

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

**PRESENT:**

MR. JUSTICE JAMAL KHAN MANDOKHAIL  
MR. JUSTICE MUHAMMAD ALI MAZHAR

**CIVIL PETITION NO.152 OF 2022**

(Against the judgment dated 17.11.2021  
passed by Punjab Service Tribunal, Lahore  
in Appeal No. 1674/2021)

Waqas Shahzad

...Petitioner

**VERSUS**

Inspector General Police Punjab Lahore and others

...Respondents

For the Petitioner:

Mr. M. Shahid Tasawar, ASC  
(Via Video Link from Lahore)

For Respondents:

Malik Waseem Mumtaz, Addl. A.G., Punjab  
Mr. Ata-ul-Mustafa, Office Superintendent

Date of Hearing:

23.11.2023

**JUDGMENT**

**MUHAMMAD ALI MAZHAR, J.** This Civil Petition for leave to appeal is directed against the judgment dated 17.11.2021 passed by the Punjab Service Tribunal, Lahore in Appeal No. 1674/2021, whereby the service appeal filed by the petitioner was dismissed.

2. The short-lived facts of the case are that the petitioner, while posted as Ex-Security Constable of Special Protection Unit, was proceeded by the Additional Director Security Special Protection Unit (SPU), Battalion No.2, Lahore pursuant to the charge sheet dated 05.12.2019 and the statement of allegations issued under the provisions of the Punjab Police Efficiency and Discipline Rules, 1973. The gist of the allegations is as under:-

"As per contents of self-explanatory application received in this office vide diary No.17344 dated 18.11.2019 submitted by Mrs. Farhat Aashi wife of Muhammad Aslam resident of Village Baseen, Lahore holding CNIC No.35201-2141046-2 a fact finding report was sought from Deputy Director Security SPU Wing-I, Lahore and as per contents of the report following has been revealed:

(i) Security Constable Asif Ali 1142/SC ex. Chinese Camp Manawan was murdered in a civilian house owned by Mr. Aslam Rana, in village Baseen (approximately 03 KMs away from Police Station Bata Pur near BRB Canal on night 10-11 March, 2019.

(ii) Security Constable Asif Ali 1142/SC (deceased), Talha Zubair No.1184/SC and you were called by the girls namely Rukhsar and Muskan of village Baseen, both girls are real sisters and are daughters of Mr. Muhammad Aslam Rana. You along with other constables reached village Baseen and entered the girls house on the direction of Miss Rukhsar through her cell phone.

(iii) Talha Zubair was also got injured in the above civilian house due to a pistol shoot fired by Mr. Muhammad Aslam Rana, the father of Rukhsar and Muskan. The bullet hit the both of his legs. However, he ran away and managed to reach Manawan Hospital for the first aid. After getting the first aid, Talha Zubair along with you came back to duty place as per normal routine and without informing about the said case to anyone.

(iv) The Moto Bike Honda-125 owned by you was used to going to village Baseen and back, who kept on waiting for both the other SCs outside the village.

(v) After getting injured Talha Zubair was picked up by you from Baseen Village and dropped at Manawan Hospital for necessary treatment and after that you both came back to camp and joined your duty as per the normal routine.

(vi) Hence you were fully involved in this case. Security Constable Asif Ali No.1142/SC and Talha Zubair No.1164/SC left to Camp by telling false story of severe pain in abdomen of Security Constable Asif Ali 1142/SC. You also came out from 63-B Medical Society Residence by telling a false story of meeting your guests.

(vii) In this way, you proved yourself quite ill-disciplined, inefficient and ill-responsible/careless police official in the discharge of official duty which warrants stem departmental action against you."

3. The petitioner in his reply denied the allegations. Therefore, the Assistant Director Security, Special Protection Unit ("SPU") Wing-1, Lahore, was appointed as the inquiry officer to conduct an inquiry into the allegations leveled against the petitioner. Upon receipt of the inquiry report, the Additional Director Security, SPU, Battalion No. 2, Lahore provided the petitioner with an opportunity for a personal hearing. Eventually, the petitioner was awarded a major penalty of dismissal from service *vide* order dated 13.05.2020. Subsequently, the petitioner filed a departmental appeal before the Deputy Inspector General of Police, SPU, Punjab Police, Lahore, which was rejected *vide* order dated 30.09.2020. Thereafter, the petitioner filed Revision before the Inspector General of Police, Punjab, Lahore, but the same was also rejected *vide* order dated 04.03.2021. Against the dismissal of the revision, the petitioner filed an appeal in the Punjab Service Tribunal, Lahore, which was dismissed *vide* the impugned judgment dated 17.11.2021.

