BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 9620/2020

BEFORE: SALAH UD DIN --- MEMBER(J)
MIAN MUHAMMAD --- MEMBER(E)

Mr. Shah Zaman Senior Clerk, SP Investigation Officer Bannu..... ***(Appellant)***

VERSUS

1. The Inspector General of Police, Khyber Pakhtunkhwa Peshawar.
2. The Deputy Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
3. The Regional Police Officer Kohat Region Kohat.
4. The District Police Officer Kohat..... ***(Respondents)***

Present:

SYED NOMAN ALI BUKHARI,
Advocate --- For Appellant.

MUHAMMAD JAN,
District Attorney --- For respondents.

Date of Institution..... 26.08.2020
Date of Hearing.....02.11.2022
Date of Decision.....02.11.2022

JUDGEMENT.

MIAN MUHAMMAD, MEMBER(E):- The instant service appeal has been instituted with the prayer that "on acceptance of this appeal, the order dated 24.07.2020 may please be set aside and the order dated 03.10.2019 may please be modified to the extent that intervening period w.e.f. 27.06.2019 to 03.10.2019 may please be treated as full pay with all back and consequential benefits. Any other remedy, which this august Tribunal deems fit

and appropriate that, may also be awarded in favour of appellant".

02. Brief facts, as averred in the memorandum of service appeal, are that the appellant was serving as Senior Clerk in the police department and posted in the office of SP Investigation Hangu as Head Clerk. A complaint was filed against the appellant and his brother that they were illegally interfering in the property of a lady namely Mst. Hazrat Begum widow of Suliman. Based on the complaint, the appellant was proceeded against departmentally and he was dismissed from service vide order dated 26.06.2019 against which the appellant filed departmental appeal on 01.07.2019. His departmental appeal was allowed on 02.10.2019 and he was reinstated in service. The intervening period was however, treated as leave without pay by the appellate authority. The appellant thereafter filed revision petition which was rejected vide order dated 24.07.2020, hence the instant service appeal field on 26.08.2020.

03. Notices were issued to the respondents, who submitted their comments, wherein they refuted the assertions raised by the appellant in his appeal. We have heard learned counsel for the appellant as well as learned District Attorney for the respondents and have gone through the record with their valuable assistance.

04. Learned counsel for the appellant contended that the appellant was serving in the Police department as Senior Clerk. A complaint was filed against the appellant and his brother with the

allegation that they were illegally interfering in the property of Mst. Hazrat Begum widow of Suliman. Disciplinary proceedings were initiated against the appellant and upon conclusion of the proceedings, he was dismissed from service vide order dated 26.06.2019. Learned counsel for the appellant further contended that the appellant had not been associated with the inquiry proceedings and no statement of witnesses recorded in his presence. No opportunity of cross examination was afforded to the appellant which is violation of the principles of natural justice. Feeling aggrieved, the appellant filed departmental appeal and upon acceptance, he was reinstated in service with the direction to conduct de-novo inquiry. The denovo inquiry was conducted and on the basis of its report, the appellant was exonerated of the charges leveled against him. However, the intervening period w.e.f 27.06.2019 to 03.10.2019 was treated as leave without pay. Moreover, the brother of appellant was also exonerated in the inquiry and reinstated in service with all back benefits therefore, the appellant was also entitled for the similar treatment. Feeling aggrieved, the appellant filed revision petition which was rejected hence the instant service appeal was filed. It was further argued that as the appellant was exonerated of the charges therefore, he was entitled for pay of the period i.e. 27.06.2019 to 03.10.2019 under the rules. He was not engaged in any gainful employment during the period as is evident from the affidavit submitted by the appellant. To strengthen his arguments, he relied on 2007 PLC (C.S) 184, 2015 SCMR 77 and judgement

of Service Tribunal in service appeal No. 1003/2017 titled "Akhtar Ali Versus Provincial Police Officer Khyber Pakhtunkhwa Peshawar and two others" delivered on 26.12.2018. Learned counsel for the appellant requested that the appellant may be accepted as prayed for.

05. Learned District Attorney, on the other hand contended that charge sheet and statement of allegations were served upon the appellant. A proper inquiry was conducted against him and the charge leveled against him was proved. He further argued that in the inquiry report it was held that the appellant had no good reputation in general public and a lenient view was already taken by the appellate authority against the appellant when he was reinstated in service. Moreover, in the denovo inquiry though he was recommended for exoneration of the charge but as he had not actually preformed duty so the intervening period i.e. from the date of dismissal from service till reinstatement into service was treated as leave without pay under the celebrated principle of "*No work no Pay*". To strengthen his arguments, he relied on 2004 PLC (C.S) 1151, Civil Petition No. 594 of 2020 and judgement of Service Tribunal in service appeal No. 218/2016 titled "Shah Duran Versus Provincial Police Officer Khyber Pakhtunkhwa Peshawar and two others" delivered on 18.04.2018. Learned District Attorney requested that the service appeal being devoid of merits, may graciously be dismissed with costs, he concluded.

06. It is evident from the record that the appellant was dismissed from service by the competent authority on 26.06.2019 and on his departmental appeal, the appellate authority ordered denovo inquiry and in the said denovo inquiry he was recommended for exoneration of the charge leveled against him. The appellate authority therefore, reinstated him in service on 02.10.2019 but the period during which he was out of service i.e. 27.06.2019 to 02.10.2019 was treated as leave without pay. It is an established fact that the appellant was out of service during the said period not on his sweet will but due to the penalty of dismissal from service imposed upon him. When he was exonerated of the charge there remained nothing adverse against the appellant therefore, the period was regularized by the appellate authority. Moreover, appellant has also furnished an affidavit on judicial stamp paper to the effect that he was not engaged in any gainful employment during the period. The august Supreme Court of Pakistan has graciously held as reported in 2015 SCMR 77 that "*Grant of back benefits to an employee who was reinstated by a Court/Tribunal or the department was a rule and denial of such benefits was an exception on the proof that such person had remained gainfully employed during such period*". Similarly, in 2007 PLC (C.S) 184 it has been held that "*Salaries of the civil servants would not be withheld for the intervening period when they remained out of service due to whimsical and arbitrary actions of the functionaries---Civil servants had every right to recover their arrears*".

07. In view of the above discussion, the appeal in hand is allowed as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

08. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal this 2nd day of November, 2022.*

(MIAN MUHAMMAD)
MEMBER (E)

(SALAH UD DIN)
MEMBER (J)

ORDER
02.11.2022

Appellant alongwith his counsel namely Syed Noman Ali Bukhari, Advocate present. Mr. Muhammad Jan, District Attorney for the respondents present. Appellant submitted an affidavit to the effect that during the intervening period, he has not remained gainfully employed in any service.

02. Vide our detailed judgement of today separately placed on file consisting (06) pages, the appeal in hand is allowed as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

03. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal this 2nd day of November, 2022.*

(MIAN MUHAMMAD)
MEMBER (E)

(SALAH UD DIN)
MEMBER (J)

05.09.2022 Due to leave of the Worthy Chairman, the Bench is incomplete. Case to come up for the same on 22.09.2022 before the D.B.

Reader

23.11.2021 Proper D.B is not available, therefore, case is adjourned to 28 / 2 / 2022 for the same as before.

Reader

28-2-22 Due to Retirement of the Hon'ble Chairman the case is adjourned on 5-5-22

Reader

9-5-2022 Due to Holidays of Eid ul fitar case is adjourned to come up for the same as before on 14-7-2022

Reader

13.06.2022 Clerk of counsel for the appellant present. Mr. Arif Saleem, Stenographer alongwith Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Clerk of counsel for the appellant stated that learned counsel for the appellant is unable to attend the Tribunal today due to strike of Lawyers. Adjourned To come up for arguments before the D.B. on 05.09.2022.

(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)

(SALAH-UD-DIN)
MEMBER (JUDICIAL)

Appeal No. 9620/2020
Shah Zaman vs Govt

31.05.2021 Appellant in person and Mr. Kabirullah Khattak, Addl. AG alongwith Mr. Tariq Umer, Inspector (Legal) and Arif Saleem, Steno for the respondents present.

Respondents have not furnished reply/comments, despite last opportunity. Last opportunity is further extended to the respondents subject to payment of costs of Rs. 2000/-. The respondents are required to submit written reply/comments in office within 10 days alongwith costs, 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 06.10.2021 before the D.B.

Chairman

06.10.2021 Counsel for the appellant and Mr. Muhammad Adeel Butt, Addl. AG alongwith Bilal Ahmad, H.C for the respondents present.

Written reply/comments have not been submitted. Last opportunity is granted to the respondents to furnish reply/comments within 10 days in office, failing which their right for filing reply/comments shall be deemed as struck off. To come up for arguments on 24.11.2021 before the D.B.

(Mian Muhammad)
Member(Executive)

Chairman

26.01.2021 Appellant is present in person. Mr. Kabirullah Khattak, Additional Advocate General and Mr. Arif Saleem, Steno, for the respondents are also present.

Written reply on behalf of respondents not submitted. Representative of the department is seeking further time for submission of written reply/comments. Adjourned to 25.03.2021 on which date file to come up for written reply/comments before S.B.

(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

25.03.2021 Junior to counsel for the appellant present. Mr. Kabirullah Khattak learned Addl. AG alongwith Arif Saleem Stenographer for respondents present.

Reply/comments on behalf of respondents not submitted. Representative of respondent requested for time to submit reply/comments. Last opportunity is granted. To come up for reply/comments on 31.05.2021 before S.B.

(Atiq Ur Rehman Wazir)
Member (E)

05.10.2020 Counsel for the appellant present.

Contends that the departmental appellate authority while deciding the matter, passed the order dated 03.10.2019. By virtue of the order although the major penalty of dismissal from service was set aside and the appellant was reinstated in service. However, the intervening period was treated as leave without pay. This part of the order was based purportedly on the ground that general reputation of the appellant was not good. The said allegation/ground did not have support of any documentary evidence or otherwise. It is also argued that the basic issue between the appellant and Mst. Hazrat Begum is a civil dispute and is still subjudice before a court of competent jurisdiction. The appellant, therefore, could not be proceeded against departmentally.

Subject to all just exceptions, instant 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. To come up for written reply/comments on 07.12.2020 before S.B.

Appellant Deposited Security & Process Fee 05/10/20

Chairman

07.12.2020 Appellant in person present.

Kabir Ullah Khattak learned Additional Advocate General alongwith Arif Salim Stenographer for respondents present.

Written reply was not submitted. Representative of respondents made a request for time to furnish reply; granted. To come up for written reply/comments on 26.01.2021 before S.B.

(Rozina Rehman)
Member (J)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 9620 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	26/08/2020	The appeal of Mr. Shah Zaman 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. REGISTRAR
2-		This case is entrusted to S. Bench for preliminary hearing to be put up there on 05/10/2020 CHAIRMAN

R098570

100 Rupees

۱۰۰ روپیہ

بیان حلفی

میں ظہیر خان ولد محمد رستم خان ساکن ٹوپی
حلفیہ بیان کرتا ہوں کہ حالیہ محکمہ پولیس میں بطیعہ
اسسٹنٹ ٹریژر کلرک خدمات سرانجام دے رہا ہوں یہ
کہ محکمہ کے خلاف درون اپیل میں سائیل شکوئی
براہ راست یا بیرونی ملازمت نہیں سزا یافتہ نہیں
نیز میرا بیان درست ہے یہ حقیقت محکمہ میں
جواب دہ ہوں۔

ATTESTED
Zahir Khan
Advocate
Distt & Sessions Courts Peshawar

16307-2015936-5

شناختی کارڈ نمبر

02 NOV 2022

اسسٹنٹ ٹریژر کلرک

ج. زمان ولد محمد سلمان خان 2/11/2022

District Comptroller of Accounts
14 OCT 2022
(Treasury Br.) Peshawar

PESHAWAR TREASURY
MUHAMMAD SALEEM
License No. 225/ADC (P) HC
Issue Date 25/2/2021
STAMP VENDAR

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR

Amended Service Appeal No. 1146/2019

Date of Institution ... 16.09.2019

Date of Decision ... 21.01.2021

Fazal-e-Amin, Ex-Assistant Grade Clerk, Special Branch, Khyber Pakhtunkhwa, Peshawar. ... (Appellant)

VERSUS

The Provincial Police Officer, Government of Khyber Pakhtunkhwa, Peshawar and two others. ... (Respondents)

Present:

SYED NOMAN ALI BUKHARI, Advocate --- For Appellant.

