IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:
Mr. Justice Yahya Afridi, CJ
Mr. Justice Shakeel Ahmad

C.P.L.As.677-P/2026 and 680 to 710-P/2026
(Against the judgment dated 06.05.2026 passed by the Khyber Pakhtunkhwa Service Tribunal, Peshawar in Service Appeals No. 1402/2025 to 1447/2025)

Syed Sardar Badshah	*(in CPLA 677-P/2026)*
Abdul Salam	*(in CPLA 680-P/2026)*
Arshad Khan	*(in CPLA 681-P/2026)*
Sajjad Ahmad Jamal	*(in CPLA 682-P/2026)*
Irfan Ullah Jamal	*(in CPLA 683-P/2026)*
Mohsin Ali	*(in CPLA 684-P/2026)*
Abrar Ali Shah	*(in CPLA 685-P/2026)*
Muhammad Ilyas	*(in CPLA 686-P/2026)*
Aamir Shahzad Khattak	*(in CPLA 687-P/2026)*
Adil Rahim	*(in CPLA 688-P/2026)*
Usman Ali	*(in CPLA 689-P/2026)*
Miss. Sidra Ahmad	*(in CPLA 690-P/2026)*
Noor Sher	*(in CPLA 691-P/2026)*
Abdul Aziz	*(in CPLA 692-P/2026)*
Suliman Ahmad	*(in CPLA 693-P/2026)*
Usman Khan	*(in CPLA 694-P/2026)*
Muhammad Zia	*(in CPLA 695-P/2026)*
Ihsan Ullah	*(in CPLA 696-P/2026)*
Issa Muhammad	*(in CPLA 697-P/2026)*
Naseeb Khan	*(in CPLA 698-P/2026)*
Arshad Kamal	*(in CPLA 699-P/2026)*
Muhammad Kaleem	*(in CPLA 700-P/2026)*
Asmat Ullah	*(in CPLA 701-P/2026)*
Muhammad Hassan Shah	*(in CPLA 702-P/2026)*
Janbaz Ahmad	*(in CPLA 703-P/2026)*
Miss. Fizza Hassan Saeed	*(in CPLA 704-P/2026)*
Qazi Bin Amin Afridi	*(in CPLA 705-P/2026)*
Alam Zeb	*(in CPLA 706-P/2026)*
Akhlaq Ahmad	*(in CPLA 707-P/2026)*
Azim Ullah	*(in CPLA 708-P/2026)*
Muhammad Shadman Safi	*(in CPLA 709-P/2026)*
Naveed Hussain	*(in CPLA 710-P/2026)*

...Petitioner(s)

Versus

The Chief Minister through its Principal Secretary, Peshawar and others *(in all cases)*

...Respondent(s)

For the Petitioner(s): Mr. Inayat Ullah Khan, ASC *(in all cases)*

For the Respondent(s): NR. *(in all cases)*

Date of Hearing: 29.09.2026

ORDER

Shakeel Ahmad, J.- Aggrieved by the final seniority list issued on 03.02.2025 and the order dated 12.05.2025, whereby the appellate authority dismissed their departmental appeals, the petitioners

approached the Khyber Pakhtunkhwa Service Tribunal, Peshawar ***("Tribunal")***, under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974. Their service appeals were dismissed through the impugned consolidated judgment dated 06.05.2026. Hence, these petitions for leave to appeal.

2. Learned counsel for the petitioners mainly contended that the appointment notification of the petitioners was deliberately withheld and delayed by the officials of the respondents with mala fide intent to accommodate the private respondents, thereby depriving them of their lawful seniority. It was further contended that the seniority of the petitioners ought to have been reckoned from the date of recommendation by the Public Service Commission ***("Commission")***, i.e., 28.03.2022, rather than from the date of issuance of their appointment notification. The learned counsel further submitted that one of the private respondents had served as PSO to the then Chief Minister, Khyber Pakhtunkhwa and, at his instance, the appointment notification of the petitioners was delayed to confer an advantage upon the private respondents in the seniority list.

3. Heard.

4. From the facts narrated in the memo of petitions and submissions made before us, two distinct questions arise; however, they should not be conflated:

i. Whether, under Rule 17(b) of the Khyber Pakhtunkhwa (Appointment, Promotion and Transfer) Rules, 1989 ("***APT Rules***"), the seniority of the petitioners is to be reckoned from the date of their recommendation by the Commission or from the date of their appointment; and

ii. Whether the petitioners can, for the first time before this Court, introduce a factual allegation that the approval of their appointment was deliberately delayed by a private respondent who was serving as PSO to the then Chief Minister.

5. Rule 17 of the APT Rules draws a distinction between initial recruitment and appointment otherwise. Under Rule 17(b) of the APT Rules, in case of civil servants appointed otherwise, seniority is to be determined with reference to the date of their continuous regular appointment. The date of recommendation by the Commission is therefore not, in itself, the date prescribed by Rule 17(b) for determining seniority in a case falling within this limb of the Rule. The Commission's recommendation is an important

stage in the recruitment process, but it is not, by itself, the legal act of appointment.

6. In the present case, the petitioners were appointed as PMS Officers on the basis of recommendation made by the Commission, followed by completion of the requisite legal and codal formalities and issuance of the appointment notification dated 27.04.2022. Their recommendation dated 28.03.2022, therefore, does not, by itself, furnish a statutory basis for reckoning their seniority from that date. The governing consideration in their case is with reference to the date of their continuous regular appointment, as contemplated by Rule 17(b) of the APT Rules, and not the date on which the recommendation was made. The contention of learned counsel that seniority must necessarily be reckoned from 28.03.2022 consequently finds no support in the Rule.

