

FEDERAL CONSTITUTIONAL COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Justice Syed Hasan Azhar Rizvi
Justice Muhammad Karim Khan Agha

F.C.P.L.A. No.781 of 2026

(Against the order dated 17.02.2026 of the High Court of Sindh, Karachi in C.P No.D-4039 of 2023)

Pakistan Telecommunication Company Ltd.

... Petitioner

Versus

Bheru Lal & another

... Respondents

For the Petitioner: Mr. Shahid Anwar Bajwa, ASC
Assisted by Mr. Mujtaba A. Bajwa, Advocate
Mr. Hubdar Ali, Executive Legal, PTCL
Ms. Lubna Yousuf

For the Respondents: Mr. Malik Naeem Iqbal, ASC

Date of Hearing: 09.09.2026

JUDGMENT

Justice Muhammad Karim Khan Agha, J.- This civil petition for leave to appeal is directed against the order dated 17.02.2026 (**“impugned order”**) passed by a learned Division Bench of the High Court of Sindh whereby Constitution Petition No. D-4039 of 2023 filed by respondent No. 1 (**“respondent”**) was allowed and the petitioner, Pakistan Telecommunication Company Limited (**“PTCL”**), was directed to finalize his retirement and settle his dues in full. By the impugned order, the miscellaneous application of the respondent pending in Constitution Petition No. D-6546 of 2016 was also disposed of.

2. The facts leading to the present petition may be stated briefly. The respondent was initially appointed as Assistant Divisional Engineer (BPS-17) on an ad hoc basis in the Telegraph and Telephone Department (**“T&T Department”**) of the Federal Government on 19.11.1989. His service was subsequently regularized with effect from the date of his initial appointment by order dated 01.03.1994. He stood transferred, first to the Pakistan Telecommunication Corporation (**“PTC”**) under the Pakistan Telecommunication Corporation Act 1991 (**“1991 Act”**), and subsequently to PTCL upon its establishment under the Pakistan Telecommunication (Re-organization) Act 1996 (**“1996 Act”**). While in service, the respondent was subjected to disciplinary

proceedings. A charge-sheet and statement of allegations were issued to him on 02.06.2009. An inquiry followed and, upon its conclusion, a show cause notice was issued to him on 31.12.2009. Eventually, by an inter office memorandum dated 19.05.2010, the penalty of removal from service was imposed upon him. His departmental appeal against that order was also rejected. The respondent challenged his removal before the High Court of Sindh. The proceedings eventually came to be treated as Constitution Petition No. D-6546 of 2016. By a short order dated 27.09.2019, followed by detailed reasons dated 11.10.2019, a Division Bench of the High Court set aside the order of removal and reinstated the respondent, while permitting a fresh inquiry against him. The High Court directed that such inquiry be initiated in accordance with law as early as possible and concluded preferably within three months. It was further provided that the question of back benefits and consequential relief would remain subject to the outcome of the inquiry and that, if the inquiry was not conducted by PTCL, the respondent would be entitled to reinstatement and back benefits after expiry of the stipulated period.

3. Following his reinstatement on 02.01.2020, fresh disciplinary proceedings were initiated against the respondent through a charge-sheet dated 06.01.2020. The respondent questioned those proceedings by filing CMA No. 25315 of 2020 under the Contempt of Court Ordinance 2003 in the earlier constitution petition. On 23.11.2020, the High Court issued notice on that application and, in the meanwhile, restrained PTCL from passing a final order pursuant to the charge-sheet dated 06.01.2020. The interim order continued thereafter. The respondent attained the age of superannuation on 01.04.2023 while the said interim order was still in force. He thereafter instituted Constitution Petition No. D-4039 of 2023 seeking, amongst other reliefs, issuance of his retirement notification and release of his pensionary and other retirement benefits. In support of his claim, he relied upon Fundamental Rule 54-A (**"F.R. 54-A"**) of the Fundamental Rules, under which disciplinary proceedings pending against a government servant abate upon his attaining the age of superannuation and he retires with full pensionary benefits.

