

Sarwar Ateeq Pasha Vs.

Appeal No. _____

Provincial Director, Local Fund Audit (Finance Department), Punjab, Lahore &

another. 2

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30.05.2024

PRESENT

1. Mr. Allah Nawaz Khosa Advocate,
Counsel for the appellant
2. Mr. Atta Muhammad Khan, District Attorney.
3. Mr. M. Nadeem, Superintendent, D.R.
4. Mr. Imran Ahmad, Resident Assistant Director, D.R.

Brief facts of the case are that the appellant was proceeded against under PEEDA Act, 2006 on the following charges:-

"Inefficiency, regarding missing of important record from Divisional Directorate, Local Fund Audit, Faisalabad."

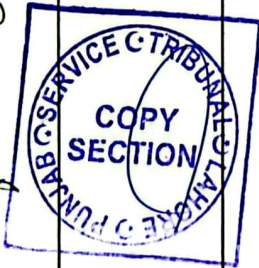
Resultantly, appellant was awarded penalty of "Withholding of Promotion for 05 Years" by the respondent No.2 i.e. Divisional Director, Local Fund Audit, Faisalabad vide order dated 30.09.2023. Feeling aggrieved the appellant preferred departmental appeal before respondent No.1 i.e. Provincial Director, Local Fund Audit (Finance Department), Punjab, Lahore, who enhanced the punishment and awarded major punishment of "Dismissal from Service" vide order dated 20.12.2023. Hence the instant appeal before this Tribunal on 29.12.2023.

2. Learned counsel for the appellant as well as learned District Attorney having been heard at length, the available record has also been perused.

3. After hearing the learned counsel for the appellant and learned District Attorney on behalf of the respondents and perusal of file I am of the opinion that the appellant was departmentally proceeded against for:-

"Inefficiency, regarding missing of important record from Divisional Directorate, Local Fund Audit, Faisalabad."

And after thorough inquiry he was held guilty of the charges and the Inquiry Officer recommended the penalty of withholding of promotion for five years. However, the Departmental Authority while imposing the

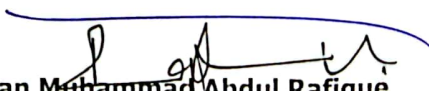

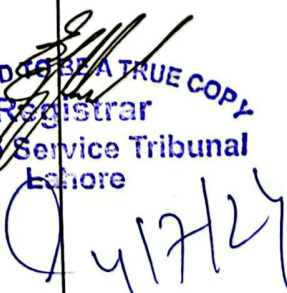



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		<p>penalty of withholding of promotion for 05 years against the appellant directed that this period shall be counted from the date when a person junior to him will be considered for promotion and promoted on regular basis for the first time. Against the said order appellant filed departmental appeal, on which the notice of hearing was given to the appellant. However, the Departmental Authority while disposing of the appeal of the appellant enhanced the penalty of withholding of promotion for 05 years into dismissal from service.</p> <p>4. It is pertinent to note that in earlier inquiry proceedings conducted by the Departmental Authority on 29.05.2018 the appellant alongwith 03 other officials was only warned to be careful in future, while the Mr. M. Anwar, Senior Clerk was awarded the punishment of censure. However, in subsequent inquiry the appellant was held guilty of the charges and was recommended for withholding of promotion for 05 years.</p> <p>5. I have heard the learned counsel for the appellant as well as learned District Attorney on behalf of the state at length and perused the record. From perusal of record, it appears that the Inquiry Officer did not record the statement of any witness and he only referred the earlier statements made by the witnesses in earlier inquiry proceedings in which the appellant was merely warned to be careful in future. Moreover, the Departmental Authority while deciding the appeal of the appellant and enhanced the penalty of withholding of promotion for 05 years and imposed the penalty of dismissal from service. No reasons have been mentioned by the Appellate Authority that on what basis it came to conclusion and held the appellant liable to enhanced the punishment. It is further pertinent to note that the missing record was traced out and missing record was found at steps of main gate of the said office located at 10-W-102 Madina Town, Faisalabad when the judicial action was recommended against Mr. M.</p>

