

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C. P. NO. D-1235 / 2026
(Sobia Jamal v. Federation of Pakistan & others)

Date	Order with signature of Judge
	Before:- Mr. Justice Riazat Ali Sahar Mr. Justice Ali Haider ‘Ada’

Date of hearing & order: 14.10.2026

Mr. Muhammad Haroon Shaikh, Advocate for Petitioner.
Mr. Khaliq Ahmed, DAG.

ORDER

Riazat Ali Sahar, J. Petitioner has filed this Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, with the following prayer: -

- a. *Declare the major penalty order dated 11.11.2025 and Appellate order dated 27.01.2026 as illegal, unlawful and void, hence, set aside the impugned orders.*
- b. *Direct the respondents to reinstate the petitioner in service with all consequential benefits including continuity of service and back benefits=.*
- c. *Grant any other relief deemed just and proper in the circumstances.*

2. Learned counsel for the petitioner contended that the petitioner had served Pakistan Navy as a Lower Division Clerk for more than thirteen years and that her absence from duty during July 2025 was attributable to a serious medical condition, supported by medical documents which, according to him, were not properly considered by the departmental authorities. It was further argued that no lawful departmental inquiry was conducted, that the charge sheet was not duly served and that an adequate opportunity of hearing was denied. Learned counsel maintained that the appellate order was non-speaking and that the punishment of discharge was disproportionate to the alleged misconduct.

3. Conversely, learned Deputy Attorney General opposed the petition, submitting that the petitioner was appointed as Lower Division Clerk in Pakistan Navy on 04-07-2012 and had repeatedly remained absent from duty without authorisation. According to him, minor penalties, including censure and withholding of annual increment, had previously been imposed upon her. It was submitted that she subsequently remained absent for 127 days while posted at ADMS (N), Karachi, and that the medical documents produced by her neither covered the entire period of absence nor contained a recommendation for medical leave. Learned DAG further submitted that a show-cause notice dated 03-09-2025 was issued under Rule 7 of the Civil Servants (Efficiency and Discipline) Rules, 2020, and that an opportunity of personal hearing was extended, which the

petitioner did not avail. He maintained that the departmental and appellate authorities acted in accordance with law.

4. Heard. Perused.

5. Before examining the rival contentions concerning the legality of the disciplinary proceedings, a preliminary question of jurisdiction arises, namely, whether the petitioner, being a civilian Lower Division Clerk employed in Pakistan Navy, answers the statutory description of a civil servant and, if so, whether the challenge to her discharge and the rejection of her departmental appeal falls within the exclusive jurisdiction of the Federal Service Tribunal, thereby attracting the constitutional prohibition contained in Article 212(2) of the Constitution. This question goes to the very competence of this Court to entertain the petition and, therefore, requires determination at the outset.

6. Section 2(1)(b) of the Civil Servants Act, 1973 defines a civil servant to include a person who is a member of an All-Pakistan Service or a civil service of the Federation, or who holds a civil post in connection with the affairs of the Federation, including any such post connected with defence. The definition expressly excludes, inter alia, persons serving on deputation from a Province or another authority, persons employed on contract or work-charged basis or paid from contingencies, and persons falling within the specified statutory definitions of worker or workman. The legislature has thus expressly recognised that a civil post connected with defence may constitute civil service of the Federation. The mere circumstance that an employee serves in an establishment belonging to the Armed Forces does not, without more, determine the employee's status. A distinction must be maintained between members of the Armed Forces governed by their respective service laws and civilian employees holding civil posts under the Federal Government.

7. In the present case, the petitioner is described by both sides as a civilian Lower Division Clerk of Pakistan Navy, appointed on 04-07-2012. The disciplinary proceedings were admittedly initiated by reference to the Civil Servants (Efficiency and Discipline) Rules, 2020. Nothing in the respective submissions suggests that the petitioner was serving as a member of the Armed Forces or that her appointment belonged to any of the excluded categories under section 2(1)(b) of the Civil Servants Act, 1973. On the undisputed service status presented before us, the petitioner is, therefore, to be treated as a civil servant holding a civil post connected with defence. Her employment within Pakistan Navy does not, by itself, take her outside the statutory framework applicable to federal civil servants.

