

Supreme Court: Government Delay in Gazette Publication Cannot Defeat Employee Seniority

A source-faithful analysis of statutory regularization, delayed Official Gazette publication, continuous officiation and inter-se seniority under the Khyber Pakhtunkhwa 2018 Act.

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COURT	Supreme Court of Pakistan
CASE	Civil Petitions 5091-5093/2025 and 986-P-988-P/2025
DECIDED	19 May 2026
RESULT	Appeals allowed; original seniority restored

Independent legal analysis based on the supplied 13-page judgment copy. Published 28 August 2026.

The ruling in one sentence

In *Sahibzada Hassan Ali and others v. Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and others*, with connected petitions, the Supreme Court of Pakistan held that employees regularized by the Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2018 could not lose their original seniority merely because public officials delayed publication of the regularization notifications in the Official Gazette until 2024.

The Court converted the six civil petitions into appeals, allowed them, set aside the Khyber Pakhtunkhwa Service Tribunal's consolidated judgment dated 12 September 2025 and restored the employees' seniority to its original position.

Why this judgment matters

The decision addresses a difficult and recurring service-law question: when a statute grants a benefit from a specified date but also requires publication of the beneficiaries' names in the Official Gazette, does late publication postpone the legal benefit?

The Supreme Court answered that question in favour of the employees on the particular statutory and factual record before it. It treated the delayed publication as a procedural failure by the administration, not as a fatal defect capable of shifting regularization and seniority by more than six years.

The judgment is significant for four connected principles:

- a statutory benefit should not be defeated by the government's own administrative delay;
- Gazette-publication requirements may be directory where the parent law gives no nullifying consequence for delayed publication;
- a beneficial notification that confirms an accrued status is different from an unpublished instrument that creates a new burden, penalty or liability; and
- seniority must be decided under the specific statutory seniority rule, not by isolating the later publication date from the rest of the Act.

The decision must still be used carefully. It does not hold that publication in the Official Gazette is generally unnecessary. Nor does it validate every retrospective notification. The Court repeatedly tied the result to the 2018 Act, the beneficial nature of regularization, the employees' continuous service, the absence of prejudice and the fact that the delayed notifications themselves preserved 7 March 2018 as the effective date.

Case at a glance

- Case: *Sahibzada Hassan Ali and others v. Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and others*, with connected Government petitions
- Case numbers: Civil Petitions Nos. 5091 to 5093 of 2025 and Civil Petitions Nos. 986-P to 988-P of 2025

- Court: Supreme Court of Pakistan, Appellate Jurisdiction
- Bench: Justice Muhammad Ali Mazhar and Justice Musarrat Hilali
- Judgment author: Justice Muhammad Ali Mazhar
- Hearing and decision date: 19 May 2026
- Judgment challenged: Khyber Pakhtunkhwa Service Tribunal consolidated judgment dated 12 September 2025 in Service Appeals Nos. 1427 to 1429 of 2024
- Status: Approved for reporting; no reported citation appears in the supplied judgment
- Result: Petitions converted into appeals and allowed; Tribunal judgment set aside; employees' seniority restored

How the dispute arose

The employees were initially appointed against project posts through a notification dated 30 June 2016. The Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2018 came into force on 7 March 2018 and covered employees working in numerous projects.

The employees were regularized through notifications dated 28 August 2018 and 17 October 2018, both operating from the commencement of the Act on 7 March 2018. The department then determined inter-se seniority under section 6 and issued a final seniority list on 13 February 2019, followed by further lists for later years.

The serious administrative failure came later. The 2018 regularization notifications were not published in the Official Gazette until 21 August 2024. Even then, they expressly retained 7 March 2018 as the effective date.

After the 2024 seniority list was issued, the private respondents submitted a joint departmental representation. The representation was rejected, but their service appeals succeeded before the Service Tribunal. The Tribunal treated the date of Gazette publication as decisive and held that, until 21 August 2024, the project employees were not regular civil servants entitled to the disputed seniority.

Both the affected employees and the provincial government challenged that result before the Supreme Court.

The statutory tension the Court had to resolve

The dispute could not be answered by reading only one sentence of the 2018 Act.

Sections 3 and 4 use a deeming formula. In substance, qualifying ad hoc and project employees holding the relevant posts at the commencement of the Act are deemed to have been validly appointed on a regular basis from the date the Act commenced, subject to verification of qualifications and credentials.

Section 5 states the general conditions for regularization. Its clause (iv) says that the services of covered employees shall be deemed to have been regularized only on publication of their names in the Official Gazette.

