



SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

Justice Shahid Waheed
Justice Musarrat Hilali

C.P.L.A.1919-L/2016

(Against the judgment dated 15.03.2016 passed by the Punjab Service Tribunal, Lahore Multan Bench in Appeal No.1221/2014)

Muhammad Arshad ...Petitioner(s)

Versus

Deputy District Food, Multan, etc ...Respondent(s)

For the Petitioner(s) : Mr. Mahmood Ahmad Qazi, ASC
via video link from Branch
Registry Lahore

For the Respondent(s) : Mr. Sana Ullah Zahid, Additional
Advocate General Punjab

Date of Hearing : 16.05.2025

ORDER

Shahid Waheed, J: This petition, filed under Article 212(3) of the Constitution, stems from the judgment announced on the 15th of March, 2016, by the Punjab Service Tribunal. It raises a substantial question: In a legal framework that espouses fundamental rights, including the right to a fair trial, can there be any valid rationale for upholding and encouraging a culture of authoritative dominance in the disciplinary proceedings against a civil servant? This question not only challenges the norms that often prioritise disciplinary efficiency over the rights and protections afforded to civil servants in their service. It calls for an examination of the balance that must be maintained between ensuring accountability within the civil service and safeguarding the rights of those who serve the public. The implications of this question speak to the foundational principles of justice, transparency, and fairness that underpin all governmental actions.

2. The question proffered does not necessitate recounting of the facts in a detailed manner. All that is

needed to provide a clear understanding of the context in which it emerged is to state a few unvarnished facts. First, it is to be noted that this case originates from disciplinary proceedings initiated against the petitioner under the Punjab Employees Efficiency, Discipline and Accountability Act, 2006 (**the PEEDA**). Why were these proceedings taken out, and with what results have they landed here? We relate that. In 2012, the petitioner worked as a Junior Analyst in the office of the District Food Controller in Vehari. He was assigned to the Purchase Centre (Flag Centre Pull-48) in District Vehari for the procurement of wheat stock alongside Allah Rakha Zahid, a Food Grain Supervisor. On 13th of May, 2012, the Deputy Director of Food, Multan, visited the Centre and discovered that the petitioner had prepared a fraudulent purchase bill in the name of Ejaz Ahmad by overwriting the name of Ghulam Rasool, who was the actual supplier of the wheat. Following this, the District Food Controller of Vehari was instructed to investigate the records and submit a detailed report. Upon investigation, the petitioner was found responsible, leading to his suspension and further action under the PEEDA. He faced several allegations, including the fraudulent withdrawal of Rs.252,720/- for 192 polypropylene (PP) bags of wheat in the name of Ejaz Ahmad, unauthorised unloading of 192 PP bags of wheat from Ghulam Rasool, preparation of a bogus bill in Ejaz Ahmad's name by altering Ghulam Rasool's name, and the return of Rs.252,720/- by Ejaz Ahmad to evade involvement in the fraud. Based on these allegations, he was charged with inefficiency, misconduct, and corruption. The petitioner was found guilty and dismissed from service. He appealed against his punishment to the Director of Food, Punjab, arguing that the inquiry leading to his punishment was flawed because the role of Allah Rakha Zahid, his co-signatory, was not examined. The Appellate Authority, agreeing with this point, issued an order on 31st of January, 2012, to set

aside the punishment. The petitioner was reinstated, and the case was remanded for a joint re-inquiry into the matter involving both the petitioner and Allah Rakha Zahid. On remand, the District Food Controller of Lodharan was appointed as the Inquiry Officer. Fresh proceedings were conducted based on the same set of allegations. In his report dated 28th of June, 2013, the Inquiry Officer concluded that none of the allegations against the petitioner had been proved; however, he noted the petitioner's slackness in performing his duties and, as such, recommended a minor penalty of withholding one annual increment for two years. The charges against Allah Rakha Zahid were not proved, and he was recommended for exoneration. This report was submitted to the Deputy Director of Food in Multan under section 13 of the PEEDA, as he was the Competent Authority for this matter. After that, the Competent Authority issued a notice that included a copy of the inquiry report and summoned the petitioner for a personal hearing; and thereupon the Competent Authority reviewed the inquiry report and stated in its final order, dated 12th of July, 2013, under section 13(5) of the PEEDA, that the Inquiry Officer had overlooked certain facts, particularly the first allegation regarding the fraudulent withdrawal of Rs.252,729/- that significantly affected the validity of his recommendations. He therefore came to hold that this allegation was proved against both the delinquent accused officials. Consequently, the Deputy Director disagreed with the conclusions reached by the Inquiry Officer and imposed a major penalty: the forfeiture of one year of regular service on account of inefficiency and negligence in the discharge of official duties. Following this decision, the petitioner's appeal was unsuccessful, and an order rejecting the appeal was issued on 10th of December, 2013. The outcome remained unchanged when the petitioner subsequently took the matter to the Service

Tribunal. Therefore, the petitioner has initiated the present petition.

