

HIGH COURT OF AZAD JAMMU & KASHMIR
(SUBORDINATE JUDICIARY SERVICE TRIBUNAL)



Service Appeal No.12/2025;
Date of Institution 02.09.2025;
Date of hearing. 09.09.2025;
Date of Decision 12.09.2025.

Raja Imtiaz Ahmed (Removed for service) District & Sessions
Judge, R/o District Kotli Azad Kashmir.

....Appellant

VERSUS

1. Competent Authority/Chief Justice of High Court of Azad Jammu & Kashmir through Registrar High Court of Azad Jammu & Kashmir;
2. Registrar High Court of Azad Jammu & Kashmir, Muzaffarabad.

.... Respondents

SERVICE APPEAL

BEFORE:- Justice Sardar Muhammad Ejaz Khan, J/Chairman.
Justice Chaudhary Khalid Rasheed, J/Member

APPEARANCES:

Mr. Bashir Ahmed Mughal, Advocate for the appellant.

VERDICT:

The instant appeal is hereby dismissed in limine.

JUDGMENT:

FOREWORD:

(Chaudhary Khalid Rasheed, J/M.) The captioned service appeal has been preferred under section 5 of the Azad Jammu & Kashmir Subordinate Judiciary Service Tribunal Act, 2016 and under Rule 6 of the Azad Jammu & Kashmir Subordinate Judiciary Service Tribunal Rules, 2021 against the notification dated 11.07.2025, through which the appellant has been removed from service owing to the allegations of serious misconduct, misuse of power, giving false statement before the Hon'ble Supreme Court as well as keeping in view of the previous sentences awarded to him.

Pithy facts of the instant case which culminated into filing of the captioned appeal are, appellant was serving as District and Sessions Judge in the Judicial Department. The Supreme Court of Azad Jammu & Kashmir declined bail to an accused person Raja Dilawar Sultan in a criminal case registered in the offence under section 9(C) CNSA, 1997 vide its judgment dated 19.01.2023 by further directed the trial Court to conclude the trial of the case within a span of six months positively, however, the appellant who was serving as Presiding Officer of the trial Court within a short span of less than one month from the date of the judgment passed by the Hon'ble Supreme Court acquitted the said accused under section 265-K Cr.PC. vide its judgment dated 16.02.2023 whereupon contempt proceedings

were initiated against him by the Supreme Court which ended into three days simple imprisonment to the appellant. The Hon'ble Supreme Court of Azad Jammu & Kashmir also directed the competent authority to nominate a Judge in order to conduct an independent inquiry to determine the overall conduct of appellant vide order dated 03.06.2025. The Competent Authority appointed Mr. Justice Syed Shahid Bahar, Judge High Court as Inquiry officer for the said purpose. The learned Inquiry Officer issued notice to the appellant and upon completion of inquiry proceedings submitted his inquiry report to the Competent Authority. The Supreme Court of Azad Jammu & Kashmir vide judgment dated 03.07.2025 directed the Competent Authority to proceed against the appellant under Rule 9 of the Azad Jammu & Kashmir Civil Servants (Efficiency and Discipline) Rules, 1977 and the authority after issuing show cause notice to the appellant vide its impugned judgment and notification dated 11.07.2025 removed him from the service, hence, the captioned appeal.

STANCE OF THE APPELLANT:

The learned counsel for appellant reiterated the facts and grounds already taken in the appeal, raised sole argument that keeping in view of the long service of the appellant spreading over 24 years, the competent Authority

should have taken a lenient view but the authority harshly awarded major punishment of removal from service which is unjust, hence entails to be extinguished by extending leniency therefore, requested for the acceptance of the captioned appeal.

We have heard the learned counsel for the appellant, perused the impugned order with the record of the case with utmost care and caution.

COURT OBSERVATIONS AND RELEVANT LAW:

At the very beginning, it has been observed that since the impugned notification has been issued in the light of the direction given by the Honourable Supreme Court rendered in Criminal Original No.25 of 2025 titled Robkar-e-Adalat vs. Raja Imtiaz Ahmed decided on 03.07.2025 the previous conduct of appellant during his service at different stations as Judicial Officer and well as his demeanor during proceedings in the mentioned case, is discussed in the said case by the learned Apex Court, hence, we deem it appropriate to reproduce the relevant paragraphs of the judgment of the Honourable Supreme Court, which read as follows:-

3. The facts leading to the present contempt proceedings are not in dispute. This Court vide judgment dated 19.01.2023 had categorically declined bail to one Raja Dilwar Sultan in a criminal case registered in the offences under section 9(c) of the Control of Narcotic

Substances Act, 1997. However, while doing so, this Court exercised judicial restraint and refrained from discussing the merits of the case, directing instead that the trial be concluded expeditiously within a period of six months from the date of communication of the order. It is useful to reproduce here the relevant portion of the judgment dated 19.01.2023, which reads as follows:

“In view of the above, without touching the merits of the case as it may prejudice the case of either party, we issue the direction to the trial Court to conclude the trial within a period of six months positively from the date of communication of the order of this Court and submit the compliance report before this Court through the Registrar. If during the trial, while recording the evidence anything comes on the record, which the petitioner things favourable to him, he may file the fresh application for concession of bail.”

