

IN THE SUPREME COURT OF PAKISTAN

(Appellate Jurisdiction)

PRESENT:

Mr. Justice Syed Mansoor Ali Shah Mr.

Justice Aqeel Ahmed Abbasi

Civil Petition No.4757 of 2024

(Against the order dated 16.05.2024 passed by the Punjab Service Tribunal, Lahore in Appeal No.4144/2023)

Ghulam Murtaza

Versus

District Police Officer, Gujrat and others

For the Petitioner: Ch. Munir Sadiq, ASC

For the Respondents: Mr. Sanaullah Zahid, AAG. Punjab Date

of Hearing: 23.10.2025

ORDER

Syed Mansoor Ali Shah, J. The brief facts of the case are that the Petitioner, serving as a Police Constable (BPS-07), was implicated in a criminal case bearing FIR No. 722/2021 dated 08.01.2021, registered under Sections 302, 311, 147 and 148 of the Pakistan Penal Code, 1860, at Police Station Civil Lines, Gujrat. Subsequently, independent departmental proceedings were initiated against the Petitioner in addition to the pending criminal case under Punjab Police (Efficiency & Discipline) Rules, 1975 (“**Rules**”). The allegations levelled against the Petitioner in the disciplinary proceedings were that:

“He while posted at P.P Jatria Sadar Lalamusa, failed to perform his official duty in an appropriate manner. As per Special Report vide No. 1210-5A, dated 09.11.2021 submitted by SHO P.S Civil Lines, Gujrat, the delinquent official has been found involved in a case FIR No. 722/21, dated 08.11.2021 u/s 302/311/148/149 PPC P.S Civil lines, Gujrat. Being a public servant his involvement in a criminal case amounts to height of inefficiency and gross misconduct on his part and warrants strict departmental action against him under the provisions of the Punjab Police (E&D) Rules, 1975.”

Without conducting a proper inquiry, the Inquiry Officer, through report dated 18.11.2021, merely referred to the Petitioner’s involvement in the criminal case and recommended serious departmental action. Consequently, the Petitioner was dismissed from service vide order dated 13.12.2021. The Petitioner preferred an appeal

against his dismissal, wherein he was provisionally reinstated with a direction to the department to conduct a *de-novo* inquiry vide order dated 25.04.2022. Meanwhile, the Petitioner was acquitted in the criminal case on 26.04.2022.

2. In the *de novo* inquiry, identical allegations were served on the Petitioner on 19.05.2022. He appeared before the Inquiry Officer and informed him of his acquittal in the criminal case. Nonetheless, while acknowledging the acquittal, the Inquiry Officer concluded that the Petitioner's mere involvement in a criminal case warranted departmental action. The report remained silent on the separate allegation of failure to perform duty in an appropriate manner. Relying on this report, the competent authority dismissed the Petitioner from service on 16.06.2022. His departmental appeal and revision were subsequently dismissed on 06.04.2023 and 21.08.2023, respectively. The Service Tribunal also dismissed his appeal on 16.05.2024, leading to the present Civil Petition for Leave to Appeal.

3. Learned counsel for the Petitioner contended that the allegation of involvement in the criminal case stood disproved, while the charge of improper performance of duty was neither discussed by the Inquiry Officer nor supported by any evidence. Hence, the imposition of a major penalty solely on the basis of the Petitioner's nomination in an FIR was unwarranted and without lawful justification. Conversely, the learned Additional Advocate General ("AAG") argued that criminal and departmental proceedings are distinct and independent, and the Petitioner's dismissal—based on a duly conducted inquiry and upheld by the appellate fora—was lawful and sustainable.

4. The charge sheet levelled two allegations against the Petitioner: (i) failure to perform duty in an appropriate manner, and (ii) involvement in a criminal case. Two inquiries were held, yet both reports - dated 18.11.2021 and 26.05.2022 - neither addressed nor examined the alleged dereliction of duty. Instead, they focused solely on the Petitioner's implication in the criminal case and, on that basis alone, recommended departmental action. Thus, in effect, the only charge pursued against the Petitioner was his involvement in the criminal case - of which he had already been acquitted prior to the initiation of the *de novo* inquiry.

5. We have heard the learned counsel and examined the record of the case. It is an admitted position that the Petitioner stood acquitted in the criminal case vide judgment dated 26.04.2022. The order of acquittal shows that the Petitioner was extended the benefit of doubt and acquitted on merits.

