

JUDGMENT SHEET

IN THE PUNJAB SERVICE TRIBUNAL, LAHORE

Appeal No.1792 of 2021

SHAN-UL-HAQ, MEMBER-IV

Dr. Ehsan Elahi Mughal, son of Feroz Ahmad resident of Feroz Eye Hospital Major Road Morr, Sambrial, District Sialkot

.....Appellant

VERSUS

1. The Chief Secretary, Punjab, Lahore.
2. The Secretary, Local Government & Community Development) Department/Chairman Punjab Local Government Board, Lahore

.....Respondents



Appellant by:

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

Respondents by:

- Malik M. Qasim, Deputy District Attorney.

Date of hearing: 10.06.2026.

Date of announcement: 10.06.2026.

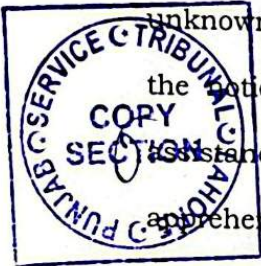
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Shan-ul-Haq, Member: The instant appeal, filed under Section 4 of the Punjab Service Tribunals Act, 1974, is directed against the order dated 02.08.2018 passed by the Secretary, Local Government & Community Development Department/Chairman, Punjab Local Government Board, Lahore, whereby the appellant was inflicted the major penalty of dismissal from service on the charge of remaining absent from duty with effect from 01.06.2017. Aggrieved by the said order, the appellant preferred a departmental appeal before the Chief Secretary, Punjab, Lahore, which was dismissed vide order dated 24.02.2021. Having failed to secure relief through the departmental hierarchy, the appellant has invoked the jurisdiction of this Tribunal through the present appeal.

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2. Learned counsel for the appellant contends that the impugned orders are illegal, arbitrary, based on misreading and non-reading of the available record, and have been passed in violation of the settled principles of natural justice. He submits that the absence attributed to the appellant was neither intentional nor willful. Elaborating his arguments, learned counsel points out that prior to the commencement of the alleged period of absence, the appellant had submitted an application dated 25.05.2017 before the Police Station Sambrial, District Sialkot, wherein he specifically reported that he and his family members were facing serious threats from unknown persons. According to the appellant, despite bringing the matter to the notice of the concerned police authorities, no effective protection or assistance was extended to him. Consequently, due to a genuine apprehension regarding his personal safety and that of his family, he was constrained to leave his residence and shift to another location.



3. Learned counsel further submits that the departmental authorities failed to appreciate the exceptional circumstances under which the appellant remained away from duty and proceeded against him ex parte. It is argued that the show cause notices, charge sheet and other departmental correspondence were dispatched to the appellant's previous residential address despite the fact that he had already submitted an application dated 28.08.2013 seeking change of his residential address. The said application, according to learned counsel, forms part of the departmental record and clearly establishes that the department was aware of the appellant's updated address. However, owing to negligence on the part of the department, all notices were continuously sent to an obsolete address where neither the appellant nor any of his family members were residing. As a result, the appellant remained completely unaware of the disciplinary proceedings initiated against him and was effectively deprived of a fair and

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meaningful opportunity to defend himself. Learned counsel, therefore, prays that the impugned orders be set aside and the appellant be granted appropriate relief in accordance with law.

4. Conversely, learned Deputy District Attorney has vehemently opposed the appeal and submits that the same is misconceived, devoid of merit and liable to be dismissed. He contends that the disciplinary proceedings were initiated and concluded strictly in accordance with the provisions of the Punjab Employees Efficiency, Discipline and Accountability Act, 2006, and that no procedural irregularity was committed by the



department at any stage. According to him, sufficient opportunities were afforded to the appellant to participate in the proceedings and to defend himself against the charge leveled against him; however, despite such opportunities, the appellant failed to respond or appear before the competent

authority. It is further argued that the allegation of unauthorized absence from duty stood conclusively established through the documentary evidence available on the record, and therefore the competent authority was fully justified in imposing the major penalty of dismissal from service. Learned Deputy District Attorney submits that the impugned order is based upon lawful and valid grounds and does not suffer from any legal infirmity warranting interference by this Tribunal.