Handwritten notes:
 30-5-2024



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		<p>Nawaz Senior Clerk, M. Yaseen Chowkidar by ACE. So, the missing record was traced out after the proceeding conducted by the Anti-Corruption Department from the steps of the office of the department at Madina Town, Faisalabad. It is further pertinent to note that the appellant had relinquished the charge of his post on 17.04.2017, while the matter was first time brought on record on 09.05.2018 about more than one year after relinquishing the charge of his post by the appellant. I have further perused the statement of the witnesses recorded in the earlier inquiry proceedings. Irfan Ali Daftri has attributed the main charge about the missing of record to Muhammad Ahmad Assistant Director and he stated that due to the personal animosity of M. Ahmad with Sarwar Ateeq, he has made an attempt to frame the appellant Sarwar Ateeq for missing of the record. I have also perused the statement of M. Yaseen who also did not attribute any role to the appellant in missing of the record. So, I am unable to understand that what evidence was available on record to hold the appellant as guilty of the charges. Moreover, the appellant has been given a very harsh punishment against the recommendation of the Inquiry Officer and the Departmental Appellate Authority itself enhanced the punishment of withholding of promotion for 05 years into dismissal from service without giving any reasons.</p> <p>6. For the aforesaid reasons, the instant appeal is accepted and the impugned orders are set aside. Consequently, the appellant is reinstated in service, however, the intervening period is treated as leave of the kind due.</p> <p style="text-align: right;">  Mian Muhammad Abdul Rafique D&SJ/MEMBER-VI </p> <p style="text-align: center;">  </p> <p style="text-align: center;">  </p> <p style="text-align: center;">  </p>

BEFORE THE PUNJAB SERVICE TRIBUNAL, LAHORE

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Service Appeal No. 60 9-1-24 /2023

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29-12-23

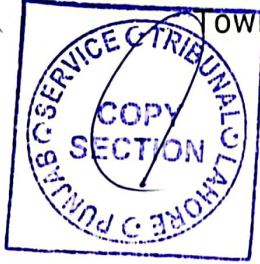
Sarwar Ateeq Pasha S/o Akbar Ali Pasha , resident of Gurunanik
Pura Street No.08,House No.P-545 ,Faisalabad.

...APPELLANT

VERSUS

1. The Provincial Director, Local Fund Audit (Finance Department), 4-B Lytton Road, Punjab, Lahore.
2. Divisional Director, Local Fund Audit, 10-W -102 Madina
Town ,Faisalabad.

...RESPONDENTS



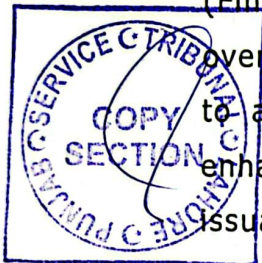
APPEAL U/S 4 OF THE PUNJAB SERVICE TRIBUNAL ACT 1974, AGAINST THE ORDER DATED 30.09.2023 WHEREBY THE APPELLANT WAS AWARDED MINOR PENALTY OF WITHHOLDING OF PROMOTION FOR A PERIOD OF 5 YEARS AND APPELLATE ORDER DATED 20.12.2023 WHEREBY THE APPELLATE AUTHORITY ENHANCED THE PENALTY TO DISSMISSAL FROM SERVICE WITHOUT PROVIDING ANY NOTICE OF ENHANCEMENT.

CLAIM IN APPEAL

To accept the instant appeal, to set aside the order dated 30.09.2023 and appellate order dated 20.12.2023 after Declaring the Same To Be Illegal, Without Jurisdiction, Arbitrary, Malafide, Against Law And Facts And As Such Appeal Of The Appellant May Very Kindly Be Accepted and appellant may very kindly be reinstated into service along with all back benefits.

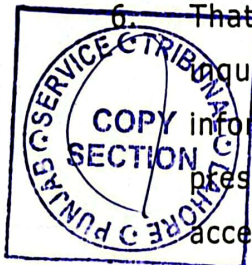
Respectfully Sheweth:-

1. That the addresses of the parties have rightly been incorporated in the title / instant appeal for effective service of summons and notices upon the parties.
3. The factual background of the case reveals that the appellant received a minor penalty in the form of promotion withholding for a duration of 5 years through an order dated 30.09.2023. Subsequently, the appellant submitted an appeal challenging the contested order with the Provincial Director, Local Fund Audit (Finance Department), Punjab, Lahore. However, it is crucial to note that the Provincial Director, Local Fund Audit (Finance Department), Punjab, Lahore, instead of overturning the impugned order dated 30.09.2023, opted to augment the penalty imposed on the appellant. This enhancement of the penalty transpired without the issuance of a show-cause notice under Section 16 of the PEEDA ACT 2006. This procedural irregularity raises questions regarding the adherence to legal protocols, as the appellant is entitled to a fair and transparent process in accordance with the provisions of the PEEDA ACT 2006. The omission of a show-cause notice, a fundamental step in administrative proceedings, brings into question the legality and procedural fairness of the escalated penalty. The appellant, having exercised the right to appeal, rightfully anticipates due process and a thorough examination of the circumstances surrounding the initial penalty. Consequently, it becomes imperative to scrutinize whether the actions of the Provincial Director align with the legal framework governing such matters.
4. That in the course of the inquiry proceedings, it is essential to highlight that the appellant actively sought the provision of records to facilitate the preparation of a comprehensive response. Despite the appellant's earnest request, there was a conspicuous failure on the part of the authorities to furnish the necessary records. This



absence of crucial documentation deprived the appellant of the opportunity to thoroughly examine the evidence against them and, consequently, to submit a well-informed and substantiated reply.

