


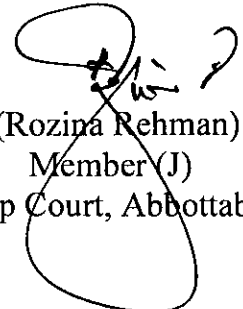
Department. Copy of inquiry report was provided with and proper final show cause notice was issued in accordance with Khyber Pakhtunkhwa Police Rules, 1975. Reply was submitted by the appellant, where-after, punishment of removal from service was awarded to the appellant vide OB No.284 dated 20.12.2019 by District Police Officer, Abbottabad.

7. In view of the circumstances of the case, we do not find any viable reason to interfere in the impugned order. Resultantly, this appeal having no substance is dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.

27.03.2023


(Muhammad Akbar Khan)
Member (E)
Camp Court, Abbottabad


(Rozina Rehman)
Member (J)
Camp Court, Abbottabad

“As per DD No.18 dated 22.04.2014 of PS Nawansher, you FC Ahmed Waqas No.1421 alongwith FC Shakeel No.1071 and FC Mubashir Ali No.509, have beaten one Arsalan and his family and also taken a sum of Rs.4200/-, one gold ring and one mobile (Qx6) from them, which is a gross misconduct on your part.”

For the purpose of scrutinizing the conduct of the said accused official with reference to the above allegations, one Shams Ur Rehman, Additional SP was deputed to conduct formal inquiry against the accused officials. The inquiry report is available on file which shows that Police officials including the present appellant were given proper opportunity of defense. A compromise was also effected with the complainant of the case i.e. Arsalan which was the result of pressure upon complainant. The complainant was admittedly tortured by all the three ex-police officials and they compelled the complainant for compromise later on. The complainant in his own statement clearly submitted that Rs.4200/- was returned by Mubashir Ali and Shakeel after lodging report while present appellant returned Rs.2000/- before the registration of Nakalmaid. Similarly, gold ring and mobile was also returned. He admitted compromise, however right from stoppage of the complainant Arsalan till snatching of different articles from his possession is also proved from the record. It is astonishing as to why criminal case under PPC was not registered against all the three police officials and the same was also mentioned by the Additional SP Legal on the report of Arsalan vide Nakalmaid No.18 that a criminal case under PPC and Police Order be registered against the Police officials. The matter was tried to be patched up but the complainant narrated the entire story which happened at the hilltop of the Ilyasi Mosque. All the codal formalities were complied with by the respondents. The matter was remitted by this Tribunal to the

namely Arsalan and his family and also took Rs.4200/-, one gold ring and a mobile phone from them. He submitted that the acts and omissions of the appellant were gross misconduct, therefore, he was issued charge sheet alongwith statement of allegations and the matter was properly investigated in departmental inquiry, wherein, appellant was held guilty. He submitted that the acts of the appellant were stigma on Police Force and a gross misconduct under the law, therefore, after fulfillment of all codal formalities, he was awarded major punishment of removal from service according to law.

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 one Arsalan son of Muhammad Javed reported the matter vide Mad No.18 of Daily Dairy dated 22.04.2014; that he alongwith his family and fiancé were present in the Ilyasi Mosque for recreation, where he went to the hilltop alongwith his fiancé when in the meanwhile a Police Constable alongwith two others stopped him for search who beat him and snatched Rs.2000/- from him while Rs.2200/- and a gold ring from his fiancé besides a mobile phone (QX6) alongwith sim from him. His report was accordingly recorded and all the three Police Officials i.e. appellant Ahmed Waqas, Mubashir Ali and Shakeel were held responsible for the said act. Admittedly, Constable Shakeel is dead now while Ahmed Waqas the present appellant and Mubashir Ali have filed two separate service appeals. They both were issued charge sheet alongwith statement of allegations for the following acts and omissions within the meaning of Police Disciplinary Rules 1975:



departmental appeal which was rejected, hence, the present service appeal.

