

IN THE SUPREME COURT OF PAKISTAN**(Appellate Jurisdiction)****Bench-II:****Mr. Justice Syed Mansoor Ali Shah Mr.
Justice Aqeel Ahmed Abbasi****C.P.L.A. No. 2283-L/2016*****(Against the judgment dated 02.02.2016 passed by the Punjab Service Tribunal,
Lahore in Appeal No. 2308/2015)***

Muhammad Niaz Khan

... Petitioner

Versus

R.P.O. Sheikhpura Region at Lahore, etc.

... Respondent(s)

For the Petitioner: Mr. Javed Imran Ranjha, ASC.
(Through Video Link, Lahore)For the Respondents: Mr. Khalid Masood Ghani, AAG, Pn.
a/w Mr. Nasir Abbas, DSP Legal, Mr.
Shoaib Inspector, Legal.Assisted by: Mr. Umer A. Ranjha, Judicial Law Clerk,
Supreme Court of Pakistan.

Date of Hearing: 12.05.2025.

JUDGMENT**Syed Mansoor Ali Shah, J.–***“Proportionality as principle or doctrine is a way to bring the demands of justice into
greater harmony with the law of constitutional rights.”¹*

Disciplinary proceedings were initiated against the petitioner, then serving as a Sub-Inspector at Police Station Mandi Usman Wala, Sheikhpura, through a show cause notice dated 07.06.2014, issued by the Regional Police Officer (“RPO”), Sheikhpura, under the provisions of the Punjab Police (Efficiency and Discipline) Rules, 1975. The allegations raised pertained to faulty investigation by the petitioner. In response, the petitioner submitted a written reply denying the charges, but his explanation was deemed unsatisfactory. Consequently, he was awarded the major penalty of dismissal from service via order dated 04.08.2014, issued by the RPO. On departmental appeal, the penalty was

reduced to a two-stage reduction in pay, and the petitioner was reinstated into service by order dated 27.03.2015. Dissatisfied with this outcome, the petitioner

¹ Mattias Kumm, 'Constitutional Rights as Principles: On the Structure and Domain of Constitutional Justice' (2004) 2 International Journal of Constitutional Law 574.

approached the Punjab Service Tribunal, Lahore (“Tribunal”), seeking reinstatement with effect from the date of his original dismissal, along with all consequential benefits. The Tribunal partially allowed the appeal and modified the penalty from a two-stage to a one-stage reduction in pay through the impugned order dated 02.02.2016 (“impugned order”). Hence, the present petition for leave to appeal.

2. We have heard the learned counsel for the parties and carefully examined the impugned order, the applicable law, and the record of the case.

3. The Tribunal found that although an investigation had been conducted, the prosecution failed to produce even a shred of evidence to substantiate the allegations. It observed:

“3. From the record it is evident that neither the punishing authority took into consideration this version of the appellant nor he gave any weight to his stance before imposing major penalty upon the appellant which was sheer violation of principle, of natural justice. There was no direct and confidence inspiring evidence available on record which could link the appellant with the alleged charges of receiving illegal gratification. The prosecution has badly failed to produce even an iota of evidence in order to substantiate the allegations leveled against the appellant. Neither tangible and cogent evidence (documentary or oral) has been brought on record in order to prove the veracity of the allegations which gives credence to the fact that the appellant's version was plausible and credible. Even regular inquiry was not conducted before imposition of major penalty...” (emphasis supplied)

Despite these categorical findings, the Tribunal opted merely to reduce the penalty, rather than exonerate the petitioner. It appears that the Tribunal relied, albeit implicitly, on the principle of proportionality, finding the original penalty disproportionate to the alleged misconduct. However, this application was both legally flawed and logically inconsistent with its own conclusion when no misconduct was established. The Tribunal failed to properly exercise its discretion under Section 5 of the Punjab Service Tribunals Act, 1974, which empowers it to confirm, set aside, vary, or modify impugned orders. While the Tribunal has authority to vary the punishment in appropriate cases, such discretion must be exercised judiciously grounded in the record, legal standards, and principles of fairness.² It is well established that judicial interference with disciplinary penalties is only justified where the penalty is arbitrary, perverse, or based on irrelevant considerations.³ Once the Tribunal found that the allegations

² Deputy Postmaster General v. Habib Ahmed 2021 PLC (C.S.) 531 and Secretary, Government of Punjab v. Khalid Hussain Hamdani 2013 SCMR 817.

³ Divisional Superintendent, Postal Services, D.G. Khan v. Nadeem Raza 2023 SCMR 803; Government of Khyber Pakhtunkhwa

v. Nargis Jamal 2022 SCMR 2114 and Postmaster General Sindh, Karachi v. Syed Farhan 2022 SCMR 1154.

were wholly unsubstantiated, the only lawful outcome was to exonerate the petitioner.

