

**JUDGMENT SHEET
IN THE PUNJAB SERVICE TRIBUNAL, LAHORE
(AFAQ AHMAD JAJJA)
DISTRICT & SESSIONS JUDGE/MEMBER-III**

**Service Appeals No. 1587/2025, 1588/2025, 1589/2025,
1590/2025, 1591/2025, 1592/2025 and 1593/2025**

Muhammad Shahzaib Khan S/o Muhammad Buchay Khan
(Ex-Constable No-7966) Punjab Highway Police District
Sahiwal, R/o Chak No-95/9-L, Post Office Chak No.97/9-L
Tehsil & District Sahiwal. (Service Appeal No. 1587/2025).
.....Appellant

VERSUS

1. Deputy Inspector General of Police Punjab Highway Patrol,
Lahore.
2. The Superintendent of Police, Punjab Highway Patrol
Multan Region.

.....Respondents

Appellants by:

- Mr. Allah Nawaz Khosa Advocate, learned
counsel for the appellant.

Respondents by:

- Mr. Mohsin Ehsan,
Learned Deputy District Attorney.
- Mr. Muhammad Naeem, ASI, DR
- Mr. Abbas Haider, ASI, DR

Date of hearing: 09.09.2025

Date of announcement: 09.09.2025

CONSOLIDATED JUDGMENT

AFAQ AHMAD JAJJA, (DISTRICT & SESSIONS JUDGE/MEMBER-III).

Through this single consolidated judgment, this Tribunal intends to dispose of instant service appeal (mentioned supra) alongwith following six captioned service appeals, as they emanate from a common factual matrix, involve identical questions of law and fact, and assail impugned orders passed in pursuance of joint departmental proceedings initiated against the appellants.

- i. **Samar Abbas** S/o Ilyas (Ex-Constable No. 9777), PHP,
Sahiwal. (Service Appeal No. 1588/2025)

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- ii. **Muhammad Asif** S/o Muhammad Iqbal (Ex-Constable No. 10796), PHP, Vehari. (Service Appeal No. 1589/2025)
- iii. **Salman Khan** S/o Muhammad Amin (Ex-Constable No. 9996/C), PHP, Multan. (Service Appeal No. 1590/2025)
- iv. **Ahsan Khan** S/o Muhammad Akram (Ex-Constable No. 10512/C), PHP, Lodhran. (Service Appeal No. 1591/2025)
- v. **Muhammad Zeeshan** S/o Hafiz Muhammad Ishaq (Ex-Constable No. 9794), PHP, Sahiwal. (Service Appeal No. 1592/2025)
- vi. **Muhammad Ata-Ur-Rehman** S/o Muhammad Iqbal (Ex-Constable No. 10419), PHP, Khanewal. (Service Appeal No. 1593/2025)

2. Succinct factual narrative underlying the present appeals, as discernible from the available record, is that the appellants participated in the recruitment process for the post of Constable in the Punjab Highway Patrol (PHP). Having successfully cleared all requisite tests and interviews, they were duly selected and appointed vide order dated 18.09.2024. However, during the processing of their salaries, it transpired at the concerned District Accounts Office that the appellants had previously been in the service of other government departments. This discovery triggered the initiation of disciplinary proceedings against them under the Punjab Police (Efficiency & Discipline) Rules, 1975 (hereinafter "the E&D Rules"). A charge sheet dated 07.12.2024 was served upon the appellants, levelling the allegations which are summarized as under:

(i) You being a candidate filled your recruitment form and in column No. 12 (For Government Employees) you deliberately/intentionally did not mention your previous Government Job and tried to cheat the scrutiny committee and the recruitment board by committing sheer dishonesty as a candidate.

(ii) In this regard, you also submitted an affidavit that all the information is correct but you concealed the facts regarding your previous job, which shows that your affidavit is fake.

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Mr. Amjad Hussain Khan, DSP/PHP, Multan, was appointed as the Inquiry Officer. He conducted an inquiry and, in his report dated 14.12.2024, found the appellants guilty as charged. Subsequently, the appellants were afforded a personal hearing in an Orderly Room by Respondent No. 2, the Superintendent of Police, PHP, Multan Region. Agreeing with the inquiry findings, Respondent No. 2 imposed the major penalty of "**Removal from Service**" upon each appellant vide separate but identically worded orders, all dated 23.12.2024. The appellants' departmental appeals to Respondent No. 1, the Deputy Inspector General of Police, PHP, Lahore, proved futile and were rejected vide impugned order dated 17.03.2025. It is these original and appellate orders that have been challenged before this Tribunal through the present appeals.



