

**IN THE SUPREME COURT OF PAKISTAN**  
(APPELLATE JURISDICTION)

**PRESENT:**

JUSTICE YAHYA AFRIDI, CJ  
JUSTICE MUHAMMAD SHAFI SIDDIQUI  
JUSTICE MIANGUL HASSAN AURANGZEB

**CPLA No.55 OF 2025**

*(Against order dated 23.12.2024 of the Punjab Service Tribunal, Lahore passed in Appeal No.3450 of 2024).*

Faheem Arshad and others

...Petitioners

**Versus**

Manzoor-ul-Haq and others

...Respondents

For the Petitioners: Mr. Ibad ur Rehman Lodhi, ASC with Syed Rifaqat Hussain Shah, AOR.

For the Respondents: Mr. Junaid Jabbar Khan, ASC for respondents No.1 & 2.

M/s. Khalid Masood Ghani, Assistant Advocate General, Punjab, Muhammad Tahir Riaz, Superintendent and Muhammad Ishaq, Sr. Clerk, Board of Revenue, Punjab.

Date of Hearing: 23.05.2025

**JUDGMENT**

**MIANGUL HASSAN AURANGZEB, J.-** The subject matter of the instant petition is a dispute between two categories of Tehsildars. The petitioners fall in the category of Tehsildars who were promoted from the position of Naib Tehsildar, whereas the contesting respondents were directly inducted as Tehsildars through the Punjab Public Service Commission in the year 2022. In this order, the first category shall be referred to as “Promotee Tehsildars” and the second as “Inducted Tehsildars.”

2. The Punjab Provincial Management Service Rules, 2004 (“**the 2004 Rules**”) have been made by the Governor of the Province of Punjab in exercise of the powers conferred under Section 23 of the Punjab Civil Servants Act, 1974. In exercise of the very same powers,



the Governor amended the 2004 Rules by substituting clause 2(a) in column 7 against the post of “PMS (BS-17)” in Schedule-I with the following:-

*“(a) 22.5% on the basis of seniority-cum-fitness from amongst Tehsildars, who are graduates, and have five years’ service as Tehsildar. However, in case of promotee Tehsildar, **the condition of five years’ service shall not be applicable**; and”.*  
**(Emphasis added)**

3. The said amendment was set out in notification No.SOR-III(S&GAD)1-16/2006, dated 21.08.2019 issued by Services and General Administration Department (Regulation Wing), Government of the Punjab.

4. Prior to the issuance of the notification dated 21.08.2019, the method of recruitment for Provincial Management Service Officers (BS-17) (“**PMS Officers**”) provided in clause 2(a), column 7 in Schedule-I of 2004 Rules was “22.5% on the basis of seniority-cum-fitness from amongst Tehsildars, who are graduates, and have five years of service as Tehsildar.”

5. It was not until 2024 that a process was initiated for the promotion of Tehsildars as PMS Officers. In this regard, the Board of Revenue, Punjab Establishment (Field Branch) vide letter dated 24.04.2024 made a request for special arrangements to be made for pre-promotion training for Tehsildars, which was mandatory for their promotion as PMS Officers. Letter dated 04.09.2024 from the Services and General Administration Department, Government of the Punjab (“**S&GAD**”) shows that a meeting of the Departmental Promotion Committee (“**DPC**”) was to be scheduled to consider the promotion cases of Tehsildars (BS-16) as PMS Officers (BS-17) against vacant posts. A request was made to the Secretary, Board of Revenue to furnish a working paper of eligible Tehsildars along with relevant documentation.



