

IN THE FEDERAL CONSTITUTIONAL COURT OF PAKISTAN
(Appellate/Advisory/Original/Review Jurisdiction)

PRESENT:

Justice Amin-ud-Din Khan, Chief Justice
Justice Ali Baqar Najafi

C.P.L.A No.1333 of 2025

[against the impugned judgment dated
13.03.2025, passed by the Lahore High Court,
Multan Bench in Writ Petition No.11052 of
2024]

Chairperson TEVTA

.....Petitioner(s)

Versus

Shahid Saleem & others

.....Respondent(s)

For the Petitioners(s) : Ch. Munir Sadiq ASC
Syed Rifaqat Hussain Shah, AOR

For the Respondents : Mr. Shahid Saleem
[respondent No.1 in person]

Mr. Waseem Mumtaz Malik,
Addl.AG
Mr. Abdul Waheed Zafar, LA
Mr. Umair Shahid, LA
[for respondents No.2 to 8]

Date of Hearing : 06.10.2026

JUDGMENT

ALI BAQAR NAJAFI, J.- Through this petition under Article 185(3) now Article 175F(1)(c) of the Constitution of the Islamic Republic of Pakistan, 1973, [**Constitution, 1973**], leave to appeal is sought against the judgment dated 13.03.2025 passed by the Lahore High Court, Multan Bench, whereby, the Writ Petition filed by Shahid Saleem [**respondent No.1**] was allowed and the matter was sent to the competent authority to determine the quantum of

punishment which could not be harsher than the punishment earlier imposed by him.

2. **Brief facts** giving rise to the filing of instant petition are that respondent No.1 was appointed as Assistant/Head Clerk Apprenticeship Officer (Additional Charge) at Regional Directorate of Apprenticeship Training [**RDAT, Multan**]. During his service an inquiry was initiated under the Punjab Employees Efficiency, Disciplinary & Accountability Act, 2006 [**PEEDA, Act 2006**] on the charges of non-accomplishment of official assignment, handing over complete charge of apprenticeship certificates, tempering with original apprenticeship certificates & forwarding fake letters for verification with fake details and forged signatures of the Deputy Director, (**RDAT Multan**). The respondent No.1 was found guilty in the inquiry and major penalty of removal from service was recommended under section 4(1)(b)(v) of **PEEDA Act, 2006** by the Inquiry Officer. However, while taking a lenient view the Director (AT)/respondent No.5, [**competent authority**] disagreed and imposed a penalty of reduction to lower post of Computer Operator (PS-15) for a period of three years under section 4(1)(b)(ii) of the **PEEDA Act, 2006** vide order dated 31.07.2023, which order was assailed by the petitioner before the Director General (Ops-II)/respondent No.4, who set aside the said penalty of reduction into lower post vide order dated 12.12.2023 and remanded the matter to the respondent No.5/competent authority to hold a *de novo* inquiry under section 16(2)(d) of **PEEDA Act, 2006**. After *de novo* inquiry conducted by Deputy Director conducted under section 10, 11 & 12 of the **PEEDA Act, 2006**, through the report dated 25.04.2024, the Inquiry Officer recommended penalty of removal from service which was also agreed by the competent authority vide order dated 28.06.2024, which major penalty under section 4(1)(b)(v) and fine of one month basic pay under section 4(1)(a)(iii) of **PEEDA Act, 2006** which was upheld by the respondent No.4 vide order dated 28.08.2024. Both these orders were assailed before the High Court in the Writ Petition which was allowed, hence this petition.

3. Arguments heard. File perused.

4. The High Court observed that direction issued by the respondent No.4 to hold *de novo* inquiry was only on the basis of some procedural shortcomings and not on account of material or graver misconduct without mentioning that earlier penalty was inadequate therefore, the *de novo* inquiry was to be conducted within the scope of the procedural fairness and not to reconsider the proportionality of the punishment. It was also observed that even the principle of proportionality demands that punishment must commensurate with the gravity of misconduct and that no reason was given for deviating from earlier finding. It was further observed that in absence of any additional charge or any new supporting evidence, the imposition of major penalty runs counted to the principle of fairness. The matter, therefore, was remanded to the competent authority to determine the quantum of punishment, which according to the learned Judge-in-Chamber, could not be harsher than the punishment earlier imposed by the petitioner. However, we observe that the observations would run counter to the scope of the Constitutional jurisdiction which expressly debars the resolution of controversial and disputed questions of fact. The competent authority/respondent No.4 had disagreed with the imposition of major penalty but the appellate authority/respondent No.5 ordered the *de novo* inquiry which was conducted afresh by another inquiry officer. This order was not challenged by the petitioner. The earlier inquiry report might have persuaded the competent authority not to agree with it to the imposition of major penalty but when the *de novo* inquiry was conducted afresh, the facts brought before the inquiry officer had persuaded him to again recommend a major penalty, which this time was agreed upon by the competent authority/respondent No.4 and the order was duly upheld by the appellate authority/respondent No.5. The learned High Court had not discussed the reasons for remand of the matter to the competent authority which was imperative if it had observed that there was hardly any ground for holding a *de novo*

inquiry except to fill up the procedural lacunas. The reasons for observations given in the impugned judgment that principle of proportionality demands imposition of punishment in the context of the allegations and its proof has also not properly been discussed in the impugned judgment justifying the remand.

