SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:
Justice Muhammad Ali Mazhar
Justice Musarrat Hilali

C.P.L.A.No.1897-L of 2024
Against the Order dated 14.05.2024 passed by the Punjab Service Tribunal, Lahore in C.M. No.330/2023 in Appeal No.5189/2021

Inspector General of Police, Punjab, Lahore & others ...Petitioners

Versus

Alamdar Hussain ...Respondent

For the Petitioners : Mr. Khalid Masood Ghani, Additional Advocate-General, Punjab a/w Muhammad Ashraf, SP

For the Respondent : Mr. Abdul Rahim Bhatti, ASC a/w Yasir Raheem, AHC

Date of Hearing : 20.05.2026

Judgment

Muhammad Ali Mazhar, J: This Civil Petition is directed against the order dated 14.05.2024 passed by the Punjab Service Tribunal, Lahore **(PST)** in C.M. No.330/2023 (review application) in Appeal No.5189/2021 whereby the review application was allowed.

2. The short and snappy facts of the case are that the respondent was served a charge sheet on 07.05.2021 along with statement of allegations. Regular departmental inquiry was conducted under the Punjab Police (Efficiency & Discipline) Rules 1975 and charges were proved. Despite

various opportunities afforded, the respondent failed to appear for personal hearing hence he was awarded major penalty of dismissal from service. After rejection of departmental appeal, he filed Service Appeal before the PST. The learned PST held all charges stood proven against the respondent during the course of the inquiry, whereas he failed to produce any solid evidence in support of his contentions and actions of the respondent as a member of a disciplined force found to be a stigma, therefore, the learned PST held that the respondent does not deserve any leniency and dismissed the appeal. Rather than preferring a civil petition for leave to appeal against the judgment of the Tribunal in this Court, the respondent filed an application for re-hearing of the arguments on 17.01.2023, i.e., the same day when the judgement was announced which was rejected vide order dated 18.01.2023. The respondent again filed similar application before the Chairperson of the PST on the same date, which was also rejected vide order dated 18.01.2023. Afterwards, the respondent filed Review Application on 03.03.2023, under Section 114, Order 47 and Section 151 of the Code of Civil Procedure 1908 **(CPC)** , read with Section 5 of the Punjab Service Tribunals Act 1974 **(PST Act)**. Hearing on the Review Application was conducted on 14.05.2024. The District Attorney, representing the Department, raised an objection as to the maintainability of the Review Application, on the ground that the PST Act has not conferred any power of review but this objection was repelled on the ground that since Section 5 of the PST Act confers powers of a civil court, therefore, it can review its order/judgment. Ultimately, on allowing the review application, the original judgment was reviewed and the respondent was reinstated into service.

3. To begin, it is essential to clarify that this lis was fixed before us on 20.05.2026 when at the outset the learned

Additional Advocate General, Punjab articulated that the department has no issue insofar as the reinstatement of the respondent on the ground that another employee (Saleem) facing similar charges was reinstated which will not be upset. However, he raised a vital question of law that under PST Act, there is no provision provided for the review of the order/judgment by the Tribunal, therefore, he requested that without upsetting the reinstatement which was made by the department much earlier, the legal question of jurisdiction may be decided so that it may not create a precedent in future. The aforesaid undertaking is taken on record and it is clarified that our judgment will be without prejudice to the reinstatement order of the respondent accorded by the petitioner much earlier in order to avoid discrimination while treating the case of respondent at par with case of another employee (Saleem).

4. The resolution of dispute turns on a single, critical question whether PST has been conferred the power of Review of its judgment and order under the PST Act? Therefore our primary objective is to outline and address this core issue.