The purpose of the direction was clear i.e, to ensure swift administration of justice without compromising the trial proceedings.

4. Contrary to the explicit directions of this Court, the contemnor-respondent, within an unjustifiable brief period of less than one month from the date of the judgment, entertained and allowed an application under Section 265-K of the Code of Criminal Procedure, 1898, and acquitted the accused of the charge through judgment dated 16.02.2023. This acquittal was rendered in haste, without affording the prosecution a fair opportunity to prove its case, and in complete disregard of the direction of this Court. Such a course of action constitutes willful disobedience and amounts to direct defiance of the binding order of this Court.
5. More alarmingly, when confronted in open Court, the contemnor-respondent blatantly denied having passed any such order. It was only upon requisitioning the relevant file from the High Court that the truth came to light. The deliberate misstatement made by a serving judicial officer before the highest Court of the state is not only reprehensible but strikes at the very foundation of judicial integrity. Such

conduct, when perpetrated by a judicial officer, is far more serious than by an ordinary litigant. Judges are expected to embody and uphold the law, not to subvert it. The judiciary is built on the edifice of public confidence, which gets severely shaken when a judicial officer engages in such dishonest and contemptuous behaviour.

6. It is pertinent to note that this Court, vide order dated 03.06.2025, not only issued a show-cause notice for contempt to the contemnor-respondent but also directed the then Chief Justice of the High Court to nominate a Judge to conduct an independent inquiry into his Conduct. In compliance with the said order, Mr. Justice Syed Shahid Bahar was nominated as the inquiry officer. The learned Judge conducted the inquiry with due diligence: notices were issued to the contemnor-respondent; relevant service and judicial records, including the file of the case titled State Vs. Dilawar & others, were summoned and examined; and the contemnor's statement was recorded. After observing all requirements of due process, the inquiry officer submitted a detailed report concluding that the contemnor-respondent was guilty of misconduct.
7. During the inquiry proceedings conducted by Mr. Justice Syed Shahid Bahar, the contemnor-respondent unabashedly took the stance that he had rendered the judgment of acquittal in accordance with the policy guidelines a circular dated 29.10.2021, and therefore, committed no wrong. Such a defence not only reflects an absence of remorse but also reveals an alarming degree of arrogance and defiance towards the authority of this Court. The findings of the inquiry report are unambiguously averse to the contemnor-respondent, concluding that he acted in clear violation of the judgment of this Court dated 19.01.2023. More, disturbingly, he attempted to justify his act by giving preference to administrative policy over the judgment of this Court which is binding on other courts under Article 42-B of the Azad Jammu & Kashmir Interim Constitution, 1974. It is settled principle that policy guidelines or executive

circulars, cannot override or dilute the effect of a judgment passed by the apex Court. It may be stated here that even Judges of the High Court are not immune from contempt proceedings if they act in derogation of superior judicial orders. The contemnor, being a Session Judge, was under an unambiguous legal duty to abide by the directions of this Court. His conscious and willful defiance constitutes a serious affront to judicial authority. Such misconduct, repeated and unrepentant, warrants strict penal and administrative consequences.

8. This is not a solitary incident of misconduct. The overall record of judicial conduct of the contemnor-respondent reveals a persistent pattern of defiance, favouritism, and disregard for judicial discipline. Notably, during his postings at Pallandri, Muzaffarabad and Haveli, he exhibited a consistent inclination to acquit accused persons, particularly in narcotics cases.....

11. In this background, it is important to reproduce the charges that were framed against the contemnor-respondent by this Court:

“That you, Mr. Raja Imtiaz Ahmed, the then Sessions Judge-cum-Special Judge Anti-Narcotics Court, Haveli, willfully and deliberately disobeyed the direction of this Court contained in the judgment dated 19.01.2023 by prematurely deciding the case titled State v. Dilawar & others under section 265-K Cr.P.C. and acquitting the accused, and thereafter made a false statement before this Court when confronted with the said act, thereby committing gross misconduct and contempt of the august Supreme Court of Azad Jammu & Kashmir.

In addition to the above, during the course of inquiry conducted by Mr. Justice Shahid Bahar (in pursuance of this Court’s order dated 03.06.2025), you very boldly took the stance that your judgment dated 16.02.2023 was rendered in accordance with the policy guidelines and circular dated 29.10.2021, and that you had committed no wrong at all. By doing so, you have not only defended your defiance but have also accorded preference to administrative policy over the

judicial command of this Court; thereby committing contempt.

What do you say in your defence?

