

SUPREME COURT OF PAKISTAN

(Appellate Jurisdiction)



PRESENT:

Mrs. Justice Ayesha A. Malik

Mr. Justice Aqeel Ahmed Abbasi

Civil Petition No.2761 of 2023

(Against the judgment dated 28.03.2023 passed by the Federal Service Tribunal, Islamabad (Karachi Bench) in Appeal No.61(K)CS/2018)

The Sr. General Manager (Chief Executive Officer), Pakistan Railways, Railway Headquarter, Lahore, & others

...Petitioner(s)

Versus

Syed Qaiser Abbas

... Respondent(s)

For the Petitioner(s): Mr. Jawad Mahmood Pasha, ASC
(Via V.L. Lahore)

For the Respondent(s): N.R.

Assisted by: Ms. Zainab Bashir, Judicial Law Clerk,
Supreme Court of Pakistan

Date of Hearing: 18.11.2025

JUDGMENT

AQEEL AHMED ABBASI, J.- Through instant petition for leave to appeal, the petitioners have assailed the judgment dated 28.03.2023 by the Federal Service Tribunal, Islamabad (Karachi Bench) in Appeal No.61(K)CS/2018).

2. Brief facts of the case are that the respondent, Ex-Employee of Pakistan Railways holding the position of CSR(B), was awarded major penalty of dismissal from service vide order dated 03.06.2014 on charges of misappropriation of Government cash amounting to Rs. 26,53,850/- and late remittance of daily revenue to the National Bank of Pakistan. The respondent preferred a departmental appeal on 28.06.2014 against the said dismissal through Appeal No. 113(K)CS/2014 before the Federal Service Tribunal, Islamabad, Karachi Bench ("**Tribunal**"). The said appeal was disposed of vide order dated 12.01.2018 with directions to the petitioners to decide the departmental appeal/representation in accordance with law within a period of three months. Thereafter, the said appeal/representation was disposed of/rejected vide order dated 03.04.2018 received on 19.06.2018 after he was released from Central

Jail, Hyderabad on 18.06.2018, as according to the respondent he was confined in jail with effect from 29.02.2016 to 08.06.2018. The respondent assailed the order dated 03.06.2014 of his dismissal from service before the Tribunal through Appeal bearing No. 61(K)CS/2018 which was disposed of by modifying the dismissal of service to compulsory retirement from service. The petitioners feeling aggrieved by such decision have filed instant civil petition for leave to appeal.

3. Learned counsel for the petitioners contends that the Tribunal has erred in law while passing the impugned judgment as a proper inquiry/regular inquiry was conducted by the competent authority under the Rules 5 (i) and (ii) of the Civil Servants (Efficiency and Discipline) Rules, 1973 ("**E&D Rules, 1973**"). In support of his contentions, he has referred to pages 88 to 91 of the paper book to show that proper inquiry has been conducted. He contends that the said pages contain the inquiry proceedings and the findings of the competent authority which shows that no irregularity and illegality has been committed. He further contends that the impugned judgment is the result of misreading and non-reading of material evidence as the Tribunal overlooked the fact that multiple show cause notices were duly issued, personal hearing was afforded and the respondent himself admitted the shortage of cash and that he has put it into his own use as verified in CA-65 (Audit Inspection Report).

4. We have heard the learned counsel for the petitioners, perused the record and have also gone through the impugned judgment with the assistance of learned counsel. On the previous date of hearing, the learned counsel for the petitioners was confronted as to whether a regular inquiry was conducted in the matter for the reason that nothing was placed on record to establish that any order for conducting regular inquiry and appointment of inquiry officer as well as the report of regular inquiry was available on record. Pursuant to such query, the learned counsel for the petitioners requested for some time to place on record such documents, however submitted that the Tribunal has misread the evidence on record as according to learned counsel, regular inquiry was conducted in the matter. While seeking time to place on record the aforesaid documents, the learned counsel for the petitioners, referred to the inquiry report available at pages 88 to 91 which seems to be fact finding inquiry by the department and not a regular inquiry as envisaged under E&D Rules, 1973.

5. It is a settled position of law that fact finding inquiry is distinct from a regular inquiry as envisaged under the E&D Rules, 1973. Reference in this regard can be made to a judgment of this Court in the case of Faisal Ali vs. District Police Officer, Gujrat and another (2025 SCMR 92) wherein, distinction has been made between fact finding inquiry and regular inquiry in the following terms:-

8. *The benchmark of establishing innocence or guilt in the departmental proceedings initiated on account of some acts of misconduct under the relevant laws, meant for civil servants and workmen under Industrial Relations Laws, is not the same as required to be proved in a criminal trial. In departmental inquiries, the standard of proof is based on the balance of probabilities or preponderance of evidence and not a strict proof beyond any reasonable doubt. Let us also discuss the genre of inquiries to distinguish its primary purposefulness. The primary objective of conducting a discreet inquiry is to gather information without alerting the alleged delinquent, allowing for an understanding of whether the allegations lodged in a complaint or report of misconduct establish a prima facie case for proceeding with disciplinary action. Obviously, while forming such opinion on the basis of information and data collected during the course of the discreet inquiry, the accused does not need to be involved in his defence. Likewise, a fact-finding enquiry is more or less the same. The purpose of it is also to investigate, establish facts, and compile a report for the management so that disciplinary proceedings may be initiated if the competent authority chooses to do so in accordance with law. The purpose of the fact-finding inquiry is not to declare the delinquent innocent or guilty, which is the function of the inquiry officer/inquiry committee, as the case may be. Whereas, a regular inquiry is triggered after issuing a show cause notice with a statement of allegations, and if the reply is not found suitable, then the inquiry officer is appointed and a regular inquiry is commenced (unless dispensed with for some reasons, in writing) in which it is obligatory for the inquiry officer to allow an evenhanded and fair opportunity to the accused to place his defense, and if any witness is examined against him then a fair opportunity should also be given to him to cross-examine the witnesses.*

(Emphasis provided)

Further reference can be made to the case of Usman Ghani vs. The Chief Post Master, GPO, Karachi and others (2022 SCMR 745).

