



HIGH COURT OF SINDH

Case Law Review



Fortnightly Bench Update



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FORTNIGHTLY BENCH UPDATE

(15-10-2025 to 31-10-2025)

An Overview of Recent Judgments of the Supreme Court of Pakistan, Sindh High Court, and Lahore High Court, Latest Legislative Amendments and Important Articles, Compiled and Published by the Legal Research Cell, High Court of Sindh, Karachi

NOTABLE JUDGMENTS

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SUPREME COURT OF PAKISTAN

1. Supreme Court of Pakistan
Abbas Asif Zaman and another v. The State and others
Criminal Petition No. 61-K of 2025

Present: **Mr. Justice Muhammad Hashim Khan Kakar**
Mr. Justice Salahuddin Panhwar
Mr. Justice Ishtiaq Ibrahim

Source: https://www.supremecourt.gov.pk/downloads_judgements/crl.p._61_k_2025.pdf

Brief Facts: The complainant, a retired medical doctor and senior citizen, alleged that his two adult children — a son and a daughter from a dissolved marriage — had unlawfully dispossessed him of his residence at 24-B, Sunset Boulevard, DHA Phase-II Extension, Karachi. He claimed that despite his financial support for their education, they became abusive and forced him out of the house. Consequently, he filed a complaint under sections 3, 4, 7, and 8 of the Illegal Dispossession Act, 2005 (IDA 2005). The trial court, after a police inquiry, took cognizance under section 3 and issued bailable warrants of arrest. The High Court of Sindh upheld this order. Aggrieved, the petitioners approached the Supreme Court, contending that the Act targets land grabbers, not family disputes, and that they were residing in the house with their father's consent since birth.

Issue: Whether a complaint under section 3 of the Illegal Dispossession Act, 2005 could be maintained in a familial context where the alleged dispossession arises from a domestic dispute between a father and his adult children who were in permissive possession of the property, rather than through forcible occupation or unlawful intent?

Rule: Section 3(3) of the Illegal Dispossession Act, 2005 penalizes any person who forcibly and wrongfully dispossesses an owner or lawful occupier of property. The Act was enacted to protect lawful owners and occupiers from forcible dispossession by unauthorized persons or land grabbers. The Supreme Court has clarified in *Niaz Ahmed v. Aijaz Ahmed* (PLD 2024 SC 1152), *Mst. Gulshan Bibi v. Muhammad Sadiq* (PLD 2016 SC 769), and *Shaikh Muhammad Naseem v. Mst. Farida Gul* (2016 SCMR 1931) that the Act applies broadly to unlawful possession but requires proof of force and culpable intent (*mens rea*) to dispossess. It is not intended to criminalize intra-family or domestic disagreements absent forcible eviction or malicious intent.

Application: Applying these principles, the Court observed that the petitioners’ possession originated from familial consent, as they had lived in the home since birth. The father’s own statement acknowledged that he “moved out” voluntarily, negating the element of force. The record did not demonstrate any mens rea or deliberate intent to unlawfully dispossess him. The Court emphasized that Pakistan’s constitutional framework (Articles 9, 14, 31, and 35) places high value on family integrity, dignity of the home, and respect for parents. The Court held that deploying the IDA 2005 in intra-family, permissive-occupancy cases risks over-criminalization and misuse of a law intended for land grabbing. Instead, the appropriate remedies lie in civil courts (through suits for possession, partition, or injunction) or under the Sindh Domestic Violence (Prevention and Protection) Act, 2013. Furthermore, the Court stressed that while family ties do not provide immunity under the Act, criminal liability requires clear evidence of forcible ouster, which was absent here. The Court also directed provincial governments to strengthen domestic violence protection mechanisms and develop senior citizen welfare legislation for balanced protection of elders and family members.

Conclusion: The Supreme Court converted the petition into an appeal and allowed it, setting aside the orders of the trial and High Courts that had taken cognizance under section 3 of the Illegal Dispossession Act, 2005. The complaint was dismissed, as no offence under the Act was made out. The Court clarified that the complainant father retained his right to enter and reside in the property, while the daughter’s right to residence in the shared household remained protected under applicable civil or protective laws. Both parties were directed not to obstruct each other’s peaceful residence pending lawful adjudication. The judgment underscored that the Illegal Dispossession Act, 2005 must not be invoked to resolve intra-family disputes, reaffirming that family, dignity, and due process are constitutionally protected values.

**2. Supreme Court of Pakistan
The Registrar High Court of Sindh and others v. Rehana and others
Civil Petitions No. 804-K to 807-K of 2025**

**Present: Mr. Justice Muhammad Ali Mazhar
Mr. Justice Syed Hassan Azhar Rizvi
Mr. Justice Aqeel Ahmed Abbasi**

Source: https://www.supremecourt.gov.pk/downloads_judgements/c.p. 804 k 2025.pdf

Facts: Several constitutional petitions were originally filed before the High Court of Sindh, Circuit Court Larkana, by the descendants of deceased employees of the District Courts. Their grievance was that the High Court's policy for the appointment of children of deceased, retired, and serving employees (the "son-quota" policy) was not being implemented, depriving them of their legitimate expectation of employment under the deceased employees' quota. The High Court, on 17.04.2024, directed the District & Sessions Judge, Larkana, to issue appointment letters for suitable posts (equivalent to Naib Qasid) and ordered the Registrar, High Court of Sindh, to circulate the judgment to all District Judges for compliance. When this order was not implemented, the petitioners approached the High Court again through miscellaneous applications under Section 151 CPC, which were allowed on 30.04.2025, directing the Registrar to refer the matter to the Chief Justice for appropriate orders. Instead of implementing the judgment, the Registrar of the High Court and the District Judge, Larkana, challenged the High Court's implementation order in the Supreme Court through the present civil petitions, relying on the later decision of this Court in General Post Office, Islamabad v. Muhammad Jalal (PLD 2024 SC 1276), which declared Rule 11-A and similar "deceased quota" policies unconstitutional.

Issue: Whether the High Court's order dated 30.04.2025, directing implementation of its earlier judgment (17.04.2024) under the deceased employees' quota policy, was valid and enforceable despite the later Supreme Court ruling in General Post Office v. Muhammad Jalal declaring such quota policies unconstitutional?

