

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Justice Musarrat Hilali
Justice Aqeel Ahmed Abbasi
Justice Miangul Hassan Aurangzeb

Civil Petition No.1002 of 2025

(Against the order dated 06.03.2025 passed by the Federal Service Tribunal, Islamabad in Misc Petition. No.258/2025 in Service Appeal No. 460(R)/2013)

Federal Board of Revenue

...Petitioner

Versus

Noureen Ahmed and another

...Respondents

For the Petitioner: Mr. Afnan Karim Kundi, ASC
Syed Rafaqat Hussain Shah, AOR

For the Respondents: Mr. Taimoor Aslam Khan, ASC
a/w Mr. Sajid ul Hassan SO, Estb.
a/w Mr. Munawwar Iqbal Daggal AAG. Pak
a/w Dr. Nazakat Ali Bhand

Assisted by: Ms. Zainab Bashir, Judicial Law Clerk,
Supreme Court of Pakistan.

Date of Hearing: 19.06.2025.

JUDGMENT

AQEEL AHMED ABBASI, J.- Through instant petition for leave to appeal the petitioner department has assailed the order dated 06.03.2025 passed by Federal Service Tribunal, Islamabad in Misc. Petition No. 258/2025 in Appeal No.460(R)/2013.

2. Brief facts of the case are that the Respondent No.1 is an officer of Pakistan Customs Services (hereinafter referred to as “**PCS**”) who appeared for the CSS exam held in 1996 and was appointed in July 1998 as Assistant Collector (BS-17). The Respondent No. 1 belongs to the 25th Common Training Program (hereinafter referred to as “**CTP**”) and successfully completed the said training in July 1998 and Specialized Training Program (STP) in February 1999 and Final Passing Out Examination (FPOE) in her second attempt. The petitioner department-FBR established the 25th CTP seniority in accordance with the Rule 7(4) of the Occupational Group and Services (Probation, Training and Seniority Rules, 1990) (hereinafter referred to as “**Rules 1990**”) and issued a provisional seniority list in the year 2008 and final seniority list in 2012

whereby, Respondent No. 1 was relegated to a lower position. She challenged the said seniority list before the Federal Service Tribunal (hereinafter referred to as “**FST**”). The FST accepted the appeal of Respondent No. 1 together with connected appeals of the officers of 24th CTP and vide its judgment dated 30.07.2015 held that the Rules of 1990 could not have been made applicable to the officers after they had been promoted. The FST restored the seniority of Respondent No. 1 and set aside both the provisional seniority list issued in 2008 and the final seniority list issued in 2012. In a parallel development four officers of PCS from the 24th CTP approached the FST to challenge the seniority list finalized by the petitioner department in 2012. The FST while relying upon its earlier judgment in the case of Respondent No. 1 dated 30.07.2015 allowed their appeals vide a judgment dated 05.01.2017. Respondent No.1 filed a writ petition before the Islamabad High Court seeking the implementation of the judgment dated 30.07.2015 passed by the FST in the appeal of Respondent No.1. However, the petitioner department being aggrieved of the judgment dated 30.07.2015 preferred Civil Appeals No. 1219 to 1222/2015 before this August Court and also preferred Civil Appeals No. 248 to 251/2018 against the judgment dated 05.01.2017 whereby, the benefit of the judgment dated 30.07.2015 was extended. This August Court passed a judgment dated 20.02.2019 in favour of the respondents and observed that it will hear the appeals filed by the petitioner department in case of Syed Shakeel Shah and others separately since distinct questions of law and facts were involved in those appeals. In the other set of appeals preferred by petitioner department against the judgment of FST dated 05.01.2017 wherein similar benefit to that of judgment dated 30.07.2015 was extended and adjudicated upon by this August Court on 11.12.2019 in favour of Respondent No.1. The petitioner department preferred reviews against judgments dated 20.02.2019 and 11.12.2019 which were both dismissed vide orders dated 20.09.2019 and 07.07.2020. Consequently, the FBR issued revised inter-se-seniority list on 14.06.2022, per Rules, 1990 (unamended), in contrast to the Seniority List issued for 24th CTP Batch, seniority whereof, was restored to original, per CSS merit list. Respondent No. 1 being aggrieved of this preferred a representation dated 15.06.2022 before the FBR praying for restoration of her original seniority list per conjoined reading of judgment of this August Court in the case filed

by the FBR against her as well as in Civil Appeals No. 248 to 251/2018. The Respondent No.1 invoked the jurisdiction of Islamabad High Court under Article 187 by way of W.P. No. 2695/2023 which was allowed vide judgment dated 10.02.2025 by the learned Division Bench of the Islamabad High Court which remitted the matter to FST being the Executing Court. Upon remission the FST passed the order for implementation dated 06.03.2025 which has been assailed by way of instant CPLA by the petitioner department.

