**FEDERAL CONSTITUTIONAL COURT OF PAKISTAN**
(Appellate Jurisdiction)

**Present**
Justice Syed Hasan Azhar Rizvi
Justice Muhammad Karim Khan Agha

**F.C.P.L.A. No. 1690/2026**
*(against the judgment dated 12.05.2026, passed by the Islamabad High Court, Islamabad in W.P. No. 3582/2024)*

*Shahzad Saleem* .....*Petitioner(s)*

***Versus***

*Federation of Pakistan, through Secretary Establishment Division, Islamabad & others* .....*Respondent(s)*

For the Petitioner(s) : Mr. Mohammad Akram Sheikh, Sr. ASC
Syed Rifaqat Hussain Shah, AOR

For the Respondent(s) : Mr. Jahanzeb Bharwana, Addl. PG, NAB assisted by Mr. Nasir Mehmood Mughal, DPG Mr. Zafar Hussain Ahmad, Spl. Prosecutor (SC) NAB

Date of Hearing : 16.10.2026

## JUDGMENT

**Muhammad Karim Khan Agha, J.-** Through the present petition for leave to appeal, the petitioner, Shahzad Saleem, seeks to challenge the judgment dated 12.05.2026 **("impugned judgment")** passed by the Islamabad High Court, Islamabad, whereby his Writ Petition No. 3582 of 2024 was dismissed as premature and not maintainable. The writ petition arose out of disciplinary proceedings initiated against the petitioner by the National Accountability Bureau **("NAB")** through a charge sheet and statement of allegations dated 10.10.2024.

2. The facts necessary for the disposal of the present petition may be briefly stated. The petitioner was initially commissioned in the Pakistan Army on 09.09.1988. While serving in the Army, his services were requisitioned by NAB on secondment basis, and he joined NAB as Record Officer/Deputy Director (BS-18) with effect from 01.12.1999. Subsequently, NAB undertook the absorption of certain officers serving on deputation or

secondment, including the petitioner, under the relevant provisions of the NAB Employees Terms and Conditions of Service 2002 **("TCS 2002")** and the Methods of Appointment and Qualification 2002 **("MAQ 2002")**. Following the requisite recommendations and approvals, including those of the Army authorities and the Ministry of Defence, the petitioner was absorbed as Deputy Director (BS-18) in NAB through appointment by transfer with effect from 30.09.2003. He was thereafter promoted as Additional Director (BS-19) with effect from 31.12.2003 and as Director (BS-20) with effect from 15.10.2008.

3. In 2016, on the basis of an anonymous letter/application alleging illegalities, contraventions and violations of the relevant rules in appointments made in NAB, the Supreme Court of Pakistan took suo motu notice of the matter and initiated Suo Motu Case No. 13 of 2016 **("SMC No. 13 of 2016")**. During those proceedings, the Court directed the Secretary, Establishment Division, to scrutinize the appointments, promotions, absorptions, deputations and contractual appointments made in NAB since 2002, in BS-16 to BS-22, with reference to the qualifications, experience and other requirements prescribed under TCS 2002 and MAQ 2002. The scrutiny revealed various discrepancies, with the Secretary, Establishment Division, identifying, among other issues, nine officers who lacked the inherent qualifications for their appointments, besides pointing out several inconsistencies in promotions made in NAB. The petitioner was also among the officers represented through counsel before the Supreme Court in the matter. The proceedings culminated in the judgment dated 31.03.2017, reported as **Suo Motu Case No. 13 of 2016** (2017 SCMR 838), whereby the Supreme Court noted that, of the nine officers found inherently unqualified to hold their respective posts, some had already retired, while others had opted for voluntary retirement or repatriation, and accordingly directed the immediate de-notification of the remaining three officers, along with another officer who was also found unqualified to hold her post. These officers were, however, allowed the option of retirement within four days, failing which their services were to be terminated. The Court also considered the cases of five other officers whose initial appointments were found inconsistent with TCS 2002. Of these, one was ordered to be repatriated to his parent department at his request, while the remaining four were granted four weeks to produce the requisite equivalence certificates from the Higher Education

Commission, failing which their services were to be terminated. As regards deficiencies in experience at the time of initial appointment, the Court constituted a committee to examine the cases of 96 officers identified by the Secretary, Establishment Division, as lacking the prescribed experience. The same committee was also entrusted with examining 137 promotions found inconsistent with TCS 2002 or MAQ 2002, excluding cases involving officers who had already retired. The Court directed that the officers concerned be afforded an opportunity of hearing, that the committee record its findings within the stipulated period of two months, and that those findings be acted upon by NAB. The committee and the Chairman, NAB, were also required to submit compliance reports to the Court.

4. Pursuant to the aforesaid directions, NAB issued a show cause notice dated 26.04.2017 to the petitioner, questioning his promotions to the posts of Additional Director (BS-19) and Director (BS-20). The committee examined his case and, through its report dated 15.05.2018, recommended reconsideration of those promotions in the light of the prescribed length of service and mandatory training requirements. Consequently, NAB revised the effective dates of his promotions to BS-19 and BS-20 to 30.09.2010 and 30.09.2015, respectively, through notifications dated 24.12.2018 and 11.01.2019. These decisions were implemented and were not challenged by the petitioner. It is pertinent to note that NAB, in its concise statement filed before this Court, has maintained that the committee examined the promotions of the petitioner but did not examine his initial absorption with reference to the experience prescribed under MAQ 2002. The petitioner was subsequently promoted to the post of Director General (BS-21) with effect from 30.11.2021.

