

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 4995/2021

Date of Institution ... 23.04.2021  
Date of Decision ... 31.05.2022

Ifrahim Nasir son of Abdul Karim R/O Daggar Narai Tehsil Banda  
Daud Shah District Karak.

... (Appellant)

**VERSUS**

The Secretary Home & Tribal Affairs Khyber Pakhtunkhwa,  
Peshawar and four others.

... (Respondents)

Miss Roeeda Khan,  
Advocate

... For appellant.

Asif Masood Ali Shah,  
Deputy District Attorney

... For respondents.

Rozina Rehman  
Fareeha Paul

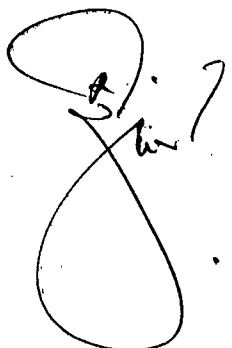
... Member (J)  
... Member (E)

**JUDGMENT**

**ROZINA REHMAN, MEMBER (J):** The appellant has invoked the jurisdiction of this Tribunal through above titled appeal with the prayer as copied below:

**“On acceptance of this appeal the impugned order dated 18.03.2021 may kindly be set aside and the appellant may kindly be allowed back benefits of intervening period of service with effect from 26.12.2017 to 12.06.2019.”**

2. Brief facts of the case are that appellant was appointed as Constable and after appointment, he performed his duty with full devotion and dedication. He was transferred to District Kohat on

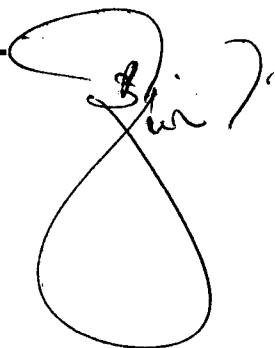


14.02.2014 and posted at Digital Lab Crimes Kidnapping Cell. While performing his duty at District Kohat, he was dismissed from service on 26.12.2017. He filed Service Appeal which was allowed with direction to conduct a de-novo inquiry vide judgment dated 15.02.2019. Consequently appellant was reinstated on 12.06.2019 and the punishment was converted into forfeiture of service for two years. He submitted departmental appeal which was allowed to the extent of forfeiture of two years service. He then filed mercy petition to the extent of back benefits which was rejected, hence, the present service appeal.

3. We have heard Miss Roeda Khan Advocate learned counsel for appellant and Asif Masood Ali Shah learned Deputy District Attorney for respondents and have gone through the record and the proceedings of the case in minute particulars.

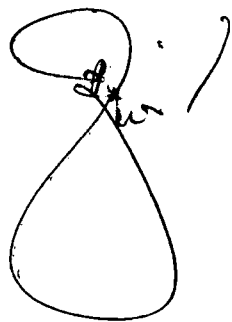
4. Miss Roeda Khan Advocate learned counsel appearing on behalf of appellant inter-alia submitted that the appellant was not treated in accordance with law and his rights secured and guaranteed under the Constitution of Islamic Republic of Pakistan, 1973 were badly violated. Learned counsel further argued that the appellant was exonerated from the charges leveled against him but even then back benefits to the extent of intervening period were not granted, therefore, requested for acceptance of the instant service appeal.

5. Conversely, learned AAG submitted that appellant had committed gross professional misconduct and was proceeded against departmentally, therefore, major punishment of dismissal from service was imposed by the competent authority. It was contended that the



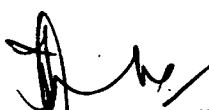
appellant was treated in accordance with law and proper order was passed after fulfillment of all codal formalities.

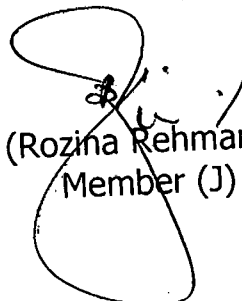
6. From perusal of the record, we have come to the conclusion that the appellant was proceeded against departmentally on the allegations that he while posted at Counter Kidnapping Cell had misused the authority and major penalty of dismissal from service was imposed upon him on 26.12.2017. He filed Service Appeal No.278/2018 which was allowed; appellant was reinstated in service with direction to respondents to issue fresh charge sheet with statement of allegations and to conduct de-novo inquiry within a period of 90 days from the receipt of copy of judgment. In compliance with the judgment of this Tribunal, de-novo inquiry was properly conducted. As per charge sheet, allegations against the present appellant were that he fraudulently wrote mobile number 03109004679 on proforma and handed over to another person. From the inquiry report it is evident that the allegations leveled against the appellant did not prove and he was recommended to be absolved from the charges leveled against him. In view of the available record, the competent authority i.e. DPO Karak did not agree with the findings of the inquiry officer and he while reinstating the appellant in service permanently converted his punishment into forfeiture of service for two years while absence period was treated as leave without pay on the ground that the appellant leaked secret information being posted at a responsible post at Crimes Kidnapping Cell, Kohat. Feeling aggrieved, he filed departmental appeal which was allowed by Regional Police Officer, Kohat Region on 25.06.2020



by setting aside the punishment order and restored his two years forfeited service. He then filed mercy petition against the order, whereby, intervening period was counted as leave without pay but the same was filed being time barred. From the entire record it is evident that the allegations leveled against the appellant were never proved. His service record is clear and there is no bad entry. He was dismissed from service in the absence of cogent and reliable evidence which order was later on set aside. Again, his two years service was forfeited in the absence of strong evidence and his appeal was accepted. He was punished for no fault. We also would differ with the contention of the learned AAG about time of limitation, as the issue involves a continuous cause of action, involving monetary loss to the appellant, hence, no limitation runs against the instant case. There is nothing in black & white which could show that any secret while posted at a responsible seat was ever leaked by the appellant, therefore, he is entitled to all back benefits and accordingly instant service appeal is accepted as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.  
31.05.2022

  
(Fareeha Paul)  
Member (E)

  
(Rozina Rehman)  
Member (J)


ORDER  
31.05.2022


Appellant present through counsel.

Asif Masood Ali Shah learned Deputy District Attorney for respondents present. Arguments heard and record perused.

Vide our judgment of today of this Tribunal placed on file, instant service appeal is accepted as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.  
31.05.2022

  
(Fareeha Paul)  
Member (E)

  
(Rozina Rehman)  
Member (J)

Due to unavailability of the Tribunal  
Chairman the case is referred to  
the next available date for hearing  
31-5-2022

Stipulated period passed reply not submitted.


29.07.2021

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

Chairman

10.11.2021

Miss Roeeda Khan, Advocate for the appellant present. Mr. Shabir Ahmad, H.C alongwith Mr. Muhammad Rasheed, Deputy District Attorney for the respondents present and submitted reply/comments which are placed on file and copy of the same is handed over to the learned counsel for the appellant. Adjourned. To come up for rejoinder, if any, as well as arguments before the D.B on 08.02.2022.

  
(ATTIQ UR REHMAN WAZIR)  
MEMBER (E)

  
(SALAH-UD-DIN)  
MEMBER (J)

8-2-2022

Due to retirement of the Honorable Chairman the case is adjourned to come up for the same as before on 31-5-2022

  
Reader.