MR. MUHAMMAD RIAZ KHAN PAINDAKHEL, Assistant Advocate General --- For respondents.

MR.HAMID FAROOQ DURRANI, --- **CHAIRMAN**
MR. MIAN MUHAMMAD --- **MEMBER(Executive)**

JUDGEMENT.

HAMID FAROOQ DURRANI, CHAIRMAN:- Syed Noman Ali Bukhari, Advocate submitted Wakalatnama in his favour executed by the appellant. Made part of the record.

02. The appellant is aggrieved from order dated 15.01.2019 issued by the respondent No.2/ Deputy Inspector General of Police, Special Brach, Khyber Pakhtunkhwa Peshawar. His departmental appeal, preferred before the respondent No.1 was not responded to.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

03. We have heard the learned counsel for the appellant, learned Assistant Advocate General on behalf of the respondents and have also gone through the available record.

04. At the outset, learned counsel for the appellant referred to the impugned order dated 15.01.2019 and stated that the Deputy Inspector General of Police, Special Branch, Peshawar/ respondent No.2 was not a competent officer, for the purpose of discipline, in the cases of ministerial staff of police. Referring to Section-44 of the Khyber Pakhtunkhwa Police Act, 2017 it was contended that only the Provincial Police Officer was the competent authority to pass such orders. The impugned order was, therefore, void and could not sustain.

Learned Assistant Advocate General opposed the argument of learned counsel for the appellant and contended that by virtue of notification dated 28.12.2015, the Regional Police Officer was delegated the powers of disciplinary action against ministerial staff. In his view, the appellant was rightly proceeded against and awarded major penalty of compulsorily retirement by the Deputy Inspector General of Police, Special Branch.

05. It is a matter of record that the appellant was issued charge sheet for misconduct detailed therein on 18.10.2018. The exercise was under taken by SSP/Admin Special Branch, Khyber Pakhtunkhwa, Peshawar while on the other hand, the impugned order dated 15.01.2019 was passed by the DIG, Special Branch. Reading Section-44 of Khyber Pakhtunkhwa Police Act, 2017 in juxtaposition to the statement of allegations as well as the impugned order, it becomes clear that neither the competent authority/ Provincial Police officer, issued the charge sheet nor the impugned order was passed by him. It shall be useful to reproduce hereunder the relevant part of Statute ibid:-

Ministerial staff etc.---(1) Subject to rules, Provincial Police Officer, may appoint ministerial staff and other employees to assist the Police.
(2) Any person employed under sub-section (1) shall be under the direction and control of Provincial Police Officer.
(3) The powers of direction and control referred to in sub-section(2) shall include the powers of discipline and dismissal.
(4) Subject to rules, Provincial Police Officer, may delegate his powers and authority under this section to an officer of appropriate rank.

In the circumstances of the case and in view of the above noted provision of law, we have no other option but to hold that the impugned order was *corum-non-judice* for all intents and purposes. Having been issued by an incompetent official/officer it can only be termed as void ab-initio. At the cost of repetition, it is noted that the Provincial Police Officer was the only competent authority for the purpose of case in hand. The respondents could not produce any instrument regarding delegation of powers of PPO, as provided by the law ibid in favour of some other officer. The notification dated 28.12.2015, as relied upon by learned Assistant Advocate General, was undeniably issued in the year 2015, much before the coming into force of Khyber Pakhtunkhwa Police Act, 2017.

06. For what has been noted above, the appeal in hand is allowed as prayed for. The parties shall, however, bear their respective costs. File be consigned to the record room.

ANNOUNCED
21.01.2021

(HAMID FAROOQ DURRANI)
CHAIRMAN

(MIAN MUHAMMAD)
MEMBER(E)

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 22-1-21
Number of Words 1600
Copying Fee 18-
Urgent 4-
Total 22-
Name of Copyiest
Date of Completion of Copy 22-1-21
Date of Delivery of Copy 22-1-21

Service Appeal No. 1146/2019

S.No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	21.01.2021	Present. Syed Noman Ali Bukhari, Advocates ... For Appellant Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General ... For respondents Vide our detailed judgment of today consisting of three pages placed on file, the appeal in hand is allowed as prayed for. The parties shall, however, bear their respective costs. File be consigned to the record room. ANNOUNCED 21.01.2021 (Mian Muhammad) Member(E) Chairman

Back Bencher

(1)

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR

N.W.F. Province Service Tribunal
Diary No. 482
Dated 13-5-2016

In re:
Service Appeal No. 510 /2016

Muhammad Noman Constable
Old Belt No.1313 & new Belt No.31, Kohat.....Appellant

Versus

1. District Police Officer, Kohat

2. Deputy Inspector General of Police, Kohat Region, Kohat .....Respondents

APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT AGAINST THE ORDER DATED 15.04.2016 OF THE RESPONDENT NO.1 WHEREBY THE INTERVENING /OUT OF SERVICE PERIOD OF THE APPELLANT/CONSTABLE NOMAN NO.31 FROM THE DATE OF 05.01.2012 TO 29.05.2015 IS TREATED AS LEAVE WITHOUT PAY INSTEAD OF AWARDING THE BACK BENEFITS ETC.

Filed to-day
Registrar
13/5/16

Respectfully Sheweth:-

1. That the appellant is a law abiding citizen of Pakistan and is serving as constable belt No.31 in the Respondent Department.

ATTESTED
Registrar
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUAL,PESHAWAR.

Appeal No. 510/2016

Date of Institution ... 13.05.2016

Date of Decision ... 01.03.2018

Muhammad Noman Constable,
Old belt No.1313 & new Belt No.31, Kohat. ... (Appellant)

VERSUS

1. District Police Officer, Kohat and another. ... (Respondents)

MR. KHURSHID AHMAD SHAHAN, Advocate --- For appellant.

MR. KABIRULLAH KHATTAK, Additional Advocate General --- For respondents.

MR. NIAZ MUHAMMAD KHAN, ... CHAIRMAN
MR. AHMAD HASSAN, ... MEMBER(Executive)

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN:- Arguments of the learned counsel for the parties heard and record perused.

FACTS

2. The appellant was dismissed from service on certain charges of fake signatures on 05.01.2012. In the first round of litigation this Tribunal ordered for de-novo proceedings on 29.05.2015. The department after holding de-novo proceedings exonerated the appellant on 17.02.2016 but no order for back benefits was passed on 17.02.2016. Thereafter a separate order was passed by the competent authority on 15.04.2016 wherein the period out of service was ordered to be considered as leave without pay. The appellant then approached this Tribunal against the said order on 13.05.2016.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

ARGUMENTS

3. Learned counsel for the appellant argued that this Tribunal in its order dated 29.05.2015 while directing the department to hold de-novo proceedings observed that the issue of back benefits shall be subject to the final outcome of the de-novo proceedings. That the department vide order dated 15.04.2016 instead of granting back benefits to the appellant considered the period out of service as Extra Ordinary Leave. That no fault could be attracted to the appellant not to serve the department and in view of judgment reported as 2013 SCMR 752 entitled "*Chairman, State life Insurance Corporation of Pakistan, Karachi-vs-Siddiq Akbar*", the appellant shall be considered to be on duty and shall be entitled for the back benefits.

4. On the other hand learned Addl. Advocate General argued that the present appeal was not maintainable for the reasons that the appellant did not file departmental appeal against the order dated 15.04.2016 and in view of Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 the service appeal was not maintainable. He further argued that the department had rightly denied the back benefits for the reason that the appellant did not perform any duty. That it was a rule that no work no pay.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

CONCLUSION.

5. This Tribunal is first to decide the maintainability of the present service appeal. This Tribunal in its earlier order had directed the department to decide the issue of back benefits subject to final outcome of the de-novo proceedings. In de-novo proceedings the appellant was exonerated. Thereafter separate order was passed on 15.04.2016 in which the back benefits were denied to the appellant. The appellant did not file the departmental appeal against the said order but the question

would be whether due to non-filing of departmental appeal the appellant would be non-suited. This Tribunal is of the view that this is the matter of financial benefits which cannot be denied to a civil servant and no limitation would be attracted in such cases. If no limitation is attracted then whether non-filing of departmental appeal would be a clog on entertaining the present service appeal under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974. Since the present service appeal is the continuation of earlier service appeal, the appellant was not bound to challenge the order in departmental appeal and if this opinion is not correct then the appellant cannot be non-suited on this technical ground. And if the arguments of the learned Addl: AG is accepted then this Tribunal would direct the appellant to file departmental appeal afresh and departmental appeal would be in time even today as no limitation would run in order refusing financial benefits. In such a situation the departmental appeal would be competent and appellant would again come to this Tribunal after waiting for 90 days and the result would be the same. So this is the technicality on the basis of which the appellant cannot be non-suited.

6. Coming to the merits of the appeal the judgment relied upon by learned counsel for the appellant is very much clear and the facts of the reported judgment are very nearer to the present appeal. In the reported case the appellant was dismissed for embezzlement and then he was reinstated. The same arguments were advanced before the august Supreme Court of Pakistan that no work no pay. The august Supreme Court of Pakistan decided that it would be seen that it was the fault of the appellant not to work or it was due to the department that he was not allowed to work. The August Supreme Court of Pakistan finally held that it was not the fault of the appellant not to work but he did not work due to dismissal order. And the august Supreme Court of Pakistan finally decided that the appellant shall be

ATTESTED

considered on duty for all purposes and was held to be entitled for not only back benefits but also for other rights like seniority, promotion etc. This Tribunal therefore, accepts the appeal of the appellant and hold the appellant entitled for the back benefits and it is also ordered that the appellant should not be deprived any right of promotion etc including his training/completion of course for promotion etc if there is no other hindrance except his dismissal. Parties are left to bear their own costs. File be consigned to the record room.

Certified to be true copy
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 19-4-18
Number of Words 1600
Copying Fee 20
Urgent
Total 12
Name of Copyist
Date of Completion 19-4-18
Date of Delivery of Copy 19-4-18

For Appellant

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 1003 /2017

Mr. Akhter Ali, Ex-Constable No. 470
District Police Office Swat.

(Appellant)

Khyber Pakhtunkhwa Service Tribunal
Diary No. 1058
Dated 11-9-2017

VERSUS

1. The Provincial Police Officer, KPK, Peshawar.

2. The Additional Inspector General of Police Elite Force, Khyber Pakhtunkhwa, Peshawar.

3. The Deputy Commandant Elite Force, KPK Peshawar.

(Respondents)

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 19.04.2017 WHEREBY THE PERIOD REMAINED OUT OF SERVICE HAS BEEN TREATED AS LEAVE OF THE KIND DUE INSTEAD OF WITH BACK BENEFITS AND AGAINST NOT TAKING ANY ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN STATUTORY PERIOD 90 DAYS.

PRAYER:

Filed to-day
Registrar
11/9/17

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATD 19.04.2017 MAY BE MODIFIED BY DIRECTING THE RESPONDENTS TO CONSIDER THE INTERVENING PERIOD (FROM 10.08.2012 TO 19.04.2017) WITH ALL BACK AND CONSEQUENTIAL BENEFITS BEING LEGALLY ENTITLED UNDER THE LAW. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPOPRIATE THAT MAY ALSO BE AWARADED IN FAVOUR OF APPELLANT.

ATTESTED

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUAL, PESHAWAR

Appeal No. 1003/2017

Date of Institution ... 11.09.2017

Date of Decision ... 26.12.2018

Akhtar Ali Ex-Constable No. 470 District Police Office, Swat ... (Appellant)

VERSUS

The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and two others. ... (Respondents)

Present.

SYED NUMAN ALI BUKHARI,
Advocate. ... For appellant

MR. MUHAMMAD JAN,
Deputy District Attorney ... For respondents.