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5. Learned Deputy District Attorney has also raised preliminary objections with regard to the maintainability of the appeal. He submits that the departmental appeal preferred by the appellant was filed beyond the prescribed period of limitation and was, therefore, not maintainable in the eyes of law. He further contends that the appellant does not fall within the definition of a civil servant so as to invoke the jurisdiction of this Tribunal under the Punjab Service Tribunals Act, 1974. On the strength of these

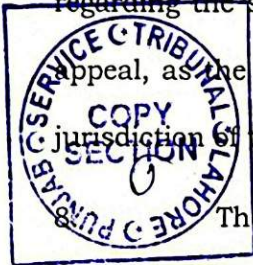
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submissions, learned Deputy District Attorney prays that the appeal be dismissed being barred by law as well as devoid of merit.

6. I have heard the learned counsel for the appellant as well as the learned Deputy District Attorney and have also gone through the available record with their able assistance.

7. Before advertng to the merits of the controversy, it is imperative to first examine the preliminary objections raised by the respondents regarding the status of the appellant and the maintainability of the instant appeal, as the determination of these issues has a direct bearing upon the jurisdiction of this Tribunal to entertain and adjudicate the matter.



The subject of "Local Government" is not included in the Federal Legislative List contained in the Fourth Schedule to the Constitution of the Islamic Republic of Pakistan, 1973. Consequently, in terms of Article 142(c) of the Constitution, the subject of "Local Government" falls within the legislative competence of the Provincial Assemblies. Article 142 of the Constitution reads as follows:-

142. Subject-matter of Federal and Provincial laws.
Subject to the Constitution_

(a) *Majlis-e-Shoora (Parliament) shall have exclusive power to make laws with respect to any matter in the Federal Legislative List;*

(b) *Majlis-e-Shoora (Parliament) and a Provincial Assembly shall have power to make laws with respect to criminal law, criminal procedure and evidence.*

(c) *Subject to paragraph (b), a Provincial Assembly shall, and Majlis-e-Shoora (Parliament) shall not, have power to make laws with respect to any matter not enumerated in the Federal Legislative List.*

(d) *Majlis-e-Shoora (Parliament) shall have exclusive power to make laws with respect to all matters pertaining to such areas in the Federation as are not included in any Province.*

9. Referring to the legislative competence of the Provincial Assemblies, Article 137 of the Constitution of the Islamic Republic of

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Pakistan, 1973 defines the extent of the executive authority of a Province and provides as follows:-

137. Extent of executive authority of Province. Subject to the Constitution, the executive authority of the Province shall extend to the matters with respect to which the Provincial Assembly has power to make laws:

Provided that, in any matter with respect to which both Majlis-e-Shoora (Parliament) and the Provincial Assembly of a Province have power to make laws, the executive authority of the Province shall be subject to, and limited by, the executive authority expressly conferred by the Constitution or by law made by Majlis-e-Shoora (Parliament) upon the Federal Government or authorities thereof.



Hence, it is quite apparent that the subject of "Local Government" is an affair of the Province. Section 2(b) of the Punjab Service Tribunals Act, 1974 defines a "civil servant" as follows:-

"Civil servant" means a person who is or who has been a member of a civil service of the Province or holds or has held a civil post in connection with the affairs of the Province.