25.06.2021

Counsel for the appellant present. Preliminary arguments heard.

It is there in the second last paragraph of the impugned order that the enquiry officer has recommended that the allegations levelled against the accused/appellant were not proved and also recommended him to be absolved from the charges. However, the competent authority in the concluding Paragraph of the impugned order did not agree with the recommendations of the enquiry officer and imposed penalty of forfeiture of service for two years against the appellant and absence period was treated as leave without pay. Under Rule 14 of the Government Servants (E&D) Rules, 2011, on receipt of report from the inquiry officer or inquiry committee, as the case may be, an order to be passed by the competent authority. Sub-rule 3 of Rule ibid provides that where the charge or charges have not been proved, the competent authority shall exonerate the accused by an order in writing, or it shall follow the procedure as given in sub-rule(6) of the rules ibid. Obviously, the respondent No. 4 despite absence of proof of the charge in the enquiry did not exonerate the appellant and as such he was required to proceed further within the meaning of sub-rule-6. However, the impugned order as to compliance of sub-rule 6 is silent. If the respondents remained unsuccessful to rebut the position as discussed before, the question as to voidness of impugned order with plea of there being no limitation against such order is likely to arise. Therefore, the appeal is admitted for 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 shall submit the file with a report of non-compliance. File to come up for arguments on 10.11.2021 before the D.B.

Appellant Deposited  
Sec. Process Fee  
28/6/21



  
Chairman

Form- A

FORM OF ORDER SHEET

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

Case No.- 4995 /2021

| S.No. | Date of order proceedings | Order or other proceedings with signature of judge  |
|-------|---------------------------|---|
| 1     | 2                         | 3   |
| 1-    | 06/05/2021                | <p>The appeal of Mr. Ifrahim Nasir resubmitted today by Roeda Khan 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;"><br/>REGISTRAR</p> |
| 2-    | 27/05/21                  | <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>25/06/21</u></p> <p style="text-align: right;"><br/>CHAIRMAN</p>  |



25.06.2021

Counsel for the appellant present. Preliminary arguments heard.

It is there in the second last paragraph of the impugned order that the enquiry officer has recommended that the allegations levelled against the accused/appellant were not proved and also recommended him to be absolved from the charges. However, the competent authority in the concluding Paragraph of the impugned order did not agree with the recommendations of the enquiry officer and imposed penalty of forfeiture of service for two years against the appellant and absence period was treated as leave without pay. Under Rule 14 of the Government Servants (E&D) Rules, 2011, on receipt of report from the inquiry officer or inquiry committee, as the case may be, an order to be passed by the competent authority. Sub-rule 3 of Rule *ibid* provides that where the charge or charges have not been proved, the competent authority shall exonerate the accused by an order in writing, or it shall follow the procedure as given in sub-rule(6) of the rules *ibid*. Obviously, the respondent No. 4 despite absence of proof of the charge in the enquiry did not exonerate the appellant and as such he was required to proceed further within the meaning of sub-rule-6. However, the impugned order as to compliance of sub-rule 6 is silent. If the respondents remained unsuccessful to rebut the position as discussed before, the question as to voidness of <sup>impugned order</sup> with plea of there being no limitation against such order is likely to arise. Therefore, the appeal is admitted for 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 shall submit the file with a report of non-compliance. File to come up for arguments on 10.11.2021 before the D.B.

*reprinted on fresh page*

Chairman

The appeal of Mr. Ifrahim Nasir son of Abdul Karim Daggar Narai District Karak received today i.e. on 23.04.2021 is incomplete on the following score which is returned to the counsel for the appellants for completion and resubmission within 15 days.

- 1- Note given on the late page of the memorandum of appeal is unsigned.
- 2- Page no. 15 and 18 of the memo of appeal are illegible which may be replaced by legible/better one.


No. 777 /S.T,

Dt. 05/05 /2021

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Roeeda Khan Adv. Pesh.

objection No 1 & 2  
has been removed

  
6/5/2021

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

Service Appeal No. \_\_\_\_\_ of 2021

Ifrahim Nasir

VERSUS

Police Department

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Appellant

Through

Roeda Khan

Advocate, High Court Peshawar.

(1)

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

Service Appeal No. 4995 of 2021

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 5030

Dated 23/4/2021

Ifrahim Nasir Son of Abdul Karim R/o Daggar Narai Tehsil  
Banda Daud Shah District Karak.

..... Appellant

**VERSUS**

- 1) The Secretary Home & Tribal Affairs, Khyber Pakhtunkhwa Peshawar.
- 2) The Inspector General of Police, Khyber Pakhtunkhwa Peshawar.
- 3) The regional Police Officer Kohat, Regional Kohat.
- 4) The District Police office Karak.
- 5) The District Police Officer Kohat.

..... Respondents

**APPEAL U/S 4 OF KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL ACT, 1974 AGAINST THE  
IMPUGNED ORDER DATED 18/03/2021  
COMMUNICATED TO THE APPELLANT ON  
24/03/2021 WHEREBY THE DEPARTMENTAL  
APPEAL FOR BACK BENEFITS OF  
INTERVENING PERIOD OF SERVICE WITH  
EFFECT FROM 26/12/2017 TO 12/06/2019 OF THE  
APPELLANT HAS BEEN REJECTED ON NO  
GOOD GROUNDS.**

**Filed to-day**

**Registrar**  
23/4/2021

Re-submitted to -day  
and filed.

**Registrar**  
6/5/2021

**Prayer:**

On acceptance of this appeal the impugned order dated 18/03/2021 may kindly be set aside and the Appellant may kindly be allowed back benefits of intervening period of service with effect from 26/12/2017, to 12/06/2019 along with back benefits.

**Respectfully Sheweth:**

**FACTS**

1. That the Appellant has been appointed as Constable on 2009 with Respondent Department and after appointment perform his duty with full devotion and no complaint whatsoever has been made against the Appellant.
2. That on 14/02/2014 the Appellant has been transferred to District Kohat and posted at digital Lab crimes kidnapping cell.
3. That while performing his duty at District Kohat the Appellant has been dismissed from service on 26/12/2017 against which the Appellant filed Service Appeal No. 278/18 in this Hon' able Court which has been accepted on 15/02/2019 for denov inquiry. (Copy of Judgment is attached as Annexure-A).
4. That on compliance of the Judgment of this Hon' able Court an inquiry has been conducted against the Appellant whereby now allegation has been proved against the Appellant. (Copy of inquiry report is attached as Annexure-B).
5. That after conducted the said inquiry the Appellant has been reinstated on 12/06/2019 as well as the punishment awarded to him is converted into forfeiture of service for two years as well as his absence period is treated is leave without pay. (Copy of the order dated 12/06/2019 is attached as Annexure-C).
6. That the Appellant submitted Departmental Appeal against the order dated 12/06/2019 to the extent of forfeiture of

(3)

service as well as leave with pay. (Copy of Departmental Appeal is attached as Annexure-D).

