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1. CONSTITUTION LAW

i. COMMERCE CLAUSE

2017 PTD 283

[Lahore High Court]

Before Shahid Karim, J

MURREE BREWERY COMPANY

LIMITED

through Chief Executive

Versus

PROVINCE OF PUNJAB through

Chief Secretary and 2 others

Where there is commerce which concerns ‘more states than one’, the power lies with the Parliament and a Province cannot regulate that activity. Thus commercial activities “which were completely within a State, were immune from federal power, only. The rest must yield in favour of federal commerce power.

ii. DRUG REGULATORY AUTHORITY

P L D 2017 Sindh 157

**Before Sajjad Ali Shah, C.J. and
Zulfiqar Ahmad Khan, J**

**Messrs GETZ PHARMA (PVT) LTD.
through Authorised Person---**

Petitioner

Versus

**FEDERATION OF PAKISTAN,
through Secretary, Ministry of
National Regulation and Services and
another---Respondents**

In this case, the scope of right to health has been discussed qua the Drugs Regulatory Authority of Pakistan Act, 2012.

iii. INDEPENDENCE OF JUDICIARY

2017 P L C (C.S) 266

[Supreme Court of Pakistan]

**Present: Gulzar Ahmed, Dost Muhammad
Khan and Tariq Parvez, JJ**

KHAN TOTI and others

Versus

**GOVERNMENT OF NWFP through
Secretary Finance and others**

The scheme of the Constitution and the law on the subject clearly envisages that the Judiciary is the one and a single ladder where different rugs are working therein

right from the District Judiciary, its ministerial staff or menial staff, the High Court establishment staff and the Supreme Court Establishment Staff. Therefore, throwing back the ministerial or menial staff of the District Judiciary at the mercy of the Provincial Service Tribunal, holding them civil servants would amount to reverse all the efforts made so far in securing independence and separation of the judiciary from the executive and the landmark judgment in Sharaf Faridi case would become of no judicial efficacy rather would be rendered ineffective.

iv. PRINCIPLES OF INTERPRETATION

2017 S C M R 206

[Supreme Court of Pakistan]

**Present: Anwar Zaheer Jamali, C.J.,
Amir Hani Muslim, Ejaz Afzal Khan,
Mushir Alam and Ijaz-ul-Ahsan, JJ**

SHAHID PERVAIZ---Petitioner

Versus

**EJAZ AHMAD and others---
Respondents**

- I. Doctrine of stare decisis not applicable to Supreme Court.
- II. Effect of non-framing of Rules discussed.
- III. Declaration of a statute as non est--- consequences.

- IV. Elements and scope of doctrine of **past and closed transaction** discussed and elaborated.
- V. **Accelerated promotions** could not be accorded on the basis of an officer's performance in a sports competition--
-Policy to the extent of accelerated promotions on sports basis was not sustainable, being violative of the service laws and the provisions of the Constitution.
- VI. Policy Decisions when can be judicially reviewed---scope and extent.

***v. STATUS OF EMPLOYEES OF
TELECOMMUNICATION AUTHORITY***

2017 S C M R 353

[Supreme Court of Pakistan]

Present: Faisal Arab and Khilji Arif Hussain, JJ

IQBAL HUSSAIN---Appellant

Versus

GENERAL MANAGER SOUTHERN TELECOM REGION-II and others---Respondents

Employees of Pakistan Telegraph and Telephone Department who were subsequently transferred to Pakistan Telecommunication Corporation (the Corporation) and then to the Pakistan Telecommunication Company Limited (the Company), for any violation of their terms or conditions of service such employees could invoke the constitutional jurisdiction

of the High Court under Art. 199 of the Constitution but not that of the Federal Service Tribunal.

**2. CANTONMENT RENT
RESTRICTION ACT (XI OF 1963)**

2017 S C M R 330

[Supreme Court of Pakistan]

Present: Anwar Zaheer Jamali, C.J. and Amir Hani Muslim, JJ

Mst. ZARINA KHAN---Petitioner

Versus

Mst. FARZANA SHOAIB---Respondent

When a person inducted in the rented premises subsequently denied his/her status as tenant, it was not a rule of thumb that the Rent Controller was bound to first frame point for determination/issue to such effect and decide it before passing a rent order to secure the interest of the landlord during the pendency of such proceedings.

3. CRIMINAL LAW

2017 S C M R 283

[Supreme Court of Pakistan]

Present: Maqbool Baqar, Faisal Arab and Khilji Arif Hussain, JJ

The STATE/ANF---Appellant

Versus

MUHAMMAD ARSHAD---Respondent

Where no proper investigation was conducted, but the material that came

before the court was sufficient to connect the accused with the commission of crime, the accused could still be convicted, notwithstanding minor omissions that had no bearing on the outcome of the case

4. CUSTOMS LAW

2017 PTD 370

[Sindh High Court]

Before Munib Akhtar and Aziz-ur-Rehman, JJ

***Messrs INTERNATIONAL
PETROCHEMICALS (PVT.) LTD.***

Versus

***DEPUTY COLLECTOR OF CUSTOMS
(PREVENTIVE) CUSTOM HOUSE,
KARACHI and 2 others***

Under S. 25 of Customs Act, 1969, it was not permissible to reject declared value simply on the ground that relevant goods had been imported for the first time and hence the values of any identical and/or similar goods were not available.

5. FAMILY LAW

2017 S C M R 321

[Supreme Court of Pakistan]

**Present: Anwar Zaheer Jamali, C.J.,
Umar Ata Bandial and Ijaz ul Ahsan, JJ**

**Haji MUHAMMAD NAWAZ---
Petitioner**

Versus

**SAMINA KANWAL and others---
Respondents**

The decree for recovery of dowry articles in alternative. Having been expressed in the alternative, the decree does not become a decree for money simpliciter for the amount stated therein. This because the price of dowry articles fixed in the alternative by the decree under execution represents their market value as on the date of decree. Such market value of the decretal dowry articles cannot remain static endlessly, therefore the alternative monetary direction in the decree cannot remain fixed after lapse of reasonable time. In terms of law, the proceedings of the learned Family Court, whether as a trial court or an executing court, are governed by the general principles of equity, justice and fair play. The order of the judge Family Court/executing Court, “[---] *It is made clear that golden ornaments mentioned at Sr. No.23 shall be paid either in the shape of golden ornaments or in alternative price thereof as per market value of the gold at the date of its payment*” was upheld by the Supreme Court.

“As a social good, I think privacy is greatly overrated because privacy basically means concealment. People conceal things in order to fool other people about them. They want to appear healthier than they are, smarter, more honest and so forth”.

—Richard Posner