JUDGMENT SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD

I.C.A NO. 158 OF 2026
Shahid Hussain Mahessar
Vs.
Federation of Pakistan & 4 others

Appellant by : Mr. Shahid Anwar Bajwa, Advocate.

Date of hearing : 15.09.2026

MUHAMMAD AZAM KHAN, J. The instant Intra Court Appeal has been directed against the judgment dated 18.12.2025 **["Impugned Judgment"]** passed by the learned Single Judge of this Court in Writ Petition No.2755 of 2023, whereby the petition filed by the Appellant challenging, inter alia, the order of de-novo inquiry dated 13.06.2023 passed by the Competent Authority was dismissed, the learned Single Judge having held that the Competent Authority was competent to direct a de-novo inquiry in exercise of powers under Rule 6-A of the Government Servants (Efficiency and Discipline) Rules, 1973 and that no infirmity, irregularity or jurisdictional defect was established in the impugned action.

2. Learned counsel for the Appellant, while assailing the impugned judgment, submitted that the learned Single Judge failed to properly appreciate the statutory safeguards governing the exercise of revisional powers and ordering of a de-novo inquiry. He contended that the disciplinary proceedings had already been disposed of by the Authorized Officer on 08.06.2022, whereas the Competent Authority directed a de-novo inquiry on 13.06.2023 and, therefore, the said direction was issued beyond the period prescribed by law under Rule 6-A of the Government Servants (Efficiency and Discipline) Rules, 1973, read with Rule 11(3) of the Government Servants (Efficiency and Discipline) Rules, 2020. Learned counsel further argued that even otherwise, the exercise of revisional jurisdiction under Rule 6-A was subject to mandatory procedural safeguards, which were admittedly not complied with in the present case. According to him, Rule 6-A(2) required that the civil servant concerned be informed in writing of the grounds on which the proposed revisional order was to be made and be afforded an opportunity to

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show cause against the proposed action, followed by an opportunity of personal hearing. He maintained that neither any written communication setting out the grounds of the proposed revision was furnished to the appellant nor was any show-cause notice issued to him, and no opportunity of personal hearing was afforded before the order of de-novo inquiry was passed. Learned counsel emphasized that the proviso to Rule 6-A(2), which permits denial of an opportunity in the interest of the security of Pakistan or any part thereof for reasons to be recorded in writing, does not dispense with the independent statutory requirement of informing the civil servant of the grounds of the proposed action and providing him an opportunity to show cause; rather, according to learned counsel, the requirements of communication of grounds and show-cause are distinct from the requirement of personal hearing. On these grounds, learned counsel contended that the order directing de-novo inquiry was without lawful authority and could not be sustained. He accordingly prayed that the impugned judgment dated 18.12.2025 be set-aside, the order directing de-novo inquiry be quashed, and appropriate consequential relief be granted to the Appellant.

3. We have heard the learned counsel for the Appellant and examined the impugned Judgment as well as Judgment dated 03.10.2025 passed by the Hon'ble Supreme Court.

4. The brief facts of the case have already been set out in the impugned judgment dated 18.12.2025 and, therefore, need not be repeated herein. The Appellant was proceeded against under the Government Servants (Efficiency & Discipline) Rules, 1973 (the "1973 Rules"). At the outset, it would be appropriate to reproduce Rule 5(1)(iv) of the 1973 Rules, which delineates the respective roles of the Authorized Officer and the Competent Authority after conclusion of an inquiry: -

> ***"5(1)(iv).*** *On receipt of the report of the inquiry officer or inquiry committee, or where no such officer or committee is appointed, on receipt of the explanation of the accused, if any, the authorized officer shall determine whether the charge has been proved. If it is proposed to impose a minor penalty he shall pass orders accordingly. If it is proposed to impose a major penalty, he shall forward the case*

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> *to the authority along with the charge and statement of allegations served on the accused, the explanation of the accused, the findings of the inquiry officer or inquiry committee, if appointed, and his own recommendations recording the penalty to be imposed. The authority shall pass such orders as it may deem proper."*

5. The scope of the powers vested in the Competent Authority to direct a de-novo inquiry under Rule 6-A of the 1973 Rules has already been examined by the Hon'ble Supreme Court in *"Federation of Pakistan v. Shafqat-ur-Rehman Ranjha"* **(2021 SCMR 153)**. In the said case, the civil servant had been exonerated by the Authorized Officer on the basis of the recommendation of the Inquiry Officer, whereafter the Prime Minister, in exercise of powers under Rule 6-A of the 1973 Rules, directed that a de-novo inquiry be conducted. The Hon'ble Supreme Court, while examining the legality of such exercise of power, held as follows: -

> *"12…..as per Rule 5(iv), a final order could only have been passed by the Authority. Admittedly, no such final order was passed. Further, the Authority had the power to agree with the recommendation disagree with the recommendation and either pass a final order on the basis of the record before it after providing the accused of opportunity of a hearing or if dissatisfied with the inquiry order a de-novo inquiry for valid and recorded reasons. In the instant case valid and justifiable reasons were recorded by the Authority, and such exercise of executive power, in the absence of mala fides or malice could not have been interfered by the High Court."*

6. The above pronouncement, therefore, makes two aspects material to the controversy: first, the Competent Authority remains vested with disciplinary jurisdiction notwithstanding the recommendation or decision of the Authorized Officer; and second, where the Competent Authority is dissatisfied with the inquiry, it may direct a de-novo inquiry, provided that such exercise of power is supported by valid and recorded reasons.