Upon reading over and serving the charge-sheet to the contemnor-respondent, he simply answered *"I tender my unconditional apology and places myself at the mercy of the Court,"* and further stated that he does not intend to produce any evidence in his defence. Such a bare and unqualified apology, without any explanation, is insufficient to purge the contempt. The apology is not a weapon of defence to purge the guilty of offence; it is an act of contrition. In order to merit consideration, an apology must be genuine, spontaneous and indicative of sincere regret. The conduct of the contemnor, from the outset, does not reflect any contrition or repentance. Rather, it shows a persistent effort to deny, deflect, and then resort to apology only when no other defence remained plausible.

The Hon'ble Supreme Court of Azad Jammu & Kashmir while concluding contempt proceedings in para 12 of the judgment declared the appellant guilty of willful disobedience of the order of Supreme Court, deliberate misstatement before the Supreme Court, repeated misconduct in dealing with narcotic cases and disregard for the judicial hierarchy and discipline. Relevant para 12 of the judgment is reproduced as under:-

"12. In view of the above, we found that the contemnor-respondent is guilty of willful disobedience of the order of this Court, deliberate misstatement before the Court, repeated misconduct in dealing with narcotic cases, and an utter disregard for the judicial hierarchy and discipline. His act amounts to gross judicial misconduct and criminal contempt of this Court."

The Supreme Court of Azad Jammu & Kashmir sentenced the appellant to three days simple imprisonment and directed the Competent Authority to proceed against the appellant while issuing him show cause notice under Rule 9 of the Civil Servants (Efficiency and Discipline) Rules, 1977. The competent authority in compliance with the direction of the Hon'ble Supreme Court as well as keeping in view of the misconduct, misuse of powers and misstatement before the Supreme Court removed the appellant from service through the impugned notification. After going through the entire record particularly the judgment of the Hon'ble Supreme Court, grounds taken in the captioned appeal and arguments advanced by the learned counsel for appellant, we are of the view that no illegality or legal infirmity has been committed by the Authority while issuing the impugned notification. The learned counsel for the appellant was also confronted during the course of arguments to point out any anomaly in the impugned order or give even a single reason which can justify more leniency which has already extended to him but he remained mum and failed to justify his argument. Even otherwise, the guilt of the appellant was substantiated before the Hon'ble Supreme Court and was sentenced, hence, no justification has left to observe regarding the proof of his misconduct, misuse of power and misstatement

before the Hon'ble Supreme Court as being Res IPSA Loquitor (the thing speaks for itself).

It is appropriate to mark that appellant was serving as Judicial Officer in the Judicial Department of Azad Jammu & Kashmir who faced several inquiries during his service but every time he was awarded minor sentences due to which he did not mend his ways rather continued his misconduct and ultimately he even disobeyed the order the Hon'ble Supreme Court, which is binding on all the Courts of Azad Jammu & Kashmir. It is very shocking that such type of lawbreaker person served in the judicial department for more than 24 years and despite initiating several inquiries about his misconduct he was not given the exemplary sentence for the betterment of judicial hierarchy, which is an alarming situation and a stigma on the face of the judicial system.

The argument advanced by the learned counsel for the appellant that the authority should take lenient view while passing the impugned notification by considering 24 years of long service of the appellant, has got no substance for the reason that the authority proceeded in light of direction of the Hon'ble Supreme Court under Rule 9 of the Azad Jammu & Kashmir Civil Servants (Efficiency and Discipline) Rules, 1977, hence, authority has the option to dismiss him from service, removed

from service or reduce in rank. The authority took lenient view and ordered for removal of appellant from service by avoiding the sentence of dismissal from service resultantly appellant is eligible to avail any other service and that advantage would not be available to him in case of dismissal from service, thus, it cannot be claimed that the authority has passed a harsh order. Furthermore, keeping in view of the conduct of the appellant discussed in the judgment of the Supreme Court, reproduced herein above, the appellant was not liable to get more lenient view of the Authority because such type of persons particularly Judicial Officers do not deserve any lenient view rather should be made an example for the others. A judicial officer has got an elevated prestige and respect in the society as compared to any other officer hence, the conduct of a judicial officer should also be aboveboard and in case of any misconduct or violation of law a judicial officer should be awarded an exemplary sentence, hence, the argument is repelled.

As per code of conduct for members of subordinate judiciary of Azad Jammu & Kashmir, 2010 the judicial power is a sacred trust and divine duty which should be exercised honestly keeping in mind that a judicial officer is accountable not only to his superior officers but to God Almighty. His conduct should be exemplary which should enhance the prestige, respect and

honour of the Court in the society. He should be respectful, courteous and obedient to his superiors and a Judicial Officer who did not bother to follow the code of conduct and commits misconduct is not entitled to get any lenient view.

DISPOSAL:

The crux and epitome of the above debate is, finding no essence the instant appeal is hereby dropped in limine.

Muzaffarabad;

12.09.2025.

JUSTICE/CHAIRMAN

JUSTICE/MEMBER

Approved for reporting.

JUSTICE/MEMBER