MR. HAMID FAROOQ DURRANI, ... CHAIRMAN
MR. AHMAD HASSAN, ... MEMBER(E)

JUDGMENT

HAMID FAROOQ DURRANI, CHAIRMAN:-

Instant judgment is proposed to decide also Appeals No. 1004/2017 (Mubarak Zeb Versus the Provincial Police Officer, Khyber Pakhtunkhwa Peshawar and others) and No. 1005/2017 (Abdullah Shah Versus the Provincial Police Officer, Khyber Pakhtunkhwa Peshawar and others) as identical facts and similar prayers are involved in all the appeals.

2. The facts as gatherable from memoranda of appeals are that during their service as constables in the Police Force the appellants were charge sheeted for

involvement in a criminal offence recorded through FIR No. 324 dated 06.06.2012. Consequently, the appellants were dismissed from service vide order dated 10.08.2012. The appellants ultimately filed Service Appeals No. 1145/2012, 1146/2012 and 1147/2012 before this Tribunal which were decided on 02.01.2017 in the following manners:-

> *"In view of the above we are constrained to accept the present appeals, set aside the impugned original as well as final orders and reinstate the appellants in service with the directions to the respondents to conduct denovo enquiry against the appellants by affording them opportunity of participation in the enquiry including cross-examining witnesses so produced during the enquiry. The said enquiry shall be conducted and concluded within a period of 3 months from the date of receipt of this judgment. Parties are left to bear their own costs. File be consigned to the record room."*

3. In pursuance to the above decision the appellants were provisionally reinstated into service vide order dated 25.01.2017 and denovo enquiry against them was initiated. Upon completion of denovo proceedings the appellants were exonerated from the charges levelled against them through order dated 19.04.2017. However, the intervening period was ordered to be treated as leave of the kind due. Aggrieved from the part of order not allowing back benefits to the appellants, they submitted representation/appeal which was not responded to, hence the appeals in hand.

4. We have heard learned counsel for the appellants and learned DDA on behalf of the respondents and have also gone through the available record.

5. It was mainly contended by learned counsel for the appellants that upon their exoneration and reinstatement into service the appellants were entitled to back

benefits which were dis-allowed without assigning any reason. He relied on judgments reported as 2007-SCMR-855 and 2015-PLC(C.S)366.

On the other hand, it was contended that in the first round of appeals before this Tribunal the back benefits were not mentioned in the concluding part of judgment dated 02.01.2017, therefore, it could be presumed that the same were impliedly denied to the appellants. He relied on a judgment handed down by this Tribunal in Appeal No. 218/2016 and stated that as the appellants did not perform any duty for the period interregnum, therefore, they were not entitled to the relief. He also stated that it was the duty of appellants to have proved that they were not employed during the days they were out of police service.

6. It shall be useful to refer to the report of enquiry dated 22.3.2017, which was conducted after remand of the matter by this Tribunal to the respondents. It was categorically noted in the conclusion thereof that all the appellants were acquitted vide order dated 25.10.2012 on the basis of compromise, therefore, they were entitled for reinstatement in view of judgments reported as PLJ 2011-Supreme Court-280, 2015-SCMR-77, 2010-SCMR-1706, 2007-SCMR-855 and 1998-SCMR-1993. As regards the extension of back benefits to the accused/appellants, it was stated that there was nothing on record that they were gainfully employed during the period they remained out of service. Recommendations for back benefits were, therefore, also made in the report. On the other hand, it was recorded in the impugned order dated 19.04.2017 passed by respondent No. 3 that after thrashing all the relevant material the alleged charges levelled against the appellants could not be proved/established, however, the period they remained out of service was

ATTESTED

Registrar
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

treated as leave of the kind due. It is pertinent that no ground of difference of opinion was noted in the impugned order.

7. It has been laid down through judgments of Apex Courts that the grant of back benefits to an employee, who was reinstated by a Court/Tribunal or the department, was a rule and denial of such benefit was an exception. The appellants were held back from the performance of their duty with the respondent department owing to the departmental proceedings against them which was a circumstance beyond their control. The said proceedings were ultimately decided in favour of the appellants, therefore, should have entailed the extension of back benefits in their favour.

8. In view of the above we allow the appeals in hand as prayed for in the memoranda. The appellants shall, however, furnish affidavits regarding the fact that they did not remain gainfully employed during the period from 10.08.2012 to 19.4.2017. An undertaking shall also be recorded in the affidavit to the effect that if proved otherwise, they shall be liable for return of back benefits received in pursuance to the instant judgment.

Parties are left to bear their respective costs. File be consigned to the record room.

(HAMID FAROOQ DURRANI)
CHAIRMAN

(AHMAD HASSAN)
MEMBER(E)

ANNOUNCED
26.12.2018

Certified to be true copy

Khyber Pakhtunkhwa Service Tribunal, Peshawar

Date of Presentation of Application 27-2-19
Number of Words 2000
Copying Fee 12/-
Urgent 2/-
Total 14/-
Name of Applicant
Date of Completion of Copy 27-2-19
Date of Delivery of Copy 27-2-19

Resp (1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

APPEAL NO. 218 /2016

N.W.F. Province Service Tribunal Diary No. 224 Dated 10-3-2016

Shah Duran, Sub Inspector.

District Police Kohat.

(APPELLANT)

VERSUS

1. The Provincial Police Officer, KPK, Peshawar.
2. The Deputy Inspector General of Police Kohat Region, Kohat.
3. The District Police Officer, Kohat.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 30.10.2015, WHEREBY THE INTERVENING PERIOD OF THE APPELLANT'S COMPULSORY RETIREMENT W.E.F. 09.01.2014 TO 11.03.2015 IS TREATED AS LEAVE WITHOUT PAY AND NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

Filed to-day Registrar 10/3/16

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 30.10.2015 MAY BE SET ASIDE AND RESPONDENTS MAY BE DIRECTED THE TO CONSIDER THE PERIOD W.E.F.09.01.2014 TO 11.03.2015 WITH ALL PAY & SERVICE BENEFITS. ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT, MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

ATTESTED

Khyber Pakhtunkhwa

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUAL,PESHAWAR

Appeal No. 218/2016

Date of Institution ... 10.03.2016

Date of Decision ... 18.04.2018

Shah Duran, Sub Inspector.
District Police Kohat. ... (Appellant)

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar. and 2 others. ... (Respondents)

SYED NOMAN ALI BUKHARI, Advocate	---	For appellant.
MR.MUHAMMAD JAN, Deputy District Attorney	---	For respondents
MR. AHMAD HASSAN,	---	MEMBER(Executive)
MR. MUHAMMAD AMIN KHAN KUNDI	---	MEMBER(Judicial)

JUDGMENT

AHMAD HASSAN, MEMBER:-

This judgment shall dispose of the instant service appeal as well as connected service appeals no. 218/2016 titled Ayatullah as similar question of law and facts are involved therein.

ATTESTED

Arguments of the learned counsel for the parties heard and record perused.

FACTS

3. The brief facts are that the appellant was serving as S.I in Police Department, disciplinary proceedings were initiated against him and upon conclusion major penalty of compulsory retirement was imposed on him vide order dated 09.01.2014. That he filed revision petition and upon acceptance he was reinstated in service and

directions were given for conducing de-novo enquiry. De-novo enquiry was conducted and the competent authority exonerated him of the charges leveled against. However, the intervening period w.e.f 09.01.2014 to 11.03.2015 was treated as leave without pay vide order dated 31.10.2015. Feeling aggrieved he filed departmental appeal on 30.10.2015 which was not responded within stipulated period, hence the instant service appeal.

ARGUMENTS

4. Learned counsel for the appellant argued that while serving as S.I in Police Department, disciplinary proceedings were initiated against him and upon conclusion major penalty of compulsory retirement was imposed on him vide order dated 09.01.2014. Feeling aggrieved he filed revision petition and upon acceptance he was reinstated in service with directions to conduct de-novo enquiry. De-novo enquiry was conducted and the competent authority exonerated him of the charges leveled against. However, the intervening period w.e.f 09.01.2014 to 11.03.2015 was treated as leave without pay vide order dated 31.10.2015. Feeling aggrieved he filed departmental appeal on 30.10.2015 which was not responded within stipulated period, hence the instant service appeal. As the officer was exonerated from the charges so under the rules he was entitled for pay for the period mentioned above. He was not engaged in any gainful employment as is evident from an affidavit submitted by the appellant. He relied on case law reported as 2013 SCMR 752 and this Tribunal judgment dated 01.03.2016 in service appeal no. 510/2016.

5. Learned Deputy District Attorney argued that though de-novo enquiry was conducted and he was exonerated of the charges but as he had not performed duty so the intervening period of compulsory retirement was treated as leave without pay

ATTESTED

according to the principle of no work no pay. The appellant had not filed departmental appeal within the stipulated period so his claim was not valid.

CONCLUSION.

6. Careful perusal of record would reveal that the issue of payment of pay from 09.01.2014 to 11.03.2015 pertaining to the period of compulsory retirement was treated as leave without pay. Action taken by the department is covered under Secion-17 of Civil Servants Act 1973 and F.R. 54. It is the discretion of the authority to decide the issue of payment of arrears of pay etc. One thing is clear beyond doubt that as the appellant had not performed duty during the said period so by following the principle of no work no pay, it was rightly treated as leave without pay by the competent authority. We do not find any force in the instant appeal and as such it is not entertainable.

7. As a sequel to above, the appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.

Announced
18-04-2018

Sd/- Ahmad Hassan
Member

Sd/- M. Amin Khan Kundi
Member

Certified to be ture copy
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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OFFICE OF THE
DISTRICT POLICE OFFICER,
KOHAT
Tel: 0922-9260116 Fax 9260125

No_____/PA dated Kohat the _____/____/2018

ORDER

This order will dispose of departmental proceedings initiated against ASI Muhammad Afzal under the Khyber Pakhtunkhwa, (Efficiency & Discipline) Rules, 2011.

The essential facts arising of the case are that Mst: Hazrat Begum widow of Suleman r/o Mohallah Sheno Khel Kohat City has complained against (SI Muhammad Afzal SHO PS City District Karak) that he has illegally interference in her property and threatening for dire consequences, which shows gross misconduct on his part.

He was served with Charge Sheet & Statement of Allegations. SP Investigation Kohat was appointed as enquiry officer to proceed against him departmentally. Enquiry Officer submitted his finding report and exonerated from the charges leveled against him.

Therefore, he was called in Orderly Room, held on 28.06.2019 and heard in person.

In view of the above and available record, I agreed with the finding of Enquiry Officer, therefore, in exercise of powers conferred upon me under the rules ibid I, Capt. ® Wahid Mehmood, District Police Officer, Kohat the instant enquiry is hereby filed with immediate effect.

Announced
28.06.2019

DISTRICT POLICE OFFICER,
KOHAT 28/6

OB No. 794
Date 4-7-/2019

No 8143-44/ PA dated Kohat the 04-7- 2019.

Copy of above to the:-

1. Reader, SRC, OHC for necessary action.

54/20

Resp.

Back Benefit

SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:
Mr. Justice Gulzar Ahmed, HCJ
Mr. Justice Ijaz ul Ahsan

C.M.A.

Civil Petition No.594 of 2020

(Against the judgment dated 18.12.2019, passed by the Khyber Pakhtunkhwa Service Tribunal, Camp Court, Abbottabad, in S.A. No.940 of 2018)

Muhammad Iqbal ... *Petitioner (s)*

Versus

Deputy Inspector General of Police/RPO, Hazara Division, Abbottabad and another ... *Respondent (s)*

Petitioner (s) : In person

Respondent (s) : N.R.

Date of Hearing : 03.07.2020

ORDER

GULZAR AHMED, CJ.- We have heard the petitioner, who appeared in person. The petitioner vide impugned judgment dated 18.12.2019 of the Khyber Pakhtunkhwa Service Tribunal, Camp Court, Abbottabad (**the Tribunal**) has been denied the back benefits. The petitioner was implicated in FIR No.594 dated 11.08.2010 under Sections 379, 337-J/441 PPC, Police Station Cantt. Abbottabad. Pursuant to such involvement of the petitioner, he was proceeded departmentally. In the first round, he was imposed penalty of dismissal but in the second round, the charge could not be proved against him and thus, he was issued a letter of warning but the back benefits were not allowed to him. The petitioner filed an appeal before the Tribunal in which back benefits have not been allowed to the

ATTESTED
Court Associate
Supreme Court of Pakistan
Islamabad

petitioner. The Tribunal in the impugned judgment has given reasons for not allowing the same to the petitioner.