7. That on 06/07/2020 the order dated 12/06/2019 has been set aside to the extent of forfeiture of two years service. (Copy of order is attached as Annexure E).
8. That the Appellant filed mercy petition against the order dated 06/07/2020 to the extent of the intervening period is treated as leave without pay. Which has been rejected on 18/03/2021 communicated to the Appellant on 24/03/2021. (Copy of mercy petition and rejection order is attached as Annexure F & G).
9. That feeling aggrieved the Appellant preferred the instant service appeal before this Hon' able Tribunal on the following grounds inter alia.

**GROUND:**

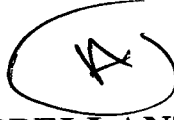
- A. That the Appellant has not been treated in accordance with law and hence his rights secured and guaranteed under the Constitution of 1973 were badly violated.
- B. That the Appellant has been exonerated from the charge level against the Appellant and no allegation has been proved against the Appellant by the inquiry officer.
- C. That no reason has been mentioned in the impugned order.
- D. That the Appellant has been legally entitle for the back benefits of intervening period.

**It is therefore, most humbly prayed that On acceptance of this appeal the impugned order dated 18/03/2021 may**

(4)


kindly be set aside and the Appellant may kindly be allowed back benefits of intervening period of service with effect from 26/12/2017, to 12/06/2019 along with back benefits.

Any other relief not specifically asked for may also graciously be extended in favor of the Appellant in the circumstances of the case.



APPELLANT

THROUGH



ROEEDA KHAN

Advocate High Court Peshawar

**Note:**

As per information furnished by my client no such like appeal for the same Petitioner, upon the same subject matter has earlier been filed, prior to the instant one, before this Hon' able Tribunal.



Advocate

(5)

**BEFORE THE HONABLE SERVICE TRIBUNAL**  
**PESHAWAR**

Ifrahim Nasir Son of Abdul Karim R/o Daggar Narai Tehsil  
Banda Daud Shah District Karak.

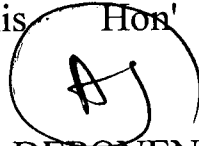
..... Appellant

**VERSUS**

The Secretary Home & Tribal Affairs, Khyber Pakhtunkhwa  
Peshawar & others.

**AFFIDAVIT**

Ifrahim Nasir Son of Abdul Karim R/o Daggar Narai Tehsil  
Banda Daud Shah District Karak, do hereby solemnly affirm and  
declare that all the contents of the instant appeal are true and  
correct to the best of my knowledge and belief and nothing has  
been concealed from this Hon' able Court.



DEPONENT

Identify By: 

Roeeda Khan

Advocate High Court Peshawar





(6)

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

Service Appeal No. \_\_\_\_\_ of 2021

Ifrahim Nasir Son of Abdul Karim R/o Daggar Narai Tehsil  
Banda Daud Shah District Karak.

..... Appellant

**VERSUS**

The Secretary Home & Tribal Affairs, Khyber Pakhtunkhwa  
Peshawar & others.

**ADDRESS OF THE PARTIES**

**PETITIONER**

Ifrahim Nasir Son of Abdul Karim R/o Daggar Narai Tehsil  
Banda Daud Shah District Karak.

..... Appellant

**VERSUS**

- 1) The Secretary Home & Tribal Affairs, Khyber Pakhtunkhwa  
Peshawar.
- 2) The Inspector General of Police, Khyber Pakhtunkhwa  
Peshawar.
- 3) The regional Police Officer Kohat, Regional Kohat.
- 4) The District Police office Karak.
- 5) The District Police Officer Kohat.

(A)

APPELLANT

THROUGH

ROEEDA KHAN ADVOCATE

HIGH COURT Peshawar

7

**BEFORE THE HONABLE SERVICE TRIBUNAL PESHAWAR**

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

Afrahim Nasir

**VERSUS** Police Department


**APPLICATION FOR CONDONATION OF  
DELAY (IF ANY)**

Respectfully Sheweth:

- 1) That the applicant file the instant appeal in this Hon'ble Court, in which no date has been fixed for hearing so far.
- 2) That the final impugned order dated 18/03/2021 has been communicated to the Appellant on 24/03/2021.
- 3) That there many Judgment of the superior Court t that cases should be decided on merit rather then on technicality.
- 4) That there are many Judgment of the superior Court as well as specific provision of law that no limitation run against financial matter.

it is, therefore, humbly prayed that on acceptance of this application the delay in filing of appeal may kindly be condone.

Appellant  
Through

  
**Roeda Khan**  
Advocate,  
High Court Peshawar

C.A. (8)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR

SERVICE APPEAL NO. 278/2018

Date of institution ... 28.02.2018  
Date of judgment ... 15.02.2019



Ifrahim Nasir S/o Abdul Karim  
R/o Daggar Nari Tehsil Banda Daud Shah District Karak.

... (Appellant)

VERSUS

1. The Secretary Home and Tribal Affairs, Khyber Pakhtunkhwa, Peshawar.
2. The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
3. The Regional Police Officer, Kohat Region, Kohat.
4. The District Police Officer Karak.
5. The District Police Officer, Kohat.

... (Respondents)

APPEAL UNDER SECTION-4 OF THE KHYBER  
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST  
THE ORDER BEARING NO. 40171/PA (ENDST. NO. 40172-  
76/PA DATED 26.12.2017, WHEREBY THE SERVICES OF  
THE APPELLANT WERE DISMISSED.

*M. Amin*  
15.2.2019

Mr. Mehboob Ali Khan Dagai, Advocate .. For appellant.  
Mr. Riaz Ahmad Paindakheil, Assistant Advocate General .. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI .. MEMBER (JUDICIAL)  
MR. HUSSAIN SHAH .. MEMBER (EXECUTIVE)

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - Counsel for the

appellant present. Mr. Riaz Ahmad Paindakheil, Assistant Advocate General for  
the respondents present. Arguments heard and record perused.

2. Brief facts of the case as per present service appeal are that the appellant  
joined the Police Department as Constable in the year 2009 at District Karak.

Later on he was detailed for duty at Crimes Kidnapping Cell District Kohat vide

**ATTESTED**

**ATTESTED**  
*M. Amin*  
15.2.2019  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

(9)

order dated 14.02.2014. The appellant was imposed major penalty of dismissal from service by the District Police Officer Kohat vide order dated 26.12.2017 on the allegations that he while posted at Counter Kidnapping Cell (Digital Lab) Kohat has misused the authority and fraudulently mentioned cell No. 0310-900469 on a prescribed proforma of CDR submitted by SHO PS MRS for ascertaining missing mobile through IME Number 354202079228684 vide reported DD No. 3 dated 23.08.2017. The appellant filed departmental appeal on 28.12.2017 to the Regional Police Officer Kohat which was rejected on 14.02.2018 hence, the present service appeal on 28.02.2018.