5. The denial of access to relevant records not only contravenes the principles of natural justice but also raises serious concerns about the fairness and transparency of the inquiry process. In legal proceedings, the right to be heard is fundamental, and this includes the right to access pertinent information that may have a bearing on one's case. The appellant, having been denied access to the records, found themselves in the lamentable position of being condemned unheard.

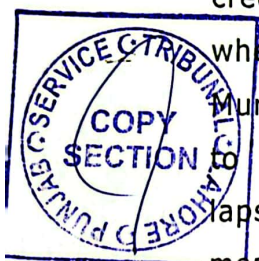


6. That it is imperative to emphasize that a fair and just inquiry necessitates the provision of all relevant information to the concerned parties, enabling them to present their case effectively. In the absence of such access, the very foundation of a fair proceeding is compromised, and the resulting condemnation without due consideration of the appellant's perspective undermines the principles of justice. Consequently, a comprehensive review of the inquiry proceedings becomes imperative to rectify this procedural lapse and ensure that the appellant is afforded the opportunity to present their case adequately and in accordance with the principles of natural justice.

7. The protraction of the inquiry process for a period of two years is a significant matter that warrants careful consideration. This prolonged delay not only raises questions about the efficiency of the investigative procedures but also underscores potential concerns regarding the timely administration of justice. It is essential to investigate the reasons behind such a substantial delay and ascertain whether any procedural irregularities or administrative inefficiencies contributed to the extended duration of the inquiry.

Furthermore, it has come to light that individual in positions of authority, specifically Deputy Secretary Asifa Murtaza and Divisional Director Muhammad Asif, played roles in the inquiry proceedings. Despite their involvement, it is noteworthy that no discernible action has been taken against either of them. The absence of any repercussions or accountability for those overseeing the inquiry introduces an element of inconsistency and raises concerns about the integrity of the investigative process.

Addressing such concerns is crucial not only for the sake of procedural fairness but also for upholding the credibility of the inquiry. It is imperative to evaluate whether the involvement of Deputy Secretary Asifa Murtaza and Divisional Director Muhammad Asif adhered to established protocols and ethical standards. If any lapses or improprieties are identified, appropriate measures should be taken to rectify the situation and ensure accountability.



8. That the petitioner raises a grave concern regarding the potential conflict of interest and undue influence within the inquiry process. Specifically, it is alleged that Zubair Farooq, the Provincial Director and Respondent No. 2, has directly influenced both the convener and a member of the Inquiry Committee. Notably, the complaints and the ongoing inquiry proceedings lie within Zubair Farooq's purview, adding a layer of complexity to the situation. The petitioner contends that the convener of the Inquiry Committee, directly influenced by Zubair Farooq, and a member who received a promotion from Zubair Farooq under specific conditions, are both compromised in their impartiality. The condition of concluding the inquiry against the appellant as part of a promotion agreement raises serious questions about the integrity of the inquiry process.
9. That it has come to light that the appellant diligently submitted a comprehensive and detailed reply encompassing eight pages before the designated inquiry officer. However, it is disconcerting to note that the inquiry proceedings seemingly overlooked or failed to

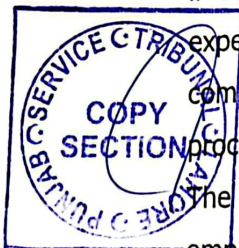
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consider the content and substance of the appellant's response. The right to a fair hearing implies not just the opportunity to present one's case but also the assurance that the presented arguments and evidence will be duly taken into account.

The apparent neglect of the appellant's extensive reply raises serious concerns about the procedural fairness and thoroughness of the inquiry process. Every effort should be made to ensure that all submissions, particularly those as detailed as an eight-page response, are given due attention and consideration in the pursuit of an unbiased and just decision.

Moreover, it has been alleged that the inquiry officer may have provided misleading information to the competent authority, potentially influencing the final findings of the inquiry. Such actions, if substantiated, represent a breach of the trust and objectivity expected in the conduct of official investigations. Misleading the competent authority not only undermines the integrity of the inquiry process but also jeopardizes the overall credibility of the findings.



The appellant underscores a critical facet of their defense by emphasizing the submission of additional defense material to the Inquiry Committee. In this submission, the appellant asserts that they have effectively exposed the untruthfulness of their co-accused, namely Mr. Muhammad Anwar and Muhammad Yaseen. The additional defense materials were evidently crafted to rebut the positions and statements put forth by these co-accused individuals.

