

Invalid Resignation Is Not Retirement: Supreme Court

In *Government of Khyber Pakhtunkhwa v. Mst. Bacha Jehan*, the Supreme Court held that a service tribunal may invalidate an unproved resignation but cannot convert it into retirement merely because the employee completed pensionable service.

Judgment analysis | Published 10 September 2026 | Shahbaz Shah, Advocate High Court

Case: Civil Petition No. 50-P of 2022

Court and date: Supreme Court of Pakistan | 30 July 2026

Bench: Justice Shakeel Ahmad and Justice Ishtiaq Ibrahim

Result: Appeal partly allowed; invalid resignation maintained, conversion into retirement set aside

What the Supreme Court decided

The Supreme Court of Pakistan has drawn a clear legal distinction between resignation and retirement. A service tribunal may declare a disputed resignation invalid where the department fails to prove that it was genuine and voluntary. But the tribunal cannot then convert that resignation into retirement merely to give the employee pensionary benefits, unless the governing service law authorizes that result.

The judgment was delivered in *Government of Khyber Pakhtunkhwa through Secretary Population Welfare Department and others v. Mst. Bacha Jehan*, Civil Petition No. 50-P of 2022. Justice Shakeel Ahmad authored the order for a two-member bench also comprising Justice Ishtiaq Ibrahim. The matter was heard and decided on 30 July 2026, and the order was approved for reporting.

The Supreme Court converted the petition into an appeal and partly allowed it. It maintained the Service Tribunal's finding that the respondent's purported resignation was invalid, but set aside the part of the Tribunal's judgment that converted it into retirement and directly granted pensionary benefits.

How the dispute reached the Supreme Court

The Khyber Pakhtunkhwa Service Tribunal had allowed Service Appeal No. 1496 of 2019 on 7 December 2021. The Tribunal declared the respondent's resignation invalid and converted it into retirement, treating her as entitled to pensionary benefits because she had rendered more than ten years of qualifying service.

The provincial government and Population Welfare Department challenged that result before the Supreme Court. The case required the Court to separate two questions that the Tribunal had effectively combined.

First, was the alleged resignation genuine, voluntary and legally valid? Second, if the resignation was invalid, did the Tribunal have statutory power to replace it with retirement solely to create entitlement to pension?

The Supreme Court held that the answers came from different legal principles. The failure of a resignation does not automatically prove retirement. Each mode of ending service has its own source, conditions and consequences.

Department bears the burden of proving a denied resignation

Where an employee specifically denies having tendered a resignation, the department relying on that document must prove it. The Court stated that this burden is especially important where the employee is illiterate.

The department must establish that the resignation was voluntarily executed, that the employee understood its contents and legal consequences, and that it was free from coercion, fraud or misrepresentation. It must also show that the resignation was accepted strictly in accordance with the applicable service law and rules.

If the department fails to discharge that burden, the resignation is void from the outset. In law, the employee is then treated as having continued in service until the relationship is lawfully ended by retirement, dismissal, removal or another recognized mode.

This part of the judgment protects employees from being removed through a disputed paper that the employer cannot authenticate. It does not create an automatic presumption that every challenged resignation is false. The employee's denial activates a burden that must be decided on evidence and the applicable service rules.

Resignation and retirement are legally different

The Supreme Court described resignation and retirement as juristically distinct modes of cessation of service.

Resignation is a voluntary relinquishment of office by the employee. Retirement occurs in the manner prescribed by service law, ordinarily upon reaching the age of superannuation or through voluntary retirement where the relevant rules permit it.

That distinction prevents a court or tribunal from treating the two labels as interchangeable. An invalid resignation means that the attempted resignation did not end service. It does not mean that the employee retired on the same date.

The Court also rejected the proposition that completion of the minimum qualifying period for pension, by itself, permits an employee to be treated as retired. Qualifying service is only one possible condition for pension. It does not replace the legal requirements for retirement.

Limits of the Service Tribunal's power under section 7

The Court examined section 7 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974. The Tribunal's powers are essentially appellate. It may set aside an unlawful order, direct reinstatement, remand a matter, modify a penalty or grant consequential relief permitted by law.

Those powers do not authorize the Tribunal to create a new legal fiction on equitable considerations alone. Without express statutory authority, it cannot substitute retirement for resignation merely to make pension available.

