

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,  
PESHAWAR.**

Service Appeal No. 4532/2021

Date of Institution ... 05.04.2021

Date of Decision ... 22.09.2022

Pamroze Ex-IHC No. 585, PS Banamari Peshawar.

... (Appellant)

VERSUS

The Capital City Police Officer, Khyber Pakhtunkhwa Peshawar and  
one other.

... (Respondents)

SYED NOMAN ALI BUKHARI,  
Advocate

--- For appellant.

MR. MUHAMMAD RIAZ KHAN PAINDAKHEL,  
Assistant Advocate General

--- For respondents.

MR. SALAH-UD-DIN  
MR. MIAN MUHAMMAD

--- MEMBER (JUDICIAL)  
--- MEMBER (EXECUTIVE)

JUDGMENT:

SALAH-UD-DIN, MEMBER:- Precise facts forming the background of the instant service appeal are that disciplinary action was taken against the appellant on the allegation that a video became viral on Social Media, wherein the appellant alongwith other constables were seen receiving money from the citizens in lieu of return of spare parts of weapons. On conclusion of the inquiry, the appellant was awarded major penalty of demotion from the rank of Head Constable to the rank of Constable vide order dated 10.02.2021. The appellant challenged the penalty through filing of departmental



appeal, however the same was also declined vide order dated 24.03.2021, hence the instant service appeal.


2. Notices were issued to the respondents, who submitted their comments, wherein they refuted the assertions raised by the appellant in his appeal.

3. Learned counsel for the appellant has contended that neither statement of any witness was recorded during the inquiry proceedings nor the appellant was confronted with the alleged video; that the statement of the appellant was not recorded and he was not provided any opportunity of self defense; that the alleged video is fake and was made viral only for causing damage to service of the appellant; that the penalty so awarded to the appellant is in violation of FR-29 for the reason that the competent Authority has not mentioned the period for which the appellant has to remain on the post to which he was reverted; that whole of the proceedings were carried out by the inquiry officer unilaterally and the appellant was not associated in the inquiry proceedings; that in absence of any incriminating material against the appellant, he was awarded major penalty in a mechanical way, therefore, the impugned orders are liable to be set-aside. Reliance was placed on 2006 SCMR 1165.

4. On the other hand, learned Assistant Advocate General for the respondents has contended that a video got viral on social media, wherein the appellant alongwith his sub-ordinates could be seen taking illegal gratification from citizens; that the illegal act of the appellant as well as his

sub-ordinates has tarnished image of police department; that a regular inquiry was conducted into the matter and the appellant was provided opportunity of personal hearing as well as self defence, however he was unable to rebut the allegations leveled against him; that the charge leveled against the appellant stood proved in a regular inquiry, therefore, he has rightly been awarded major penalty of demotion from the rank of Head Constable to the rank of Constable.

5. We have already heard the arguments of learned counsel for the parties and have perused the record.



6. A perusal of the record would show that disciplinary action was taken against the appellant on the allegations that a video became viral on Social Media, wherein the appellant alongwith other constables were seen receiving money from the citizens in lieu of return of spare parts of weapons. Superintendent of Police City, Peshawar was appointed as inquiry officer in the matter, who submitted his report to the Senior Superintendent of Police, Operations, Peshawar on 03.02.2021. The inquiry officer has mentioned in his findings that he has perused all the relevant statements. Representative of the respondents present before us, was asked about the statements recorded during the inquiry, however he categorically stated that no such statement was available in the inquiry file. This fact strengthens the assertion of the appellant that the inquiry officer had not examined any witness in support of the charge

leveled against the appellant. The appellant was not even confronted with the alleged video, on the basis of which disciplinary action was taken against him. Moreover, the video in question was not sent to Forensic Science Laboratory for its authenticity, therefore, the same could not be considered a legal basis for taking disciplinary action against the appellant. August Supreme Court of Pakistan in its judgment reported as 2021 SCMR 1077 has graciously observed as below:-



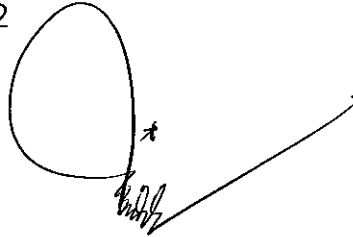
*"In the case of Ishtiaq Ahmad Mirza Versus Federation of Pakistan (PLD 2019 S.C 675) this court has held that with the advancement of science and technology it is now possible to get it ascertained as to whether an audio tape or a video is genuine or not and as such examination, audit or test can also reasonable establish if such audio tape or video has been edited, doctored or tampered with or not because advancement of science and technology has also made it very convenient and easy to edit, doctor, superimposed or Photoshop a voice or picture in an audio tape or video, therefore, without a Forensic examination audit or test, it is becoming more and more unsafe to rely upon the same as a piece of evidence in a court of law."*

7. Moreover, the Authority has not mentioned in the impugned order of demotion of the appellant that for how much period, the demotion shall remain effective. The impugned order is thus in violation of FR-29, which provides that the Authority ordering reduction of a government servant to a lower grade or post shall state the period for which it shall to remain effective. We have thus come to the

conclusion that the impugned orders are not sustainable in the eye of law and are liable to be set-aside.

8. Consequently, the impugned orders stand set-aside and the appeal in hand is allowed as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
22.09.2022

A handwritten signature in black ink, consisting of a large, stylized 'M' followed by a checkmark-like flourish.

(MIAN MUHAMMAD)  
MEMBER (EXECUTIVE)

A handwritten signature in black ink, consisting of a stylized 'S' followed by a horizontal line and a flourish.

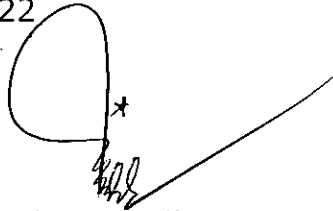
(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

O R D E R  
22.09.2022

Learned counsel for the appellant present. Mr. Ahmad Jan, Sub-Inspector (Legal) alongwith Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present. Arguments have already been heard and record perused.

Vide our detailed judgment of today, separately placed on file, the impugned orders stand set-aside and the appeal in hand is allowed as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
22.09.2022



(Mian Muhammad)  
Member (Executive)



(Salah-Ud-Din)  
Member (Judicial)

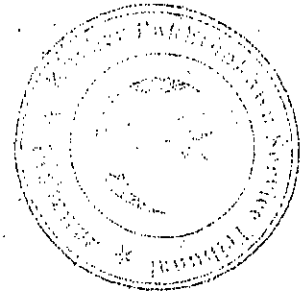
*For Appellant*

15

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR

SERVICE APPEAL NO. 144/2018

Date of institution ..... 29.01.2018  
Date of judgment ..... 04.03.2020



Imran Khan, Ex-Constable No. 4611  
CCP, Peshawar

(Appellant)

VERSUS

1. The AIG Establishment for Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
  2. The Capital City Police Officer, Peshawar.
  3. The Senior Superintendent of Police, Operations, Peshawar.
- (Respondents)

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE REJECTION ORDER DATED 02.11.2017 OF RESPONDENT NO. 2 WHEREBY THE DEPARTMENTAL APPEAL AGAINST THE IMPUGNED ORDER DATED 13.10.2017 HAS BEEN REJECTED AND AGAINST THE ORDER DATED 15.01.2018 WHEREBY THE REVIEW PETITION UNDER 11-A OF THE APPELLANT HAS BEEN REJECTED FOR NO GOOD GROUNDS.

*M.A. Amin*  
*4.3.2020*

Mr. M. Asif Yousafzai, Advocate.  
Mr. Muhammad Jan, Deputy District Attorney

For appellant.  
For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI  
MR. MIAN MOHAMMAD

MEMBER (JUDICIAL)  
MEMBER (EXECUTIVE)

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - Appellant  
alongwith his counsel and Mr. Muhammad Jan, Deputy District Attorney alongwith Mr. Muhammad Raziq, Head Constable for the respondents present. Arguments heard and record perused.

ATTESTED

MEMBER (JUDICIAL)  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

2. Brief facts of the case as per present appeal are that the appellant was serving in Police Department. He was imposed major penalty of dismissal from service vide order dated 13.10.2017 on the allegation that he was demanding illegal gratification from public in the jurisdiction of PS Phandu which tarnished the image of the department. The appellant filed departmental appeal on 20.10.2017 which was rejected vide order dated 02.11.2017 thereafter, the appellant filed revision petition on 08.11.2017 which was rejected vide order dated 15.01.2018 hence, the present service appeal on 29.01.2018.

3. Respondents were summoned who contested the appeal by filing written reply/comments.

4. Learned counsel for the appellant contended that the appellant was serving in Police Department. It was further contended that the appellant was imposed major penalty of dismissal from service. It was further contended that departmental proceeding was initiated against the appellant on the aforesaid allegation. It was further contended that the inquiry officer has recorded the statement of witnesses during inquiry proceedings but the appellant was not provided opportunity of cross examination, therefore, the appellant was deprived from the right of defense. It was further contended that a final show-cause notice was issued to the appellant but the copy of inquiry report was not handed over to the appellant with the show-cause notice although the respondent-department was bound to hand over the copy of inquiry report with the show-cause notice, therefore, the appellant was

*M. Amin*  
4.3.2023

TESTED

*[Signature]*  
S. K. SINGH  
Deputy Commissioner  
Muzaffargarh



condemned unheard which has rendered the whole proceeding illegal and liable to be set-aside and prayed for acceptance of appeal.

5. On the other hand, learned Deputy District Attorney for the respondents opposed the contention of learned counsel for the appellants and contended that the appellant was serving in Police Department. It was further contended that the appellant was imposed major penalty of dismissal from service on the aforesaid allegation. It was further contended that a proper charge sheet, statement of allegation was framed and served upon the appellant, proper inquiry was conducted and the appellant was recommended for major penalty by the inquiry officer and on the basis of recommendation of inquiry officer, the appellant was rightly imposed major penalty of dismissal from service after fulfilling all the codal formalities and prayed for dismissal of appeal.

6. Perusal of the record reveals that the appellant was serving in Police Department. He was imposed major penalty of dismissal from service vide order dated 13.10.2017 on the

TESTED

aforesaid allegation. The record further reveals that the inquiry officer has recorded the statements of witnesses DFC Aziz-ur-

Rehman, FC Sawar Khan, HC Ameer Muhammad, and others

including HC Ubaidullah, MASI Noor Muhammad, SHO Taimour

Saleem Khan etc but no opportunity of cross-examination was

provided to the appellant as the copy of statement of FC Sawar

Khan, DFC Aziz-ur-Rehman and Head Constable Ameer

Muhammad are available on record although the inquiry officer

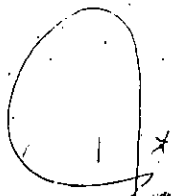
*M. A. Khan  
4.3.2020*

*MA*  
CHIEF CLERK  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

18

was bound to provide opportunity of cross examination, therefore, the appellant was deprived from his fundamental right of cross examination/defense. Moreover, the competent authority was also required to hand over the copy of inquiry report with the show-cause notice but the copy of final show-cause notice available on the record, also reveals that no copy of inquiry report was handed over to the appellant with the final show-cause notice, therefore, the appellant was condemned unheard which has rendered the whole proceeding illegal and liable to be set-aside. As such, we partially accept the appeal, set-aside the impugned order, reinstate the appellant into service and direct the respondent-department to conduct de-novo inquiry in the mode and manners prescribed under the Police Rules 1975 with further direction to fully associate the appellant in the inquiry proceeding, provide him opportunity of cross examination and also handover copy of inquiry report with the show-cause notice, within a period of 90 days from the date of receipt of copy of this judgment. The issue of back benefits will be subject to the outcome of de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
04.03.2020



*Muhammad Amin Khan Kundi*  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

Office of the  
Chairman  
Service Tribunal  
Peshawar

(MIAN MOHAMMAD)  
MEMBER

Presented to Presentation of Copy of Judgment ..... 18/03/2020  
 Value of Case ..... 2000  
 Court Fee ..... 22-00  
 Stamp ..... 4-00  
 Total ..... 26-00  
 Name of Clerk .....  
 Date of Completion of Copy ..... 18/03/2020  
 Date of Delivery of Copy ..... 18/03/2020