2. The petitioner was confronted with the question that he has compromised the case before the Criminal Court to which he has given a vague answer. We have noted that the Tribunal has dealt with the matter in accordance with law and no illegality is committed therein, nor any substantial question of law of public importance in terms of Article 212(3) of the Constitution of the Islamic Republic of Pakistan, 1973 is raised.

3. In the circumstances, the petition is dismissed and leave declined.

Sd/-HCJ
Sd/-J

Certified to be True Copy
5/8/2020
Court Associate
Supreme Court of Pakistan
Islamabad

Islamabad, the,
3rd July, 2020
*Mahtab/**

NOT APPROVED FOR REPORTING

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 962 /2020

Mr. Shah zaman V/S Police deptt.

.....

INDEX

APPELLANT
Shah Zaman

THROUGH:

SYED NOMAN ALI BUKHARI
ADVOCATE, High Court PESHAWAR.

UZMA SYED
ADVOCATE PESHAWAR

Room No. Fr-8, 4th Floor,
Bilour Plaza, Peshawar Cantt:
Contact No. 0306.5109438

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Khyber Pakhtunkhwa Service Tribunal
Diary No. 8979
Dated 26-8-2020

Appeal No. 9620 /2020

Mr. Shah Zaman Senior Clerk,
SP Investigation Officer Bannu.

APPELLANT

VERSUS

1. The inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. The Deputy Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
3. The Regional Police Officer Kohat region Kohat.
4. The District Police Officer Kohat.

RESPONDENTS

.....

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL ACT, 1974 AGAINST THE APPELLATE ORDER DATED 03.10.2019 WHEREBY THE APPELLANT HAS BEEN RE-INSTATED INTO SERVICE AND INTERVENING PERIOD W.E.FROM 27.06.2019 TO 03.10.2019 IS TREATED AS LEAVE WITHOUT PAY AND AGAINST THE REVIEW PETITION ORDER DATED 24/07/2020 RECEIVED TO THE APPELLANT ON 17.08.2020 WHEREBY THE APPEAL OF THE APPELLANT UNDER 11-A FOR INTERVENING PERIOD HAS BEEN REJECTED FOR NO GOOD GROUND.

Filed to-day
Registrar
26/8/2020

.....

PRAYER:

THAT ON ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 24.07.2020 MAY PLEASE BE SET-ASIDE AND THE ORDER DATED 03.10.2019 MAY PLEASE BE MODIFIED TO THE EXTENT THAT INTERVENING PERIOD W.E.FROM 27.06.2019 TO 03.10.2019 MAY PLEASE BE TREATED AS FULL PAY WITH ALL BACK AND CONSEQUENTIAL

BENEFITS. ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT, MAY ALSO BE AWARDED IN FAVOR OF APPELLANT.

RESPECTFULLY SHEWETH:
FACTS:

1. That the petitioner is serving as Senior Clerk in the police department. Presently the petitioner is posted in SP investigation officer Hangu as Head Clerk and also has a good service record throughout and unblemished service career of 29 years.

2. That during posting of petitioner in the DPO office Kohat complaint was filed against the appellant and his brother that he was illegally interfering in the property of MST: hazrat Begum widow of Suliman r/o Moh: Sikandar Khan Shaheed Kohat city. On the basis of which charge sheet was served upon the appellant. The appellant properly replied to the charge sheet and rebut the allegation. **Copy of charge sheet and reply is attached as annexure-A & B.**

3. That on sided inquiry was conducted wherein inquiry officer giving recommendations that the inquiry may be kept pending till the decision of civil court but the DPO kohat dismissed the appellant vide order dated 27.06.2019 without any personal hearing and show cause notice. Against which appellant preferred department appeal on the basis of which denovo inquiry was order. The denovo inquiry was conducted and allegations was not proved against the appellant. So the departmental appeal of the appellant was accepted vide order dated 03.10.2019 and appellant was reinstated in to service but the intervening period was treated leave without pay without any reason. **Copy of inquiry, dismissal order, departmental appeal, denovo inquiry and impugned order are attached as Annexure-C, D, E, F and G)**

4. That thereafter, appellant filed review petition under 11-A which was rejected by the respondents for no good grounds vide order dated 24.07.2020 received to the appellant on 17.08.2020. **(Copy of the review petition and 11-A order is attached as Annexure-H & I).**

5. That the appellant having no other remedy and constrained to file service appeal to this Honorable Tribunal on the following grounds amongst the others.

GROUNDS:

A) That the impugned appellate final order dated 03.10.2020 is against the law, facts, norms of justice and material on record, therefore, not tenable and liable to be modified to the extent of intervening period w.e.from 27.06.2019 TO 03.10.2019 may please be treated as full pay or leave with kind due.

B) That neither the appellant was associated with neither the inquiry proceedings nor any statement of the witnesses have been recorded in the presence of the appellant. Even a chance of cross examination was also not provided to the appellant which is a violation of norms of justice. even inquiry officer recommended that inquiry kept pending till the finalization of civil suit but despite that the appellant was dismissed from service without any fault on his part.

C) That in denovo inquiry appellant was exonerated from the charges therefore appellant was re-instated in service but the intervening period treated as leave without pay which is unjust and liable to be modified.

D) That it is pertinent to mentioned here that appellant in intervening period regularly visited the office and also joined the inquiry proceeding so the appellant never remained absent from duty. Legally inquiry conducted against the person who was in service, so if the performance of duties is concerned it is due to illegal dismissal order of the department the appellant not performed duties, so the appellant cannot be suffered for the fault of others.

E) That the complaint was filed against the appellant and his brother also but the brother of appellant was exonerated in inquiry and reinstated on his job with benefits which is discriminatory with the appellant and violation of article 2-A, 4 and 25 of the constitution. **Copy of inquiry report is attached as annexure-J.**

F) That the departmental appeal of the appellant for intervening period was rejected for the reason that the complaint was filed against the appellant so the appellant is not entitled for intervening period but from the said allegation appellant was exonerated so the said allegation is cannot based for rejection of departmental appeal.

G) That the Allegation leveled against the appellant was not proved in denovo inquiry, but despite that the appellant is deprived from his salaries in fanciful manner and without law full justification.

H) That the appellant cannot be held responsible for the lapse/irregularities committed by the department and in such case

the Hon'able Supreme Court of Pakistan has held the department responsible not the appellants.

I) That the relevant authorities restrain the appellant from performance of duty due to there improper exercise of official power, therefore, the appellant cannot be deprived from his legal right of salary

J) That the appellant is not deprived from the back benefits for the period which they remained out of service without any fault from their side, that According to judgment of Supreme Court reported as 2007 PLC Supreme Court-184 as mentioned below:

> "the salaried of civil servant would not be withheld for the intervening period when they remained out of service due to whimsical and arbitrary actions of the functionaries. Civil servant had every right to recover their arrears"

So, in the light of Supreme Court Judgment the appellant is also legally entitled for their salaries.

K) That the appellant was not remained gain full employee during the period out of service and the appellant is legally entitled to pay benefits w.e.from 27.06.2019 TO 03.10.2019. according to judgment of Supreme Court Reported as 07 SCMR-855(b),in respect of matter of gainful employment during period remained out of service, the appellant submitted affidavit that he is not remained gainful employee during such period so the appellant is legally entitled for salaries for a such period.

L) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

It is, therefore, most humbly prayed that the appeal of the appellant maybe accepted as prayed for.

APPELLANT
Shah Zaman

THROUGH:

SYED NOMAN ALI BUKHARI
ADVOCATE, High Court PESHAWAR

A-5

(5)

OFFICE OF THE
DISTRICT POLICE OFFICER,
KOHAT
Tel: 0922-9260116 Fax 9260125

No 314-15 /PA dated Kohat the 09/1/2019

CHARGE SHEET.

1. I **CAPT. ® WAHID MEHMOOD, DISTRICT POLICE OFFICER, KOHAT**, as competent authority, under Rule 5(b) of Khyber Pakhtunkhwa, (Efficiency & Discipline) Rules, 2011 hereby charge you **Senior Clerk Shah Zaman** as follows:

> ***Mst: Hazrat Begum widow of Suleman r/o Mohallah Sheno Khel Kohat City has complained against you (Senior Clerk Shah Zaman) that you are illegally interference in her property, which shows gross misconduct on your part.***

2. By reason of the above, you appear to be guilty of misconduct under rule 4 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in the **rules ibid.**

3. You are, therefore, required to submit your written defence within seven days of the receipt of this Charge Sheet to the inquiry officer, as the case may be.

4. Your written defence, if any, should reach the inquiry officer within the specified period, failing which it shall be presumed that you have no defence to put in and in that case ex-parte action shall be taken against you.

5. Intimate whether you desire to be heard in person

6. A statement of allegations is enclosed.

Received by
14-1-19

DISTRICT POLICE OFFICER,
KOHAT 09/1/19

ATTESTED.

(6)

(E)

OFFICE OF THE
DISTRICT POLICE OFFICER,
KOHAT
Tel: 0922-9260116 Fax 9260125

No 314-15 /PA dated Kohat the 09 / 1 /2019

DISCIPLINARY ACTION

1. I, **CAPT. ® WAHID MEHMOOD, DISTRICT POLICE OFFICER, KOHAT** as competent authority, am of the opinion that **Senior Clerk Shah Zaman** has rendered himself liable to be proceeded against, as he committed the following acts/omissions, within the meaning of rule 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

STATEMENT OF ALLEGATIONS

Mst: Hazrat Begum widow of Suleman r/o Mohallah Sheno Khel Kohat City has complained against you (Senior Clerk Shah Zaman) that you are illegally interference in her property, which shows gross misconduct on your part.

2. For the purpose of inquiry against the said accused with reference to the above allegations, an inquiry officer under rule 10 (1) (a) of the **ibid rules:**

i **Mr. Salah Ud Din SP Operations Kohat**

3. The inquiry officer shall, in accordance with the provisions of the ibid rules, provide reasonable opportunity of hearing to the accused, record its findings and make, within thirty days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

4. The accused shall join the proceedings on the date, time and place fixed by the inquiry officer.

DISTRICT POLICE OFFICER,
KOHAT

No. 314-15 /PA, dated 09-1-/2019.

Copy of above is forwarded to:-

1. **Mr. Salah Ud Din SP Operations Kohat:-** The Enquiry Officer for initiating enquiry proceedings against the accused officer and submit finding report at the earliest.
2. **Accused Official:-** With the directions to appear before the Enquiry Officer, on the date, time and place fixed by him, for the purpose of enquiry proceedings.

.....