3. Learned counsel for the petitioner contends that the legal regime governing the redressal of grievances of civil servants under the Service Tribunal Act, 1973 envisages a personal right of appeal and relief for each civil servant. Once a service matter is litigated up to the Supreme Court and attains finality, it binds the party to the outcome of that litigation to their extent. He contends that while passing the impugned order dated 06.03.2025 in execution proceedings that were initiated by the Respondent No. 1, FST has failed to properly appreciate and follow the order dated 20.02.2019 passed by this August Court in Civil Appeals No. 1219 to 1222/2015 related to the Respondent No. 1 and other officers of the 25th CTP which has already been implemented by FBR. He submits that the Respondent No. 1 has been rightly placed at Sr No.18 of the seniority list dated 21.12.2012 of BPS-18 which was reissued on 14.06.2022 in compliance of the above stated order of this court. Learned counsel contends that feeling aggrieved of her placement in the seniority list of BPS-18, the Respondent No.1 approached the FST again in execution proceedings and while granting relief to her vide impugned order dated 06.03.2025, FST has wrongly applied the order dated 11.12.2019 passed by this August Court in Civil Appeals No. 248 to 251/2018 to determine the seniority of Respondent No.1 whereas, the said order is related to the 24th CTP and not the 25TH CTP to which the Respondent No.1 belongs. He submits that a decision passed in the case of one civil servant cannot be applied and executed by the FST in favour of another civil servant even if there is complete similarity in their cases unless a separate decision of FST on the same lines exists in the latter's case which is also upheld by the Supreme Court. He submits that in the presence of a final and binding judgment by the Supreme Court fixing seniority of the 25th CTP officers of PCS in a

particular manner on appeal from and by modifying a decision of FST passed in the service appeals, the said officers of 25th CTP cannot seek to fix their seniority afresh in a different manner under a subsequent judgment of the Supreme Court passed in the case of 24th CTP Officers.

4. Conversely, learned counsel for the Respondent No.1 contends that the issue of inter-se seniority between officers of 24th and 25th CTP of PCS has been in litigation since the revised seniority list was issued by FBR on 21.012.2012 so as to bring the inter-se seniority list in consonance with the amended 1990 Rules, as amended in 2001. He submits that the Respondent No. 1 was relegated to a lower position through the revised seniority list issued by the FBR, based on the amendments made to the Rules 1990, in 2001 which were applied retrospectively and to the prejudice of the Respondent No. 1 as she had already completed her probation and earned promotion in accordance with the CSS merit as held by the judgment given by the FST dated 30.07.2015. He further submits that the above referred judgment of the FST was implemented by the Islamabad High Court in W.P. No. 4545/2016 and subsequently, affirmed by this Hon'ble Court vide judgments dated 20.02.2019 and 11.12.2019 in an identical matter (i.e. in Muhammad Junaid Jalil Khan/24th CTP Case). Learned counsel contends that this Hon'ble Court had endorsed the principle that once seniority has been determined and promotion is granted based on an earlier gradation list, any subsequent revision thereof, is not permissible. In a parallel set of litigation, the FST extended the same benefit to the 24th CTP officers as earlier granted by FST vide judgment dated 30.07.2015 to the Respondent No.1. The principle asserted in the case of the 24th CTP was the principle laid down in the case of Hameed Akhtar Niazi vs. Secretary Establishment (1996 SCMR 1185) which states that relief ought to have been uniformly applied to all similarly placed officers. He submits that while the seniority of 24th CTP officers was revised in accordance with the CSS merit list by issuance of revised list on 14.06.2022 but yet the Respondent No.1 belonging to the 25th CTP was discriminatorily excluded, notwithstanding the admitted similar facts, circumstances and legal context. He further submits that the petitioner department-FBR's issuance of revised seniority list was in contradiction to the advice of both Law and Justice Division and Establishment Division.