5. Mr. Khalid Masood Ghani, the learned Additional Advocate General, Punjab argued that the PST does not enjoy the power of review under the PST Act; the power of review, being a substantive power, may only be vested in a judicial authority by the express language of the enactment. Since no power of review has been expressly provided in the PST Act, the PST exercised such power illegally and unlawfully. It was further argued that Section 4 of the PST Act provides a right of appeal, while Section 5 explicates the powers of PST wherein it is deemed to be a civil court but no provision is provided for review. It was further averred that even under the Punjab Service Tribunals (Procedure) Rules, 1975, **(1975**

Rules), it is clear that Rule 22 only allows for making correction of clerical or arithmetical mistakes arising from an accidental slip or omission which power of correction or rectification is distinct from the power of review. In support of his contention, the learned AAG, cited the judgments rendered by this Court in the case of S.A Rizvi versus Pakistan Atomic Energy Commission **(1986 SCMR 965)** and Muzaffar Ali versus Muhammad Shafi **(PLD 1981 SC 94)**. Furthermore, he cited the recent judgment of this Court in the case of Mst. Zubaida Khatoon & others v. Secretary (E&SE) Department Khyber Pakhtunkhwa (**2026 SCP 24)**, wherein this Court read down the ambiguous powers of review in the KPK Service Tribunal Act to make it workable.

6. Mr. Abdul Rahim Bhatti, learned ASC for the respondent argued that powers of Tribunal as enunciated in Section 5 of the PST Act wherein for the purpose of deciding any appeal, be deemed to be a civil court and shall have the same powers as are vested in such court under the CPC. As for as exercising the power of review is concerned, the Service Tribunals of all the four Provinces and the Federal Service Tribunal are also exercising the power under the Service Tribunals (Procedure) Rules, 1974. According to the learned counsel, the power of review is inherent in every judicial/quasi-judicial forum to prevent miscarriage of justice, particularly where the earlier judgment suffers from patent illegality, misreading of record, or causes manifest injustice. However, the learned counsel admits that although the PST Act does not expressly confer substantive review jurisdiction, the Tribunal, being a judicial forum vested with powers of a civil court, possesses ancillary and procedural jurisdiction to recall or correct an order suffering from patent illegality, error apparent on the face of the record, or manifest miscarriage of justice.

7. Heard the arguments. An austere survey of Section 5 of the PST Act deduces that under the dominion of powers, the PST may on appeal confirm, set aside, vary or modify the order appealed against and for the purpose of deciding any appeal, be deemed to be a civil court and shall have the same powers as are vested in such court under the Code of Civil Procedure, 1908 (Act V of 1908) including the powers of (a) enforcing the attendance of any person and examining him on oath; (b) compelling the production of documents; and (c) issuing commission for the examination of witnesses and documents. In exercise of powers conferred under Section 11 of the PST Act, the Governor of the Punjab notified Punjab Service Tribunals (Procedure) Rules 1975 whereby under the dictates of Rule 22, the PST has been conferred with powers to exercise either on its own motion or on an application made by any of the parties for rectifying any clerical or arithmetical mistakes arising in an order of final adjudication from any accidental slip or omission at any time.

8. The reality is completely unmistakable that the powers of civil court conferred to the PST are only confined to decide the appeal and it leaves no room for speculation that these powers can be exercised to assume the jurisdiction of review which power is not conferred in the main statute or even not in the rules except allowing to rectify the clerical or arithmetical mistakes due to any accidental slip or omission which is analogous to the powers of Civil Courts under Section 152 CPC. The Sections of CPC lay down the substantive legal principles and the rights of parties, while Orders provide the practical, step-by-step procedures to enforce those rights. The Sections are relied upon to claim a right or establish a legal foundation but Orders pave the way how to submit to the jurisdiction within the procedural

framework for redress. In fact, the CPC is characteristically coordinated into two well-defined parts and executes with precision as a unified cluster of Sections and Orders both.

9. In the situation we are looking at or within the parameters of the topic of conversation, it is warranted to review and analyse certain provisions of CPC for the sake of clarity. Section 96 and 104 of CPC deal with the appeals directed against the original Decree and appeals from Orders read with Orders 41 and 43 CPC respectively but powers of Review are provided under Section 114 read with Order 47 CPC, whereby aggrieved person may apply for a review of the judgment to the Court which passed the decree or made the order from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order was made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him.