ATTESTED

7-

3

جناب عالی۔

بحوالہ چارج شیٹ نمبر 15-314 مورخہ 09.01.2019 معروض خدمت ہوں کہ رپورٹ کنندہ مسماۃ حضرت بیگم بیوہ سلیمان سکنہ محلہ شنبو خیل کوہاٹ نے چارج شیٹ میں جو الزامات لگائے ہیں۔ واقعہ یوں ہے کہ واقع شنبو خیل چک جو سائل کے اباؤ اجداد نے عرصہ پچاس سال سے زائد ملٹری ڈھیری فارم کے کھٹہ پر کیبن بنائی تھی۔ جس میں ڈھیری فارم سے باقائدہ NOC لی گئی تھی۔ اور میونسپل کمیٹی سے نقشہ پاس کیا تھا۔ نقولات بیان کے ساتھ لف ہیں۔

درخواست کنندہ نے درخواست میں جو اپنی ملکیت ظاہر کی ہے کہ اس نے یہ کیبن مبلغ/2500000 روپے پر مورخہ 30.08.2018 کو مسمی نور محمد ولد یار محمد سکنہ جنگل خیل پر فروخت کی ہے۔ درخواست کنندہ کی ملکیت اس کیبن پر نہیں ہے۔ کیونکہ یہ ملٹری ڈھیری فارم کا کھٹہ ہے اور اس کے خسرہ جات 1388-1395-1383-1335 ہیں جنکا انتقال غیر ممکن ہے، اُن کی فوٹو کاپی لف ہے۔ خسرہ جات میں ہمارے اباؤ اجداد حصہ داران ہیں۔ اور اسی طرح ایکسائز اینڈ ٹیکسیشن آفس کوہاٹ سے بھی PT-1 لایا ہوں جو سائل کے والد کے نام پر ہے۔

علاوہ ازیں سائل نے اس کو کوئی دھمکی نہیں دی ہے سائل ایک شریف شہری ہے اور محکمہ پولیس میں ملازمت کرتا ہے۔ قبل ازیں اس کو بار بار بتایا گیا تھا۔ کہ ان خسرہ جات میں آپ کی کوئی ملکیت نہیں ہے۔ اس کے علاوہ سائل نے درخواست کنندہ کے خلاف جناب ڈپٹی کمشنر صاحب اور عدالت میں کیس کیبن پراپرٹی کے متعلق درج کیا ہے۔ جو عدالت میں زیر غور ہے۔ سائل کے خلاف لگائے گئے الزامات سراسر غلط اور بے بنیاد ہیں۔ درخواست کنندہ کو چاہیئے کہ وہ عدالت کے فیصلہ تک انتظار کرے۔ سائل کی چارج شیٹ فائل کیجائے اور سائل تمام عمر دعا گو رہیگا۔

شاہ زمان
سینئر کلرک ڈسٹرکٹ پولیس آفس کوہاٹ

ATTESTED

(C-8)

(2)

INQUIRY REPORT AGAINST SENIOR CLERK SHAH ZAMAN

No. 511 /PA-Ops Kohat, the dated 22 / 05 /2019

FINDINGS

This departmental enquiry has been initiated against the above named Senior Clerk Shah Zaman while posted at SP Investigation office Hangu. As per statement of allegations that Mst: Hazrat Begum widow of Suleman r/o Mohallah Sheno Khel Kohat city has complained against above named Senior Clerk for illegally interfering in her property.

On the basis of above allegation, he was issued charge sheet with summary of allegations by DPO Kohat office Endst: No. 314-15/PA dated 09.05.2019. Senior Clerk Shah Zaman was summoned in person and recorded his statement which is enclose with enquiry file.

Complainant Mst: Hazrat Begum Stated that the shop (cabin) situated at Garhi Mawaz Khan Kohat and forcibly occupied by the above named defaulter clerk, since long time while he is not the owner of the shop.

From the perusal of case file and relevant record it revealed that the owner of shop is Mst: Hazrat Begum (complainant) not the defaulter clerk. During the course of enquiry defaulter clerk above named could not produced any legal documents regarding the ownership of shop.

Keeping in view the above circumstances and the perusal of case file during the course of enquiry, it is established that the case regarding dispute of ownership of the shop is already in the court, under trial. Therefore it is recommended that the enquiry may kindly be kept pending till the decision of court order.

(TAHIR IQBAL)
Superintendent of Police,
Operations, Kohat.

ATTESTED

D-9

OFFICE OF THE INVESTIGATION WING HANGU
Dy. No 648
Dt. 04/7/19

OFFICE OF THE
DISTRICT POLICE OFFICER,
KOHAT
Tel: 0922-9260116 Fax 9260125

No_____/PA dated Kohat the ____/____/2018

ORDER

This order will dispose of departmental proceedings initiated against Senior Clerk Shah Zaman under the Khyber Pakhtunkhwa, (Efficiency & Discipline) Rules, 2011.

The essential facts arising of the case are that Mst. Hazrat Begum widow of Suleman r/o Mohallah Sheno Khel Kohat City has complained against (Senior Clerk Shah Zaman) that he has illegally interference in her property, which shows gross misconduct on his part.

He was served with Charge Sheet & Statement of Allegations. SP Operations Kohat was appointed as enquiry officer to proceed against him departmentally Enquiry Officer submitted his finding report and stated that from the relevant record it revealed that the owner of shop is Mst: Hazrat Begum (Complainant) not the defaulter clerk. During the course of enquiry the defaulter clerk could not produced any legal documents regarding the ownership of shop.

Therefore, he was called in Orderly Room, held on 26.06.2019 and heard in person, but he failed to submit any explanation to his gross professional misconduct.

In view of the above and available record, I agreed with the finding of Enquiry Officer, therefore, in exercise of powers conferred upon me under the rules ibid I, Capt. ® Wahid Mehmood, District Police Officer, Kohat impose a major punishment of "Dismissal" from service with immediate effect.

Announced
26.06.2019

DISTRICT POLICE OFFICER,
KOHAT 27/6

OB No. 749
Date 27-6-/2019

No 7876-80/ PA dated Kohat the 28-6- 2019.

Copy of above to the:-

1. Superintendent of Police Investigation Hangu.
2. Reader, SRC, OHC for necessary action.

Po/SRC
For notes

DISTRICT POLICE OFFICER,
KOHAT 27/6

Superintendent of Police
Investigation Wing
Hangu
8-7-19

ATTESTED.

E-10

BEFORE THE WORTHY REGIONAL POLICE OFFICER KOHAT REGION KOHAT

Subject: APPEAL FOR RE-INSTATEMENT IN SERVICE

Respected Sir,

With due respects, I beg to say that I was enlisted as Junior Clerk in 1990 and had served on various posts efficiently and zealously. I had given no chance to my seniors of any complaint till date I had 29 years of un-blemish service record.

Unfortunately in a departmental enquiry I was dismissed from service with out any justification and without given any chance of cross questioning which is pre-requisite & mandatory before drafting findings in departmental enquiry, as envisaged in rules. Therefore, the following submission are put forward before your Excellency for sympathetic consideration:-

1. That since my appointment, I had served at record branch, pay branch, GP Fund clerk, Steno to SDPOs, building clerk and on higher post from my rank i.e. Head Clerk to SP Investigation Hangu. No one complained me during these postings / service.

2. That when I posted as Head Clerk to SP Investigation Hangu and serving efficiently, meanwhile, one Mst. Hazrat Begum widow of Suleman R/o Kohat City moved a complaint against me and one my brother S.I Afzal Khan that "they have forcibly occupied her shop and threatening her etc.". On this complaint worthy DPO Kohat marked it to respective SHO for necessary action and report, vide his office Diary No. 1491 / R Dated 19-11-2018. SHO City after doing the needful submitted his report that "there is landed dispute between the parties and a case to this effect is under trail in the court of law

ATTESTED

charges, the allegation were same in nature against me and my brother.

8. That in finding the enquiry officer made recommendation that as a civil case is under trial between the parties, therefore the enquiry may be kept pending till the decision of court. But competent authority i.e. DPO Kohat directly dismissed me from service and final show cause notice was also not issued to me, which is clear cut violations of the rules and regulation and against the norms of natural justice.

Keeping in view of the above facts, I am earnestly prayed that, I am 29 years of unblemished service and without giving any chance of cross question on my opponents by the EO and direct dismissal order are deserves to be set-aside the dismissal order and re-instate me in service from the date of my dismissal. I shall be remain careful in future INSHALLAH.

I shall pray for your long life and prosperity.

Yours Obediently

Shah Zamair 1-7-19
Ex. Head Clerk
SP Investigation
Office Hangu

Dated: 01-07-2019

ATTESTED

F — 13

SYNOPSIS

EX-SENIOR CLERK SHAH ZAMAN, INVESTIGATION WING, HANGU:

Title	Appeal for setting aside the punishment order, passed by DPO Kohat vide OB No. 749, dated 27.06.2019 whereby he was awarded major punishment of dismissal from service.		
Charges	Facts are that Mst: Hazrat Begum widow of Suleman r/o Mohallah Sheno Khel, Kohat lodged a complaint against the appellant and ASI Afzal Khan, brother of the applicant, that they have illegally occupied her property.		
Enquiry Officer	SP/Operations, Kohat		
Findings	To keep pending the enquiry till the decision of the court.		
Order	Dismissal from service		
Appeal	Within time		
Previous conduct	Maj:	Min:	Good Entry
	-	01	02
Date of Enlistment	08.01.1990		
Date of Birth	02.09.1968		

Submitted please.

ESTT: CLERK
25/7/2019

OFFICE SUPDT:

W/DIG

No: 6722/EC
dt: 29/07/2019

SP/Inv. Kohat

Shah Zaman's version is that pl. he has been condemned unheard. pl. listen to him & also call the lady & confront them, hold an inquiry & report the factual position as to the ownership of the disputed land & put up in (07) days.

PA:
For n. action

25/7

Superintendent of P
Investigation Wing

ATTESTED

(14)

No. 603 /PA

Dated 5/8/2019

REFERENCE ATTACHED

Subject: **DENOVO DEPARTMENTAL ENQUIRY AGAINST EX-SENIOR CLERK SHAH ZAMAN OF INVESTIGATION OFFICE HANGU.**

R/Sir

Kindly refer to your office Diary: No.6722/EC, dated 29.07.2019.

BRIEF/ALLEGATIONS.

i. "Mst: Hazrat Begum widow of Suliman r/o Mohallah Shino Khel Kohat City has made complained against him that he has illegally interference in her property which shows gross misconduct on his part".

PROCEEDINGS.

1. In order to dig-out the real facts, Mst: Hazrat Begum, Noor Muhammad , Faizan s/o Jehanzeb r/o Mohallah Haji Bahadar & Ex-Clerk Shah Zaman were called and their statements were got recorded as witnesses and confronted. Initial enquiry was conducted against the alleged Senior Clerk by Supdt: of Police Operation, Kohat.

2. Mst: Hazrat Begum stated that the said shop situated in Shino Khel is her owned. She sold the said property a sum of Rs.25,00000/- to one Noor Muhammad s/o Yar Muhammad r/o Jungle Khel on 28.06.2018 while the said shop is occupied by Clerk Shah Zaman. Clerk Shah Zaman received rent of the said shop. One 28.08.2018 demarcation of Khasra No.1403 took place of the said area which is signed by Halqa Patwari, Girdawar as well as Tehsildar. Father of the said clerk running a business of wood since 1973. He has installed Electric Meter in the said shop in his name. Tex paid to Excise & Taxation Deptt: Kohat by Clerk Shah Zaman.

3. Noor Muhammad s/o Yar Muhammad r/o Jungle Khel stated that he has purchased a property (shop) measurement 14 Sarsai from one Ajmal s/o Suliman r/o Mohallah Sikandar Khan Shaheed cost amounting to Rs.25,00000/- and transferred in his name vide mutation No.23570 Khasra No.1403. He has pointation of the said shop. When demarcation conducted by Halqa Patwari he known that the said shop is disputed. Jehanzeb alias Janu has run a Barbar shop at that place. Jehanzeb paid rent on monthly basis to the father of Clerk Shah Zaman while the alleged Clerk has filed a Civil Suit in the Court of Sr. Civil Judge, Kohat on 02.01.2019 which is under trial.

4. Faizan s/o Jehanzeb Khan r/o Kohat City stated that he is running Barbar in the said shop last 05 years. Monthly rent paid to father of Clerk Shah Zaman when he died Clerk Shah Zaman received rent Rs.3000/- of the shop while the Electricity bill has also paid by him. He further stated that prior to this the said shop was running as PCO by Clerk Shah Zaman. For long time the said shop is the property of Shah Zaman.

ATTESTED

5. Muhammad Ajmal s/o Suliman r/o Kohat City stated that property measuring 14 Sarsai in favour of his own and he has purchased to one Noor Muhammad s/o Yar Muhammad r/o Jungle Khel cost amounting to Rs.25,00000/-. He further stated that according to Revenue record the said property in his own Khasra No.1403. The local commission visited the spot and submitted report and there is no name of Clerk Shah Zaman s/o Muhammad Ramazan in Revenue record. The disputed place were constructed a shop by father of Clerk Shah Zaman which has your own property.