3. The facts presented indicate that upon receiving the inquiry report, the Competent Authority did not express any disagreement with the recommendations made by the Inquiry Officer during the review stage outlined in section 13(2). It appears that the Competent Authority voiced its disagreement later in the final punishment order issued under section 13(5) of the PEEDA. This point piques the petitioner. The petitioner's stance is that the Competent Authority had failed to uphold the principle of natural justice and to observe the procedural fairness mandated by statute; and that, during the disciplinary proceedings, the Competent Authority prioritized its power over the fairness he deserved. To fully understand this grievance, it is crucial to scrutinise the process that the Competent Authority is obligated to follow upon receipt of the inquiry report, as provided in section 13 of the PEEDA. A detailed analysis of this provision, together with the Guidebook for conducting inquiry, issued by the Government of the Punjab in its Services and General Administration Department (Regulation Wing) vide Notification No.SORI (S&GAD) I-30/2003(P-II) dated 17th of August, 2015, particularly, the model draft show-cause notice attached thereto, reveals that upon receiving the inquiry report, the Competent Authority must ascertain whether the inquiry has been conducted in accordance with the prescribed provisions of the PEEDA. If it determines that the inquiry has been conducted properly, the next step is to evaluate whether the charges have been proved. If the charges are found not to be proved, the Competent Authority is required to exonerate the accused as per section 13(3) of the PEEDA. Quite the opposite, if the Competent Authority believes that the charges against an accused have been proved, it is obliged to issue a show-cause notice under section 13(4) of the PEEDA. This notice must include a copy of the inquiry

report, and should contain: (a) the Competent Authority's statement that it has found no reason to differ or it has reason to differ with the recommendations of the Inquiry Officer; in case of dissent, the reasons thereof, alongwith the specifics of the charges that have been proved against the accused; (b) the details of the proposed penalties; and (c) the recommendations made by the Inquiry Officer regarding the penalties, and allowing the accused a period of seven days to respond or file additional defence in writing. After providing the opportunity for a personal hearing, the Competent Authority is to pass final orders under sub-section (5) of section 13 of the PEEDA. As regards the scenarios where the inquiry is deemed not to have been conducted per the legal framework, the Competent Authority, under section 13(6), has the responsibility to remand the inquiry back to the Inquiry Officer or Inquiry Committee. This may involve rectifying identified lapses or procedural formalities, or it may necessitate ordering a de novo inquiry to ensure compliance with legal standards. This structured and detailed approach is vital in safeguarding the rights of the accused and ensuring that disciplinary proceedings are conducted with fairness and in adherence to the law.

4. The dissection of the PEEDA, particularly its section 13, let out that the legislation does not promote a culture of despotic use of authority within disciplinary proceedings. Rather in its preference, it seeks to strike a balance between the imperative of safeguarding employee rights and the necessity of maintaining an efficient disciplinary framework within the service. This objective has been sought to be achieved by instituting a system of accountability rooted in the principles of fairness, sound reasoning, and justifiable decision-making. In the pursuit of this objective, in the first instance, the recommendations put forth by the inquiry officer or the inquiry committee, as delineated in section 10 of the PEEDA, are not made binding on the Competent Authority

so as to allow it the discretion to arrive at its own conclusions regarding the charges presented. It is not in the nature of an appeal from the Inquiry Officer to the Competent Authority. It is one and the same proceeding and stands concluded with the decision of the Competent Authority. Nevertheless, taking into account the principle of natural justice and fundamental right of fair trial, it is significant to emphasise that the Competent Authority is not bestowed with unbridled discretion to arrive at decisions that contradict the conclusions drawn by the Inquiry Officer. Instead, promoting a culture of justification and reasoning, the Competent Authority, upon receiving the inquiry report, is mandated to first examine the report along with all pertinent case materials meticulously and then render a decision supported by valid and justifiable reasons, specifically addressing two critical questions: First, has the inquiry been conducted in compliance with the stipulations framed in the PEEDA? Second, if the first question is affirmed, have the charges against the accused been proved? We think it unnecessary to refer by name or to quote from any of the often-cited authorities in which the courts have explained why it is essential to furnish reasons for a decision to be intuitive. They are far too well-known. From them, we derive that: Firstly, furnishing reasons allows the employee to find out whether any reviewable errors have occurred during the proceedings. Secondly, it enables the employee to gauge the extent to which his arguments presented to the Inquiry Officer and included in the inquiry report were comprehended and considered. Thirdly, the possibility of judicial review serves as a deterrent against arbitrary decision-making by the Competent Authority. Fourthly, the discipline of rendering reasoned decisions encourages the Competent Authority to be more meticulous and rational in its conclusions. Finally, providing reasons enhances guidance for analogous future cases and promotes consistency in decision-making. Apart from that,

to further enhance fairness in the disciplinary proceedings, in a situation where the Competent Authority is poised to differ with the inquiry report, it is also compulsory for the Competent Authority to communicate to the accused, under section 13(4)(a) of the PEEDA, the rationale behind its disagreement with the inquiry officer's findings of "not guilty", and that a charge has been proved against him, and then require him to offer his response or additional defence thereon in writing. This obligation empowers the delinquent employee to contest the reasons offered by the Competent Authority, ensures that his rights are preserved and that final decisions are not made without due consideration. This leads us to conclude that the law envisages that every step undertaken in disciplinary proceedings must align with the foundational principles of natural justice and procedural fairness, and any deviation from these principles risks undermining the validity of the final order, thereby calling into question the integrity and legitimacy of the entire disciplinary process.