8. Section 3(2) of the Service Tribunals Act, 1973 confers exclusive jurisdiction upon the Federal Service Tribunal in matters relating to the terms and

conditions of service of civil servants, including disciplinary matters, while section 4(1) provides a statutory appellate remedy against orders of departmental authorities affecting such terms and conditions, subject to the prescribed requirements regarding departmental remedies and limitation. Where a departmental appeal or representation is provided, the statutory requirements governing its prior invocation and the prescribed period of ninety days must be observed. The statute also prescribes a period of thirty days for approaching the Tribunal, reckoned in accordance with section 4 and the applicable law. In the instant case, the petitioner has already pursued a departmental appeal, which was rejected on 27-01-2026. The challenge is thus directed against an operative departmental punishment and an appellate order, both directly affecting her subsisting service rights. The fact that the punishment has been described as discharge does not alter the essential character of the dispute; the legality and statutory classification of the punishment are themselves matters capable of examination by the competent Tribunal.

9. Article 212(1)(a) of the Constitution authorises the establishment of Administrative Courts or Tribunals exercising exclusive jurisdiction over matters relating to the terms and conditions of persons who are or have been in the service of Pakistan, including disciplinary matters. Article 212(2), notwithstanding anything contained elsewhere in the Constitution, expressly prohibits any other Court from entertaining proceedings or making an order in respect of matters falling within the jurisdiction of such Tribunal. The exclusion is not merely founded upon the existence of an alternative remedy; it flows directly from a constitutional command which assigns a defined class of disputes to a specialised adjudicatory forum.

10. In **Muhammad Hassanullah v Chief Secretary, Government of Balochistan 2025 SCMR 134**, the Honourable Supreme Court examined the scope and effect of Article 212 and held that where the grievance of a civil servant concerns the terms and conditions of service and falls within the jurisdiction of the Service Tribunal, the constitutional jurisdiction of the High Court stands excluded. It was expressly clarified that the constitutional prohibition is attracted even where an impugned order is alleged to suffer from mala fides, want of jurisdiction or other jurisdictional infirmities. The Supreme Court reiterated the principle earlier expounded by a larger Bench in **I.A. Sherwani and others v Government of Pakistan through Secretary, Finance Division, Islamabad and others 1991 SCMR 1041**, that a civil servant cannot bypass the jurisdiction of the Service Tribunal merely by invoking fundamental rights or describing the departmental order as unlawful. The principle is directly applicable to the present petition, since the substance of the petitioner's grievance is her discharge from federal civil service and the rejection of her departmental appeal.

11. Reference may also be made to **Ali Azhar Khan Baloch and others v Province of Sindh and others 2015 SCMR 456**, wherein the Honourable Supreme Court reiterated that matters falling within the jurisdiction of the Service Tribunal cannot ordinarily be entertained by the High Court through its constitutional or original civil jurisdiction. The statutory remedy cannot be circumvented through a collateral challenge before another forum. Although that case arose under the provincial service framework, the principle concerning the constitutional distribution of jurisdiction under Article 212 applies equally to service disputes involving federal civil servants.

12. The distinction between an interlocutory disciplinary direction and a final order affecting service rights has recently been considered by the Honourable Supreme Court in **Shahid Hussain Mahessar v Federation of Pakistan through Office of the Prime Minister, Islamabad 2026 PLC (C.S.) 772**. The Supreme Court held that an order directing a de novo departmental inquiry, not being a final order appealable before the Federal Service Tribunal, could be examined by the High Court in its constitutional jurisdiction on the grounds identified in that judgment. The decision does not, however, permit a civil servant to bypass the Tribunal where a final disciplinary order has already been passed and the statutory appellate remedy is available. The present controversy is plainly distinguishable, as the petitioner challenges not an interlocutory direction to conduct an inquiry but a punishment imposed on 11-11-2025 and affirmed in departmental appeal on 27-01-2026. Consequently, the exception recognised in the aforesaid judgment has no application to the facts before us.

