

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH AT KARACHI**

Constitutional Petition No. D-1117 of 2022  
(Tariq Aziz v Federation of Pakistan & others)

Date	Order with signature of Judge(s)
	Before: Mr. Justice Muhammad Karim Khan Agha Mr. Justice Adnan-ul-Karim Memon

**Date of hearing and order: 26.08.2025**

M/s Malik Naeem Iqbal and Talha Abbasi advocate for the petitioner  
Mr. Zafar Imam advocate for the respondent No.2  
Mr. Imtiaz Ali advocate for the respondent No.3.  
Ms. Wajiha M. Mehdi, Assistant Attorney General.

**Adnan-ul-Karim Memon, J.** – The petitioner has filed this Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, with the following prayers: -

- I. *Declare that the Impugned show cause notice dated 10.02.2022 is illegal, malafide, arbitrary, unconstitutional, issued in apparent violation of Rule 11 of the Rules, 2020, and in excess of jurisdiction, and to set aside the same.*
- II. *Suspend the operation of the impugned show cause notice dated 10.02.2022 till final adjudication of the captioned petition.*
- III. *Restrain the respondents, their officers, agents, or anyone from acting in pursuance of the impugned show cause notice dated 10.02.2022 till final adjudication of the instant petition.*

2. In 2015, the petitioner, an Additional Commissioner of Inland Revenue, received a show-cause notice regarding an allegedly illegal tax refund, he had approved as a Deputy Commissioner. He was subsequently given a minor penalty; he had a two-year withholding of his annual increments. After the penalty was served, the tax refund in question was legally upheld by an appellate tribunal. This meant the original offense was no longer valid. Despite this, in 2021, six years after the initial penalty, the authorities notified the petitioner that his minor penalty was considered "inadequate" and they are now considering a major penalty, including dismissal from service., which triggered the cause to the petition to file the instant petition on 23.02.2022 by heavily relying upon the judgment dated 04.02.2025 passed by this Court in C.P. D-1804 of 2022 whereby in similar circumstances the colleagues of the petitioner was exonerated from the charge and the impugned order was set aside.

3. The petitioner's counsel is arguing that the new show-cause notice dated 10.02.2022 is illegal and should be set aside. The counsel contends that the notice is a violation of due process and principles of natural justice because the original case was closed a decade ago. Per learned counsel, it also constitutes double jeopardy, which is prohibited under Article 13(a) of Pakistan's Constitution, as the petitioner has already served his

punishment. The counsel points to the Hasnain Brohi case (an unreported case decided on February 4, 2025) as a precedent on the subject issue and argued that under the similar circumstances, similar show cause notice was issued for enhancement of punishment under Rule 4(i)(b) (4) of the Government Servant (Efficiency & Discipline) Rules 1973 was set aside by this Court and the case of the petitioner akin to the aforesaid case, as such the similar relief is to be given to the petitioner. Learned counsel submitted that the new notice is deemed a malicious "afterthought" because the petitioner's subsequent promotion and receipt of increments demonstrate his good conduct, as such the respondent department can not set aside the promotion orders and again issue the show cause notice on the similar charges based on the analogy that they intend to enhance the punishment, which was/is not called for. Furthermore, a tribunal has already ruled the original tax refund as legal, which means the alleged offense no longer exists. The counsel also highlights a procedural flaw, stating the notice violates Rule 11 of the 2020 Rules, which prevents a case from being reopened after a one-year period. The notice is based on assumptions rather than solid evidence, suggesting the petitioner will be unfairly penalized without a proper inquiry if the show cause notice remains in fields. On the maintainability of the petition, he argued that the petition is maintainable under the court's constitutional jurisdiction. This conclusion is based on the specific details of the case and is supported by the precedent set by the Supreme Court in the case of Riffat Hussain and 9 others v. Federation of Pakistan (2011 PLC (CS) 562)