Rule: The Supreme Court held that judgments of the Court have prospective effect unless expressly declared otherwise. The doctrine of prospective overruling prevents reopening of finalized matters and protects vested rights determined under earlier valid legal frameworks. Under Article 189 of the Constitution, the law declared by the Supreme Court binds all courts but operates prospectively unless stated to have retrospective effect. Precedents such as Sakhi Muhammad v. CDA (PLD 1991 SC 777), Pir Bakhsh v. Chairman, Allotment Committee (PLD 1987 SC 145), and PMDC v. Muhammad Fahad Malik (2018 SCMR 1956) reinforce that Supreme Court judgments generally do not invalidate past and closed transactions or judgments that have already attained finality.

Application: Applying this principle, the Court observed that the High Court's main judgment dated 17.04.2024 had attained finality, as it was never challenged before the

Supreme Court. The later judgment in General Post Office (26.09.2024) could not retrospectively nullify or disturb the High Court's directions that had already become conclusive. The Registrar's reliance on that later ruling to avoid compliance was deemed misconceived and legally untenable. Furthermore, the Court noted that the General Post Office case itself raised constitutional questions requiring interpretation, which, under Section 4 of the Supreme Court (Practice and Procedure) Act, 2023, should have been heard by a larger bench of not less than five judges; this procedural aspect was overlooked. Nevertheless, even if that judgment were valid, its effect would remain prospective. Hence, the withdrawal of the son-quota policy by the High Court's Administration Committee following General Post Office could not apply retrospectively to undo the earlier valid and final judgment of 17.04.2024. The Registrar's act of challenging his own Court's order was characterized by the Supreme Court as "strange and unusual."

Conclusion: The Supreme Court found no illegality, perversity, or impropriety in the High Court's impugned order dated 30.04.2025. It held that the High Court rightly directed implementation of its earlier judgment, which had attained finality prior to General Post Office. Consequently, the civil petitions were dismissed, and leave to appeal was refused. The judgment reaffirmed that the doctrine of prospective overruling protects finalized judicial decisions from being invalidated by subsequent changes in law.

3. Sindh High Court
Muhammad Nadeem Khan vs Federation of Pakistan and others
Constitutional Petition No. D-4002 of 2025

Present: **Mr. Justice Muhammad Faisal Kamal**
Alam Justice Ms. Sana Akram Minhas

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjg3ODI3Y2Ztcy1kYzgZ>
2025 SHC KHI 3011

Brief Facts: Muhammad Nadeem Khan, a civil servant of the Federal Board of Revenue (FBR), filed a constitutional petition challenging (i) a Fact-Finding Inquiry Report dated 12.05.2025 recommending disciplinary action against him, and (ii) a suspension order dated 30.07.2024 for 120 days. The petitioner contended that the disciplinary proceedings were mala fide and based on faulty grounds since the

refund applications of one taxpayer, Ikramuddin (proprietor of Wali Khan Trading Company), had already been upheld by both the Federal Tax Ombudsman (FTO) and the Appellate Tribunal Inland Revenue (ATIR). The petitioner's counsel argued that, as no final departmental order had yet been passed, the petitioner had no alternate remedy and therefore invoked the constitutional jurisdiction of the High Court under Article 199. Conversely, the respondents, represented by the Assistant Attorney General and counsel for respondent No.4, argued that the charge sheet had been duly issued and that the petitioner was avoiding departmental proceedings. They asserted that the petitioner had issued a favourable and improper show cause notice under Section 221 of the Income Tax Ordinance, 2001, resulting in loss to the national exchequer.

Issue: Whether the High Court, under Article 199 of the Constitution, could interfere in or quash ongoing disciplinary proceedings against a civil servant on the ground of alleged mala fide or absence of an alternate remedy, when such proceedings were still pending and not finalized?

Rule: Under Article 212 of the Constitution of Pakistan, matters relating to the terms and conditions of service of civil servants fall within the exclusive jurisdiction of the Federal Service Tribunal, and constitutional jurisdiction under Article 199 is barred. The Supreme Court in *Ahmad Ullah and others v. District Education Officer (Male), Buner and others* (2024 SCMR 2004) reaffirmed that even when mala fide or coram non iudice is alleged, Article 212 bars High Court jurisdiction if the dispute concerns service matters. Earlier precedents such as *M.A. Rehman v. Federation of Pakistan* (1988 SCMR 691) and *Syed Muhammad Abbas Rizvi v. Federation of Pakistan* (2014 PLC (C.S.) 1363) were distinguished on factual grounds.

Application: The Court observed that the disciplinary proceedings against the petitioner were still pending, with no final order passed. Hence, departmental remedies under the relevant service rules had not been exhausted. The Court noted that although some charges in the charge sheet might overlap with issues already adjudicated by the Appellate Tribunal Inland Revenue, the ongoing departmental inquiry was independent and could not be quashed merely because parallel judicial or quasi-judicial findings existed. Applying the constitutional bar under Article 212, the Court held that it lacked jurisdiction to interfere in pending disciplinary proceedings, even if allegations of mala fide were raised. The cited precedents by the petitioner were found distinguishable because they involved either final dismissal orders or issues of cadre rather than ongoing inquiries.

Conclusion: The High Court held that no interference was warranted in the ongoing disciplinary proceedings against the petitioner. The petition was therefore

disposed of, with the observation that the competent authority, while concluding the disciplinary proceedings expeditiously, must take into account those facts and charges already adjudicated upon by the Appellate Tribunal Inland Revenue.