10. As underscored previously, the PST is vested with powers of civil court for deciding appeal only without any separate powers for reviewing its own order therefore in this same context, it is to be tracked closely as to whether a review application constitutes a continuation of appellate jurisdiction? By and large, an appeal is legally recognized as a continuation of the original suit or trial/proceedings wherein the appellate court is always allowed to re-evaluate and re-examine both facts, evidence and law but a review jurisdiction is altogether a different and independent remedy which requires to be heard by the very same Court that passed the judgment or order in review originally rather than at a higher appellate forum. The right of appeal and right of review both

must be creation of statute therefore, a Court or Tribunal cannot assume review jurisdiction unless it is provided explicitly in the governing law. Any proceedings conducted or any judgment or order beyond the scope of powers conferred by the law to the Tribunal shall be considered ultra vires and coram non judice except the clerical, arithmetical, or typographical mistakes as provided under Rule 22 of the Rules 1975 in the present case. On passing the appellate judgment, PST becomes functus officio and cannot reopen or change the substance of its decision on its own whims but can only exercise its jurisdiction for the implementation or execution of its judgment in its true force and spirit. Allowing a review to be treated as a continuation of appellate jurisdiction would destabilize the legal principle of finality, where litigation must sooner or later come to an end. Courts more often than not repudiate the endeavours to make use of review applications to re-litigate matters that have already been adjudicated.

11. In the present context, the profound philosophical and theological Latin maxim “creatura non potest esse maior creatore suo” is quite pertinent which explicates that the “creature cannot be greater than its creator” or in other words, “a cause cannot give what it does not have”. In the absence of jurisdiction, the PST which is a creature of statute, cannot assume or invent inherent powers that its creator i.e. the lawmakers did not bequeath. In the case of Hussain Bakhsh vs. Settlement Commissioner Rawalpindi and others (**PLD 1970 SC 1**), this Court held that the right to claim review, like the right of appeal, is a substantive right and not a mere matter of procedure. The Court also placed reliance on the case of Sandback Charity Trustees vs. North Staffordshire Railway Co. (**1877 3 QBD 1**), where also it was held that an appeal does not exist in the nature of things; a right of appeal

from any decision of any tribunal must be given by express enactment. In the case of Muzaffar Ali versus Muhammad Shafi **(PLD 1981 SC 94),** it was held that review is a substantive statutory right and is always the creation of the relevant statute governing the subject matter. Unlike procedural matters, Courts, Tribunals, or Administrative Authorities do not possess any inherent or equitable power to review their own final decisions unless that specific legislative enactment explicitly confers such jurisdiction upon them. While in the case of S.A Rizvi versus Pakistan Atomic Energy Commission **(1986 SCMR 965)**, it was also held that the right of review is a substantive right that can only be created by an express statute**.**

12. The jurisprudence evolved by the Supreme Court of India deduces similar opinion that the power of review is not an inherent power but creature of statute. In the case of Patel Narshi Thakershi & Ors. v. Shri Pradyuman Singhji **[(1971) 3 SCC 844]**, the Court held that the power to review is not inherent and it must be conferred by the law. Whereas in the case of Kapra Mazdoor Ekta Union v. Management of Birla Cotton Spinning and Weaving Mills Ltd. **[(2005) 13 SCC 777]**, the Court while reiterating the principle laid down in the case of Grindlays Bank, clarified that where a quasi-judicial body or Tribunal changes its judgment on its substantive merits without specific law allowing it, such an order is void and completely without jurisdiction. In the case of Kuntesh Gupta v. Management of Hindu Kanya Mahavidyalaya **[AIR 1987 SC 2186]**, the court ruled that an administrative authority or quasi-judicial tribunal cannot review its own decision unless authorized by a statutory provision. While in the case of Kalabharati Advertising v. Hemant Vimalnath Narichania **[AIR 2010 SC 3054]**, it was held that if any court or statutory authority passes an order of review without having

any statutory power of review, such an order is coram non judice and a stark nullity in the eyes of law.