4. Before the High Court, PTCL resisted the claim on the ground that it could not finalize the fresh disciplinary proceedings because of the interim order dated 23.11.2020. The High Court did not

accept this contention. It was observed that the respondent was entitled to challenge the fresh proceedings and seek interim relief, while it was for PTCL to actively contest that challenge and seek its disposal so that the disciplinary proceedings could be brought to a conclusion before the respondent attained the age of superannuation. The High Court noted that PTCL had neither filed a counter-affidavit to the contempt application nor made any effort to have the matter heard. It was accordingly held that the subsistence of the interim order could not defeat the respondent's claim. The High Court consequently allowed Constitution Petition No. D-4039 of 2023 and directed PTCL to finalize the retirement of the respondent and settle his dues in full within fifteen days. The miscellaneous application pending in the earlier Constitution Petition No. D-6546 of 2016 was also disposed of accordingly. Aggrieved, PTCL has filed the present petition for leave to appeal.

5. Learned counsel for PTCL submitted that good conduct is an implied condition of the grant of pension. He contended that the High Court had erred in applying F.R. 54-A, as that rule contemplated a case where an employee, while under suspension pending inquiry, attained the age of superannuation before completion of the inquiry, whereas in the present case the inquiry had already been completed and it was only because of the interim order of the High Court that disciplinary action could not be finalized. He further submitted that the respondent was initially appointed on an ad hoc basis and was never a regular civil servant of the Federal Government; that, in any event, being a workman for purposes of the Workmen Compensation Act 1923, he stood excluded from the definition of "civil servant" under section 2(1)(b) of the Civil Servants Act 1973; and that his subsequent regularization by PTC did not confer upon him the status of a regular civil servant. In this regard, he relied upon **PTCL v Imran Aziz** (CA No. 1509/2021 etc. decided by the Supreme Court of Pakistan on 10.07.2025) and **Pakistan Telecommunication Employees Trust v Muhammad Jaffar Khan** (2023 PLC (C.S.) Note 37). It was further argued that the earlier judgment dated 11.10.2019 permitted PTCL to initiate a fresh inquiry and merely required its conclusion "preferably" within three months, and that the inquiry so initiated had in fact been completed. Since that judgment had made back benefits subject to the outcome of the inquiry, and the inquiry had found the respondent guilty, he was not entitled to such benefits irrespective of whether any

ultimate punishment was imposed. Lastly, learned counsel submitted that the High Court had failed to consider **CSR 351** and **CSR 470** governing pensionary entitlement, and relied in that regard upon **Government of NWFP v Muhammad Said Khan** (PLD 1973 SC 514) and **Federation of Pakistan v Shah Mohammad** (2021 SCMR 1249).

6. Conversely, learned counsel for the respondent contended that there is no cavil with the proposition that good conduct is an implied condition to the grant of pension; however, the power to withhold or withdraw pension on account of misconduct is attracted only where the pensioner has been convicted of a serious crime or found guilty of grave misconduct in accordance with law. In the present case, he submitted, the respondent has neither been convicted of any serious crime nor has any valid and concluded proceeding resulted in a finding that he was guilty of grave misconduct and, therefore, his pensionary benefits could not be withheld merely on the basis of allegations or inconclusive disciplinary proceedings. He contended that, under the earlier judgment of the High Court, the de novo proceedings were required to be concluded within three months, whereas PTCL issued the fresh charge-sheet only on 06.01.2020 and failed to conclude the proceedings within the stipulated period. PTCL thereafter neither filed a counter-affidavit in the contempt proceedings nor took effective steps for vacation of the interim order or expeditious disposal of the matter, with the result that the proceedings remained inconclusive until the respondent attained superannuation on 01.04.2023. It was further submitted that the proceedings consequently stood abated under the applicable service law, including F.R. 54-A, and that PTCL could not take advantage of its own failure to conclude them. Learned counsel also questioned the validity of the purported inquiry on the ground that no evidence was produced in support of the charges, no witnesses were examined and no opportunity of cross-examination was afforded. He further disputed the contention that the respondent was a workman submitting that this plea had not been raised before the High Court and could not be permitted to be raised for the first time before this Court. Lastly, he submitted that the respondent's terms and conditions of service were protected under the 1991 Act and the 1996 Act, and that there was, therefore, no lawful basis for withholding his pensionary and retirement benefits.

7. We have heard the learned counsel for the parties, perused the record, and considered the relevant law, including the case law cited at the bar.

8. We first deal with the contention raised by learned counsel for PTCL concerning the status of the respondent and the law governing the terms and conditions of his employment. It was argued that the respondent, having initially been appointed on an ad hoc basis, was never a regular civil servant of the Federal Government and that, in any event, he was a workman and, therefore, stood excluded from the definition of “civil servant” under section 2(1)(b) of the Civil Servants Act 1973. The contention has been advanced to question the applicability to the respondent of the law governing the pensionary and retirement benefits of civil servants.