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

4. Learned counsel for the appellant contended that the appellant was appointed as Constable at District Karak but later on he was temporarily detailed/posted for duty at Kohat at Counter Kidnapping Cell (Digital Lab) Kohat vide order dated 14.02.2014. It was further contended that after posting at Kohat the appellant was also receiving salary from Karak as the appellant was never permanently posted/adjusted at Kohat therefore, the competent authority of the appellant was District Police Officer Karak but the District Police Officer Kohat framed charge sheet/statement of allegation and issued show-cause notice against the appellant that he fraudulently written cell number 0310-900469 on proforma and handed over to other person. It was further contended that the District Police Officer Kohat also appointed/deputed DSP Lachi (Kohat) for inquiry. It was further contended that after so-called inquiry proceedings, the appellant was imposed major penalty of dismissal from service by the District Police Officer Kohat vide order dated 26.12.2017. It was further contended that at the time of departmental proceedings the appellant was receiving salary from

M. Anam  
15-2-2019

ATTESTED

ATTESTED

BY  
M. Anam  
District Judge  
Faisalabad

District Karak and was only temporarily posted/detailed to District Kohat for duty therefore, it was vehemently contended that District Police Officer Kohat was not the competent authority to issue charge sheet, statement of allegation, show-cause notice as well as to award major penalty to the appellant rather District Police Officer Karak was competent authority therefore, the inquiry proceedings on the direction of District Police Officer Kohat as well as the punishment awarded to the appellant was passed by the incompetent authority therefore, the same is illegal and liable to be set-aside. It was further contended that neither the appellant was associated in the inquiry proceedings nor the appellant was provided opportunity of cross examination, personal hearing and defence and the appellant was condemned unheard therefore, the impugned order is illegal and liable to be set-aside.

5. On the other hand, learned Assistant Advocate General for the respondents opposed the contention of learned counsel for the appellant and contended that the appellant was posted at Counter Kidnapping Cell (Digital Lab) Police Regional Headquarter and assigned important/sensitive job i.e to ascertain Crime Data Analysis, CDR etc and provision to investigating officer to work out the criminal cases. It was further contended that one Mst. Nafeesa Aqil reported regarding loss of her mobile set and report was entered vide daily diary No. 3 dated 23.08.2017, Police Station MRS Kohat in order to trace out the missing mobile set and sent to the appellant with IMEI No. 354202079228684. It was further contended that the appellant fraudulently, malafidely and his personal gain mentioned cell No. 0310-90046791 in the said proforma, got CDR and issued to an unauthorized person and misused his authority. It was further contended that the appellant was properly charge sheet and regular inquiry was also conducted against the appellant wherein the

*M. Amin*  
15.2.2019

ATTESTED

ATTESTED

Service Journal  
Peshawar

(11)

appellant was found guilty of the charge and on the basis of inquiry, the appellant was rightly imposed major penalty of dismissal from service. It was further contended that all the codal formalities including opportunity of cross examination, personal hearing and defence was provided and the appellant had committed offence of misconduct within District Kohat therefore, District Police Officer Kohat was the competent authority and he has rightly imposed the major penalty and prayed for dismissal of appeal.

6. Perusal of the record reveals that the appellant was appointed as Constable in District Karak in the year 2009, later on he was nominated for posting at Counter Kidnapping Cell (Digital Lab) Kohat vide order dated 14.02.2014 and was serving in Kohat when the departmental proceeding was initiated against the appellant on the basis of aforesaid allegation. The record further reveals that inquiry was conducted and the inquiry officer has also recorded statement of one Qammar Abbas No. 801 during the inquiry proceeding but the statement of the said Qammar Abbas No. 801 recorded by the inquiry officer available on the record shows that the inquiry officer has not provided opportunity of cross examination to the appellant. Meaning thereby, that the appellant was deprived from the right of cross examination, by the inquiry officer and 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 in service with the direction to respondent No. 3 i.e The regional Police Officer, Kohat Region, Kohat to direct the concerned District Police Officer, who is the competent authority of the appellant to issue fresh charge sheet, statement of allegation to the appellant and conduct a de-novo inquiry through inquiry officer in the mode and manner prescribed under the Police Rules, 1975 including the opportunity

M. Ammar  
15-2-2019

Regional Police Officer  
Kohat Region  
Kohat

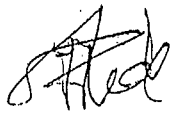
ATTESTED

ATTESTED

(12)

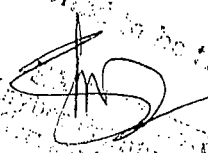
of cross examination, show-cause notice, personal hearing and defence to the appellant within a period of 90 days from receipt of copy of judgment. The issue of back benefits will be subject to the outcome of decision of de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

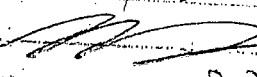
ANNOUNCED  
15.02.2019



(HUSSAIN SHAH)  
MEMBER

*Muhammad Amin*  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

Certified to be true copy  
  
K. S. Malik  
Secretary, Tribunal,  
Peshawar

Date of Presentation of Application ..... 22-03-19  
Number of Words ..... 2000  
Copying Fee ..... 12-00  
Urgent ..... 2-00  
Total ..... 14-00  
Name of Copyist .....   
Date of Completion of Copy ..... 22-03-19  
Date of Delivery of Copy ..... 22-03-19

**ATTESTED**  


FINDING

(13) FB

No. /Hq  
Dated. 17 /2019

(2)

Kindly refer to Charge Sheet No 194/PA(Enq), dated 23.05.2019, issued to Constable Ibrahīm Nasir No 543 Police Lines, Karak

**ALLEGATIONS**

As per charge Sheet allegations the defaulter official fraudulently written mobile No 0310-9004679 on proforma and handed over to other person. His this act is against service discipline and amount to gross misconduct.

In light of the above allegations, the undersigned summoned the defaulter official for enquiry and statement on 23.05.2019. The defaulter official appeared before the undersigned on 24.05.2019 and heard in person

In order to ascertain the actual facts, the undersigned summoned computer operators of Counter Kidnapping Cell (Digital Lab) Kohat namely Constable Hamid Nawaz No. 543 and Constable Qamar Abbas No. 801 for enquiry and statements vide this office signal No 206/Hq(PA) dated 24.05.2019. The defaulter official Ibrahīm Nasir was also called for cross examination and statement. The undersigned heard each Police official including defaulter official in person, crossed examined, and recorded their statements, placed on file.

**STATEMENT OF AFRAHIM NASIR NO. 543**

The defaulter official stated in his written statement that he neither wrote the mobile No 0310-90046791 on the CDR requisition Proforma nor handed over the same to any other official for entry. The defaulter official denied the allegations leveled against him.

**STATEMENT OF HAMID NAWAZ NO. 563**

Constable Hamid Nawaz stated in his written statement that he had only written the IMEI No. 354202079228684 on the CDR requisition form specified for office use only and, similarly in the diary register at Serial No. 1378 of Digital Lab.

**STATEMENT OF QAMAR ABBAS NO. 801**

Constable Qamar Abbas No. 801 stated in his written statement that he had written mobile number on the request of Constable Afrahim Nasir No. 543 and Hamid Nawaz when both the Constables returned from DSP City office Kohat office.