4. Sindh High Court
Muhammad Arif Durrani v. The Learned High Court through its Registrar and another
Constitutional Petition No. D – 3090 of 2025

Present: Mr. Justice Faisal Kamal Alam
Justice Ms. Sana Akram Minhas

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjg3ODI1Y2Ztcy1kYzgZ>
2025 SHC KHI 3009, 2025 SHC KHI 3010

Facts: The petitioner, Muhammad Arif Durrani, challenged an order dated 19 June 2025 issued by the Member Inspection Team-II (MIT-II) of the Sindh High Court. This order, conveyed to the District & Sessions Judge (East), contained directions from the then Monitoring and Inspecting Judge (MIJ) for Karachi-East to collect and submit confidential details of the petitioner's movable and immovable assets, bank accounts, and travel history. The petitioner argued that this action was based on an anonymous and questionable complaint and that the Monitoring Judge, acting as the appellate authority for service matters, lacked the jurisdiction to initiate such proceedings. The respondents, including the Registrar of the High Court and the District & Sessions Judge (East), opposed the petition, maintaining that the complaint had been improperly routed through the MIT-II but that any procedural lapse could be remedied since no final order or disciplinary action had yet been taken.

Issue: Whether the directions issued by the former Monitoring and Inspecting Judge through the MIT-II for initiating an inquiry into the petitioner's conduct were valid and within the authority of the said Judge, despite procedural irregularities in handling the complaint?

Rule: Under the administrative framework of the Sindh High Court, complaints against judicial officers or staff members are to be processed by the Administrative Branch under the supervision of the Registrar and are ultimately placed before the competent authority, i.e., the Hon'ble Chief Justice. Monitoring and Inspecting Judges act as appellate authorities in service matters but do not possess original

jurisdiction to initiate inquiries. However, procedural lapses in routing or processing complaints can be cured so long as no substantive prejudice or final disciplinary decision has been made.

Application: The Court observed that the Monitoring and Inspecting Judge indeed acted beyond his delegated authority by directing the initiation of an inquiry into the petitioner's affairs. The complaint should have been properly routed through the MIT-II and then placed before the competent authority. Nonetheless, since no substantial disciplinary step or final order had been made and the inquiry was still at a preliminary stage, the defect was deemed curable. The Court directed that the complaint and all evidence collected so far be preserved and formally placed before the competent authority—the concerned District & Sessions Judge—for proper consideration. The Court also ordered that certain scandalous and inappropriate paragraphs in the petition be struck off the record.

Conclusion: The High Court held that although the Monitoring and Inspecting Judge exceeded his authority in initiating the inquiry, the procedural irregularity could be rectified. The complaint and related evidence were to be placed before the competent authority for appropriate action, and the impugned order of 19 June 2025 remained intact. Consequently, the constitutional petition was disposed of without granting the petitioner any substantive relief.

5. Sindh High Court
Abdul Monem v. Vice Chief of Air Staff (Pakistan Airforce) and others
Constitutional Petition No. D – 4233 of 2024

Present: Mr. Justice Faisal Kamal Alam
Mr. Justice Jawad Akbar Sarwana

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjg3MDQxY2Ztcy1kYzgZ>
2025 SHC KHI 2791

Facts: The Petitioner, Abdul Monem (Ex. Chief Technician), challenged the abrupt termination of his service by the Pakistan Air Force (PAF) via a Constitution Petition. The Petitioner also challenged the provisions of Section 20 of The Pakistan Air Force Act, 1953, and Rule 31-A of The Pakistan Air Force Rules, 1957, as being ultra vires or unconstitutional. The court record indicated that the Respondents had violated their own laid down statutory procedure during the

termination process, preventing the Petitioner from availing an appellate or curative forum, and the Petitioner had since retired from service.

Issue: (i) Whether the impugned dismissal order was legally valid, given the Respondents' alleged failure to follow the laid down statutory procedure?

(ii) Whether Section 20 of the Pakistan Air Force Act and Rule 31-A of the PAF Rules are ultra vires the Act or violative of any provision of the Constitution of the Islamic Republic of Pakistan, 1973?

Rule: The governing legal framework for this case includes the Constitution of the Islamic Republic of Pakistan, 1973, The Pakistan Air Force Act, 1953 (the Act), and The Pakistan Air Force Rules, 1957 (PAF Rules), specifically Section 20 and Rule 31-A. The fundamental legal principle applied is that an authority must strictly adhere to its laid down statutory procedure when affecting an employee's service rights; a failure to do so constitutes a procedural violation that can lead to the setting aside of the resultant action, such as a dismissal order.

Application: In its analysis, the High Court determined that the Respondents had violated their laid down statutory procedure in terminating the Petitioner's service, finding an inherent illegality in the process itself. Consequently, the Court found the resultant dismissal order to be invalid on procedural grounds. However, the Court dismissed the second part of the challenge, holding that it found no inherent illegality in the text of Section 20 or Rule 31-A, concluding that those provisions are neither ultra vires the Act nor violative of any constitutional provisions. Because the Petitioner had already retired from service, the remedy of reinstatement was not practical or warranted.

Conclusion: The Constitution Petition was partly allowed. The High Court set aside the impugned Dismissal Order due to the Respondents' violation of their statutory procedure. However, since the Petitioner had retired, he was not reinstated but was instead deemed to have been discharged from the PAF with the entitlement to receive all service dues and benefits applicable to his cadre and length of service. The Court dismissed the part of the Petition challenging the legality of Section 20 and Rule 31-A, finding no illegality in the provisions themselves.

**6. Sindh High Court
Sultan Ali and others v. S.L.A.T and others
Constitutional Petition No. D – 7067 of 2015**

Present: Mr. Justice Faisal Kamal Alam
Justice Ms. Sana Akram Minhas

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjg3OTQxY2Ztcy1kYzgZ>
2025 SHC KHI 3026 2025 SHC KHI 3027

Issues: (i) Whether the Appellate Tribunal was justified in setting aside the Labour Court’s decision granting back benefits and compensation to the petitioners, who were employees of the respondent establishment, after their verbal termination in 1999.

(ii) Whether the Appellate Tribunal had misread or failed to consider the evidence on record while overturning the Labour Court’s award?

Rule: Under Section 12(3) of the Standing Orders Ordinance, 1968, an employer is prohibited from terminating an employee’s services without lawful justification and adherence to due process. Further, appellate or revisional authorities are bound to reappraise evidence before setting aside factual findings of a trial or lower court. The precedents relied upon by the petitioners — Secretary, Government of Punjab, Health Department v. Inspector General of Police, Punjab (2021 SCMR) and General Manager, MCB Ltd. v. Mehmood Ahmed Butt (2002 SCMR 1064) — reaffirm that findings based on proper appreciation of evidence cannot be disturbed arbitrarily without proper reasoning or re-evaluation.

