

2025 SCP 428
IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

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

Civil Petition No.1531 of 2025

*(Against the judgment dated 03.03.2025 of the Federal
Service Tribunal, Islamabad in Appeal
No.03(Q)CS/2024)*

Ain-ud-Din ... Petitioner

Versus

The Acting Sector Commander NHMP, Shahi Bag Kalat Quetta and others
... Respondents

For the Petitioner: Mr. Muhammad Umar Ijaz Gilani, ASC

Respondents: Raja Shafqat Khan Abbasi, DAG. Pak
a/w Mr. Muhammad Asad, DSP. NHMP

Date of Hearing: 23.10.2025

JUDGMENT

Syed Mansoor Ali Shah, J.- Brief facts of the case are that the Petitioner while working as Patrolling Officer (SI), was departmentally proceeded on the allegation that he ended up having a quarrel with the Senior Admin Officer. Consequently, regular inquiry was conducted in the matter under the National Highways and Motorway Police (Efficiency and Discipline) Rules, 2016 (“**Rules**”) and the Petitioner was dismissed from service. Thereafter, the Petitioner preferred departmental appeal which was also dismissed and so was his service appeal through the impugned judgment dated 03.03.2025.

2. Learned Counsel for the Petitioner submits that the order of dismissal from service was passed by an Acting Sector Commander when the competent authority under the law was the Sector Commander and as the Acting Sector Commander being DSP could not have assumed the role of a Superintendent Police (SP). He further contends that the Petitioner was not granted an opportunity of cross- examining the four prosecution witnesses who deposed against the Petitioner. Thirdly, he submits that the four prosecution witnesses were subordinates of the complainant and therefore, cannot be independent witnesses. Fourthly, he submits that the imposition of major penalty of dismissal from service is disproportionate to the gravity of the offence. On the other hand, learned Additional Attorney General ("**AAG**") along with Mr. Muhammad Asad, DSP (Legal) NH&MP submitted that NH&MP is a disciplined force and due process was fully

followed and the imposition of major penalty in the present facts and circumstances of the case is correct and further submits that the Acting Sector Commander was lawfully authorized to deal with such matter.

3. Admittedly, proceedings against the Petitioner were initiated under the relevant Rules. It is, therefore, essential to examine whether the prescribed procedural framework was duly observed. Rule 8(2) particularly provides for right of cross-examination.

“The inquiry officer or inquiry committee shall inquire into the charge and may examine such oral or documentary evidence in support of the charge or in defence of the accused as may be considered necessary and the accused shall be entitled to cross-examine the witnesses against him.”

We asked the learned AAG to refer to the inquiry report and show to the Court, whether an opportunity of cross-examination was granted to the Petitioner. No such reference could be made by the learned AAG. He, however, contends that as the Petitioner never raised this question in the reply to the Show Cause Notice, he cannot agitate this matter now. In response to which the learned counsel for the Petitioner submits that this ground was specifically taken in the service appeal filed before the Service Tribunal. We find it important to examine the ground regarding failure to allow the petitioner to cross examine the witnesses as it goes to the core of the case.

4. This Court has unequivocally recognised cross-examination as an essential safeguard in disciplinary proceedings. Any testimony that is not subjected to that scrutiny lacks comparable probative weight. This Court has further underscored that an Inquiry Officer or Committee is duty-bound to ensure a fair, comprehensive, and even-handed inquiry, grounded in the principles of natural justice. A departure from these safeguards imperils the integrity of the process and creates a real risk of injustice.¹ The court has evidently laid the burden upon the Inquiry Officer to ensure that the requirements of proper, free and fair trial are fulfilled. It cannot be the case that where

¹ *Federation of Pakistan through Chairman FBR vs. Zahid Malik* 2023 SCMR 603.

an accused does not specifically refer to his right to cross-examination in a reply to a show-cause notice, that right is somehow waived. The right remains and it is upon the Inquiry Officer to ensure that such right is told to the accused, properly afforded and if the accused does not wish to proceed with cross-examination, record the reasons and put that into writing. It is incumbent upon the inquiry officer to ensure that the right is not treated so casually and dispensed away with especially without any reasons recorded in writing. The right remains intact, guaranteed under Article 10-A of the Constitution of Islamic Republic of Pakistan, 1973 ("**Constitution**") even where the accused does not make a request to cross examine any witness at any point during the investigation process.²

5. Article 10-A of the Constitution enshrines the right to a fair trial as a fundamental right. Where the petitioner is denied the opportunity to cross-examine prosecution witnesses, the proceedings cannot meet the constitutional standard of fairness. The right to a fair trial is not a singular act but a composite guarantee — a bouquet of procedural safeguards that include the framing of a clear charge, adequate opportunity to defend, the right to lead evidence, and the right to cross-examine witnesses. Each of these components is indispensable. Their observance ensures adherence to the principles of natural justice and due process, which form the bedrock of any adjudicatory process

— particularly disciplinary proceedings where adverse consequences or penalties may follow.³ It is well settled that the right to a proper defence—and, by necessary implication, the right to cross-examine—is a vested and inalienable right of the accused. Article 10-A of the Constitution casts a constitutional canopy over all proceedings, shielding the accused from being left exposed to the harsh glare of arbitrary or one-sided departmental action. It ensures that no person is condemned unheard and that fairness permeates every stage of the disciplinary process.

²The right of fair trial encompassing the natural justice requirements of procedural fairness is recognized in jurisdictions across the world. This particularly controversy of whether the accused has to make a formal request for cross-examination came up in a matter before the Irish High Court in the case of *Lyons v. Longford and Westmeath Education and Training Board* [2017] IEHC 272. The High Court ruled that cross-examination and the requirements of free trial are to be fulfilled, no matter whether the accused makes a request of cross-examination.

³ *Tariq Khan vs. Additional DG, FIA* 2025 PLC (C.S.) 467; *Ghulam Murtaza Shiekh vs. The Chief Minister, Sindh* 2024 SCMR 1757; *Raja Muhammad Shahid vs. Inspector General of Police* 2023 SCMR 1135, *Federation of Pakistan through Chairman FBR vs. Zahid Malik* 2023 SCMR 603; *Usman Ghani vs. Chief Post Master, GPO Karachi* 2022 SCMR 745.

5. Based on the foregoing discussion, and particularly on the ground that the petitioner was not afforded an opportunity to cross- examine the witnesses — a safeguard integral to the constitutional guarantee of a fair trial under Article 10-A — we set aside the impugned order of dismissal from service. The competent authority is directed to conduct a de novo inquiry strictly in accordance with the requirements of Article 10-A of the Constitution and to complete the same within a period of two months from today. Pending the conclusion of such inquiry, the petitioner shall stand reinstated into service. The question of back benefits shall also be determined in the course of the de novo proceedings. Consequently, the impugned judgment of the Tribunal is set aside. This petition is converted into an appeal and allowed in the above terms.

Judge