**ENQUIRY OFFICER ANALYSIS**

During course of enquiry, the undersigned cross examined the defaulter official, Constable Qamar Abbas No. 801 and Hamid Nawaz No. 563 and also perused the relevant record on file. According to the CDR requisition form and Diary Register of Digital Lab, mobile No. 0310-90046791 (total 12-digits) were written which are excess and incorrect

ATTESTED



Hand record of subscriber could not be procured/ascertained (Photocopies of CDR form and Diary Register attached).

Moreover, during cross examination, it came to light that all the three computer operators were using one and same Email address and password for log-in and doing their routine official activities. This Email and Password can be accessed from Andriod Mobile Phone anytime and anywhere too.

Constable Qamar Abbas No. 801 outright failed to convince the undersigned regarding insertion of mobile number in the CDR proforma on the request of Constable Afrahim Nasir No. 543. Constable Qamar Abbas No. 801 also failed to produce any tangible and solid evidences in support of his written arguments during cross examination/questions.

Furthermore, in the initial Daily Diary report No. 18, dated 10.10.2017 PS Muhammad Riaz Shaheed Kohat, one Mst Nafeesa Aqeel d/o Muhammad Aqeel r/o Kohat reported about his missing mobile phone mentioning IMEI No. 354202079228684 which was subsequently forwarded to CDR digital lab for recovery. Later on, report on the above mentioned IMEI received as "Nil" from quarter concerned and the complainant Nafeesa Aqeel did not make any complaint against any official to high ups. Additionally, it is worth mentioning here that SHO PS MRS Kohat did not single out any particular Computer Operator of digital lab in his aforementioned daily diary report nor any preliminary enquiry in this connection was conducted prior to the departmental proceeding against defaulter official. The undersigned also procured the Service record of defaulter official and perused. No single bad entry was found except the previous one.

#### CONCLUSION

In view of the position explained above and adopting all legal and procedural formalities, the undersigned reached to the conclusion that mere written statement of one official against the defaulter official without any solid proof cannot be considered as gospel truth, therefore, the allegations leveled against the defaulter official Ifrahim Nasir did not prove, hence he is recommended to be absolved from the charges leveled against him.

Finding report submitted, please.

  
Dy. Superintendent of Police,  
Hqrs, Karak

**ATTESTED**

**ORDER**

My this order will dispose of the denovo Departmental Inquiry against Constable Ifrahim Nasir No. 543 of this district Police.

Facts are that Constable Ifrahim No. 543 while posting at Crimes Kidnapping cell District Kohat was issued with the allegation that the said Constable fraudently written mobile No. 03109004679 un proforma and handed over to other person. Upon which he was issued with charge sheet and statement of allegation and after the completion of inquiry process he was awarded major punishment of dismissal from service.

Upon which he submitted service appeal No. 278/2018 in the Service Tribunal Khyber Pakhtunkhwa Peshawar after the rejection of his appeal by the W/RPO Kohat as well as CPO Peshawar the Service Tribunal Khyber Pakhtunkhwa Peshawar vide his order announced dated 15/02/2019 called the case back for denovo inquiry according with law and rules and the issue of back benefits will be subject to the outcome of denovo proceedings.

In compliance of Service Tribunal Khyber Pakhtunkhwa Peshawar Judgment quoted above and approval from the W/IGP E&I LAB KP Peshawar vide his office letter No. 145/CPO/LAB/C&E dated 09/05/2019 he was reinstated provisionally in service and was also issued with fresh charge sheet and the same above mention allegation for the purpose of denovo inquiry and Mr. Amjid Ali SDPO Karak was appointed as Inquiry Officer to conduct denovo inquiry against him and to submit his findings and his stipulated period.

The inquiry officer reported that the mere written stated of one official against the defaulter official without any solid proof cannot be considered as gospel truth therefore, the allegation level against him were not proved hence the inquiry officer recommended him to be absolved from the charges.

Keeping in view of the available record and facts on file and perusal all the relevant documents I did not agree with the finding report of the inquiry officer he is found guilty of the charge he leak secret information being posted at respectable post at crime kidnapping self District Kohat. However, putting lenient lieu on his family therefore, I Nausher Khan Muhammad, District Police Officer Karak as competent authority under the police Rules, 1975 amended in 2014, he is reinstated in service permanently and the punishment awarded to him is converted into forfeiture of service for two years and his absence period is treated as leave without pay.

District Police Officer Karak

OB NO. 263

Dated 12/06/2019

Office of the District Police Officer Karak

No. 240-41/PA/(Enq) Karak the dated 12/06/2019

Copy of the above submitted for favor of information to:-

1. The Registrar Service Tribunal Khyber Pakhtunkhwa Peshawar with to his office order quoted above.
2. The Inspector General of Police inquiry and Inspection internal accountability branch KPK Peshawar with WR to his office letter No. 1745 CPO/LAB C&E dated 09/05/2019.

District Police Officer Karak

ORDER

My this Order will dispose off the denovo departmental enquiry against Constable Ifrahim Nasir No. 543 of this district Police.

Facts are that Constable Ifrahim Nasir No. 543 while posted at Crimes Kidnapping Cell District Kohat was issued with the allegations that the said Constable fraudulently written mobile No. 0310-9004679 on proforma and handed over to other person, Upon which he was issued with charge Sheet and Statement of allegations and after the completion of enquiry process, he was awarded major punishment of dismissal from service

Upon which he submitted service appeal No. 278/2018 in the Service Tribunal Khyber Pakhtunkhwa Peshawar after the rejection of his appeal by the W/RPO Kohat as well as CPO Peshawar. The Service Tribunal KP, Peshawar vide his order announced dated 15.02.2019 called the case back for de-novo enquiry accordance with law and rules and the issue of back benefit will be subject to the outcome of denovo proceedings.

In compliance with the Service Tribunal Khyber Pakhtunkhwa Peshawar judgment quoted above and approval from the W/IGP E&I, IAB KP Peshawar vide his office letter No.1745/CPO/IAB/C&E dated 09.05.2019, he was re-instated provisionally in service and was also issued with fresh Charge Sheet on the same above mentioned allegations for the purpose of denovo enquiry and Mr. Amjid Ali SDPO Karak was appointed as Enquiry Officer to conduct denovo enquiry against him and to submit his findings in the stipulated period.

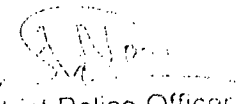
The Enquiry Officer reported that the mere written statement of one official against the defaulter official without any solid proof cannot be considered as gospel truth, therefore, the allegations leveled against him were not proved. Hence, the Enquiry Officer recommended him to be absolved from the charges.

Keeping in view of the available record and facts on file and perusal of all the relevant documents, I did not agree with the findings report of the Enquiry Officer, he is found guilty of the charges. He leaked secret information being posted at responsible post at Crimes Kidnapping Cell District Kohat, however, putting lenient view on his family, therefore, I, Nausher Khan Mohmand District Police Officer, Karak as competent authority under the Police Rules 1975 (amended in 2014), he is reinstated in service permanently and the punishment awarded to him is converted into forfeiture of service for 02 years and his absence period is treated as leave without pay.

OB No. 263  
Dated 12/06/2019

OFFICE OF THE DISTRICT POLICE OFFICER, KARAK

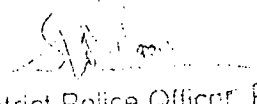
No. 240-41 IPA(Enq). Karak the dated 12/06/2019.