Application: The Court observed that the petitioners were employed in the respondent’s Weaving Department and were verbally terminated on 17.06.1999. They filed grievance notices and subsequently approached the Labour Court when their grievances were not redressed. The Labour Court, after examining evidence from both sides, granted back benefits from the date of termination till 03.12.2005 and compensation equivalent to fifteen months’ last drawn salary. However, on appeal, the Appellate Tribunal set aside the back benefits and enhanced the compensation to thirty months’ salary without analyzing the evidence in detail. Upon review, the High Court found that the Appellate Tribunal had failed to discuss or reappraise the evidence as required by law. It noted that all petitioners consistently stated in their grievance applications and affidavits that they remained unemployed after termination. The respondent did not cross-examine most of the petitioners on this issue, nor did it provide any evidence to prove that they were gainfully employed elsewhere. Even the cross-examination of petitioner No.2, Jansher Khan, did not contradict his assertion of unemployment. Therefore, the

petitioners had successfully proved that they were jobless during the relevant period, and their entitlement to back benefits was justified. The High Court held that the Appellate Tribunal's order suffered from non-reading and misreading of evidence and amounted to an illegal exercise of jurisdiction. However, the Court declined the request to extend back benefits up to the date of the appellate decision (08.09.2015), reasoning that such relief would amount to an undue financial advantage since some petitioners had short service tenures.

Conclusion: The High Court allowed both petitions to the extent that the Labour Court's order was restored regarding the grant of back benefits from 17.06.1999 to 03.12.2005. However, it set aside the compensation awarded by both the Labour Court and Appellate Tribunal, directing instead that the petitioners would be entitled only to their service dues, if any, according to their length of service. The amount deposited with the Nazir of the Court was ordered to be released to the petitioners with accrued profit. The petitions were accordingly disposed of with no order as to costs.

7. Sindh High Court
Ubaid v. The State
Special Criminal Anti-Terrorism Appeal No. 95 of 2024

Present: **Mr. Justice Omar Sial**
Mr. Justice Syed Fiaz Ul Hassan Shah

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjg3MTQ3Y2Ztcy1kYzgZ>
2025 SHC KHI 2797

Facts: On 2 July 1998, a Sachal Rangers patrol led by Sub-Inspector Noor Nawab Khattak was ambushed in Liaquatabad, Karachi, by Nadir Shah and nine associates, including the appellant, Syed Obaid alias K-2, who allegedly fired upon the law enforcers, resulting in the death of Sepoy Dildar Hussain and injuries to Havaldar Mumtaz Ali. FIR No. 212 of 1998 was registered at the Liaquatabad Police Station under sections 302, 353, 324, 148, and 149 of the Pakistan Penal Code, read with section 7 of the Anti-Terrorism Act, 1997. Nadir Shah and Obaid were later tried, but while Nadir Shah was present, Obaid was tried in absentia and convicted in 2002, receiving a life sentence along with other terms of imprisonment. It was subsequently discovered that Obaid's absence was not deliberate, as he was imprisoned in another case at the time. The Anti-Terrorism Court set aside his conviction in 2023 and ordered a retrial, during which most prosecution witnesses gave weak, inconsistent, or unreliable testimony, and no

weapon or concrete evidence linked Obaid to the shooting. Despite this, the trial court again convicted him, but upon appeal, the High Court of Sindh found that the prosecution had failed to prove the case beyond reasonable doubt, that due process was not followed, and that reliance on testimonies from the earlier in absentia trial was unlawful; consequently, Obaid alias K-2 was acquitted and ordered to be released if not required in any other case.

Issue: The central issue before the High Court of Sindh in Special Criminal Anti-Terrorism Appeal No. 95 of 2024 (Ubaid @ K-2 v. The State) was whether the conviction of the appellant, Syed Obaid alias K-2, under sections 302, 324, and 353 read with section 7 of the Anti-Terrorism Act, 1997, could be sustained. This question arose in light of the fact that his earlier conviction had been recorded in absentia while he was already imprisoned in another case, that several key witnesses were either deceased or unavailable during the retrial, and that the evidence produced did not specifically link him to the firing that caused the death of a law enforcement officer.

Rule: The Court referred to several legal provisions. Under Article 47 of the Qanun-e-Shahadat Order, 1984, earlier testimony may only be used in a later proceeding if the previous case involved the same parties, the adverse party had an opportunity to cross-examine, and the issues in both proceedings were substantially the same. Section 19(10) of the Anti-Terrorism Act, 1997, permits a trial in absentia only where the court is satisfied that the accused's absence was deliberate and intended to obstruct justice. Section 512 of the Code of Criminal Procedure, 1898, allows recording evidence in the absence of an accused but does not authorize conviction based solely on that evidence. Furthermore, Articles 10 and 10-A of the Constitution of Pakistan guarantee every citizen the right to due process and a fair trial. Finally, Article 68 of the Qanun-e-Shahadat Order makes it clear that an accused's bad character is irrelevant in criminal proceedings unless evidence of good character has first been introduced.

Application: The Court observed that the original conviction of Obaid in 2002 was unlawful because it was rendered while he was in custody in another case and was not deliberately avoiding trial. The Anti-Terrorism Court's later decision of January 17, 2023, setting aside that conviction, went unchallenged by the prosecution or the complainant, confirming that a retrial was necessary. During the retrial, the prosecution failed to produce credible, direct evidence connecting the appellant to the crime. Witnesses provided inconsistent or unreliable statements: one stated that the firing came from rooftops while Obaid was seen on the ground, another falsely claimed that an identification parade had taken place, and there was no recovery of any weapon from the accused. The prosecution's evidence

established, at most, that Obaid was present in the general mob but did not show that he personally fired at law enforcement officers. The trial court had erroneously relied on the testimonies recorded during the earlier in absentia trial even though these statements were never properly brought on record during the retrial and did not meet the requirements of Article 47 of the Qanun-e-Shahadat Order. Since these earlier witnesses were not available for cross-examination and their previous statements were not presented to the accused during his examination under Section 342 Cr.P.C., their use was legally impermissible. The High Court emphasized the precedent of Muhammad Sadiq v. The State (2018 SCMR 71), which held that after a conviction in absentia is set aside, the prosecution must lead fresh evidence to prove its case beyond reasonable doubt. That did not happen here. The judges also noted that while the appellant had a long criminal history and a poor reputation, these facts could not replace the evidentiary standard required for conviction. Under the law, even a person of bad character is entitled to the constitutional guarantees of due process and fair treatment. The court stressed that judicial decisions must be based on evidence and law rather than public perception or reputation.

