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Judgment Sheet

IN THE LAHORE HIGH COURT, LAHORE

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JUDICIAL DEPARTMENT

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INTRA COURT APPEAL NO.61415 of 2025.

Government of the Punjab, etc.

Versus

Asad Pervaiz, etc.

JUDGMENT.

Date of hearing: **05.05.2026.**
Appellants by: Mr. Waheed Alam, Assistant
Advocate General Punjab.
Respondents by: Mr. Allah Nawaz Khosa, Advocate.

AHMAD NADEEM ARSHAD, J. Through this Intra Court Appeal filed under Section 3 of the Law Reforms Ordinance, 1972, the appellants have called into question the validity and legality of order dated 16.09.2025 passed by learned Single Judge in Chambers pursuant whereto the Writ Petition filed by the respondents was allowed.

2. Necessary facts forming the background of the instant proceedings are that the respondents were recommended for appointment under Rule 17-A of the Punjab Civil Servants (*Appointment and Conditions of Service*) Rules, 1974 (*The Rules*). Pursuant thereto, they underwent medical examination and were declared fit, whereafter appointment letters were issued in their favour on 25.07.2024 and they duly assumed charge of their posts. However, subsequently, their appointment letters were withdrawn

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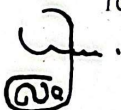
vide communication dated 18.10.2024 on account of omission of Rule 17-A of the Rules. Feeling aggrieved, the respondents challenged the said withdrawal through Writ Petition No.40681 of 2025, which was allowed by the learned Single Judge in Chambers vide order dated 16.09.2025, and consequently, the letter dated 18.10.2024 was declared void and of no legal effect. Hence, the instant appeal.

3. Learned Assistant Advocate General appearing on behalf of the appellants contends that the impugned order is illegal and contrary to law. He submits that Rule 17-A of the Rules, under which the respondents were appointed, stood omitted after being declared unconstitutional; therefore, no vested right could accrue in their favour. He argues that appointments made under a void provision are nullity in the eye of law, and mere issuance of appointment letters or joining does not confer any enforceable right.

He maintains that the competent authority rightly withdrew the appointments to rectify the illegality, which action has been wrongly interfered with by the learned Single Judge.

4. On the contrary, learned counsel for the respondents supports the order under appeal and contends that the same has been passed strictly in accordance with law and does not call for any interference. He submits that the respondents had acquired a vested right for appointment under Rule 17-A of the Rules at the time of accrual of cause, which could not be taken away by subsequent omission of the said Rule. In this regard, he places reliance upon the judgment rendered by the Hon'ble Federal Constitutional Court in the case

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titled "The Province of Sindh v. Muhammad Rizwan Khan and others" (F.C.P.L.A. Nos.508, etc. of 2025), and argues that process of issuance of appointment letters is merely an administrative formality, and once the right had accrued, the same could not be divested retrospectively. Learned counsel thus maintains that the withdrawal of appointment letters was illegal, and the learned Single Judge has rightly set aside the same.

5. Learned Assistant Advocate General, Punjab, in rebuttal, contends that the judgment relied upon by the respondents, rendered by the Hon'ble Federal Constitutional Court, does not deal with or extend to cases of civil servants who became incapacitated during service. He submits that the said judgment pertains specifically to cases arising out of death of a civil servant, where rights were held to accrue to the legal heirs at the time of death. He argues that in the present case, some of the respondents are spouses/children of civil servants who were merely invalidated/incapacitated during service, and not deceased; therefore, no vested right accrued in their favour. Consequently, he maintains that such respondents are not entitled to appointment under the said Rule and the learned Single Judge failed to appreciate this material distinction.

6. We have heard learned counsel for the parties at length and gone through the record with their able assistance.

7. After hearing learned counsel for the parties and going through the record, it has been observed that core controversy revolves around the effect of omission of Rule 17-A of the Punjab Civil Servants (Appointment and Conditions of Service) Rules, 1974,

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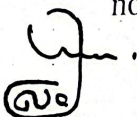
and whether such omission could divest the respondents of their right of appointment which had already matured.

8. Rule 17-A of the Punjab Civil Servants (Appointment and Conditions of Service) Rules, 1974 was omitted vide Notification No.SOR-III(S&GAD)2-60/2024, dated 24.07.2024. Prior thereto, the respondents, having been recommended under the said Rule, underwent medical examination on 11.07.2024, were declared medically fit, and were subsequently issued appointment letters on 25.07.2024, pursuant where to they assumed charge of their respective posts. However, their appointments were later withdrawn vide communication dated 18.10.2024 on the ground of omission of Rule 17-A. The question which arises for determination is whether, in the above factual backdrop, the subsequent omission of Rule 17-A could divest the respondents of their right of appointment, which had already crystallized.