  
District Police Officer, Karak

Copy of above is submitted for favour of information to:-

1. The Registrar, Service Tribunal Khyber Pakhtunkhwa Peshawar w/r to his office order quoted above.
2. The Inspector General of Police Enquiry & Inspection, Internal Accountability Branch Khyber Pakhtunkhwa Peshawar w/r to his office letter No. 1745/CPO/IAB/C&E dated 09.05.2019

**ATTESTED**

  
District Police Officer, Karak

To,

The worthy Deputy Inspector General of Police,  
Kohat Region, Kohat.

Through: Proper Channel

Subject MERCY PETITION

Respected sir,

With great veneration , the appellant submits mercy petition against the order of learned District Police officer, Karak dated 12.06.2019 vide which penalty of forfeiture of Service for two (02) years was imposed on appellant and the absence period (actually intervening period) was treated as leave without pay.

**FACTS.**

1. That appellant was enlisted as constable in district Karak Police. In the year-2017, the appellant was detailed for duty at Crimes Kidnapping Cell Kohat. A CDR of mobile phone No. 0310-900469 was issued without request placed by any Police officer.
2. That the remaining staff of the cell was from Kohat district therefore, appellant was made a scapegoat and departmental proceedings on charges of issuance of unauthorized CDR were initiated against appellant by District Police officer Kohat despite the facts, the appellant was on the strength of District Police Karak.
3. The departmental proceedings initiated against appellant culminated in dismissal from service of appellant vide order dated 22.12.2017 passed by District Police Officer, Kohat.
4. That the departmental appeal of appellant was also rejected, however, the service appeal of appellant was partially accepted. The dismissal from service order was set aside with directions of de-nove proceeding by competent authority i.e DPO Karak.
5. That appellant was re-instated in service and fresh enquiry was conducted wherein the enquiry officer made recommendations of exoneration of appellant but learned DPO Karak passed the impugned order, hence this departmental appeal on the following grounds.

**GROUND.**

- a. That the impugned order has wrongly been passed. Learned DPO Karak has no reasons which disagreeing with recommendations of enquiry officer. Furthermore, no final show cause notice was issued to appellant that the authority is imposing penalty on appellant.
- b. That according to findings of enquiry officer the charge was groundless; therefore, award of penalty to appellant without holding inquiry through another officer is against the law and rules.
- c. That the lower authority has wrongly treated the absence period (actually intervening period) as leave without pay because appellant was compulsorily ousted from service. Again appellant had not joined profitable job during the intervening period rather

ATTESTED

17  
Appellant spent much while defending the charges before the service tribunal. Therefore, the appellant is entitled for full benefits of the intervening period.

- d. That the impugned order has been passed without taking into account the ground realities. The charge was found groundless by the enquiry officer, therefore, award of penalty to appellant was not tenable.

It is, therefore, requested that the impugned order may be set aside and the intervening period may be treated on duty, please.

Yours obediently,

Constable Afrahim Nasir No. 543  
District Police, Karak

ATTESTED

BETTER COPY

(18)

**KOHAT REGION**

**ORDER**

This order will dispose of a Departmental appeal, moved by Constable Ifrahim Nasir No. 543 of Karak District Police against the punishment order, passed by DPO Karak vide OB No. 26 of Karak District Police against the punishment order, passed by DPO Karak vide OB No. 26, dated 12/06/2019 after conducting de novo enquiry on the directions of KP Service Tribunal. He was awarded minor punishment of forfeiture of two years approved service on the allegation of handing over CDR record of unauthorized person.

He preferred an appeal to the undersigned upon which comments were obtained from DPO Karak and his service documents were perused. He was also heard in person in Orderly Room, held on 25/06/2020. During hearing, he advanced plausible explanation in his defense.

I have gone through the available record and came to the conclusion that the punishment orders seem to be very harsh as compared to allegations and the EO is also not \_\_\_\_\_ the charges in his findings report. Therefore, by \_\_\_\_\_ a lenient view, the punishment order and restore his two years forfeited service. He is warned to be careful in future.

Order Announced

25/06/2020

(TAYYEB HAFEEZ) PSP  
Region Police Officer,  
Kohat Region

No. 6873/EC, dated Kohat the 6/7/2020.

Copy to DPO Karak information and necessary action w/r to his Office

Memo No. \_\_\_\_\_ dated \_\_\_\_\_. His service Roll and Fauji Missal is returned here.

(TAYYEB HAFEEZ) PSP  
Region Police Officer,  
Kohat Region

POLICE DEPTT:

KOHAT REGION

ORDER.

1771  
09/07/20  
E

(18)

This order will dispose of a departmental appeal, moved by Constable Ifrahim Nasir No. 543 of Karak district Police against the punishment order, passed by DPO Karak vide OB No. 263, dated 12.06.2019 after conducting de novo enquiry on the directions of KP Service Tribunal. He was awarded minor punishment of forfeiture of two years approved service on the allegations of handing over CDR record to an unauthorized person.

He preferred an appeal to the undersigned upon which comments were obtained from DPO Karak and his service documents were perused. He was also heard in person in Orderly Room, held on 25.06.2020. During hearing, he advanced plausible explanation in his defense.

I have gone through the available record and came to the conclusion that the punishment order seems to be very harsh as compared to allegations and the E.O has also not established the charges in his findings report. Therefore, by taking a lenient view, I set aside the punishment order and restore his two years forfeited service. He is warned to be careful in future.

**Order Announced  
25.06.2020**

*JHC*  
(JAYYAB HAFEEZ) PSP  
Region Police Officer,  
Kohat Region.

No. 6873 /EC, dated Kohat the 6/7 /2020.

Copy to DPO Karak for information and necessary action w/r to his office Memo No. 68/11, dated 25.06.2020. His Service Roll & Fauji Missal is returned herewith.

*DHC/SRC/PO*

*JHC*  
(JAYYAB HAFEEZ) PSP  
Region Police Officer,  
Kohat Region.

District Officer

(1)

**ATTESTED**

"F" (19)

To

The worthy Inspector General of Police,  
Khyber Pakhunkwa, Peshawar.

Through: Proper Channel

Subject MERCY PETITION

Respected sir,

With great veneration, the petitioner submits the MECRY petition against the order of learned District Police officer, Karak awarding penalty of forfeiture of two years approved service and the absence period was treated as leave without pay. The learned Regional Police officer, Kohat set-aside the penalty of forfeiture of two years approved service while no decision was made with regard to intervening period.

**FACTS.**

1. That the petitioner enlisted in Police department in 2009 as Constable and posted in district Karak.
2. That in 2014, the petitioner was transferred to Kohat District and posted at Digital Lab (Regional Centralized Mobile Tracking System Kohat).
3. That the petitioner performed has official obligations with utmost dedication and honesty during the entire period of posting at Digital Lab.
4. That the petitioner was issued Charge Sheet by the DPO Kohat for wrongly official correspondence and awarded major penalty of dismissal from service.
5. That the petitioner was restored /reinstated by the service Tribunal and declared the whole enquiry proceedings as null and void and order for De-nov Enquiry.
6. That the petitioner was "Exonerated" in De-nov enquiry by the Enquiry officer, however, the DPO Karak , without any reasons and Justification awarded the petitioner the penalty of two years approved service and treated the intervening period as leave without pay.
7. That the Regional Police Officer Kohat set-aside the penalty of two year approved service, however, no decision was made with regard to intervening period, hence this petition on the following ground.