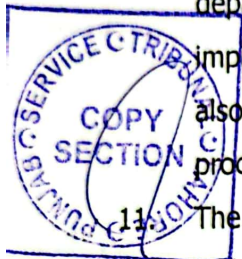
This strategic move by the appellant is aimed at discrediting the reliability and credibility of the co-accused testimony, indicating a proactive effort to counter any potential inaccuracies or falsehoods that may have been presented during the inquiry proceedings. By doing so, the appellant seeks to strengthen their own case and cast doubt on the veracity of the allegations brought against them.

The act of submitting additional defense material not only demonstrates the appellant's commitment to presenting a comprehensive and robust defense but also serves to contribute to the overall transparency and fairness of the inquiry process. It is essential that all relevant information and counterarguments are

considered by the Inquiry Committee to arrive at a just and well-informed decision.

10. The sequence of events reveals that the appellant proactively submitted a written reply, which was officially handed over to the departmental representative on 13.05.2023. In a subsequent effort to ensure a thorough and balanced presentation of facts, the appellant took the initiative to express the intent to submit a rejoinder specifically addressing the statements made by co-accused individuals, Muhammad Anwar and Muhammad Yasin.

However, despite the appellant's formal request for copies of the statements made by the aforementioned co-accused individuals, regrettably, no response or acknowledgment was received from the departmental representative. This lack of communication not only impinges on the appellant's right to a fair and informed defense but also introduces an element of procedural irregularity in the inquiry process.



11. The appellant has raised a significant procedural concern, highlighting that the Departmental Representative provided statements from co-accused individuals, Mr. Muhammad Yaseen and Muhammad Anwar, while withholding other essential records. Despite this limitation, the appellant took proactive measures by submitting a rebuttal that not only contested the statements of the co-accused but also demonstrated their untruthfulness and internal contradictions.

This action by the appellant showcases a diligent effort to address the imbalance caused by the selective provision of information. By presenting a comprehensive rebuttal, the appellant aimed to ensure that the Inquiry Committee receives a more complete and accurate picture of the circumstances surrounding the case.

The appellant's focus on exposing the untruthfulness and contradictions in the statements of the co-accused is strategically significant. It contributes to the overall transparency of the inquiry process, enabling the Committee to assess the credibility of the evidence presented against the appellant.

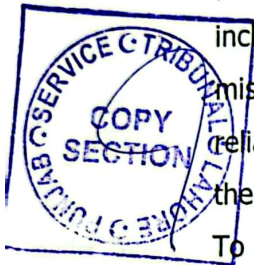
Moving forward, it is imperative that the Inquiry Committee thoroughly considers the rebuttal submitted by the appellant, taking into account the demonstrated untruthfulness and contradictions in

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the statements of Mr. Muhammad Yaseen and Muhammad Anwar. This careful examination is crucial for maintaining fairness, impartiality, and ensuring a well-informed decision that adheres to the principles of justice.

- 12. The absence of an opportunity for cross-examination represents a critical procedural lapse in the inquiry process, particularly when Section 10 of the PEEDA Act 2006 mandates the provision of such an opportunity. The right to cross-examine witnesses is a fundamental element of fair administrative proceedings, ensuring that individuals subject to an inquiry have the chance to challenge and question the evidence presented against them.

Regrettably, the inquiry officer, in his report, appears to have provided misleading information by stating that all accused parties, including the appellant, were cross-examined. This misrepresentation raises serious concerns about the accuracy and reliability of the inquiry officer's findings and the overall integrity of the inquiry process.

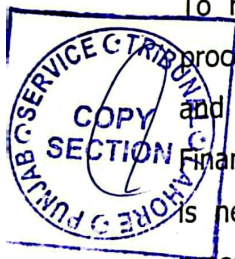


To rectify this situation and ensure compliance with the legal requirements outlined in the PEEDA Act 2006, it is imperative that the inquiry be revisited. The appellant must be afforded the opportunity for cross-examination as mandated by law. This step is crucial not only to uphold the principles of natural justice but also to ascertain the accuracy of the evidence presented during the inquiry.

- 13. That the appellant finds himself in a challenging situation where they allege that respondents are pressuring him to provide false evidence against the former Provincial Director, LFA Punjab, Aamir Saeed. It is commendable that the appellant has chosen to resist such pressure and maintain his integrity by refusing to give false testimony.
- 14. The assertion that both the competent authority and the appellate authority exhibited bias against the appellant raises significant concerns about the impartiality and objectivity of the decision-making process. The cornerstone of a fair and just administrative proceeding lies in the assurance that the authorities involved maintain a neutral stance and consider all relevant facts and arguments without any preconceived biases. In response to the perceived bias, the appellant wisely requested that the appeal be

transferred to the Secretary of Finance, presumably seeking an unbiased and independent review of the case. However, it is disconcerting to note that this request was not honored, and the appeal proceeded without being forwarded to the Secretary of Finance. This deviation from the appellant's reasonable request introduces an element of procedural irregularity and may be construed as a failure to address legitimate concerns regarding bias in the decision-making process.