5. The judgment dated 31.03.2017 was followed by the filing of review petitions and miscellaneous applications before the Supreme Court. The review petitions were dismissed vide order dated 20.06.2017. One of the miscellaneous applications, CMA No. 7544 of 2017, filed by one Asad Kharal, raised allegations concerning the induction of the petitioner into NAB and the authenticity of his Master's degree in Computer Science. NAB contested these allegations and maintained that the educational qualification of the petitioner had been duly verified by the Higher Education Commission. By order dated 12.03.2020, the Supreme Court took on record the reports

submitted by NAB and disposed of the pending miscellaneous applications, including the aforesaid application. The Court observed that any NAB employee having a grievance concerning his employment could approach the appropriate forum provided by law, where the matter would be considered in the light of the directions contained in the judgment dated 31.03.2017.

6. Matters rested thus until an application **("complaint")** questioning the legality of the induction, academic qualification and subsequent promotions of the petitioner was submitted to the Secretary, Law and Justice Division, Ministry of Law and Justice by one Nadeem Ghaffar **("complainant")**, a private individual having no apparent connection with NAB or the service matters of the petitioner, who nevertheless took a rather extraordinarily keen interest in his service history, displaying a familiarity with its particulars extending from his initial induction and academic qualification to his subsequent promotions and postings. The complaint was forwarded to NAB by the Ministry of Law and Justice through a letter dated 03.08.2023, with the rather telling description of a "self-explanatory application", accompanied by a request for further necessary action as per rules. The allegations contained therein eventually led NAB to initiate disciplinary proceedings against the petitioner through a charge sheet and statement of allegations dated 10.10.2024. The petitioner was charged with misconduct on the grounds that he had been absorbed into NAB without possessing the prescribed post-qualification experience, had obtained a Master's degree in Computer Science without the requisite departmental permission, and possessed a degree, the genuineness of which was questioned on account of the period and circumstances in which it was obtained.

7. Aggrieved by the initiation of these proceedings, the petitioner approached the Islamabad High Court through Writ Petition No. 3582 of 2024, mainly contending that the matters forming the basis of the charges had already been subjected to scrutiny in the proceedings before the Supreme Court and could not lawfully be reopened through a fresh departmental inquiry. The High Court, however, by the impugned judgment, declined to interfere, holding that the writ petition was premature, as the issuance of a charge sheet did not constitute an adverse order and the petitioner could raise his objections before the competent departmental

authority. The writ petition was accordingly dismissed as not maintainable, giving rise to the present petition for leave to appeal.

8. Mr. Muhammad Akram Sheikh, Sr. ASC, learned counsel for the petitioner, contended that the High Court erred in dismissing the writ petition as premature merely because the impugned charge sheet had not yet resulted in any adverse order, without appreciating that the petitioner had challenged the very competence and lawful authority of the respondents to initiate the disciplinary proceedings. He submitted that the questions concerning the induction, eligibility and qualification of the petitioner had already been subjected to scrutiny in SMC No. 13 of 2016, culminating in the judgment dated 31.03.2017, and the proceedings arising therefrom. It was argued that NAB itself, in the report submitted before the Supreme Court, had acknowledged that the petitioner possessed the requisite academic qualification for induction under Rule 14.03 of TCS 2002, and that, pursuant to the directions issued in the aforesaid judgment, the promotions of the petitioner were examined, and their effective dates were subsequently revised to later dates, to his disadvantage, through notifications dated 24.12.2018 and 11.01.2019. Learned counsel further submitted that the allegations concerning the Master's degree of the petitioner, including its authenticity and the alleged absence of departmental permission, had also been raised before the Supreme Court through CMA No. 7544 of 2017, which was disposed of along with other pending applications by order dated 12.03.2020. According to learned counsel, the matters having thus been examined in earlier judicial proceedings and consequential action having been taken by NAB, they had attained finality and could not lawfully be reopened through a fresh charge sheet dated 10.10.2024, particularly on the complaint of a private individual. It was further contended that the impugned proceedings were mala fide, amounted to an abuse of process and were contrary to the principles governing past and closed transactions. Learned counsel maintained that the controversy involved the legal effect of the earlier judgments and orders of the Supreme Court, which could not appropriately be determined by the departmental inquiry officer. He accordingly prayed that the impugned judgment of the High Court be set aside and the proceedings initiated against the petitioner be declared unlawful.