**GROUNDS.**

- a. That the petitioner was wrongly implicated in the baseless official correspondence having no footing to stand.
- b. That the petitioner has been re-instated by the Service Tribunal and declared innocent in the de-nov enquiry by the Enquiry Officer, copy annexed.

ADMITTED



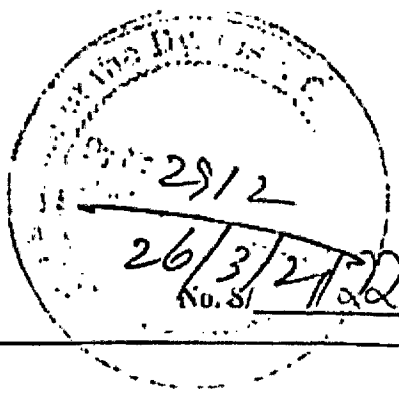
- c. That the petitioner belongs to a very poor family having small offspring. The petitioner pursues his case in the court for years by lending money from people.
- d. That the petitioner has become overburdened due to debt and have meager salary to support his family.
- e. That considering the intervening period of petitioner as leave without pay is unjust and unfair because the petitioner was given punishment for uncommitted sin and the appellate authority has set-aside the punishment of approved service hence not giving the benefit of intervening period to the petitioner is violation of the natural justice.
- f. That the petitioner has not given any complaint to his senior officer and worked up to the expectation of high ups hence retains an unblemished service record.

**PRAYERS.**

**In view of the above, it is, therefore, humbly requested that the petitioner may kindly be given the benefit of intervening period of (leave without pay) into EARNED LEAVE, PLEASE.**

Yours obediently,  
Constable Ifrahim Nasir No. 543  
Investigation Wing, Karak

**ATTESTED**



CGV (21)

OFFICE OF THE  
INSPECTOR GENERAL OF POLICE  
KHYBER PAKHTUNKHWA  
Central Police Office, Peshawar.

21, dated Peshawar the 18/03/2021.

To : The Regional Police officer,  
Kohat.

Subject: MERCY PETITION.

Memo:

Please refer to your office Memo: No. 3219/EC, dated 10.03.2021.

The Competent Authority has examined and filed the revision petition submitted by Constable Ifrahim Nasir No. 543 of Kohat district Police against the punishment of intervening period was counted as leave without pay awarded by DPO, Karak vide OB No. 263, dated 12.06.2019, being time barred.

The applicant may please be informed accordingly.

EC  
26/3

435/1/EC  
31-3-21

SP/Dy. Karak

For information  
w/r to this memo; No. 559/111/EC  
dt. 23.1.2021. The applicant may be  
informed accordingly.

18/3

(SYED ANIS-UL-HASSAN)  
Registrar,  
For Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar.

DIG POLICE  
KOHAT  
21/3

She  
attached with previous  
reference.

25/4

ATTESTED

قیمت  
50 روپے

81220



ایڈوکیٹ:

بار کونسل ایسوسی ایشن نمبر:

رابطہ نمبر: 083380265900

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب:

|         |           |
|---------|-----------|
| منجانب: | دعوی:     |
|         | علت نمبر: |
|         | مورخہ:    |
|         | جرم:      |
|         | تھانہ:    |

**بابت تحریر آئکہ**

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی وجواب دہی کاروائی متعلقہ

آن مقام کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعوی اقبال دعوی اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پر داخنتہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المقوم:

المواہد:

کے لیے منظور ہے۔

نوٹ: اس وکالت نامہ کی فوٹو کاپی ناقابل قبول ہوگی۔

Accepted  
By

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 4995/2021  
Ifrahim Nasir

..... Appellant

**VERSUS**

Secretary Home & Tribal Affairs,  
Khyber Pakhtunkhwa & others

..... Respondents

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| 3.  | Copy of order dated 12.06.2019                  | A        | 04    |
| 4.  | Copy of punishment order by respondent<br>No. 3 | B        | 05    |

*Q. M. Bilal*  
Deponent

*put up for* *checked-*  
*[Signature]*  
B-9-2021

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR

---

Service Appeal No. 4995/2021  
Ifrahim Nasir

..... Appellant

**VERSUS**

Secretary Home & Tribal Affairs,  
Khyber Pakhtunkhwa & others

..... Respondents

**PARAWISE COMMENTS BY RESPONDENTS.**

**Respectfully Sheweth:-**

Parawise comments are submitted as under:-

**Preliminary Objections:-**

- i. That the appellant has got no cause of action.
- ii. The appellant has got no locus standi.
- iii. That the appeal is bad for misjoinder and nonjoinder of necessary parties.
- iv. That the appellant is estopped to file the instant appeal for his own act.
- v. That the appeal is bad in eyes of law and not maintainable.
- vi. That the appellant has not approached the honorable Tribunal with clean hands.
- vii. That the appeal is barred by law & limitation.
- viii. That the appeal is not maintainable in the present form.

**Facts:-**

1. That the appellant concealed the real facts from Honorable Tribunal. Recruitment of appellant as constable in Police department pertains to record, hence no comments.
2. Correct. The appellant was transferred from district Karak and posted at district Kohat under the command of respondent No. 5.
3. The appellant had committed a gross professional misconduct during official duty and was proceeded departmentally by respondent No. 2. He was held guilty of the charges during enquiry and a major punishment of dismissal from service was imposed on the appellant by competent authorities.
4. The inquiry officer has submitted his finding / inquiry report to the competent authority and the respondent No. 4 by exercising powers conferred upon him passed the order dated 12.06.2019, wherein by taking a lenient view a minor punishment of forfeiture of two years-service was awarded. Further, the intervening period was treated as leave without pay. The appellant filed a departmental appeal to the respondent No. 3 and the punishment i.e forfeiture of approved service was restored and the appellant was warned to be careful in future. Copies of orders are **Annexure A & B.**

5. As replied above, the respondent No. 4 while taking a lenient view, imposed a minor punishment of forfeiture of two years service. The intervening period was treated as leave without pay on the principal of "No work no pay".
6. The departmental appeal of the appellant was allowed by respondent No. 3 to the extent of restoration of forfeiture of two years service and he was warned to be careful in future.
7. Pertains to record.
8. The appellant had filed the revision / mercy petition before the respondent No. 2, which was badly time barred and rejected on cogent reasons in accordance with facts, *law/rules*
9. The appellant is estopped to file the instant appeal for his own act and barred by limitation.