11. Consequently, the appellants fall squarely within the definition of "civil servant" as provided under Section 2(b) of the Punjab Service Tribunals Act, 1974, because **he was holding civil post connected with the affairs of the province.**

12. Two Acts have been promulgated by the Provincial Assembly of the Punjab which give independent definitions of the term "civil servant". They are as follows:-

Punjab Civil Servants Act 1974

Section 2(1)(b). *In this Act, unless there is anything repugnant in the subject or context,-*

(a)

(b) "civil servant" means a person who is a member of a civil service of the Province or who holds a civil post in connection with the affairs of the Province, but does not include-

(i) a person who is on deputation to the Province from the Federation or any other Province or authority;

(ii) a person who is employed on contract, or on work-charged basis, or who is paid from contingencies; or

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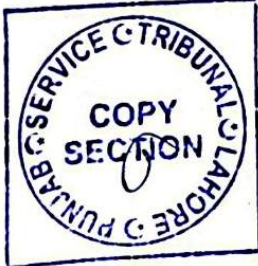
(iii) a person who is a 'worker' or 'workman' as defined in the Factories Act, 1934 (XXV of 1934) or the Workmen's Compensation Act, 1923 (VIII of 1923);

Punjab Service Tribunal Act 1974

Section 2(b). In this Act, unless there is anything repugnant in the subject or context,-

(a)

(b) "civil servant" means a person who is or who has been a member of a civil service of the Province or holds or has held a civil post in connection with the affairs of the Province but does not include-



(i) a person who is or who has been on deputation to the Province from the Federation or any other Province or authority;

(ii) a person who is or has been employed on contract, or on work charged basis, or who is or has been paid from contingencies; or

(iii) a person who is or has been a „worker“ or „workman“ as defined in the Factories Act, 1934 (XXV of 1934) or the Workmen's Compensation Act, 1923 (VIII of 1923);

13. At the cost of stating the obvious, it is emphasized that when one is interpreting or applying Punjab Service Tribunal Act 1974 (PST Act), one has to use the definition of "civil servant" given in PST Act and the definition given in Punjab Civil Servants Act 1974 (PSC Act) is not to be used. Definition of "civil servant" given in PST Act is broader than that given in PSC Act. But the domain of two laws is different. PSC Act relates to recruitment, promotion and other service matters while PST Act is applicable to appeals against final orders in term and condition matters and disciplinary matters.

14. Statutory structure of the definition of "civil servant" given in the PST Act is very different from that given in Service Tribunal Act 1973 (Federal Act). PST Act has its very own original definition i.e. PST Act does not refer to any other law to define the term "civil servant"; whereas the Federal Act has a referential definition i.e. Federal Act refers to another law to define this term.

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Punjab Service Tribunal Act 1974

Section 2(b). *In this Act, unless there is anything repugnant in the subject or context,—*

(a)

(b) "civil servant" means a person who is or who has been a member of a civil service of the Province or holds or has held a civil post in connection with the affairs of the Province but does not include—

(i) a person who is or who has been on deputation to the Province from the Federation or any other Province or authority;

(ii) a person who is or has been employed on contract, or on work charged basis, or who is or has been paid from contingencies; or

(iii) a person who is or has been a „worker“ or „workman“ as defined in the Factories Act, 1934 (XXV of 1934) or the Workmen's Compensation Act, 1923 (VIII of 1923);



The Service Tribunal Act, 1973 (Federal Act)

Section 2. Definitions. *In this Act, unless there is anything repugnant in the subject or context,— (a) "civil servant" means a person who is, or has been, a civil servant within the meaning of the Civil Servants Act, 1973 (LXXI of 1973) and shall include a person declared to be a Civil Servant under section 2A; and*

15. The consequence of this definitional distinction is very significant. Where a statute adopts a referential definition, as is the case in the Federal Act, an employee must satisfy the definition of "civil servant" as given in the statute to which reference has been made. Conversely, where a statute contains an independent and self-contained definition, as is the case of Punjab Service Tribunals Act, 1974, the status of an employee is to be determined solely with reference to the definition contained in that statute and not to any other statute.