3. Mr. Allah Nawaz Khosa, learned counsel for the appellants, assailed the impugned orders on a plethora of legal and factual grounds. His primary submission was that the disciplinary proceedings were a nullity in the eyes of the law, having been conducted in gross violation of the principles of natural justice. He contended that the inquiry was a mere formality, conducted ex-parte without providing the appellants a meaningful opportunity to defend themselves. He asserted that the appellants had lawfully resigned from their previous government employment well before their appointment in the PHP on 18.09.2024, and therefore, the question of dual employment does not arise. Learned counsel argued that the allegation of concealment lacks substance, as the omission was not driven by any *mens' rea* or intent to secure an

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undue advantage. Instead, it was a direct consequence of an unlawful and coercive condition imposed by their former department, which compelled them to submit an affidavit forgoing their right to seek a No Objection Certificate (NOC). He placed profound reliance on the judgment of the Honourable Lahore High Court in **Writ Petition No. 9482 of 2024, decided on 23.06.2025**, arguing that the legal principles settled therein on an identical issue are squarely applicable and binding. Finally, he submitted that the penalty of removal from service is shockingly disproportionate to the alleged procedural lapse.



4. Conversely, learned Deputy District Attorney, representing the respondent department, vehemently defended the legality and propriety of the impugned orders. He argued that it is a mandatory legal requirement for serving government employees to apply for other posts through the proper channel and after obtaining a valid NOC. He submitted that the appellants willfully and deliberately concealed their prior service and submitted a false affidavit, an act that constitutes gross misconduct, dishonesty, and moral turpitude, rendering them unfit for a disciplined force. He maintained that a proper regular inquiry was conducted in accordance with the E&D Rules, wherein the charges were conclusively proved. He further contended that the appellants, by begging for pardon during the personal hearing, effectively admitted their guilt. He concluded by asserting that the departmental authorities acted strictly within the four corners of the law and that the punishment awarded is legal, justified, and proportionate to the gravity of the offence, praying for the dismissal of the appeals as being devoid of merit.

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5. After hearing the arguments advanced by both sides and meticulously perusing the record, the following issues are framed for determination by this Tribunal:

- i. Whether the pre-emptive condition imposed by the appellants' former department, requiring an affidavit not to apply for an NOC, was lawful and what is its legal effect on the appellants' failure to apply through the proper channel?
- ii. Whether the departmental inquiry was conducted in conformity with the procedural safeguards enshrined in the E&D Rules and the audi alteram partem principle of natural justice, and if not, what is its consequence?
- iii. Whether the charges of willful concealment and submission of a false affidavit are substantiated in law, especially in the absence of any demonstrable *mens rea*, undue advantage gained by the appellants, or prejudice caused to the respondent department?

Whether, in the peculiar facts and circumstances of this case, the major penalty of "Removal from Service" is consistent with the principle of proportionality?



I have given honest consideration to the contentions

raised and have examined the record with the assistance of the learned counsel for the parties. The crux of the matter revolves around the appellants' failure to disclose their previous government service and consequently, not applying through the proper channel after obtaining an NOC. While the department has treated this as a straightforward case of dishonesty warranting the ultimate penalty of removal from service, the context provided by the appellants compels a deeper, more nuanced legal analysis.

7. The pivotal question is not merely *whether* the appellants concealed information, but *why* they did so. The record, corroborated by the submissions, indicates that upon their initial appointment in their previous departments, a condition was imposed requiring them to submit an affidavit to the effect that they would have no right to apply for an NOC for employment in another department before completing their probation. This

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coercive and legally untenable condition appears to be the primary cause for the appellants' omission. This Tribunal's view is fortified by the authoritative and well-reasoned judgment of the Honourable Lahore High Court passed in **Writ Petition No. 9482 of 2024, decided on 23.06.2025**, which dealt with an identical legal proposition. In the cited precedent, the Honourable High Court observed that such a pre-emptive condition is in direct and irreconcilable conflict with the governing statutory rules, namely the **Punjab Civil Services (Applications for Posts) Rules,**

1987 (the "1987 Rules"). Rule 4(2) thereof unequivocally mandates that an application of an eligible civil servant for another post *shall always be forwarded*. The only exception is detailed in the Explanation to Rule 4, which permits an appointing authority to withhold permission "for reasons to be recorded in writing" if it is considered "against public interest." The said rules, particularly Rule 4 and its explanation, do not impose a blanket prohibition on seeking an NOC. For the facility of ready reference, Rule 4 of the 1987 Rules is reproduced hereunder:

"4. Forwarding of applications.(1) If any civil servant applies for permission and is otherwise eligible to appear at a competitive examination to be held by the Commission, his application shall be forwarded. The same application shall not be forwarded more than twice for each examination during the whole of his service.(2) If any civil servant applies for permission and is otherwise eligible for recruitment to any other post his application shall always be forwarded.

Explanation. The appointing authority may withhold permission to apply, if for reasons to be recorded in writing such permission is considered to be against public interest."

This clearly envisages a case-by-case assessment based on objective criteria, not a blanket, pre-emptive prohibition imposed at the time of appointment. Any term or condition imposed by a



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department, even if accepted by an employee under duress of circumstance, cannot override or supplant statutory rules. Such a condition is *ultra vires* the 1987 Rules, void *ab initio*, and non-est in the eyes of the law. The exercise of administrative discretion must be reasonable, judicious, and in conformity with the law; it cannot be used to curtail the fundamental right of a citizen under Article 18 of the Constitution of the Islamic Republic of Pakistan, 1973, to seek better employment and career progression. Since the very foundation of the requirement to obtain an NOC was unlawfully obstructed by the appellants' former department through a void condition, the failure of the appellants to comply cannot be held against them as an act of willful misconduct. They cannot be penalized for an omission that was a direct and foreseeable consequence of an illegality perpetrated by another organ of the State. This finding strikes at the very root of the charges. If the primary act of not seeking an NOC is legally excusable, the subsequent allegations of "**concealment**" and submitting a "false affidavit" lose their malicious character.