4. The principle of proportionality provides a structured framework for judicial review of administrative actions.⁴ Developed across various constitutional jurisdictions⁵, it involves a four-step⁶ test: (i) the measure must pursue a legitimate aim; (ii) be suitable to achieve that aim; (iii) be necessary, in that no less restrictive alternative exists; and (iv) strike a fair balance between the measure's impact on individual rights and the public interest. This Court has recently introduced and adopted this four-stage test to assess the legality and fairness of administrative and disciplinary decisions.⁷ Such framework ensures that any interference with rights is justified, necessary, and lawful.

5. Proportionality promotes a stable and systematic method of constitutional adjudication.⁸ Courts employing this approach are expected to articulate clearly the reasoning behind their decisions at each stage of the analysis thereby enhancing transparency, accountability, and legitimacy in judicial reasoning. Proportionality must, therefore, be applied with discipline, care, and sensitivity to context, particularly where fundamental rights and human dignity are at stake.

6. In the present case, the Tribunal's own findings confirm that there was no credible evidence, documentary or oral, linking the petitioner to the alleged misconduct. No regular inquiry was held, and the principles of natural justice were violated.⁹ In such circumstances, the very first limb of the proportionality test i.e., legitimacy fails. Without proven misconduct, there can be no legitimate objective warranting disciplinary action. Any penalty, however minor, is thus disproportionate by default. The absence of evidence removes the legal basis for any sanction. Furthermore, Articles 4, 14, and 25 of the Constitution of the Islamic Republic of Pakistan, 1973, which guarantee the right to be treated in accordance with law, human dignity, and equality before the law, require all forums, including

⁴ HP Wade, CR Forsyth and the Rt Hon Lord Woolf, *De Smith's Judicial Review* (8th edn, Sweet & Maxwell 2018). See Muhammad Nasir Ismail v. Government of Punjab 2025 SCP 67 (SCP citation); Shahida Siddiqi v. Allied Bank Limited 2024 SCMR 92; Pervaiz Hussain Shah v. Government of Punjab 2024 SCMR 309; Ijaz Badshah v. Government of Pakistan 2023 SCMR 407; Divisional Superintendent, Postal Services v. Nadeem Raza 2023 SCMR 803; Muhammad Sharif v. Inspector General of Police, Lahore 2021 PLC (C.S.) 762; Muhammad Iqbal Khan Noori v. NAB PLD 2021 SC 916 and Sabir Iqbal v. Cantonment Board PLD 2019 SC 189.

⁵ De Freitas v. Permanent Secretary of Ministry of Agriculture [1999] 1 AC 69; R(Daly) v. Secretary of State for the Home Department [2001] 2 AC 532; R v. Shayler [2003] 1 AC 247; Huang v. Secretary of State for the Home Department [2007] 2 AC

167.

⁶ Bank Mellat v. HM Treasury (No.2) [2013] UKSC 39 (per Lord Sumption).

⁷ District and Sessions Judge (Authority), Jhang v. Ghulam Shabbir (C.P.L.A. No. 2987-L/2019).

⁸ T Alexander Aleinikoff, 'Constitutional Law in the Age of Balancing' (1987) 96 Yale LJ 943.

⁹ Aamir Akbar v. Additional Superintendent of Police, Bahawalpur 2025 SCMR 632; Sakhil Zar v. K-Electric Limited 2024 SCMR 1722 and Raja Muhammad Shahid v. Inspector General of Police 2023 SCMR 1135.

tribunals, to ensure that disciplinary measures are not only lawful but also fair and just.

7. Once the Tribunal concluded that the disciplinary process was procedurally flawed and unsupported by evidence, it was legally and constitutionally bound to reinstate the petitioner with all consequential benefits. Its failure to do so reflects a fundamental error of law, a misapplication of the principle of proportionality, and a disregard for the constitutional principles of fairness and due process. Endeavouring to “balance” unproven misconduct with the imposition of a continuing penalty is both illogical and legally untenable. Given the manifestly unjust disciplinary proceedings, the petitioner is entitled to complete exoneration and full restitution. It is not the role of the Tribunal to engage in an exercise of mercy or compromise where the foundational basis of penal action is wholly unsubstantiated. Fairness demands rectification, not calibration, in the face of injustice.

8. For these reasons, we find that the impugned order is untenable in both law and fact. Once the Tribunal determined that the charges were unsubstantiated, the only legally viable course was to exonerate the petitioner. The imposition of any penalty, absent proven misconduct, constitutes a violation of natural justice and results in a manifest miscarriage of justice. The Tribunal’s decision, being internally inconsistent and contrary to constitutional norms, is accordingly set aside. The petitioner stands exonerated and is directed to be reinstated in service from the date of his original dismissal, with all consequential benefits.

9. Accordingly, this petition is converted into an appeal and is hereby allowed.

Islamabad,
12th May, 2025.
Approved for reporting
Sadaqat

Judge

Judge