6. It is crucial to bear in mind that most of the Inducted Tehsildars were appointed in the year 2022 i.e., more than two years after the issuance of the said notification dated 21.08.2019. The initiation of the said process for promotion gave a cause of concern to those Inducted Tehsildars as they admittedly did not have five years of service as Tehsildars to be eligible for consideration for promotion as PMS Officers. What posed as an obstacle to their consideration for promotion was the amendment made in the 2004 Rules through the said notification dated 21.08.2019. The five years of service as Tehsildars was not required for the Promotee Tehsildars to be considered for promotion as PMS Officers. Some of the Promotee Tehsildars being considered for promotion were junior to the Inducted Tehsildars in that they were promoted after the induction of the Inducted Tehsildars. Consequently, the Inducted Tehsildars submitted representations to Government of the Punjab requesting for the notification dated 21.08.2019 to be revised / set-aside.

7. Apparently, writ petition No.18126/2024 was filed by the Inducted Tehsildars before the Lahore High Court challenging the *vires* of notification dated 21.08.2019, whereas writ petition No.14236/2024 was filed by the Promotee Tehsildars seeking for the promotion process to be taken to its logical conclusion. We say “apparently” because copies of these writ petitions are not on the record. Be that as it may, both these writ petitions were disposed of by the Lahore High Court with the direction to the Senior Member, Board of Revenue, Punjab (“**SMBR**”) to afford an opportunity of a hearing to the parties and decide their grievances.

8. On 18.11.2024, SMBR passed two orders – one with respect to the order passed in writ petition No.14236/2024 filed by the



Promotee Tehsildars and the other with respect to the order passed in writ petition No.18126/2024 filed by the Inducted Tehsildars.

9. We shall first deal with the SMBR's order dated 18.11.2024 as regards the grievances of the Promotee Tehsildars. Through the said order, the SMBR directed the Secretary, Board of Revenue, Punjab to ensure the furnishing of a working paper for the promotion of Tehsildars as PMS Officers to S&GAD *"in accordance with existing PMS Rules, 2004."* The said order shows that there were more than 110 posts of PMS Officers lying vacant against the 22.5% share / quota reserved under the 2004 Rules for the promotion of Tehsildars. The said order also shows that two batches of Tehsildars (60 in numbers) had completed the mandatory training for promotion as PMS Officers and as such they were eligible for consideration for promotion. The officer that had afforded an opportunity of a hearing to the parties had made the following recommendations:-

*"In view of above, it is submitted that stance of B-Class Tehsildars carries weight as having served for more than 12 years they were promoted from Naib Tehsildar to Tehsildar and now despite having more than 110 vacant posts of PMC officers non furnishing of working paper to S&GAD may compromise their future promotion prospects. Moreover, there is no legal hitch in forwarding their working paper to S&GAD in accordance with prevailing PMS Rules. As far as the matter pertains to request of A-Class Tehsildars regarding waiving off the condition of five years service as Tehsildar on promotee Tehsildar is concerned, it can be processed simultaneously. Foregoing in view, in compliance with the direction made by the Hon'ble Court it is recommended that working paper of Tehsildars for promotion against more than 110 vacant PMS posts against Tehsildari share may be allowed to be forwarded to S&GAD in accordance with prevailing PMS Rules, 2004 and matter pertaining to the request of A-Class Tehsildar regarding waiving off the condition of five years as Tehsildar on promotee Tehsildar may also be processed simultaneously which will come into force after approval of due amendment in PMS Rules, 2004 with immediate effect accordingly."*

10. As regards SMBR's second order dated 18.11.2024 dealing with the grievances of the Inducted Tehsildars, a direction was issued to the Secretary, Revenue, Government of the Punjab to move a reference to the Additional Secretary (Administration), S&GAD so



that the amendment made in the 2004 Rules through notification dated 21.08.2019 (pertaining to the waiving off of the condition of five years of service for the promotion of Promotee Tehsildars as PMS Officers) is reconsidered. In the said order, it was observed by the SMBR that the amendment made in the 2004 Rules made through notification dated 21.08.2019 was *“contrary to fundamental notion of equality and fair-play, against the principles of natural justice and is tantamount to infringing upon the rights of directly inducted tehsildars who deserve equal treatment without any discrimination.”*

11. On 18.12.2024, the Board of Revenue, Punjab Establishment (Field Branch) called upon 37 Promotee Tehsildars to submit the requisite documentation for their consideration for promotion as PMS Officers. Letter dated 24.12.2024 from S&GAD, Government of the Punjab shows that the meeting of the DPC to consider the promotion cases of Tehsildars, etc. as PMS Officers (BS-17) scheduled to be held on 24.12.2024 was postponed.