9. This contention does not appear to have been raised before the High Court and, therefore, requires us first to determine whether, and to what extent, it may be examined at this stage. It is well settled that a pure question of law may be raised and considered at any stage of the proceedings where its determination requires no further investigation into facts and the relevant facts are admitted or already proved. The reason is that it is the duty of the Court to apply the law which governs the established facts, whether or not a particular provision or legal consequence was relied upon by a party at an earlier stage (Reliance is placed on **Haji Abdullah Khan v Nisar Muhammad Khan** (PLD 1965 SC 690) and **Multan Electric Power Company Ltd v Muhammad Ashiq** (PLD 2006 SC 328)). The position is otherwise where a new contention involves a disputed question of fact or a mixed question of law and fact requiring further factual inquiry. Such a contention cannot ordinarily be permitted to be raised for the first time before this Court (Reliance is placed on **Fida Ullah v Secretary (Settlement and Rehabilitation) Punjab** (PLD 2002 SC 816)).

10. Whether the respondent was in fact a “workman” when his service was transferred first to PTC under the 1991 Act and subsequently to PTCL under the 1996 Act is not a pure question of law. His status at those stages appears important because the two enactments protected the terms and conditions of service then applicable to the employees transferred under them. Such status does

not follow merely from the designation of the post held by an employee but depends upon the nature of the duties actually performed by him and, where disputed, may require examination of oral and documentary evidence. It is a recognized principle that the determination whether an employee is a workman is a finding of fact rooted in evidence (Reliance is placed on **Muslim Commercial Bank Ltd v Rizwan Ali Khan** (2024 SCMR 360) and **United Bank Ltd v Jamil Ahmed** (2024 SCMR 164)). No factual foundation for such an inquiry was laid before the High Court, nor has any material concerning the actual duties performed by the respondent at the relevant time been placed before us.

11. The terms and conditions governing the respondent's service when he was transferred first to PTC under the 1991 Act and subsequently to PTCL under the 1996 Act, and the effect of those enactments upon such terms and conditions, can nevertheless be determined on the basis of facts already established by the **undisputed** service documents and the relevant statutory provisions. No further investigation into facts is, therefore, required, and the question, being one of law arising from the established facts, may be considered notwithstanding that it was not raised in this form before the High Court. As will be seen, the question assumes significance because it was the existing terms and conditions of service that were afforded statutory protection upon each successive transfer to PTC and then to PTCL.

12. The respondent was initially appointed as Assistant Divisional Engineer (BPS-17) in the T&T Department on an ad hoc basis on 19.11.1989. His offer of appointment bearing No. E(I).17-86/89 dated 19.11.1989, issued by the office of the Director General, Pakistan Telegraph and Telephone Department and available on the record, specified the terms upon which his appointment was made. Condition No. 4 thereof expressly provided:

The terms of your service will be governed by the provisions of the Civil Servants Act 1973, the rules of recruitment for the posts of Assistant Divisional Engineers (Telegraphs) as notified vide SRO No.1022(I)/76 dated 14-10-1976, of the Ministry of Communications and such other terms and conditions as are in force or may be prescribed by the Government time to time.

The appointment was initially for a period of six months and was liable either to termination or extension for a specified period, or to continue until the availability of a nominee of the Federal Public Service Commission, whichever occurred earlier. What is material for present purposes is that the terms of his appointment **expressly** provided that his service would be governed by the Civil Servants Act 1973, the recruitment rules notified through SRO No. 1022(I)/76, and the other applicable terms and conditions of service.

13. The position underwent a statutory transition with the enactment of the 1991 Act. The 1991 Act established PTC under section 3 and made specific provision for employees of the T&T Department, described in section 2(e) as “departmental employees”. Section 9 provided that, notwithstanding anything contained in any law, contract, agreement or conditions of service, all departmental employees would, upon establishment of PTC, stand transferred to and become its employees **“on the same terms and conditions”** to which they were entitled immediately before the transfer. The terms and conditions governing such employees immediately before their transfer were thus preserved by the statute itself. As observed by the Supreme Court of Pakistan in **Masood Ahmed Bhatti v Federation of Pakistan** (2012 SCMR 152), the rules governing the employment of such employees in the T&T Department were adopted by reference in the 1991 Act and thereby made applicable to and binding upon PTC.