اپیل برائے بحالی رہنمائی IHC

ID: No. 179 PA-CCPD  
Dt: 18-02-2021  
Encl:

56  
جناب عالی! 18/2/2021

گزارش قید سائل محمد کوپیس لٹور میں ڈیوٹی سرانجام دینا ہے۔ قوالہ اردو 187-91 PA  
فورم 10.02.21 بحالی رہنمائی ایس پی اے ایف ایف لٹور میں خدمت ہونے کے سبب  
تعمیرات مادی میں بحالت IHC تعینات تھا۔ بدوران حو بائیل گشت ایک حو بائیل  
وڈیو میں دکھایا گیا کہ کوپیس ایف ایف ایک شخص کو بکتر کر رہتے رہیں ہے۔  
اس الزام کو بنیاد بنا کر سائل کو دیگر ایف ایف اور الزام نہیں آیا گیا۔ جیمیں SP  
شہانہ حیات انکو انٹری ایسیر انکو انٹری کی اور سائل کو بغیر کسی ثبوت کے قصور وار  
تعمیرات سرایاب کر دیا گیا۔ حالانکہ سائل وڈیو میں جیمیں بھی دیکھائی نہیں دیں  
ایف ایف اس شخص سے متعلق کسی قسم کا تعلق ہے کہ وڈیو کو ملاحظہ کیا جاسکتا ہے۔  
ہتہ ہیں کہ انکو انٹری ایسیر سائل کو کسی بنا پر فورم الزام نہیں آیا ہے۔ جبکہ  
حس شخص سے ثبوت نہیں دیکھایا گیا ہے بدوران انکو انٹری مذکورہ شخص بیان  
دیا ہے کہ میں کسی کو کسی قسم کی رشوت وغیرہ نہیں دی ہے اور سائل کو جاسٹا تک  
ہیں تھا اور نہ ہے۔ پھر بھی سائل سرایاب ہوا ہو کہ عجیب اور خلاف ضابطہ ہے۔  
بالہ خصوصیات کی روشنی میں عرض رہتا ہوں کہ ہمدردانہ طور نہ مادیں۔ اہل حقائق  
کی روشنی میں الزام سے متکو فرما کر سائل کو بحال فرمادیں۔

تقریر 17-02-2021

پیام روز بروز 5856 متعینہ کوپیس لٹور لٹور

031100092858

sup. legal  
Rev comments pl.

F.M.C

put up record

PA  
19/2

By. Supdt: Police  
legil. CCP/Peshawar

جناب عالی!

بحوالہ مشمولہ چارج شدہ نہایت ادب کیساتھ معروض خدمت ہوئی ہے۔  
سائل تقاضا ہے کہ تعینات تھا۔ سائل کے خلاف چارج شدہ میں وڈیو  
واٹس ایپ سے متعلقہ جو الزامات لگائے ہیں وہ باطل ہیں اور وڈیو جعلی ہے  
وڈیو میں جو نظارہ دکھایا گیا ہے۔ اس میں کوئی حقیقت نہیں ہے۔ بالکل  
وڈیو بناوٹی اور جعلی ہے۔

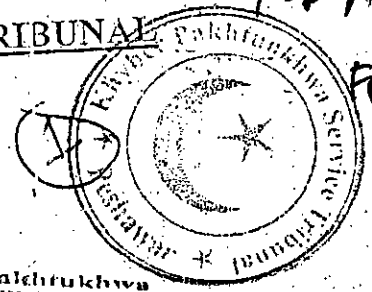
جناب عالی! میں حلفاً بیان کرتا ہوں کہ میں نے اور کسی کو بائیل میں وجود کسی دوسرے الیکٹرانک  
رشتہ تو لیا ہے۔ اور یہ صرف اور صرف پولیس کو دینا کرنے کیلئے ایک سازش کی گئی  
تاکہ مجھ کو پولیس کو دباؤ میں لاکر اپنی جبرمانہ سہرگرمی اور غیر قانونی افعال  
ازادی سے پورا کر سکے۔

جس سے وڈیو میں رقم لینے کا اظہار ہو چکا ہے۔ وہ سامنے آکر حلفاً بیان دینا  
تو ہم گنہگار ہونگے صرف ہمارا دلہن صاف ہے۔ اور ہمارے خلاف بے بنیاد اور  
من گھڑت الزام صرف اور صرف پولیس کو دینا کرنے کیلئے کی ہیں۔

اس لئے درخواست ہے کہ رہا بلا حقیقت سے لیں نظر  
چارج شدہ کو فائل کر کے شکور و ماٹس۔ مگر جو دعائے گوری ہو گئے  
لاطف۔

دکھانہ سردار پانچ روز عمر 5856 حال پولیس کلیم لائن سٹاپور  
۱۱۱۱

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR



Appeal No. 4299/2021

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 4289

Dated 30/3/2021

APPELLANT

Mr. Qais Khan Ex. Head constable NO. 270,  
Traffic Police Office Peshawar.

VERSUS

1. The Addl: Inspector General Of Police, KP Peshawar.
2. The Chief Traffic Officer Peshawar.
3. The Central City Police Officer, Peshawar.

(Respondents)

APPEAL UNDER SECTION 4 OF THE SERVICES TRIBUNAL  
ACT, 1974 AGAINST THE APPELLATE ORDER DATED  
04.03.2021 WHEREBY, THE APPEAL OF THE APPELLANT  
HAS BEEN ACCEPTED AND APPELLANT HAS BEEN RE-  
INSTATED INTO SERVICE AND PENALTY OF DISMISSAL  
WAS CONVERTED IN TO PENALTY OF REVERSION FROM  
HEAD CONSTABLE TO CONSTABLE.

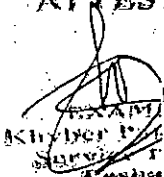
PRAYER:

THAT ON ACCEPTANCE OF THIS APPEAL, THE ORDER  
DATED 01.10.2020, 25.08.2020 MAY KINDLY BE SET-ASIDE  
AND ORDER DATED 04.03.2021 MAY KINDLY BE MODIFIED  
TO THE EXTENT OF REVERSION FROM THE RANK OF  
HEAD CONSTABLE TO CONSTABLE AND MAY KINDLY BE  
RESTORE TO THE ORIGINAL POST WITH ALL BACK AND  
CONSEQUENTIAL BENEFITS AND ANY OTHER REMEDY  
WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND

Filed to-day

30/03/2021

ATTESTED

  
REGISTRAR  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 4279/2021

Date of Institution ... 30.03.2021

Date of Decision ... 20.01.2022



Mr. Qais Khan Ex-Head Constable No. 270, Traffic Police Office Peshawar  
... (Appellant)

**VERSUS**

The Addl: Inspector General of Police, Khyber Pakhtunkhwa Peshawar and two  
others. ... (Respondents)

Qais Khan,  
Appellant

... In Person

Muhammad Adeel Butt,  
Additional Advocate General

... For respondents

**AHMAD SULTAN TAREEN** ...  
**ATIQU-UR-REHMAN WAZIR** ...

**CHAIRMAN**  
**MEMBER (EXECUTIVE)**

**JUDGMENT**

**ATIQU-UR-REHMAN WAZIR MEMBER (E):-**

Brief facts of the case

are that the appellant while serving as head constable in police department was proceeded against on the charges of misconduct and was ultimately dismissed from service vide order dated 25-08-2020. Feeling aggrieved, the appellant filed departmental appeal, which was also rejected vide order dated 01-10-2020. The appellant filed revision petition, which was accepted vide order dated 04-03-2021 and the appellant was re-instated in service and penalty of dismissal was converted into reduction from the rank of head constable to that of constable, hence the instant service appeal with prayers that the impugned order dated 01-10-2020 may be set aside and order dated 25-08-2020 may be modified to the extent of reversion from the rank of head constable to constable and the

**ATTESTED**

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

appellant may be restored to his original post of head constable with all back and consequential benefits.

02. Appellant has contended that the impugned order is liable to be set aside as the authorities has passed such order without properly evaluating the evidence and material on record; that the penalty so awarded is in violation of FR-29 as the time period has not been mentioned in the impugned order of reversion to lower grade; that sufficient ground of innocence of the appellant exist as per verdict of supreme court judgment cited as NLR 2005 TD SC 78, which has held that no one can be punished for fault of others, hence the impugned order is illegal; that the penalty so awarded is harsh which does not commensurate with gravity of the guilt; that inquiry proceedings were conducted at the back of the appellant, and the appellant was not associated with proceedings of the inquiry; that the appellant was not afforded appropriate opportunity of defense, nor any chance of personal hearing was afforded to the appellant; that neither statements of the witnesses were recorded in presence of the appellant nor the appellant was afforded opportunity to cross-examine such-witnesses; that inquiry report was not handed over to the appellant alongwith showcuase notice inspite of repeated requests of the appellant to this effect, thus the appellant was left unable to advance his defense in rebuttal of the finding report.

03. Learned Additional Advocate General for the respondents has contended that the appellant was proceeded against on the charges of insubordination as he had impounded a vehicle belonging to DSP Headquarter and upon intervention of DSP, he got furious and squabbled with DSP Headquarters; that upon the compliant of DSP Headquarter, the appellant was issued proper charge sheet/statement of allegations, to which he responded; that showcuase notice was issued to the appellant, and inquiry officer was appointed, who conducted proper inquiry and found him guilty of misconduct; that the appellant was afforded appropriate opportunity of defense, but he failed to prove his innocence,

ATTESTED

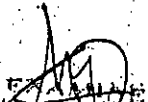
  
 Officer in Charge  
 Service Station

hence he was awarded with major punishment of dismissal from service; that revision petition of the appellant was considered and accepted and taking a lenient view, the appellant was re-instated into service and major penalty of dismissal from service was converted into reduction from the rank of head constable to that of constable.

04. We have heard both the parties and have perused the record.

05. Record reveals that the appellant while serving as head constable in traffic police and performing his routine duty, had noticed a Suzuki van wrongly parked on main GT road. The appellant asked for documents of the vehicle, but the driver resorted to misbehavior. The appellant reported the matter to incharge traffic GT Road, who also was present in the vicinity and who reached the spot immediately, but at the same time DSP Headquarter also reached the spot and it was found that driver of the van was son of DSP Headquarter and DSP Headquarter misbehaved with the appellant and threatened him of dire consequences. In a way, the appellant was restrained from performing his legal duty and complaint was registered against the appellant and on the same charges. The appellant was proceeded against departmentally on personal scores of DSP Headquarters and was ultimately dismissed from service. Needless to mention that one-sided departmental proceedings were initiated against the appellant and the respondents were bent upon removing the appellant at any cost. The appellant was kept deprived of the opportunity to cross-examine witnesses, thus skipping a mandatory step and the appellant was dismissed from service without adhering to the method prescribed in law. The appellant however was re-instated in service by converting his major punishment into reduction from the post of head constable to that of constable but with no time period mentioned for such reduction, which however is illegal and not supported by the prevailing law and rule. We have observed that the appellant was targeted by DSP Headquarter due to his personal grudge, as his son was charged by the appellant

ATTESTED

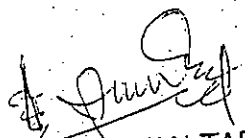
  
 F. A. KHAN  
 Khyber P. N. M. Khair  
 S. D. O. M. Khair

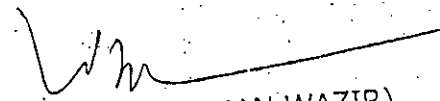


for wrong parking, for which the appellant was malafiedly involved in departmental proceedings and was penalized for his good performance.