6. It is also by now well settled that major penalty of dismissal from service cannot be awarded without conducting regular inquiry or providing opportunity of being heard to a civil servant, as it amounts to violation of principles of Natural Justice. Reliance in this regard can be placed on a recent judgment of this Court rendered in the case titled Malik Muhammad Ramzan vs. Commissioner Sargodha Division etc. (CPLA No.2768-L/2022) wherein, the aforesaid principle of law was reiterated by placing reliance on the cases of this Court titled Naseeb Khan vs. Divisional Superintendent, Pakistan Railways, Lahore

and another (2008 SCMR 1369), Raja Muhammad Shahid vs. Inspector General of Police and others (2023 SCMR 1135) and Federation of Pakistan through Chairman Federal Board of Revenue FBR House, Islamabad and others vs. Zahid Malik (2023 SCMR 603).

7. When the matter was taken up for the hearing on 18.11.2025, attention of the learned counsel for the petitioners was drawn to previous order dated 27.10.2025 whereby, the learned counsel sought time to place on record the requisite documents including the regular inquiry report, as no such documents to this effect have been placed on record. Learned counsel for the petitioners submitted that no new documents are required to be placed before this Court for the reason that the inquiry report available at pages 88 to 91 is the detailed inquiry report, which establishes the charge of embezzlement of amount against respondent, who otherwise has confessed his guilt to the effect that he had taken the money for personal use and he had made it good by depositing back the said amount. Such contention of learned counsel is *prima facie* contrary to the record as no material or evidence is available on record nor any regular inquiry has been conducted as required under the E&D Rules, 1973. The falsity of the assertion for having conducted regular inquiry in the instant matter is reflected from the recommendations of the departmental inquiry committee available at page-84 of the paper book, which reads as follows: -

- a) Mr. Qaiser Abbas may be taken up under E&D Rules.
- b) Daily Remittance Cash be ensured under Commercial Manual rules
- c) To avoid recurrences of such instances in future, ICG and CMI concerned should conduct monthly inspections and submit joint report to DS and FA&CAO.
- d) STM/KC to check cash remittance on weekly basis and submit report to DCO."

8. From perusal of hereinabove recommendations of the departmental inquiry committee it is established that only recommendation to take action under the E&D Rules, 1973 has been made and no regular inquiry as required under E&D Rules, 1973 has been conducted in instant matter, whereas, major punishment of dismissal from service was imposed upon the respondent based on fact finding inquiry without providing any opportunity of being heard to the respondent thus denying the right of fair trial as guaranteed under Article 10(A) of the Constitution of Islamic Republic of Pakistan, 1973.

While imposing any major or minor penalty regular inquiry has to be conducted to establish the charges against a civil servant, unless it is dispensed with, while disclosing sufficient reason in writing in terms of Rule 5(iii) of E&D Rules, 1973. The law does not permit the dispensation of regular inquiry even in cases where minor penalty is imposed, unless there are sufficient reasons disclosed by the competent authority for dispensation of regular inquiry. In order to ensure transparency and fair trial in the departmental proceedings against a civil servant, adherence to the Law, Rules and procedure prescribed therein must be made in letter and spirit. Fair trial is *sine qua non* as guaranteed under Article 10(A) of the Constitution of the Islamic Republic of Pakistan, 1973 which has to be read into every statute, including the Civil Servant Act, 1973 and cannot be ignored under any circumstances, irrespective of the fact that the penalty imposed against a civil servant pursuant to such proceedings is major or minor in nature. A Division Bench of this Court while deciding similar issue in the case of Hafiz Abdul Rauf vs. PASSCO Lahore etc. (CPLA No.1792-L/2017) vide order dated 23.10.2025 has dilated in detail upon aforesaid principle while relying upon various judgments of the superior courts as well as by referring to Article 10 of the Universal Declaration of Human Rights and Article 14 of the International Covenant on Civil and Political Rights, according to which "*everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal in the determination of his rights and obligations.*" and "*A proper inquiry is the procedural instrument through which fairness is operationalized. It enables the accused to know the case against them, respond to evidence, and test the credibility of witnesses and documents. Penalties – whether classified as minor or major – imposed without adherence to this process amount to arbitrary deprivation of rights, contravene the guarantees of fair trial and due process, and fall foul of Pakistan's constitutional framework and its international commitments. International law does not countenance punitive outcomes founded on untested allegations; nor can the Constitution.*"

9. In view of hereinabove facts and the legal position as emerged in the instant case, we have no hesitation to hold that the impugned judgment passed by the Tribunal does not suffer from any factual error or legal infirmity, therefore, does not require any interference by this Court. Moreover, no substantial question of law of

public importance has been raised in terms of Article 212(3) of the Constitution in this petition. Accordingly, this petition is dismissed and leave refused.

JUDGE

JUDGE

Islamabad:

18.11.2025

Approved for Reporting

Tauveer Ahmed