16. Therefore, the legal position under the Punjab Service Tribunals Act, 1974 is materially different from that created under the Federal Act. An employee serving under the Government of the Punjab may not fall within the definition of "civil servant" given in the Punjab Civil Servants Act, 1974; nevertheless, he may validly qualify as a "civil servant" for the purposes of the Punjab Service Tribunals Act, 1974 if he holds a civil post connected with the affairs of the Province. However, under the Federal statutory

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framework, an employee must satisfy the requirements of both the Service Tribunals Act, 1973 and the Civil Servants Act, 1973.

17. Accordingly, the domain of the Punjab Service Tribunals Act, 1974 is wider in this regard than that of the Federal Service Tribunals Act, 1973. Since the definition contained in the Punjab Service Tribunals Act, 1974 is independent and self-contained, no reference to any other enactment is required for determining whether a person falls within the ambit of the term "civil servant" for the purposes of invoking the jurisdiction of this Tribunal.

18. In a recent judgment in C.P.L.A.No.3222-L of 2023 the Hon'ble Supreme Court of Pakistan has observed at paragraph No.10, which is reproduced below:



*In the Mubeen-us-Salam case the issue before the Court was the constitutional validity of Section 2-A of the Service Tribunals Act, 1973, through which Parliament sought to extend the jurisdiction of Service Tribunals to employees of authorities, corporations and other bodies established by or under federal law or owned or controlled by the Federal Government. In examining this issue, this Court first examined the constitutional meaning of civil servant and determined that the terms service of Pakistan and civil servant are not synonymous. So, while Article 260 of the Constitution refers broadly to service in connection with the affairs of the Federation or a Province, **the status of a civil servant is determined under the constitutional scheme such that a civil servant is a person whose appointment and terms and conditions of service are regulated under the civil servants act and the rules framed thereunder.***

19. From the above quoted para, it is clear that under the Federal scheme, the status of the civil servant is determined by the definition given under the Civil Servants Act 1973 and not under the Service Tribunal Act 1973 as the Service Tribunal Act employs a referential definition and hence an appellant has to qualify as civil servant under the Civil Servants Act 1973 to be eligible to invoke the jurisdiction of Federal Service Tribunal.

20. In the Mubeen-us-Salam case, the laws under consideration before the Hon'ble Supreme Court were the Civil Servants Act, 1973 and the

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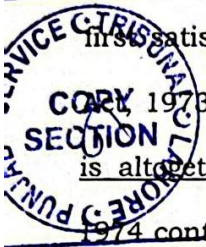
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Service Tribunals Act, 1973, both of which are Federal enactments. The Service Tribunals Act, 1973 employs a referential definition of the term "civil servant" by expressly referring to the definition contained in the Civil Servants Act, 1973. Consequently, for an employee to qualify as a civil servant under the Federal statutory framework, it is necessary that he must

in so satisfy the definition of "civil servant" contained in the Civil Servants Act, 1973. The legal position under the Punjab Service Tribunals Act, 1974 is altogether and materially different. The Punjab Service Tribunals Act, 1974 contains its own independent and self-contained definition of the term

"civil servant" and does not make any reference to the Punjab Civil Servants Act, 1974. Therefore, for the purposes of invoking the jurisdiction of this Tribunal, it is not necessary that a person must also fall within the definition of "civil servant" contained in the Punjab Civil Servants Act, 1974. Under Section 2(b) of the Punjab Service Tribunals Act, 1974, the determinative consideration is whether the person concerned holds or has held a civil post connected with the affairs of the Province. Since the appellants were admittedly holding posts connected with the affairs of the Province under the Local Government & Community Development Department, Punjab, they squarely fall within the definition of "civil servant" as envisaged under the Punjab Service Tribunals Act, 1974. In other words, even if a person may not qualify as a civil servant under the Punjab Civil Servants Act, 1974, he may nevertheless be a civil servant for the purposes of the Punjab Service Tribunals Act, 1974, provided he satisfies the requirements of Section 2(b) of PST Act thereof.