Learned counsel contends that FBR filed review claiming both the judgments of 24th and 25th CTP are contradictory to one another as they do not have the same set of facts and circumstances, but both reviews were dismissed. Learned counsel contends that the Respondent No.1 filed a writ petition before the Islamabad High Court under Article 187 of the Constitution which was allowed vide judgment dated 10.02.2025 but the matter was remitted to FST being the executing court. While concluding his arguments the learned counsel for the Respondent No. 1 has submitted that despite the fact that the legal issue involved in the instant matter has been decided in favour of the respondents up to the Hon'ble Supreme Court, however, since the petitioner in total disregard of such orders were not complying with the said orders therefore, Respondent No.1 was constrained to file implementation application before the FST, who has been pleased to pass the impugned order which is unexceptional, therefore, instant CPLA being devoid of any merits may be dismissed.

5. We have heard the learned counsel for both the parties and perused the impugned order as well as the record of the case. Instant petition for leave to appeal arises from an order dated 06.03.2025 passed by the FST in Misc. Petition No. 258 & 259/2025 (in Service Appeal No.460(R)/2013) in the case of Mst. Naureen Ahmad Tarar vs. FBR. It is pertinent to note that subject Misc. Petition was remitted from Islamabad High Court vide order dated 10.02.2025 while holding that in view of Section 5(3) of the Services Tribunals Act, 1973 it can execute its own decisions, the respondents were seeking implementation of the order of FST passed in Service Appeals No. 460 & 461(R)CS/2013 wherein, the respondents had challenged the final seniority list for the year 2008 which was issued in the year 2012, the appeals were allowed and seniority list issued on 21.12.2012 was set aside vide judgment dated 26.03.2013. The petitioner has assailed the aforesaid judgment by filing a Civil Appeals No. 1219 to 1222/2015 before this Court which were decided on 20.02.2019 in the following terms.

“12. As a result, we hold that the 1990 Rules in their (unamended) form as at the commencement of the probationary period in July, 1998 shall remain applicable for reckoning the seniority of the private respondents on the completion of their probation in BS-17. The judgment of the learned Service Tribunal is accordingly modified to the foregoing extent. The observations made by the learned Service Tribunal about the workability of the 1990 Rules

post the 2001 amendment are endorsed and for this purpose, the Federal Government needs to apply its mind to remove the salient anomalies highlighted by the learned Service Tribunal that exist in the application and implementation of the said rules. These appeals are partially allowed in above terms.”

6. It is pertinent to mention that the appeals of Syed Shakeel Shah and others seeking similar relief were allowed by the FST vide order dated 05.01.2017 with directions to the petitioner department to consider their cases at par with the case of Mst. Naureen Akhtar Tarar and others. The above said judgment was assailed before this Court by filing Civil Appeals No. 1219 to 1222/2015, however, the same could not be decided on the grounds that separate questions of law and facts are involved therein. The respondents, thereafter, sought implementation of the order of this Court dated 11.12.2019 in Civil Appeals No. 248 to 251/2018, the operative part of which has been reproduced by the FST in the impugned order to clarify its applicability on the facts and circumstances of instant case.

“2. We have asked the learned Br. ASC for the appellant to distinguish or show inapplicability of the order of this Court dated 20.02.2019 to the present case, the learned Sr. ASC has referred to the provision of Rule 7(4) of the Occupational Groups & Services (Probation, Training and Seniority) Rules 1990, as they stood originally before amendment made in the year 2001, to contend that Final Passing out Examination was to be passed in the first attempt for determination of the inter-se seniority of the probationers and the respondents having passed the said examinations in second attempt, their seniority will be determined on that basis in that they will become juniors to those who passed the said examination in the first attempt. Though such plea has been raised before us by the learned Sr. ASC but we note that the probationary periods of all the respondents were terminated on 03.03.2000 and on the basis of Gradation List prepared by the appellant itself on 31.12.1998, the respondents were granted promotion as Deputy Collector (BS-18) on 19.03.2002. On issuance of such Gradation List and obtaining of promotion, on the basis of such Gradation List, whether the appellant could have altered seniority of the respondents the same is the question begging answer for that the Rule 7(4) was in existence at the time when this Gradation List was prepared and also when the promotion to the respondents was granted. Neither challenge either to the Gradation List was made by any person nor any challenge was made to the promotion granted to the respondents. The Gradation List appears to be the basic document on the basis of which further career determination of the respondents had to be made and on the basis they have already been granted promotion as Deputy Collector (BS-18) and subsequently, and by after-thought, change of seniority list separately is not tenable and the Tribunal in this respondents has dealt with the matter elaborately and decided the same in which we find no illegality challenge for interference. The appeals are therefore, allowed in above terms.”