Moreover, the appellant alleges that the appellate authority enhanced the penalty without issuing a notice of enhancement. This procedural oversight is concerning, as it potentially denies the appellant the opportunity to respond to the proposed heightened penalty and raises questions about the fairness of the penalty enhancement.



To rectify these issues, it is imperative to reassess the appeal process, taking into account the appellant's concerns regarding bias and the alleged failure to forward the appeal to the Secretary of Finance. Additionally, a review of the penalty enhancement process is necessary to ensure that the appellant is afforded the basic procedural rights, including the right to be informed of and respond to any proposed enhancements in the penalty.

A commitment to transparency, impartiality, and adherence to established procedures is essential to instill confidence in the integrity of the appeal process and to safeguard the appellant's right to a fair and just resolution.

15. The appellant finds himself entangled in an unwarranted and frivolous departmental dispute arising from a departmental rift between Mr. Amir Saeed, the former Provincial Director, and the present incumbent. Notably, the appellant chose not to provide evidence against the former Provincial Director during the proceedings, a decision that appears to have invoked the ire of respondent No. 1.

In response to the proceedings, the appellant submitted voluminous objections. These objections, while reflective of the appellant's commitment to defending their position, also seem to have had the unintended consequence of hindering respondent No. 1 in dealing with the terms and conditions applicable to the appellant. This is

particularly pertinent given the constitutional guarantees of fairness and uprightnes enshrined in the Constitution of Pakistan 1973.

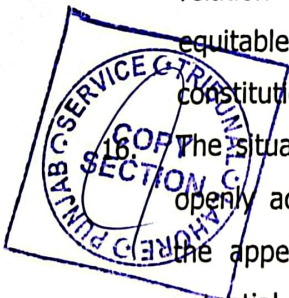
The refusal to give evidence against the former Provincial Director may be seen as a principled stand taken by the appellant, and the submission of extensive objections underscores their commitment to a fair and just resolution of the matter. However, it is crucial to ensure that the appellant's objections do not inadvertently impede the proper examination of the terms and conditions relevant to their case.

In light of these circumstances, a balanced approach is essential to address the departmental rift, uphold the principles of fairness, and ensure that the constitutional guarantees safeguarding the appellant's rights are not compromised. A careful review of the objections and a nuanced consideration of the appellant's stance in relation to the terms and conditions are warranted to strike an equitable balance and foster a resolution that aligns with the constitutional principles of justice and fairness.

The situation becomes even more noteworthy as the respondents openly acknowledge their personal involvement and conflicts with the appellant. This admission raises serious concerns about the potential abuse of authority in the course of terminating the appellant's services. Despite the clear acknowledgment of these personal rifts, the facts and circumstances surrounding the case should logically preclude the respondent from further involvement in the matter.

17. The appellant asserts that he has been subjected to continuous exploitation, directly attributed to the respondent's personal involvement and bias. This highlights a fundamental issue of fairness and impartiality within the departmental proceedings. The principles of justice demand that individuals facing disciplinary actions or termination should be treated objectively, free from personal vendettas or biases.

In such a scenario, it is imperative to scrutinize the actions of the respondent and assess whether their personal involvement and admitted conflicts have unduly influenced the proceedings. If it is determined that the respondent's actions are inconsistent with the

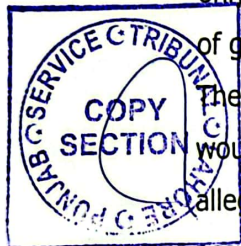


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principles of fairness, it becomes crucial to remedy the situation and ensure an unbiased and just resolution.

Addressing these concerns may involve reevaluating the decision-making authority in the case to mitigate the impact of personal biases. It is paramount to uphold the principles of fairness and impartiality, safeguarding the appellant from any undue exploitation and ensuring a just outcome in accordance with the established norms and regulations governing employment matters.

18. The appellant emphatically contends that all the allegations directed at them are unfounded, labeled as such, and devoid of merit. According to the appellant, these accusations are characterized as so-called, implying a lack of substantive evidence or basis. Furthermore, the appellant asserts that these allegations are not only false but also appear to be an afterthought, suggesting a lack of genuineness or sincerity in their formulation.



The appellant maintains that a thorough examination of the record would reveal an absence of any substantive evidence supporting the allegations leveled against them. This declaration implies that the accusations lack a factual foundation and are not substantiated by any credible documentation or proof.

By categorizing the allegations as so-called and false, the appellant challenges the credibility and validity of the charges, questioning their authenticity. The use of the term "afterthought" suggests that the allegations may have been contrived or concocted retrospectively, rather than arising from genuine concerns or incidents.