21. The Service Tribunals Acts of Balochistan, the Federation and Khyber Pakhtunkhwa employ referential definitions of the term "civil servant", whereas the Punjab Service Tribunal Act, 1974 and the Sindh Service Tribunals Act contain their own independent and self-contained



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definitions. A further consequence of this distinction is that the definition contained in the Punjab Service Tribunals Act, 1974 does not impose any additional condition such as requiring that the terms and conditions of service of an employee must be governed by the Punjab Civil Servants Act, 1974 or the rules framed thereunder and it also doesn't bar employees working in corporations, attached departments and autonomous bodies.

These conditions are applicable when one is determining the status of an

employee as civil servant under the Punjab Civil Servant Act 1974. The relevant consideration under PST Act 1974 is that whether the person concerned holds or has held a civil post connected with the affairs of the Province. Thus, even if the terms and conditions of service of an employee

are regulated by some other statutory framework, he may nevertheless qualify as a "civil servant" for the purposes of the Punjab Service Tribunals Act, 1974, provided he satisfies the requirements of Section 2(b) thereof. Consequently, while such a person may not fall within the definition of "civil servant" contained in the Punjab Civil Servants Act, 1974, he may still be a "civil servant" for the purposes of the Punjab Service Tribunals Act, 1974 and, therefore, entitled to invoke the jurisdiction of this Tribunal.

22. The record reveals that the appellant was appointed as Medical Officer on 19.01.1993 at a time when the Punjab Local Government Ordinance, 1979 was in force. It is an admitted position that the appellant was a member of the Local Council Service constituted under the said Ordinance. Section 44 of the Punjab Local Government Ordinance, 1979 specifically provided that the members of the Local Council Service shall be deemed to be civil servants for the purposes of the Punjab Service Tribunals Act, 1974. Consequently, by virtue of the aforesaid statutory provision, the appellant acquired the status of a civil servant and became entitled to avail



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the remedies provided under the Punjab Service Tribunals Act, 1974. The relevant provision reads as under:-"

"Notwithstanding anything to the contrary contained in any other law, the members of the Local Council Service constituted under this Ordinance shall be deemed to be civil servants for the purposes of the Punjab Service Tribunals Act, 1974 (IX of 1974)."

Subsequently, the Punjab Local Government Ordinance, 2001 was



promulgated and, as a consequence thereof, the Punjab Local Government Ordinance 1979 stood repealed. However, a careful examination of the provisions of the Ordinance of 2001 reveals that no express provision was incorporated therein either withdrawing the status already conferred upon the existing members of the Local Council Service or retrospectively altering their service conditions. The repeal of a statute, by itself, does not divest an employee of rights, privileges or status already acquired under the repealed law unless a contrary intention is expressly manifested by the legislature.

23. Article 264 of the Constitution of the Islamic Republic of Pakistan embodies the principle that the repeal of a law does not ordinarily extinguish rights, liabilities, proceedings, or consequences that arose under the repealed law, unless the Constitution expressly provides otherwise. It is a constitutional saving clause designed to preserve continuity and prevent injustice resulting from legislative changes.

264. Effect of repeal of laws. Where a law is repealed, or is deemed to have been repealed, by, under, or by virtue of the Constitution, the repeal shall not, except as otherwise provided in the Constitution,___

(a) revive anything not in force or existing at the time at which the repeal takes effect;

(b) affect the previous operation of the law or anything duly done or suffered under the law;

(c) affect any right, privilege, obligation or liability acquired, accrued or incurred under the law;

(d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against the law; or

(e) affect any investigation, legal proceeding or remedy in respect of any such right,

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Privilege, obligation, liability, penalty, forfeiture or punishment; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the law had not been repealed.

24. The provision reproduced above is Section 4 of the Punjab General Clauses Act, which is substantially similar to Article 264 of the Constitution. Both embody the doctrine of "saving of accrued rights and pending proceedings upon repeal."

