

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 647/2022

Date of Institution ... 28.04.2022  
Date of Decision ... 21.03.2023

Qaisar Shah S/O Muslim Shah, (Ex-Constable No.996) R/O Street Pir  
Muslim Shah, Mohallah Sedal Khan, P.O Jungle Khel Kohat.

... (Appellant)

**VERSUS**

Government of Khyber Pakhtunkhwa, through Secretary Home, Civil  
Secretariat Peshawar and three others.

... (Respondents)

Hassan U.K Afridi,  
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 this Service Appeal, the impugned  
orders, may kindly be set aside and the appellant may  
please be reinstated with all back benefits.”**

2. Brief facts of the case are that appellant was appointed as  
Constable on 06.04.2007. He performed his duties honestly and to the  
best satisfaction of the authorities. During service he was charged in a  
fake case of narcotics vide FIR No.457 dated 31.07.2020 of Police  
Station Bilitang Kohat. He was arrested and put to trial. In the  
meanwhile, charge sheet and statement of allegation was issued to the



5. Conversely, learned AAC argued that appellant alongwith co-accused were directly charged and arrested in a narcotics case vide FIR No.457 dated 31.07.2020. He submitted that being a member of disciplined force, appellant committed a gross misconduct, hence, the competent authority initiated disciplinary proceedings against him under the Khyber Pakhtunkhwa Police Rules, 1975. He submitted that charges leveled against the appellant culminated into his dismissal from service for acceptance of the instant service appeal.

4. Hassan UK Afridi Advocate, learned counsel for the appellant argued inter-alia that impugned orders are against law, illegal and not tenable as appellant was not treated in accordance with law and rules; that no proper regular inquiry was conducted and that the allegations leveled against the appellant never proved. He submitted that no show cause notice was issued to the appellant before awarding the harsh penalty and that no opportunity of defense was afforded to the appellant. Learned counsel further submitted that the appellant was also acquitted of the charges leveled against him in case FIR No.457 dated 31.07.2020 but even then, he was not reinstated into service. He, therefore, requested

3. We have heard Hassan UK Afridi 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. rejected, hence, the present service appeal.

however punishment of dismissal from service was converted into the compulsory retirement. He filed revision petition which was also service on 02.12.2020. He filed departmental appeal which was rejected, appellant and inquiry was conducted and appellant was dismissed from

and that the major punishment was awarded after fulfillment of all codal formalities, however, the appellate authority by taking a lenient view, converted the major punishment of dismissal into compulsory retirement from service. He, therefore, requested for dismissal of the instant service appeal.

6. From the record, it is evident that vide FIR No. 457 dated

31.07.2020, the present appellant Qaisar Shah alongwith four others namely Jamshaid Khan, Sadig Imran, Ishiaque and Khan Nawaz were charged for 5050 grams of Charas. Each accused was charged for keeping 1010 grams Charas. For the purpose of scrutinizing the conduct of accused official, SP Operation Kohat was appointed as Inquiry Officer and his report is available on file. As per inquiry report, the present appellant Qaisar Shah No.996 was found not involved in narcotics but even then, major punishment was awarded to him. The appellant alongwith four others also faced trial in case FIR No.457 and vide judgment of the learned Additional Sessions Judge, Kohat/Judge Special Court dated 28.09.2022 the appellant alongwith other four accused were


acquitted of the charges leveled against them. 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 of the appellant in 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. 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

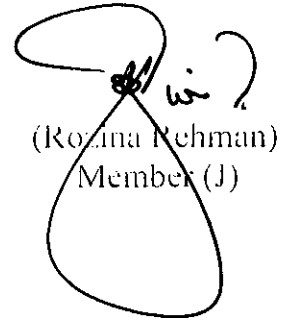
respect we have sought guidance from 1988 PLC (CS) 179, 2003 SCMR 215 and PLD 2010 Supreme Court, 695.

7. For 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.

21.03.2023

  
(Muhammad Akbar Khan)  
Member (E)

  
(Rozina Pehman)  
Member (J)