14. It appears that the service of the respondent continued to be extended until 01.03.1994, when, by letter bearing No. RRR.17-34/93 of the same date issued by the Headquarters of PTC, the services of 75 Assistant Divisional Engineers (BPS-17), including the respondent, who had been serving on an ad hoc basis, were regularized **with effect from the dates of their initial appointments**. The letter further provided that their service would be governed by the recruitment rules for the post of Assistant Divisional Engineer notified through SRO No. 1022(1)/76, as amended from time to time, and by such other terms and conditions as were in force or might subsequently be prescribed by PTC. **Significantly, these were the same recruitment rules expressly referred to in the respondent’s original letter of offer of appointment.** The regularization, therefore, afforded continuity to the terms and conditions governing his service as stipulated in his original offer of

appointment. Moreover, his appointment was regularized with effect from its inception, thereby maintaining the continuity of his service from the date of his initial appointment, while the applicable recruitment rules continued to govern his service.

15. A further statutory transition took place. Following the intervening Ordinances, the 1996 Act was enacted to provide for the reorganization of the telecommunication system and the transfer of assets, liabilities, functions and employees of PTC to the entities contemplated by that law, including PTCL. For present purposes, section 35 is of particular importance. Subsection (2) authorized the Federal Government, through an order issued under subsection (1), to specify the employees of PTC who would stand transferred to and become employees of the entity named in the order. **Its proviso, however, imposed an express limitation: such an order could not “vary the terms and conditions of service of such employees to their disadvantage”.**

16. As observed in **Masood Ahmed Bhatti (*supra*)**, the Federal Government, in exercise of the powers conferred by the Pakistan Telecommunication (Reorganization) Ordinance 1995, issued SRO No. 115(I)/96 dated 07.02.1996 (**“Vesting Order”**), which was expressly saved by section 59(2) of the 1996 Act. Under the Vesting Order, the properties, rights and liabilities of PTC, except those transferred to the other specified entities, vested in PTCL, while the employees of PTC, other than those transferred to those entities, stood transferred to and became employees of PTCL with effect from 01.01.1996. **It has not been denied that the respondent was among the employees so transferred to PTCL. The significance of the proviso to section 35(2) is that the transfer did not leave the existing terms and conditions of such employees at the discretion of PTCL. Those terms and conditions constituted the minimum protection secured by the statute and could not be varied to their disadvantage.**

17. Section 36 reinforces that protection. Subsection (2) protects the terms and conditions of service of employees transferred from PTC to PTCL against adverse alteration except in accordance with law or with the consent of the transferred employee and upon payment of appropriate compensation. Sections 35 and 36, read together,

therefore preserved by force of statute the terms and conditions governing the transferred employees at the time they became employees of PTCL. The Supreme Court in **Masood Ahmed Bhatti (supra)** consequently held that the terms and conditions existing at the time of transfer constituted **vested rights** under the 1996 Act and that the rules governing those terms and conditions retained their statutory character. PTCL could confer additional or more beneficial terms upon such employees, **but could not**, contrary to the statutory protection, vary the protected terms to their disadvantage.

18. Applied to the respondent, the position is thus reasonably clear. His original appointment expressly subjected his service to the Civil Servants Act 1973, the recruitment rules notified through SRO No. 1022(I)/76 and the other applicable terms and conditions prescribed by Government. Upon his transfer to PTC, the terms and conditions then applicable to him were preserved by section 9 of the 1991 Act. His subsequent regularization with effect from the date of his initial appointment did **not** affect those protections. When he was thereafter transferred to PTCL, the terms and conditions governing his service at that stage received **further statutory protection** under sections 35 and 36 of the 1996 Act. The consequence is that PTCL could not deprive him of the terms and conditions of service which the successive statutes had preserved in his favour.

19. The previous proceedings between the parties provide further confirmation of this position. The respondent's earlier removal from service under PTCL Service Regulations 1996 was set aside by the High Court in Constitution Petition No. D-6546 of 2016 on the ground that the disciplinary proceedings had not been conducted in accordance with the Civil Servants Act 1973 and the rules framed thereunder, which formed part of the statutorily protected terms and conditions of service applicable to the transferred employees of the T&T Department. The respondent was reinstated, without being exonerated from the charges, and PTCL was permitted to initiate a fresh inquiry in accordance with the applicable law. That judgment was not challenged by PTCL and attained finality. Indeed, PTCL acted upon it by reinstating the respondent and issuing a fresh charge sheet on 06.01.2020 under the Government Servants (Efficiency and Discipline) Rules 1973 which again evidences that PTCL itself recognized that the respondent was governed by the Civil Servants Act

1973 and the rules framed thereunder such as Efficiency and Discipline Rules 1973, rather than by any service rules framed by PTCL.