7. From perusal of hereinabove conclusions made by this Court in the above case, it appears that all the factual and legal points raised before the Federal Service Tribunal and before this Court in the earlier judgment dated 20.02.2019 in Civil Appeals No. 1219 to 1222/2015 for determining the issue of seniority shall be determined at the time of induction in service and cannot be changed subsequently, especially when the officers have been promoted to the next higher grade.

8. The record of the instant case reveals that the issue with regard to seniority was decided by the FST not only in the case of respondents but also subsequently in Civil Appeals No. 248 to 251/2018 and the judgment is reportedly in the field. The revised seniority list dated 14.06.2022 under the facts and circumstances of this case shows that the same was issued in violation of the judgment of the FST as well as the judgment of this Court for the reason that reliance on the Rules 1990, was misplaced as respondents were already promoted as per CSS merit list and their probation period already stood completed. In view of hereinabove facts and circumstances of the case, we are of the considered opinion that petitioner was not justified to cause any delay in the implementation of the judgment of FST dated 30.07.2015 in the case of respondents, particularly when the legal issue involved in instant case has already been affirmed by this Court in Civil Appeals No. 248 to 251/2018 titled FBR though its Chairman, Islamabad v. Muhammad Junaid Jalil Khan and others vide their order dated 11.12.2019 in terms of para-2 as reproduced hereinabove.

9. Learned counsel for the petitioner during course of arguments, argued that the order dated 11.12.2019 was passed in the case of some other Custom officers of 24th CTP, therefore, it cannot be applied in the case of respondents. Such contention of learned counsel for petitioner is misconceived for the reasons that the facts of instant case are similar to the facts in the case Muhammad Junaid Jalil Khan whereas, they were also aggrieved by the same seniority list, the ratio of the above referred judgment also attracted in the instant case, for the reason that the said judgment was in *rem* and in view of the large number of judgments of this Court, the benefit of the judgment in *rem* can be extended to similarly placed parties. Reliance in this regard can be placed on the

case of Tara Chand and others vs. Karachi Water and Sewerage Board and others (2005 SCMR 499) wherein, it has been held as under:

“5...Though he is a non-appealing party in the aforementioned appeals, yet is entitled to the same relief on the basis of principle of rule of equality...”

“7...argued that the judgment of this Court passed in the aforesaid civil appeals was in fact judgment in personam and not in rem, as such, the petitioner and applicants are not entitled to any relief. According to them, this being a service matter, they should have approached the Service Tribunal for redressal of their grievance which jurisdiction was not invoked by them.”

“8...Since the services of all of them were dispensed with by single order, as such, there is no distinction in between their case and that of appellants and is identical on all fours.”

“9. As to whether impugned judgment is ‘judgment in personam’ or ‘judgment in rem’, it would be appropriate to reproduce their definitions as defined in various dictionaries:

*(I) The Oxford Companion to Law by David M. Walker
Judgment in personam.--- A judgment determining the rights of B persons inter se in or to any money or property in dispute, but not affecting the status of persons or things or determining any interest in property except between the parties. They include all judgments for money. Rem, Judgment in.--- A legal determination binding not only the parties but all persons. It applies particularly to judgments in Admiralty, declaring the status of a ship, matrimonial causes, grants of probate and administration and condemnation of goods by a competent Court.*

(II) K .J. Aiyar’s Judicial Dictionary (10th Edition 1988)

Normally a judgment binds only those who are parties to it. Such judgments are known as Judgments in personam. Rem, Judgment in.--- A judgment which gives to the successful party possession or declaration of some definite right which right is available against the whole world.