4. Effect of Repeal.- (1) Where this Act or any other the Punjab Act] repeals any enactment then, unless a different intention appears, the repeal shall not-

(a) revive anything not in force or existing at the time at which the repeal takes effect;

(b) affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder; or

(c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed; or

(d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or

(e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the Repealing Act had not been passed.

(2) The provisions of sub-section (1) shall apply on the expiry or withdrawal of any Ordinance promulgated by the Governor as if it had

been repealed by the Punjab Act.

25. Admittedly, after the promulgation of the Ordinance of 2001, the appellant continued to serve under the same service structure, discharged identical duties and responsibilities, and received salary and other service benefits on the same terms and conditions as were applicable prior to the repeal of the Ordinance of 1979. There is nothing available on the record to indicate that the appellant was ever reappointed, absorbed in any different cadre, or otherwise divested of the legal status which had accrued to him under the earlier statutory regime. In the absence of any express legislative

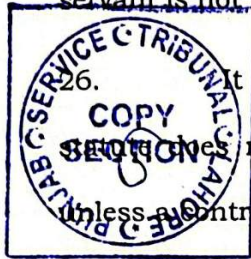


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provision extinguishing or modifying such vested rights, it cannot be presumed that the appellant ceased to enjoy the status and protections attached to his service merely by reason of the repeal of the Punjab Local Government Ordinance, 1979. Consequently, the contention of the respondents that the appellant does not fall within the ambit of a civil servant is not borne out from the statutory framework governing his service.



26. It is by now a well-settled principle of law that the repeal of a statute does not ordinarily extinguish accrued, vested or acquired rights unless a contrary intention is expressly manifested by the legislature. Rights which have already vested under a repealed enactment continue to enjoy legal protection and cannot be divested retrospectively in the absence of a clear statutory mandate. The doctrine is founded upon the principle that legislation is presumed to operate prospectively and not retrospectively so as to impair existing rights. Reliance in this regard may safely be placed upon the principles enunciated by the Hon'ble Supreme Court of Pakistan in 2025 SCMR 303 and 2023 SCMR 261, wherein it has been consistently held that vested rights survive the repeal of a statute unless the subsequent legislation expressly or by necessary implication provides otherwise.

27. Applying the above principle to the facts of the present case, it is evident that the appellant had acquired the status of a civil servant by virtue of Section 44 of the Punjab Local Government Ordinance, 1979 during his service under the Local Council Service. Since no provision has been pointed out from the Punjab Local Government Ordinance, 2001 or any subsequent enactment whereby such status was expressly withdrawn or extinguished, the rights and protections already accrued in favour of the appellant remained intact. I, therefore, have no hesitation in holding that the appellant continued to enjoy the status of a civil servant for the purposes of invoking the jurisdiction of this Tribunal and, consequently, the preliminary objection

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raised by the respondents in this regard is without substance and is hereby repelled.

28. The next objection pertains to limitation. The respondents have contended that the departmental appeal preferred by the appellant was time-barred and, therefore, the present appeal is not maintainable. I have considered the objection but find no merit therein. The issue is no longer *res integra* and stands authoritatively settled by the Hon'ble Supreme Court of Pakistan in *Secretary, Establishment Division, Islamabad versus Nawaz*

~~Almad Sheikh (2025 SCP 393)~~, wherein it has been categorically held that a Service Tribunal cannot refuse to entertain a statutory appeal merely on the ground that the departmental appeal was filed beyond the prescribed period of limitation. The august Court observed that such an approach would effectively defeat and nullify the valuable statutory right of appeal conferred upon a civil servant under the service jurisprudence.