20. PTCL's own conduct is also difficult to reconcile with the position it now seeks to take. Having accepted the earlier judgment and itself invoked the Efficiency and Discipline Rules 1973 for the fresh proceedings, it cannot now proceed on the footing that the service regime under the Civil Servants Act 1973, as protected by the 1991 and 1996 Acts, had no application to the respondent. Also, reliance by learned counsel for PTCL on **Imran Aziz** and **Muhammad Jaffar Khan (supra)** is of no assistance. Those cases recognize that the statutory framework governing the reorganization of the T&T Department preserved the rights of transferred employees according to their pre-existing legal character. We have no cavil with that proposition; indeed, our conclusion proceeds on the same basis. The question, therefore, is not whether all employees of the T&T Department were governed by the law regulating the terms and conditions of civil servants, but whether the respondent was so governed at the relevant time. And, we conclude, based on the particular facts and circumstances of the case, that the terms and conditions governing the respondent's service under the Civil Servants Act 1973 and the applicable rules, including the recruitment rules notified through SRO No. 1022(I)/76 dated 14.10.1976, as reflected in his original offer of appointment and the subsequent regularization order, applied to him from the date of his initial appointment and remained statutorily protected upon his successive transfers, first to PTC under the 1991 Act and thereafter to PTCL under the 1996 Act. The contention that the respondent was a "workman" was neither made in the comments filed by PTCL before the High Court nor pleaded in the present petition and, having been belatedly raised for the first time during arguments before us, appears to be an afterthought with a view to denying the respondent the pensionary and retirement benefits flowing from the terms and conditions of service which remained statutorily protected.

21. This brings us to the next question: whether, under the earlier judgment of the High Court, PTCL remained at liberty to initiate and continue the de novo inquiry after expiry of the period specified therein. The answer must be found, in the first instance, in the terms

of that judgment itself, for it was pursuant to the liberty granted therein that the fresh proceedings were initiated. That judgment was never challenged by PTCL and, having attained finality, governed the terms upon which the fresh inquiry could be undertaken.

22. By its short order dated 27.09.2019, the High Court set aside the removal of the respondent and directed his reinstatement, subject to the outcome of a de novo inquiry. The short order reads as follows:

*We have heard Mr. Ravi Pinjani, learned counsel for petitioners in both the petitions, Mr. Faisal Ghani, appearing for respondents in CP No.D-6171 of 2016 as well as learned DAG whereas Mr. Sufyan Zaman has adopted the arguments advanced in CP No.D-6546 of 2016. By this short order, reasons for which shall be recorded later, both the petitions are allowed conditionally i.e. petitioners are reinstated subject to the outcome of the De Novo inquiry, **which in any case may not take more than three months.** The question of back benefits is also linked to the outcome of De Novo inquiry.*
(Bold added)

It may be seen that the liberty to hold a de novo inquiry was accompanied by an express stipulation as to time. The High Court directed that the inquiry “in any case may not take more than three months”, while linking the question of back benefits to its outcome. The relevant paragraph of the detailed reasons that followed on 11.10.2019 is reproduced below:

*18. Thus in view of these facts and circumstances and considering the gravity of the case and/or allegations leveled against the petitioners, we deem it appropriate to set aside the order of the removal of petitioners from service however we are equally conscious of the fact that the charges raised and leveled against the petitioners be probed expeditiously without any further delay in the matter. Thus, we are inclined to pass a conditional order that though the impugned removal orders in both petitions are set aside but reinstatement shall be subject to the condition that the respondents may initiate fresh inquiry against petitioners in accordance with law as early as possible and conclude the same **preferably** within three months. The question of back benefits with consequential relief shall also be subject to the outcome of the inquiry. **In case the inquiry is not conducted by the respondent company then the petitioners shall be entitled for reinstatement and back benefits after the expiry of period.***

(Bold added)

In its detailed reasons, the High Court reiterated that the charges ought to be probed expeditiously and observed that a fresh inquiry may be initiated in accordance with law as early as possible and concluded “preferably within three months”. It further provided that, if

the inquiry was not conducted by PTCL, the respondent would be entitled to reinstatement and back benefits after expiry of the period.