19. That the appellant raises substantial points in challenging the charge of inefficiency against them, citing Section 2(k) of the PEEDA Act, 2006, which defines inefficiency as the failure to perform functions assigned to any employee in the discharge of their duties. The appellant contends that, according to their job description, they were not assigned the duties of a Record Keeper or Custodian of official records.

In asserting the vagueness and lack of specificity in the charge of inefficiency, the appellant emphasizes that the charge fails to outline the exact nature of the alleged inefficiency during their tenure as

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Assistant Director (Headquarters), Divisional Directorate, LFA, Faisalabad, spanning from January 5, 2017, to April 7, 2017.

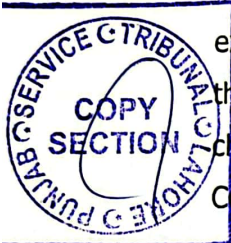
This argument hinges on the principle that a charge of inefficiency should be clear, specific, and directly related to the assigned duties of the employee. By asserting that their role did not encompass responsibilities related to record-keeping, the appellant calls into question the validity of the inefficiency charge, suggesting that it lacks a clear foundation and does not align with the functions they were tasked with during the specified period.

The appellant's emphasis on the absence of assigned duties as a Record Keeper or Custodian of official records serves as a pivotal point in their defense, challenging the very premise upon which the inefficiency charge is based. This argument calls for a careful examination of the specific duties assigned to the appellant during the mentioned timeframe to determine the validity of the inefficiency charge in accordance with the provisions of the PEEDA Act, 2006.

Continuing with defense, the appellant provides a timeline of his professional responsibilities. They assert that he assumed the charge of the post of Resident Deputy Director (Audit & Accounts) District Council, Chiniot, on April 8, 2017. Importantly, the appellant claims that he did not receive any reports about missing records from any official of the Divisional Directorate, LFA, Faisalabad, during his tenure as Assistant Director (Headquarters), Divisional Directorate, LFA, Faisalabad, from January 5, 2017, to April 7, 2017.

20. This aspect of the defense aims to establish a lack of awareness on the appellant's part regarding any alleged missing records during their tenure at the Divisional Directorate's headquarters. By highlighting the absence of any reports or notifications about missing records during this period, the appellant seeks to distance themselves from any potential lapses or inefficiencies related to record-keeping.

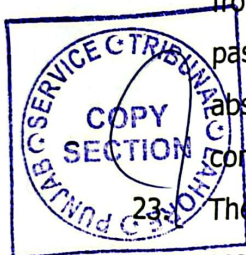
Furthermore, the appellant challenges the charge by pointing out that the Charge Sheet does not provide specific details about the missing records. They argue that whatever is cited as missing did not occur during their stay at the headquarters as AD (HQ) but rather transpired after their posting as Resident Deputy Director (Audit & Accounts) District Council, Chiniot.



(12)

(27)

21. This argument aims to shift the focus away from the appellant's responsibilities during his tenure as Assistant Director (Headquarters) and underscores the need for clarity and specificity in the charges levied against him. The appellant contends that the missing record event was not within the scope of their duties at the headquarters, emphasizing the importance of accurate and context-specific allegations in administrative proceedings.
22. That the adherence to official protocols and procedures is integral in any professional setting, and in the context of my role as Assistant Director (Headquarters) at the Divisional Directorate, Local Fund Audit (LFA), Faisalabad, it is essential to note that no prescribed guidelines specify the particular records that should have been handed over or taken over during transitions in this position. Throughout my tenure, there was no official transmission of records from my predecessor, Mr. Muhammad Aslam, and similarly, I did not pass on any records to my successor, Mr. Gulfraz Ahmad. This absence of a formalized record-handover process is a critical point of consideration in evaluating the allegations against me.

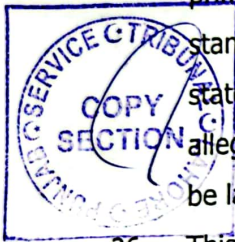


23. The controversy surrounding the purported missing records, as asserted by the Competent Authority, unfolds a narrative marked by intrigue. The recovery of the allegedly missing records from two different individuals adds a layer of complexity to the situation. Firstly, the records were found in the possession of Mr. Muhammad Yaseen, a Chowkidar, on 16.10.2017, and subsequently, Mr. Muhammad Anwar, the Record Keeper, was identified as another custodian of these records on 29.10.2020. This sequence of events, characterized by the disappearance and subsequent retrieval of official records, not only raises questions about the reliability of the allegations but also suggests the possibility of a fabricated story surrounding the missing records.
24. That an additional dimension to this narrative is the current judicial trial faced by Mr. Muhammad Anwar before the special judge of the Anti-Corruption Establishment, Faisalabad. His role as the custodian of records in this case underscores the legal complexities associated with the alleged missing records. It is crucial to highlight that, amid these legal proceedings, I was exonerated by the Anti-Corruption Establishment, Faisalabad, further supporting the contention that

the charges against me lack substantive merit. This legal exoneration serves as a significant factor in assessing the credibility of the allegations and adds weight to my defense.