29. Apart from the above legal position, the facts of the present case also disclose a sufficient and plausible explanation for the alleged delay. As discussed earlier, the appellant's case is that he did not receive the show cause notice, charge sheet or other departmental correspondence as the same were dispatched at an obsolete address despite the department being aware of his changed residential address. The record further does not convincingly establish that the first impugned order dated 02.08.2018 was ever served upon the appellant immediately after its issuance. According to the appellant, he remained unaware of the said order and, upon acquiring knowledge thereof and obtaining a copy of the same, he promptly availed the departmental remedy by filing an appeal before the competent authority. Thus, the delay, if any, was not deliberate but was attributable to the appellant's lack of knowledge of the impugned order.

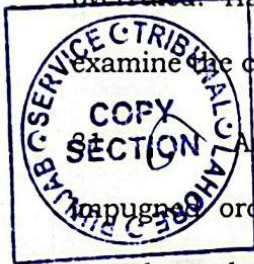


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30. In view of the law laid down by the Hon'ble Supreme Court as well as the peculiar facts and circumstances of the case, the rejection of the appellant's departmental appeal on the ground of limitation cannot operate as a bar to the maintainability of the present proceedings before this Tribunal. Consequently, the objection regarding limitation and maintainability of the instant appeal is devoid of merit and is accordingly overruled. Having repelled the preliminary objections, I now proceed to examine the case on merits.



Another important aspect requiring consideration is whether the impugned order was ever properly communicated to the appellant. The record produced by the respondents reveals that the appellant had submitted an application dated 28.08.2013 seeking change of his residential address. The said application forms part of the departmental record and its existence has not been disputed by the respondents. Once the department had been formally apprised of the appellant's changed address, it was under a legal obligation to ensure that all future correspondence and notices were dispatched at the updated address. However, the record shows that despite possessing such information, the department continued to issue notices and correspondence at the appellant's previous address, thereby frustrating the very purpose for which the change-of-address application had been submitted.

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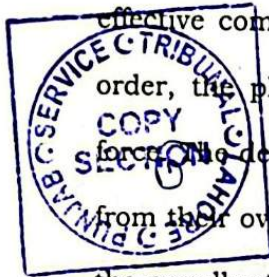
32. The respondents have failed to produce any convincing material establishing that the charge sheet, show cause notice, inquiry proceedings or even the impugned order dated 02.08.2018 were ever dispatched to the appellant's updated address. Likewise, no evidence has been brought on record to demonstrate that the appellant deliberately evaded service or intentionally avoided participation in the proceedings. In service jurisprudence, proper service of notices is not a mere technical formality but

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a substantive requirement aimed at ensuring compliance with the principles of natural justice. Where an employee is deprived of knowledge of disciplinary proceedings due to negligence attributable to the department itself, the adverse consequences thereof cannot lawfully be visited upon such employee. It is a well-recognized principle that no person should suffer because of the fault, omission or negligence of a public authority.

33. In the absence of satisfactory proof regarding proper service and effective communication of the disciplinary proceedings and the impugned order, the plea of limitation raised by the respondents loses much of its force. The departmental authorities cannot be permitted to derive advantage from their own lapse, particularly when such lapse has resulted in depriving the appellant of an opportunity to defend himself and to avail the statutory remedies available under the law.



34. Turning now to the merits of the case, the pivotal question requiring determination is whether the absence of the appellant was willful, deliberate and without lawful justification so as to warrant the extreme penalty of dismissal from service.

35. The record reveals that prior to the commencement of the alleged period of absence, the appellant submitted an application dated 25.05.2017 before Police Station Sambrial, District Sialkot, wherein he categorically reported that he and his family members were receiving serious threats from unknown persons. The said application bears the official diary number and stamp of the concerned police station. Significantly, the respondents have neither disputed the authenticity of the document nor produced any material to suggest that the same was fabricated or subsequently procured to create a defence.