23. Learned counsel for PTCL has placed emphasis upon the word “preferably” appearing in the detailed reasons and contended that the period of three months was merely directory. We are not inclined to agree with this submission. A short order, once recorded, signed and pronounced in Court, is fully operative in law and, where it finally disposes of the matter, constitutes the final judgment or order of the Court notwithstanding that reasons are to follow. Where such an order contains specific directions, those directions are required to be acted upon without awaiting the detailed reasons. (Reliance is placed on **Petrosin Corporation (Pvt) Ltd v OGDC** (PLD 2011 SC 235), **Benazir Bhutto v President of Pakistan** (PLD 1998 SC 388) and **State v Asif Adil** (1997 SCMR 209)). The short order had stated in unqualified terms that the de novo inquiry “in any case may not take more than three months”. This clear and specific direction was required to be complied with according to its terms. The use of the word “preferably” in one part of the detailed reasons cannot, therefore, be understood as leaving PTCL free to continue the proceedings for an indefinite period or to treat the period fixed by the Court as having no legal consequence. More importantly, the detailed reasons themselves expressly stipulated the consequence of failure to conduct the inquiry within the period allowed. In that event, the respondent was to be entitled to reinstatement and back benefits after the expiry of that period. It is also notable that, despite the clear direction in the short order to complete the inquiry within three months, or even if we take the period of three months to be only preferable, the inquiry did not even start within that period, let alone conclude, which is quite inexplicable.

24. The short order was, therefore, sufficient in itself to make the three-month period binding; and when it is read with the detailed reasons, which expressly prescribed the consequence of non-compliance, the word “preferably” cannot reasonably be understood as rendering that period optional. The period fixed by a court for performance of an act cannot be treated by the party bound by the order as a mere suggestion. The authority to whom the direction is addressed must comply with it. This does not mean that expiry of the period would necessarily extinguish the underlying disciplinary

proceedings. Circumstances may arise in which, despite bona fide efforts, an inquiry cannot be completed within the time allowed. Where further time is genuinely required, the proper course is to approach the court, explain the circumstances which prevented compliance and seek an extension. The court may then consider, amongst other matters, the nature and complexity of the charges, the steps taken to complete the inquiry, the reasons for the delay and the conduct of the parties. These are matters for judicial determination, not unilateral determination by the employer. It is for the court which fixed the period, and not for the employer itself, to determine whether the circumstances justify enlargement of time.

25. When the facts of the present case are examined in light of the above, it becomes clear that PTCL did not avail itself of the concession granted by the High Court within the period fixed for that purpose and did not even attempt to do so. The short order dated 27.09.2019 was announced in the presence of its counsel and the three-month period stipulated therein expired on 26.12.2019 without any fresh inquiry having even been initiated. The charge-sheet was issued only on 06.01.2020. The respondent objected to the proceedings by his letter dated 04.02.2020, inter alia, on the ground that the period allowed by the High Court had already expired, and reiterated that objection on 04.05.2020. This should, at the very least, have prompted PTCL to approach the High Court for enlargement of time if it considered that sufficient grounds existed for its inability to comply with the earlier direction. It did not do so. Indeed, the inquiry committee itself was constituted much later, on 25.02.2021, and the respondent was called to appear before it on 01.03.2021. This was, therefore, not a case where an inquiry commenced within the stipulated period but could not, despite diligent efforts, be concluded because of its complexity, the conduct of the respondent or some other intervening circumstance. Nor has any reason been shown to us for PTCL having failed even to initiate the inquiry within the period fixed by the High Court. This assumes added significance because the three-month period had been fixed against the background that the respondent had already remained out of service since 2010.

26. PTCL has sought to explain the non-conclusion of the disciplinary proceedings by reference to the interim order dated 23.11.2020 passed by the High Court in CMA No. 25315 of 2020,

restraining it from passing a final order pursuant to the charge-sheet dated 06.01.2020. That order, however, came **almost eleven months** after the period fixed by the earlier judgment had already expired and cannot explain PTCL's failure to act within that period. Even thereafter, if PTCL considered that the restraint prevented completion of the disciplinary proceedings, particularly in view of the approaching superannuation of the respondent, the proper course was to seek vacation or modification of the interim order, expeditious disposal of the pending application, or such enlargement of time as might have been warranted. The record does not show that PTCL pursued any such course with the diligence required of it. An employer initiating disciplinary proceedings is expected to pursue them with due promptness; this obligation assumes greater importance where their pendency continues to prejudice the employee. The respondent, for his part, had consistently maintained that the charge sheet itself had been issued beyond the period allowed by the earlier judgment. His challenge to proceedings which he regarded as contrary to that binding judgment cannot be treated as conduct responsible for the original delay.