25. The Inquiry Committee's reliance on Mr. Muhammad Asghar's status as an eyewitness adds a layer of complexity to the case. It's noteworthy that although Mr. Asghar was cited as an eyewitness against me, he did not appear before the Inquiry Committee. Instead, the basis for considering him as an eyewitness stemmed from a statement, he provided to the Anti-Corruption Establishment (ACE), Faisalabad.

Crucially, the ACE disapproved of Mr. Asghar's statement, citing an inability on his part to substantiate his claims. This underscores a significant discrepancy in the evidence presented against me, as the primary source of eyewitness testimony failed to meet the ACE's standards of credibility. The ACE's rejection of Mr. Asghar's statement raises questions about the reliability and validity of the allegations, particularly when the foundational evidence is found to be lacking in evidentiary support.



26. This aspect of the case highlights the importance of ensuring that the evidence presented in disciplinary proceedings is robust, credible, and subject to rigorous scrutiny. The disapproval of Mr. Asghar's statement by the ACE introduces an element of doubt regarding the veracity of the claims against me. As the Inquiry Committee's decision relies on such contested testimony, it calls into question the overall integrity and fairness of the inquiry process. This raises the need for a meticulous reevaluation of the evidence and a consideration of the potential impact on the conclusions drawn by the Inquiry Committee.

27. That sheet is vague and unspecific, the following references from the Supreme Court of Pakistan, Lahore High Court, Punjab Service Tribunal, and Federal Service Tribunal underscore the importance of clear and specific charges in any disciplinary proceeding:

2009 PLC (CS) 966

2011 SCMR 1581

2020 MLD 29

PLD 1970 SC 811

PLD 1978 LAHORE 972

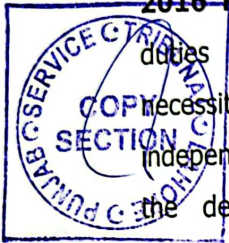
2020 PLC (CS) 282

2012 PLC (CS) 184

These judgments consistently emphasize the necessity for clarity and specificity in charge sheets, A vague or unspecific charge sheet can compromise the accused person's ability to mount a proper defense, violating the principles of natural justice.

28. That allegations which made on me are made in hasty, mechanical, arbitrary and fanciful manner and without applying judicial and judicious mind, in slipshod manner whereas under the law it is required that when there is allegation has been made out it should be made with convincing reasons which are missing in the proceedings.

29. The cited judgment from the Supreme Court of Pakistan, reported as **2016 PLC (CS) 627**, delineates crucial principles regarding the duties of an Appellate Authority. The Court underscores the necessity for the Appellate Authority to play a substantive and independent role rather than merely acting as a rubber stamp for the decisions of subordinate functionaries. The key aspects emphasized by the Supreme Court in this judgment include:

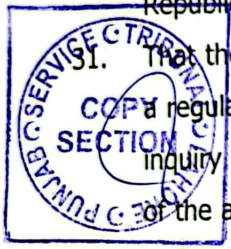


- A. **Questions Agitated in the Representation/Appeal:** The Appellate Authority is expected to thoroughly consider and address the specific questions and concerns raised by the appellant in his representation or appeal. This ensures that the appellant's grievances are conscientiously examined.
- B. **Order Passed by the Competent Authority:** The appellate process necessitates a careful review of the original order issued by the competent authority. This involves an assessment of the legality, procedural correctness, and fairness of the initial decision.
- C. **Grounds of Appeal Raised by the Appellant:** The Appellate Authority is mandated to give due regard to the grounds of appeal presented by the appellant. This involves a comprehensive understanding of the appellant's arguments and the merits of their case.
- D. **Independent Findings with Reasons:** Perhaps most critically, the Appellate Authority is required to provide

independent findings, substantiated by reasons. This ensures that the appellate decision is not merely an endorsement of the lower authority's order but is based on a distinct and reasoned assessment of the case.

In essence, the Supreme Court's directive underscores the significance of the appellate process as a mechanism for a thorough and impartial review of decisions. It ensures that the Appellate Authority serves as a safeguard against potential errors or injustices in lower-level decisions, contributing to the overall fairness and transparency of administrative proceedings.

- 30. That the appellant cannot be subjected to be punished with improper enquiry, which is also to dictum laid down by the Apex Court of the country in various judgments and Fair trial opportunity shall be granted according to Article 10-A of constitution of Islamic Republic of Pakistan, 1973.



31. That the facts of the case were disputed by the parties and as such a regular inquiry should have been conducted by some independent inquiry officer to sift truth and lie of the matter involved in the case of the appellant but no regular inquiry was conducted by competent authority only preliminary inquiry was conducted in absence of the appellant without providing relevant record to the appellant as a result of the same the defense of the appellant was seriously prejudiced.

