

2025 SCP 414
IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Syed Mansoor Ali Shah Mr.
Justice Aqeel Ahmed Abbasi

Civil Petition No.1729-L of 2017

(Against the order dated 11.04.2017 passed by the Lahore High Court, Lahore in W.P No.21330/2010)

Hafiz Abdul Rauf

Versus

PASSCO, Lahore, etc

For the Petitioner: Mr. Khalid Ismail, ASC
(Via V.L. Lahore)

For the Respondents: Ms. Saba Saeed, ASC
(Via V.L. Lahore)

Date of Hearing: 23.10.2025

ORDER

Syed Mansoor Ali Shah, J.- Brief facts of the case are that the Petitioner who was working as Project Incharge in Pakistan Agricultural Storage and Services Corporation Ltd (PASSCO), Lahore was departmentally proceeded on the charges mentioned in Show Cause Notice dated 18.04.2009. Without holding regular inquiry, major penalty of dismissal from service was imposed on the Petitioner, which was subsequently, set aside by the Lahore High Court and converted into compulsory retirement through the impugned order dated 11.04.2017. The question before us is: *whether a major penalty (or even minor penalty) can be imposed on a civil servant in the absence of a regular inquiry?*

2. We have heard the learned counsel for the parties at some length and gone through the impugned judgment of the High Court and the record of the case.

3. Before embarking upon the merits of the case, it is imperative to recall that the *inquiry* is not a mere procedural ritual; it is the constitutional heartbeat of fairness within the disciplinary framework of public service. The right to be heard, to confront evidence, and to defend oneself against allegations is not a privilege

granted by departmental grace but a facet of the fundamental rights guaranteed under Articles 9, 10A, and 14 of the Constitution — the right to life and livelihood, the right to a fair trial, and the right to dignity. To disregard an inquiry is, therefore, to erode these guarantees at their very core.

4. Regrettably, a recurring tendency has emerged within certain administrative hierarchies – a dismissive refrain that “let them go to the courts.” Such indifference trivializes the hardship of those public servants who lack the means, resources, or social capital to pursue costly and protracted litigation. Many are left to endure unjust penalties in silence, their professional lives and personal dignity scarred by the absence of due process. When disciplinary power is exercised without the discipline of inquiry, it ceases to be lawful authority and degenerates into arbitrariness.

5. Bypassing or conducting a sham inquiry does not merely harm the individual; it corrodes institutional morale, breeds cynicism, and burdens the judicial system with avoidable litigation – diverting the energies of both the public servant and the State from constructive service. It is, therefore, incumbent upon this Court to restate, in clear terms, that an inquiry is the cornerstone of the rule of law in service discipline – a constitutional shield against administrative excess and a guarantee that justice within the bureaucracy is not reduced to the whim of authority.

6. The erstwhile Removal from Service (Special Powers) Ordinance, 2000 (“**2000 Ordinance**”)¹, under which the petitioner was proceeded against, prescribes a comprehensive inquiry mechanism. It mandates the appointment of an Inquiry Officer or Inquiry Committee to conduct a regular inquiry, which entails framing and communicating specific charges and a statement of allegations to the accused, securing a written reply, and examining both oral and documentary evidence while ensuring the accused’s right to cross-examine witnesses. For this purpose, the Inquiry Officer is vested with the powers of a civil court under the Civil Procedure Code, 1908 (“**CPC**”). Upon completion of the inquiry within the prescribed

¹ The Removal from Service (special powers) Ordinance, 2000 has since been repealed vide the Removal from Service (special powers) (Repeal) Act, 2010.

timeframe, the Inquiry Officer or Committee submits a report with findings and recommendations to the competent authority. Based on this report, and after affording the accused a reasonable opportunity to show cause, the competent authority may impose an appropriate penalty where guilt is established. This procedural framework is similarly reflected in other efficiency and disciplinary rules governing civil servants.²

7. It is, however, recognized that a regular inquiry may be dispensed with, though only in exceptional circumstances. Section 5(4) of the erstwhile 2000 Ordinance expressly provides:

“The competent authority may dispense with the inquiry under sub-section (1) if it is in possession of sufficient documentary evidence against the accused, or for reasons to be recorded in writing, it is satisfied that there is no need of holding an inquiry.”

This statutory power is to be exercised sparingly and with circumspection. The courts have consistently interpreted it narrowly, emphasizing that dispensation of inquiry is an exception, not the rule. Only in rare and exceptional cases – where the available documentary evidence conclusively establishes misconduct, or where the facts are undisputed and borne out from the record or for any cogent and recorded reasons – can the department resort to a summary procedure.