27. The position, therefore, is that the period fixed by the High Court expired without the inquiry having been initiated; PTCL neither obtained an extension of that period nor offered any sufficient explanation for its initial failure to comply with the direction of the High Court; and the subsequent interim order cannot account for a default which had already occurred. The earlier judgment had also expressly provided that, if the inquiry was not conducted within the period allowed, the respondent would be entitled to reinstatement and back benefits after its expiry. That judgment was not challenged by PTCL and **attained finality**. Its terms were binding upon the parties and could not be varied or disregarded unilaterally. In the absence of any order enlarging the time or otherwise modifying that direction, disciplinary proceedings initiated after expiry of the stipulated period could not deprive the respondent of the consequence which the judgment itself had expressly attached to non-compliance within that period without any reasonable explanation which was lacking in this case.

28. There is yet another aspect of the matter. While the fresh disciplinary proceedings remained pending, the respondent attained

the age of superannuation on 01.04.2023 without any final order having been passed therein. This gives rise to the further question whether the disciplinary proceedings could continue thereafter and, consequently, whether their pendency could furnish a lawful basis for withholding or deferring the pensionary and retirement benefits of the respondent. The respondent relied in this regard upon F.R. 54-A, and the High Court also proceeded on the basis of that Rule in holding that the disciplinary proceedings could not continue after his superannuation. It is, therefore, appropriate to reproduce F.R. 54-A, which reads as follows:

F. R. 54-A. If a Government servant, who has been suspended pending inquiry into his conduct attains the age of superannuation before the completion of inquiry, the disciplinary proceedings against him shall abate and such Government servant shall retire with full pensionary benefits and the period of suspension shall be treated as period spent on duty.

The effect of this Rule upon disciplinary proceedings pending at the time of superannuation was considered by the Supreme Court in **Muhammad Zaheer Khan v Government of Pakistan** (2010 SCMR 1554). In that case, the departmental inquiry against the appellant had culminated in his dismissal from service. The Court found the inquiry proceedings to be void ab initio for violation of the principle of audi alteram partem. Ordinarily, this would have raised the question of remanding the matter for a de novo inquiry; however, by that time the appellant had already attained the age of superannuation. The Court, therefore, specifically considered whether, in these circumstances, the matter could still be remanded for a de novo inquiry. With reference to F.R. 54-A and the earlier case law on the effect of superannuation upon disciplinary proceedings, the Court held as follows:

10. From the plain reading of the above Rule it become abundantly clear that what to talk of sending the case back to the department, even the pending disciplinary proceedings against an officer abate if the latter attains the age of superannuation. The Rule entitles such officer to retire with full pensionary benefits and period of suspension is bound to be treated as period spent on duty. In the circumstances, the question of now sending the matter back to the department for holding de novo inquiry stands out of question. It may be stated at this juncture that the appellant has stated at the Bar that he is not interested in claiming any back benefits and that he is only interested in getting the stigma removed.

11. The question relating to retirement during disciplinary proceedings has not remained restricted to the rule aforesaid but various forums have also taken notice of it. In Bilquis

Nargis' case 1983 PLC (C.S.) 1141, the Punjab Service Tribunal held such proceedings to have abated if the officer retired during the course of action. In case of Deputy Director Food v. Akhtar Ali (supra), it was held by a full Bench of this Court that an officer superannuating during disciplinary proceedings ceases to be a civil servant as was rightly so excluded by section (2)(1)(b) of Punjab Service Tribunals Act, 1974. In case of Abdul Wali 2004 SCMR 678(b), it was again held that an employee could not be proceeded against after superannuation. The principle was reiterated in Sajjad Haider Kazmi's case (supra) where the officer was not only condemned unheard but also had retired. The holding of fresh inquiry was, therefore, disapproved. Muhammad Akhtar former headmaster was proceeded against by the department after one year of his retirement. It was condemned by this Court in Muhammad Akhtar's case 2007 PLC (C.S.) 400. The fundamental principle laid down in FR.54-A duly supported by the aforementioned cases decided by this Court leads us to the only unescapable conclusion that the case of the present appellant cannot be remanded back to the authority for holding de novo proceedings, after eleven years of his superannuation.

The legal consequence of the respondent attaining the age of superannuation while the disciplinary proceedings were still pending is, therefore, clear. Those proceedings stood abated and the respondent became entitled to retire with full pensionary benefits. Their pendency could not thereafter be relied upon by PTCL to withhold or defer his pensionary and retirement benefits. Had PTCL moved diligently and expeditiously in completing the inquiry, this position may not have arisen, but it failed to do so.