13. Even Halsbury's Laws of England and Corpus Juris both establish that statutory Tribunals are governed by the doctrine of functus officio, holding that substantive review is an extraordinary power, not an inherent one. While both sources recognize a limited "slip rule" to correct clerical errors, they emphasize that any substantive alteration to a final order requires explicit legislative authorization, failing which it is ultra vires. Halsbury's (5th Edition Vol. 61 Judicial Review Para. 611) and Corpus Juris (43 Cor. Jur. 682) confirm that a Tribunal cannot act as its own appellate court. Lacking a statutory provision, it cannot alter its decision on the merits.

14. Recently in the case of Mst. Zubaida Khatoon & others versus Government of Khyber Pakhtunkhwa **(Civil Petitions No.1966 & 2042 to 2059 of 2025= 2026 SCP 24)**, one of us while speaking for the bench discussed the provision of review encapsulated in the Service Tribunal Act constituted for the federal and provincial civil servants. Although in the larger interest of Civil Servants of the province of Khyber Pakhtunkhwa, the anomaly and incongruity created under Section 7A of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 and rightly noted by the learned Tribunal in that case was read down by this Court purposively to make it commensurate and complement to the provision of review provided under Section 4A of the Service Tribunals Act 1973 (Federal Law) but at the same time, holistic survey was also made by this Court to comprehend whether the right to review is provided in all Service Tribunal Acts (Federal and Provincial) uniformly, unvaryingly or at par or it depends on the ins and outs of every statute unconnectedly. When we delve into the area under discussion, it is revealed that power

of review is conferred to Service Tribunal by means of Section 4A of the Service Tribunals Act 1973 (Federal Law); Section 7A of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 and under Section 5A of the Balochistan Service Tribunals Act 1974 but no powers of review are provided under the Punjab Service Tribunals Act 1974 and Sindh Service Tribunals Act 1973.

15. In the case of Jameel Qadir versus Government of Balochistan **(2023 SCP 274 = 2023 SCMR 1919 =2023 SCLR 45)**, it was held by one of us that the term 'jurisdiction' in the legal parlance means the command conferred to the Courts by law and Constitution to adjudicate matters between the parties. The jurisdiction of every Court is delineated and established to adhere to and pass legal orders. Transgressing or overriding the boundary of its jurisdiction and authority annuls and invalidates the judgments and orders. In order to deal with the different species of litigation, some Courts and Tribunals are vested with exclusive jurisdiction for taking cognizance of matters which other Courts cannot take under the rigidity or stringency of exclusive jurisdiction to deal with and decide the *lis*. No Court has the right to decide any lawsuit which is beyond the purview of its jurisdiction and want of jurisdiction conveys an action beyond the domain earmarked to any particular Court or Tribunal which cannot be cured, even by consent or acquiescence of parties. When the suit is brought in a court without jurisdiction it is said to be *coram non judice*. If the order or judgment is suffering from the vice of *coram non judice* it may be quashed and set aside by the Court. Whereas the term *functus officio* literally denotes of no further official authority or legal effect or having performed his office, and is used in the context of an officer who is no longer in office or has fulfilled its purpose. This doctrine has an extensive and

pervasive application to both the judicial and quasi-judicial authorities and if such doctrine is considered insignificant, it will lead to disorder, therefore, this should be given credence to bring in decisiveness and certitude to legal proceedings.

16. As a result of the above discussion and subject to the observation made in paragraph (3) above, this Civil Petition is converted into appeal and allowed. As a consequence thereof, the impugned order dated 14.05.2024 passed by the learned Punjab Services Tribunal on C.M. No.330/2023 moved in Service Appeal No.5189/2021 is set aside.

Judge

Judge

Announced in open court Judge

On 22.07.2026 at Islamabad
Khalid
Approved for reporting