Equity can shape relief within the law, but it cannot create a mode of cessation of service that the applicable rules do not recognize on the proved facts. The statutory basis for retirement must still exist.

When consequential pension relief may be lawful

The Supreme Court did not impose an absolute bar on pensionary relief after a resignation is declared invalid. It identified circumstances in which relief may be moulded according to law.

If an employee reaches the age of superannuation while proceedings are pending, the legal consequence of the void resignation may be that the employee is treated as having continued in service until that date. Service and pensionary benefits may then follow under the applicable rules.

The Court also referred to situations where reinstatement has become impracticable owing to the passage of time, or where the parties have lawfully settled pensionary benefits. Even then, the relief must rest on a legally sustainable foundation.

The critical distinction is the reason for the legal fiction. The employee may be deemed to have continued in service because the resignation was void. The employee is not deemed retired merely because the minimum qualifying service for pension had been completed.

Why the Tribunal's pension direction failed

In Bacha Jehan's case, the Tribunal converted the resignation into retirement solely because she had completed more than ten years of qualifying service.

The Tribunal did not find that she had reached the age of superannuation. Nor did it find that she had otherwise become entitled to retire under the applicable service rules. The Supreme Court therefore held that the conversion into retirement was legally unsustainable.

The Court observed that the position could have been different if the Tribunal had first held the resignation invalid and then found that the respondent reached superannuation during the proceedings. On that finding, treating her as having remained in service until superannuation could support consequential benefits. Those were not the facts found by the Tribunal.

Final relief granted by the Supreme Court

The Supreme Court partly allowed the government's appeal and divided the relief with precision.

It set aside the Tribunal's judgment only to the extent that the purported resignation had been converted into retirement and pensionary benefits had been granted on that basis. The finding that the resignation itself was invalid remained intact.

The petitioners were directed to treat the respondent as having continued in service from the date of the purported resignation and to extend all consequential service benefits in accordance with law.

The Court also left the respondent at liberty to seek the appropriate remedy for invalid pension on account of poor health, if she wished. That liberty was not itself an award of invalid pension. Any such claim remains subject to the relevant rules, evidence and competent forum. No order as to costs was made.

What the judgment does not decide

The judgment does not hold that ten years of qualifying service is irrelevant to pension. It holds that qualifying service alone cannot transform a resignation into retirement when the legal requirements for retirement have not been established.

It does not direct the respondent's immediate reinstatement to a specific post or determine the exact monetary amount of her consequential benefits. The department must give effect to the direction in accordance with the applicable law.

It does not grant invalid pension. The Court only preserved the respondent's liberty to pursue the appropriate remedy on account of poor health.

It also does not give service tribunals an unrestricted power to mould relief. Any consequential order must remain within the governing statute and service rules.

Practical significance for service cases

A department relying on a resignation should preserve the original document, proof of its execution, any witness or attestation record, evidence that its contents were explained to the employee and the competent authority's acceptance under the applicable rules. A disputed resignation signed or marked by an illiterate employee requires especially careful proof of understanding and free consent.

An employee challenging a resignation should plead clearly whether the document is denied altogether or alleged to have resulted from fraud, coercion or misrepresentation. The service record, literacy evidence, contemporaneous correspondence, attendance and salary record, and the manner of acceptance may become material.

Before claiming pensionary relief, counsel should identify the exact legal route: superannuation, voluntary retirement, invalid pension or another rule-based entitlement. Completion of qualifying service should not be pleaded as though it independently proves retirement.

For service tribunals, the sequence of reasoning matters. The tribunal should first decide the validity of the resignation. If it is void, the tribunal should identify the employee's resulting legal status and then grant only those consequential benefits supported by the service law and proved facts.

Conclusion

Government of Khyber Pakhtunkhwa v. Mst. Bacha Jehan is an important Supreme Court judgment on disputed resignations, pensionary benefits and the statutory limits of service-tribunal relief.

Its rule is balanced. A department cannot rely on an unproved resignation, particularly against an illiterate employee who denies executing it. At the same time, a tribunal cannot cure that invalid resignation by inventing a retirement merely because the employee has completed pensionable service.

The lawful consequence is continuity of service until a legally recognized event ends it. Retirement and pension must then be determined under the applicable rules, not created by equitable substitution.

This commentary is independent legal analysis for research and general information. The supplied judgment, applicable service rules and any subsequent judicial treatment should be checked before reliance in proceedings.