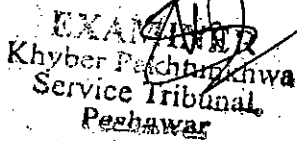
06. In view of the foregoing discussion, the instant appeal is accepted as prayed for. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED  
20.01.2022

  
(AHMAD SULTAN TAREEN)  
CHAIRMAN

  
(ATTIQ-UR-REHMAN WAZIR)  
MEMBER (E)

Certified to be true copy

  
EXAMINER  
Khyber Pachtunkhwa  
Service Tribunal  
Peshawar

Date of Presentation of Application 26-01-22  
Number of Words 2000  
Copying Fee 22/-  
Urgent 5/-  
Total 26/-  
Name of Copyist \_\_\_\_\_  
Date of Completion of Copy 26-01-22  
Date of Delivery of Copy 26-01-22

*For Appeal*

008 S C MR 1165

Supreme Court of Pakistan]

Present: Abdul Hameed Dogar, C. J., Ijaz-ul-Hassan Khan and Ch. Ejaz Yousaf, JJ

MEMBER (A.C.E. & S.T.), FEDERAL BOARD OF REVENUE, ISLAMABAD and others---  
Petitioners

Versus

MUHAMMAD ASHRAF and 3 others----Respondents

Civil Petitions Nos.332 to 335 of 2008, decided on 28th March, 2008.

On appeal from the judgment, dated 12-12-2007 of the Federal Service Tribunal, Lahore passed in Appeals Nos.223(L)(C.S.), 239(L)(C.S.), 240(L)(C.S.) and 241(L)(C.S.) of 2002.

Government Servants (Efficiency and Discipline) Rules, 1973---

---R. 4(1)(b)(i)---Fundamental Rules, R.29---Constitution of Pakistan (1973), Art.212(3)---Supreme Court Rules, 1980, O.XIII, R.1---Reduction to five stages in time scale---Charges of casual and negligent attitude, procedural lapses and violation of instruction of Standing Order---Service Tribunal in appeal modified such penalty reducing same to two stages in time scale for two years---Validity---Petition for leave to appeal was barred by six (6) days---Penalty imposed by departmental authority upon civil servant did not specify length of time, thus, same was violative of Fundamental Rule 29---Penalty for indefinite period was not provided in law---Supreme Court upheld impugned judgment and refused to grant leave to appeal.

Auditor-General of Pakistan and others v. Muhammad Ali and others.2006 SCMR 60 ref.

Raja Muhammad Bashir, Senior Advocate Supreme Court and M.S. Khattak, Advocate-on-Record for Petitioners.

Nemo for Respondents.

Date of hearing: 28th March, 2008.

**ORDER**

ABDUL HAMEED DOGAR, C.J.---Through this order, we intend to dispose of Civil Petitions Nos.332, 333, 334 and 335 of 2008 involving common question of law and fact against common judgment dated 12-12-2007 passed by learned Federal Service Tribunal, Lahore whereby Appeals Nos.223(L)(C.S.), 239(L)(C.S.), 240(L)(C.S.) and 241(L)(C.S.) filed by respondents were disposed of while modifying the penalty awarded to them.

2. Briefly stated, facts giving rise to the filing of these petitions are that respondents, namely, Muhammad Ashraf as Superintendent, Shahid Mahmood as Deputy Superintendent, Dilawar Hussain and Mushtaq

Ahmed as Inspectors were working with the petitioners/department. On 13-4-2000, they were charged separately with the following statement of allegations:

Respondents, Mushtaq Ahmed and Dilawar Hussain, Inspectors

"(1) You failed to detect the huge quantity of cotton jean cloth valuing Rs.91,49,866 which was cleared on 28-1-1999 from the Dryport in the garb of cotton/yarn waste vide bills of Entries Nos.623 and 624 both dated 27-12-1999 and No.610 dated 23-12-1999.

(2) You were required under Standing Order No.1 of 1999 dated 1-4-1999 to examine the above referred consignments along with the other members of the examination team but you intentionally avoided this requirement in violation of the said Standing Order.

(3) You carried out 10% examination of the consignment stated to be done in the presence of examination team but without mentioning the name of the examination team which shows that the examination was done in the absence of the team constituted under Standing Order No.1 of 1999. The examination report endorsed on the bill of entry does not show the presence of the Superintendent (Imports) and Assistant Collector (Imports) at the time of examination.

(4) You examined the consignment of bill of entry without totally de-stuffing the container. Thus, you intentionally carried out this examination without observing the requirements of Examination Manual and Standing Order No.1 of 2000 dated 1-4-1999 to help clandestine clearance of cotton jean cloth in the garb of cotton/yarn waste.

(5) You did not observe the duties as prescribed in the import Examination Manual which led to the clandestine, removal of cotton jean cloth in the garb of cotton waste.

(6) You endorsed examination report on the bill of entry without de-stuffing the container completely and without carrying out 100% examination of the goods. On account of wrong examination of the consignment on your part due to above factors, cotton jean cloth worth millions of rupees was cleared in the garb of cotton waste.

(7) You connived with the importer to clear the aforesaid quantity of cotton jean cloth clandestinely under the garb of cotton/yarn waste.

Respondent Shahid Mahmood

"(1) You failed to detect the huge quantity of cotton jean cloth valuing Rs.91,49,866 which was cleared on 28-1-1999 from the Dryport in the garb of cotton/yarn waste vide Bills of Entry Nos.623 and 624 both dated 27-12-1999 and No.610 dated 23-12-1999.

(2) You were required under Standing Order No.1 of 1999 dated 1-4-1999 to examine the above referred consignments along with the other members of the examination team but you intentionally avoided this requirement in violation of the said Standing Order.

(3) You completed the assessment of these bills of entry and ordered out of charge without pointing out that the requirement of joint examination under Standing Order No.1 of 2000 has not been met. This shows your connivance in this.

(4) You failed to initiate/take penal action against the importer because of availability of excess weight in violation of S.R.O.-1374(II)98, dated 18-12-1999.

Ahmed as Inspectors were working with the petitioners/department. On 13-4-2000, they were charge-sheeted separately with the following statement of allegations:

Respondents, Mushtaq Ahmed and Dilawar Hussain, Inspectors

"(1) You failed to detect the huge quantity of cotton jean cloth valuing Rs.91,49,866 which was cleared on 28-1-1999 from the Dryport in the garb of cotton/yarn waste vide bills of Entries Nos.623 and 624 both dated 27-12-1999 and No.610 dated 23-12-1999.

(2) You were required under Standing Order No.1 of 1999 dated 1-4-1999 to examine the above referred consignments along with the other members of the examination team but you intentionally avoided this requirement in violation of the said Standing Order.

(3) You carried out 10% examination of the consignment stated to be done in the presence of examination team but without mentioning the name of the examination team which shows that the examination was done in the absence of the team constituted under Standing Order No.1 of 1999. The examination report endorsed on the bill of entry does not show the presence of the Superintendent (Imports) and Assistant Collector (Imports) at the time of examination.

(4) You examined the consignment of bill of entry without totally de-stuffing the container. Thus, you intentionally carried out this examination without observing the requirements of Examination Manual and Standing Order No.1 of 2000 dated 1-4-1999 to help clandestine clearance of cotton jean cloth in the garb of cotton/yarn waste.

(5) You did not observe the duties as prescribed in the import Examination Manual which led to the clandestine, removal of cotton jean cloth in the garb of cotton waste.

(6) You endorsed examination report on the bill of entry without de-stuffing the container completely and without carrying out 100% examination of the goods. On account of wrong examination of the consignment on your part due to above factors, cotton jean cloth worth millions of rupees was cleared in the garb of cotton waste.

(7) You connived with the importer to clear the aforesaid quantity of cotton jean cloth clandestinely under the garb of cotton/yarn waste.

Respondent Shahid Mahmood

"(1) You failed to detect the huge quantity of cotton jean cloth valuing Rs.91,49,866 which was cleared on 28-1-1999 from the Dryport in the garb of cotton/yarn waste vide Bills of Entry Nos.623 and 624 both dated 27-12-1999 and No.610 dated 23-12-1999.

(2) You were required under Standing Order No.1 of 1999 dated 1-4-1999 to examine the above referred consignments along with the other members of the examination team but you intentionally avoided this requirement in violation of the said Standing Order.

(3) You completed the assessment of these bills of entry and ordered out of charge without pointing out that the requirement of joint examination under Standing Order No.1 of 2000 has not been met. This shows your connivance in this.

(4) You failed to initiate/take penal action against the importer because of availability of excess weight in violation of S.R.O.-1374(II)98, dated 18-12-1999.

(5) You carried out 10% examination of the consignment stated to be done in the presence of examination team but without mentioning the name of the examination team which shows that the examination was done in the absence of the team constituted under Standing Order No.1 of 1999. The examination report endorsed on the bill of entry does not show the presence of the Superintendent (Imports) and Assistant Collector (Imports) at the time of examination.

(6) You examined the consignment of bill of entry without totally destuffing the container. Thus, you intentionally carried out this examination without observing the requirements of Examination Manual and Standing Order No.1 of 2000 dated 1-4-1999 to help clandestine clearance of cotton jean cloth in the garb of cotton/yarn waste.

(7) You did not observe the duties as prescribed in the import Examination Manual which led to the clandestine, removal of cotton jean cloth in the garb of cotton waste.

(8) You endorsed examination report on the bill of entry without destuffing the container completely and without carrying out 100% examination of the goods. On account of wrong examination of the consignment on your part due to above factors, cotton jean cloth worth millions of rupees was cleared in the garb of cotton waste.

(9) You connived with the importer to clear the aforesaid quantity of cotton jean cloth clandestinely under the garb of cotton/yarn waste.

????????????  
Respondent Muhammad Ashraf

"(1) You failed to detect cotton jean cloth valuing Rs.91,49,866 which was cleared on 28-1-1999 from the Dryport in the garb of cotton/yarn waste vide Bills of Entry Nos.623 and 624 both dated 27-12-1999 and No.610, dated 23-12-1999 and was subsequently seized by Customs Intelligence, Faisalabad.

(2) You intentionally endorsed 10% examination of three consignments of B/E No.610 dated 23-12-1999 and 623 dated 27-12-1999 and No.621 dated 27-12-1999 despite the fact that the consignments of waste ought to be examined 100%.

(3) You were required under Standing Order No.1 of 1999 dated 1-4-1999 to examine the above referred consignments along with the other members of the examination team but you intentionally avoided this requirement in violation of the said Standing Order.

(4) You completed the assessment of these bills of entry and ordered out of charge without pointing out that the requirement of joint examination under Standing Order No.1 of 1999 has not been met. This shows your connivance in this clandestine clearance.

(5) You failed to initiate/take penal action against the importer because of availability of excess weight in violation of S.R.O.-1374(I)/98, dated 18-12-1999.

(6) You did not observe the duties as prescribed in the Import Examination Manual which led to the clandestine removal of cotton jean cloth in the garb of cotton waste.

(7) You connived with the importer to clear the aforesaid quantity of cotton jean cloth clandestinely under the garb of cotton/yarn waste.

They submitted their written replies and denied the charges levelled against them. The Inquiry Officer, on the conclusion of inquiry held them guilty of casual and negligent attitude, procedural lapses and violation of instruction of Standing Order No.1 of 1999. In pursuance whereof show-cause notices were issued to respondents, which were also replied. The Authority after going through the report of Inquiry Officer and reference of respondents vide order, dated 24-4-2001 imposed major penalty under section 4(1)(b)(i) of the Government Servants (Efficiency and Discipline) Rules, 1973 to the extent of reduction to five stages in time scale upon respondent Muhammad Ashraf, Superintendent and respondent Dilawar Hussain, Inspector. Whereas respondent Mushtaq Ahmed, Inspector was reverted to Head Clerk and respondent Shahid Mahmood, Deputy Superintendent was reverted to Inspector. Feeling aggrieved, they filed departmental appeals, which were rejected on 28-2-2002. The said orders were assailed in appeal before learned Federal Service Tribunal, Lahore, which were disposed of vide impugned judgment in the following terms:

(a) The penalty awarded to Mr. Muhammad Ashraf and Mr. Dilawar Hussain was modified and reduced to two stages in time scale for a period of two years.

