

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

**Service Appeal No. 1414/2021**

**BEFORE:** ROZINA REHMAN --- MEMBER (J)  
MUHAMMAD AKBAR KHAN --- MEMBER (E)

Riaz Khan ASI No. 231/H, presently posted at District Haripur.  
..... (*Appellant*)

**VERSUS**

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. District Police Officer, Abbottabad..... (*Respondents*)

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**Present:-**

MUHAMMAD ASLAM TANOLI,  
Advocate --- For Appellant.

ASAD ALI KHAN,  
Assistant Advocate General --- For respondents.  
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Date of Institution.....21.01.2021  
Date of Hearing.....27.03.2023  
Date of Decision.....27.03.2023

**JUDGMENT.**

**MUHAMMAD AKBAR KHAN, MEMBER(E):-** The instant service appeal has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as under;

*“On acceptance of instant service appeal both the impugned orders dated 24.04.2019 and 27.11.2020 of the respondents may graciously be set aside and appellant be restored one year forfeited service with all back benefits.”*

02. Brief facts of the case are that the appellant while posted as Investigation Officer at Police Station Nawansher, was proceeded against on the charges of misconduct and was awarded minor punishment of forfeiture of one year service vide order dated 24.04.2019. Feeling aggrieved, the appellant filed departmental appeal on 07.05.2019, which was rejected vide order dated 27.11.2020 and communicated to the appellant on 21.12.2020, hence the instant service appeal instituted on 21.01.2021.

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 arguments of learned counsel for the appellant and learned Assistant Advocate General and have gone through the record with their valuable assistance.

04. Learned counsel for the appellant stated that the appellant while posted as Investigation Officer at Police Station Nawansher was entrusted the Investigation of Case FIR No. 664 dated 06.10.2018 U/S 506/427/34 PPC registered with PS Nawansher, wherein 04 accused were charged. He further argued that the appellant has not conducted any investigation in the case because the accused were on bail before arrest and before deciding the fate of their BBA, the appellant was transferred from PS Nawansher to Bakote and the investigation was carried out by the successor of appellant namely Zubair Khan, ASI, therefore, the appellant has been wrongly awarded the penalty of forfeiture of one year service without any fault of the appellant; that the appellant has not been treated in accordance with law, as such the respondents violated Article 10-A of the Constitution; that no inquiry has been conducted by the respondent department; No chance of

personal hearing has been afforded to the appellant before issuing the impugned order. Learned counsel for the appellant has contended that the impugned orders dated 24.04.2019 and 27.11.2019 are against law, facts and norms of natural justice, hence not tenable and are liable to be set aside.

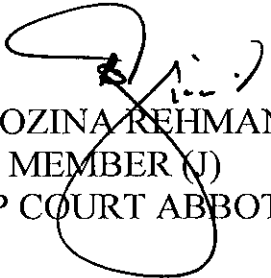
05. Learned Assistant Advocate General on behalf of respondents has contended that the appellant while posted at Police Station Nawansher, Abbottabad, being Investigation Officer in case FIR No. 664 dated 06.10.2018 U/S 506/427/34 PPC Police Station Nawasher, left certain lacunas during the investigation and the said act was reported being misconduct; that the appellant was proceeded against on such charges and was awarded penalty of forfeiture of one year approved service vide order dated 24.04.2019; that the appellant was issued proper charge sheet/statement of allegation and final show cause notice and Mr. Abdul Aziz Khan Afridi SP Investigation, Abbottabad was appointed as inquiry officer, who conducted inquiry and submitted his findings; that proper opportunity of personal hearing was afforded to the appellant, but the appellant failed to adduce any defence; that in light of findings of the inquiry report, the appellant was awarded appropriate punishment.


06. Scrutiny of the inquiry proceedings reveals that all codal formalities have been observed including order of inquiry, issuance of charge sheet statement of allegations, show cause notice and personal hearing of the appellant. However the inquiry officer, the competent authority and the appellate authority completely ignored or for that matter failed to appreciate the tangible defense ground of the appellant that he could not complete the investigation due to the fact that the accused had obtained BBA from the

competent court of law and before deciding the matter of BBA by the court he was transferred to another Police Station. As such the inquiry was carried out and completed by his successor after decision of the court on the BBA wherein bail of two accused was confirmed and bail was recalled in respect of two other accused charged in the FIR. Because of his transfer no opportunity was available for him to rectify and complete the investigation. The deficiencies as indicated in the charge sheet and statement of allegations against the appellant were rectified and complete challan presented in the court by his successor as is evident from the findings of the inquiry report.

07. In view of what has been stated in Para-6 above, we are constrained to accept the instant appeal and the orders dated 24.04.2019 and 27.11.2020 are, therefore, set aside. Consign.

08. *Pronounced in open court at camp court Abbottabad and given under our hands and seal of the Tribunal this 27<sup>th</sup> day of March, 2023.*

  
(ROZINA REHMAN)  
MEMBER (J)  
CAMP COURT ABBOTTABAD

  
(MUHAMMAD AKBAR KHAN)  
MEMBER (E)  
CAMP COURT ABBOTTABAD