impugned Rules more effective which are also need of the hour to save Pakistan from all those officials whose services are no more required in the public interest. Moreover, under Rule 6(6) of the impugned Rules a complete procedure, including issuing show cause notice and affording opportunity of personal hearing, is provided, as such, a civil servant, who has been proposed for directory retirement would have full opportunity to explain his position and he cannot claim that he has been condemned unheard.

Locus Standi

32. In this case, two of the petitioners namely Syed Mohsin Shah in W.P. No.1355/2020 and Sheikh Zafar Mehmood in W.P. No.1809/2020 are

retired civil servants, therefore, they have no locus standi to challenge the impugned Rules as same have no adverse affect on their existing pensionary benefits or otherwise, especially when they already stood retired and the impugned Rules are only meant for the civil servants, who have completed 20 years of service. Hence, the public interest litigation claimed by the said petitioners has to be seen in the concept of public interest highlighted in ***2018 SCMR 365 (Premium Battery Industries Limited v. Karachi Water Sewerage Board)***, wherein it was held that constitutional jurisdiction of the superior Courts was required to be exercised carefully, cautiously and with circumspection to safeguard and promote public interest and not to entertain and promote speculative, hypothetical or malicious attack that blocked or suspended the performance / executive functions by the Government. Similarly, it was also held that public interest litigation undertaken by a citizen must in first place transparently demonstrate its complete bona fide, and further that such litigation was not being undertaken to serve a private or vested interest and was demonstrably aimed at serving public interest, good or welfare. The aforesaid two petitioners could not demonstrate their locus standi, neither they are aggrieved person to claim a public interest, though the courts have usually interpreted the concept of locus standi liberally in order to protect fundamental rights of citizen and exercise of jurisdiction conferred under Article 199 or Article 184(3) of the Constitution of the Islamic Republic of Pakistan, 1973 as held in ***PLD 2020 Lahore 229***

(Muhammad Ahmad Pansota, etc. vs. Federation of Pakistan), but the present petitioners have not demonstrated any of their fundamental right, therefore, their locus standi is not assumed in this case. At last, the *probono publico* could only be applied in those cases where public interest is the primary factor and secondly for the public good or welfare of general public as held in ***PLD 2006 SC 394 (Moulvi Iqbal Haider v. Capital Development Authority)***. However, the concept of public interest has already been considered in the preceding paragraphs, whereby the issue of good governance, efficiency of civil servants and resolution of administrative problems of the general public are the key factors to be considered for promotion of any officer or continuation of his services by the Government, which could not be interfered with by these two retired petitioners and it is in the public interest to uphold the impugned Rules by applying the principles settled by the superior Courts.

Judicial Review Under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 is available Against the Decision of HPSB

33. I have also considered the case of Ahmad Hanif Orakzai, petitioner in W.P. No.2489/2020, who has assailed the decision of 24th Meeting of HPSB, dated 12.06.2020, whereby he was not promoted to BPS-22, as such, he prayed for issuance of direction to the Government of Pakistan to convene an HPSB meeting to consider him for promotion to BPS-22 from the date when his batch mates were promoted. This aspect has been confronted to respondents, whereby they have provided the reasons

prevailed in the HPSB Meeting while considering the case of Ahmad Hanif Orakzai (petitioner) with the following observations:

> *"7. As regards the petitioner's prayer for setting aside the HPSB decision made in its meeting held on 55h & 11th June, 2020, it is submitted that minutes of HPSB's aforesaid meeting contain the following observations/recommendation in respect of the petitioner:-*
>
> > *"The Board deliberated upon the service profile, training reports and performance evaluation reports of the officer and observed that his Training Reports noted that his written work lacked in focus and clarity; he was not forthcoming in taking up appointments and avoided extra work; his peers rated him very low in all the three assessed facets of personality. The report did not find him suitable for assignments outside his own service group.*
> >
> > *The Board also assessed the officer on the attributes of integrity, leadership, decision making, competence and spirit of public service and noted that the officer had erratic behavior and personality issues; he lacked empathy and stability in decision making and leadership roles. He had a touch of impulsiveness in his overall conduct. He was observed to be less inclined public service and lacked mental robustness and motivation.*
> >
> > *The Board, therefore, categorized him B in Integrity, C in Leadership, D in Decision Making, C in Competence, B in Training Evaluation and D in Public Service Spirit. Subsequent to detailed discussion, the officer was not recommended.*

34. Mr. Zafarullah Khan, Advocate for petitioner Ahmad Hanif Orakzai contends that the *Civil Servants (Directory Retirement from Service) Rules,*

2020 are arbitrary rules and are considered to be Henry-VIII Rules [1] but, I am of the view that the powers of the Government to terminate the service of an employee in public interest are, though not unqualified or unrestricted, to be regulated in the manner and in the interest of efficiency of public bodies, however the Government should have the authority to terminate the employment of inefficient, corrupt, indolent character and disobedient employee but, said authority must be exercised fairly, objectively and independently; and the occasions for exercise must be delimited with precision and clarity. Further, there should be adequate reasons for the use of such power, and the decision in this regard has to be taken in a manner showing fairness, avoid arbitrariness and evoke credibility. The apex Court of India in ***AIR 1991 SC 101 (Delhi Transport Corporation vs. DTC Mazdoor Congress)*** has also held that it is trite to say that individuals are not and do not become wise because they occupy high seats of power, and good sense, circumspection and fairness do not go with the posts, however high they may be. There is only a complaisant presumption that those who occupy high posts have a high sense of responsibility. The presumption is neither legal nor rational. History does not support it and reality does not warrant it. In particular, in a society pledged to uphold the rule of law, it would be both unwise and impolitic to leave any aspect of its life to be governed by discretion when it can conveniently and easily be covered by the rule of law.