9. The learned Single Judge, while allowing the writ petition, has rightly held that the case of the respondents falls within the category of "past and closed transactions" and that the issuance of appointment letters followed by joining constitutes a "decisive step" in terms of the law laid down in case titled "Province of Punjab v. Syed Muhammad Ali Raza Shah" (ICA No.2407 of 2025). Once all codal formalities had been completed and the respondents had entered into service, nothing remained pending so as to render their appointments tentative or provisional.

10. The contention of the learned Assistant Advocate General that no vested right could accrue in favour of the respondents due to

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omission of Rule 17-A is misconceived. The record clearly establishes that prior to the cut-off date, the respondents had not only been issued appointment letters but had also joined service. Thus, their cases had attained finality and could not be reopened on account of subsequent legal developments.

11. Moreover, the Hon'ble Federal Constitutional Court in the case titled "The Province of Sindh v. Muhammad Rizwan Khan and others" (referred supra) has elucidated that upon the death of a civil servant, a vested right accrues in favour of one of his children and/or spouse for appointment, while the subsequent processes of application or issuance of appointment letter are merely administrative in nature. Relevant portion is reproduced as under:-

"4. As noted above, petitioner is aggrieved of acceptance of writ petitions of the respondents by learned Sindh High Court. The controversy pertains to the fact that respondents are spouse/children of the deceased Sindh civil servants and sought appointments on the basis of Rule 11-A of Sindh Civil Servants (Appointment, Promotion & Transfer) Rules, 1974 (the Rules). The Supreme Court of Pakistan vide judgment passed in case reported as General Post Office, Islamabad and others Vs. Muhammad Jalal (PLD 2024 SC 1276) struck down Rule 11-A ibid and petitioner now seeks benefit thereof on the basis that since the Rule is no longer in the field, no appointment can be made. The nub of the controversy is that at the time when the judgment of the Supreme Court of Pakistan supra was handed down, had the right accrued in favour of the respondents? In this regard, the relevant event which resulted in the accrual of the right, was the death of the civil servant. As and when the death of a civil servant takes place, one of the children and/or spouse acquires the right to be appointed in the civil service. The process of application and/or a formal appointment letter are administrative acts. Since right had accrued in favour of private respondents, hence judgment of the Supreme Court does not come in their way for appointment on deceased employee

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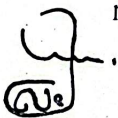
children/spouse quota. It is trite law that judgments of the Supreme Court operate prospectively and not retrospectively. Even otherwise, the Supreme Court in a subsequent decision, clarified that the judgment reported as PLD 2024 SC 1276 supra does not take away the accrued rights and/or set aside the past and close transaction. In view of above position of law, we do not find any legal infirmity in the reasoning handed down by the learned Sindh High Court, in the impugned judgment, warranting interference."

(emphasis supplied)

12. The contention of the learned Assistant Advocate General that the said judgment is confined only to cases of death and not applicable to cases of incapacitation is misconceived. A plain reading of Rule 17-A reveals that it places both situations, death as well as invalidation/incapacitation, on the same footing, treating them as triggering events for entitlement of appointment. The principle laid down by the Hon'ble Court is that once a right accrues under the law prevailing at the relevant time, it cannot be defeated by a subsequent declaration or change in law, particularly when the matter has attained the status of a past and closed transaction. This principle is of general application and cannot be restricted to cases of death alone. Since Rule 17-A of the Rules itself encompasses both contingencies, the benefit of the said judgment extends equally to cases of incapacitation.

13. In the present case, the respondents had completed all requisite stages and had entered into service before withdrawal of their appointments, therefore, their right stood crystallized and could not have been annulled retrospectively. The distinction sought to be

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drawn by the learned Law Officer is, thus, artificial and contrary to the plain language of the Rule as well as the settled principles of law.

14. In view of the above, learned Single Judge in Chambers has rightly set-aside the letter(s) dated 18.10.2024 while passing the order under appeal. Learned Law Officer appearing on behalf of the appellant, despite hectic efforts, remained unable to persuade us to interfere in the findings recorded by the learned Single Judge in Chambers.

15. For the foregoing reasons, this appeal stands dismissed.

(MALIK WAQAR HAIDER AWAN)
JUDGE

(AHMAD NADEEM ARSHAD)
JUDGE

M. Arsalan*
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