9. Conversely, Mr. Jahanzeb Bharwana, learned Additional Prosecutor General, NAB, assisted by Mr. Nasir Mehmood Mughal, learned Deputy Prosecutor General, NAB, supported the impugned judgment and submitted that the High Court had rightly declined to interfere with the disciplinary proceedings at the preliminary stage, since the mere issuance of a charge sheet did not constitute an adverse order against the petitioner. It was contended that the proceedings had been initiated by the competent authority in accordance with the applicable rules, and that the petitioner could raise all his objections before the inquiry officer and avail the remedies provided by law in the event of an adverse decision. Learned law officers further submitted that, although the promotions of the petitioner had been examined pursuant to the judgment dated 31.03.2017 and their effective dates subsequently revised, his initial absorption into NAB had never been scrutinized with reference to the prescribed experience under MAQ 2002. It was argued that the Supreme Court had expressly held in the aforesaid judgment that officers absorbed in NAB through appointment by transfer under Rule 14.03 of TCS 2002 were also required to possess the qualification and experience prescribed for initial appointment. According to learned law officers, the petitioner lacked the requisite five years' post-qualification experience at the time of his absorption in 2003, and the earlier proceedings could not be regarded as having finally determined an issue which had never been examined. The allegations concerning the Master's degree of the petitioner in Computer Science, including the absence of departmental permission and doubts regarding its genuineness, also required examination in the departmental inquiry. It was further submitted that the petitioner, instead of participating in the inquiry and responding to the charges, had sought to obstruct the proceedings through constitutional litigation. Learned law officers maintained that the initiation of the inquiry was neither mala fide nor contrary to any earlier judgment of the Supreme Court, and prayed for dismissal of the petition.

10. We have heard the learned counsel for the petitioner and learned law officers appearing for NAB and perused the record of the case with their able assistance.

11. The controversy in the present case essentially concerns the legality of initiating disciplinary proceedings against the petitioner on

grounds relating to his initial absorption in NAB, the experience and academic qualification prescribed for such absorption, and the circumstances surrounding the acquisition of that academic qualification. Pursuant to the judgment dated 31.03.2017 of the Supreme Court, the case of the petitioner was examined by the committee constituted for that purpose, resulting in revision of the effective dates of his promotions to his disadvantage. The question, therefore, is whether, in the circumstances of the present case, NAB could lawfully initiate disciplinary proceedings in 2024 on these grounds, notwithstanding the earlier proceedings and the action taken pursuant thereto.

12. Before turning to the merits of the controversy, it is necessary to examine the question of maintainability of the writ petition, which was decided against the petitioner by the High Court. Ordinarily, the issuance of a show cause notice or charge sheet does not justify interference in constitutional jurisdiction, as the person concerned has an opportunity to contest the allegations before the competent authority and avail the remedies provided by law. This does not, however, preclude interference in appropriate cases. It has been recognised that constitutional jurisdiction may be invoked where the impugned action is palpably without jurisdiction, barred by law or constitutes an abuse of process. Thus, where the challenge is directed not merely against the correctness of the allegations but against the very lawful authority to initiate the proceedings, the question is whether the authority was legally competent to commence those proceedings in the first place, rather than whether the allegations would ultimately be established. In the present case, the petitioner has challenged the initiation of disciplinary proceedings on the ground that the matters forming the basis of the charges had already been examined pursuant to the judgment dated 31.03.2017 of the Supreme Court, and that NAB was not legally competent to reopen those matters through a fresh inquiry. The challenge, therefore, raises a question concerning the lawful authority to initiate the proceedings, which warranted examination rather than dismissal of the writ petition as premature merely because no adverse order had yet been passed. Reference in this regard may be made to **Commissioner of Income Tax v Messrs Eli Lilly Pakistan (Private) Limited** (2009 SCMR 1279), **Commissioner of Income Tax, Companies-II v Hamdard Dawakhana (Waqf), Karachi** (PLD 1992 SC 847)

and **Commissioner Inland Revenue v Jahangir Khan Tareen** (2022 SCMR 92).

13. We now proceed to examine whether, in view of the earlier proceedings before the Supreme Court and the action taken pursuant thereto, NAB could lawfully initiate instant disciplinary proceedings against the petitioner on the grounds forming the basis of the impugned charge sheet. The petitioner has been charged with misconduct under Rule 11.02(b) of TCS 2002 on three grounds set out in the statement of allegations, namely, (i) that his absorption in NAB was made in violation of Rule 3.30 of TCS 2002, as he did not possess the requisite five years of post-qualification experience at the relevant time; (ii) that he pursued further studies and obtained a Master's degree in Computer Science without obtaining prior permission or a No Objection Certificate **("NOC")** from the competent authority; and (iii) that the said degree was prima facie fake, as it pertained to the academic years 2000–2002, during which he was performing his duties at NAB Headquarters. While the second allegation concerns the failure of the petitioner to obtain prior permission for pursuing further studies during service, the first and third allegations relate to the experience and academic qualification prescribed for induction into NAB, respectively, and thus raise questions regarding his eligibility for initial appointment under TCS 2002.

14. Since the main contention of the petitioner is that the matters forming the basis of the impugned charges had already been examined and concluded pursuant to the judgment dated 31.03.2017 of the Supreme Court in SMC No. 13 of 2016, it is necessary to consider the extent of the earlier scrutiny, the matters examined therein and the action taken pursuant to the aforesaid judgment. In those proceedings, the Supreme Court directed a comprehensive scrutiny of appointments, promotions, absorptions, deputations and contractual appointments made in NAB since 2002, with reference to the qualifications, experience and other requirements prescribed under TCS 2002 and MAQ 2002. The scrutiny exposed various discrepancies in appointments and promotions, which were considered by the Supreme Court in its judgment dated 31.03.2017, resulting in directions for appropriate action against certain officers and further examination of the cases of others. Notably, the petitioner was not among the officers found inherently unqualified for appointment in NAB, a disqualification which, in

the context of those proceedings, related to the absence of the prescribed academic qualification. The Supreme Court directed the de-notification of the officers found to suffer from such disqualification. The case of the petitioner, on the other hand, came before the committee constituted pursuant to the aforesaid judgment, which was entrusted with examining deficiencies in experience at the time of initial appointment and inconsistencies in promotions.