[1] Henry VIII Rules are provisions sometimes included in Acts of Parliament to allow ministers to make changes to not only secondary legislation but also primary legislation (Acts of Parliament), without having to go through the full process that an Act of Parliament would normally require. (*https://ukandeu.ac.uk*)

35. Poles apart, the petitioner Ahmad Hanif Orakzai has further challenged the decision of HPSB in its 74th Meeting held on 05.06.2020 whereby he was not promoted to BPS-22, whereupon it is concluded that reasons placed by the Establishment Division in case of Ahmad Hanif Orakzai / petitioner clearly spell out due consideration, principle of fairness and evaluation on the highest standards while considering the public interest, hence at this stage, the Courts are precluded to review these technical aspects, which have otherwise been appreciated by the HPSB being the exclusive domain of the Government / executive authority as held in ***PLD 2003 SC 110 (Government of Pakistan v. Hameed Akhtar Niazi)***, thus judicial interference is not warranted in such like matters. The petitioner named above is not in a position to rebut the presumption of fairness attached to proceedings or action of the board or competent authority.

Conclusion

36. In view of above discussion, this Court comes to conclusion that vires of Section 13 of the Civil Servants Act, 1973 have already been settled by the apex Court in cases reported as ***PLD 1987 SC 307 (Abdul Ghafoor vs. The State), 2003 PLC (CS) 1389 SC (Muhammad Qadeer v. Secretary, Defence Production Division, Government of Pakistan), 2004 PLC (CS) 707 SC (Chairman, Central Board of Film Censors, Islamabad v. Muhammad Ali Shah)*** and ***2006 SCMR 1415 (Abdul Majeed v. Government of Pakistan)***, hence, the principle of *res judicata* comes into play, even otherwise, the *Civil Servants (Directory Retirement from Service) Rules, 2020* could not be challenged by the civil servant as same are not contrary to the

fundamental rights of the civil servants and under the Constitution of the Islamic Republic of Pakistan, 1973, no vested right is available to the civil servants to challenge this policy matter where rules have been framed within the scope of law, even otherwise, it is settled proposition that the competent authority i.e. the Federal Government is in a better position to settle their requirements to engage the services of a civil servant, whose services are required to it or otherwise in the public interest, this executive discretion could not be interfered with as held in ***PLD 2014 SC 1 (Dossani Travels (Pvt.) Ltd. v. Travels Shop (Pvt.) Ltd.)***, even otherwise, the High Court cannot sit as a court of appeal over the policy decision and substitute its own decision with the decision of the Government unless it is proved that the decision has been made in excess of jurisdiction or same is arbitrary or devoid of any justification as held in ***1998 SCMR 2679 (Institute of Chartered Accountants of Pakistan, Karachi v. Federation of Pakistan)***. It is trite law that courts are guided by certain set of rules in discharging their solemn duty to declare laws passed by legislature unconstitutional or otherwise in which the foremost principle applied is when a law was enacted by the Parliament, the presumption was that the Parliament had competently enacted it (law) and if the vires of the same (law) were challenged, the burden is always upon the person making such challenge to show that the same (law) was violative of any of the fundamental rights or provision of the Constitution. In a case where two opinions with regard to the constitutionality of the enactment are possible,

the one in favour of validity of enactment is to be adopted. It is also cardinal principle of interpretation that law should be interpreted in such a manner that it should be saved rather than destroyed. The Courts should lean in favour of upholding the constitutionality of a legislation and it is thus incumbent upon the Courts to be extremely reluctant to strike down laws as unconstitutional. Reliance is placed upon ***2018 SCMR 802 (M/s Sui Sothern Gas Company Ltd. and others Vs. Federation of Pakistan and others).***

37. The impugned Rules have been made by the competent authority backed by the law and are in consonance with the parameters of the constitutional framework which could not be interfered with at the touchstone of judicial review, which amounts to interference in the policy making domain of the authority. Reliance is placed upon ***2012 SCMR 455 (Dr. Akhtar Hussain Khan v. Federation of Pakistan)***. The High Courts and the Tribunals have already been cautioned by the apex Court against unnecessary intrusion in such matter. Reliance is placed upon ***PLD 1997 SC 582 (Ellahi Cotton Ltd. v. Federation of Pakistan)*** and ***PLD 2017 SC 83 (Power Construction Corporation of China v. WAPDA)***, hence, this Court believes that the competent authority of the Federal Government alone is the best judge for formulating policy regarding promotion and retirement, as such, the Courts should not interfere in such domain of policy making, which in other words, is to enhance the efficiency of civil servant and endeavor to ensure the civil servant who are competent, suitable and

known for integrity are appointed through promotion and to be considered suitable for continuing their service after 20 years of service or till age of superannuation on higher positions, therefore, the *Civil Servants (Directory Retirement from Service) Rules, 2020* are declared *intra-vires* as the same have been made by the competent authority within the scope of power delegated therein and do not go beyond the parent legislation.

38. In view of above discussion, the captioned writ petition along with connected writ petitions stand ***DISMISSED*** along with C.M. separately filed by the applicants being meritless.

(MOHSIN AKHTAR KAYANI)
JUDGE

Announced in open Court on: **15th of June, 2021.**

JUDGE

APPROVED FOR REPORTING.

Khalid Z.