

85/23

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

**PRESENT:**

MR. JUSTICE YAHYA AFRIDI

MR. JUSTICE SAYYED MAZAHAR ALI AKBAR NAQVI

MS. JUSTICE MUSARRAT HILAI

*AFR*

**C.P.2456-L/2022**

(Against the order dated 22.02.2022 passed by  
Punjab Service Tribunal, Lahore in Appeal No  
5342/2021)

Chief Minister through Secretary Government  
of Punjab, Irrigation Department, Lahore, etc.

...Petitioner(s)

**Versus**

Muhammad Afzal Anjum Toor

...Respondent(s)

For the Petitioner(s)

: Mr Baleegh-ur-Rehman, Addl AG  
Punjab  
Malik Waseem Mumtaz, Addl AG  
Punjab  
Ms. Sehr Chaudhary, Law Officer  
Irrigation Dept Punjab

For the Respondent(s)

: Mr. Mudassar Khalid Abbasi ASC  
Mr. Ch. Akhtar Ali. AOR

Date of Hearing

: 24.07.2023

**J U D G M E N T**

**Musarrat Hilali, J.**— Through this petition for leave to appeal, the petitioner has assailed order dated 22.02.2022 passed by the Punjab Service Tribunal Lahore in which the appeal No 5342 of 2021 filed by the respondent was accepted.

2. The brief facts of the case are that the respondent was posted as Executive Engineer, Rawal Dams Division, Islamabad. Disciplinary proceedings were initiated against him after a show cause notice dated 24.02.2020 was issued to him under Section

1.8(a) of the Pension Rules 1963 later than three years of his retirement. The charges against him included the allegations of inefficiency, misconduct, and corruption. An Investigation Committee comprising members of the petitioner department was constituted to proceed against the respondent. The committee submitted its report on 16.11.2020 recommending a major penalty of recovery of Rs. 5.5 million from the respondent's pension. Subsequently, after giving the respondent an opportunity of a personal hearing by the Secretary to the Government of the Punjab, Agriculture Department (the Competent Authority), a major penalty of recovery of Rs. 5.5 million from the respondents' pension was awarded to him by an order dated 26.7.2021. Aggrieved by the said order, the respondent filed a review petition before the Chief Minister Punjab which was still pending when the respondent filed an appeal in the Tribunal. The Tribunal allowed the respondent's appeal vide impugned order dated 22.02.2022 and set aside the departmental order dated 26.7.2021 directing the petitioner authority to grant all pensionary benefits accrued during such period to the respondent. Hence this petition.

3. Learned counsel for the petitioner department commenced that the initiation of disciplinary proceedings under the Pension Rules 1963 provided the basis for the proceedings against the respondent and therefore, the provisions of the PEEDA Act 2006 were not applicable.

4. On the other hand, learned counsel for the respondent contended that the respondent retired from government service on

10.01.2017, on attaining the age of superannuation. While disciplinary proceedings were initiated against him more than three years after his retirement, which is in violation of the PEEDA Act, 2006. The main emphasis of his argument was on the mandatory nature of the proviso to Section 21 of the PEEDA Act, 2006. It was asserted that once an employee retires, any disciplinary proceedings against him should be finalized within two years of his retirement. Since the proceedings against him were initiated after laps of the statutory period of 2 years hence the orders were null and void.

5. Arguments heard and record perused.

6. After having considered the submissions made by both the parties, the question arising for our consideration in the instant case is, whether the disciplinary proceedings could be validly initiated against the appellant after a lapse of more than three years from the date of his retirement, in light of the provisions of Section 21 of the PEEDA Act, 2006?

7. Section 21 of the PEEDA Act 2006 unequivocally states that proceedings against a retired employee shall be governed by the provisions of the Act and the rules made thereunder. Furthermore, the proviso to Section 21 imposes a mandatory obligation on the competent authority to finalize proceedings against a retired employee not later than two years from the date of his retirement. Additionally, Section 20 of the PEEDA Act, 2006, explicitly provides that the provisions of the Act

shall have an overriding effect contrary to any other law for the time being in force. This effectively nullifies any other law that may contradict or seek to supersede the provisions of the PEEDA Act 2006. This negates the argument of the petitioner department that the disciplinary proceedings against the respondent could be initiated under the Pension Rules 1963.

8. The Supreme Court in a case titled as Province of Punjab through Conservator of Forest, Faisalabad Versus Javeed Iqbal (2021 SCMR 328) while ascertaining the real intention of the legislature with respect to Section 21 of the PEEDA Act held that the primary aim of the Act is to improve the efficiency, discipline, and accountability of employees in government and corporate sector to achieve good governance. The Act primarily focuses on serving employees and recognizes retired employees only if departmental proceedings have been initiated against them either in service or within one year after their retirement. The Act sets a specific timeframe for finalizing departmental proceedings against retired employees, i.e., not later than two years from the date of their retirement. The proviso to Section 21 of the Act contains negative phrase that have an imperative effect, making it mandatory to conclude the proceedings against a retired employee within the prescribed timeframe.

9. In the instant case, as is evident from the record that the disciplinary proceedings against the respondent initiated under Rule 1.8(a) of the Pension Rules 1963 were in violation of Section 21 of the PEEDA Act 2006, which is a mandatory provision. As the

respondent stood retired on 10.01.2017 and disciplinary proceedings were initiated against him on 24.2.2020, which was beyond the statutory period prescribed by the proviso to Section 21 of the PEEDA Act, 2006.

10. For the forgoing reasons, we find that the impugned judgment passed by the Service Tribunal was based on a sound interpretation of the relevant legal provisions. Therefore, this petition is dismissed and leave refused.

**Judge**

**Judge**

**Judge**

Islamabad

24.07.2023

Not approved for reporting