29. We are now left to consider the reliance placed by learned counsel for PTCL upon **CSR 351** and **CSR 470** and upon **Government of NWFP v Muhammad Said Khan** (PLD 1973 SC 514) and **Federation of Pakistan v Shah Mohammad** (2021 SCMR 1249). Since the argument turns upon these provisions, they are reproduced below:

351. (1) *Future good conduct is an implied condition of every grant of a pension. The Local Government and the Government of Pakistan reserve to themselves the right of withholding or withdrawing a pension or any part of it, if the pensioner be convicted of serious crime or be guilty of grave misconduct.*

The decision of the President on any question of withholding or withdrawing the whole or any part of a pension under this Regulation shall be final and conclusive.

(2) *Except with the previous sanction of the Federal Government, no pensioner shall, within a period of two years from the date of his retirement, take part in any election or engage in political activity of any kind.*

(3) *The contravention of clause (2) shall be deemed to be a grave misconduct within the meaning of this regulation.*

Note 1. — This rule is applicable, to all the officers enumerated in Article 349.

Note 2. — Power given in this rule to withhold or withdraw a pension or any part of it, if the pensioner is guilty of grave misconduct, shall not be exercised until an opportunity has been given to the pensioner to explain his conduct verbally or in writing.

470. (a) *The full pension admissible under the rules is not to be given as a matter of course, or unless the service rendered has been really approved (see Appendix-9).*

(b) *If the service has not been thoroughly satisfactory, the authority sanctioning the pension should make such reduction in the amount as it thinks proper.*

Note 1. — The amount of any pension shall not be reduced under this Article without affording to the person entitled to it, by means of a notice in writing, an opportunity to show cause against the proposed reduction.

Note 2. — A Government servant compulsorily retired under the Government Servants (Efficiency and Discipline) Rules, 1973, shall be entitled to pension or gratuity as admissible under normal rules and the certificate of thoroughly satisfactory service will not be required in his case.

30. There can be no dispute with the principles underlying these provisions or with those stated in the judgments relied upon by PTCL. Pension is a right acquired after putting in satisfactory service for the prescribed minimum period and cannot be reduced or refused arbitrarily except to the extent and in the manner provided by the relevant rules. Likewise, future good conduct is an implied condition of every grant of pension. These principles, however, do not advance the case of PTCL. The respondent has neither been convicted of a serious crime nor been found guilty of grave misconduct in any duly constituted proceedings so as to attract the consequence contemplated by CSR 351. What PTCL relies upon is the pendency of the de novo inquiry. As already held, those disciplinary proceedings did not culminate in a lawful final order before the respondent attained the age of superannuation and thereafter stood abated. Their mere pendency at the time of superannuation of the respondent could not, therefore, furnish a basis for withholding or withdrawing his pension under CSR 351.

31. Nor does CSR 470 advance the case of PTCL. No exercise of the power conferred by that provision has been shown to us. There is nothing on the record to indicate that the competent pension sanctioning authority determined that the service rendered by the respondent had not been thoroughly satisfactory and, after following the procedure prescribed by law, made any reduction in the pension admissible to him. An inquiry report rendered in disciplinary proceedings which remained inconclusive does not, by itself, amount to an exercise of that distinct power. Indeed, **Muhammad Said Khan**

(supra) itself emphasizes that pension cannot be reduced or refused arbitrarily except to the extent and in the manner provided by the relevant rules. Employers must be mindful that, in cases involving denial of pension, the courts will examine the matter with considerable care, as pension invariably represents the fruits of a lifetime's work and the means to live with dignity in retirement, rather than being compelled to depend upon the charity of others for want of financial resources.

32. In the present case, no final order was passed in the de novo inquiry before the respondent attained the age of superannuation. As already held, CSR 351 has no application to the case, nor has any order independently made under CSR 470 been shown to us. PTCL could not, therefore, defer finalization of the respondent's retirement or withhold his pensionary benefits. The High Court was consequently justified in holding that the disciplinary proceedings against the respondent stood abated and he was to retire with full pensionary benefits.

33. For the reasons given above, leave is refused and the petition is dismissed. The petitioner shall finalize the respondent's retirement from the date of his superannuation and pay to him his pensionary benefits, back benefits and other dues and entitlements, within three months from the date of announcement of this judgment.

34. A copy of this judgment shall be sent to the Managing Director/Chief Executive Officer of PTCL for compliance.

Judge

Judge

Announced.
Islamabad:
14.10.2026

Judge

Approved for reporting
(Muhammad Ahmad)