

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

Service Appeal No.1152/2018

Date of Institution ... 05.07.2018  
Date of Decision ... 07.04.2023

Mr. Rehmat Ali, Ex-Constable/No.500 Capital City Police, Peshawar.

... (Appellant)

**VERSUS**

The Superintendent of Police Headquarters, Khyber Pakhtunkhwa,  
Peshawar and two others.

... (Respondents)

Syed Noman Ali Bukhari,  
Advocate

... For appellant.

Asif Masood Ali Shah,  
Deputy District Attorney

... For respondents.

Rozina Rehman

... Member (J)

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 the acceptance of this appeal, the order dated  
18.03.2016, 16.05.2016 and 15.11.2016 may please be set  
aside and the appellant may be reinstated into service  
with all back and consequential benefits.”**

2. Brief facts leading to filing of the instant appeal are that  
appellant was appointed as Constable in 2006. He was serving as  
Traffic Warden Peshawar when in the meanwhile, he was implicated in  
case FIR No.327 dated 04.05.2015 registered at Police Station  
Charsadda U/S 411 PPC. He was charge sheeted on the basis of above



mentioned FIR and was dismissed from service vide order dated 18.03.2016. He preferred departmental appeal which was rejected. He then filed revision U/S 11-A of the Khyber Pakhtankhwa Police Rules, 1975 which was also rejected. He was acquitted by a competent court of Law vide judgment dated 17.01.2018. He, therefore, filed departmental appeal after earning acquittal which was not responded to, hence, the present service appeal.

3. We have heard Syed Noman Ali Bukhari Advocate learned counsel for the appellant and Asif Masood Ali Shah learned Deputy District Attorney for the respondents and have gone through the record and the proceedings of the case in minute particulars.

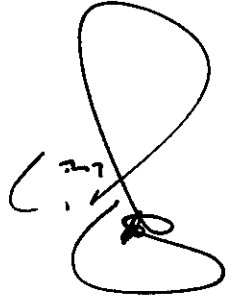
4. Syed Noman Ali Bukhari Advocate, learned counsel for appellant, inter-alia, contends that the impugned orders are against law, facts, norms of justice and material on record. He contended that after earning acquittal from the charges, there is no ground remained to punish the appellant, hence, he is eligible to be reinstated. Learned counsel submitted that the impugned order is sheer violation of Articles-4 & 25 of the Constitution of Islamic Republic of Pakistan , 1973; that due to impugned order and harsh view of the respondents, the appellant and his family suffered a lot. Further submitted that no chance of personal hearing was provided to the appellant and the codal formalities were not fulfilled before passing of impugned order which is liable to be set aside. Lastly, he submitted that the appellant was not treated according to law. He, therefore, requested for acceptance of the instant service appeal.



5. Conversely, learned Deputy District Attorney submitted that the appellant has tainted service record and was also previously dismissed from service on account of his involvement in a criminal case. He contended that appellant while posted as Traffic Warden, Peshawar was proceeded against departmentally on the charges of involvement in a criminal case. He was issued charge sheet with statement of allegations and SDPO Faqir Abad was appointed as Inquiry Officer. Lastly, he submitted that after fulfillment of all codal formalities, he was awarded major punishment of dismissal from service by SP Headquarters, Peshawar, according to law.

6. From the record it is evident that while posted as Traffic Warden Peshawar, appellant Rehmat Ali was found involved in criminal case vide FIR No.327 dated 04.5.2015 at Police Station Prang, Charasadda U/S 411 PPC. The impugned order would reveal that he was involved in case FIR No.200 dated 05.04.2015 of Police Station Mandani and was dismissed from service, however, he was reinstated in service which is evident from the record. So far as involvement in case FIR No.327 is concerned, he was charge sheeted on the allegation of involvement in criminal case. In order to scrutinize his conduct, ASP Faqir Abad was appointed as Inquiry Officer. The inquiry report is available on file. As per procedure of the inquiry, the appellant, Ex-Constable Rehmat Ali was called and in view of his statement, major punishment was recommended. No witness was examined during the inquiry proceedings in presence of appellant. Appellant was not given any opportunity of defense. A reference of an old case FIR No.200 dated 15.04.2015 was given. However, appellant was reinstated in

The inquiry report clearly shows that the appellant was recommended for major punishment due to persistent involvement in such like cases. The inquiry was not conducted strictly in accordance with law as no cogent reasons were advanced by the Inquiry Officer in order to show nexus of the accused official with stolen property. Order of the competent court of law is available on file vide which appellant was acquitted from the charges leveled against him vide case FIR No.327 dated 02.06.2015. The order of the learned Judicial Magistrate-IV Charsadda dated 17.01.2018 is available on file vide which application submitted U/S 249-A of Cr.P.C was accepted and the present appellant/accused official was acquitted of the charges leveled against him. It is for the respondent Department to wait for the conclusion of trial but neither the competent authority nor the appellate authority waited for the conclusion of trial. Further, he clearly mentioned in his appeal before DIG/RPO to reinstate him till the decision of criminal case but his request was not considered and his appeal was rejected. Lastly, he was acquitted on 17.01.2018, however, attested copies of the order were provided with on 10<sup>th</sup> February, 2018. Where-after, he filed proper departmental appeal on 08.03.2018 which is well within time. 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. Involvement of the appellant in the criminal case was the sole 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.




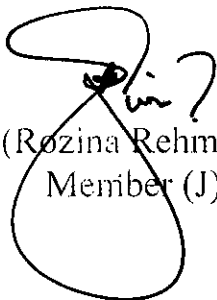
7. It is established from the record that charges of his involvement in the criminal case ultimately culminated in honorable acquittal of the appellant by the competent court of Law. In this respect we have sought guidance from 1988 PLC (CS) 179, 2003 SCMR 215 and PLD 2010 Supreme Court, 695 and judgments rendered by this Tribunal in Service Appeal No.1380/2014 titled Ilam Nawaz Vs. Police Department; Service Appeal No.616/2017 titled Muntaz Ali Vs. Police Department; Service Appeal No.863/2018 titled Fateh-ur-Rehman Vs. Police Department; Service Appeal No.1065/2019 titled Naveed Gul Vs. Police Department and Service Appeal No.12098/2020 titled Ali Imran Vs. Police Department.

8. For what has gone above, the appeal at hand is accepted. Consequently, the impugned order of imposition of penalty with disciplinary proceedings wherefrom it resulted, are set aside and the appellant is reinstated into service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

07.04.2023

  
(Muhammad Akbar Khan)  
Member (E)

  
(Rozina Rehman)  
Member (J)

\*Mutazem Shah\*