Section 6 separately governs seniority. Under section 6(2), the inter-se seniority of employees regularized within the same service or cadre is determined by continuous officiation. If two or more employees share the same date of continuous officiation, the older employee ranks senior.

The private respondents relied heavily on the word only in section 5(iv). The employees and the government relied on the statutory commencement date, the deeming provisions and the distinct seniority formula in section 6.

The Tribunal's approach

The Service Tribunal treated Gazette publication as the event that completed regularization. On that view, the employees could not claim regular status or the associated seniority before 21 August 2024, even though the notifications were issued in 2018 and were eventually published with effect from 7 March 2018.

That approach had a severe practical consequence. Employees who had been working before the 2018 Act, whose regularization had been recognized by the department and whose seniority had appeared in successive lists from 2019 onward, would fall below employees appointed later in 2018 because the administration failed to complete publication on time.

The Supreme Court rejected that consequence as inconsistent with the Act's scheme and the factual record.

Publication normally matters

The judgment does not dismiss the constitutional and rule-of-law importance of publication. Referring to section 20A of the General Clauses Act, 1897 and *Sohail Ahmed v. Province of Sindh and others*, reported as 2017 PLC (C.S.) 510, the Court acknowledged the general principle that laws, rules and regulations should be published and accessible before they bind citizens.

The Court also restated that a notification which impairs a vested right, creates a new liability or curtails or extends legal rights ordinarily takes effect from publication in the Official Gazette. An order kept inside a department is not normally a substitute for an officially published notification.

That part of the reasoning is essential. The decision is not authority for secret law or undisclosed executive action.

Why the late publication was treated as directory here

The Court then asked a narrower question: did the delay in publishing these particular beneficial regularization notifications invalidate the status already conferred by the 2018 Act or postpone it until 2024?

Its answer rested on the following combined considerations:

- the parent statute itself fixed regularization from its commencement on 7 March 2018;
- the employees were existing workers, not persons claiming a status for a period in which they performed no service;
- the 2018 notifications were beneficial and remedial rather than instruments imposing a penalty, tax or new liability;
- the delayed Gazette publication preserved the same statutory effective date;
- the affected employees had no control over the department or Government Printing Press;
- no public or private prejudice arising from the earlier effective date was demonstrated;
- the other employees knew of the 2018 legislation and the petitioners' service position; and
- the Act did not expressly say that delay or non-publication would render the regularization void or unenforceable.

On this record, the Court held that the publication requirement could be treated as directory and the delay as a procedural defect rather than a fatal flaw. The legal right accrued when the statute took effect, while the later notification formally recorded and implemented that right.

Seniority was governed by section 6, not the printing date

The judgment's seniority analysis is as important as its discussion of publication.

Section 6(2) supplies an express formula based on continuous officiation within the service or cadre. The petitioners had been working before the private respondents were appointed, and the department had consistently placed them higher in seniority lists for 2019, 2020, 2021, 2022 and 2023.

The Supreme Court found no justification for allowing employees appointed later to overtake employees already serving and regularized by operation of law merely because public officials took until 2024 to publish the notifications.

For pleading purposes, this means counsel should not stop at proving the date of regularization. The statutory rule that actually determines inter-se seniority must be identified and applied separately.

The State cannot profit from its own delay

The Court described the government as a model employer that must act fairly, process service matters promptly and avoid exploiting technicalities created by its own inefficiency.

It invoked the no-prejudice principle associated with the maxim *Actus Curiae Neminem Gravabit* and extended the underlying rationale to State action: neither an act of the Court nor an unlawful administrative lapse should prejudice a person who did not cause it. The

State must not take advantage of its own wrong.

The judgment also connects this principle with practical administration. Recruitment should be transparent; promotion boards should meet without inordinate delay; pension and retirement benefits should be processed promptly; seniority disputes should be resolved on time; and contractual employment should not be allowed to continue indefinitely through bureaucratic inaction.

These observations strengthen the public-law dimension of the case. The dispute was not treated as an isolated clerical mistake but as a question of lawful administration and responsibility for the consequences of State delay.

Authorities relied upon by the Supreme Court

The judgment draws on a substantial line of Pakistani precedent concerning publication, substantial compliance and the difference between mandatory and directory requirements. The authorities cited include:

- Chief Commissioner, Karachi v. Jamil Ahmed and another, PLD 1961 SC 145;
- Manzur-ul-Haq v. Controlling Authority, Local Councils, Montgomery and others, PLD 1963 SC 652;
- Muhammad Suleman v. Abdul Ghani, PLD 1978 SC 190;
- Muhammad Siddique v. Market Committee, Tandlianwala, 1983 SCMR 785;
- Pakistan through Secretary, Ministry of Defence and others v. Late Ch. Muhammad Ahsan, 1991 SCMR 2180;
- Multiline Associates v. Ardeshir Cowasjee and others, PLD 1995 SC 423;
- Saghir Ahmed v. Province of Punjab, PLD 2004 SC 261;
- Government of Sindh v. M/s Khan Ginners, PLD 2011 SC 347; and
- Bahadur Khan and others v. Federation of Pakistan, 2017 SCMR 2066.