Conclusion: The High Court concluded that the prosecution had failed to prove its case against the appellant beyond reasonable doubt. The reliance on the earlier *in absentia* testimonies was unlawful, the evidence was insufficient, and the proceedings violated the appellant's constitutional right to a fair trial under Article 10-A. Consequently, the Court set aside the convictions and sentences awarded under sections 302, 324, and 353 read with section 7 of the Anti-Terrorism Act, 1997, and acquitted the appellant, ordering his release if he was not required in any other case. The judgment reaffirmed that even a notorious individual is entitled to equal protection of the law and that convictions cannot rest on reputation or assumptions but only on legally admissible and credible evidence.

8. Sindh High Court
The State through Chairman NAB vs. Mehreen Zafar
Criminal Accountability Acquittal Appeal No. 63 of 2018

Present: Mr. Justice Omar Sial
Mr. Justice Fiaz Ul Hassan Shah

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjg3MTQ1Y2Ztcy1kYzg3>
2025 SHC KHI 2796

Facts: In this case, Mehreen Zafar was one of the accused in NAB Reference No. 5 of

2018 before Accountability Court No. 2, Karachi, where she was acquitted on 12 September 2018 under Section 265-K of the Criminal Procedure Code. The National Accountability Bureau (NAB) obtained the certified copy of the acquittal order on 9 October 2018 and filed an appeal on 12 October 2018—beyond the then-applicable ten-day limitation period for such appeals under the National Accountability Ordinance, 1999. In 2022, an amendment to the NAB law extended the appeal period from ten to thirty days, and NAB argued that this amendment should apply retrospectively to validate its delayed appeal. The High Court examined this contention, noting that the amendment came nearly four years after the expiry of NAB’s right to appeal and that the acquittal had already become final, creating a vested right in favor of the respondent. Furthermore, NAB had not filed any application seeking condonation of delay under Section 5 of the Limitation Act, 1908. The Court concluded that the appeal was time-barred and that the subsequent legislative amendments could not revive NAB’s lapsed right of appeal, thereby upholding Mehreen Zafar’s acquittal.

Issue: The primary issue before the Court was whether the National Accountability Bureau (NAB) could validly file an appeal against the acquittal of Mehreen Zafar after the statutory limitation period of ten days had expired, on the basis that a subsequent amendment to the National Accountability Ordinance (NAO) in 2022 retrospectively extended the appeal period from ten to thirty days. In essence, the Court was required to determine whether the 2022 Amendment Act applied retrospectively to revive NAB’s right to appeal, which had already lapsed in 2018.

Rule: The Court relied on well-established principles of statutory interpretation and limitation law, observing that while limitation laws are generally procedural in nature and thus capable of retrospective application—as they regulate the process of enforcing rights rather than creating them, as held in *Commissioner of Income Tax v. Karachi Asbestos Cement Industries Ltd.* (1993 SCMR 1276)—once a limitation period expires, a vested right accrues in favor of the party benefitting from the lapse, converting the matter into one of substantive law, as reaffirmed in *Muhammad Faisal v. Commissioner Inland Revenue* (2025 SCMR 930). The Court reiterated, with reference to *Nagina Silk Mill v. Income Tax Officer* (PLD 1963 SC 322), that statutes should not be applied retrospectively if doing so would prejudice vested rights or reopen past and closed transactions, except where the legislature has clearly and unambiguously expressed an intention to do so, as outlined in *Muhammad Hussain v. Muhammad* (2000 SCMR 367). In conclusion, by referring to Section 2(ii)(f) of the National Accountability (Amendment) Act, 2023, the Court emphasized that Parliament had explicitly preserved all final orders and judgments passed before the commencement of the 2022 and 2023 amendments, confirming its intent not to disturb or reopen concluded cases.

Application: Applying these principles, the Court noted that Mehreen Zafar had been acquitted by the Accountability Court No. 2, Karachi, on 12 September 2018 under Section 265-K Cr.P.C., and that although NAB obtained the certified copy of the order on 9 October 2018, it filed the appeal on 12 October 2018—beyond the ten-day limitation period then in force. The 2022 Amendment Act, which extended the limitation period to thirty days, was enacted nearly four years later, well after NAB’s right to appeal had expired. The Court emphasized that by the time the amendment was introduced, the respondent’s acquittal had become a past and closed transaction and a vested right had accrued in her favor, which could not be disturbed absent explicit legislative intent, which was lacking. Furthermore, NAB failed to file any application for condonation of delay under Section 5 of the Limitation Act, 1908, showing a clear lack of diligence and making it ineligible to rely on the amendment to revive an expired right of appeal. The subsequent 2023 Amendment Act further reinforced this position by declaring that all final orders and judgments passed before the 2022 and 2023 amendments would remain valid and operative, thus confirming that Mehreen Zafar’s acquittal stood as a final and closed matter.

Conclusion: The High Court held that the appeal filed by NAB was barred by limitation and that the 2022 Amendment Act could not retrospectively revive a lapsed right of appeal. Since the acquittal had attained finality before the amendment and no condonation of delay was sought, the appeal was incompetent and time-barred. Accordingly, the Court dismissed the appeal, affirming the acquittal of Mehreen Zafar, and reiterated that retrospective amendments cannot impair vested rights or reopen past and closed transactions unless the legislature explicitly intends such an outcome.