(b) The penalty awarded to Mr. Mushtaq Ahmed and Mr. Shahid Mahmood was ordered to be effective only for a period of two years whereafter they shall stand restored to their original ranks.

3. We have heard Raja Muhammad Bashir, learned Advocate Supreme Court appearing on behalf of petitioners at length and have gone through the record and proceedings of the case in minute particulars.

4. It is mainly contended by learned counsel for the petitioners that learned Tribunal has erred in modifying the penalties imposed upon respondents. According to him, it was established on record that respondents were found guilty of intentional and purposeful dereliction while performing their duties. He further contended that penalties imposed by Authority may be maintained as the same commensurate with the facts and circumstances of the case.

5. These petitions are barred by 6 days for which no plausible explanation has been furnished. However, we have heard learned counsel for the petitioners on merits. It was urged by the respondents that they would not press the appeals on merit but prayed for modification in the penalties as the same were harsh and they had been facing the agony of departmental proceedings for more than seven years, which factor was considered as a mitigating circumstance to lessen the punishment by the learned Tribunal. Much stress was made upon examining the competency of impugned orders of the Authority on the touchstone of Fundamental Rule 29 (applicable to members of service under the rule-making control of the President) wherein it is mentioned that if a Government servant is, on account of misconduct or inefficiency, reduced to a lower grade or post, or to a lower stage in his time-scale, the Authority ordering such reduction shall state the period for which it shall be effective and whether, on restoration, it shall operate to postpone future increments and if so, to what extent. This Court in the case of Auditor-General of Pakistan and others v. Muhammad Ali and others 2006 SCMR 60 has held as under:---

"The element of bad faith and wilfulness may bring an act of negligence within the purview of misconduct but lack of proper care and vigilance may not always be wilful to make it a case of grave negligence inviting severe punishment. The philosophy of punishment is based on the concept of retribution, which may be either through the method of deterrence or reformation. The purpose of deterrent punishment is not only to maintain balance with the gravity of wrong done by a person but also to make an example for others as a preventive measure for reformation of the society, whereas the concept of minor punishment in the law is to make an attempt to reform the individual wrong doer. In service matters, the extreme penalty for minor acts depriving a person from right of earning would definitely defeat the reformatory concept of punishment in administration of justice."

they submitted their written replies and denied the charges levelled against them. The Inquiry Officer, on the conclusion of inquiry held them guilty of casual and negligent attitude, procedural lapses and violation of instruction of Standing Order No.1 of 1999. In pursuance whereof show-cause notices were issued to respondents, which were also replied. The Authority after going through the report of Inquiry Officer and reference of respondents vide order, dated 24-4-2001 imposed major penalty under section 4(1)(b)(i) of the Government Servants (Efficiency and Discipline) Rules, 1973 to the extent of reduction to five stages in time scale upon respondent Muhammad Ashraf, Superintendent and respondent Dilawar Hussain, Inspector. Whereas respondent Mushtaq Ahmed, Inspector was reverted to Head Clerk and respondent Shahid Mahmood, Deputy Superintendent was reverted to Inspector. Feeling aggrieved, they filed departmental appeals, which were rejected on 28-2-2002. The said orders were assailed in appeal before learned Federal Service Tribunal, Lahore, which were disposed of vide impugned judgment in the following terms:

(a) The penalty awarded to Mr. Muhammad Ashraf and Mr. Dilawar Hussain was modified and reduced to two stages in time scale for a period of two years.

(b) The penalty awarded to Mr. Mushtaq Ahmed and Mr. Shahid Mahmood was ordered to be effective only for a period of two years whereafter they shall stand restored to their original ranks.

3. We have heard Raja Muhammad Bashir, learned Advocate Supreme Court appearing on behalf of petitioners at length and have gone through the record and proceedings of the case in minute particulars.

4. It is mainly contended by learned counsel for the petitioners that learned Tribunal has erred in modifying the penalties imposed upon respondents. According to him, it was established on record that respondents were found guilty of intentional and purposeful dereliction while performing their duties. He further contended that penalties imposed by Authority may be maintained as the same commensurate with the facts and circumstances of the case.

5. These petitions are barred by 6 days for which no plausible explanation has been furnished. However, we have heard learned counsel for the petitioners on merits. It was urged by the respondents that they would not press the appeals on merit but prayed for modification in the penalties as the same were harsh and they had been facing the agony of departmental proceedings for more than seven years, which factor was considered as a mitigating circumstance to lessen the punishment by the learned Tribunal. Much stress was made upon examining the competency of impugned orders of the Authority, on the touchstone of Fundamental Rule 29 (applicable to members of service under the rule-making control of the President) wherein it is mentioned that if a Government servant is, on account of misconduct or inefficiency, reduced to a lower grade or post, or to a lower stage in his time-scale, the Authority ordering such reduction shall state the period for which it shall be effective and whether, on restoration, it shall operate to postpone future increments and if so, to what extent. This Court in the case of Auditor-General of Pakistan and others v. Muhammad Ali and others 2006 SCMR 60 has held as under:---

"The element of bad faith and wilfulness may bring an act of negligence within the purview of misconduct but lack of proper care and vigilance may not always be wilful to make it a case of grave negligence inviting severe punishment. The philosophy of punishment is based on the concept of retribution, which may be either through the method of deterrence or reformation. The purpose of deterrent punishment is not only to maintain balance with the gravity of wrong done by a person but also to make an example for others as a preventive measure for reformation of the society, whereas the concept of minor punishment in the law is to make an attempt to reform the individual wrong doer. In service matters, the extreme penalty for minor acts depriving a person from right of earning would definitely defeat the reformatory concept of punishment in administration of justice."

## TABLE OF CONTENTS.

### SECTION I.—FUNDAMENTAL RULES (applicable to members of service under the rule-making control of the Governor-General in Council).

PART I.		
Chapter I	Rules.	Pages.
1.—Extent of application	7—8	1—6
2.—Definitions	9	7—33
PART II.		
3.—General conditions of service	10—18	33—39
PART III.		
4.—Pay	19—43	40—68
5.—Additions to pay	44—48B	69—90
6.—Combination of appointments	49	91
7.—Deputation out of Pakistan	50—51A	92—96
8.—Dismissal, removal and suspension	52—55	97—98
9.—Compulsory retirement	56—57	99—104
PART IV.		
10.—Leave—		
Section I.—Extent of application	58—65	105—108
.. II.—General conditions	66—74	108—115
.. III.—Special and ordinary leave rules	75—75C	116—118
.. IV.—Grant of leave	76—85	119—145
.. V.—Leave salary	87—93	146—159
.. VI.—Exceptions and special concessions	93A—103	159—168
11.—Joining time	105—108A	169—175
PART V.		
12.—Foreign service	109—127	176—193
13.—Service under Local Funds	128—130	194
The Schedule—Provisions for determination of domicile		195

### SECTION II.—SUPPLEMENTARY RULES.

PART I.—GENERAL		
Division.	Rules.	Pages.
I.—Extent of application	1	197—200
II.—Definitions	2	200—203
III.—Medical certificates of fitness on first entry into Government service (F. R. 16)	3—4A	203—207
PART I-A.—PAY.		
III-A.—Officiating Pay (F. Rs. 2 and 35)	4B	208



PART II.—ADDITIONS TO PAY.

Division	Rules	Pages
IV.—Drawing of compensatory allowances (F. Rs. 44 and 93)	5—8	209—220
V.—Fees (F. Rs. 46 A and 47)	9—16	220—222
VI.—Travelling allowances (F. R. 44)— Chapter I.—Grades of Government servants	17—20	223—226
II.—The Different Kinds of Travelling Allowance	21—53	226—244
III.—Travelling allowance admissible for different classes of journey	54—165	244—310
IV.—Travelling allowance admissible when means of transport are supplied without cost to the Government servant travelling	166—186	311—319
V.—Grant of travelling allowance to persons who are not in the Civil service of the Crown	187—190	319—321
VI.—Controlling officers	191—195	321—324

PART III.—RECORDS OF SERVICE.

Division	Rules	Pages
VII.—Gazetted and non-gazetted Government servants (F. R. 74 (a) (i))	195—205	325—329

PART IV.—LEAVE.

VIII.—Authorities empowered to grant leave (F. R. 66)	206—208	330—331
IX.—Combination of holidays with leave and joining time (F. R. 68)	209—211	331—332
X.—Form of medical certificate of fitness to return to duty (F. R. 71)	212—213	332—333
XI.—Leave procedure in the case of Government servants in Pakistan (F. R. 74 (a) (i) and (ii))	214—247	333—341
XII.—Leave procedure in the case of Government servants on leave out of Pakistan (F. R. 74 (b))	248—262	341—346
XIII.—Vacation Departments (F. R. 82 (a))	263—266	346
XIV.—Maternity leave (F. R. 101 (a))	267—268	346—347
XV.—Hospital leave (F. R. 101 (b))	269—273	347—348
XVI.—Sick leave (F. R. 102)	274—275	348—349
XVII.—Departmental leave (F. R. 2)	276—283	349—351
XVII-A.—Leave admissible to Motor Drivers of the Calcutta General Post Office (F. R. 2)	283A	351
XVIII.—Leave earned by temporary and officiating service (F. R. 103 (a))	284—286	351—353
XVIII-A.—Leave earned by service which is not continuous (F. R. 103 (b))	286A—286C	354—358
XIX.—Leave earned by part-time service (F. R. 103 (c))	287—288	358
XX.—Leave earned by service remunerated by honoraria or daily wages (F. R. 103 (d))	289—290	358—359
XXI.—Leave earned by promotions and appointments (F. R. 104 (b))	291—292	359—360

SECTION I.  
FUNDAMENTAL RULES.

Applicable to members of services under the rule-making Control of the Governor General.

These rules have been adapted by the Governor General of Pakistan in exercise of the power conferred on him by section 24 (1) (a) of the G. O. Act 1935 as adapted in Pakistan.

PART I.

Chapter I.—Extent of Application.

F. R. 1. These rules may be called the fundamental rules. They shall come into force with effect from the 1st January 1922.

Government Order.—All orders issued by Government prior to 1st January 1922 which are at variance with the Fundamental Rules or the Supplementary Rules framed under them, should be treated as cancelled with effect from that date.

(G. O. F. D. No. F. 7 (ii) C.S.R. 24, dated the 5th July 1924.)

Audit Instruction.—Subject to any special provisions as to the date of effect contained in the rules or orders themselves, all Statutory Rules made by the late Secretary of State in Council had effect from the date on which they were passed and executive orders issued by the late Secretary of State take effect from the date of issue of the despatch, letter or telegram in which the sanction was conveyed.

[Para. 1, Chap. I, Sec. I of Manual of Audit Instruction (Reprint).]

F. R. 2. The fundamental rules apply, subject to the provisions of rule 3, to all Government servants whose pay is debitable to civil estimates in Pakistan, and to any other class of Government servants in Pakistan to which the Governor General may by general or special order declare them to be applicable. In relation to services under the administrative control of the Government of Pakistan, and to local Government services, a local Government may make rules modifying or replacing any of the fundamental rules provided that:—

(a) No such rule shall adversely affect any person who is in Government service at the time when the fundamental rules come into force; and

(b) any such rule which grants any privilege or concession not admissible under the terms of the fundamental rules, or of the Civil Service Regulations as they stand at the time when the fundamental rules are introduced, shall require the sanction of the Governor General.

L (iv) C/327—1

*Audit Instructions—*

(1) See item (4) of the Audit Instructions below F. R. 9 (6) in this Section.

(2) A period of overstay of leave does not count for increments in a time-scale unless under F. R. 85 (b) it is commuted into extraordinary leave and under the proviso to F. R. 26 (b) the extraordinary leave is specially allowed to count for increments.

[Para. 6 (ii), Chap. IV, Sec. I of Manual of Audit Instructions (Reprint).]