8. It is fundamentally clear that the condition imposed upon the appellants in their previous employment, which unlawfully restrained them from seeking a **No Objection Certificate**, is *ultra vires* (beyond the legal power) of the Punjab Civil Services (Applications for Posts) Rules, 1987. These statutory rules form the supreme legal framework for such matters. An inviolable principle of law dictates that when a conflict arises between statutory rules and administrative or contractual terms, the statutory rules **must prevail**, rendering the conflicting terms void from the outset and



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legally ineffective. The appellants' failure to obtain an NOC was, therefore, not an act of defiance or concealment, but a direct result of an invalid and coercive condition imposed by their former department. Accordingly, this Tribunal holds that no penalty can be imposed for an omission rooted in an illegality. The appellants cannot be held responsible for a procedural lapse that was forced upon them by a condition that is fundamentally against the law.

9. The administrative purpose of a No Objection Certificate (NOC) is substantially diluted once a civil servant has formally resigned and severed all ties with his former department. In the present case, the appellants' resignations were duly accepted *prior* to their joining the Police Department. Therefore, to impose the ultimate penalty of removal from their new service, based solely on the absence of an NOC—an absence which is itself attributable to a legally unsustainable and contradictory condition in their prior terms of service—constitutes an administrative action that is manifestly unreasonable, patently disproportionate, and cannot be sustained in the eyes of the law.

10. Furthermore, there is not a scintilla of evidence on record to suggest that the appellants' omission was driven by an intent to gain any "undue advantage." They competed on open merit alongside all other candidates and secured their positions through a transparent selection process. Disclosing their prior employment would not have rendered them ineligible. On the contrary, by not applying through the proper channel, they effectively waived their right to have their previous service counted for pensionary and other benefits—a clear detriment to themselves, not an advantage.

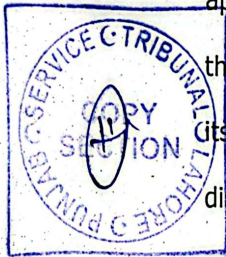


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The respondent department has suffered no tangible loss or prejudice. In fact, its own conduct reveals an initial acceptance of the situation; upon discovery, the department's first step was to seek verification of the appellants' resignations to process their pay, an act that militates against the subsequent framing of the issue as grave misconduct.

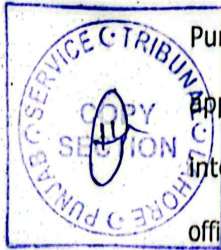
11. The principle of proportionality, a cornerstone of administrative justice, is also squarely attracted. To deprive the appellants of their hard-earned employment for a procedural lapse that caused no prejudice, conferred no undue benefit, and was itself rooted in an unlawful administrative condition, is an act of disproportionate punishment. The State, as an ideal employer, ought not to create a situation of employment limbo, particularly when the appellants have already resigned from their previous jobs in legitimate expectation of their new appointments. Finally, the arguments regarding procedural illegalities in the inquiry proceedings are not without merit. The imposition of a major penalty under the E&D Rules necessitates a regular inquiry that scrupulously adheres to due process. This includes the right to be informed of the evidence, the right to cross-examine witnesses, and the right to produce a defence. The summary and reportedly ex-parte nature of the inquiry conducted in this case further vitiates the proceedings, rendering the consequential impugned orders legally unsustainable on this ground alone.

12. For the foregoing reasons, this Tribunal finds that the impugned orders are founded upon a flawed legal premise, fail to appreciate the unlawful conduct of the appellants' former employer



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which precipitated the entire situation, and impose a penalty that is shockingly harsh and grossly disproportionate to the alleged offence. The charges of misconduct, when viewed in their proper legal and factual context, are not sustainable in law. Consequently, all seven captioned service appeals are **allowed/accepted**. The impugned original order dated 23.12.2024, passed by Respondent No. 2 (Superintendent of Police, Punjab Highway Patrol, Multan Region), and the impugned appellate order dated 17.03.2025, passed by Respondent No. 1 (Deputy Inspector General of Police, Punjab Highway Patrol, Lahore), are hereby **set aside**. The appellants are **reinstated into service** with immediate effect. The intervening period shall be treated as leave of the kind due. The office is directed to send a copy of this order to the departmental authority concerned as provided under Rule 21 of Punjab Service Tribunal (Procedure Rules) 1975. File be consigned after due completion and compilation. The office is directed to place the copy of the instant consolidated judgment in connected appeals.



ANNOUNCED
09.09.2025


Certified that this judgment consists of **10 pages** and each page has been dictated, read and signed by me.


(Afaq Anjad Jajja)
MEMBER-III


MEMBER-III

Punjab Service Tribunal Lhr. Form No. 373-25-

Date of Submission of application for certified copy	18-09-25
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