6. We consider it necessary to reiterate the settled principle that departmental disciplinary proceedings and criminal proceedings, though sometimes arising out of the same set of facts, operate in distinct legal domains¹ and are governed by different standards of proof. The disciplinary inquiry is founded on the preponderance of probability, aimed at preserving the integrity and efficiency of public service, whereas a criminal trial proceeds on the stricter standard of proof beyond reasonable doubt, intended to determine penal liability. Consequently, the pendency or outcome of one does not automatically affect the other, and both may lawfully proceed concurrently.²

7. However, this general rule admits of an important exception. Where the sole allegation in the departmental proceedings is that the civil servant has been involved in, or is facing, a criminal case - and no independent and probeable act of misconduct is alleged - the acquittal of the civil servant in the criminal case removes the very substratum of the departmental charge.³ The disciplinary machinery cannot stand on its own in such circumstances because there exists no stand-alone allegation that the department can independently inquire into or establish through departmental evidence. The charge of “involvement in a criminal case” is, by its very nature, incapable of departmental proof - it belongs exclusively to the criminal forum. Once the criminal court has adjudged the civil servant not guilty on the

¹ *Mumtaz Uddin Shaikh v. Chief Postmaster, GPO, Hyderabad and others* 2024 SCMR 1675; *Muhammad Iqbal v. Regional Police Officer, Sahiwal and another* 2023 PLC (C.S.) 267; *Muhammad Nawaz Khan v. Inspector General Of Police, Punjab, Lahore and others* 2023 PLC (C.S.) 884.

² *Secretary, Local Government And Rural Development, Government Of Punjab, Lahore and another v. Ahmad Yar Khan* 2010 S C M R 861; *The Director General, Intelligence Bureau Government Of Pakistan and others v. Babar Ali Solangi* 2025 SCMR 353; *Ghulam Murtaza Sheikh and another v. The Chief Minister, Sindh and others* 2024 SCMR 1757; *Faraz Naveed v. District Police Officer Gujrat and another* 2022 SCMR 1770; *Senior Superintendent Of Police (Operations) and others v. Shahid Nazir* 2022 SCMR 327; *Shahid Masood Malik v. Habib Bank Ltd. and another* 2007 PLC (C.S.) 125.

³ *Muhammad Iqbal v. Regional Police Officer, Sahiwal and another* 2022 SCMR 1520

same accusation, the departmental authority is left with nothing to determine; the entire charge falls to the ground.

8. Any further attempt to proceed would not only be redundant but would also transgress the boundaries of fairness and legality. It would offend the broader constitutional guarantee of due process and fair trial under Article 10A, which requires that no one be condemned without credible evidence, impartial inquiry, and a meaningful opportunity of defence. A departmental action that, despite acquittal, persists in holding the civil servant liable for mere involvement in a criminal case is founded not on evidence but on conjecture and subjective notions of ideal conduct. Such proceedings violate the constitutional matrix of rights that shield every citizen from arbitrary and oppressive state action. The denial of due process under Article 10A necessarily infringes the right to dignity under Article 14 and the right to livelihood - an inseparable facet of the right to life under Article 9. These inter-locking guarantees collectively ensure that public employment, though subject to discipline, remains protected by constitutional fairness and human dignity. To sum up, the jurisprudence, therefore, draws a clear and categorical distinction:

- (a) Where departmental proceedings rest on independent and probeable evidence of misconduct, an acquittal in the criminal case does not absolve the employee, and both proceedings may lawfully run concurrently.
- (b) However, where the departmental action is founded solely on the registration or pendency of an FIR, without any distinct charge of misconduct, the employee's subsequent acquittal extinguishes that foundation, rendering any ensuing penalty legally untenable and constitutionally infirm.

9. Learned AAG has also submitted that the service appeal of Petitioner was barred by time, however, this aspect was never raised by the department before the Tribunal. Keeping in view the circumstances of the case, we are not inclined to take up this matter at this stage.

10. We, therefore, set aside the impugned judgment and the order of dismissal of the Petitioner and re-instate the Petitioner into service. This petition is converted into appeal and allowed.

Judge

Judge

Islamabad:

23.10.2025

APPROVED FOR REPORTING

(Muhammad Mohsin Masood LC/Uzma Zahoor)