6. Ex-Senior Clerk Shah Zaman stated that the said shop was constructed by his late father Muhammad Ramazan since 1973 and he running a business of wood tree. The said shop constructed roof on Cannel which is the property of Military Dairy Form Kohat. His father obtained proper NOC from Manager Military Dairy Form & continued his business (copy enclosed). He further stated that Electricity Meter has been installed by his father in his name. He also paid tax to Excise & Taxation Deptt: Kohat (copy enclosed). Father of clerk Shah Zaman give his shop on rent basis to one Jehanzeb alias Janu r/o Muhallah Tailian Kohat City. The said person paid rent to father of the alleged Clerk also paid Electricity bill by himself. He has deposited last tax to Excise & Taxation Deptt: amounting to Rs.1587/- through National Bank of Pak: KDA Branch on 10.01.2019 (receipt is enclosed). Mst: Hazrat Begum widow of Suliman r/o Mohallah Sikandar Khan Shaheed has submitted an application/complaint against him regarding that the said shop is his own property. After submitting her application his son Muhammad Azam purchased ONE Sarsai property and transferred to widow of Muhammad Ramazan on 30.01.2019. (photocopy of Farad, Map & stamp papers & receipt of Tax enclosed)

FINDINGS

A. Going through the all available record, enquiry papers and recorded statements :-

B. The said shop is situated in Shino Khel Chowk. Muhammad Ramazan father of alleged Clerk has constructed on cannel during the year 1973 and started business of wood tree. He has obtained NOC from Manager Military Diary Form (copy enclosed). He constructed a shop and installed electricity meter in his own name and given on rent basis to one Jehanzeb. After death father of clerk Shah Zaman he paid rent regularly and use to pay electricity bill by himself. His father has also paid tax to Excise & Taxation Deptt: Kohat.

C. The said land was obtained during the year,1973 by the father of Ex-Clerk Shah Zaman and started business, in the year,1988, he was constructed a shop also installed Electric meter in his own name. From the begaining till the purchase, both parties i.e. complainant & accused belongs to Kohat City and the owner of land never discussed/desired

ATTESTED

Regarding the ownership of disputed shop. According to the principal as well as domestic customs the owner of land was bound to coordinate with defaulter Clerk Shah Zaman for selling the alleged property, if he refused for it's purchasing or desire as owner of shop, than he sells someone. Beside this buyer of shop was also required to clear the documents before its purchase.

D. On 28.06.2018 the said shop purchased by one Noor Muhammad r/o Jungle Khel from Ajmal s/o Suliman r/o Kohat City cost of Rs.25,00000/-.

E. Ex-Clerk Shah Zaman has filed civil suit civil court Kohat in order to disown him. While Noor Muhammad has also filed civil suit against Shah Zaman in civil court. Both petitions are under trial in different courts.

F. The defaulting Clerk Shah Zaman in cross examination stated that the opponent party has produced solid evidence for his satisfactory, than he will ready for settlement of the issues.

G. General reputation of the defaulter Senior Clerk is not well in Police department.

H. The undersigned reached to the conclusion that Ex-Sr.Clerk Shah Zaman has not occupied/constructed the said shop but it was contributed him in the inheritance of his parent's. Beside this a civil suit is also under trial in the court of law, hence the charges against him could not be established, if agreed.

Enquiry report is submitted for kind perusal, please.

(Abdur Rasheed)
Superintendent Of Police
Investigation, Kohat

W/RPO, KOHAT

ATTESTED.

G - 17

POLICE DEPTT: **EGION**

ORDER.

This order will dispose of a departmental appeal, moved by Ex-Senior Clerk Shah Zaman of Investigation Wing, Hangu against the punishment order, passed by DPO Kohat vide OB No. 749, dated 27.06.2019 whereby he was awarded major punishment of dismissal from service for the allegations of illegally occupying property of one Lady Mst: Hazrat Begum.

He preferred an appeal to the undersigned upon which comments were obtained from DPO Kohat and his service record was perused. He was also heard in person on Orderly Room, held on 02.10.2019. During hearing, he pleaded that the case is civil in nature which is already under trial in the court of law.

In order to dig-out the real facts, the matter was re-enquired into through SP Investigation Wing, Kohat, who vide his detailed findings not found him guilty of the charges leveled against him.

I have gone through the available record and came to the conclusion that the allegations leveled against the appellant could not be established, but general reputation of the official is not good. However, taking a lenient view, the appellant Ex-Senior Clerk Shah Zaman of Investigation Wing, Hangu is hereby reinstated into service. The intervening period is treated as leave without pay. He is warned to be careful in future and reform his reputation and mend his ways.

Order Announced
02.10.2019

(TAYYAB HAFEEZ) PSP
Region Police Officer,
Kohat Region.

No. 8841-42/EC, dated Kohat the 8/10/2019.

Copy for information and necessary action to the DPO Kohat w/r to his office Memo: No. 13059/LB, dated 18.07.2019.

2. The SP Investigation, Hangu for information and necessary action. His service record containing 02 Service Books & Enquiry File (76-pages) is returned herewith for record.

R/SH,

Service Record Received on today 09-10-2019
SRC/Hqrs (H)

(TAYYAB HAFEEZ) PSP
Region Police Officer,
Kohat Region.

ATTESTED

H (18)

THROUGH PROPER CHANNEL.

THE HONORABLE INSPECTOR GENERAL OF POLICE, KHYBER PAKHTUNKHWA, PESHAWAR.

A. Review petition under rules 11(A) of the Police Rules 1975 (Amendment 2014) against the order of Worthy Regional Police Officer, Kohat Region Kohat order No. 8841-42/EC dated 03.10.2019 wherein the petitioner was re-instated in service but the intervening period was directed to be treated as leave without pay.

B. Partial modification of the order 03.10.2019 is requested and the intervening period may kindly be treated on duty/with all back benefits.

Respected Sir,

With due respect the petitioner may be allowed to submit the following for your kind and sympathetic consideration:-

Facts:

1. That the Petitioner is serving as Senior Clerk in the Police Department.

2. That presently the petitioner is posted in SP Investigation Office Hangu as Head Clerk.

3. That during posting of petitioner in the DPO Officer Kohat it was alleged that he was illegally interfering in property of Mst: Hazrat Begum widow of Suliman r/o Moh: Sakindar Khan Shaheed Kohat City. The District Police Officer, Kohat awarded punishment of dismissal from service vide order No. 7867-80/PA dated 28.06.2019. (Copy enclosed)

ATTESTED

4. That the petitioner filed an appeal against order before the Worthy Regional Police Officer, Kohat Region Kohat which was accepted vide order No. 8841-42/EC dated 03.10.2019. Whereas the intervening period was directed to be treated as leave without pay.

5. That the order of the Worthy Regional Police Officer, Kohat Region Kohat has aggrieved the petitioner to the extent of the intervening period directed to be treated as leave without pay hence the review petition.

6. The following are the grounds for the petitions.

Grounds:

A. That the order of Worthy Regional Police Officer, Kohat Region Kohat dated 03.10.2019, declaring the intervening period as leave without pay is without justification hence the order in question on is liable to be set-aside to the extent of intervening period directed to be treated as leave without pay.

B. That during enquiry before the District Police Officer, Kohat the petitioner very strongly contended that the matter was of **"civil nature"** therefore, it was not within the domain of the District Police Officer, Kohat.

C. That the enquiry officer also supported the plea taken by the petitioner and held the petitioner not guilty of the charges in his findings but even then the petitioner was awarded major punishment of dismissal from service.

D. That the petitioner has been further supported by the order of the Worthy Regional Police Officer, Kohat Region Kohat dated 03.10.2019, who was pleased to hold that the allegation leveled against petitioner could not be established.

ATTESTED

E. That if there was nothing against the petitioner then the petitioner could not be awarded any punishment.

F. That repetition of petitioner was not the subject matter of enquiry or appeal, hence, in the order of Worthy Regional Police Officer, Kohat Region Kohat reference to reputation of the petitioner was unwarranted.

G. That the remarks regarding reputation of the petitioner in the order of Worthy Regional Police Officer, Kohat Region Kohat have got no legal force in the eyes of law/rules.

H. That the petitioner still claim that he is absolutely innocent and no even like leave without pay, may be taken against the petitioner.

I. That the petitioner belongs to poor family. During the period of dismissal, for running his family affairs he borrowed money from different people who are now demanding the return of the amount.

K. That if the intervening period is not converted into leave with pay it is likely that the people from whom he borrowed money will damage the petitioner badly.

L. That the petitioner due to his financial position is not able to return the borrowed money to the owners.

M. That converting leave without pay in to leave with pay will safeguard the petitioner on one hand and the gesture of good will to the petitioner by the Police department on the other.

ATTESTED

21

N. If deemed proper the petitioner may also be heard in person.

PRAYER:

It therefore humbly prayed/requested that order of the Worthy Regional Police Officer, Kohat Region Kohat No. 8841-42/EC dated 03.10.2019 may kindly be modified to the extent of leave without pay and the directions may be issued that the intervening period of petitioner may be treated as leave with pay so that the petitioner is relieved from the financial tension once for all.

The petitioner will pray for your long life and prosperity for your this act of kindness.

Best Regards;

Yours Obediently,

(Shah Zaman Khan)
Head Clerk/Inv: Wing,
Hangu.

Date. 16-10-19

ATTESTED

OFFICE OF THE
INSPECTOR GENERAL OF POLICE,
CENTRAL POLICE OFFICE,
KHYBER PAKHTUNKHWA PESHAWAR

No. 2261-64 /E-V, dated Peshawar the 24/7/2020

ORDER

This order is hereby passed to dispose off the appeal dated 16.10.2019 preferre Shah Zaman Senior Clerk, he was awarded major punishment of "dismissal from service" by Dis Police Officer, Kohat vide Order OB No. 749 dated 27.06.2019 & re-instated into service by Regi Police Officer, Kohat vide Order No. 8841-42/EC dated 03.10.2019 and intervening period treate leave without pay, on the following grounds:-

> *"Mst. Hazrat Begum widow of Suleman has made a complaint against Senior Clerk Shah Zaman that he illegally interfere in her property, which shows gross misconduct on his part"*

He was called to OR on 16.07.2020, heard in person but he failed to advance plausible explanation in rebuttal of the charges, therefore, his appeal is rejected/filed.

SRC/Shah Zaman Clerk

(SALMAN CHOUDHRY) PSP
Deputy Inspector General of Police HQ
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar

Endst: No. & date even.

Copy forwarded to the:-

- Regional Police Officer, Kohat.
- District Police Officer, Kohat.
- Registrar CPO, Peshawar.
- Office Superintendent Secret Branch CPO Peshawar.

No. 8361-62 /EC

Seen / DPOs Karak & Kohat

For information & also inform the appellant concerned accordingly

Received today on 17-08-2020

Regional Police Officer
Kohat Region Ko

ATTESTED

No. 536 /PA

Dated 25/6/2019

REFERENCE ATTACHED

Subject: DENOVO DEPARTMENTAL ENQUIRY AGAINST SI MUHAMMAD AFZAL SHO PS CITY KARAK DISTRICT NOW KOHAT DISTRICT.

23

R/Sir

Kindly refer to your office Diary: No.816/PA, dated 03.06.2019.

BRIEF/ALLEGATIONS.

i. "Mst: Hazrat Begum widow of Suliman r/o Mohallah Shino Khel Kohat City has made complained against him that SI Muhammad Afzal SHO PS City Karak Distt: has illegally interfereance in her property and threatening for dire consequences which shows gross misconduct on his part".

PROCEEDINGS.

2. In order to dig-out the real facts, Mst: Hazrat Begum, Noor Muhammad , Clerk Shah Zaman, Faizan s/o Jehanzeb r/o Mohallah Haji Bahadar & SI Muhammad Afzal were called and their statements were got recorded as witnesses. Initial enquiry was conducted against the alleged SI Muhammad Afzal by Supdt: of Police Operation, Kohat.