12. Two Inducted Tehsildars, namely Manzoor-ul-Haq / respondent No.1 and Muhammad Abdul Rehman / respondent No.2 filed appeal No.3450/2024 before the Punjab Service Tribunal challenging **(i)** letter dated 04.09.2024 from the S&GAD, Government of the Punjab showing that a meeting of the DPC was to be scheduled to consider the promotion cases of Tehsildars (BS-16) as PMS Officers (BS-17) against vacant posts, and **(ii)** letter dated 18.12.2024, whereby 37 Promotee Tehsildars were required to submit their credentials for being considered in the process of their promotion as PMS Officers (BS-17). Furthermore, the appellants in the said appeal sought a direction for their inclusion in the seniority list of Tehsildar and for necessary amendments to be made in the 2004 Rules on the basis of SMBR's order dated 18.11.2024.



13. Vide impugned order dated 23.12.2024, the Punjab Service Tribunal disposed of appeal No.3450/2024 in the following terms:-

*“6. In view of the above, the instant appeal is **disposed of** with the direction that the respondents to decide the departmental appeal/representation in view of letter/order dated 21.08.2019 and 18.11.2024 and prepare a fresh seniority list in accordance with the Punjab Civil Servants (Appointment and Conditions of Service) Rules, 1974 subject to outcome of decision of the departmental appeal/representation.*

*Till then, the promotion process of the respondents shall remain suspended.”*

The said order dated 23.12.2024 has been assailed by the Promotee Tehsildars in the instant petition.

14. Learned counsel for the petitioners / Promotee Tehsildars submitted that the petitioners had served as Naib Tehsildars for several years before they were promoted as Tehsildars; that the petitioners are amongst the Tehsildars who are going to be considered for promotion as PMS Officers in the DPC which had been scheduled to be held on 24.12.2024; that the Inducted Tehsildars have challenged the amendment made in the 2004 Rules, through notification dated 21.08.2019, in writ petition No.61255/2024 which is still pending before the Lahore High Court; that since the notification dated 21.08.2019 has not been declared unconstitutional, the same is to have its normal operation; and that an appeal before the service tribunal was filed by the Inducted Tehsildars only after they were not able to obtain an injunctive order from the high court against the process of promotion.

15. On the other hand, learned counsel for the contesting respondents / Inducted Tehsildars submitted that 65 persons were selected as A-Class Tehsildars (BS-16) by the Punjab Public Service Commission after a rigorous and merit based selection process; that the amendment in the 2004 Rules through notification dated 21.08.2019 was causing sheer injustice to the Inducted Tehsildars;

that through the said notification the condition of five years of mandatory service as Tehsildar for promotion as PMS Officers was removed only for the Promotee Tehsildars; that since the Inducted Tehsildars are mandatorily required to complete five years of service to be eligible for promotion as PMS Officers, discriminatory treatment is being meted out to them; that the said notification dated 21.08.2019 has resulted in undue leverage to the Promotee Tehsildars as many of them junior to the Inducted Tehsildars will become eligible for promotion before their senior Inducted Tehsildars; that the said notification dated 21.08.2019 operates contrary to the norms of equality and fair play; that the said notification dated 21.08.2019 was issued at a time when direct recruitment as Tehsildars had been halted since 2004; and that there were hardly any Inducted Tehsildars to oppose the amendment made in the 2004 Rules through the said notification dated 21.08.2019. Learned counsel for the Inducted Tehsildars prayed for the instant petition to be dismissed.

16. We have heard the contentions of the learned counsel for the contesting parties and have perused the record with their able assistance.