(3) (i) In the case of a Government servant who, while officiating in one post, is appointed to officiate in another, the period of joining time spent in proceeding from one post to the other should be treated as duty in the post, the pay of which the Government servant draws during the period, and will count for increment in the same post under Fundamental Rule 26 (a).

(ii) In the case of a Government servant who, while officiating in a post, proceeds on training or to attend a course of instruction, and who is treated as on duty while under training, the period of such duty will count for increment in the post in which he was officiating prior to his being sent for training or instruction if he is allowed the pay of the officiating post during such period.

[Para. 6 (iii), Chap. IV, Sec. I of Manual of Audit Instructions (Reprint).]

(4) Although joining time taken under Fundamental Rule 105 (b) and (c) is treated as duty under Fundamental Rule 9(6)(a) (i), it cannot be treated as duty for the purposes of increment in an officiating post inasmuch as only leave-salary is drawn for the period.

[Para. 6 (iv), Chap. IV, Sec. I of Manual of Audit Instructions (Reprint).]

(5) If a probationer is confirmed at the end of a period of probation exceeding twelve months, he is entitled to claim retrospectively the increments which, but for his probation, he would have received in the ordinary course.

[Para. 7, Chap. IV, Sec. I of Manual of Audit Instructions (Reprint).]

(6) The intention of F. R. 26(c) is to allow the concession, irrespective of whether the higher post is within or outside the Department to which the Government servant belongs.

[Para. 8, Chap. IV, Sec. I of Manual of Audit Instructions (Reprint).]

(7) See item (6) of the Audit Instructions below F. R. 22 in this Section.

*Audit Ruling—* Fundamental Rule 26 (c) applies to Provincial Civil Service Officers holding "listed posts"

[Ruling (12), Sec. IV of Compilation of Audit Rulings.]

F. R. 27. An authority may grant a premature increment to a Government servant on a time-scale of pay if it has power to create a post in the same cadre on the same scale of pay.

*Government orders—*

(1) In the case of increments granted to advance, it is usually the intention that the officer should be entitled to increments in the same manner as if he had reached his position in the scale in the ordinary course and in the absence of special orders to the contrary he should be placed on exactly the same footing as regards future increments as an officer who has so risen.

[G.I. F. D. No. 752-C.S.R., dated the 6th July 1919.]

(2) The Governor General has decided that the Government are not prepared to state the reasons for their action under any of the Fundamental Rules when the said rules themselves contain no such conditions or stipulation.

[G.I. F. D. Letter No. F. 69-R. 112, dated the 22nd May 1928.]

*Auditor General's Decisions—*

(1) In drafting the Fundamental Rules it was clearly recognised that Fundamental Rule 27 would enable initial rates of pay to be fixed otherwise than in the manner intimated in Fundamental Rule 22.

[Ar. G's D.O. No. 2-A/498-23, dated the 3rd January 1924, to A.G., P. and T.]

(2) The expression "scale of pay" represents the maximum of the scale which is to be taken into account for determining the authority competent to sanction increments rather than the stage of it.

[Letter No. 145-A/3-23, from Auditor, Government Sanctions.]

(3) When the Auditor General sanctions advance increments in future, he will definitely state if it is intended that a full year's benefit should be given, whenever this is not stated in an order, the recipient must serve for a full year on the new rate before he can earn another increment.

[Ar. G's letter No. 736-N.G.E/721-39 dated the 4th April 1930.]

F. R. 28. The authority which orders the transfer of a Government servant as a penalty from a higher to a lower grade or post may allow him to draw any pay, not exceeding the maximum of the lower grade or post, which it may think proper.

F. R. 29. If a Government servant is, on account of misconduct or inefficiency, reduced to a lower grade or post, or to a lower stage in his time-scale, the authority ordering such reduction shall state the period for which it shall be effective and whether, on restoration, it shall operate to postpone future increments and if so to what extent.

*Auditor General's decision—* Having regard to the principle underlying Fundamental Rule 29, the question as to whether an increment falling due during the period of reduction should or should not be allowed is one necessarily to be decided with reference to the exact terms of the orders of the punishing authority. If the Audit Officer feels any doubt about the intention underlying the orders of the punishing authority, he has simply to ascertain it and act accordingly.

[Ar. G's U.O. No. 917/308-42, dated the 9th December 1942.]

This revised rule has effect from the 17th October 1928.

27<sup>th</sup> July 2022

Learned counsel for the appellant present. Mr. Naseer-ud-Din Shah, Assistant Advocate General alongwith Mr. Muhammad Raziq, Head Constable for respondents present.

Learned counsel for the appellant seeks adjournment in order to properly assist the court on the next date. Adjourned. To come up for arguments on 20.09.2022 before the D.B.



(Salah-Ud-Din)  
Member (J)



(Kalim Arshad Khan)  
Chairman

20.09.2022

Syed Noman Ali Bukhari, Advocate for the appellant present. Mr. Ahmad Jan, S.I (Legal) alongwith Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present.

Arguments heard. To come up for order on 22.09.2022 before the D.B.



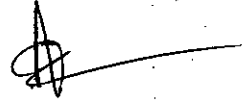
(Mian Muhammad)  
Member (E)



(Salah-Ud-Din)  
Member (J)

12.07.2021

Learned Addl, A.G be reminded about the omission and for submission of reply/comments within extended time of 10 days.



Chairman

Stipulated period passed reply not submitted.

17.01.2022

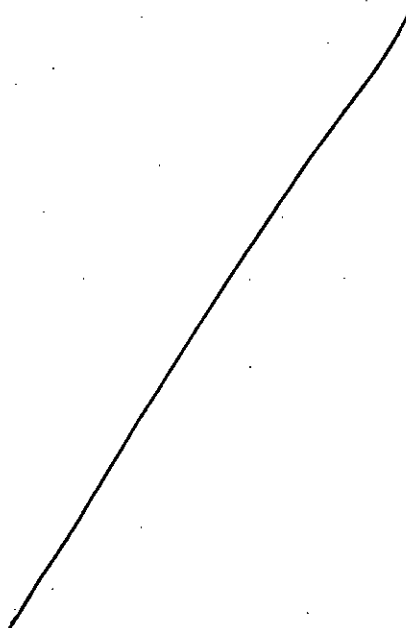
Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl. AG alongwith Mr. Raziq H.C for respondents present and submitted reply/comments which are placed on file. To come up for rejoinder if any, and arguments before the D.B on 12.05.2022.



(Atiq-Ur-Rehman Wazir)  
Member (E)

12-5-22

*Proper DB not available the case is adjourned on 27-7-22*



01.06.2021

Counsel for appellant present. Preliminary arguments heard.

Points raised need consideration. The appeal is admitted to regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days of the receipt of notices positively. If the written reply/comments are not submitted within the stipulated time, the office is directed to submit the file with a report of non-compliance. File to come up for arguments on 29.09.2021 before the D.B.

Appellant Deposited  
Security & Process Fee

29/9/21

  
Chairman

29-9-21

DB is on Tour case to come up  
For the same on Dated, 17-1-22



Reader

Form- A

FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No.- 4532 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	05/04/2021	<p>The appeal of Mr. Pamroze presented today by Syed Noman Ali Bukhari Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	27/05/21	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>01/06/21</u></p> <p style="text-align: right;"> CHAIRMAN</p>

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

Appeal No. \_\_\_\_\_ /2021

Pamroze

VS

Police Deptt

**INDEX**

S.No	Documents	Annexure	Page No.
1.	Memo of Appeal	-----	01-03
2.	Copy of suspension order	-A-	04
3.	Copy of charge sheet	- B-	05
4.	Copy of inquiry report	- C-	06-07
5.	Copy of showcause	- D-	08
6.	Copy of reply	-E-	09
7.	Copy of impugned order	- F-	10
8.	Copy of departmental appeal	-G-	11
9.	Copy of rejection order	-H-	12
10.	Copy of statement	-I-	13
11.	Vakalat Nama	-----	14

  
**APPELLANT**  
Pamroze

THROUGH:

  
**(SYED NOMAN ALI BUKHARI)**  
**ADVOCATE HIGH COURT**

Date: 05.04.2021

①

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

Appeal No. 4532 /2021

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 4537

Dated 05/4/2021

Mr. Pamroze Ex. IHC NO. 585,  
PS Banamari Peshawar.

**APPELLANT**

**VERSUS**

1. The Capital City Police Officer, KP Peshawar.
2. The Senior Superintendent of police Operation Peshawar.

**(Respondents)**

**APPEAL UNDER SECTION 4 OF THE SERVICES TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 10.02.2021 WHEREBY, THE APPELLANT WAS AWARDED MAJOR PENALTY OF REDUCTION TO LOWER SCALE FROM HEAD CONSTABLE TO CONSTABLE AND AGAINST THE REJECTION ORDER DATED 24.03.2021 WHEREBY THE APPEAL OF HE APPELLANT WAS REJECTED WITHOUT SHOWING ANY COGENT REASON.**

**PRAYER:**

**THAT ON ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 10.02.2021 and 24.03.2021 MAY KINDLY BE SET-ASIDE AND THE APPELLANT MAY KINDLY BE RESTORE TO THE ORIGINAL POST WITH ALL BACK AND CONSEQUENTIAL BENEFITS AND. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOR OF APPELLANT.**

Filed to-day

ew  
Registrar

05/04/2021

**RESPECTFULLY SHEWETH:**

**FACTS:**

1. That the appellant was serving in police department as head constable and work with full zeal and zest and upto entire satisfaction of his superior.



2. That was suspended vide order dated 13.01.2021 along with other colleagues and served with charge sheet on the basis of allegation of video circulating on media regards corrupt practices along with subordinate constables the appellant properly reply to charge sheet but copy of reply is not available with the appellant. **(Copy of suspension order, statement of allegation, are attached as Annexure- A, & B).**
3. That during the inquiry proceeding, inquiry officer also recommended major punishment for the appellant, without associating appellant with the inquiry and not recorded the statement of any official and the video boy whom make video and also not recoded the statement of the person who showing in video. **Copy of inquiry report is attached as annexure-C**
4. That on the basis that one sided inquiry, final show cause notice was served upon the appellant and the appellant properly replied to show cause notice but without considering the reply of the appellant the appellant was awarded the major penalty of "*reversion from the rank of HC to the rank of Constable*" vide impugned order dated 10.02.2021 under Police Rule-1975. **Copy of the show cause notice, reply and impugned order is attached as Annexure-D, E & F).**
5. That the appellant preferred departmental appeal against the order dated 10.2.2021 which was rejected vide order dated 24.03.2021 for no good grounds. **(Copy of Departmental appeal and rejection order are attached as annexure-G & H).**
6. That now the appellant come to this august Tribunal on the following grounds amongst others.

**GROUND:**

- A. That the authority has passed that impugned order without properly evaluating the evidence and material on record. The evidence supporting the case of appellant was wrongly brushed aside and disbelieved without advancing any reasons and grounds. So the impugned order liable to be set aside.
- B. That the penalty order of the appellant is the violation of FR-29 as in the penalty order it was not mention the period of reversion to the rank of constable to be effective.
- C. That the sufficient grounds of innocence of the appellant exist as per provision of supreme court judgment cited as NLR 2005 TD supreme Court Page 78" as no one punished for the fault of others. So the impugned order is illegal.

(3)

- D. That during the inquiry proceeding, inquiry officer also recommended major punishment for the appellant, without associating appellant with the inquiry and not recorded the statement of any official and the video boy whom make video and also not recoded the statement of the person who showing in video.
- E. That the penalty of reversion to the lower rank is very harsh which is passed in violation of law and, therefore, the same is not sustainable in the eyes of law.
- F. That the principles of natural justice have ruthlessly been violated in colorable exercise of the powers which may amount to misuse of the power.
- G. That the inquiry proceedings were conducted at the back of the appellant, no fair opportunity of defense was provided to appellant. No chance of cross examination of alleged witnesses was provided to appellant, No legal , solid and material evidence was brought on record in support of the charge . petitioner was not confronted with any evidence , therefore the impugned order based on defective enquiry is not sustainable.
- H. That the person showing in video was giving money, properly record his statement on stamp paper and denied that he did not give any money to police official but the neither authority nor inquiry officer brought the statement of the appellant in inquiry report. And the appellant held guilty without any proof. **Copy of statement is attached as annexure-I.**
- I. That the inquiry report was not provided to the appellant with final show cause notice. Which is violation of superior court judgments.
- J. That the appellant seeks permission to advance other ground proof at the time of hearing.