8. The courts have time and again held that the power to dispense with a regular inquiry must be exercised with extreme caution and only in the rarest of cases. It cannot be invoked where the charge is of such a nature that it cannot be established without recording evidence or cross-examining witnesses.³ The very object of an inquiry is to test the credibility of allegations through evidence, confrontation, and defence; dispensing with it in contested matters amounts to short-circuiting due process. Accordingly, the dispensation of a regular inquiry is justified only in *extraordinary circumstances*, particularly where facts are admitted, undisputed, or self-proving from the record. Where the facts are contested, or where credibility and evidentiary weight must be tested by cross-examination, a summary

² Civil Servants (Efficiency & Disciplinary) Rules, 2020 (“2020 Rules”), The Punjab Employees Efficiency, Discipline and Accountability Act, 2006 (“PEEDA 2006”), The Sindh Civil Servants (Efficiency And Discipline) Rules, 1973 (“Sindh Rules 1973”), The Balochistan Employees’ Efficiency And Discipline Act, 2011 (“Balochistan Rules 2011”), Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 (“KPK Rules 2011”).

³ *Saad Salam Ansar v. Chief Justice of Sindh High Court, Karachi* 2007 SCMR 1726

procedure cannot be adopted. Even in cases where a summary route is permissible, it must be exercised “with extra care so that no prejudice is caused”.⁴ To proceed otherwise would offend the guarantee of fair trial and due process under Article 10A of the Constitution, which forbids condemning a person without proper proof and the opportunity to defend. The competent authority may therefore dispense with an inquiry only where the charge rests on incontrovertible documentary material – leaving no disputed question of fact – and only after recording detailed reasons reflecting independent application of mind. It is well settled that reliance on evidence which is not self- authenticating defeats the very rationale of dispensation. This Court has held, for instance, that unverified closed-circuit television (CCTV) footage cannot be treated as conclusive evidence unless subjected to forensic examination and authentication.⁵ The same principle applies to disputed or untested documentary material, the veracity of which can only be established through cross-examination.⁶

9. Conversely, where the incriminating fact is admitted and self-proving – such as absence from duty duly reflected in official records – the competent authority may, for recorded reasons, proceed without a regular inquiry.⁷ In every case, however, the safeguard remains that the authority must demonstrate, through cogent reasoning and written justification, that the evidence relied upon is unimpeachable, self-contained, and that no prejudice has been caused to the accused officer. A holistic view of the settled legal principles establishes that a civil servant must be clearly informed of the specific charges and allegations against them, afforded an opportunity to submit a written defence, granted the right to cross-examine witnesses, and provided a fair opportunity of personal hearing. The purpose is to determine whether the allegations of misconduct are substantiated and, if so, to confront the delinquent officer as to why disciplinary action should not be taken.⁸

10. The principles governing inquiry apply with equal force whether the penalty contemplated is major or minor. The distinction

⁴ Ibid

⁵ *Member (Administration), FBR v. Mian Khan* 2022 PLC (C.S.) 474

⁶ *Muhammad Abdul Moied v. Government of Pakistan* 2010 SCMR 1546; *Abdul Sattar v. Pakistan Water and Development Authority* 2007 PLC (C.S.) 354

⁷ *National Bank of Pakistan v. Zahoor Ahmad Mengal* 2021 SCMR 144.

⁸ *Government of Khyber Pakhtunkhwa vs. Aurangzeb* 2025 SCMR 40.

between the two relates only to the degree of severity, not to the existence of procedural safeguards. A minor penalty is still a penalty, carrying legal, professional, and reputational consequences for the civil servant. To treat it as exempt from the discipline of inquiry is to trivialize the constitutional guarantees of fairness and due process.

11. No penalty – howsoever described – may lawfully be imposed without confronting the accused with the allegations, affording a reasonable opportunity to explain, and adjudging that explanation through reasoned consideration.⁹ These safeguards are not ornamental; they are the very instruments by which justice is administered within the civil service. The logic of distinguishing between major and minor penalties presupposes that the authority will first ascertain, through a fair inquiry, the true nature and gravity of the misconduct so that the proportionality of the punishment can be justly determined. Without such inquiry, there is no factual foundation on which discretion can rest.

12. A regular inquiry, therefore, cannot be dispensed with merely because the department intends to impose a so-called minor penalty. The absence of inquiry deprives the authority of an informed basis to calibrate punishment and exposes the order to arbitrariness. Procedural fairness is indivisible; it cannot be diluted by the label of “minor.” Where any punitive action affects a civil servant’s dignity, reputation, or prospects of advancement, it must pass through the crucible of inquiry – so that discipline does not become disguised injustice.