4. The Assistant Attorney General denies the petitioner's claims, stating that new, or "de novo," disciplinary proceedings were initiated, rather show cause notice was issued to the petitioner as he was awarded minor penalty of withholding of two annual increments falling on Dec 2015 and 2016 under Disciplinary Rules 1973. She further submitted that on consideration of his appeal and personal hearing the competent authority opined that minor penalty was in adequate which required enhancement/revision, as the omission and commission committed by the petitioner. She further submitted that on the similar allegations one of the co-accused in the case was already dismissed from the service and the case of the petitioner falls in that category, however that is subject to final decision by the competent authority if the proceedings are allowed to be continued as petition against show cause notice is not maintainable. Finally, she asserts that this new inquiry, and needs to be culminated into its logical conclusion. She prayed for dismissal of the petition.

5. We have considered the arguments of the learned counsel for the petitioner on the maintainability of this petition under Article 199 of the Constitution and have perused the record with their assistance.

6. Disciplinary proceedings were initiated against the petitioner for inefficiency, misconduct, and corruption. In November 2015, he received a minor penalty: a two-year withholding of his annual increment. In February 2022, the department issued a new show-cause notice, seeking to increase his punishment. The petitioner's case is similar to that of his colleague, Hasnain Brohi. Brohi's penalty was initially overturned by the Federal Service Tribunal (FST) in 2018. He later won his case on February 4, 2025, when the department's new order against him was set aside. The petitioner's counsel is arguing that he has already served his punishment, and therefore, he cannot be punished a second time for the same allegations. An excerpt of the judgment dated February 4, 2025, is reproduced as under:-

*13. As such it appears that the Prime Minister's reference to Rule 6 A in the impugned order was misconceived as his power only flowed to the extent of revision under Rule 11 (3), which specifically barred the Prime Minister to call for a disposed of case if that case had been disposed of for more than one year. In this case the delay is 7 years and as such the Prime Minister's order to reopen the case against the petitioner on a de novo basis was misconceived based on the particular facts and circumstances of this case and in particular in the face of the proviso to Rule 11 (3) reproduced above.*

*14. Even otherwise, we find that this power might be contrary to Article 13 (a) of the Constitution as it would lead to a person who had served out his punishment again being subject to a further and potentially greater punishment based on the same allegations/offences which he had already been exonerated which might prima facie amount to a case of double jeopardy. Article 13(a) of the Constitution is reproduced for ease of reference below. "Article 13 of the Constitution of the Islamic Republic of Pakistan, 1973, Protection against double punishment and self-incrimination. No person- (a) shall be prosecuted or punished for the same offence more than once; or (b) shall, when accused of an offence, be compelled to be a witness against himself."*

*15. Even otherwise the Prime Minister should have been more cautious in exercising his power of review under Rule 11 (3) even if he was acting within the stipulated time limit of one year by seeking proper assistance from the concerned department keeping in view the particular facts and circumstances of each case. For Page 5 instance in this case as discussed above; namely, (a) the department failed to act upon the Order and did not lodge any appeal against the same which has now reached finality (b) that the Order was passed 3 years after the Notification awarding the minor penalty on the petitioner which punishment had already been served/carried out on/by the petitioner albeit he was later exonerated (c) the petitioner was promoted by the department vide notification dated 22.02.2018 from BS 19 to BS 20 to the next grade after serving out his punishment from which he was later exonerated and (d) the Company which allegedly had illegally benefitted by the petitioner's alleged inefficiency, misconduct and corruption had been exonerated of any wrong doing. In order to exercise his power of review under Rule 11 (3) he must consider each case on its own particular facts and circumstances and ensure that he is properly assisted by the department in respect of each case before exercising his power of review under Rule 11 (3)*

*16. Thus, for the reasons mentioned above the impugned order is set aside and the petition is allowed as prayed and any pending applications are disposed of. A2"*

7. Based on the judgment from February 4, 2025, this court is nullifying the impugned show-cause notice dated February 10, 2022. Consequently, the disciplinary action related to the specific allegations in that Show Cause Notice is dropped. However, the department is still free to take new disciplinary action against the petitioner for any other misconduct not covered by the now-invalidated Show Cause Notice.

JUDGE

Head of the Constitution Bench