3. Mst: Hazrat Begum stated therein that the said shop situated in Shino Khel is her owned. She sold the said property a sum of Rs.25,00000/- to one Noor Muhammad s/o Yar Muhammad r/o Jungle Khel on 28.06.2018 while the said shop occupied by Clerk Shah Zaman & his brother named Muhammad Afzal (SHO). Their brothers Razaq Patwari (retired) & Shah Zaman received rent of the shop. On 28.12.2018 " Had Barare of Khasra" No.1403 took place of the disputed area which is signed by Halqa Patwari, Gurdawar & Tehsildar.

4. During corss examination SI Muhammad Afzal neither threaten her nor came in Police Uniform.

5. Faizan s/o Jehanzeb Khan r/o Kohat City stated that he is running Barbar in the said shop last 05 years. Monthly rent paid to Shah Zaman Clerk Rs.3000/-. He further stated that prior to this the said shop was running as PCO by Clerk Shah Zaman. For long time the said shop is the property of Shah Zaman.

6. Noor Muhammad s/o Yar Muhammad r/o Jungle Khel stated that he bought the said shop from Mst: Hazrat Begum r/o Shino Khel on Rs.25,00000/-. The said property occupied by Clerk Shah Zaman. He received the rent of the shop regularly.

7. SI Muhammad Afzal (SHO) stated that the said shop was construc5ted by his late father before 35/36 years. Since that time rent of the shop is received and handed over to his mother. He has neither threatend Hazrat Begum nor he is any disputation with her. She considered the said shop her own property which is wrong. He further stated that he lived at KDA with his family separate from his brothers since 15-years. When "Had barare of the shop take place SI Muhammad Afzal was not present. A civil suit is under trial in the Court of Senior civil Judge, Kohat which is under process.

ATTESTED

Clerk Shah Zaman stated that before the construction of the shop his late father, there was a Diary Form Cannel which is also present now. His father also taken NOC from Dairy Form, Kohat & passed the map of the shop from Municipal Committee Kohat, record of the said shop is available in Excise & Taxation Office, Kohat also took copy of PT-1. Beside this Electric Meter is also registered in the name of his father (late) photocopies enclosed & Revenue record is also enclosed. He further stated that a Civil Suit is under trial in the Court of Senior Civil Judges-III, V & XII, Kohat and dated is fixed for hearing on 02.07.2019.

FINDINGS

A. Going through the all available record, enquiry papers and recorded statements :-

B. During cross examination Mst: Hazrat Begum stated that SI Muhammad Afzal (SHO) has neither threatened her nor came in Police Uniform.

C. It is worthwhile to mention here that the said shop constructed by his late father of SI Muhammad Afzal before 35/36 years ago. Revenue record is available with his brother Shah Zaman (photocopies enclosed).

D. It is a civil nature case and a civil suit is under trial in the Court of Senior Civil Judges-III, V & XII, Kohat and dated is fixed for hearing on 02.07.2019.

E. For the aforementioned reason, SI Muhammad Afzal is not found guilty of the charges, therefore he may be exonerated from the charges levelled against him.

Enquiry report is submitted for kind perusal, please.

(Abdur Rasheed)
Superintendent Of Police
Investigation, Kohat

W/DPO, KOHAT

ATTESTED

VAKALAT NAMA

NO._____/20

IN THE COURT OF KP Service Tribunal Peshawar

Shahzaman (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Police Deptt (Respondent)
(Defendant)

I/We, Shah Zaman

Do hereby appoint and constitute ***SYED NOMAN ALI BUKHARI Advocate High Court Peshawar,*** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/We authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/20

(CLIENT)

ACCEPTED

SYED NOMAN ALI BUKHARI
Advocate High Court Peshawar.

Uzma Syed
Advocate High Court

Cell: (0306-5109438)

6/10

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 9620/2020
Shah Zaman Senior Clerk ..... **Appellant**

VERSUS

Inspector General of Police,
Khyber Pakhtunkhwa & others .... Respondents

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1.	Parawise comments	-	1-3
2.	Affidavit	-	04
3.	Copy of FIR No. 453/2015 PS City	A	05
4.	Copy of judgment passed by Honorable Tribunal in service appeal No. 1138/2016	B	06-08
5.	Copy of order in de-novo inquiry at 12.04.2018.	C	09
6.	Coy of complaint against the appellant	D	10
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District Police Officer,
Kohat
(Respondent No. 4)

P-1

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 9620/2020
Shah Zaman Senior Clerk ..... **Appellant**

VERSUS

Inspector General of Police,
Khyber Pakhtunkhwa & others ..... Respondents

PARAWISE COMMENTS BY RESPONDENTS.

Respectively 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 has not approached the honorable Tribunal with clean hands.
v. That the appellant is estopped to file the instant appeal for his own act.

Facts:-

1. Pertains to record, however, the appellant is ill-reputed. The appellant while posted as senior clerk had issued a fake clearance certificate to one criminal namely Farhad Khan for which he was charged and arrested in case FIR No. 453 dated 23.04.2015 u/ss 420, 466, 468, 469, 471, 166, 167, 109, PPC Police station City, Kohat. The appellant while posted as service roll clerk / senior clerk in the office of respondent No. 4 willfully omitted the pension case of one head constable Rangeen Khan for which he was reverted from the rank of senior clerk to the rank of junior clerk by respondent No. 4 vide order dated 31.03.2015. However, on the directions of Honorable Service Tribunal vide judgment dated 13.11.2017 in service appeal No. 1138/2016, de-novo inquiry was initiated against the appellant which culminated into awarding a minor punishment vide order dated 12.04.2018. Copies of FIR, judgment of Honorable Tribunal and order are ***annexure A, B & C***.
2. Incorrect, the appellant indulged himself in illegal activity i.e forcibly grabbing of property of one Mst: Hazrat Begum, who filed a complaint against the appellant upon which a departmental inquiry was initiated against him under the relevant rules. Copy of complaint is ***annexure D***.

3. The allegation / charge leveled against the appellant established beyond any shadow of doubt, hence the respondents No. 4 passed a dismissal order of the appellant. The respondent No. 2 while disposing of departmental appeal of the appellant, reinstated him in service. but the intervening period is treated as leave without pay, **however, the appellant was warned to be careful in future and reform his reputation and mend his way**. Copy of order passed by respondent No. 2 is ***annexure E***.
4. The review petition of the appellant was processed by respondent No. 1, the appellant was heard in person but failed to advance plausible explanation in rebuttal of the charge, hence his appeal / revision petition was correctly rejected on merit by respondent No. 1. Copy is ***annexure F***.
5. The appellant is estopped to file the instant appeal for his own act.

Grounds:-

A. Incorrect, the appellant was proceeded with departmentally on the complaint of one Mst: Hazrat Begum in accordance with the relevant rules. The charge / allegation leveled against appellant was established beyond any shadow of doubt, hence the respondents have passed legal and speaking orders.

B. Incorrect, the appellant was associated with the departmental proceedings initiated by respondent No. 4 and he was afforded ample opportunity during the inquiry proceedings and in hearing of departmental appeals.

C. Incorrect, the inquiry officer held that the accused official / appellant has no good reputation in general public. It is added that the respondent No. 4 being competent authority is empowered to pass order as deem appropriate, hence the respondent No. 4 passed the impugned order on the basis of available record and previous conduct of the appellant.

D. Incorrect, after dismissal of the appellant he was not a civil servant and his visit to office during dismissal period is irrelevant. However, the intervening period is treated as leave without pay on the principle of **"No work no pay"**

E. The appellant was directly involved in dispossession of one Mst: Hazrat Begum from his property, hence he was proceeded with departmentally under the relevant rules.

F. The respondent No. 2 had taken a lienient view while disposing of his departmental appeal. **However, he was found ill-reputed and warned to be careful in future and reform his reputation and mend his way**.

G. Incorrect, the charge / allegation leveled against the appellant has been proved beyond any shadow of doubt.

H. Incorrect, all the proceedings were carried out against the appellant under the relevant law & rules.

I. Incorrect, subject to proof.

J. Each and every case has its own facts, circumstance and merit.

K. The appellant is ill-reputed, has in different service record, untrustworthy, previously involved in criminal case. He did not mend his way till date. Furthermore, the appellant had not served during the intervening period, hence he is not entitled financial back benefit.

L. The respondent may also be allowed to advance other ground the course of argument.

Prayer:-

In view of the above and previous conduct of the appellant, the appeal is devoid of merits, it is prayed that the appeal of the appellant may graciously be dismissed with costs

Regional Police Officer /
Dy: Inspector General of Police
Kohat Region, Kohat
(Respondent No. 2/3)

Inspector General of Police,
Khyber Pakhtunkhwa,
(Respondent No. 1)

District Police Officer,
Kohat
(Respondent No. 4)

P. 4

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 9620/2020
Shah Zaman Senior Clerk ..... **Appellant**

VERSUS

Inspector General of Police,
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.

Regional Police Officer /
Dy: Inspector General of Police
Kohat Region, Kohat
(Respondent No. 2/3)

Inspector General of Police,
Khyber Pakhtunkhwa,
(Respondent No. 1)

District Police Officer,
Kohat
(Respondent No. 4)

ATTESTED

Annex A. P. 5

پنجاب پولیس فارم نمبر [illegible]

ابتدائی اطلاعی رپورٹ

نمبر

(ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس [illegible]

تھانہ

ضلع

نمبر

تاریخ و وقت وقوعہ

تاریخ و وقت رپورٹ	[illegible]
نام و سکونت اطلاع دہندہ و مستغیث	[illegible]
مختصر کیفیت جرم (معہ دفعہ) و مال اگر کچھ لیا گیا ہو	[illegible]
جائے وقوعہ فاصلہ تھانہ سے اور سمت	[illegible]
نام و سکونت ملزم	[illegible]
کاروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا ہو تو وجہ بیان کرو۔	[illegible]
تھانہ سے روانگی کی تاریخ و وقت	[illegible]

ابتدائی اطلاع نیچے درج کرو

[illegible] SHO [illegible] اس وقت [illegible] 1296 [illegible] فرداد خان [illegible] ولد امانت علی [illegible] کی نسبت SHO تھانہ [illegible] رپورٹ طلب کی [illegible] 302/324/[illegible] مذکورہ فرداد خان دفعات بالا میں مطلوب [illegible] علاوہ 1076 سال 2013، علاوہ 183 سال 2011، علاوہ 289 سال 2013 [illegible] علاوہ 704 سال 2012 [illegible] فرداد خان [illegible] پولیس (Add) کردیا گیا۔ [illegible] فرداد خان اور [illegible] اور الیکشن میں [illegible] پولیس کو بدنام کرنے کے [illegible] بدست ابراہیم 1296 [illegible] SHO [illegible] 23/4/15 [illegible]

ASI / [illegible]
23/4/15

Annex-B
P.6

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUAL,PESHAWAR

Appeal No. 1138/2016

Date of Institution ... 01.11.2016

Date of Decision ... 13.11.2017

Shah Zaman, Junior Clerk (BPS-11)
District Police Office Kohat.

... (Appellant)

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa Peshawar, and 3 others.

... (Respondents)

MR. FAZAL SHAH MOHAMAND, Advocate --- For appellant.

MR. MUHAMMAD JAN, Deputy District Attorney ... For respondents.

MR. AHMAD HASSAN, ... MEMBER(Executive)
MR. MUHAMMAD HAMID MUGHAL ... MEMBER(Judicial)

JUDGMENT

AHMAD HASSAN, MEMBER.- Arguments of the learned counsel for the parties heard and record perused.

FACTS

2. The brief facts are that the appellant was serving as Senior Clerk in Police Department. An enquiry was conducted against him on the allegations of willful negligence and inefficiency and as a result thereof reverted to the post of Junior Clerk vide impugned order dated 31.03.2015. He preferred departmental appeal on 29.04.2015 which was rejected on 06.10.2016, hence, the instant service appeal.