13. The centrality of due process and fair trial in disciplinary proceedings is not only a constitutional imperative but also a binding international obligation. Pakistan, as a signatory to core international

⁹ In the comparative context also see *Satyendra Singh v. State of Uttar Pradesh* 2024 SCC 3325; *Kulwant Singh Gill v. State of Punjab* 1990 INSC 278; *MP State Agro Industries Development Corporation v. Jahan Khan* 2007 INSC 895; In the United States the 5th Amendment of the U.S. Constitution prohibits the federal government from depriving a person of life, liberty, and property without providing adequate due process. As a result, federal employees can have a property right in their continued federal employment, which means that due process must be provided before an agency interferes with or terminates their employment or imposes any penalty including suspension. This was reinforced in the case of *Cleveland Bd. of Education v. Loudermill*, 470 U.S. 532, 546 (1985); Also see *Gilbert v. Homar*, 520 U.S. 924, 935-36 (1997) (regarding the due process clause in cases of suspension), *Ward v. U.S. Postal Service*, 634 F.3d 1274, 1280 (Fed. Cir. 2011) and *Stone v. Federal Deposit Insurance Corporation*, 179 F.3d 1368, 1375 (1999) (quoting and citing *Loudermill* extensively to explain a Federal employee’s due process right to present his or her side of the case).

human rights instruments, has undertaken to uphold these guarantees. Article 10 of the Universal Declaration of Human Rights affirms that “*everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal in the determination of his rights and obligations.*” This foundational guarantee presupposes a meaningful inquiry as the mechanism through which facts are established, and rights are adjudicated.

14. Article 14 of the International Covenant on Civil and Political Rights further crystallizes the fair-trial standard.¹⁰ It guarantees equality before courts and tribunals and a fair and public hearing by a competent, independent, and impartial authority in all proceedings determining rights and obligations, whether civil, criminal, or disciplinary. The provision embraces all adjudicatory forums – ordinary or specialized – and requires that procedural safeguards be respected throughout the process.¹¹ A proper inquiry is the procedural instrument through which fairness is operationalized. It enables the accused to know the case against them, respond to evidence, and test the credibility of witnesses and documents. Penalties – whether classified as minor or major – imposed without adherence to this process amount to arbitrary deprivation of rights, contravene the guarantees of fair trial and due process, and fall foul of Pakistan’s constitutional framework and its international commitments. International law does not countenance punitive outcomes founded on untested allegations; nor can the Constitution.

15. In the instant case, it is an admitted position that major penalty was imposed without any regular inquiry. When asked, learned counsel for the respondent could not refer to any document that justifies as to why the regular inquiry was dispensed with. The allegation against the petitioner is his involvement in a scam regarding the preparation and encashment of forged and fictitious bills. The Managing Director, PASSCO raised the allegations vide final show cause notice dated 18.04.2009 of abetment to fraud and also dispensed away with the inquiry on the basis of “sufficient

¹⁰ Section 1 of Article 14 of the ICCPR states “All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent, and impartial tribunal established by law.”

¹¹ General comment no. 32, Article 14, ‘Right to equality before courts and tribunals and to fair trial’ (UNHRC, 2007)

documentary evidence and incriminating record” without showing what evidence was actually on record. From the allegations, this is a case where the facts are necessarily in dispute; a position also borne out of the petitioner’s reply denying the allegations. Furthermore, the handwriting expert also reported that the signatures on the purchase bill did not tally with the admitted signatures of the petitioner. As such, there was no reasonable ground to dispense with the inquiry and more so there was no ground to award a major penalty without any regular inquiry, which was imposed upon the petitioner vide office order dated 30.05.2009. The High Court though observed the handwriting expert report and noted the aforementioned discrepancy of signatures, yet the writ petition was partially accepted and the penalty of dismissal from service was converted into compulsory retirement in contravention of established principles of law and procedure discussed above.

16. In view of the above, since the guilt of the petitioner was never established by a regular inquiry, no penalty – minor or major (in this case major penalty) could have been imposed upon him. As such the impugned order of conversion of penalty into compulsory retirement is set-aside and the petitioner is re-instated into service. As to the back benefits, the same shall be determined by the department in the light of *Muhammad Sharif*¹² This petition is converted into appeal and allowed.

¹² *Muhammad Sharif v. Inspector General of Police, Punjab* 2021 SCMR 962.