7. Even on merits, learned counsel for the Appellant contended that, since the Director General/Authorized Officer had allegedly disposed of the proceedings on 08.06.2022 and the Competent Authority directed a de-novo inquiry on 13.06.2023, the power under Rule 6-A of the 1973 Rules read with Rule 11(3) of the 2020 Rules, stood barred by limitation. The submission, however, proceeds

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on an erroneous premise as to the source and nature of the jurisdiction exercised by the Competent Authority. The question whether the order directing de-novo proceedings was passed under Rule 6-A of the 1973 Rules or under Rule 11(3) of the 2020 Rules cannot be determined merely by reference to the date on which the order was passed; rather, the governing legal regime has to be ascertained from the nature of the proceedings, the manner in which they were initiated, and, most importantly, the record which demonstrates the jurisdiction actually invoked by the Competent Authority. In the present case, there is no controversy that the disciplinary proceedings against the Appellant were initiated under the 1973 Rules. The approval of the Competent Authority for initiation of proceedings was accorded on 24.09.2020; the charge-sheet was issued under the said Rules; the subsequent inquiry proceedings were conducted thereunder; and, significantly, when the matter was ultimately placed before the Competent Authority through IB Headquarters U.O. No.4/291/A-I(III) dated 22.07.2022, the summary itself expressly identified Rule 6-A of the 1973 Rules as the source of the proposed revisional jurisdiction. The two alternatives placed before the Competent Authority were unequivocally stated as follows: -

> *"**a)** Vacate the charge sheet dated 30.09.2020 and Show Cause Notice dated 02.04.2021 issued to Mr. Shahid Hussain (petitioner) as recommended by the Authorized Officer;*
>
> ***OR***
>
> ***b)** Exercise revisionary powers and pass such order as it may deem fit in terms of Rule 6-A of Government Servants (Efficiency and Discipline) Rules, 1973."*

8. The conclusion is further fortified by the express saving provision contained in Rule 21 of the 2020 Rules. Sub-rule (1) repealed the 1973 Rules but, at the same time, expressly preserved the legal effect of actions taken and things done thereunder. More importantly, sub-rule (2) provides in unequivocal terms that, notwithstanding such repeal, "all proceedings pending immediately before the commencement of these rules against any civil servant under repealed rules shall continue under the repealed rules. Rule 21 of the 2020 Rule is reproduced as under: -

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> *"**21. Repeal.--(1)** The Government Servants (Efficiency and Discipline) Rules, 1973, in their application to the civil servants to whom these rules apply, are hereby repealed but the repeal thereof shall not affect any action taken or anything done or suffered thereunder.*
> ***(2)** Notwithstanding the repeal of the aforesaid rules, all proceedings pending immediately before the commencement of these rules against any civil servant under repealed rules shall continue under the repealed rules."*

9. The language employed by the rule-making authority is significant. The repeal of the 1973 Rules was not intended to retrospectively alter the legal character of proceedings which had already been instituted under those Rules; rather, such pending proceedings were expressly saved and directed to continue under the repealed Rules. Thus, once the proceedings against the Appellant had validly commenced under the 1973 Rules and remained pending when the 2020 Rules came into force, their continuation, including the exercise of the jurisdiction vested in the Competent Authority in relation to those proceedings, was necessarily referable to the 1973 Rules, subject to any express statutory provision governing the transition. It would, therefore, be legally incongruous to contend, on the one hand, that the proceedings initiated under the 1973 Rules continued under those Rules by virtue of the express saving clause and, on the other, that the Competent Authority, while dealing with the very same proceedings, ceased to derive its revisional jurisdiction from Rule 6-A of the 1973 Rules merely because the impugned order was passed after the promulgation of the 2020 Rules. The governing statutory framework must be applied coherently and as a whole. The repeal provision preserves the pending proceedings under the repealed Rules; the record expressly invokes Rule 6-A of the 1973 Rules; and the summary placed before the Competent Authority specifically sought exercise of the revisional power under that provision. These circumstances collectively establish that the Competent Authority was acting in continuation of the disciplinary proceedings already instituted under the 1973 Rules and was exercising the jurisdiction contemplated by Rule 6-A thereof. The appellant's reliance upon Rule 11(3) of the 2020 Rules, therefore, does not by itself alter the source of jurisdiction in the present case.