4. The learned counsel for the petitioner argued that the Tribunal failed to appreciate the facts and law of the case in its true perspective, drawing wrong conclusions that resulted in a serious miscarriage of justice. He further argued that the petitioner, who had been performing his duties efficiently and had been issued appreciation certificates, was wrongly dismissed. It was further averred that while passing the impugned order, the learned Tribunal failed to consider that not a single allegation was proved against the petitioner. The learned counsel contended that the inquiry was not conducted properly, and the competent authority passed the dismissal order on the recommendations of the Inquiry Officer without applying its judicial mind.

5. On the other hand, the learned Additional Advocate General, Punjab argued that after a proper inquiry, the petitioner was found guilty and dismissed from service in accordance with the law. Moreover, all codal formalities were complied with before passing the dismissal order. According to him, the DSP, Assistant Director Security SPU Wing-1, Lahore, as the inquiry officer, provided ample opportunity to the petitioner during the regular inquiry. The petitioner was found guilty of incompetence, and he was rightly dismissed from service keeping in view the gravity of the charges.

6. Heard the arguments. The learned Tribunal minutely considered the gravity of the allegations and the inquiry proceeding conducted by the inquiry officer. The petitioner was provided ample opportunity to defend the charges and prove his innocence. The gist of the inquiry report accentuated that the petitioner was found indulging in some illegal activities and being personnel of a disciplined force, the disciplinary action was rightly taken by the competent authority.

7. At this juncture, we would like to take up one more significant issue which has direct nexus with the case. The petitioner filed the appeal before the learned Tribunal, not against the appellate order but the order passed in the revision application, which the petitioner preferred after the dismissal of his departmental appeal. Rather than approaching the Tribunal against the appellate order, the service appeal was preferred against the Revisional Order. Section 21 of the Punjab Civil Servants Act, 1974, provides that where a right to prefer an appeal or

apply for review in respect of any order relating to the terms and conditions of service is allowed to a civil servant by any rules applicable, such appeal or application shall, except as may otherwise be prescribed, be made within sixty days of the communication of such order; and it is further provided that where no provision for appeal or review exists in the rules in respect of any order, a civil servant aggrieved by any such order may, except where such order is made by the Governor, within sixty days of the communication of such order, make a representation against it to the authority next above the authority which made the order.

8. In unison, Section 4 of the Punjab Service Tribunals Act, 1974 postulates that any civil servant aggrieved by any final order, whether original or appellate, made by a departmental authority in respect of any of the terms and conditions of his service may, within thirty days of the communication of such order to him prefer an appeal to the Tribunal. The proviso attached to the aforesaid section expounds that where an appeal, review or representation to a departmental authority is provided under the Punjab Civil Servants Act, 1974 or any rules against any such order no appeal shall lie to a Tribunal unless the aggrieved civil servant has preferred an appeal or application for review or representation to such departmental authority and a period of ninety days has elapsed from the date on which such appeal, application or representation was so preferred, with the rider that where the appeal is against an order or decision of a departmental authority imposing a departmental punishment or penalty on a civil servant, the appeal shall be preferred, in the case of a penalty of dismissal from service, removal from service, compulsory retirement or reduction to a lower post or time-scale or to a lower stage in a time-scale, to a Tribunal referred to in sub-section (3) of Section 3; and in any other case, to a Tribunal referred to in sub-section (7) of Section 3.

9. Contemporaneously, Section 16 of the Punjab Employees Efficiency, Discipline and Accountability Act, 2006 metes out the provision of departmental "appeal and review" wherein an accused who has been awarded any penalty under this Act may, except where the penalty has been imposed by the Chief Minister, within thirty days from the date of communication of the order, prefer departmental appeal directly to the Appellate Authority, provided that where the order has been passed by