15. Pursuant to the directions given in the judgment dated 31.03.2017, the case of the petitioner was examined by the committee constituted for that purpose. The committee found that his promotions to the posts of Additional Director (BS-19) and Director (BS-20) required reconsideration in view of the prescribed length of service and mandatory training requirements. Acting upon the recommendations of the committee, NAB revised the effective dates of these promotions to 30.09.2010 and 30.09.2015, respectively, through notifications dated 24.12.2018 and 11.01.2019. This revision was to the disadvantage of the petitioner, as his promotions were made effective from dates considerably later than those originally assigned. The petitioner did not challenge these decisions and accepted their consequences. Thus, the scrutiny undertaken pursuant to the directions of the Supreme Court resulted in adverse action against the petitioner, which was duly implemented. He thereafter continued in service and was promoted to the post of Director General (BS-21) with effect from 30.11.2021.

16. Apart from the scrutiny undertaken by the committee, questions concerning the initial induction, prescribed experience and academic qualification of the petitioner had also been raised before the Supreme Court through CMA No. 7544 of 2017 in the same proceedings. The allegations concerned deficiency in the prescribed post-qualification experience, obtaining a Master's degree in Computer Science without departmental NOC, and the authenticity of that degree. Notably, these are substantially the same allegations that now form the basis of the impugned charge sheet and statement of allegations issued to the petitioner in 2024. When these matters were earlier raised before the Supreme Court i.e. in CMA No. 7544 of 2017, NAB contested the allegations through a report and para-wise comments submitted vide CMA No. 9591 of 2017. At the outset, NAB took the position

in paragraph 1 of its preliminary submissions that the matter had already been adjudicated by the Supreme Court:

> *The issue raised in CMA No. 7544/2017 has already been adjudicated by this August Court, therefore, the present CMA merits dismissal on this sole score.*

Elaborating upon its position, NAB referred in paragraph 5 of its report to the earlier scrutiny of appointments undertaken pursuant to the directions of the Supreme Court and maintained:

> *5. In SMC No. 13/2016, this August Court directed Secretary Establishment Division to examine the appointments of all the officers of NAB in BS-17 and above. In compliance, the Secretary Establishment Division submitted a report regarding appointments of the NAB officers through CMA No. 1611/17 in SMC 13/2016. In the report, matter regarding induction of the officers was discussed at page No. 6 of the aforesaid report wherein 09 officers out of 11 were lacking qualification for Deputy Directors (BS-18). Major (R) Shahzad Saleem possessed M.Sc. (Computer Science-2002) at the time of induction (Annex-A). NAB submitted modified report in CMA No. 1748/2016 in SMC No. 13/2016 wherein NAB tendered its view point vide para 2 that "of the seven officers mentioned in Secretary Establishment Division's report at Annex-XXI, only the officer at Serial No. 9 (i.e. Major (R) Shahzad Saleem) had the qualification required for initial appointment at the time of induction under par 14.03 of TCS-2002 (Annex-B)."*

NAB also addressed the allegations concerning the Master's degree and the circumstances in which it was obtained. As regards the genuineness of the Master's degree, NAB explained in paragraph 4 of its para-wise comments:

> *It is obligatory in NAB that degrees of officers are got to be verified from HEC/concerned institutions during recruitment. Since he was inducted in NAB on the basis of his secondment/deputation from Army, it appears that at the time of induction his degree was not collected/verified. Later on degrees of all the officers have been verified in the year 2015. Major (R) Shahzad Saleem accordingly provided his degree of M.Sc. (Computer Science) duly verified from Regional Center Peshawar of Higher Education Commission (Annex-C).*

NAB further referred to the verification of the degree and the earlier proceedings in which questions concerning the degree and attendance of classes had been raised. In paragraph 5 of its para-wise comments, it submitted:

> *Major (R) Shahzad Saleem provided his degree of M.Sc. (Computer Science) duly verified from Regional Center Peshawar of Higher Education Commission. The officer also provided copies of the result cards of each semester and Detailed Marks Certificate (DMC) (Annex-E). The particular issue of degree/attendance of classes was raised in CMA 5811/2016 in SMC No. 13/2016 and in Review Petition No. 155/2017 which were disposed of by this August Court.*

The same position was reiterated in paragraphs 9 and 11 of the para-wise comments, wherein NAB again maintained that the petitioner possessed the Master's degree at the time of his induction in 2003, that the degree had been verified by the Higher Education Commission, and that the petitioner had also furnished the result cards and detailed marks certificate in support of his qualification. Finally, addressing the question of concealment and the scrutiny of promotions, NAB maintained in paragraph 21 of its para-wise comments:

> *No concealment has been made by NAB regarding his appointment, promotion and qualification. The promotion case of Major (R) Shahzad Saleem is under scrutiny with the Committee constituted by this Honourable Court.*

These statements show that the questions concerning the initial appointment, prescribed experience and academic qualification of the petitioner were not raised for the first time in the complaint forwarded to NAB in 2023. Substantially the same matters had previously been brought before the Supreme Court, and NAB had responded to them on the basis of the available service record. NAB had also defended the academic qualification of the petitioner and, according to its earlier response, maintained that the degree had been duly verified by the Higher Education Commission. Indeed, NAB itself asserted that the issues raised in CMA No. 7544 of 2017 had already been adjudicated. These circumstances assume significance in view of the fact that NAB has now initiated disciplinary proceedings against the petitioner on substantially the same allegations which it had previously contested before the Supreme Court.