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10. We are, therefore, unable to accept the contention that the impugned order directing a de-novo inquiry was necessarily an exercise of power under Rule 11(3) of the 2020 Rules merely because it was passed on 13.06.2023. The record, read in conjunction with Rule 21(2) of the 2020 Rules, establishes that the disciplinary proceedings retained their original legal character and continued under the 1973 Rules. Consequently, the legality of the Competent Authority's decision to order a de-novo inquiry has to be examined within the framework of Rule 6-A of the 1973 Rules and the principles governing the exercise of that jurisdiction. Significantly, the 1973 Rules themselves prescribed no period of limitation for the exercise of the revisional jurisdiction vested in the Competent Authority under Rule 6-A. The said Rule neither stipulates any outer time-limit within which the Competent Authority must exercise its revisional powers nor renders such jurisdiction extinguished merely by lapse of time. Thus, no limitation can be imported into Rule 6-A of the 1973 Rules by implication, particularly when the rule-making authority had consciously refrained from prescribing any such period.

11. There is another aspect of the matter which merits consideration. The order directing de-novo inquiry was passed in the context of disciplinary proceedings which had originally been instituted and conducted under the 1973 Rules. The jurisdiction of the Competent Authority to examine those proceedings and to decide whether a fresh inquiry was warranted, therefore, necessarily arose from the legal regime governing the proceedings under consideration, namely, the 1973 Rules. The subsequent repeal of those Rules does not retrospectively alter the character of the proceedings already conducted thereunder, particularly when Rule 21(2) of the 2020 Rules expressly provides that proceedings pending immediately before the commencement of the 2020 Rules under the repealed Rules shall continue under those Rules. Significantly, the 1973 Rules contained no prescribed period of limitation for the exercise of revisional jurisdiction under Rule 6-A. Thus, when the Competent Authority examined the proceedings conducted under the 1973 Rules and, upon being dissatisfied with the manner in which the matter had been dealt with by the Authorized Officer, directed a de-novo inquiry, no question of limitation could be imported into Rule 6-A by reference to a period which finds no place in the 1973 Rules.

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12. The expression used in the impugned order, namely, that "a de-novo inquiry under the Civil Servants (Efficiency and Discipline) Rules, 2020 shall be conducted," does not lead to a different conclusion. The said direction has to be understood in its proper context and in the light of the very nature of a de-novo inquiry. Once the Competent Authority directed that the matter be re-inquired de-novo, the earlier inquiry proceedings stood superseded for the purpose of undertaking a fresh inquiry, and the inquiry thereafter to be conducted was necessarily an inquiry to be commenced afresh from the stage contemplated by the applicable rules then in force. The reference to the 2020 Rules in the order, therefore, cannot reasonably be construed as converting the earlier proceedings, which had been validly initiated and conducted under the 1973 Rules, into proceedings retrospectively governed by the 2020 Rules, nor can it be treated as importing into Rule 6-A a limitation period which did not exist when the Competent Authority exercised its jurisdiction over the earlier proceedings. Rather, the reference to the 2020 Rules was plainly referable to the procedural regime under which the fresh de-novo inquiry was thereafter required to be conducted.

13. In other words, two distinct stages of the disciplinary process must not be conflated. The first stage comprised the proceedings which had already been initiated, inquired into and placed before the Competent Authority under the 1973 Rules. The Competent Authority, while examining that record, exercised the jurisdiction available to it under Rule 6-A of the said Rules and directed a fresh inquiry. The second stage commenced only pursuant to that direction and related to the conduct of the de-novo inquiry afresh. The fact that the latter stage was directed to be conducted under the 2020 Rules does not retrospectively subject the former stage, or the Competent Authority's exercise of jurisdiction thereunder, to a limitation period which was not contained in the 1973 Rules. To hold otherwise would be to give the reference to the 2020 Rules an effect which neither the language of the order nor the transitional scheme of the Rules warrants.

14. For the foregoing reasons, we find no legal infirmity in the impugned judgment dated 18.12.2025 passed by the learned Single Judge. The disciplinary proceedings against the Appellant were admittedly initiated and conducted under

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the Government Servants (Efficiency & Discipline) Rules, 1973, and, by virtue of the express saving contained in Rule 21(2) of the Government Servants (Efficiency and Discipline) Rules, 2020, continued to retain their legal character under the repealed Rules. The Competent Authority, while examining the record of those proceedings, was competent under Rule 6-A of the 1973 Rules to disagree with the manner in which the matter had been dealt with by the Authorized Officer and, for valid and recorded reasons, to direct a de-novo inquiry. The mere fact that the fresh inquiry was directed to be conducted under the 2020 Rules does not retrospectively bring the earlier exercise of revisional jurisdiction within a limitation period which was not prescribed by Rule 6-A of the 1973 Rules. No mala fide, colourable exercise of power, jurisdictional defect, or other substantial legal infirmity has been demonstrated before us so as to warrant interference in intra-court appellate jurisdiction. The learned Single Judge has examined the controversy in its proper legal perspective and has rightly declined to interfere with the order of de-novo inquiry. Consequently, finding no merit in the instant Intra Court Appeal, the same is hereby ***DISMISSED IN LIMINE***, and the judgment dated 18.12.2025 passed in Writ Petition No.2755 of 2023 is **AFFIRMED**.

15. The pending miscellaneous application(s), if any, shall stand disposed of accordingly.

(MUHAMMAD ASIF)
JUDGE

(MUHAMMAD AZAM KHAN)
JUDGE

Mehboob

Approved for Reporting
Blue slip added.

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