the Chief Minister, the accused may, within the aforesaid period, submit a review petition directly to the Chief Minister. The authority empowered to consider the appeal or review petition may, by an order in writing (a) uphold the order of penalty and reject the appeal or review petition; or (b) set aside the orders and exonerate the accused; or (c) modify the orders and reduce or enhance the penalty; or (d) set aside the order of penalty and remand the case to the competent authority, where it is satisfied that the proceedings by the competent authority or the inquiry officer or inquiry committee, as the case may be, have not been conducted in accordance with the provisions of this Act, or the facts and merits of the case have been ignored, with the directions to either hold a *de novo* inquiry or to rectify the procedural lapses or irregularities in the proceedings. In case, the appellate or review authority proposes to enhance the penalty, it shall by an order in writing inform the accused of the action proposed to be taken against him and the grounds of such action and also give him a reasonable opportunity to show cause against the action and afford him an opportunity of personal hearing. Whereas, Section 17 of the same Act relates to "revision", under which the Chief Minister, Chief Secretary or the Administrative Secretary or any other Appellate Authority may call for the record of any proceedings within one year of the order of exoneration or imposition of a penalty, passed by the competent authority or the order of appellate authority, as the case may be, for the purpose of satisfying himself as to the correctness, legality or propriety of such proceedings or order, and on examining the record of the case, such authority may uphold the orders of the competent authority or the appellate authority, as the case may be; or order the competent authority to hold *de novo* inquiry; or impose or enhance a penalty or penalties, with the proviso that no order, prejudicial to the accused, shall be passed under this section unless the accused has been given a reasonable opportunity of showing cause against the proposed action and an opportunity of personal hearing. Concomitantly, Section 19 of the Act divulges that an employee, other than the employee mentioned in section 2(h)(i), aggrieved by a final order passed under section 16 or 17 may, within thirty days from the date of communication of the order, prefer an appeal to the Punjab Service Tribunal.

10. In collocation, the Punjab Police (Efficiency & Discipline) Rules, 1975, Rule 12 cannot be dispensed with, which also pertains to the

powers of "revision" by the Inspector-General, Additional Inspector General, a Deputy Inspector-General of Police or a Superintendent of Police who may call for the records of awards made by their subordinates and confirm, enhance, modify or annul the same, or make further investigation or direct such to be made before passing orders, and it is further accentuated that where the officer proposes to enhance an award of punishment, he shall, before passing final order, give the defaulter concerned an opportunity showing cause why his punishment should not be enhanced. Nevertheless, the right of appeal is provided under Rule 14 against the order of dismissal, removal from service, compulsory retirement, reduction in rank or time-scale, forfeiture of approved service and imposition of fine with much emphasis that there shall be one appeal only from the original order and the order of the appellate authority shall be final which means that no civil servant can file the revision as a matter of right, but it is the *suo motu* powers of the authority, and in case of adverse action imposed by exercising right of revision by the competent authority, the aggrieved person may approach the Tribunal.

11. The Latin term "*sua sponte*" translates to "of his, her, its or their own accord" while the term "*suo motu*" means "on its own motion" which intrinsically articulates an act of authority which, by and large, are applicable to the proceedings where a judge takes action, without a prior motion or request from the involved parties, or catches hold of an issue on its own motion without any soliciting or advocating from either party. An additional expression is "*nostra sponte*" which also means "of our own accord". In the literal sense, the term "review" alludes to reconsideration or reexamination in which the Court or authority may have another look at its own order or decision for correcting any errors or mistakes apparent on the face of the record with the sole aim and objective of rectifying its own errors in order to avoid any miscarriages of justice; or embarking upon the overlooked aspects of a case. In fact, it is a mechanism for the same court or authority to reassess and reevaluate its order or decision for endorsing justness and accurateness in the legal course. While the all-encompassing objective of revisional jurisdiction is to revise an arbitrary, capricious, or irregular order and judgment of subordinate courts or authorities, correcting its flaws or defects. It is clear beyond any shadow of doubt that under Section 17 of the Punjab Employees Efficiency, Discipline and Accountability Act,

2006, the powers of revision are on its own motion and not on application of any aggrieved person. Likewise, under Rule 12 of the Punjab Police (Efficiency & Discipline) Rules, 1975, the provision of revision is also exercisable on its motion of the authorities mentioned in the rules, and there is no opportunity provided under the rule to file revision as a vested right. However, one thing is common in both the aforesaid provisions that in the case of any enhancement of sentence or punishment intended in exercise of revisional powers, the said authority may provide opportunity of showing cause to such person as to why the punishment should not be enhanced.

12. If we draw a comparison of the aforesaid provisions with Section 115 of the Code of Civil Procedure, 1908 ("C.P.C"), we will have a clear distinction that under Section 115 C.P.C, the High Court may call for the record of any case which has been decided by any Court subordinate to such High Court and in which no appeal lies thereto, and if such subordinate Court appears (a) to have exercised a jurisdiction not vested in it by law, or (b) to have failed to exercise a jurisdiction so vested, or (c) to have acted in the exercise of its jurisdiction illegally or with material irregularity, the High Court may make such order in the case as it thinks fit. The District Court may exercise the powers conferred on the High Court by subsection (1) in respect of any case decided by a Court subordinate to such District Court in which no appeal lies and the amount or value of the subject-matter whereof does not exceed the limits of the appellate jurisdiction of the District Court. The significant distinctiveness of Section 115 C.P.C is that besides exercising *suo motu* powers of revision, the powers of revision can also be exercised on the application of a person. Likewise, under Section 439 of the Code of Criminal Procedure, 1898 ("Cr.P.C"), which also pertains to the High Court's powers of revision, it is clearly envisaged that in the case of any proceeding the record of which has been called for by itself or which otherwise comes to its knowledge, the High Court, may, in its discretion, exercise any of the powers Conferred on a Court of Appeal by Sections 423, 426, 427 and 428 or on a Court by Section 338, and may enhance the sentence, but no order under this section, can be passed unless the accused is given an opportunity of being heard either personally or by pleader in his own defence. However, under sub-section 5, it is lucidly articulated that where under the Code an appeal lies and no appeal is brought, no proceedings by way of