17. Section 23(i) of the Punjab Civil Servants Act, 1974 provides that the Governor, or any person authorized in this behalf may make such rules as appear to him to be necessary or expedient for carrying out the purposes of the said Act. The 2004 Rules have been made by the Governor in exercise of the powers conferred on him under Section 23, and so has the amendment in Schedule-I to the said Rules through notification dated 21.08.2019. These Rules have the same force as the provisions of the statute under which they are



framed. In the case of Ahmad Hassaan Vs. Government of Punjab (2005 SCMR 186), this court held as follows:-

*“27. It is well-settled that Rules made under a statute must be treated for all purposes of construction or application exactly as if they were in the Act and are to be of the same effect as if contained in the Act and are to be judicially noticed for all purposes of construction and application. Such Rules cannot be treated as administrative directions. Harilal v. Dy. Director of Consolidation, 1982 All. LJ 223. They continue to be rules subordinate to the Act, and though for certain purposes, including the purpose of construction, they are to be treated as if contained in the Act, their true nature as subordinate rule is not lost. Chief Inspector of Mines v. K.C. Thapar, AIR 1961 SC 838, 845. ...”*

18. The amendments made in Schedule-I to the 2004 Rules through the said notification dated 21.08.2019 issued by S&GAD, Government of the Punjab, whereby the condition of five years of service as Tehsildar for the Promotee Tehsildars for their consideration for promotion as PMS Officers was done away with, are still in the field. Till date the notification dated 21.08.2019, has not been declared *ultra vires* the provisions of the Punjab Civil Servants Act, 1974 or the Constitution either by any court or tribunal.

19. Respondents No.1 and 2 in their appeal before the Punjab Service Tribunal also did not call in question the *vires* of the notification dated 21.08.2019. Therefore, we in exercise of appellate jurisdiction under Article 212(3) of the Constitution will not embark on the exercise of examining the *vires* of the said notification.

20. The views that the SMBR may have expressed in his order dated 18.11.2024 *qua* the said notification or the directions that he may have issued to the Secretary, Revenue, Government of the Punjab would not have the effect of the annulment of the said notification dated 21.08.2019. The said notification is based on an amendment made in Schedule-I to the 2004 Rules by the Governor



in exercise of statutory power and it is he alone who can in the exercise of the very same power undo the amendment.

21. Now, it remains to be seen whether the Governor in exercise of the powers under Section 23 of the Punjab Civil Servants Act, 1974 further amends Schedule-I to the 2004 Rules so as to reverse the effect of the notification dated 21.08.2019. Even though the Government of the Punjab has not challenged the order dated 23.12.2024, Mr. Khalid Masood Ghani, Assistant Advocate General representing the Government of the Punjab, could not state with certainty as to whether the process has been initiated for the Governor to make such an amendment. In the present scenario, we are of the view that the Promotee Tehsildars' consideration of promotion as PMS Officers cannot be indefinitely placed in abeyance. It is well settled that vacant posts must be filled in accordance with the prescribed method of appointment at the earliest. In the case of Government of Khyber Pakhtunkhwa Vs. Hizbullah Khan (2021 SCMR 1281), the respondent's case for promotion as Superintendent (BS-17) had been kept pending on the ground that new service rules were in the process of being made. Since the existing rules were very much in force when the respondent's case was put up before the DPC, this court took the view that the department's justification for keeping the respondent's case pending till the finalization of new service rules was *ex facie* illegal and also unjustified. Recently, this court in the judgment dated 21.04.2025 (not reported as yet) passed in CPLA No.3116/2022, titled "Aatika Hina Mushtaq Vs. Secretary, Special Education, Government of the Punjab" held that the decision of a DPC to withhold promotions till such time that the rules are suitably amended was not sustainable. In this regard, paragraph 4 of the said judgment is reproduced herein below:-