- 32. The argument presented, asserting that the competent authority and appellate authority are obligated to scrutinize the evidence on record before passing any punitive or appellate order, aligns with established legal principles. The absence of incriminating evidence against the accused is a crucial aspect of the defense, invoking the precedent set by the case "Chief Secretary, Government of the Punjab versus Muhammad Ali Saqib (2020 SCMR 1245)."

In the cited case, the Supreme Court of Pakistan likely emphasized the importance of a thorough examination of evidence before imposing punishment or upholding an order on appeal. The reliance on this precedent supports the contention

that in the absence of any incriminating evidence, the decision of the competent authority may lack a substantive basis.

Key elements of the argument include:

Scrutiny of Evidence: Both the competent authority and the appellate authority are duty-bound to carefully review the evidence on record. This implies a comprehensive analysis of the facts and materials presented in the case.

Requirement for Incriminating Evidence: The argument asserts that the absence of any evidence that could be referred to by the competent authority is a critical deficiency. This aligns with the legal principle that punitive or appellate orders should be supported by concrete and incriminating evidence against the accused.



Legal Precedent – Chief Secretary v. Muhammad Ali

Saqib: The citation of "Chief Secretary, Government of the Punjab versus Muhammad Ali Saqib (2020 SCMR 1245)"

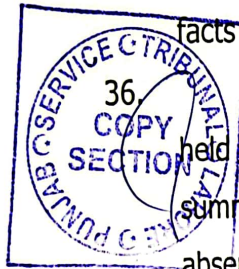
suggests that this case serves as a relevant and persuasive precedent. While the details of the case are not provided, it likely addresses similar principles related to the scrutiny of evidence in disciplinary proceedings.

This argument forms a solid legal foundation for contesting any punitive or appellate order, highlighting the essential requirement for a factual and evidentiary basis in administrative decisions. The legal precedent cited adds weight to the assertion that a lack of incriminating evidence undermines the validity of the decision.

33. That it is settled principle of law that whenever controversial question regarding evidence is involved, an opportunity of cross examination of witnesses is to be given to accused civil servant and for that proper clause is to initiate regular inquiry against accused civil servant otherwise finding recorded against civil servant will be more on conjectures than on evidence. **2005 TD (Service)625(c)**

34. That entire service record of the appellant is clean, blotless, and admirable and not a single major punishment existing in the service record of the appellant, the appellant always performed my official duties efficiently and dilligently. The appellant always obeyed the orders of his Senior Officers and complied with orders/instructions issued by the Senior Officers. It proves my good conduct, behavior, competence; good reputation, honesty, effective supervision; monitoring, management and command Therefore, the allegations leveled against the are baseless.

35. That the impugned punishment orders are wholly illegal, without jurisdiction, ab-initio void, arbitrary, against law and facts and the same is not sustainable in the eyes of law.



36. That the honorable Supreme Court in various judgments held that major penalty could not be awarded by adopting summary procedure and inquiry also couldn't be conducted in absence of the civil servant. Reliance is placed on **2003 SCMR 681, 2004 SCMR 316, 2008 SCMR 1369, 2007 PLC (CS) 215, 2010 PLC (C.S) 1143.**

37. That the Apex Supreme Court of Pakistan in various citations declared that before awarding major punishment regular enquiry is mandatory. The punishment awarded without regular enquiry is not only in violation of directions of Supreme Court of Pakistan but against the natural justice. Following citations of Apex court of Supreme Court are relied upon: -

1. 1986 PLC 639
2. 2000 PLC (CS) 270
3. 2000 PLC (CS) 1196
4. 1984 PLC 639
5. 2004 PLC (CS) 1293

PRAYER: -

In view of the above submission, it is therefore respectfully prayed that the impugned order dated 30.09.2023 whereby the appellant was awarded minor penalty of withholding of promotion for a period of 5 years and appellate order dated 20.12.2023 whereby the appellate authority enhanced the penalty to dismissal from service without providing any notice of enhancement may very kindly be set-aside, after declaring the same to be illegal, without jurisdiction, ab-initio, void, arbitrary, discriminatory ,ex parte ,mala fide, against law and facts and very kindly order the re-instatement of the appellant in service, along with all back benefits and as such service appeal of the appellant may very kindly be accepted accordingly.



...APPELLANT

Through

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Advocate High Court
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Office No.33/A Queens Road, Lahore.

CERTIFIED TO BE TRUE COPY
Registrar
Punjab Service Tribunal
Lahore

4/7/24

CERTIFICATE:

As per instructions, this is the first appeal in this Hon'ble Punjab Service Tribunal, Lahore against the impugned order .

ADVOCATE