

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**PRESENT**

Mr. Justice Muhammad Ali Mazhar  
Mr. Justice Syed Hasan Azhar Rizvi

**Civil Appeal No. 2013 of 2022**

(On appeal from the judgment dated  
24.06.2019 passed by the Punjab  
Service Tribunal, Lahore in Appeal  
No.4548/2018)

Bashir Ahmed Anjum

...Appellants(s)

**Versus**

Province of Punjab thr. Chief Minister ...Respondent(s)  
Punjab, Lahore & others

For the Appellant(s) : In Person

For Govt. of Punjab : Mr. Sanaullah Zahid, Addl. AG.,  
Punjab.

Date of Hearing : 04.11.2024

**Judgment**

**Muhammad Ali Mazhar-J.-** The leave to appeal was granted in this case on 26.08.2022 in order to check and resolve the serious confusion which occurred due to some proof-reading lapses while publishing Section 8 of the Punjab Civil Servants Act, 1974 ("1974 Act") in the law text books by different publishers. This error has been floating on the surface for a while, but it could not be adverted to by the learned Punjab Service Tribunal, Lahore ("Tribunal"), while dismissing the appeal of the present appellant on the basis of the wrongly published text. In fact, in the paragraph 02 of the impugned judgment, the learned Tribunal has held as under:-

"According to Section 8 (5) of the Punjab Civil Servants Act, 1974 referred by the learned District Attorney is reproduced as under:-

"A retired civil servant shall not be eligible for grant of promotion or proforma promotion".

2. Instead of relying on the actual and correct text of the law, the learned Tribunal was misguided by the wrong text, whereby it was held that a retired civil servant is not be eligible for grant of promotion or proforma promotion. The issue has already been discussed and dealt with in a similar controversy, in a judgment authored by one of us, in the case of Homoeo Dr. Asma Noreen Syed Vs. Government of the Punjab through its Secretary Health, Department & others (2022 SCMR 1546 = 2022 PLC (C.S) 1390), in which case, to distillate and get to the bottom of the crucial point raised, the learned Additional Advocate General, Punjab, had submitted the correctly published copy of the Gazette Notification of the Punjab Civil Servants (Amendment) Act, 2005 (Act III of 2005), disseminated on 15.04.2005 which is, for ease of reference, reproduced as under:-

**"PROVINCIAL ASSEMBLY OF THE PUNJAB  
NOTIFICATION 15 APRIL, 2005.  
THE PUNJAB CIVIL SERVANTS (AMENDMENT)  
ACT 2005  
ACT III OF 2005**

**Preamble.**--- Whereas it is expedient further to amend the Punjab Civil Servants Act, 1974 (VIII of 1974), for the purposes hereinafter appearing;

It is hereby enacted as follows:--

**1. Short title and commencement.** -(1) This Act may be called the Punjab Civil Servants (Amendment) Act, 2005.

(2) It shall come into force at once.

**2. Amendment in section 2 of Act VIII of 1974.** ---In the said Act, in section 2, after clause (g), the following new clauses (g-a) and (g-b) shall respectively be added:--

"(g-a) "proforma promotion" means predating of promotion of civil servant or retired civil servant with effect from the date of regular promotion of his junior, for the purpose of fixation of pay and payment of arrears as may be prescribed.

(g-b) "promotion" means appointment of a civil servant to a higher post in the service or cadre to which he belongs."

**3. Amendment in section 8 of Act VIII of 1974.**--- In the said Act, section 8 shall be substituted by the following:--

**"8. Promotion-**(1) A civil servant shall be eligible to be considered for appointment by promotion to a post reserved for promotion in the service or cadre to which he belongs in a manner as may be

prescribed; provided that he possesses the prescribed qualifications.

(2) Promotion including proforma promotion shall not be claimed by any civil servant as of right.

(3) Promotion shall be granted with immediate effect and be actualized from the date of assumption of charge of the higher post, and shall in no case be granted from the date of availability of post reserved for promotion.