7. The rule thus distinguishes between selection or recommendation and appointment. Rule 17(b) of the APT Rules deliberately uses the expression "continuous regular appointment" and not "date of recommendation". Accordingly, where competing officers are appointed on different dates, the starting point under Rule 17(b) of the APT Rules, subject to the applicable statutory scheme, ordinarily remains their respective dates of continuous regular appointment. The petitioners could potentially contend that the later appointment date should not prejudice them if the delay in appointment was caused by an unlawful or mala fide act of the administration and they otherwise had a vested entitlement to appointment. However, such a contention requires proof of the alleged administrative interference. There is a substantial difference between alleging "*we were recommended earlier by the Commission*" and alleging "*we were recommended earlier, our appointment was duly processed, and our appointment was deliberately withheld by a particular person for an ulterior purpose, although we should have been appointed earlier*". The distinction is, therefore, between a proposition established by the documentary record and one resting upon additional factual allegations of mala fide, causation, motive and deliberate interference.

8. In the present case, although the petitioners did raise a plea of mala fide before the Tribunal contending that the summary for Chief Minister was delayed with mala fide and arbitrary intention to accommodate and give favour to private respondents, they did not

specifically allege that the PSO serving to the then Chief Minister had withheld the summary or caused its processing to be delayed. The allegation, as pleaded, attributed mala fide intent to the respondents generally but did not identify any act of interference by the PSO nor establish his role in the alleged delay or that such intervention was actuated by an ulterior purpose. The petitioners cannot, at this stage, particularise that general allegation by attributing the alleged delay to a specific functionary and thereby introduce a factual case that was not specifically pleaded before the Tribunal.

9. The petitioners' plea of mala fide must, therefore, be considered in the form in which it was actually raised before the Tribunal. The general allegation that the summary was delayed to accommodate the private respondents does not, by itself, establish that the private respondent serving as PSO to the then Chief Minister had deliberately withheld it. In the absence of a specific pleading and material establishing these elements, the mere fact that one of the private respondents was serving as PSO and stood to benefit from the subsequent determination of seniority cannot, by itself, sustain an inference of deliberate interference on his part.

10. It is pertinent to note that this is not a mere omission of an additional fact. This specific allegation, if accepted, would require findings as to the stage reached in the appointment process, the manner in which the summary was dealt with, the authority responsible for its processing, the alleged intervention by the PSO, the purpose for which such intervention was made, and, importantly, whether it caused the petitioners' appointments to be issued at a later date. A new legal argument founded upon facts already established on the record may, in an appropriate case, be considered by this Court. A new factual case founded upon disputed and specific allegations of mala fide and administrative interference stands on a different footing. Such a case ordinarily requires pleading, evidence and factual adjudication and cannot be introduced for the first time in proceedings before this Court to attribute the delay in appointment to a specific functionary when no such specific allegation was pleaded before the Tribunal.

11. The position is particularly material here because the petitioners seek to attribute legal significance to the interval between their recommendation and appointment. The mere existence of that interval does not establish that their appointments had otherwise

become due or that their issuance was deliberately withheld. Nor does the fact that the PSO was himself a prospective beneficiary, without more, establish that he intervened in the process or that any such intervention caused the delay. The requisite causal connection would have to be established between the alleged and specific intervention and the later date of appointment. In the absence of such proof, the earlier recommendation cannot, by itself, be treated as the date from which seniority is to be reckoned under Rule 17(b) of the APT Rules.

12. The record, moreover, does not disclose an unexplained period which would support such an inference. The petitioners were initially recommended by the Commission on 28.03.2022. The recommendations were provisional and subject to rectification, verification of credentials and medical fitness, followed by approval of the competent authority. Certain discrepancies were rectified by the Commission on 31.03.2022. The matter thereafter proceeded through the requisite legal and codal formalities, including submission of the summary to the competent authority, and the offers of appointment were issued on 18.04.2022. In the meantime, the Provincial Selection Board met on 07.04.2022, pursuant to which promotion notifications in favour of the private respondents were issued on 15.04.2022 after completion of the requisite legal and codal formalities. The Tribunal, after examining the record, found the time consumed in the process to be procedural in nature and attributable to the completion of the requisite codal formalities.

13. We therefore find no factual basis for concluding that the later date of the petitioners' continuous regular appointment was brought about by mala fide or deliberate administrative obstruction. Had such unlawful interference been established, the question whether the administration could rely upon the resulting delay for determining seniority would have required consideration. That, however, is not the case before us. The petitioners have not established the factual premise upon which such a contention rests. Consequently, their earlier recommendation by the Commission on 28.03.2022, without more, cannot displace the date of continuous regular appointment prescribed by Rule 17(b) of the APT Rules.

14. In our view, the Tribunal has aptly considered and addressed all the relevant legal and factual aspects of the case while dismissing the appeals preferred by the petitioners. Even otherwise, no substantial question of law of public importance, within the

contemplation of Article 212(3) of the Constitution of the Islamic Republic of Pakistan, 1973, arises for consideration in these petitions so as to warrant interference by this Court. Consequently, these petitions are dismissed and leave declined. No order as to costs.

Islamabad, the
29th of September, 2026
Zia/ Rameen Shahram LC*

Approved for reporting