9. Sindh High Court
Haji Abdul Raziq Khan and others v. Collector of Customs and Others
Constitutional Petition No. D-4649/2024

Present: Mr. Justice Adnan Iqbal Chaudhry
Mr. Justice Muhammad Jaffer Raza

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjg3MTA5Y2Ztcy1kYzgZ>
2025 SHC KHI 2792

Facts: The petitioner, an importer of used auto parts, imported consignments (GD Nos. HCSI-18 dated 02.08.2021 and HCSI-21 dated 10.08.2021). During assessment, Customs withheld the goods, alleging mis-declaration in description and value,

finding that some goods were not used auto parts. Show Cause Notices were issued, culminating in orders-in-original (ONO Nos. 1718575/2021 and 1718085/2021) passed under Section 179 of the Customs Act, 1969, holding the goods liable to confiscation but allowing redemption on payment of fine under Section 181. The petitioner appealed to the Customs Appellate Tribunal under Section 194-A, which, on 19.02.2022, held that misdeclaration was not established since all invoices and packing lists were properly uploaded. The Tribunal set aside the confiscation orders but directed provisional release of goods under Section 81 of the Customs Act, 1969, against bank guarantee or pay order for differential duties and taxes. Following this, Customs issued letters dated 04.04.2022 requiring pay orders, which the petitioner furnished, and the goods were released. However, no final determination was made within the statutory time. The petitioner contended that under Section 81(2), the provisional assessment must be finalized within 90 days, extendable by 30 days only in exceptional cases — a total maximum of 120 days. Since no final order was made, the provisional determination became final under Section 81(4). Customs, however, failed to release the securities (pay orders), leading to this petition.

Issues: Whether the provisional determination made under Section 81 becomes final if not finalized within the statutory period of 120 days. Whether the Customs Department was justified in retaining the petitioner’s pay orders beyond the prescribed period?

Rule: Section 81 of the Customs Act, 1969 — Provisional Determination of Liability: Allows provisional assessment when final assessment cannot be made. Requires finalization within 90 days, extendable by 30 days for exceptional reasons. If not finalized within this time, the provisional determination is deemed final.

Relevant precedents cited:

Collector of Customs Port Muhammad Bin Qasim v. MIA Corporation (Pvt) Ltd. (2023 PTD 1797), Federation of Pakistan v. SUS Motors (Pvt) Ltd. (2023 SCMR 1421), Collector of Customs v. Z.A. Industries (2022 PTD 1918), Sikandar & Co. v. Federation of Pakistan (2024 PTD 188).

Application: The Court analyzed Section 81(2) and (4), confirming that: The maximum period for finalization is 120 days, strictly to be adhered to. The provisional assessment automatically becomes final after lapse of 120 days. The Tribunal’s order explicitly referred to Section 81, making Customs’ argument that it did not apply untenable. The Customs Department’s notice dated 23.09.2024—issued long after 120 days—had no legal consequence. The Court agreed with precedents (e.g., MIA Corporation, SUS Motors) that these time limits are mandatory and penal,

designed to protect importers from indefinite delays by Customs authorities.

Conclusion: The provisional determination dated 04.04.2022 is deemed final under Section 81(4) of the Customs Act, 1969. The petition was allowed. Customs was directed to return the pay orders to the petitioner without delay. No order as to costs.

10. Sindh High Court
Sindh Revenue Board v. M/s. Logon Broadband (Pvt.) Ltd.
Special Sales Tax Reference Application No. 349/2019

Present: **Mr. Justice Agha Faisal**
Mr. Justice Muhammad Osman Ali Hadi

Source: [https://caselaw.shc.gov.pk/caselaw/view-file/Mjg2ODczY2Ztcy1kYzg2025 SHC KHI 2762](https://caselaw.shc.gov.pk/caselaw/view-file/Mjg2ODczY2Ztcy1kYzg2025%20SHC%20KHI%202762)

Facts: The case involves several reference applications filed by the **Sindh Revenue Board (SRB)** under Section 63 of the **Sindh Sales Tax on Services Act, 2011 (SSTA 2011)**, challenging the decisions of the Appellate Tribunal. The Tribunal had upheld the findings of the Commissioner Appeals, stating that the Respondents, who were not registered with the SRB, could not be assessed for sales tax on services provided prior to their registration. The SRB contended that the law should allow for the assessment of sales tax on services provided before the registration of the service providers. The case primarily revolves around the liability of service providers for sales tax before their registration and the applicability of withholding provisions under the **Sindh Sales Tax Special Procedure (Withholding) Rules, 2011 and 2014**.

Issues: The core issues in this case are:

- (i) Whether a person who obtains voluntary registration under the **SSTA 2011** can be held liable for payment of sales tax on services rendered before their registration?
- (ii) Whether the Appellate Tribunal was correct in holding that a taxpayer was not liable to pay sales tax for the period before voluntary registration, even though taxable services were provided during that period?

(iii) Whether the liability to pay sales tax on services provided by an unregistered person prior to the date of registration could be shifted entirely to the withholding agent under the provisions of the **Sindh Sales Tax Special Procedure (Withholding) Rules, 2011 and 2014**?

(iv) Whether a person providing taxable services without registration can avoid liability for sales tax merely on the basis of subsequent voluntary registration and whether such an interpretation is consistent with the objectives of the **SSTA 2011**?

Rule: The relevant provisions of the **SSTA 2011** are outlined in various sections. **Section 23** pertains to the assessment of tax, which applies to registered persons. **Section 24A** provides for voluntary registration, allowing any service provider to register with the SRB voluntarily. **Section 24B** covers compulsory registration, which allows the SRB to register a person if deemed necessary. **Section 2(71)** defines a "registered person" and distinguishes between those who are registered and those who are liable to be registered. **Section 3** imposes sales tax on taxable services, applicable to registered persons. **Section 9** clarifies that the person liable to pay tax is a registered person. Additionally, the **Withholding Rules (2011 & 2014)** detail the responsibility of withholding agents to deduct and remit sales tax when services are provided by unregistered persons.