(III) Words and Phrases legally defined (Vol. 3 I-N)

Judgment, In personam.--- A judgment in personam or inter parties are those which determine the rights of parties inter se to or in the subject-matter in dispute, whether it be corporeal property of any kind whatever or a liquidated or unliquidated demand, but do not affect the status of either persons or things, or make any disposition of property or declare or determine any interest in it except as between the parties litigant. They include all judgments which are not judgments in rem. A judgment in personam determines the rights of the parties inter se to or in the subject matter in dispute, whether it be corporeal property of any kind whatever or a liquidated or unliquidated demand, but does not affect the status of either persons or things, or make any disposition of property, or declare or determine any interest in it except as between the parties litigant. Judgments in personam include all judgments which are not judgments in rem, but as many judgments in the latter class deal with the status of persons and not of things, the description "Judgment inter parties" is preferable to 'Judgment in personam'. Judgment, In Rem.--- A judgment in rem may be defined as the judgment of a Court of competent jurisdiction determining the status of a person or thing, or the disposition of a thing (as distinct from the particular interest in it of a party to the litigation). Apart from the application of the term to persons, it must affect the res in the way of condemnation,

forfeiture, declaration of status or title, or order for sale or transfer.

(IV) Black's Law Dictionary with pronunciations (6th Edition).

Judgment in personam or inter parties. A judgment against a particular person, as distinguished from a judgment against a thing or a right or status.

Judgment in rem. An adjudication pronounced upon the status of some particular thing or subject-matter, by a Tribunal, having competent authority. Booth v. Copley, 238 Ky.23, 140 S.W 2d, 62, 666. It is founded on a proceeding instituted against or on something or subject-matter whose status or condition is to be determined. Eureka Building and Iran Assn v. Shultz, 139E Kan, 435, 32 P.2d 477, 480; or one brought to enforce a right in the thing itself. Federal Land Bank of Omaha v. Jafferson, 229 Iowa 1054, 295 N.W. 855, 857. It operates upon the property, Guild v. Walis, 150 Or. 69, 40 P. 2nd 747, 742. It is a solemn declaration for the status of some person or thing. Jones v. Teat, Tex Civ. Appellant. 57 S.W. 2d. 617, 620. It is binding upon all persons in so far as their interests in the property are concerned.”

“11. Irrespective of above case laws, our Constitutional provisions are also explicit. According to Article 25 of the Constitution of Islamic Republic of Pakistan, 1973, all citizens are equal before law and are entitled to equal protection of law.”

10. Similarly, in the case of Hameed Akhtar Niazi vs. The Secretary, Establishment Division, Government of Pakistan and others (1996 SCMR 1185) upon which reliance has been rightly placed by the FST, benefit was extended to all persons falling in the same category in order to do complete justice where it was held as under:

“16. In our view, it will be just and proper to remand the case to the Tribunal with the direction to re-examine the above case after notice to the affected persons and to decide the same afresh in the light of above observations. We may observe that if the Tribunal or this Court decides a point of law relating to the terms of service of a civil servant which covers not only the case of the civil servant who litigated, but also of other civil servants, who may have not taken any legal proceedings; in such a case, the dictates of justice and rule of good governance demand that the benefit of the above judgment be extended to other civil servants, who may not be parties to the above litigation instead of compelling them to approach the Tribunal or any other legal forum.”

11. The above view was reiterated by this Court in the case of Khawaja Abdul Hameed Nasir and others vs. National Bank of Pakistan and others (2003 SCMR 1030), in the case of Government of Punjab, through Secretary Education, Civil Secretariat, Lahore and others vs. Sameena Parveen and others (2009 SCMR 1) and in the case of WAPDA through Chairman and others vs. Abdul Ghaffar and others (2018 SCMR 380).

12. In view of the hereinabove facts and circumstances of this case, we do not find any error or illegality in the impugned order

passed by the FST and this petition does not raise a substantial question of law of public importance and warrant no interference by this court within the contemplation of Article 212(3) of the Constitution of the Islamic Republic of Pakistan, 1973. Accordingly, instant petition was dismissed vide our short order dated 19.06.2025. Above are the reasons of such short order, which reads as under:

“For the reasons to be recorded, this petition is dismissed.”

Judge

Judge

Judge

Islamabad:

19.06.2025

Approved for Reporting

Tanveer Ahmed