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SERVICE OF SUMMONS UPON PERSONS OF HIGH RANK AND GAZETTED OFFICERS

(Order V Rule 30 CPC and Rule 98 of the Sindh Civil Courts Rules)

Part 3

Article

The law recognizes that certain persons, by virtue of their public office, official status, or position in society, are entitled to a special mode of service of process. Such special treatment is not intended to place them above the law but to ensure that judicial process is served in a manner consistent with the dignity of their office while at the same time securing effective notice of the proceedings. This special procedure is embodied in Order V Rule 30 of the Code of Civil Procedure, 1908 and elaborated in Rule 98 of the Sindh Civil Courts Rules. The provisions are mandatory and constitute an exception to the ordinary method of service prescribed by Order V CPC.

Order V Rule 30 CPC provides: "The Court may, notwithstanding anything hereinbefore contained, substitute for a summons a letter signed by the Judge or such officer as he may appoint in this behalf, where the defendant is, in the opinion of the Court, of a rank entitling him to such mark of consideration." The Rule thus authorizes the Court to substitute a letter for the ordinary summons where the defendant holds a position warranting special consideration. The Rule recognizes that ordinary service through a process server may not always be appropriate where the defendant occupies a high constitutional, governmental, judicial, military, diplomatic, or other distinguished office.

The power conferred by Rule 30 is judicial in nature. Before invoking the Rule, the Court must form an opinion that:

1. The defendant is a person of high rank; and
2. The office held by him entitles him to special consideration.

Once such opinion is formed, the Court may direct that a letter be issued instead of the ordinary summons. The letter performs the same legal function as a summons and constitutes valid service when duly delivered.

Rule 98 of the Sindh Civil Courts Rules prescribes the practical procedure for implementing Order V Rule 30 CPC. The Rule draws a distinction between: **(a) Persons of High Rank** and **(b) Gazetted Officers**. The procedure applicable to each category is different.

Service upon Persons of High Rank

Under Rule 98(1), where the defendant is a person of high rank entitled to special consideration, process shall not ordinarily be served through the bailiff in the manner prescribed for ordinary litigants. Instead: A letter is to be issued by the Court; the letter is addressed directly to the individual concerned; a copy of the plaint accompanies the letter; the communication is dispatched through an appropriate official channel. The object is to ensure both respect for the office and effective communication of the judicial proceedings. Examples may include:

- Constitutional office holders;
- Senior members of the judiciary;
- Senior military officers;
- Senior civil servants;
- Persons specifically considered by the Court to be entitled to such treatment.

Service upon Gazetted Officers

Rule 98(2) prescribes a different procedure for gazetted officers. In such cases:

- The Court issues a letter rather than an ordinary summons.
- The letter is addressed to the Head of the Department or Office in which the officer is serving.
- The Head of Department is requested to communicate the process to the officer concerned.

The purpose is to ensure that service is effected through official channels and that the officer receives notice through the administrative structure within which he serves. This procedure avoids unnecessary disruption of official duties and minimizes the possibility of non-service.

Distinction from Ordinary Service

The procedure under Order V Rule 30 CPC and Rule 98 differs materially from ordinary service.

Ordinary Defendant	Person of High Rank	Gazetted Officer
Summons issued	Letter issued	Letter issued
Served by bailiff/process server	Sent directly by Court	Sent through Head of Department
Personal service ordinarily required	Official communication	Official communication
Order V Rules 10–17 apply	Rule 30 and Rule 98 apply	Rule 30 and Rule 98 apply

The substitution of a letter for summons is not a matter of form only; it represents a distinct statutory mode of service.

Duty of the Court

When the defendant appears to be a person covered by Rule 98, the Court should:

1. Record that the defendant is entitled to service under Order V Rule 30 CPC.
2. Direct issuance of a letter instead of ordinary summons.
3. Ensure that a copy of the plaint accompanies the communication.
4. Obtain proof of dispatch and delivery.
5. Verify service before proceeding further.

Mechanical issuance of ordinary summons through a bailiff in such cases is contrary to the scheme of Rule 30 CPC and Rule 98.

Duty of the Nazir Office

The Nazir should: Maintain a separate record of letters issued under Rule 98; Preserve postal receipts and acknowledgments; Monitor delivery through official channels; Report compliance to the Court. Such process should not be mixed with ordinary bailiff service.

Common Errors Requiring Correction

The following practices are inconsistent with the law:

- Issuing ordinary summons instead of letters.
- Sending bailiffs to serve senior officers at their offices or residences.
- Ignoring departmental channels in the case of gazetted officers.
- Treating Rule 98 service as identical to ordinary service.

These errors frequently result in delay and defective service.

Unfortunately, many courts continue to issue ordinary summons through bailiffs in such cases, as if the defendants were ordinary litigants, thereby overlooking the special procedure prescribed by law. Such practice defeats the object of Order V Rule 30 CPC and Rule 98, undermines the dignity attached to public office, and may expose the validity of service to challenge. Judicial officers must therefore remain vigilant to identify cases falling within Rule 30 CPC at the very outset and ensure strict compliance with the special mode of service prescribed by CPC and Sindh Civil Courts Rules. Strict adherence to these provisions is essential for lawful service, institutional respect, and efficient administration of justice.

Justice Rahmat Hussain Jafferi