3. We have heard Zulfiqar Ahmad Advocate, learned counsel for the appellant and Asad Ali, learned Assistant Advocate General for respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Zulfiqar Ahmad Advocate, learned counsel for the appellant argued inter-alia that action of the respondents was based on malafide intention from the very beginning as they controverted and almost finalized the matter in shape of compromise into that of dismissal of appellant from service. He contended that the Inquiry Officer intentionally overlooked the statement of complainant of the case who had failed to substantiate his allegations from any forum. Learned counsel submitted that the order passed by the respondents is wrong, illegal, against law and facts as the appellant was not treated according to law. It was argued that no impartial inquiry was conducted and despite admission of the complainant and his early statement that the report was lodged on some misunderstanding, the appellant was dismissed in the early round of litigation which was later on converted into removal of the appellant from service. He submitted that the Regional Police Officer did not take into consideration the true facts and relied upon the controverted inquiry report, therefore, the order was based on surmises and conjunctures and that the order of removal from service is illegal, without lawful authority being the result of misreading and non-reading of evidence, hence, liable to be set aside.

5. Conversely, AAG argued that appellant alongwith other Police officials were deputed on Police guard at Ilyasi Top, beat a citizen



he was detailed for patrol duty at Ilyasi Mosque. Three army men came into the tent of guard and informed them regarding the presence of a couple who were busy in objectionable acts and they desired that the couple should be asked and interrogated. They being on patrol duty, found that person in a hidden place and asked for his identity who disclosed his name as Arsalan and became annoyed over such query and went away. Later on, they were informed that the person had lodged a report in PS Nawanshehr stating therein that he was on visit of Ilyasi Mosque alongwith his fiancé when stopped by a Constable alongwith two others whom he could identify, searched him, beat him and took a sum of Rs.2000/-, mobile alongwith sim as well as Rs.2200/- and gold ring from his fiancé. Copy of the report was sent by Nawanshehr Police which matter was later on compromised, however, departmental action was recommended against the appellant and two other Constables. The complainant Arsalan had given written statement to the Police that he had lodged the report on the basis of some misunderstanding and clarified that the Police Constables had not taken any money from him and his fiancée. Disciplinary action was initiated against all the Constables by issuing them charge sheet alongwith statement of allegations. Inquiry Officer was appointed and after issuance of final show cause notice, major punishment of dismissal from service was awarded. He preferred departmental appeal which was not considered and it was filed, where-after, a service appeal was filed which was disposed of with the directions to the respondents to provide a copy of inquiry report to the appellant while issuing final show cause notice afresh within a period of not longer than 60 days. After the receipt of copy of judgment and after codal formalities, major punishment of removal from service was awarded to the appellant. He preferred

Arsalan?

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR
AT CAMP COURT, ABBOTTABAD

Service Appeal No. 7620/2021

Date of Institution ... 03.06.2020
Date of Decision ... 27.03.2023

Ahmed Waqas S/O Muhammad Siddique R/O Mohallah Muhammad Zai,
Nawanshehr Tehsil and District Abbottabad Ex. Constable # 1061 District
Abbottabad.

... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Home & Tribal
Affairs Department, Peshawar and three others.

... (Respondents)

Zulfiqar Ahmad,
Advocate

... For appellant.

Asad Ali,
Assistant Advocate General

... For respondents.

Mrs. Rozina Rehman

...

Member (J)

Mr. Muhammad Akbar Khan

...

Member (E)

JUDGMENT

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

**“On acceptance of instant appeal the orders of
respondents No.2 and 3 may kindly be set aside and the
penalty imposed upon the appellant may also be set aside
and any further proceedings in consequence of impugned
orders may also be set aside being unlawful and against
the settled norms of justice.”**

2. Brief facts of the case are that appellant was appointed as
Constable in the Police Department on 21.01.2008. On the eventful day,

