

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
AT CAMP COURT SWAT.**

BEFORE: **KALIM ARSHAD KHAN .. CHAIRMAN**
SALAH UD DIN .. MEMBER (Judicial)

Service Appeal No.720/2018

**Muhammad Rehman Belt No. 4376 S/o Muqam R/o Islampur
presently Police Constable at FRP Malakand Range Swat.**

.....**Appellant)**

Versus

1. **Provincial Police Officer** at Khyber Pakhtunkhwa Peshawar.
2. **Regional Police Officer** at Saidu Sharif Swat.
3. **Commandant Frontier Reserved Police**, Khyber Pakhtunkhwa at Peshawar.
4. **Superintendent of Police** FRP Malakand Range Swat.
5. **District Police Officer** Swat.

.....**(Respondents)**

Present:

Jehangir,
Advocate.....For appellant.

Mr. Muhammad Riaz Khan Paindakhel,
Assistant Advocate General.....For respondents.

Date of Institution.....11.05.2018

Dates of Hearing.....07.11.2022

Date of Decision.....07.11.2022

**APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST
THE ORDER DATED 02.11.2017 OF RESPONDENT NO.4 &
ORDER DATED 28.02.2018 OF RESPONDENT NO.3.**

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: The appellant was serving as
Police Constable in FRP Malakand Range, Swat; that through the SMS complaint

of one Majid Ali S/o Niaz Muhammad r/o Swabi to respondent No.1 dated 16.08.2016 and the respondent No.4 took illegal action against the appellant and awarded major punishment of time scale; that the appellant feeling aggrieved filed departmental appeal to respondent No.3 which was turned down on 28.02.2018; that the copy of rejection of departmental appeal was communicated and handed over to the appellant on 07.08.2018 compelling the appellant to file this service appeal on 11.05.2018.

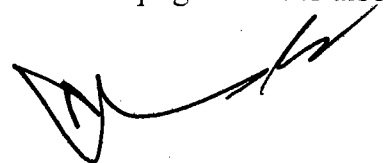
2. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents put appearance and contested the appeal by filing written reply raising therein numerous legal and factual objections. The defence setup was a total denial of the claim of the appellant.

3. We have heard learned counsel for the appellant and learned Assistant Advocate General for the respondents.

4. The Learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned AAG controverted the same by supporting the impugned order(s).

5. Vide order dated 02.11.2017 the appellant was awarded major punishment of time scale constable and was reinstated into service from the date of suspension and was recommended for transfer to some other FRP Range on complaint basis for ever.

6. It appears from the contents of the impugned order that that was passed as result of a re-enquiry conducted by the DPO Dir, Lower. The impugned order also



of one Majid Ali S/o Niaz Muhammad r/o Swabi to respondent No.1 dated 16.08.2016 and the respondent No.4 took illegal action against the appellant and awarded major punishment of time scale; that the appellant feeling aggrieved filed departmental appeal to respondent No.3 which was turned down on 28.02.2018; that the copy of rejection of departmental appeal was communicated and handed over to the appellant on 07.08.2018 compelling the appellant to file this service appeal on 11.05.2018.

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6. It appears from the contents of the impugned order that that was passed as result of a re-enquiry conducted by the DPO Dir, Lower. The impugned order also



shows that final show cause notice was issued to the appellant vide office order No. 92/A/EC dated 12.10.2017 as directed by the Worthy Commandant FRP, Khyber Pakhtunkhwa Peshawar vide his office letter No. 7306-07/EC dated 02.10.2017. The representatives of the department and the learned law officer were asked as to who had to order re-enquiry to be conducted by the DPO, Dir, Lower and where was such order to which they failed to produce either of the two. Similarly the respondents failed to produce even the re-enquiry report alleged to have been conducted by the DPO, Dir, Lower. The impugned order shows that a show cause notice was issued vide No. 92/A/EC dated 12.10.2017 but as against that the show cause notice regarding this episode bears endorsement No. 19-A/EC dated 28.04.2017. This being so the impugned action is neither justified nor sustainable for want of the necessary supporting documents. Therefore, we allow this appeal and set aside the impugned orders dated 02.11.2017 and 28.02.2018, reinstate the appellant in to service. The intervening period shall be treated as leave of the kind due. Costs shall follow the event. Consign.

7. *Pronounced in open Court at Swat and given under our hands and the seal of the Tribunal on this 07th day of November, 2022.*



KALIM ARSHAD KHAN

Chairman

Camp Court Swat



SALAH UD DIN

Member (Judicial)

Camp Court Swat

ORDER

07th Nov, 2022

1. Learned counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General alongwith Mr. Sultanat Khan, DSP (Legal) for respondents present.

2. Vide our detailed judgement of today placed on file (containing 06 pages), we allow this appeal and set aside the impugned orders dated 02.11.2017 and 28.02.2018, reinstate the appellant in to service. The intervening period shall be treated as leave of the kind due. Costs shall follow the event. Consign.

3. *Pronounced in open court at Swat and given under our hands and seal of the Tribunal on this 07th day of November, 2022.*



(Kalim Arshad Khan)
Chairman
Camp Court Swat



(Salah Ud Din)
Member(Judicial)
Camp Court Swat