Application: The **Sindh High Court** analyzed the provisions of the **SSTA 2011** and agreed with the Appellate Tribunal's interpretation. According to the Court, under the law applicable at the time, only registered persons were liable to pay sales tax on services provided. The Court referred to the definition of "registered person" in **Section 2(71)** and found that an unregistered service provider could not be treated the same as a registered person. Even though the service providers had rendered taxable services, the Court stated that sales tax could not be levied on these services prior to the registration of the service providers, as registration was a precondition for liability. The Court also noted that **Section 9** and **Section 3** applied only to registered persons, and there were no provisions to assess sales tax on unregistered service providers before their registration. Furthermore, the Court highlighted that if the SRB wished to impose sales tax on unregistered service providers, it could have done so by using its powers under **Section 24B** (compulsory registration), but this was not done in this case. The Court also discussed the withholding agent provisions in the **Withholding Rules**, stating that while these provisions allowed for shifting the tax liability to the recipient of the service, they did not make the unregistered provider liable for sales tax during the period before their registration.

Conclusion: The **Sindh High Court** concluded that the **Appellate Tribunal's** judgment was correct in holding that service providers who were not registered with the SRB

could not be assessed for sales tax on services rendered prior to their registration. The Court further ruled that the liability for sales tax on services provided by an unregistered person could be shifted to the withholding agent under the **Withholding Rules**, but this did not absolve the unregistered person from tax liability for the period before their registration. The Court also stated that a service provider could not avoid liability for sales tax merely based on subsequent voluntary registration, as such an interpretation would contradict the law prior to the 2021 amendments. The Court answered the rephrased questions as follows:

Question 1: The Court answered in the negative, ruling that a person cannot be held liable for sales tax on services provided before their registration.

Question 2: The Court answered in the affirmative, agreeing with the Tribunal's decision that the taxpayer was not liable for sales tax before their voluntary registration.

Question 3: The Court acknowledged previous rulings and concluded that the withholding agent could be held liable under specific rules, but this did not apply to the service provider's pre-registration services.

Question 4: The Court ruled that a service provider cannot avoid liability for sales tax simply based on subsequent voluntary registration, as such an interpretation is inconsistent with the law as it stood before the 2021 amendments.

The Reference was decided accordingly, and the Court upheld the Tribunal's findings in favor of the Respondents.

11. Sindh High Court
The Commissioner Inland Revenue, Legal Zone (MTO) vs. Team A-Ventures (Pvt) Ltd.
H.C.A. Nos. 11 & 12 of 2022

Present: **Mr. Justice Agha Faisal**
Mr. Justice Muhammad Osman Ali Hadi

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjg4NDIxY2Ztcy1kYzgz>
2025 SHC KHI 3069

Facts: The case concerns appeals filed by the **Federal Board of Revenue (FBR)** against a judgment passed by a **Single Judge** of the High Court of Sindh on **05.11.2021**, which declared that the searches conducted by the FBR at the Respondents' premises under the **Sales Tax Act, 1990 (STA 1990)**, **Income Tax Ordinance**,

2001 (ITO 2001), and **Federal Excise Act, 2005 (FEA 2005)** were unlawful. The FBR had conducted raids without obtaining the necessary warrants, which led the Single Judge to rule that the tax authorities' actions were illegal and a violation of due process. The Appellants (FBR) argued that no search warrants were required under the relevant provisions of the STA and ITO, while the Respondents contended that the searches violated their rights and were unlawful due to the absence of proper legal procedures, including obtaining warrants.

Issues: The issues raised in the case include:

(i) Whether the **Impugned Judgment** misinterpreted the provisions of **Section 38 STA 1990** and **Section 175 ITO 2001**, particularly regarding the power of search granted to the FBR, and whether the FBR was correct in arguing that no search warrant was required for conducting the raids?

(ii) Whether the **Impugned Judgment** was correct in holding that the High Court's **Original Civil Jurisdiction** was not ousted by the ouster clauses in the **Sales Tax Act, 1990** and the **Income Tax Ordinance, 2001**, and that the suits filed by the Respondents were maintainable?

Rule: The relevant legal provisions that were discussed include **Section 38** and **Section 40** of the **Sales Tax Act, 1990** and **Section 175** of the **Income Tax Ordinance, 2001**. **Section 38 STA 1990** grants authorized officers access to business premises, but **Section 40 STA 1990** clearly states that a search can only be conducted with a warrant obtained from a Magistrate, unless specific conditions are met. Similarly, **Section 175 ITO 2001** allows the Commissioner or authorized officers to enter and search premises, but this is contingent upon an existing investigation or inquiry, with the requirement to provide reasons for the search. The **ouster clauses** in **Section 51 STA 1990** and **Section 227 ITO 2001** bar the jurisdiction of civil courts, but this does not apply when the tax authorities' actions violate statutory provisions or legal rights, as established in previous case law.

Application: The **High Court** analyzed the statutory provisions and the arguments presented by the FBR, finding that the **Single Judge** correctly interpreted **Section 38 STA 1990** and **Section 40 STA 1990**. The Court observed that **Section 38** cannot be viewed as granting an independent power to conduct searches without a warrant, as it must be read in conjunction with **Section 40 STA 1990**, which mandates obtaining a warrant before conducting a search. The **Court** further noted that the **FBR** failed to meet the preconditions for conducting searches under **Section 175 ITO 2001**, which required an ongoing investigation or inquiry, and the **Authorization Letters** for the searches did not specify the legal provisions being enforced or provide reasons for the search, rendering the searches unlawful. The

Court referenced the **fruit of the poisonous tree doctrine**, which prohibits using evidence obtained through unlawful searches in determining tax liability. Regarding the **ouster clauses**, the **Court** concluded that the **High Court's jurisdiction** was not ousted by these clauses because the **FBR's actions** violated the law and violated the Respondents' legal rights, thus making the suits maintainable in the High Court.

Conclusion: The **Sindh High Court** upheld the **Impugned Judgment**, agreeing with the **Single Judge's interpretation** of the relevant statutory provisions. The **Court** concluded that the **FBR's searches** were unlawful because they were conducted without obtaining the required warrants and without following due process. The **Court** also agreed with the **Single Judge** that the **ouster clauses** in the **Sales Tax Act, 1990** and **Income Tax Ordinance, 2001** did not bar the jurisdiction of the **High Court** in this case, as the **FBR's actions** were contrary to the law. The **appeals were dismissed**, and the **impugned judgment** was affirmed, confirming that the **FBR** did not have unfettered powers to conduct searches without following proper legal procedures.