17. Notably, during the earlier proceedings, the petitioner was not found to be among the officers who lacked the inherent qualification i.e. requisite academic qualification prescribed for their appointments. Further, when the genuineness of his Master's degree in Computer Science was

questioned, NAB had specifically maintained before the Supreme Court that the petitioner possessed the required qualification at the time of his induction and that the degree had been duly verified by the Higher Education Commission. Nothing has been brought on record to suggest that the verification was subsequently withdrawn, found to be incorrect or otherwise called into question, or that any fresh material had come to light casting doubt upon the genuineness of the degree. In these circumstances, it is difficult to appreciate how NAB could, after the lapse of several years, initiate fresh disciplinary proceedings alleging that the same degree was prima facie fake, without disclosing the basis warranting a departure from its earlier position.

18. As regards the allegation of obtaining the degree without prior departmental NOC, it concerns compliance with a departmental requirement governing the pursuit of further studies, rather than the genuineness of the qualification itself. This matter too had been raised in the earlier proceedings and was within the knowledge of NAB. Although the earlier response of NAB cannot, by itself, be taken as establishing that the requisite permission had actually been obtained, no fresh circumstance has been identified to explain why an alleged omission relating to the period 2000–2002 warranted the initiation of disciplinary proceedings in 2024. The allegation was specifically raised before the Supreme Court, yet NAB took no disciplinary action on that basis and allowed the petitioner to continue in service, subsequently promoting him to BS-21. The revival of the same allegation after a prolonged delay, without any fresh material or explanation for the earlier inaction, cannot be viewed independently of the previous proceedings and the conduct of NAB itself. In these circumstances, the initiation of disciplinary proceedings in 2024 on the grounds concerning the genuineness of the Master's degree and the alleged failure to obtain prior departmental NOC for pursuing that degree cannot be regarded as a fair and justified exercise of disciplinary authority.

19. The circumstances discussed above also bring into focus the obligation of a public authority to act with fairness and consistency in the exercise of its statutory powers. Any material departure from a position previously taken by the authority, particularly before a superior court, ought to rest upon some reasonable and identifiable basis. Otherwise, the exercise

of public power may become uncertain and arbitrary. In the present case, the decision of NAB to question the genuineness of the Master's degree, contrary to its earlier position before the Supreme Court, and to pursue the allegation concerning prior departmental NOC after more than two decades, without any new basis or satisfactory explanation, raises serious questions as to the fairness and justification of the course adopted. The authority to initiate disciplinary proceedings cannot be exercised independently of the obligation to act fairly and with due regard to the relevant record.

20. With respect to the remaining allegation concerning the requisite experience, NAB has taken the position that, although the promotions of the petitioner were examined pursuant to the judgment dated 31.03.2017, his initial absorption was not scrutinized with reference to the prescribed post-qualification experience. It is true that the examination of his promotions cannot, by itself, be treated as a determination that his initial absorption fulfilled all the requirements of the applicable rules. Nevertheless, the question is whether, in the circumstances of the present case, NAB could initiate disciplinary proceedings in 2024 against the petitioner, attributing misconduct to him on the basis of an alleged deficiency in the prescribed experience at the time of his absorption in 2003. In examining this question, it is necessary to consider the nature of the alleged contravention, the conduct attributed to the petitioner and the earlier proceedings in which matters concerning his appointment and qualification had already been raised.

21. It is maintained by NAB that the petitioner did not possess the prescribed five years of post-qualification experience at the time of his absorption and that his absorption was, therefore, made in violation of Rule 3.30 of TCS 2002. It is, however, not alleged in the charge sheet and statement of allegations that he secured his absorption by making any false representation, concealing any material fact or otherwise misleading the competent authority. His absorption was effected through a formal process involving the relevant authorities, including the Army authorities and the Ministry of Defence. The alleged deficiency, therefore, concerns the decision of the competent authority to absorb him in service, without any corresponding allegation of deception or other wrongdoing on his part in obtaining that decision. This distinction is material, as a non-compliance

with the prescribed requirements in making an appointment and misconduct on the part of the person appointed are not necessarily the same thing.

22. In **Province of Punjab through Secretary, Agriculture v Zulfiqar Ali** (2006 SCMR 678), the Supreme Court considered a case in which an employee, after having served for about eleven years, was proceeded against under the Efficiency and Discipline Rules on the ground that his initial appointment had been made illegally. The Court held that the said Rules contemplated action against an employee for breach of good service order, indiscipline, misconduct and other such defaults, but contained no provision for cancellation of an appointment merely on the ground that it had been made illegally. It follows that an illegality or irregularity in the making of an appointment cannot, by itself, constitute misconduct on the part of the employee so appointed. The Explanation to Rule 11.02 of TCS 2002 defines misconduct in terms of conduct prejudicial to good order or service discipline, contrary to the rules of conduct, or otherwise unbecoming of an officer, besides including certain acts involving outside influence in service matters. The definition, though inclusive in nature, necessarily contemplates conduct attributable to the employee. In the present case, the charge sheet and statement of allegations, insofar as they concern the initial absorption of the petitioner, do not attribute to him any act of fraud, misrepresentation, concealment or manipulation in obtaining that appointment. The alleged deficiency relates to the decision of the competent authority to absorb him in service and, in the absence of any wrongdoing attributable to the petitioner, cannot by itself constitute misconduct on his part.

