

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
CAMP COURT, SWAT.

Service Appeal No. 6873/2021

BEFORE: **MRS. ROZINA REHMAN** ... **MEMBER(J)**
MISS FAREEHA PAUL ... **MEMBER(E)**

Noor Islam son of Mati-ul-Haq R/O Kala Upper Dir, Ex-FC
 Constable, bearing No. 2299). (*Appellant*)

Versus

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Malakand, Swat.
3. District Police Officer, Dir Lower. (*Respondents*)

Syed Muhammad Sajjad,
 Advocate ... For appellant

Mr. Muhammad Jan,
 District Attorney ... For respondents

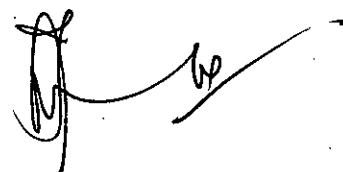
Date of Institution.....02.07.2021

Date of Hearing.....06.03.2023

Date of Decision..... 06.03.2023

JUDGEMENT

FAREEHA PAUL, MEMBER (E): The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the orders dated 19.06.2020, 03.11.2020 and 08.06.2021 whereby the appellant was removed from service. It has been prayed that on acceptance of the appeal, the impugned orders might be set aside and the appellant might be reinstated with all back benefits.



2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was appointed as constable in the year 2010. During the course of service, he was found absent from duty which resulted in his removal from service on 19.06.2020. Feeling aggrieved, he made few attempts of departmental representation but all in vain; hence the present appeal.

3. Respondents were put on notice who submitted written replies/comments on the appeal. We have heard the learned counsel for the appellant as well as the learned District Attorney for the respondents and perused the case file with connected documents in detail.

4. Learned counsel for the appellant presented the details of the case and argued that inquiry officer had not fulfilled the codal formalities. The appellant had not been afforded a proper opportunity to narrate his absentia and he was penalized in a haphazard manner. He further argued that mere absence for a little period did not make justification to award major punishment of removal from service. He requested that the appeal might be accepted as prayed for.

5. The learned District Attorney while rebutting the arguments of the learned counsel for the appellant argued that the appellant remained absent from his lawful duty without seeking permission from his high ups w.e.f. 18.11.2019 till his dismissal from service on 19.06.2020. He was issued charge sheet alongwith statement of allegations and Mr. Fakhar



Alam, DSP (Investigation) was appointed as enquiry officer. During the course of enquiry, the appellant was informed time and again to join the proceedings but he did not bother to attend the office of the enquiry officer. The learned District Attorney further informed that statements of his father, other police officials and locals were available on the inquiry file. After fulfillment of all the codal formalities and scrutiny of the previous record of the appellant, numerous absentees were found and the enquiry officer recommended him for major punishment. The competent authority agreed with the recommendations of enquiry officer and removed the appellant from service vide order dated 19.06.2020. He further argued that the departmental representation of appellant was rightly filed, being groundless and requested that the service appeal might be dismissed.


6. The appellant while serving in provincial police got himself absent from duty without informing his competent authority for which he was proceeded against and resultantly removed from service. Record and arguments presented before us transpire that the appellant frequently absented himself from his duty for which he was proceeded against by his competent authorities from time to time. In the case under reference in the present service appeal, the appellant absented himself for which an inquiry was conducted. Two statements given by the father of the appellant, attached with the inquiry report, are worth mentioning, according to which the appellant has some psychological problems for



which he is under treatment for quite a long time. According to his father, the appellant has abusive attitude towards his family and that he is not ready to leave his home to perform his official duty. Another important point noted during the proceedings is that the absence from official duty has been admitted by the appellant and that he never submitted any application for seeking leave from his competent authority. Record presented before us transpires that it was not the first time that he absented himself from his lawful duty, rather he had frequently done it before also for which minor penalties were awarded to him at various occasions. It is an undisputed fact that police is a disciplined force and proper procedure for leave is given in the police rules which need to be followed strictly in letter and spirit. Any deviation from those rules tantamounts to misconduct and hence is liable to be punished.

7. In view of the above discussion, the appeal in hand is dismissed. Parties are left to bear their own costs. Consign.

8. *Pronounced in open court at camp court, Swat and given under our hands and seal of the Tribunal this 06th day of March, 2023.*


(FARZEHA PAUL)
Member (E)
(Camp Court, Swat)


(ROZINA REHMAN)
Member (J)
(Camp Court, Swat)


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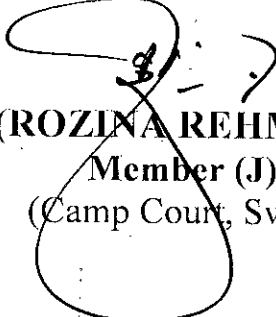
06th Mar. 2023

Syed Muhammad Sajjad Advocate for the appellant present. Mr. Muhammad Jan, District Attorney for the respondents present. Arguments heard and record perused.

2. Vide our detailed judgment consisting of 04 pages, the appeal in hand is dismissed. Parties are left to bear their own costs. Consign.

3. *Pronounced in open court at camp court, Swat and given under our hands and seal of the Tribunal this 06th day of March, 2023.*


(FARIHA PAUL)
Member (E)
(Camp Court, Swat)


(ROZINA REHMAN)
Member (J)
(Camp Court, Swat)