The Court also referred to the Indian decisions *Municipal Corporation of Greater Mumbai v. Anil Shantaram Khoje*, 2014 INSC 155, and *B.K. Srinivasan v. State of Karnataka*, AIR 1987 SC 1059.

The common thread was not that publication is optional. It was that the consequence of defective or delayed publication depends on statutory purpose, the language used, the nature of the right or burden, substantial compliance and demonstrated prejudice.

The strongest way to use this judgment

An employee relying on the case should produce a complete documentary chain:

1. the statute and its commencement date;
2. proof that the employee falls within the protected class;
3. the initial appointment and continuous-service record;

4. the regularization notification and its stated effective date;
5. the Gazette publication and evidence explaining the delay;
6. every relevant seniority list and departmental representation; and
7. the specific statutory rule governing seniority.

The legal submission should distinguish between a right created by the statute and administrative steps required to record or implement that right. It should also show the absence of prejudice and identify why the relevant publication clause provides no consequence of invalidity.

For the opposing side, the correct response is not simply to repeat that publication was late. The stronger questions are whether the statute truly creates the status before publication, whether the claimant satisfies every statutory condition, whether the later instrument changes rather than confirms rights, whether third-party rights were affected and whether the parent law attaches a clear consequence to non-publication.

What the judgment does not decide

The ruling does not mean that every unpublished rule, order or notification is enforceable. Instruments that impose duties, penalties, taxes, liabilities or hidden restrictions remain governed by the fundamental requirement of lawful publication and accessibility.

It does not authorize the executive to give retrospective effect to a notification whenever it chooses. Here, the effective date came from the statute and was repeated in the eventual Gazette publication.

It does not create a general right to regularization for every project, ad hoc or contract employee. A claimant must fall within the governing statute and satisfy its qualifications, verification and service conditions.

It does not replace the seniority formula in the applicable law or rules. The outcome depended materially on section 6(2) and the employees' continuous officiation.

It does not decide that the word only in a publication clause is meaningless. The judgment reads that word within the entire statutory scheme and the unusual facts of a six-year administrative delay. A statute that expressly makes publication a condition precedent and states the consequence of non-compliance may produce a different result.

Critical legal analysis

The hardest part of the case is the text of section 5(iv), because the phrase regularized only on publication naturally appears mandatory. The Court did not resolve that tension through literal interpretation alone. It relied on the Act's deeming provisions, the fixed commencement date, the separate seniority rule, beneficial purpose, substantial compliance, absence of prejudice and the principle that the State cannot profit from its own wrong.

That purposive approach prevents an obviously unfair result: public officials could otherwise destroy six years of service consequences through their own unexplained failure

to publish. It also preserves the distinction between a statute-created status and administrative evidence of that status.

The necessary caution is that fairness cannot by itself rewrite a statute. Future courts applying this judgment should identify which parts of the parent law create the right, which parts regulate its implementation and what consequence the legislature attached to non-compliance. Without that disciplined analysis, a fact-specific service-law ruling could be expanded into an unsafe general exception to Gazette publication.

The judgment is therefore strongest when cited for this narrower proposition: where beneficial employment status is conferred by statute from a fixed date, the employee has continuously served, the eventual Gazette notification confirms that same date, no adverse third-party consequence is shown and the statute supplies no nullifying consequence for administrative delay, the State cannot use its own publication failure to defeat the accrued status or seniority.

Final outcome

The Supreme Court held that the employees had made out a case for interference. It converted the civil petitions into appeals and allowed them. The Service Tribunal's consolidated judgment was set aside and the employees' seniority was restored to its original condition.

Judgment record

The supplied 13-page judgment copy is available with this article for public viewing and download. Its title page, case numbers, parties, bench, hearing date, statutory provisions, cited authorities, reasoning and final order were checked page by page.

The PDF metadata identifies PDFium as creator and producer. It is therefore described as a supplied judgment copy and is not represented as the Supreme Court's original digital file. The judgment states that it was approved for reporting, but no reported citation appears in the supplied text.

This commentary is independent legal analysis for research and general information. Before relying on it in proceedings, counsel should verify the official judgment, the current text of the Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2018, any later reported citation or judicial treatment, and the complete service record of the particular employee.