23. The petitioner was absorbed in NAB in 2003 through a formal process involving the competent authorities. His appointment, qualification and subsequent promotions thereafter came within the scope of the scrutiny directed by the Supreme Court in SMC No. 13 of 2016. Pursuant to the judgment dated 31.03.2017, the committee constituted for that purpose examined his promotions and recommended adverse action, which NAB duly implemented by revising their effective dates to his disadvantage. Although NAB has asserted that the committee did not specifically examine whether the petitioner possessed the prescribed experience at the time of his initial absorption, this question was within the scope of the scrutiny **directed** by

the Supreme Court and **should** have been examined at that stage. Following the earlier proceedings and the consequential action taken by NAB, the petitioner continued in service and was subsequently promoted to BS-21 in 2021. NAB's failure to examine the aspect relating to experience cannot, in the circumstances of the present case, justify the initiation of fresh disciplinary proceedings on the charge of misconduct several years later, particularly when the charge sheet and statement of allegations attribute no fraud, misrepresentation, concealment or other wrongdoing to the petitioner in securing his absorption. The charge of misconduct based on the alleged deficiency in the prescribed experience at the time of absorption of the petitioner, without any allegation of wrongdoing on his part in securing that absorption, is, therefore, without lawful basis.

24. In **Dr Nighat Bibi v Secretary, Ministry of Health, Government of Pakistan** (2011 PLC (C.S.) 921), the Supreme Court considered a case in which an employee of the Government of Punjab, while serving on deputation at the Pakistan Institute of Medical Sciences (PIMS), Islamabad, was permanently absorbed in federal service in BPS-19 in 1994. Her absorption and status as a federal government employee were subsequently upheld in litigation. Despite this, the Federal Government sought to reverse her absorption and repatriate her to the Government of Punjab. The Supreme Court held that the original absorption was within the authority of the Federal Government and was justified in view of the qualifications and service record of the employee. It was further observed that the absorption, having already been confirmed by the superior courts in earlier litigation, had become a past and closed transaction which could not be reopened or questioned again. The Court also emphasized that the Government could not take advantage of its own illegalities. As regards the objection that the authority ordering the absorption lacked jurisdiction, the Court observed that if the competent authority considered the order of a higher authority to be without jurisdiction, it ought to have shown the courage to disobey that order rather than act upon it and subsequently seek to undo its consequences.

25. In **Mian Tariq Javed v Province of Punjab** (2008 SCMR 598), the Supreme Court considered a case in which an employee had been appointed as Deputy District Attorney in 1987 on the directions of the Chief

Minister of Punjab, in relaxation of the applicable service rules. After he had served for about fourteen years, disciplinary proceedings were initiated against him on the ground that his initial appointment had been made in violation of the prescribed recruitment procedure. He was consequently removed from service, although the Service Tribunal subsequently converted the penalty into compulsory retirement. The Supreme Court observed that the competent authorities, having taken no action against the appointment for about fourteen years, had impliedly regularized his service, and that the subsequent attempt to undo the appointment was neither in good faith nor bona fide. The Court further held that, although an appointment made in violation of the applicable rules was contrary to the policy of law, the principle of **locus poenitentiae** did not permit the competent authority to undo such an appointment after a considerable lapse of time merely on the ground that it had been made in violation of the rules. The Court also found that the appellant had been treated differently from other similarly placed employees and that the relevant Ordinance **could not be applied retrospectively to past and closed transactions**. Accordingly, the appeal was allowed, the order of removal and the judgment of the Service Tribunal were set aside, and the appellant was directed to be reinstated in service.

26. In **Pakistan Railways v Muhammad Aslam** (2024 SCMR 97), the respondent was absorbed as Guard Grade-I on 06.08.2012, but the benefit of his absorption was withdrawn after a lapse of six years through an order dated 02.08.2018. The Federal Service Tribunal set aside the subsequent order, and the Supreme Court declined to interfere, observing that valuable rights had already accrued in favour of the respondent which could not be denied in view of the principle of **locus poenitentiae**. It was further observed that the power of rescission remains available to the competent authority until a decisive step has been taken or rights have accrued, or where the action is found to be patently illegal.

27. In **Inspector General of Police v Fida Muhammad** (2022 SCMR 1583), the respondents, after undergoing the prescribed selection process, were issued appointment letters for various posts in the Balochistan Police. However, within a month, their appointments were cancelled through an omnibus order. The cancellation was defended on the ground that the respondents, being residents of District Sibi, could not lawfully have been

appointed against posts in District Ziarat in view of Rule 9(6) of the Balochistan Civil Servants (Appointment, Promotion and Transfer) Rules 2009. **The Supreme Court rejected this contention and held that the appointments had been made after fulfilling the prescribed codal formalities, without any fraud or misrepresentation on the part of the respondents, thereby creating valuable rights in their favour which could not be withdrawn in the manner adopted by the authorities, in view of the principle of locus poenitentiae**.

