

of the appellant in criminal case was also a ground on which he had been dismissed from service and the said ground had subsequently disappeared through his acquittal, making him re-emerge as a fit and proper person entitled to continue his service. It is established from the record that charges of his involvement in criminal case ultimately culminated in honorable acquittal of the appellant by the competent court of Law. In this respect we have sought guidance from 1988 PLC (CS) 179, 2003 SCMR 215 and PLD 2010 Supreme Court, 695.

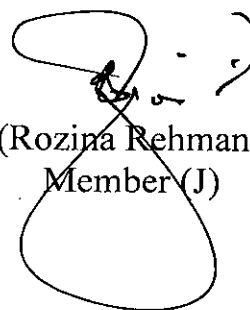
7. For the above mentioned facts and circumstances, this appeal is allowed as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

27.02.2023



(Kalim Arshad Khan)
Chairman



(Rozina Rehman)
Member (J)

that the order passed by Additional Inspector General of Police dated 11.09.2018 would further clarify stance of the appellant. Though the inquiry file was not produced before this bench however the same has been mentioned by the learned AIG of Police in his order dated 11.09.2018. The same is hereby reproduced for ready reference:

- “1. *No malafide intention was found in misplacement of ACRs. Head of the Investigation, Tank was asked to prepare fresh ACRs and resubmit which has already been done.*
2. *The main accused Computer Operator Rahat Ullah & Shahid in their statements, neither accused petitioner their accomplice nor pointed out receiving of authority letter from him.*
3. *Photocopy of the authority letter having signatures of the petitioner and fresh signature were sent to FSL for matching but the Director FSL did not confirm the signatures on the documents and asked for original letter signed by him which was not provided because the Judicial file was with the competent court. At this stage signatures does not serve the purpose, thus evidence of his involvement with the perpetrators of the crime is not conclusive and benefit of doubt can be given to him.*
4. *The petitioner having long service of 38 years and is due for retirement on superannuation in the year 2021.”*

Keeping in view the evidence, the major punishment of dismissal from service was converted into minor punishment of with-holding of two annual increments with cumulative effect. Now on one hand there is no cogent evidence which could connect the appellant with the commission of crime while on the other hand he was once again awarded minor punishment. There is no cogent evidence on record and the appellant has already been acquitted in the criminal case by a competent court of law. It has been held by the superior fora that all acquittals are certainly honorable. There can be no acquittal which may be said to be dishonorable. Nomination/Involvement

admitted. Moreover, his guilt was further authenticated by his alleged over writing/cutting in the Dispatch Register.

- ii. As reported by the DPO Charsadda that on 12.04.2017 Constable/Computer Operator Rahat Ullah No. 42 of Investigation Unit alongwith Driver Shahid Khan were nabbed by local police of P.S Mandani at Jamal Abad Check Post while both of them were boarded in a suspected vehicle No. CB-401, Red Colored and 2007 Model. They did not produce any registration documents of the said vehicle except one authority letter duly signed and officially stamped by Mr. Karim Ullah, Stenographer Investigation Unit CPO. However, in the said authority letter the chassis number of the vehicle in question was mentioned incorrect. The vehicle has been taken into possession and both the persons were arrested U/S 54-Cr.PC vide Daily Diary No.18 dated 12.04.2017.”*

For the purpose of inquiry SP Abdur Rasheed and SP Iftikhar-Ud-Din were appointed as Inquiry Officers/Inquiry Committee. Final show cause notice was served upon the appellant and consequently he was awarded major punishment of dismissal from service on 03.08.2018. Criminal case was registered against the present appellant and Challan was submitted in competent court of Law and vide order dated 25.01.2020 of the learned Judicial Magistrate-II Tangi (Charsadda) the present appellant was acquitted alongwith co-accused U/S 249-A Cr.PC. After earning acquittal, he filed review petition before the Provincial Police Officer Khyber Pakhtunkhwa which was rejected vide order dated 26.08.2020. It merits a mention here

requirements were not fulfilled. He, therefore, requested for acceptance of the present service appeal.

5. Conversely, learned District Attorney submitted that appellant while posted as stenographer investigation unit, CPO, Peshawar misplaced ACRs of the executive staff of investigation unit District Tank and in order to defuse the charge of misplacing of ACRs made cutting/overwriting in the dispatch register. He also manipulated a fake authority letter for facilitating smuggling of non custom paid vehicles. He was, therefore, proceeded against departmentally. He further submitted that he was proceeded against on the charges of misplacing ACRs, tempering with dispatch register and manipulating bogus authority letter for facilitating smuggling of non custom paid vehicles. Lastly he submitted that he was punished after completion of all codal formalities.

6. After hearing the learned counsel for the parties and going through the record of the case with their assistance and after perusing the precedent cases cited before us, we are of the opinion that appellant is serving as Stenographer in the investigation unit, Central Police Office Khyber Pakhtunkhwa. There were allegedly two charges against the appellant. As per statement of allegations, he rendered himself liable to be proceeded against for the following acts/omission:

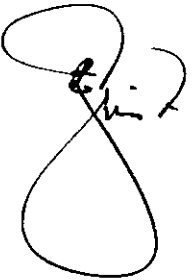
"i. As reported by preliminary inquiry officer in his Finding that Head of Investigation Tank submitted the ACRs of Executive Staff of Investigation Wing Tank for the year 2015 and the same ACRs have been misplaced by Stenographer Karimullah which he



2. Brief facts of the case are that appellant is serving in police department as stenographer. During his service he was charged in a criminal case vide FIR No. 89 dated 14.04.2017 registered at P.S Mandani, District Charsadda U/S 419, 420, 468 PPC. He was served with charge sheet alongwith statement of allegations which was properly replied. Final show cause notice was issued right after submission of reply to the show cause notice and the matter was filed but again in the year 2018 another show cause notice was issued to the appellant and his services were terminated on 03.08.2018. He preferred a departmental appeal which was partially accepted and minor punishment of withholding of two annual increments was imposed upon him. The appellant was acquitted by the competent court of law vide order dated 25.01.2020. He therefore, filed departmental appeal against the order dated 11.09.2018 which was dismissed; hence the present service appeal.

3. We have heard Haq Nawaz Khan, Advocate learned counsel for the appellant and Muhammad Jan, learned District Attorney for respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Haq Nawaz Khan Advocate, learned counsel for the appellant submitted that the act commission and omission of the respondents by way of withholding of two annual increments with cumulative effect and the period remained out of service treated as leave without pay is illegal, against law and facts thus liable to be set aside. He submitted that the impugned order is against the verdict of august Supreme Court of Pakistan as the order was passed without adopting proper procedure and that codal



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.10745/2020

Date of Institution ... 14.09.2020

Date of Decision ... 27.02.2023

Karim Ullah Stenographer of Investigation Unit, Central Police Office (CPO),
Khyber Pakhtunkhwa, Peshawar.

... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa, through Chief Secretary, Civil
Secretariat, Peshawar and two others.

... (Respondents)

Haq Nawaz Khan
Advocate

... For appellant.

Muhammad Jan
District Attorney

... For respondents.

Mr. Kalim Arshid Khan
Mrs. Rozina Rehman

... Chairman
... Member (J)

JUDGMENT

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

**“That on acceptance of this appeal, the impugned orders
dated 11.09.2018 and 26.08.2020 may very graciously be set
aside and the respondents may please be directed to restore
the annual increments to the appellant.”**