It is therefore most humbly prayed that the appeal of the appellant may be accepted as prayed for.

  
APPELLANT  
Pamroze

THROUGH: 

(SYED NOMAN ALI BUKHARI)  
ADVOCATE HIGH COURT



A

66

04

OFFICE OF THE  
SENIOR SUPERINTENDENT OF POLICE  
(OPERATIONS)  
PESHAWAR

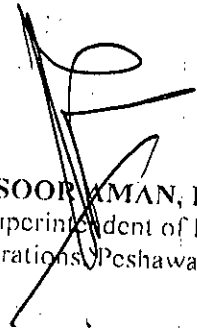
Phone: 091-9210508

ORDER

1. The following police officials of Police Station Bhanmari Peshawar are hereby placed under suspension and closed to police lines Peshawar with immediate effect:-

- i. ASI Famroz
- ii. Constable Rooh Ullah No. 634
- iii. Constable Mujeeb No. 2263
- iv. Driver Constable Asif No. 5733

2. They are being proceeded against departmentally under Police (Efficiency and Disciplinary) Rules 1975.

  
MANSOOR AMAN, PSP  
Senior Superintendent of Police,  
Operations Peshawar

No. 138-42/PA, dated Peshawar the 13.01.2021

CC for information and n/action to the:-

1. The Capital City Police Officer, Peshawar.
2. SsP City, HQs & Security Peshawar
3. AS/EC-II/OSI/CRC
4. FMC

**ATTESTED**

STATEMENT OF ALLEGATIONS

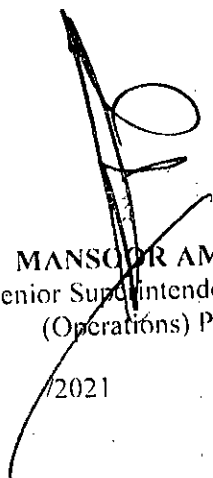
B (30) 07

1. Mansoor Aman, PSP, SSP/Operations, Peshawar as competent authority, am of the opinion that ASI Famroz, while posted to PS Bana Mari has rendered himself liable to be proceeded against departmentally, as he has committed the following acts/omission within the meaning of section 03 of the Khyber Pakhtunkhwa Police Rules, 1975.

A video circulating on social media wherein he along with subordinate constables can be seen receiving money from citizens in lieu of return of weapons spare parts, which act of him falls within the meaning of "corrupt practices" and thus renders him liable for disciplinary proceedings under Police Rules, 1975.

2. For the purpose of scrutinizing the conduct of afore said police official in the said episode with reference to the above allegations SP city is appointed as Enquiry Officer under Rule 5 (4) of Police Rules 1975.

3. The Enquiry Officer shall in accordance with the provision of the Police Rules (1975), provide reasonable opportunity of hearing to the accused Official and make recommendations as to punish or other action to be taken against the accused official.

  
MANSOOR AMAN, PSP  
Senior Superintendent of Police,  
(Operations) Peshawar

No. 480 E/PA, dated Peshawar the

/2021

  
**ATTACHED**



**OFFICE OF THE  
SUPERINTENDENT OF POLICE  
CITY, PESHAWAR.**

**091-9225333 / spcitypeshawar@yahoo**

No. 361-E/PA, dated Peshawar the 03/02/2021.

C  
6

To: The Senior Superintendent of Police,  
Operations, Peshawar.

Subject: **REGULAR DEPARTMENTAL ENQUIRY REPORT.**

Memo:

Kindly refer to your office Diary No. 480/E/PA, dated 14-01-2021 attached in original.

It is submitted that Regular Departmental Enquiry of accused ASI Famroz, while posted to PS Bana Mari, Peshawar, was entrusted to the undersigned which was proceeded under the law.

**SUMMARY OF CHARGE SHEET (ORIGINAL ATTACHED):-**

Accused ASI Famroz, while posted to PS Bana Mari, Peshawar, was charged for gross misconduct on the following grounds:-

- A video circulating on social media wherein he along with subordinate Constables can be seen receiving money from citizens in lieu of return of weapons spare parts, which act of him falls within the meaning of "corrupt practices" and thus renders him liable for disciplinary proceedings under Police Rules, 1975.
- That the situation prime facie suggests/implies unprofessional attitude and disinterest in service, thus making him liable/accountable under the relevant rules.

**ENQUIRY PROCEEDINGS:-**

- a) Charge Sheet and Statement of Allegations were served upon ASI Famroz and his signature obtained on the Charge Sheet which is attached herewith.
- b) ASI Famroz was called to office of the undersigned, heard in detail and his statement was duly recorded (statement is attached).

**FINDING/RECOMMENDATION:-**

The undersigned has perused all the relevant statements and video viral on social media was also examined. In the video footage, it is seen that Driver Constable Asif No. 5733 took some amount from the individual in the presence of ASI Famroz and released him without taking legal action against

**ATTESTED**

(7) 1

him. If the arrested person has committed any offense, then why he was released without any legal action. This appears that ASI Famroz and Driver Constable Asif released the person after accepting the amount from the accused party. Driver Constable Asif No. 5733 is not alone in this dirty business, it seems the ASI Famroz is running this illegal campaign in order to receive bribe from innocent people.

The undersigned came to the conclusion that ASI Famroz is fully responsible for taking illegal gratification from the citizens. Therefore, the undersigned recommends accused ASI Famroz for Major Punishment "Reduction in Rank" under the Police Rules, 1975.

All relevant papers are enclosed herewith please.

  
SUPERINTENDENT OF POLICE,  
CITY, PESHAWAR.

ATTESTED



SENIOR: :

F THE  
DENT OF POLICE,  
(ONS),  
VAR  
'213054

D

1  
100  
9

(Under Police Disciplinary Rules, 1975)

1. I, Yasir Afridi (PSP), Senior Superintendent of Police (Operations) Peshawar as competent authority, under the Police Disciplinary Rules 1975, do hereby serve you ASI Famroz of Police Lines Peshawar, then posted to PS Bana Mari as follows:-

2. (i) That consequent upon completion of the departmental enquiry conducted against you by SP City Peshawar, who found you guilty of the charges for which you were given opportunity of personal hearing;
- (ii) Ongoing through the findings and recommendations of the inquiry officer, the material on record and other connected papers including your defense before the said officer; I am satisfied that you have committed the following misconducts;

**That you have been held guilty of involvement in corrupt practices as is evident from a video circulating on some social media platforms, which act is highly objectionable and amounts to gross misconduct on your part.**

- 3 As a result thereof I, Yasir Afridi PSP, Senior Superintendent of Police (Operations) Peshawar as Competent Authority decided to impose upon you major/minor penalty including dismissal from service under the said Rules.
4. You are, therefore, require to Show Cause as to why the aforesaid penalty should not be imposed upon you.
5. If no reply to this notice is received within 7-days of its delivery, it shall be presumed that you have no defense to put in and in that case an ex-parte action shall be taken against you.
6. You are at liberty to be heard in person, if so wished.

2-  
YASIR AFRIDI, PSP  
Sr. Superintendent of Police,  
Operations, Peshawar

No 323 /PA dated Peshawar the 08 / 02/2020

ATTESTED

E

9

جناب عالی!

بحوالہ مشمولہ فائنل شوکاز نوٹس نہایت ادب کیساتھ معروض خدمت ہوں کہ سائل تھانہ بھانہ ماڑی میں تعینات تھا۔ سائل کے خلاف فائنل شوکاز نوٹس میں ویڈیو وارنل سے متعلقہ جو الزامات لگائے ہیں وہ بالکل خود ساختہ ہیں اور ویڈیو جعلی ہے۔ ویڈیو میں جو نظارہ دکھایا گیا ہے۔ اس میں کوئی حقیقت نہیں ہے۔ بالکل یہ ویڈیو بنائی اور مصنوعی ہے۔

جناب عالی میں خلفاً بیان کرتا ہوں کہ نہ میں نے اور نہ ہی موبائیل میں موجود کسی دوسرے رشوت لی ہے۔ اور یہ صرف اور صرف پولیس کو بدنام کرنے کیلئے ایک سازش کی گئی ہے۔ تاکہ مجرمان پولیس کو دباؤ میں لا کر اپنی مجرمانہ سرگرمیاں اور غیر قانونی افعال ازادی سے پورا کر سکے۔

جس سے ویڈیو میں رقم لینے کا اظہار ہو چکا ہے۔ وہ سامنے آکر حلفاً بیان دیں تو ہم گنہگار ہونگے ورنہ ہمارا دامن صاف ہے۔ اور ہمارے خلاف نے بنیاد اور من گھڑت الزام صرف اور صرف پولیس کو بدنام کرنے کیلئے کی ہیں۔

اس لئے درخواست ہے کہ درج بالا حقیقت کے پیش نظر فائنل شوکاز نوٹس کو فائل کر کے مشکور فرمائیں۔ عمر بھر دعا گور ہونگا۔

R  
F

ایچ۔ اے۔ راجندر پراساد  
5256  
1170

ATTESTED





OFFICE OF THE  
SENIOR SUPERINTENDENT OF POLICE,  
(OPERATIONS)  
PESHAWAR  
Phone. 091-9210508

10  
F

**ORDER**

This office order is hereby passed to dispose of formal departmental enquiry against IHC Famroz No. 5856, who while posted to PS Banamari was placed under suspension and proceeded against departmentally on the charges that a video of him along with his subordinates taking money from citizens went viral on some social media platforms which brought bad name to the department.

2. SP City Peshawar was appointed as Enquiry Officer who carried out enquiry proceedings and submitted his findings on 03.02.2021. The EO concluded that Driver Constable Asif took some amount from the individual in the presence of IHC Famroz and released the said individual without taking legal action against him. The EO held him guilty of taking money from innocent citizens and recommended that major penalty of reduction in rank may be awarded to him.

3. On receipt of the findings, Final Show Cause Notice was served upon the accused IHC who responded and submitted his written reply which was examined and found unsatisfactory. He was also given the opportunity of personal hearing but he failed to advance any plausible explanation in rebuttal of the charges and as such the charges stand proved.

4. Ongoing through findings of the EO along with other connected material on record, I being competent under the law, am satisfied that IHC Famroz is guilty of gross misconduct. In the circumstances, I do agree with the findings/recommendations of the EO and therefore, IHC Famroz 5856 is hereby awarded the major penalty of demotion to the rank of Constable with immediate effect. He is re-instated in service. Period of suspension is treated as duty.

(YASIR AFRIDI) PSP  
Senior Superintendent of Police,  
(Operations) Peshawar

No. 387-91 PA dated Peshawar, the 10/02/2021.