28. The circumstances in which the matter was reopened are worthy of notice. By the time the complaint was forwarded to NAB in August 2023, the scrutiny directed by the Supreme Court had concluded, the consequential decisions concerning the promotions of the petitioner had been implemented, and NAB had already answered substantially the same allegations before the Supreme Court. The petitioner had thereafter continued in service and was promoted to BS-21 in 2021. It was against this background that NAB proceeded to act upon the complaint.

29. The complaint itself is rather remarkable. What is striking is the extent of the information concerning the internal service matters of NAB contained in the complaint submitted by a private individual apparently having no connection with those affairs. The complaint traced the career of the petitioner from his absorption to his assignments as Director General, cited specific provisions of the service rules, referred to official correspondence by number and date, and marshalled documents under separate annexures. It expressly invoked the judgment in SMC No. 13 of 2016 and sought a further investigation into the absorption of the petitioner under that very judgment. Thus, an exercise undertaken by the Supreme Court to scrutinize appointments and promotions across NAB was invoked, **years after its conclusion**, to single out one officer for renewed scrutiny. It is, however, noteworthy that while the complainant furnished such elaborate particulars concerning the service details of the petitioner, he offered no explanation for his familiarity with these matters, and when it came to furnishing his own particulars, he was content to describe his address merely as “Tehsil Faisalabad City Faisalabad”. When questioned by us in this regard, the learned law officers appearing for NAB stated that the identity of the complainant had neither been ascertained nor verified by NAB. The

nature and extent of the information contained in the complaint, the manner in which it was gathered and presented, and the particular object towards which it was directed leave an impression of a carefully prepared effort to secure action against the petitioner. These aspects cannot be overlooked, particularly when the complaint is viewed against the background of the earlier scrutiny and the absence of any apparent connection between the complainant and the service matters of NAB employees.

30. Another aspect of the complaint, although not forming part of the charge sheet and statement of allegations issued by NAB, deserves notice. The complainant alleged that the petitioner had himself been instrumental in framing TCS 2002, and had thereafter acted as the initiator, processor and beneficiary of his own absorption in NAB. There is, however, nothing on record to substantiate the allegation that the petitioner exercised any such influence over the framing of the service rules or the process of his absorption. Even otherwise, there is an apparent contradiction inherent in the allegation itself. If the petitioner had indeed been in a position to shape the very rules governing his absorption, it is difficult to understand why he would have retained a requirement of post-qualification experience which, according to the complainant himself, he did not possess. While this circumstance may not, by itself, establish the falsity of the allegation, it does cast doubt on the premise upon which the complainant sought to attribute to the petitioner a deliberate manipulation of the absorption process. **It is also significant to recall that, notwithstanding this insinuation in the complaint, the charge sheet and statement of allegations issued by NAB did not attribute any such manipulation or dishonest conduct to the petitioner in securing his absorption**.

31. The manner in which the complaint was dealt with by the Ministry of Law and Justice, and subsequently by NAB, raises further questions. Without any apparent inquiry into the source of the information contained therein or the circumstances in which a private individual had come to possess such detailed particulars of the service record of a senior NAB officer, the Ministry forwarded the complaint by its letter dated 03.08.2023, describing it as “self-explanatory” and requesting further necessary action as per rules. The ease with which the complaint was thus passed on, notwithstanding its unusual contents and the particular object

towards which it was directed, is difficult to overlook. **More significant**, however, was the readiness with which NAB acted upon it. NAB had before it its own service record, the proceedings in which substantially the same allegations had been raised and the response it had placed before the Supreme Court. It knew, in particular, that when the genuineness of the degree was questioned, it had expressly relied upon verification by the Higher Education Commission. Yet, in the charge sheet dated 10.10.2024, NAB itself put forward the allegation that the same degree was prima facie fake. The record identifies no fresh material casting doubt upon the verification, and NAB has offered no explanation for the reversal of its earlier position. By then, **more than twenty-one years had elapsed** since the absorption of the petitioner. In the intervening years, NAB had revised his promotion dates to his disadvantage pursuant to the earlier scrutiny and had subsequently promoted him to BS-21. The effect of the course now adopted was to place his entry into service and his academic qualification in question once again as he approached superannuation. These circumstances do little to inspire confidence in the manner in which NAB exercised its disciplinary authority over a senior officer. It seems that the Human Resource wing of NAB's own records were not even checked before starting the disciplinary proceedings which smacks of negligence and unprofessionalism on the part of NAB.