36. The existence of such contemporaneous documentary evidence substantially corroborates the appellant's plea that he was confronted with

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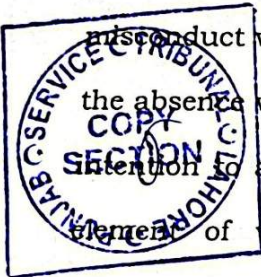
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extraordinary circumstances beyond his control. The record further reflects that owing to genuine apprehension regarding his life and the safety of his family members, he shifted from his residence and remained preoccupied with safeguarding himself and his family. Such circumstances cannot be brushed aside lightly, particularly when they stand supported by documentary evidence generated prior to the initiation of disciplinary proceedings.

37. It is a settled principle of service law that every absence from duty does not ipso facto amount to misconduct. For absence to constitute

misconduct warranting a major penalty, the department must establish that the absence was willful, deliberate, contumacious or reflective of a conscious intention to abandon service. Mere absence, without proof of the requisite

element of willfulness, cannot justify the imposition of the severest punishment available under the service laws. Where an employee remains absent due to compelling circumstances beyond his control, particularly those involving threats to life and personal security, such absence cannot reasonably be equated with intentional desertion of duty.



38. In the present case, the respondents have failed to produce any evidence demonstrating that the appellant intentionally abandoned his service or that the explanation furnished by him was false, concocted or mala fide. On the contrary, the contemporaneous application submitted before the police authorities lends considerable support to the appellant's defence and creates a strong probability that his absence was occasioned by circumstances beyond his control rather than by any deliberate disregard of official duties.

19. , Even otherwise, the doctrine of proportionality, which now stands firmly embedded in service jurisprudence, requires that the punishment imposed upon a civil servant must bear a reasonable nexus

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with the nature and gravity of the misconduct established against him. The record reflects that the appellant had rendered more than twenty-four years of service before the occurrence in question. The respondents have not brought on record any material indicating that his past service career was blemished by repeated misconduct, inefficiency or indiscipline. His long tenure of service and otherwise satisfactory service record constituted relevant mitigating factors which deserved due consideration by the



competent authority before imposing the harshest penalty known to service

A perusal of the impugned order reveals no meaningful consideration of the mitigating circumstances available in favour of the

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appellant. The competent authority appears to have proceeded solely on the basis of the factum of absence without examining the surrounding circumstances that led to such absence, the explanation subsequently furnished by the appellant, the issue of service of notices, or the appellant's lengthy service record. Such a mechanical approach not only undermines the principles of fairness and proportionality but also renders the punishment disproportionately severe in the facts and circumstances of the case. Consequently, the impugned order cannot be sustained on the touchstone of law and equity.

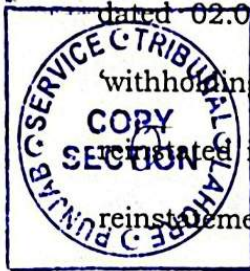
41. For the foregoing reasons, I am of the considered view that the impugned order dated 02.08.2018 passed by the Secretary, Local Government & Community Development Department/Chairman, Punjab Local Government Board, Lahore, as well as the appellate order dated 24.02.2021, cannot be sustained in their present form. The record does not establish that the appellant's absence was willful or deliberate so as to justify the extreme penalty of dismissal from service. Moreover, the competent authority failed to adequately consider the mitigating

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circumstances available in favour of the appellant, including the threats to his life and personal safety, the issue relating to proper service of notices, and his long service career spanning more than twenty-four years.

42. Consequently, the instant appeal is partly accepted. The major penalty of dismissal from service imposed upon the appellant vide order dated 02.08.2018 is modified and converted into the minor penalty of 'withholding of promotion for a period of one year'. The appellant shall be reinstated in service. The period from the date of dismissal till the date of reinstatement shall be treated as leave of the kind due.



(Signature)
(SHAN-UL-HAQ)
MEMBER-IV

ANNOUNCED
10.06.2026

Certified that this judgment consists of 19 pages and each page has been dictated, read and signed by me.

(Signature)
(SHAN-UL-HAQ)
MEMBER-IV

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