5. Obviously, the allegations of tempering with the record and issuing fake certificates with fake signatures of the issuing authority were grave offences. The allegation did not remain merely allegation since findings were also given against the petitioner in both inquiries keeping in view the principle governing the departmental disciplinary proceedings. We, therefore, do not subscribe to the view without reasons offered by the learned Judge-in-Chamber for allowing the Writ Petition and sending the matter back to the competent authority that too with the observation that the punishment should not be harsher than the earlier one imposed by him.

6. Under **PEEDA Act, 2006**, a *de novo* inquiry is permissible under section 13(6) and is to be conducted under section 10, 11, 12 which are reproduced as under:-

“10. Procedure to be followed by inquiry officer or inquiry committee.— (1) On receipt of reply of the accused or on expiry of the stipulated period if no reply is received from the accused, the inquiry officer or the inquiry committee, as the case may be, shall inquire into the charges 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 where any witness is produced by one party, the other party shall be entitled to cross examine such witness.

(2) If the accused fails to furnish his reply within the stipulated period, or extended period, if any, the inquiry officer or the inquiry committee, as the case may be, shall proceed with the inquiry *ex parte*.

(3) The inquiry officer or the inquiry committee, as the case may be, shall hear the case from day to day and no adjournment shall be given except for reasons to be recorded in writing, in which case it shall not be of more than seven days.

(4) Where the inquiry officer or the inquiry committee, as the case may be, is satisfied that the accused is hampering or attempting to hamper the progress of the inquiry, he or it shall administer a warning and if, thereafter, he or it is satisfied that the accused is acting in disregard to the warning, he or it shall record a finding to that effect and proceed to complete the inquiry in such manner as may be deemed expedient in the interest of justice.

(5) If the accused absents himself from the inquiry on medical grounds, he shall be deemed to have hampered or attempted to hamper the progress of the inquiry, unless medical leave, applied for by him, is sanctioned on the recommendation of a Medical Board; provided that the

competent authority may, in its discretion, sanction medical leave up to seven days without recommendation of the Medical Board.

(6) The inquiry officer or the inquiry committee, as the case may be, shall submit his or its report, containing clear findings as to whether the charge or charges have been proved or not and specific recommendations regarding exoneration or, imposition of penalty or penalties, to the competent authority within sixty days of the initiation of inquiry:

Provided that where the inquiry cannot be completed within sixty days, the inquiry officer or the inquiry committee, as the case may be, shall seek extension for specific period from the competent authority, for reasons to be recorded in writing:

Provided further that the inquiry shall not be vitiated merely on the grounds of non-observance of the time schedule for completion of inquiry:

Provided further that the recommendations of the inquiry officer or the inquiry committee, as the case may be, shall not be binding on the competent authority.

11. Powers of the inquiry officer or inquiry committee.— (1) For the purpose of an inquiry under this Act, the inquiry officer and the inquiry committee shall have the powers of a Civil Court trying a suit under the Code of Civil Procedure, 1908 (Act V of 1908), in respect of the following:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents, and receiving evidence on affidavits; and
- (c) issuing commissions for the examination of witnesses or documents.

(2) The proceedings under this Act shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Pakistan Penal Code, 1860 (Act XLV of 1860).

12. Duties of the departmental representative.— The departmental representative shall perform the following duties, namely—

- (a) render full assistance to the inquiry officer or the inquiry committee or hearing officer or the authority concerned, as the case may be, during the proceedings where he shall be personally present and fully prepared with all the relevant record relating to the case, on each date of hearing;
- (b) cross-examine the witnesses produced by the accused and with permission of the inquiry officer or inquiry committee, as the case may be, the prosecution witnesses in case of their turning hostile; and
- (c) rebut the grounds of defence offered by the accused before the hearing officer or the authority concerned.”

13. Order to be passed by the competent authority on receipt of report from the inquiry officer or Inquiry Committee: (1)

- (2)
- (3)
- (4)
- (5)
- (6) Where the competent authority is satisfied that the inquiry proceedings have not been conducted in accordance with the provisions of this Act or the facts and merits of the case have been ignored or there are other sufficient grounds, it may, after recording reasons in writing, either remand the inquiry to the inquiry officer or the Inquiry Committee, as the case may be, with such directions as the Inquiry Committee, as the case may be, with such directions as the competent authority may like to give, or may order a de novo inquiry.”

7. It is on record that the petitioner had been issued reprimand, warning, advices on misconducts, prejudiced to good order, service discipline and unbecoming of an officer and a gentleman. The 53 pages de novo inquiry report dated 25.04.2024 concluded against the respondent No.1 by holding him guilty on all three charges whereafter the major punishment was imposed. We also observe that the respondent was treated fairly, with procedural propriety and fairness which is a constitutional guarantee. The requirement of law that a major penalty is necessitated by proper inquiry with full opportunity of defence¹ was adequately observed.

8. The competent authority is not to be haunted by earlier recommendations or observations or orders if new facts/evidence leading to different conclusions, has been discussed or brought on record. Directing the competent authority to exercise its limited powers of imposition of a particular punishment is against the principle of administration of departmental proceedings that too without pointing out any mala fide on the part of any person involved in the proceedings.

9. In view of what has been discussed above, this petition is converted into an appeal and is **allowed**. Consequently, the impugned judgment dated 13.03.2025 passed by the High Court is set aside.

CHIEF JUSTICE

JUDGE

Islamabad, the
06.10.2026
'Not Approved for Reporting'
Adeel

¹ "Inspector General of Police, Police Headquarters Office Karachi Vs. Shafqat Mehmood" (2003 SCMR 207)