

SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mrs. Justice Ayesha A. Malik

Mr. Justice Aqeel Ahmed Abbasi

Civil Petition No.2732 of 2023

(Against the judgment dated 08.03.2023 passed by the Punjab Service Tribunal, Lahore in Appeal No.5039/2020)

Nazir Ahmad

...Petitioner(s)

Versus

Chief Secretary to Govt of the Punjab Lahore and another

... Respondent(s)

For the Petitioner(s): Mr. Aftab Alam Yasir, ASC
Syed Rafaqat Hussain Shah, AOR
a/w Petitioner

For the Respondent(s): Mr. Khalid Masood Ghani, AAG Punjab

Date of Hearing: 16.09.2026

JUDGMENT

AQEEL AHMED ABBASI, J.- Through instant civil petition for leave to appeal, the petitioner has impugned the judgment dated 08.03.2023 passed by the Punjab Service Tribunal, Lahore ("**Tribunal**") in Appeal No. 5039/2020, whereby the appeal filed against the order dated 14.10.2020 passed by the Chief Secretary, Government of the Punjab, Lahore, has been partly allowed with the modification that the major penalty of compulsory retirement from service has been converted into forfeiture of 2 years of approved service, and the petitioner was reinstated into service, whereas the period during which the petitioner remained out of service was to be treated as leave without pay. The petitioner, being aggrieved with the partial modification of the major penalty, has approached this Court with the prayer to grant leave against the impugned judgment and the penalty imposed upon the petitioner may be set aside by exonerating the petitioner from the charges leveled against him with all back benefits of pay and allowances accordingly.

2. Learned counsel for the petitioner has vehemently argued that the allegations against the petitioner are based on surmises and conjectures, whereas the inquiry and the proceedings pursuant thereto have been conducted in violation of law, the principles of natural

justice, as well as the SOP dated 31.12.2014, as the inquiry committee itself analyzed the second portion of the sample of RICO (Crops Supplement) Zinc Sulphate containing 33% Zinc at the Raiwind Reference Fertilizer Laboratory without associating the petitioner. Per learned counsel, as to the allegation that the petitioner has committed misconduct in connivance with two employees, no ulterior motive has been attributed to the petitioner to act against the rules of the management, nor could it be established that the petitioner has benefited by this act, whereas no loss was caused to the department. It has been further argued by the learned counsel for the petitioner that the second portion of the sample was analyzed in the absence of the petitioner and also without examination of the first portion at one time to maintain transparency and also to ascertain the quantum of moisture, which fact has been pointed out by the inquiry committee, before whom the petitioner has denied all the allegations and charges against him. According to learned counsel, as per the SOP, re-analysis of the first portion of the sample could be conducted within 60 days and not thereafter, whereas the sample in question was received on 17.05.2016, analyzed on 23.05.2016, and its report was transmitted on 23.5.2016, whereas re-analysis of the second portion of the sample was conducted at the Raiwind Reference Laboratory on 29.09.2016 after a lapse of 120 days in violation of the said SOP. While concluding his submission, learned counsel for the petitioner has submitted that the respondents have miserably failed to prove allegations against the petitioner, whereas the second analysis report has been managed without associating the petitioner or having provided any opportunity to rebut the same, in the absence of any material available with the department. Learned counsel has drawn the attention of this Court to the findings recorded by the Tribunal in para 8 of the impugned judgment, wherein the Tribunal, after having acknowledged the aforesaid legal defects, held that no ulterior motive has been attributed to the petitioner, and no loss in any way has been caused to the department. Per learned counsel, the learned Tribunal was of the opinion that the allegations and charges against the petitioner are based on whims and no motive or gain could be established against the petitioner; therefore, instead of modifying the penalty by converting compulsory retirement from service into forfeiture of two years of approved service, the petitioner should have been exonerated from the charges, which, besides being false and frivolous, could not be established by the department through positive evidence.

3. Conversely, learned AAG Punjab has opposed the contention of the learned counsel for the petitioner and supported the impugned judgment passed by the Tribunal in the instant case. He further submitted that the petitioner has already been granted relief in the impugned judgment while converting the major penalty of compulsory retirement from service into forfeiture of 2 years of approved service, therefore, in view of the negligence and violation of departmental practice, punishment awarded to petitioner is justified. Per learned AAG merely some defect in the inquiry and further proceedings against the petitioner, the petitioner is not entitled to any further relief by this Court. According to the learned AAG, in view of two contradictory analysis reports in respect of the sample of RICO (Corps Supplement) Zinc Sulphate, the negligence on the part of the petitioner stands established; therefore, instant petition for leave to appeal is liable to be dismissed.

4. We have heard the learned counsel for the petitioner and the learned AAG, perused the record and the impugned judgment passed by the Tribunal in the instant case.

5. Perusal of the record, and the findings of fact as recorded by the Tribunal shows that the allegations of connivance, ulterior motive any loss, to the department could not be established by the department through evidence. Moreover, the legal defects in the process of conducting the inquiry, sending the second portion of the sample of RICO (Crops Supplement) Zinc Sulphate, after a lapse of 60 days as per the SOP, without associating the petitioner or providing him an opportunity to rebut the allegations to this effect reflects that petitioner was denied due process. The adverse findings have not been challenged by the department by filing a CPLA before this Court. We see no justification was available to the learned Tribunal to deny the entire relief claimed by the petitioner. We have observed that the petitioner has been denied a fair trial by the respondents, as no proper inquiry was conducted nor petitioner was associated with the process of re-analyzing the second portion of the sample of RICO (Crops Supplement) Zinc Sulphate, which otherwise, appears to have been sent beyond the period of 60 days as per the SOP dated 31.12.2014, therefore, the allegation of misconduct could not be proved against the petitioner. Once the Tribunal had reached to such a conclusion, the proper course would have been to set aside the impugned judgment by exonerating the petitioner from the charges, instead of converting the

major penalty of compulsory retirement from service into forfeiture of 2 years of approved service.

6. In view of hereinabove facts and circumstances, we are of the opinion that the petitioner has made out a case requiring interference by this Court. Accordingly, the judgment of the Tribunal as well as the orders passed by the departmental authorities are set aside and the petitioner is exonerated from all the charges leveled against him. Consequently, the petitioner is held entitled to all back benefits of pay and allowances from the date of compulsory retirement i.e., 01.08.2017. This petition, therefore converted into an appeal and allowed in the above-mentioned terms.

JUDGE

JUDGE

Islamabad:
16.09.2026
APPROVED FOR REPORTING
Tanveer Ahmed