

2025 SCP 391
IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Syed Mansoor Ali Shah

Mr. Justice Aqeel Ahmed Abbasi

Civil Petition No.4430 of 2022

*(Against the judgment dated 02.11.2022 of the
Federal Service Tribunal, Islamabad in Appeal
No.813(R)CS of 2021)*

*Federation of Pakistan through Secretary, Ministry of
Defence, Rawalpindi and others
Versus*

Rooh ul Amin

For the Petitioners: Barrister Umer Aslam Khan, AAG Pak.

For the Respondent: Mr. Zubair Hussain, ASC

Date of Hearing: 13.10.2025

ORDER

Syed Mansoor Ali Shah, J.- Brief facts of the case are that adverse remarks were recorded against the respondent in the year 2013. Subsequently, his case came before the Departmental Promotion Committee (“DPC”) for promotion to the post of Sub-Engineer B&R Grade-I (BS-14) in 2015 but he was superseded on the ground of these adverse remarks. The respondent met the same fate in the DPCs held in 2016, 2017, 2018, and 2019. He separately challenged the adverse remarks, which were finally set aside by the Federal Service Tribunal on 26.09.2018, and that decision was upheld by this Court on 06.05.2019. Afterward, the DPC convened in March 2020 and promoted the respondent with effect from 22.07.2020.

2. The respondent contends that he ought to have been promoted from 27.07.2015 – the date when he first became entitled to promotion – but was wrongfully superseded on the basis of adverse remarks that no longer exist in the record. His departmental representation claiming ante-dated promotion was rejected on 09.12.2020. The subsequent representation also failed, leading him to file an appeal before the Tribunal, which through the impugned judgment dated 02.11.2022, allowed his claim and held that he was entitled to be promoted from 2015. The Government has assailed this judgment before us.

3. Learned Additional Attorney General for Pakistan submits that the respondent's departmental representation was barred by time, rendering the appeal before the Tribunal incompetent. On merits, he argues that the respondent never challenged the DPC decisions for 2015 to 2019, and as those orders of supersession still subsist, he cannot now claim ante-dated or pro-forma promotion. He relies upon *Abdul Ghani Chaudhry v. Secretary Establishment, Islamabad and others* (1998 SCMR 2544).

4. Conversely, learned counsel for the respondent refers to paragraph 7 of the impugned judgment, wherein the Tribunal found sufficient cause to condone the delay in filing the departmental representation. It held that the respondent received the relevant communication on 03.02.2021 and, given the security and access constraints of his posting, the delay was justified. He further submits that once the adverse remarks – the sole reason for all supersessions – were set aside by a competent forum and the decision attained finality up to this Court, the supersession orders automatically lost all legal efficacy.

5. We have heard learned counsel and examined the record. On limitation, we find no error in the Tribunal's reasoning. It duly considered the factual circumstances, recorded sufficient cause, and exercised its discretion judiciously in condoning the delay. No interference is warranted on that score.

6. On merits, the core issue is whether the respondent was required to challenge each supersession order separately when all such orders were founded exclusively on adverse remarks that were subsequently annulled. The answer must plainly be in the negative. Once the adverse remarks were expunged by the Tribunal and that finding was upheld by this Court, they ceased to exist in the service record ab initio. In the eye of law, they are deemed never to have been recorded. Consequently, any supersession resting entirely on those remarks collapses with them. It is a settled principle that when the foundation of an administrative order disappears, the superstructure built upon it cannot survive. The orders of supersession were derivative and consequential in nature; once their premise was extinguished, they stood denuded of all legal effect. Non-challenge to such supersession orders, therefore, carries no independent

significance. One cannot be compelled to challenge a shadow of a decision whose substratum has been judicially erased. The insistence that the respondent should have separately impugned those orders amounts to requiring a meaningless formality – an exercise in futility that the law does not demand. The dictum in *Abdul Ghani Chaudhry* is distinguishable, as the case does not discuss the effect of the setting aside of the adverse remarks, which are the basis of supersessions in this case.

7. For these reasons, we find no error in the Tribunal's conclusion that the respondent's promotion should relate back to 2015, when he first became eligible and would have been promoted but for the unlawful adverse remarks. We accordingly decline leave to appeal. The petition is dismissed.

Judge

Judge

Islamabad:

13.10.2025

(*Muhammad Ahmad*)

Approved for reporting.