Grounds:-

- A. Incorrect, the appellant has been treated by respondents in accordance with law / rules.
- B. Incorrect, the charges have been established against the appellant but the respondent No. 4 while taking lenient view awarded minor punishment. The appellant has not performed during intervening period, therefore, appellate authority maintained the same without pay under the rules.
- C. Incorrect, the impugned orders passed by respondent No. 2, 3 & 4 are legal , based on justice and in accordance with law / rules.
- D. Incorrect, the appellant is not entitled for financial back benefit during the period remained out of service for his own conduct on the principal of "No work no pay".

Prayer:-

In view of the above, it is prayed that the appeal being devoid of merits and limitation may graciously be dismissed with costs, please.

*[Signature]*  
Inspector General of Police,  
Khyber Pakhtunkhwa,  
(Respondent No. 2)

*[Signature]*  
Secretary Home & TAs Deptt:  
Govt of Khyber Pakhtunkhwa,  
(Respondent No. 1)

*[Signature]*  
District Police Officer,  
Kohat  
(Respondent No. 5)

*[Signature]*  
Regional Police Officer,  
Kohat  
(Respondent No. 3)

*[Signature]*  
District Police Officer,  
Karak  
(Respondent No. 4)

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

Service appeal No. 4995/2021  
Ifrahim Nasir

.....Appellant

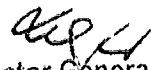
VERSUS


Secretary Home & TAs,  
Khyber Pakhtunkhwa & others


..... Respondents


COUNTER AFFIDAVIT

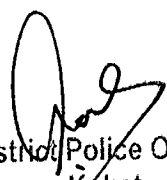
We, the below mentioned respondents, do hereby solemnly affirm and declare on oath that contents of parawise comments are correct and true to the best of our knowledge and belief. Nothing has been concealed from this Hon: Tribunal.

  
Inspector General of Police,  
Khyber Pakhtunkhwa,  
(Respondent No. 2)

  
for Secretary, Home & TAs,  
Khyber Pakhtunkhwa,  
(Respondent No. 1)

  
District Police Officer,  
Karak  
(Respondent No. 4)

  
Regional Police Officer,  
Kohat  
(Respondent No. 3)

  
District Police Officer,  
Kohat  
(Respondent No. 5)

P-4  
Annex-A  
①

ORDER

My this Order will dispose off the **denovo departmental enquiry** against **Constable Ibrahim Nasir No. 543** of this district Police.

Facts are that Constable Ibrahim Nasir No. 543 while posted at Crimes Kidnapping Cell District Kohat was issued with the allegations that the said Constable fraudulently written mobile No. 0310-9004679 on proforma and handed over to other person. Upon which he was issued with charge Sheet and Statement of allegations and after the completion of enquiry process, he was awarded major punishment of dismissal from service.

Upon which he submitted service appeal No. 278/2018 in the Service Tribunal Khyber Pakhtunkhwa Peshawar after the rejection of his appeal by the W/RPO Kohat as well as CPO Peshawar. The Service Tribunal KP, Peshawar vide his order announced dated 15.02.2019 called the case back for de-novo enquiry accordance with law and rules and the issue of back benefit will be subject to the outcome of denovo proceedings.

In compliance with the Service Tribunal Khyber Pakhtunkhwa Peshawar judgment quoted above and approval from the W/IGP E&I, IAB KP Peshawar vide his office letter No.1745/CPO/IAB/C&E dated 09.05.2019, he was re-instated provisionally in service and was also issued with fresh Charge Sheet on the same above mentioned allegations for the purpose of denovo enquiry and Mr. Amjid Ali SDPO Karak was appointed as Enquiry Officer to conduct denovo enquiry against him and to submit his findings in the stipulated period.

The Enquiry Officer reported that the mere written statement of one official against the defaulter official without any solid proof cannot be considered as gospel truth, therefore, the allegations leveled against him were not proved. Hence, the Enquiry Officer recommended him to be absolved from the charges.

Keeping in view of the available record and facts on file and perusal of all the relevant documents, I did not agree with the findings report of the Enquiry Officer, he is found guilty of the charges. He leaked secret information being posted at responsible post at Crimes Kidnapping Cell District Kohat, however, putting lenient view on his family, therefore, I, **Nausher Khan Mohmand** District Police Officer, Karak as competent authority under the Police Rules 1975 (amended in 2014), he is reinstated in service permanently and the punishment awarded to him is converted into **forfeiture of service for 02 years** and his absence period is treated is leave without pay.


OB No. 263  
Dated 12/06/2019

OFFICE OF THE DISTRICT POLICE OFFICER, KARAK

No. 240-41 /PA(Enq), Karak the dated 12/06/2019.

Copy of above is submitted for favour of information to:-

1. The Registrar, Service Tribunal Khyber Pakhtunkhwa Peshawar w/r to his office order quoted above.
2. The Inspector General of Police Enquiry & Inspection, Internal Accountability Branch Khyber Pakhtunkhwa Peshawar w/r to his office letter No. 1745/CPO/IAB/C&E dated 09.05.2019.

  
District Police Officer, Karak

  
District Police Officer, Karak



(Continued)

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Annex-B  
733

20-2-18

ORDER.

This order will dispose of a departmental appeal, moved by Ex-Constable Ifrahim Nasir No. 818 of Kohat district Police against the punishment order, passed by DPO Kohat vide OB No. 1096, dated 22.12.2017, whereby he was awarded major punishment of Dismissal from service for the allegations of handing over CDR to an authorized person illegally.

He preferred appeal to the undersigned, upon which comments were obtained from DPO Kohat and his service record was perused.

I have gone through the available record and came to the conclusion that the allegations leveled against the appellant are proved and the punishment order passed by DPO Kohat is correct. Hence, his appeal being devoid of merits is hereby rejected.

Order Announced  
14.02.2018

*Awal Khan*

(AWAL KHAN)  
Regional Police Officer,  
Kohat Region.

No. 1498-99 IEC, dated Kohat the 14/02 2018.

Copy to the District Police Officer, Kohat for information w/r to his office Memo: No. 651/LB, dated 08.01.2018.

2. ✓ The District Police Officer, Karak, his service record is returned herewith.

*Awal Khan*

(AWAL KHAN)  
Regional Police Officer,  
Kohat Region

OHC/SRC

*Amjad Ali*

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**KHYBER PAKHTUNKHWA**  
**SERVICE TRIBUNAL, PESHAWAR**

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281  
Fax:- 091-9213262

No. \_\_\_\_\_/ST Dated \_\_\_\_/\_\_\_\_/2022


To:

The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.

**SUBJECT:-** JUDGMENT IN SERVICE APPEAL NO. 4995/2021, IFRAHIM NASIR VERSUS THE SECRETARY HOME AND TRIBAL AFFAIRS, GOVERNMENT OF KHYBER PAKHTUNKHWA, PESHAWAR ETC.

I am directed to forward herewith a certified copy of order dated 31.05.2022, passed by this Tribunal in the above mentioned *Service Appeal* for compliance.

Encl. As above.

  
(WASEEM AKHTAR)  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL,  
PESHAWAR.



**KHYBER PAKHTUNKHWA**  
**SERVICE TRIBUNAL, PESHAWAR**

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Encl. As above.

  
(WASEEM AKHTAR)  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL,  
PESHAWAR.