revision shall be entertained at the instance of the party who could have appealed. While under Section 439-A, Cr.P.C, similar powers are made available to the Sessions Judge in the case of any proceedings before a Magistrate. But then again, it is somewhat noteworthy that under Section 440, Cr.P.C, no party has any right to be heard either personally or by pleader before any Court when exercising its powers of revision, provided that the Court may, if it thinks fit, when exercising such powers, hear any party either personally or by pleader, and that nothing in this section shall be deemed to affect Section 439, sub-section (2); but no right to file revision is available under Section 17 of the Punjab Employees Efficiency, Discipline and Accountability Act, 2006 and Rule 12 of Punjab Police (Efficiency & Discipline) Rules, 1975. Obviously, in case of any adverse findings or punishment or enhancement of punishment imposed in exercise of *suo motu* powers of revision within the time frame, the aggrieved person may approach the service tribunal for redress but the fact remains that revision cannot be filed as a matter of right and in case of rejection or dismissal of departmental appeal, the aggrieved employee should file the appeal before the Tribunal rather than filing revision petition or waiting for the decision of revision by the competent authority which is in fact detrimental and prejudicial to the own interest of such person who despite having in hand an adverse order passed against him in the departmental appeal, prefers to file revision petition which is not a vested right but such provision is provided to exercise *suo motu* powers and not based on the condition to apply by an aggrieved person. Every now and then due to this misunderstanding and uncertainty, the actual and vested right of appeal becomes time-barred and the learned Tribunal dismisses the service appeal service rightly so on the ground that the appeal has not been preferred against the order passed in departmental appeal but against the order passed in the revision while the law provides only one right of departmental appeal. Here again, we would like to recap and elucidate that in case any adverse order is passed under *suo motu* powers of revision against any person then obviously, he can approach the Tribunal against the adverse order being an original one but it is not meant as a remedy to cure the orders passed by the competent authority in the departmental appeal to hear it as a second appeal for which the direct remedy in the form of appeal is already provided before the concerned service Tribunal.



13. In the case of Ahmad Ali Vs. Inspector-General, Punjab Police and others (1990 SCMR 1450), it was held that the Tribunal refused to condone the delay on the ground that the Petitioners had no right to file revision or second appeal to the Inspector-General Police and the time consumed could not be allowed for extension of time prescribed for filing appeals before the Tribunal. This Court further held that the view taken by the Service Tribunal suffers from no legal infirmity and no case for leave to appeal is made out, hence leave to appeal was refused. According to the facts in the case of Muhammad Yaqoob Vs. District Police Officer, District Sahiwal and others (2006 SCMR 310), a civil servant, instead of assailing order of departmental authorities before the Service Tribunal, preferred revision under R.12 of the Punjab Police (Efficiency and Discipline) Rules, 1975, which was also rejected. He filed an appeal before the Service Tribunal, which appeal was dismissed being time-barred. He took the plea that the appeal before the Service Tribunal was within limitation as the same was filed after rejection of revision under R.12 of the Punjab Police (Efficiency and Discipline) Rules, 1975. The Court held that the Civil servant could not seek shelter behind R.12 of Punjab Police (Efficiency and Discipline) Rules, 1975, and could not take its benefit for the reason that no such right was given in special law, which has an overriding effect. Although the revision contemplated by the Punjab Police (Efficiency and Discipline) Rules, 1975, had given the right to the Inspector General of the Police to revise the order of the departmental authority in the circumstances given in the rule itself, but the rule did not vest any right in the accused civil servant to file a revision as a matter of right.

14. In view of the above discussion, we do not find any illegality or perversity in the impugned judgment passed by the learned Tribunal. This Civil Petition was fixed for hearing on 23.11.2023 and for the reasons to be recorded later, it was dismissed and leave was refused. Above are the reasons for our short order of even date.

Judge

Judge