12. Sindh High Court
Haji Khan Notkani v. The State
Criminal Appeal No. S-126 of 2018

Present: **Justice Ms. Tasneem Sultana**

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjg3MTM5Y2Ztcy1kYzgZ>
2025 SHC HYD 2795

Facts: The appellant, Haji Khan Notkani, challenged the conviction handed down by the Sessions Court, Tando Muhammad Khan, where he was sentenced to life imprisonment for the murder of Muhammad Aslam under Section 302 PPC. The incident occurred on March 4, 2015, when the deceased, Muhammad Aslam, was allegedly involved in a quarrel with the appellant at the house of their mutual friend, Manzoor Ahmed Buriro, in Tando Muhammad Khan. As per the complainant, Mehmood, his brother Muhammad Aslam had stayed overnight at Manzoor's house and was later found severely injured after a quarrel with the appellant. Despite being shifted to various hospitals, the deceased succumbed to his injuries. An FIR was lodged several days later, on March 10, 2015. The prosecution's case relied on witness testimonies, particularly Ahmed Ali, who

claimed to have heard the commotion and found the deceased injured. However, several lapses in the investigation and contradictions in witness statements created doubt about the reliability of the evidence.

Issue: Whether the prosecution had proved beyond a reasonable doubt that the appellant, Haji Khan Notkani, was guilty of murder under Section 302 PPC. Specifically, whether the evidence presented, including witness testimonies and circumstantial evidence, was sufficient to establish the appellant's guilt?

Rule: In criminal law, the prosecution bears the burden of proving the defendant's guilt beyond a reasonable doubt. Circumstantial evidence must form a continuous and unbroken chain leading to the defendant's guilt. Any unexplained delay in lodging the FIR or recording witness statements casts doubt on the reliability of the prosecution's case. If the evidence presented is incomplete or inconsistent, it is unsafe to convict the accused.

Application: In this case, the prosecution's evidence was found to be fraught with inconsistencies. The main witnesses, Ahmed Ali and Manzoor Ahmed, provided testimonies that were not supported by physical evidence or independent corroboration. The delay in lodging the FIR, the unexplained delay in recording witness statements, and the failure to produce key witnesses, such as Nazeer Ahmed (who could have provided insight into the alleged scuffle), weakened the prosecution's case. Furthermore, the chain of events was inconsistent, and crucial evidence, like the recovery of the murder weapon or blood-stained clothing, was either inconclusive or not properly substantiated. The postmortem report could not establish a clear link between the injury and the appellant's actions, and the medical evidence was not corroborated by the doctor who conducted the postmortem.

Conclusion: The High Court concluded that the prosecution had failed to prove the appellant's guilt beyond a reasonable doubt. The evidence presented was insufficient, and several critical lapses in the investigation undermined the case. As a result, the Court acquitted Haji Khan Notkani of the charge of murder, setting aside the conviction and sentence imposed by the Trial Court. The appellant was ordered to be released if not required in any other case. The appeal was allowed.

LAHORE HIGH COURT, LAHORE

13. Lahore High Court
Abdul Rehman v. Muhammad Ishaq
Civil Revision No.50934 of 2025

Present: Mr. Justice Ahmad Nadeem Arshad

Source: <https://sys.lhc.gov.pk/appjudgments/2025LHC6157.pdf>
2025 LHC 6157

Facts: The respondent, Muhammad Ishaq, instituted a summary suit for recovery of Rs. 14,860,043/- against the petitioner, Abdul Rehman, under Order XXXVII Rules 1 and 2 of the Code of Civil Procedure, 1908 (CPC), based on a cheque. During the proceedings, the process server reported that the petitioner was confined in District Jail, Toba Tek Singh, in connection with criminal cases. Despite this, the trial court proceeded ex parte against him on 03.12.2024. The petitioner, upon learning about the case when he appeared in court for another matter, filed an application on 22.04.2025 seeking to set aside the ex parte proceedings, condonation of delay, and permission to defend the suit. The trial court dismissed this application on 24.07.2025, leading the petitioner to file the present civil revision under Section 115 CPC.

Issue: Whether the trial court committed a legal error by initiating and maintaining ex parte proceedings against a defendant who was known to be in jail custody, without ensuring his proper service and production before the court?

Rule: Order V Rule 24 CPC specifically governs the service of summons on defendants in prison, requiring that summons be delivered or sent to the Officer in Charge of the prison for service on the defendant, accompanied by a copy of the plaint (as per Form No. 4 in Appendix B). Furthermore, the Supreme Court in *Ghulam Rasool v. Abdullah* (1991 SCMR 1964) held that once a court becomes aware of a defendant's detention, it is obligated to issue process and ensure the detainee's production rather than proceed ex parte. Similarly, in *Muhammad Nadeem Amin v. Ch. Farasat Ullah* (PLD 2006 Lahore 32), the High Court emphasized that courts must safeguard procedural fairness for incarcerated individuals. Additionally, under Articles 14 and 21 of the Constitution of Pakistan, the right of access to justice and fair trial extends to all individuals, including those in custody.

Application: The Lahore High Court observed that the process server's report clearly indicated the petitioner's detention in jail, creating a special circumstance that restricted his

mobility and capacity to defend himself. Despite knowing this, the trial court failed to order his production or ensure that a copy of the plaint was served upon him through proper legal procedure. The record did not indicate compliance with the mandatory requirements of Order V Rule 24 CPC. The respondent's argument that the petitioner had knowledge of other proceedings was found immaterial, as the certified copies revealed that the petitioner had been summoned from jail in that other case and learned of the current suit only then. The High Court held that once the trial court knew of the petitioner's incarceration, it was legally bound to ensure his appearance and fair opportunity to defend. Failure to do so violated procedural fairness and constitutional guarantees of access to justice.

Conclusion: The Lahore High Court held that the trial court erred in proceeding ex parte against the petitioner without ensuring his lawful service and production from jail. Consequently, the revision petition was accepted, the impugned order dated 24.07.2025 was set aside, and the petitioner's application for setting aside ex parte proceedings dated 03.12.2024 was allowed. No order as to costs was made.

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