5. In light of the legal principles marked out above, we now turn our attention to the proceedings conducted in this case to determine whether they are marred by any procedural irregularities or unfairness that could undermine their integrity. To begin with, it is noteworthy that the Inquiry Officer explicitly stated in his report, dated 28th of June, 2013, that not all the allegations against the petitioner were proved. However, despite this finding, he proceeded to recommend a minor penalty of stoppage of one annual increment for two years based on his assessment of the petitioner's slackness at work. This report invites an obvious question: how could a minor penalty be deemed appropriate when the allegations foundational to the charges, including a charge of inefficiency, were not proved? It is evident that, upon receipt of the inquiry report, the Competent Authority did not think it appropriate to bring the above question under its consideration, nor did it take the necessary steps

under section 13(1) to verify whether the inquiry had been conducted in accordance with the provisions of the PEEDA. The Competent Authority also did not state anything about its satisfaction in terms of section 13(2) of the PEEDA concerning whether charges had been proved against the petitioner or not. Instead, it conveniently avoided these mandatory steps, and moved on to the next step and issued a notice, dated 8th of July, 2013, under section 13(4) of the PEEDA, enclosing a copy of the inquiry report, to the petitioner, summoning him on 11th of July, 2013 for a personal hearing. Through this notice, he was not asked to show cause as to why one or more penalties prescribed under the PEEDA should not be imposed upon him; on the contrary, he was informed in authoritative terms that *"it is proposed to impose upon you one or more of the penalties under the PEEDA Act, 2006"*. It is indeed true, as the petitioner's counsel has aptly argued, that the show-cause notice was flawed for: firstly, it did not state whether the Competent Authority had agreed with the inquiry report, secondly, it did not state whether charges had been proved; lastly, it did not grant a reasonable period of showing cause against a penalty proposed, a period of two days was inadequate. Each of these procedural shortcomings signals a blatant disregard for the principles of natural justice, creating a significant blemish sufficient to invalidate the subsequent proceedings. It is important to note that this was a case where the Competent Authority had chosen to diverge from the inquiry report's conclusions; thus, the notice issued under section 13(4) of the PEEDA should have explicitly included the rationale for such a decision. The fundamental essence of this requirement was to afford the petitioner the opportunity to contest any discrepancies asserted by the Competent Authority, whether by reinforcing the findings of the inquiry report or by presenting additional arguments supporting those conclusions. However, in the absence of clearly articulated

grounds or specific reasons within the show-cause notice, the petitioner was positioned precariously and at a significant disadvantage. This omission transformed the notice, dated 8th of July, 2013, into a mere formality, stripped of meaningful content, cultivating an unwholesome culture of authority while inflicting considerable prejudice on the petitioner and leading to substantial injustice. We further note that the Competent Authority in its final order dated 12th of July, 2013, under section 13(5) of the PEEDA, tried to fill in the lacuna in the proceedings and provided its reasons based on which it differed with the inquiry report and imposed a major penalty of forfeiture of one-year regular service. This post-hoc reasoning can not rectify the initial shortcomings. As a result, we come to the conclusion that the petitioner's gravamen holds substantial merit. The punishment order dated 12th of July, 2013, drawn under section 13(5) of the PEEDA, is an outcome of excessive authoritative dominance in the disciplinary proceedings. This overreach undermined the very essence of fair treatment, and compromised the petitioner's fundamental rights. Such a disregard for due process and procedural impropriety renders the entire process flawed, devoid of any legal validity and cannot be upheld in a legal framework that protects the right to a fair trial.

6. The Departmental Appellate Authority failed to consider the above aspects of the case, which significantly weakens the force of its decision. Moreover, the Service Tribunal also failed to address these important factors in its judgment. As a result, the orders passed by both lack the requisite legal validity and are, therefore, liable to be set aside, and, having regard to the peculiar circumstances of the case, the inquiry proceedings need to be relegated to the stage where infirmity had crept in.

7. Upshot of above discourse is that this petition is converted into appeal and allowed and resultantly by

setting aside the punishment order dated 12th of July, 2013, Appellate Authority's order dated 10th of December, 2013, and Punjab Service Tribunal's judgment dated 15th of February, 2016, the matter is remitted to the Competent Authority with the direction to start afresh proceedings from the stage when it received inquiry report and pass an order thereon strictly in accordance with law.

Judge

Judge

Islamabad
16.05.2025
APPROVED FOR REPORTING
Rashid + Libah Nadeem LC