

**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** ... **CHAIRMAN**  
**ATIQU-UR-REHMAN WAZIR** ... **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

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,

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

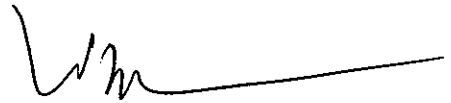
for wrong parking, for which the appellant was malafiedly involved in departmental proceedings and was penalized for his good performance.

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)

ORDER

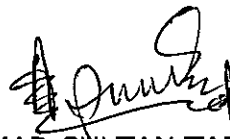
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Appellant in person present. Mr. Muhammad Adeel Butt, Additional Advocate General for respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, 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

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