Copy for information and necessary action to:-

1. The Capital City Police Officer Peshawar.
2. The SsP City, HQs, & Security Peshawar.
3. EC-I/EC-II/OSI/AS/PO
4. FMC along with complete enquiry file for record (Encl: 13 )

ATTESTED

IHC اپیل برائے حوالی رسید

Deputy Superintendent of Police Legal Branch  
56  
Dy. No. 18/21/2021

جای عالی 11

Dy. No. 19/20-CCPO  
Dt. 18-2-2021  
Encl:

گزارش مقدمہ سائل محکمہ پولیس لٹور میں ڈیوٹی سرانجام دینا ہے۔ قوالہ اردو نمبر 38791  
10.02.21 بجاریہ الیس ایس پی کے ایپریشن کے دوران معروضہ شخصیت ہوں کہ سائل  
تھا بھانہ مازی میں جنیت IHC تعینات تھا۔ بدوران حوالیہ گشت ایک حوالیہ  
دیو میں دکھایا گیا کہ پولیس اہلکار ایک شخص کو پکڑ کر رشتہ سے رہیں ہے۔  
اس الزام کو بنیاد بنا کر سائل کو دیگر اہلکاران کو قور الزام ٹھہرایا گیا۔ جس میں SP  
شخصیت انکوٹری ایسیر انکوٹری کی اور سائل کو بغیر کسی ثبوت سے قصور وار  
رہا ہے اس شخص سے متعلق کسی قسم کا تعلق ہے کہ وہ ڈیو کو ملاحظہ کیا جا سکتا ہے۔  
بہت ہیں کہ انکوٹری ایسیر سائل کو کس بنا پر قور الزام ٹھہرایا ہے۔ جبکہ  
صن شخص سے رشتہ کیا دکھایا گیا ہے بدوران انکوٹری مذکورہ شخص بیان  
دیا ہے کہ میں کسی کو کسی قسم کی رشتہ وغیرہ نہیں دیتی ہے اور سائل کو جانتا تک  
نہیں تھا اور نہ ہے۔ پھر بھی سائل سرایا۔ ہوا جو کہ عجیب اور خلاف ضابطہ ہے۔  
بال معروضات کی روشنی میں عرض رہتا ہوں کہ ہم درانہ عور نہ ماویں۔ اصل حقائق  
کی روشنی میں الزام سے متکو فرما کر سائل کو بحال فرماویں۔

قریر 17-02-2021

یام روز 5856 متعینہ پولیس لائٹرنل دور

03110092858

sup. legal  
Rev comments pl.

F.M.C

put up record

ATTESTED

PA  
19/2

Dy. Supdt: Police  
Legal, CCPO/Peshawar



OFFICE OF THE  
CAPITAL CITY POLICE OFFICER  
PESHAWAR

Phone No. 091-9210989

Fax No. 091-9212597

12

ORDER

This order will dispose of departmental appeal preferred by Ex IHC Pamroze No.585 who was awarded the major punishment of "demotion to the rank of constable" under PR-1975 b. SSP/Operations Peshawar vide order No.387-91/PA, dated 10-02-2021.

2- He was proceeded against departmentally on the charges that a video of him alongwith his subordinates taking money from citizens went viral on social media platforms which brought ba name to the department.

3- He was issued proper Charge Sheet and Summary of Allegations by SSP/Operation Peshawar and SP/City Peshawar was appointed as enquiry officer to scrutinize the conduct of th accused official. The enquiry officer after conducting proper enquiry submitted that the alleged accuse official Pamroze is fully responsible for taking illegal gratification from the citizens and recommende him for major punishment. The competent authority after examining the findings of the enquiry office issued him Final Show Cause Notice. His reply to the Final Show Cause Notice was found unsatisfactory; hence in the light of the findings of the enquiry officer the competent authority awarde him the above major punishment.

4- He was heard in person in O.R. and the relevant record along with his explanation perused. He was given ample opportunity to defend himself but he could not produce any plausible explanation. Therefore his appeal for setting aside the punishment awarded to him by SSP/Operation Peshawar vide order No.387-91 /PA, dated 10-02-2021 is hereby rejected/filed.

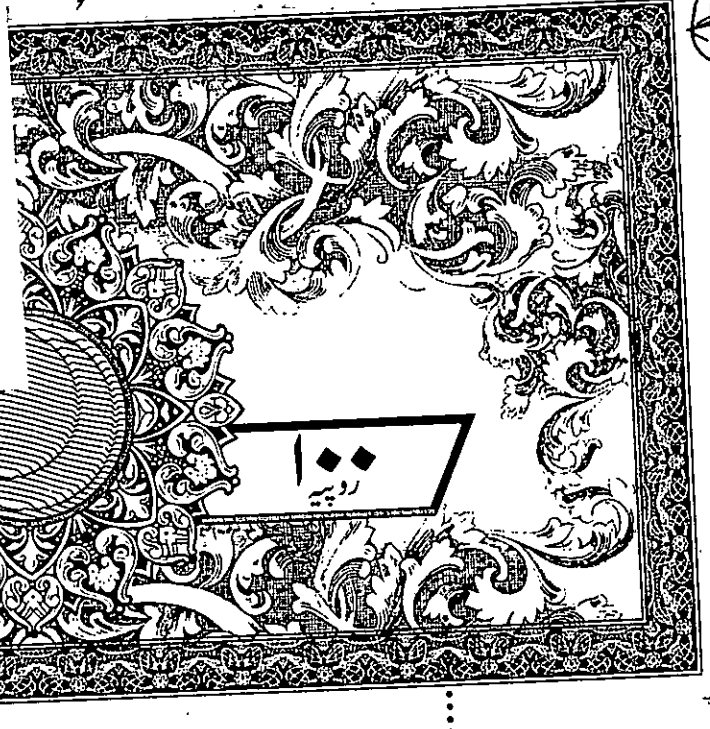
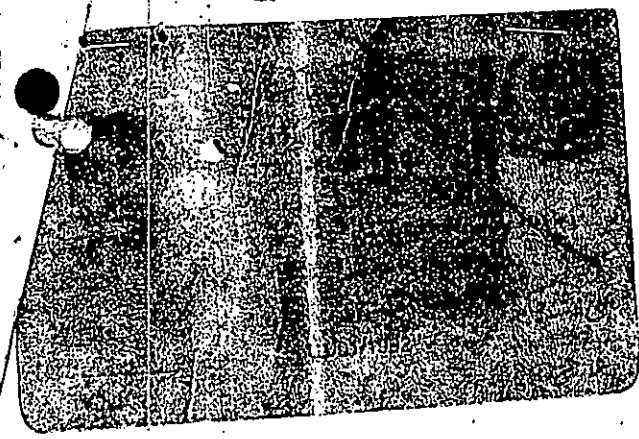
(ABBAS AHSAN) PSP  
CAPITAL CITY POLICE OFFICER,  
PESHAWAR

No. 934-42 /PA dated Peshawar the 24/03 2021

Copies for information and n/a to the:-

1. SSP/Operations Peshawar
2. SP/City Peshawar.
3. EC-II/EC-I/OSI/ PO/CRC
- ✓ 4. FMC along with Fouji Missal.
5. Official concerned.

ATTESTED



100  
Rupees

روپیہ

## بیان حلفی

منکہ گلزار ولد وکیل خان سکندہ ماشوپکی ڈاکخانہ ماشوخیل تحصیل و ضلع پشاور کا ہوں۔ درینوقت بقائمی عقل

وہوش حواس خمسہ و بلا جبر ترغیب غیرمی کے حلفاً بیان دیتا ہوں کہ من مقرر حلف کباڑ کا کام کرتا ہوں۔

اور سال انڈسٹریل اسٹیٹ کوہاٹ روڈ نزد قاسم علی خان مسجد کیساتھ موبائل سرکاری نے مجھے کھڑا کر کے من

مقرر حلف کی تلاشی لی جو کہ من مقرر حلف کیساتھ کوئی غیر قانونی چیز برآمد نہ ہوا۔ پولیس والوں نے مجھے

چھوڑ کر میں اپنے کام پر چلا گیا۔ من مقرر حلف سے پولیس والوں نے نہ تو کوئی رقم لی ہے اور نہ ہی رقم کا

مطالبہ کیا ہے۔ مندرجہ بالا بیان میرے علم و یقین کے مطابق درست و صحیح ہے۔ اس میں کوئی امر پوشیدہ

نہیں رکھا گیا غلط بیانی ثابت ہونے پر من مقرر حلف پابند و ذمہ دار رہوں گا۔ لہذا بیان حلفی سنداً تحریر

ہے۔ المرقوم 18-02-2021

گلزار



العبد

گلزار مقرر حلف

مضمون بالا سن سمجھ کر درست تسلیم شد

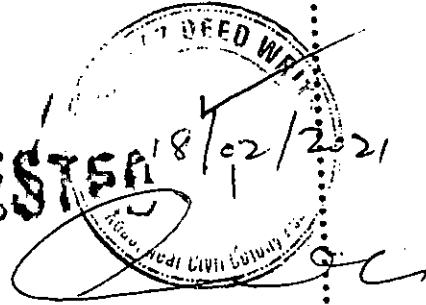
17301-6463165-9

ATTESTED

ATTESTED

ATTESTED

18/02/2021



VAKALATNAMA

54

NO. \_\_\_\_\_/20

IN THE COURT OF KP Service Tribunal, Peshawar

Pamsoze

Appellant  
Petitioner  
Plaintiff

VERSUS

Police Dept

Respondent (s)  
Defendants (s)

I/WE Pamsoze


do hereby appoint and constitute the **SYED NOMAN ALI BUKHARI Advocate High Court** for the aforesaid Appellant(s), Petitioner(S), Plaintiff(s) / Respondent(s), Defendant(s), Opposite Party to commence and prosecute / to appear and defend this action / appeal / petition / reference on my / our behalf and all proceedings that may be taken in respect of any application connected with the same including proceeding in taxation and application for review, to draw and deposit money, to file and take documents, to accept the process of the court, to appoint and instruct council, to represent the aforesaid Appellant, Petitioner(S), Plaintiff(s) / Respondent(s), Defendant(s), Opposite Party agree(s) ratify all the acts done by the aforesaid.

DATE \_\_\_\_\_/20



(CLIENT)

ACCEPTED



**SYED NOMAN ALI BUKHARI  
ADVOCATE HIGH COURT**

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.**

**Service Appeal No.4532/2021.**

Ex- IHC Pamroze No.585 of CCP Peshawar..... **Appellant.**

**VERSUS**

Capital City Police Officer Peshawar and others..... **Respondents.**

**REPLY BY RESPONDENTS NO. 1, &2.**

**Respectfully Sheweth:-**

**PRELIMINARY OBJECTIONS:-**

1. That the appeal is badly barred by law & limitation.
2. That the appeal is bad for mis-joinder and non-joinder of necessary and proper parties.
3. That the appellant has not come to Hon'able Tribunal with clean hands.
4. That the appellant has no cause of action and locus standi.
5. That the appellant is estopped by his own conduct to file the instant appeal.
6. That the appellant has concealed the material facts from Honorable Tribunal.
7. That the appeal is not maintainable being devoid of any merit.

**REPLY ON FACTS:-**

1. Correct to the extent that the appellant was serving as Head Constable in the respondent department, while rest of para is denied on the grounds that he has not a clean service record. Record shows that he was an unwilling and none professional officer, thereby not interested in discharging of his official duties.
2. Incorrect. In fact the appellant while posted at Police Station Banamari Peshawar was proceeded departmentally on the charges that a Video Viral on Social Media wherein the appellant along with his subordinates were found taking illegal gratification(money) from citizens, which tarnished the image of the department. In this regard he was issued Charge Sheet with Statement of Allegations. SP City was appointed as Enquiry Officer. During the course of enquiry, the enquiry officer found him guilty of the charges leveled against him. On receipt of the finding of the enquiry officer, he was issued Final Show Cause Notice which he received. In response to Final Show Cause Notice he submitted his written reply, which was examined and found unsatisfactory. The charges leveled against him were proved; hence he was awarded major punishment of reversion from the rank of IHC to the rank of Constable by SSP/Operations. (Copy of charge sheet, statement of allegations, enquiry report and final show cause notice with reply are annexed as annexure "A" "B" "C" "D").
3. Incorrect. Proper departmental enquiry was conducted against him. During the course of enquiry, the appellant failed to rebut the charges and the enquiry officer conducted

thorough probe into the matter and found the appellant guilty of the charges. The whole enquiry was conducted purely on merit. The appellant was provided full opportunity of defense but the appellant failed to defend himself. After fulfilling all the codal formalities, he was awarded the major punishment.

4. Incorrect. Charge sheet with statement of allegations was served upon him. Regular inquiry was conducted as per law/rules and thereafter, he was issued a final show cause notice which he replied his reply was examined and found unsatisfactory, hence after fulfilling all the codal formalities, he was awarded the major punishment.
5. Incorrect. The appellant filed departmental appeal which was properly processed and an ample opportunity of hearing was provided to appellant by appellate authority but appellant failed to defend himself with plausible/justifiable grounds, hence his appeal was rejected filed.
6. That appeal of the appellant being devoid of merits and limitation may be dismissed on the following grounds.