*"4. ...The DPC does not possess the mandate or the authority to question the Rules or refuse their enforcement. The Rules, including the Note, provide a clear mechanism for determining seniority from the date of acquiring the requisite qualification which had to be given effect by the DPC. The decision of the DPC that the Rules governing the posts of PTI, PET, and DPE needed to be amended first before considering promotions, leading to the deferment of the petitioner's case, is without any lawful authority. **Parties aggrieved of the Note/Rules can challenge the Rules, if they are so advised, but the DPC cannot sit in judgment over the legality and enforceability of the Rules, which are duly framed under the law.** The DPC is to examine the candidature of the officers under the law and process their cases for promotion, it lacks the authority to question the legality of the law or the Rules, which it is bound to enforce. **Therefore, any proposed future amendments of the Rules proposed by a Deputy Secretary/Representative of Regulations Wing, S&GAD, cannot bind the DPC to lay their hands off and defer promotions on this pretext. The DPC is bound to follow the law as it exists. It is axiomatic that the promotion of a civil servant cannot be withheld merely because amendments to the Rules are being contemplated.***  
**(Emphasis added)**

22. The process of the promotion, in our view, cannot be halted at the instance of the Inducted Tehsildars for the simple reason that when the Inducted Tehsildars were directly appointed in the year 2022, the notification dated 21.08.2019 had already been issued. The Inducted Tehsildars were aware or expected to be aware of their terms and conditions of service to be governed by the 2004 Rules of which the amendment made in Schedule-I to the 2004 Rules through notification dated 21.08.2019 was an integral part. They joined service knowing fully well the adverse effect of the notification dated 21.08.2019 on their promotion prospects. Therefore, unless and until and if at all the amendments brought about in Schedule-I to the 2004 Rules through the notification dated 21.08.2019 are declared *ultra vires* by a competent court / tribunal or the said notification is withdrawn on the basis of the Governor reversing the amendment made in the method of promotion of Tehsildars as PMS Officers contained in Schedule-I to the 2004 Rules, the process of promotion cannot be halted.



23. We are dismayed to note that presently there are 110 vacant posts of PMS Officers which are to be filled by promotion of Tehsildars. Public sector employment in Pakistan is a significant source of financial stability for many households. Prolonged vacancies not only limit their employment opportunities but also diminish public confidence in government institutions.

24. "Post" denotes the number of posts in the cadre, whether filled or vacant. "Vacancy" means a vacant post available for appointment, through recruitment / promotion, on the creation of new post(s) or retirement, death or resignation or removal of the incumbent working on the post. In public administration, every post in the organizational hierarchy is created after due deliberation and approval, taking into account the functional requirements of the department, the workload, and the efficient delivery of services to the public. This process ensures that each sanctioned post is essential for the functioning of public institutions. In other words, each sanctioned post reflects a deliberate recognition of a need – whether technical, supervisory, operational, or strategic – within the framework of good governance. Importantly, financial allocations are also secured through budgetary processes to ensure that post is funded and resourced. The practice of routinely leaving posts in public institutions unfilled undermines the very rationale of sanctioned strength. If a post is not needed, it should be abolished through proper procedure; but if it has been duly approved and budgeted, it must be filled without undue delay.

25. It is not advisable to keep a post vacant as it hampers the functioning of public institutions and is not conducive to the maintenance of efficiency of administration. The objective of timely promotions of eligible employees in various public institutions can be



achieved only by convening of meetings of DPCs. The timely filling of vacant posts is not only an administrative imperative but is essential for maintaining the integrity, efficiency, and responsiveness of public institutions.

26. In view of the above, leave to appeal is granted; the instant petition is converted into appeal and allowed in terms that the process for the promotion of Tehsildars as PMS Officers already initiated may continue unless amendment made in the 2004 Rules through notification dated 21.08.2019 is withdrawn by the Governor in exercise of the powers conferred by Section 23 of the Punjab Civil Servants Act, 1974 or the Governor further amends clause 2(a) in column No.7 with respect to the post of PMS Officers (BS-17) in Schedule-I to the 2004 Rules.

Announced in open Court on 30.06.2025 at Islamabad

Not approved for reporting  
Ahtesham Majid