ATTESTED
Khyber Pakhtunkhwa Service Tribunal, Peshawar

P.7

ARGUMENTS

3. Learned counsel for the appellant argued that disciplinary proceedings were initiated against him for not submitting the case of issuance of retirement order of Head Constable Rangeen Khan in time. After conclusion of inquiry major penalty of reversion from the rank of Senior Clerk BPS-14 to the post of Junior Clerk BPS-11 was imposed on him vide impugned order dated 31.03.2015. He preferred departmental appeal on 29.04.2014, but was rejected on 06.10.2016, hence, the instant service appeal. Inquiry was not conducted in the mode and manner prescribed in the rules. The impugned order is defective as time period required under F.R 29 has not been specified. No show cause notice was issued on the appellant prior to the imposition of major penalty. The appellant was made a scapegoat as other employees working in the branch were not proceeded departmentally.

4. On the other hand learned Deputy District Attorney argued that enquiry proceedings were conducted against the appellant in accordance with the spirit of Appeals Rules 1975 and penalty was imposed after observance of all codal formalities. The appellant was guilty of professional misconduct.

CONCLUSION.

5. Careful perusal of record would reveal that inquiry was not conducted in the mode and manner prescribed in the rules. No show cause notice was served on the appellant which is not only serious illegality but a valid ground to vitiate the entire disciplinary proceedings. Time period as required under F.R 29 was not specified in the impugned order, hence, the same is defective and not in accordance with law and rules. It is strange that other employees working in the concerned branch were not proceeded so treatment meted out to the appellant appears discriminatory.

ATTES

P. 8

Principles/para-meters laid down in Article-25 of the Constitution were not observed.

6. In view of the foregoing, we are constrained to accept the instant appeal and set aside the impugned order and the appellant is restored to his original position as Senior Clerk (BPS-14). The respondents are at liberty to conduct de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

SD/-
(AHMAD HASSAN)
MEMBER

SD/-
(MUHAMMAD HAMID MUGHAL)
MEMBER

ANNOUNCED
13.11.2017

Certified to be true copy
Registrar
Service Tribunal,
Peshawar

Annex-C
P 8

OFFICE OF THE
INSPECTOR GENERAL OF POLICE,
KHYBER PAKHTUNKHWA
CENTRAL POLICE OFFICE,
PESHAWAR.

No. 7511-15/E-V dated Peshawar the 15/12/2017.

ORDER

This order is issued in pursuance of the judgment of Service Tribunal Khyber Pakhtunkhwa, dated 13.11.2017, passed in Service Appeal No. 1138/2016. The brief, yet relevant facts of the case are that:-

Shah Zaman Junior Clerk, then Senior Clerk, District Kohat, was reverted to the rank of Junior Clerk from the rank of Senior Clerk vide orders No. 2125/E-V dated 31.03.2015 of Deputy Inspector General of Police, Headquarters CPO Peshawar, on charges of intentionally delaying pension case of Rangeen Khan Head Constable No. 229 leading to overstaying of the officer in department for two (02) months. His departmental appeal was rejected vide order No. 6208/E-V dated 06.10.2016 of CPO Peshawar.

He filed Service Appeal before Service Tribunal which was accepted vide order dated 13.11.2017 and the impugned order of reversion in rank was set aside. However, the department was allowed for de-novo enquiry proceedings. Foregoing in perspective, therefore in compliance with the judgment of the Service Tribunal, Khyber Pakhtunkhwa Peshawar Shah Zaman is restored to the rank of Senior Clerk from Junior Clerk for the purpose of de-novo enquiry to be conducted by Deputy Inspector General of Police E&I CPO, Peshawar.

-sd-
(SALAH-UD-DIN KHAN)PSP
Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar

Endst: No. & date even.

Copy of above is forwarded for information and necessary action to the:-

1. Deputy Inspector General of Police, E&I, CPO, Peshawar for conduct of de-novo enquiry.
2. Regional Police Officer, Kohat Region Kohat.
3. District Police Officer, Kohat with reference to his office memo No. 21142/LB dated 24.11.2017.
4. PSO to IGP Khyber Pakhtunkhwa, Peshawar.
5. Office Superintendent: E-V CPO, Peshawar with directions to submit the earlier inquiry file before Deputy Inspector General of Police, E & I CPO Peshawar.

(SHER AKBAR) PSP, S.St
DIG/HQrs:
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.
14.12.2017

P.D.
Ann: D

بخدمت جناب DPO صاحب کوہاٹ

No: 1491
Date: 19/11/18

درخواست ہمراہ قانونی کارروائی کرنے برخلاف شاہ زمان (برادرم افضل خان SHO) سکنہ شیو خیل کوہاٹ شہر

برخلاف

R-62
8.1.2019

بوجوہات ذیل:

جناب عالی: سائلہ ذیل عرض کرتی ہے۔

۱۔ یہ کہ سائلہ سابقہ کونسلر و سماجی کارکن کوہاٹ شہر ہے۔ سائلہ نے اپنی ذاتی ملکیتی دکان نمبر [illegible] سرسانی (مین) واقع نزد شیو خیل محلہ پر عبداللہ شاہ کوہاٹ نور محمد ولد یار محمد سکنہ شیو خیل کوہاٹ پر بعوض مبلغ پچیس لاکھ روپیہ فروخت کی ہے۔

۲۔ یہ کہ مذکورہ دکان/کھوکھا سائلہ کے بیٹے محمد افضل خان ولد سلیمان با قائمہ نور محمد مذکور کے نام بمطابق انتقال نمبر 23570 مورخہ 30-8-2018 بمد قبضہ [illegible] نام درج و تصدیق کیا گیا ہے۔ (نقل جملہ دستاویزات ہمراہ ہیں)

۳۔ یہ کہ مذکورہ دکان پر مسئول الیہ شاہ زمان اپنے بھائیوں SHO افضل خان و رزاق ریٹائرڈ پٹواری کی ایماء پر ناجائز طور پر قبضہ کرنے کے درپے ہے۔ جو کہ خلاف قانون ہے۔ اسلئے مسئول الیہ کو بیجا مداخلت سے باز رکھا جائے مطلوب ہے۔

۴۔ یہ کہ مسئول الیہ [illegible] شاہ زمان نہایت ہی بدزبان [illegible] قانون شکن شخص ہے۔ [illegible] سے تعلق [illegible] ہے۔ اسلئے سائلہ آپ جناب کو درخواست [illegible] مہربانی مسئول الیہ [illegible] مداخلت وغیرہ [illegible] ضابطہ کارروائی کی جائے مناسب ہے۔

لہٰذا استدعا ہے کہ [illegible] درخواست [illegible] فرمائیں [illegible] انصاف ہے۔

مورخہ 12-11-2018

عرضی

مسماۃ حضرت بیگم (سابقہ کونسلر/سماجی کارکن) بیوہ سلیمان سکنہ شیو خیل کوہاٹ شہر۔

محمد افضل ولد سلیمان سکنہ شیو خیل کوہاٹ شہر۔

Attested
Addl. PS City
17/12/18

SP (Ops)
Inquiry & Put up comment

DPO KOHAT

درخواست کنندہ نور محمد ولد یار محمد سکنہ جنگل خیل
0912020

G - 17 Policy "E" R 11

POLICE DEPTT: EGION

ORDER.

This order will dispose of a departmental appeal, moved by Ex-Senior Clerk Shah Zaman of Investigation Wing, Hangu against the punishment order, passed by DPO Kohat vide OB No 749, dated 27.06.2019, whereby he was awarded major punishment of dismissal from service for the allegations of illegally occupying property of one Lady Mst: Hazrat Begum.

He preferred an appeal to the undersigned upon which comments were obtained from DPO Kohat and his service record was perused. He was also heard in person on Orderly Room, held on 02.10.2019. During hearing, he pleaded that the case is civil in nature which is already under trial in the court of law.

In order to dig-out the real facts, the matter was re-enquired into through SP Investigation Wing, Kohat, who vide his detailed findings not found him guilty of the charges leveled against him.

I have gone through the available record and came to the conclusion that the allegations leveled against the appellant could not be established, but general reputation of the official is not good. However, taking a lenient view, the appellant Ex-Senior Clerk Shah Zaman of Investigation Wing, Hangu is hereby reinstated into service. The intervening period is treated as leave without pay. He is warned to be careful in future and reform his reputation and mend his ways.

Order Announced
02.10.2019

(TAYYAB HAFEEZ) PSP
Region Police Officer,
Kohat Region.

No. 8841-42/EC, dated Kohat the 3/10, 2019.

Copy for information and necessary action to the DPO Kohat w/r to his office Memo: No. 13059/LB, dated 18.07.2019.

2. The SP Investigation, Hangu for information and necessary action. His service record containing 02 Service Books & Enquiry File (76-pages) is returned herewith for record.

R/Sh,

Service Record Received on today 09-10-2019

(TAYYAB HAFEEZ) PSP
Region Police Officer,
Kohat Region.

Dy. No. 248

Ann F P. 1

P. 12

8351
6/X/2016

OFFICE OF THE
INSPECTOR GENERAL OF POLICE,
KHYBER PAKHTUNKHWA,
CENTRAL POLICE OFFICE,
PESHAWAR
Ph: 091-9210545 Fax: 091-9210927

No 6208 /E-V Dated Peshawar the 6—10 /2016

ORDER.

This order is hereby passed to dispose of departmental appeal under Rule 17 of Government Khyber Pakhtunkhwa Government Civil Servant (Efficiency & Discipline) Rules- 2011 submitted by Junior Clerk Shah Zaman. The Appellant while was posted in District Police Office, Kohat was awarded Major Punishment of Reversion from Senior Clerk (BPS-14) to Junior Clerk (BPS-11) by the Deputy Inspector General of Police, HQrs; Khyber Pakhtunkhwa, Peshawar vide Order Endst: No 2126-32/E-V Dated 31.03.2015. The grounds of his Reversion was that while he was posted as SRC in District Police Office, Kohat intentionally omitted to submit the Retirement case of Head Constable Rangeen Khan No 229 for the issuance of proper order with regard to his Retirement well in time. Due to his wilful negligence, carelessness and inefficient act, the said Head Constable over stayed in Department for one month and six days. Therefore, Departmental Enquiry was initiated against him.

He was issued Charge Sheet with Statement of Allegations and Mr. Mansoor Amean SP, Hqrs: was appointed as Enquiry Office to probe into the matter. The Enquiry Officer conducted proper Enquiry wherein Senior Clerk Shah Zaman was found guilty for not issuing the Retirement order of HC Rangeen Khan No 229 well in time being fallen such duty in his responsibility due to which the said HC performed his duty from 11.01.2014 to 06.03.2014 in Police Department. Therefore the Enquiry Officer recommended him for Major Punishment.

Similarly, in the light of recommendations of the Enquiry Officer, he was awarded Major Punishment of Reversion from Senior Clerk (BPS-14) to Junior Clerk (BPS-11) by the Competent Authority.

After awarding the above mentioned punishment of Reversion, the Petitioner went for an appeal to the next Appellate Authority for setting aside his punishment awarded to him by the Competent Authority.

In this connection, he was called in Orderly Room held on 29.09.2016 at CPO, Peshawar wherein the appellant was heard in person in detail but nd he failed to offer any plausible grounds/reason in his defense. Besides, the allegations/charges were also proved against him in the Departmental Proceedings. Hence, his appeal has no substance.

Keeping in view the position explained above, the Departmental Appeal submitted by the Junior Clerk Shah Zaman is hereby rejected/filed by the Appellant Authority.

-sd
MIAN MUHAMMAD ASIF PSP
Addl: IGP, Hqs:
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.

No 6209-17 /E-V Dated Peshawar the 6—10 /2016.

Copy of above is forwarded for information and necessary action to the:-

1. Additional Inspector General of Police, HQrs:, Khyber Pakhtunkhwa, Peshawar.
2. Deputy Inspector General of Police, Hqrs: Khyber Pakhtunkhwa, Peshawar.
3. Regional Police Officer, Kohat Region Kohat with reference to the his office Letter No 331011/EC Dated 07.05.2016.
4. PSO/PRO to Worthy Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
5. PA to Asstt: Inspector General of Police, Establishment, Khyber Pakhtunkhwa, Peshawar
6. Registrar, CPO, Peshawar.
7. Office Supdt: Secret, CPO, Peshawar.
8. Incharge Central Registry, CPO, Peshawar.

DPO Kohat
For information and inform the applicant please.

(NAJEEB UR REHMAN BUGVI) PSP
AIG, Estt:
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.