(4) A civil servant shall not be entitled to promotion from an earlier date except in the case of proforma promotion.

**(5) A retired civil servant shall not be eligible for grant of promotion; provided that he may be considered for grant of proforma promotion as may be prescribed.**  
***[Emphasis supplied]***

(6) A post referred to in subsection (1) may either be a selection post or a non-selection post to which promotion shall be made as follows;

(a) in the case of a selection post, on the basis of selection on merit; and

(b) in the case of non-selection post, on the basis of seniority - cum-fitness. "

3. Thus, the impugned judgment of the Tribunal is based on an incorrect exposition of law which is a result of advertent to a wrongly published gazette notification. In the quoted judgment (*supra*), this Court held that a patent and obvious error or oversight on the part of the Court, in any order or decision, may be reviewed sanguine to the renowned legal maxim "*actus curiae neminem gravabit*" which is a well-settled enunciation and articulation of law expressing that no man should suffer because of the fault of the court or delay in the procedure. This is a *de rigueur* sense of duty in the administration of justice that the Court and Tribunal should become conscious and cognizant that, as a consequence of their mistake, nobody should become a victim of injustice, and in the event of any injustice or harm suffered because of a mistake of the court, the same should be remedied by making necessary corrections forthwith.

4. According to the definition provided under the 1974 Act, "proforma promotion" means predating of promotion of a civil servant or a retired civil servant, with effect from the date of the regular promotion of his junior, for the purpose of fixation of pay and payment of arrears, as may be prescribed. However, it is further provided under Section 8 (2) of the aforesaid Act that the promotion,

including a proforma promotion, shall not be claimed by any civil servant as of right, and Sub-section (4) further explicates that a civil servant shall not be entitled to promotion from an earlier date, except in the case of a proforma promotion.

5. The underlying principle for considering the grant of proforma or notional promotions is, in general, grounded in compassionate and accommodating logic. The quite apparent *whys* and *wherefores* are that if an employee could not be considered for promotion due to any administrative slip-up, error, or delay when the right to promotion had matured; but without being given such consideration, he was retired from service, then in order to overcome his miseries and disquiets, the venue of proforma promotion may be explored which is not alien or unfamiliar to the structure of civil servant services, but is already embedded in Fundamental Rule 17 of the Fundamental Rules and Supplementary Rules (FR&SR), which can be invoked when the employee, who was otherwise entitled to be promoted from a particular date, for no fault of his own, lost his promotion on account of an administrative oversight or delay in the meeting of the Departmental Promotion Committee or the Selection Board, despite fulfilling all fitness, eligibility, and seniority requirements. In all fairness, then, he has a legitimate expectation for proforma promotion with all consequential benefits.

6. The record reflects that the counsel for the appellant and District Attorney both appeared before the learned Tribunal but they failed to cite the correct provision of law, which utterly misguided the learned Tribunal and the matter was dragged for a considerable period of time without any fault of the appellant. In our view, to exercise abundant caution and to avoid any such misrepresentation, difficulties, or doubts in the future with regards to any incorrectly published provision, the Registrar of the Punjab Service Tribunal may liaison with the Service & General Administration Department, Punjab, and the Advocate General Office, Punjab, for providing Gazette Notifications of correct versions along with latest amendments if any.

7. The leave was granted by this Court on 26.08.2022 to reconcile and address the anomaly and deviation between the two differently published versions of Section 8 (5) of the 1974 Act, but it appears

that when the matter was taken up for the purposes of granting leave, the earlier judgment of this Court rendered on 12.05.2022 in the case of Homoeo Dr. Asma Noreen Syed (*supra*) was not brought into the knowledge of the learned bench seized of the matter that an identical controversy has already been dealt with and decided.

8. In the wake of the above discussion, this Civil Appeal is allowed. As a consequence, thereof, the impugned judgment is set aside and the matter is remanded to the learned Tribunal to decide the appeal afresh in accordance with the law.

**JUDGE**

**JUDGE**

Islamabad  
04.11.2024  
Khalid  
Approved for reporting