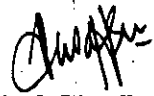
**REPLY ON GROUNDS:**

- A. Incorrect. The duty of police is to protect life, property and liberty of citizens, preserve and promote public peace but he, despite being a member of disciplined force deviated himself from his lawful duty and indulged himself in misconduct. After completion of codal formalities, he was awarded the major punishment, hence liable to be upheld.
- B. Incorrect. The appellant was treated as per law/rules and no violation of the Constitution of Pakistan 1973 has been done by the respondent's department. The punishment was awarded as per law/rules.
- C. Incorrect. The appellant committed a gross misconduct and he defamed the image of police department in the eyes of general public. After fulfilling all of codal formalities, the charges leveled against him were proved. The punishment order passed by the competent authority is just, legal and has been passed in accordance with law/rules.
- D. Incorrect. The appellant was associated with the enquiry proceedings and proper opportunity of defense was provided to appellant. He failed to defend the charges leveled against him. The enquiry officer after detail probe reported that the charges were proved. Proper opportunity of defense was provided to the appellant, but he failed to defend himself.
- E. Incorrect. The appellant being a member of a disciplined force committed gross misconduct. The charges leveled against him were stand proved, hence he was awarded the major punishment as per law/rules.
- F. Incorrect. Replying respondents being senior members of the disciplined force are duty bound to ensure safety of public and their property as well, for the very reason, a close check is kept upon the subordinates to avoid and eradicate misuse of official authority in the discharge of duty.

- G. Incorrect. During the course of enquiry, the appellant failed to rebut the charges and the enquiry officer conducted thorough probe into the matter and found the appellant guilty of the charges. The charges leveled against him were proved, hence the punishment order was passed.
- H. Incorrect. Proper enquiry was conducted by the enquiry officer. After conclusion of the enquiry, he was found guilty and after fulfillment of all codal formalities, he was awarded major punishment.
- I. Incorrect. The appellant was treated as per the law/rules. No injustice was done to him.
- J. Respondents also seek permission of this Honorable Tribunal to raise additional grounds at the time of arguments.

**PRAYER.**

It is, therefore, most humbly prayed that in light of above facts and submissions, the appeal of the appellant being devoid of merits and legal footing, may kindly be dismissed with costs please.

  
Capital City Police Officer,  
Peshawar.

2<sup>nd</sup>  
  
Senior Superintendent of Police,  
Operations, Peshawar.



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.**

**Service Appeal No.4532/2021.**


Ex- IHC Pamroze No.585 of CCP Peshawar..... **Appellant.**

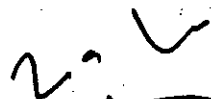
**VERSUS**

Capital City Police Officer Peshawar and others..... **Respondents.**

**AFFIDAVIT.**

We respondents 1 and 2 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and nothing has concealed/kept secret from this Honorable Tribunal.

  
**Capital City Police Officer,  
Peshawar.**

  
**Senior Superintendent of Police,  
Operations, Peshawar.**

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.**

**Service Appeal No.4532/2021.**

Ex- IHC Pamroze No.585 of CCP Peshawar..... **Appellant.**

**VERSUS**

Capital City Police Officer Peshawar and others..... **Respondents.**

**REPLY BY RESPONDENTS NO. 1, &2.**

**Respectfully Sheweth:-**

**PRELIMINARY OBJECTIONS:-**

1. That the appeal is badly barred by law & limitation.
2. That the appeal is bad for mis-joinder and non-joinder of necessary and proper parties.
3. That the appellant has not come to Hon'able Tribunal with clean hands.
4. That the appellant has no cause of action and locus standi.
5. That the appellant is estopped by his own conduct to file the instant appeal.
6. That the appellant has concealed the material facts from Honorable Tribunal.
7. That the appeal is not maintainable being devoid of any merit.

**REPLY ON FACTS:-**

1. Correct to the extent that the appellant was serving as Head Constable in the respondent department, while rest of para is denied on the grounds that he has not a clean service record. Record shows that he was an unwilling and none professional officer, thereby not interested in discharging of his official duties.
2. Incorrect. In fact the appellant while posted at Police Station Banamari Peshawar was proceeded departmentally on the charges that a Video Viral on Social Media wherein the appellant along with his subordinates were found taking illegal gratification(money) from citizens, which tarnished the image of the department. In this regard he was issued Charge Sheet with Statement of Allegations. SP City was appointed as Enquiry Officer. During the course of enquiry, the enquiry officer found him guilty of the charges leveled against him. On receipt of the finding of the enquiry officer, he was issued Final Show Cause Notice which he received. In response to Final Show Cause Notice he submitted his written reply, which was examined and found unsatisfactory. The charges leveled against him were proved; hence he was awarded major punishment of reversion from the rank of IHC to the rank of Constable by SSP/Operations. (Copy of charge sheet, statement of allegations, enquiry report and final show cause notice with reply are annexed as annexure "A" "B" "C" "D").
3. Incorrect. Proper departmental enquiry was conducted against him. During the course of enquiry, the appellant failed to rebut the charges and the enquiry officer conducted

thorough probe into the matter and found the appellant guilty of the charges. The whole enquiry was conducted purely on merit. The appellant was provided full opportunity of defense but the appellant failed to defend himself. After fulfilling all the codal formalities, he was awarded the major punishment.

4. Incorrect. Charge sheet with statement of allegations was served upon him. Regular inquiry was conducted as per law/rules and thereafter, he was issued a final show cause notice which he replied his reply was examined and found unsatisfactory, hence after fulfilling all the codal formalities, he was awarded the major punishment.
5. Incorrect. The appellant filed departmental appeal which was properly processed and an ample opportunity of hearing was provided to appellant by appellate authority but appellant failed to defend himself with plausible/justifiable grounds, hence his appeal was rejected filed.
6. That appeal of the appellant being devoid of merits and limitation may be dismissed on the following grounds.

**REPLY ON GROUNDS:**

- A. Incorrect. The duty of police is to protect life, property and liberty of citizens, preserve and promote public peace but he, despite being a member of disciplined force deviated himself from his lawful duty and indulged himself in misconduct. After completion of codal formalities, he was awarded the major punishment, hence liable to be upheld.
- B. Incorrect. The appellant was treated as per law/rules and no violation of the Constitution of Pakistan 1973 has been done by the respondent's department. The punishment was awarded as per law/rules.
- C. Incorrect. The appellant committed a gross misconduct and he defamed the image of police department in the eyes of general public. After fulfilling all of codal formalities, the charges leveled against him were proved. The punishment order passed by the competent authority is just, legal and has been passed in accordance with law/rules.
- D. Incorrect. The appellant was associated with the enquiry proceedings and proper opportunity of defense was provided to appellant. He failed to defend the charges leveled against him. The enquiry officer after detail probe reported that the charges were proved. Proper opportunity of defense was provided to the appellant, but he failed to defend himself.
- E. Incorrect. The appellant being a member of a disciplined force committed gross misconduct. The charges leveled against him were stand proved, hence he was awarded the major punishment as per law/rules.
- F. Incorrect. Replying respondents being senior members of the disciplined force are duty bound to ensure safety of public and their property as well, for the very reason, a close check is kept upon the subordinates to avoid and eradicate misuse of official authority in the discharge of duty.

- G. Incorrect. During the course of enquiry, the appellant failed to rebut the charges and the enquiry officer conducted thorough probe into the matter and found the appellant guilty of the charges. The charges leveled against him were proved, hence the punishment order was passed.
- H. Incorrect. Proper enquiry was conducted by the enquiry officer. After conclusion of the enquiry, he was found guilty and after fulfillment of all codal formalities, he was awarded major punishment.
- I. Incorrect. The appellant was treated as per the law/rules. No injustice was done to him.
- J. Respondents also seek permission of this Honorable Tribunal to raise additional grounds at the time of arguments.

**PRAYER.**

It is, therefore, most humbly prayed that in light of above facts and submissions, the appeal of the appellant being devoid of merits and legal footing, may kindly be dismissed with costs please.



**Capital City Police Officer,  
Peshawar.**



**Senior Superintendent of Police,  
Operations, Peshawar.**

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.**

**Service Appeal No.4532/2021.**


Ex- IHC Pamroze No.585 of CCP Peshawar..... **Appellant.**


**VERSUS**

Capital City Police Officer Peshawar and others..... **Respondents.**

**AFFIDAVIT.**

We respondents 1 and 2 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and nothing has concealed/kept secret from this Honorable Tribunal.

  
**Capital City Police Officer,  
Peshawar.**

  
**Senior Superintendent of Police,  
Operations, Peshawar.**



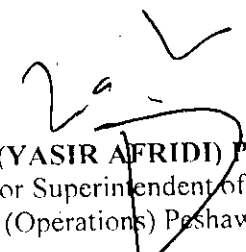
OFFICE OF THE  
SENIOR SUPERINTENDENT OF POLICE,  
(OPERATIONS)  
PESHAWAR  
Phone. 091-9210508

**ORDER**

This office order is hereby passed to dispose of formal departmental enquiry against Constable Asif No. 5733 who while posted to PS Bana Mari was placed under suspension and proceeded against departmentally on account of his involvement in corrupt practices, video of which was circulating on some social media platforms.

2. SP City Peshawar was appointed as Enquiry Officer who carried out enquiry proceedings and submitted his findings on 03.02.2021 wherein he concluded that in the video footage; Driver Constable Asif can be seen taking some amount from the individual in the presence of ASI Famroz. The individual is then released without taking any legal action. The EO held the accused Constable Asif fully responsible for taking illegal gratification from the citizens and recommended that he may be awarded punishment of forfeiture of 02-years approved service provided under Police Rules, 1975.

3. Ongoing through findings of the EO along with other connected record, I have reached to the conclusion that accused Constable is guilty of taking illegal gratification from public. Therefore, as proposed by the Enquiry Officer, he is awarded the punishment of forfeiture of 02-years approved service. He is re-instated in service.

  
(YASIR AFRIDI) PSP  
Senior Superintendent of Police,  
(Operations) Peshawar

No. Lydy-08 PA dated Peshawar, the 10/02/2021.  
Copy for information and necessary action to:-

1. The Capital City Police Officer Peshawar.
2. The SsP City, HQs. & Security Peshawar.
3. OSI/CRC/PO
4. FMC along with complete enquiry file for record (Encl: 9 )




OFFICE OF THE  
SENIOR SUPERINTENDENT OF POLICE,  
(OPERATIONS)  
PESHAWAR  
Phone. 091-9210508

**ORDER**

This office order is hereby passed to dispose of formal departmental enquiry against Constable Rooh Ullah No. 634 who while posted to PS Bana Mari was placed under suspension and proceeded against departmentally on account of his involvement in corrupt practices - video of which was circulating on some social media platforms.

2. SP City Peshawar was appointed as Enquiry Officer who carried out enquiry proceedings and submitted his findings on 03.02.2021 wherein he concluded that in the video footage; Driver Constable Asif can be seen taking some amount from the individual in the presence of ASI Famroz whereas no malafide was found on the part of Constable Rooh Ullah as he is not seen in the video. The EO recommended that he may be awarded censure as provided under Police Rules, 1975.

3. Ongoing through findings of the EO along with other connected record, I do agree with findings/recommendations of the Enquiry Officer. Therefore, as proposed by the Enquiry Officer, Constable Rooh Ullah is hereby awarded the punishment censure. He is re-instated in service.

  
(YASIR AFRIDI) PSP  
Senior Superintendent of Police,  
(Operations) Peshawar

No. 409-13 PA dated Peshawar, the 10/02/2021.

Copy for information and necessary action to:-

1. The Capital City Police Officer Peshawar.
2. The SsP City, HQs, & Security Peshawar.
3. OSI/CRC/PO
4. FMC along with complete enquiry file for record (Encl: 9 )