32. It is worth emphasizing that NAB was established with the important object of combating corruption, particularly serious corruption, misuse and abuse of public office and white-collar crime, which often involve considerable difficulty in detection and investigation. The nature of these functions and the extensive powers entrusted to NAB demand a correspondingly high standard of fairness, impartiality and adherence to law in the exercise of its authority. Public confidence in an institution charged with holding others accountable for the misuse or abuse of power depends, in no small measure, upon the manner in which it exercises its own powers. The same standards of fairness and impartiality must also govern the exercise of disciplinary authority by NAB over its own officers. If the exercise of disciplinary authority gives rise to a reasonable impression that an officer is being singled out for adverse treatment, or that proceedings are being pursued for considerations other than the legitimate purposes of discipline, the consequences extend beyond the officer concerned and reflect upon the credibility of the institution itself. It is, therefore, all the more necessary that

such proceedings rest upon a sound legal and factual basis and are conducted with scrupulous regard to fairness. **In the present case, the revival of allegations long within the knowledge of NAB, after an earlier scrutiny undertaken pursuant to the directions of the Supreme Court, and the adoption of a position inconsistent with its own previous response before that Court, without any fresh material or explanation, fall short of the care and circumspection reasonably expected of an institution entrusted with such important public responsibilities**.

33. It is important to distinguish between the authority of a department to examine information brought to its notice and its authority to initiate disciplinary proceedings against an employee. A department is not precluded from examining a complaint merely because it has been made by a private individual or concerns events which occurred several years earlier. Nor does the mere fact that an allegation was raised on an earlier occasion necessarily prevent its reconsideration where fresh material or other lawful justification exists. However, the initiation of disciplinary proceedings is a separate matter and must be supported by grounds falling within the applicable service rules. The receipt of a complaint does not, by itself, convert an alleged contravention in appointment into misconduct on the part of the employee, nor does it relieve the competent authority of its obligation to examine the previous record and determine whether there is a lawful basis for proceeding further. In the present case, NAB was already aware of the matters raised in the complaint and had previously dealt with substantially the same allegations in proceedings before the Supreme Court. In these circumstances, the mere revival of those allegations through a fresh complaint, without any new material or legally sustainable charge of misconduct, could not provide a sufficient basis for initiating the impugned disciplinary proceedings.

34. There must also be a measure of certainty and finality in service matters. Where appointments and promotions have been subjected to scrutiny pursuant to the directions of the Supreme Court, and the competent authorities have taken and implemented consequential decisions, the matters so examined cannot ordinarily be reopened time and again on the same grounds. To permit such a course, without any fresh material or lawful justification, would render the earlier exercise meaningless and leave the

officers concerned exposed to the constant possibility of renewed proceedings concerning events long past. Such uncertainty would be contrary to the principles of fairness governing service matters and would expose officers to repeated harassment through the misuse of disciplinary proceedings. In the present case, the petitioner had already undergone the scrutiny directed by the Supreme Court and suffered adverse consequences in relation to his promotions. **To reopen allegations concerning his initial absorption and academic qualification after the lapse of more than two decades, without any fresh material warranting such action, would defeat the very purpose of bringing the earlier scrutiny to a conclusion**.

35. Having considered the allegations contained in the impugned charge sheet in the light of the earlier proceedings and the circumstances of the case, we find that none of them provides a lawful basis for initiating the present disciplinary proceedings. The allegation concerning deficiency in the prescribed experience relates to the decision of the competent authorities to absorb the petitioner in 2003, without any corresponding allegation of misconduct on his part in obtaining that appointment. The allegations concerning his Master's degree, including the absence of departmental permission and doubts regarding its genuineness, had already been raised in the earlier proceedings before the Supreme Court and were within the knowledge of NAB. Indeed, NAB had itself defended the qualification and maintained that the degree had been duly verified by the Higher Education Commission. No fresh material has been brought on record to justify reopening these matters or departing from the position previously taken by NAB. When these circumstances are considered together with the scrutiny already undertaken pursuant to the directions of the Supreme Court, the consequential action taken against the petitioner and the considerable lapse of time, the initiation of fresh disciplinary proceedings on substantially the same grounds cannot be sustained.

36. In view of the above, the High Court was not justified in declining to interfere merely because the disciplinary proceedings had not culminated in an adverse order. As already observed, the petitioner did not approach the High Court merely to dispute the correctness of the allegations or to seek a determination of factual questions ordinarily falling within the province of the departmental authority. His challenge was directed against the very

lawful authority of NAB to initiate the proceedings in the circumstances of the case. Where the initiation of proceedings itself is found to be without lawful authority, the person concerned cannot be required to undergo the entire disciplinary process merely because no adverse order has yet been passed. The availability of an opportunity to answer the charges before the inquiry officer does not cure the absence of lawful authority to initiate the proceedings. The High Court, therefore, ought to have examined the substance of the challenge rather than dismissing the writ petition as premature.

37. For the foregoing reasons, we are of the considered view that the disciplinary proceedings initiated against the petitioner through the charge sheet and statement of allegations dated 10.10.2024 are without lawful authority and cannot be allowed to continue. The High Court, having declined to examine the challenge on its merits, failed to appreciate the nature of the controversy and the legal effect of the earlier proceedings and consequential action taken by NAB. The impugned judgment, therefore, cannot be sustained. Consequently, this petition is converted into an appeal and allowed. The impugned judgment dated 12.05.2026 passed by the Islamabad High Court in Writ Petition No. 3582 of 2024 is set aside. The writ petition filed by the petitioner is allowed, and the charge sheet and statement of allegations dated 10.10.2024, together with the disciplinary proceedings initiated pursuant thereto, are declared to have been issued and initiated without lawful authority and are accordingly set aside.

38. These are the reasons of our short order of even date.

Judge

Judge

**Islamabad**
16.10.2026
*(Muhammad Ahmad)*
APPROVED FOR REPORTING