13. The jurisdiction of the Service Tribunal is not confined to a superficial examination of the departmental order. In **Secretary to Government of the Punjab, Law and Parliamentary Affairs Department, Lahore and another v Ali Ahmad Khan 2025 SCMR 489**, the Honourable Supreme Court explained that the Service Tribunal is required to examine the relevant evidence, disciplinary proceedings, legality of the findings and proportionality of punishment with proper application of mind. Significantly, that case also concerned allegations of unauthorised absence and reliance upon medical documents. The Supreme Court emphasised that disputed questions of fact and the legal justification for a departmental penalty must be examined by the Tribunal in exercise of its appellate jurisdiction. This principle bears direct relevance to the petitioner's assertions regarding medical incapacity, the alleged failure to consider medical records and the proportionality of the punishment imposed upon her.

14. Furthermore, in **Malik Muhammad Ramzan v Commissioner, Sargodha Division and others 2025 SCMR 1924**, the Honourable Supreme Court emphasised the necessity of observance of mandatory disciplinary procedure and the principles of natural justice before imposition of a major penalty, in the context of the statutory

regime governing that case. The decision demonstrates that objections concerning absence of inquiry or denial of hearing are judicially examinable within the service-law appellate structure. Whether the procedure adopted against the present petitioner complied with the Civil Servants (Efficiency and Discipline) Rules, 2020, whether an inquiry could lawfully be dispensed with, whether an effective hearing was afforded, and whether the punishment was proportionate are questions to be determined under the applicable statutory framework by the competent forum. The existence of such questions does not confer jurisdiction upon this Court where Article 212(2) is otherwise attracted.

15. The significance of pursuing the appropriate statutory remedy has also been considered in **Abid Jan v Ministry of Defence through Secretary, Islamabad and others 2023 SCMR 1451**. The Honourable Supreme Court dealt with proceedings initially instituted before the High Court in relation to a service dispute and subsequently converted into a service appeal. The Supreme Court protected the litigant against an erroneous computation of limitation following such conversion and emphasised proper adjudication of the service grievance by the competent Tribunal. The decision reinforces the necessity of adjudicating disputes concerning federal civil servants before the forum designated by law, while questions concerning limitation and procedural consequences must be dealt with in accordance with the governing statutory provisions.

16. Applying the above principles, it becomes evident that the dispute raised in the present petition is intrinsically and exclusively connected with the petitioner's terms and conditions of service. Her complaints regarding medical leave, alleged procedural defects, denial of hearing, the effect of previous punishments and disproportionality of the major penalty are all grounds capable of examination by the Federal Service Tribunal. The petitioner cannot confer jurisdiction upon this Court by characterising the disciplinary action as arbitrary, unlawful, contrary to natural justice or violative of constitutional guarantees. Once the subject matter is shown to fall within the Tribunal's jurisdiction, the constitutional prohibition under Article 212(2) becomes operative.

17. We are therefore of the considered view that the petitioner's remedy, subject to the statutory requirements of maintainability and limitation, lies before the Federal Service Tribunal. In view of this jurisdictional conclusion, it would be inappropriate for this Court to record findings upon the sufficiency of the medical documents, the legality of dispensing with an inquiry, the merits of the alleged misconduct or the proportionality of the punishment. Any such findings may prejudice the adjudication of those questions by the forum to which the Constitution and the statute have assigned exclusive jurisdiction.

18. For the foregoing reasons, the instant constitutional petition is held to be not maintainable in view of the bar contained in Article 212(2) of the Constitution, read with sections 3 and 4 of the Service Tribunals Act, 1973, and is accordingly dismissed. The petitioner shall, however, remain at liberty to avail the remedy provided under the Service Tribunals Act, 1973, subject to all legal requirements, including limitation. In the event that such remedy is invoked, the competent Tribunal shall determine its maintainability and, where competent, decide the controversy independently and strictly in accordance with law, uninfluenced by any observation concerning the merits of the disciplinary proceedings appearing in the impugned departmental orders or the submissions reproduced herein. No opinion is expressed by this Court on the merits of the parties' rival claims. There shall be no order as to costs.

J U D G E

J U D G E

Shahzad Soomro