

3rd Feb, 2023

Clerk of learned counsel for the appellant present. Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

Lawyers are on strike, therefore, case is adjourned. To come up for arguments on 11.05.2023 before D.B. Office is directed to notify the next date on notice board as well as on the website of the Tribunal.

SCANNED
POST
Peshawar



(Muhammad Akbar Khan)
Member (E)



(Kalim Arshad Khan)
Chairman

10.11.2022

Appellant alongwith counsel present.

Naseerud Din Shah, learned Assistant Advocate General for the respondents present.

SCANNED
KPST
Peshawar

Entire record of inquiry proceeding is not available on file, therefore, respondents are directed to produce the requisite record on the date fixed. Adjourned. To come up for production of record as well as arguments on 06.12.2022 before D.B.

(Fareeha Paul)
Member (F)
(Fareeha Paul)
Member (E)

(Rozina Rehman)
Member (J)
(Rozina Rehman)
Member (J)

06th Dec. 2022

Counsel for the appellant present. Mr. Muhammad Jan, District Attorney alongwith Mr. Shirin Zada, DEO(M) and Mr. Hidayat Ullah, ADEO for respondents present.

SCANNED
KPST
Peshawar

Representative of the respondents submitted application for submission of complete record alongwith copies of record. Record placed on file. To come up for arguments on 03.02.2023 before the D.B.

(Fareeha Paul)
Member(Executive)

(Kalim Arshad Khan)
Chairman

13.07.2022

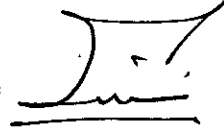
Appellant in person present.

Mr. Muhammad Raziq H.C alongwith Mr. Naseer Ud Din Shah, Assistant Advocate General for respondents present.

Appellant requested for adjournment on the ground that his counsel is busy before the august Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 18.10.2022 before the D.B. One.



(Rozina Rehman)
Member (J)



(Salah-Ud-Din)
Member (J)

18.10.2022

Junior to counsel for appellant present.

Kabir Ullah Khattak, learned Additional Advocate General for respondents present.

Former made a request for adjournment as senior counsel for appellant is busy before Peshawar High Court, Peshawar; granted. To come up for arguments on 10.11.2022 before D.B.



(Fareeha Paul)
Member(E)




(Rozina Rehman)
Member (J)

20.10.2021

Appellant with counsel present.

Mr. Kabirullah Khattak, Additional Advocate General for respondents present..

Due to paucity of time arguments could not be heard. Adjourned. To come up for arguments 06.01.2022 for arguments before D.B.



(ATIQU UR REHMAN WAZIR),
MEMBER (E)


(ROZINA REHMAN)
MEMBER (J)

06.01.2022

Clerk to counsel for the appellant present. Mr. Muhammad Rasheed, DDA for the respondents present.

Clerk to counsel for the appellant requested for adjournment on the ground that his counsel is not available today, due to general strike of the bar. Adjourned. To come up for arguments before the D.B on 10.03.2022.


(Atiq-ur-Rehman Wazir)
Member(E)

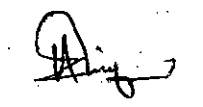

Chairman

10-03-2022

Due to retirement of the Honorable Chairman the case is adjourned to come up for the same as before on 5-5-2022

9-5-2022

Due to Holidays of Eid ul Fitar case is adjourned to come up for the same as before on 13-7-2022

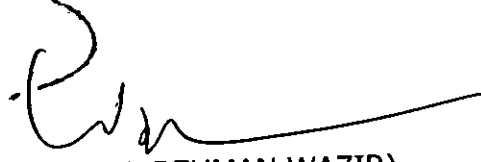

Reader


Reader

01.07.2021

Learned counsel for the appellant present. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

We being Members of Larger Bench, remained busy in hearing arguments in the appeals fixed before the Larger Bench, therefore, arguments in the instant appeal could not heard. Adjourned. To come up for arguments before the D.B on 20.10.2021.


(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

~~01.07.2021~~

~~Learned counsel for the appellant present.~~

~~Muhammad Adeel Butt, Additional Advocate General for the respondents present.~~

~~respondents present.~~

~~Arguments could not be heard as the members of the~~

~~larger bench were busy in hearing arguments before the D.B.~~

~~D.B.~~

~~(ATIQ-UR-REHMAN WAZIR)
(MEMBER)~~

~~(SALAH-UD-DIN)
(MEMBER)~~

~~Due to absence of the Honorable
Chairman the case is adjourned to come
up for the next date on 20-10-2021~~

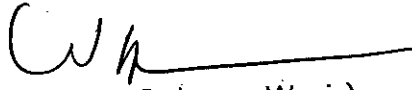
~~Atiq-ur-Rehman Wazir
Member (Executive)~~

20.11.2020

Appellant in person present.

Muhammad Jan learned Deputy District Attorney for respondents present.

Former made a request for adjournment as his counsel is not available. Adjourned. To come up for arguments on 12.01.2021 before D.B.


(Atiq ur Rehman Wazir)
Member (E)


(Rozina Rehman)
Member (J)


12.01.2021

Nemo for appellant. Addl: AG alongwith Mr. M. Raziq, H.C for respondents present. Due to pandemic of Covid-19, the case is adjourned to 31.03.2021 for the same.

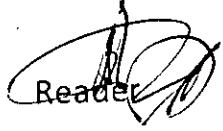

Reader

31.03.2021

Due to non-availability of concerned D.B, The case is adjourned to 01.07.2021 for the same as before.


Reader

_____ .2020 Due to COVID19, the case is adjourned to
12/8 /2020 for the same as before.



Reader

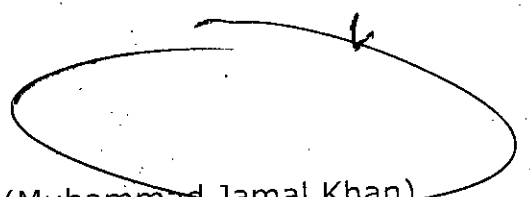
12.08.2020 Due to summer vacations case to come up for the same on
15.10.2020 before D.B.


Reader

15.10.2020 Appellant in person alongwith Mr. Saifullah Khalil,
Advocate, are present. Mr. Kabirullah Khattak, Additional
Advocate General alongwith representative of the
department Mr. Muhammad Raziq, Head Constable, are also
present.

Learned Additional Advocate General informed the
bench that they have made requisition for retrieval of
relevant record but that has not been received so far and
requested for adjournment so that the deficiencies in record
is made up. The request is appropriate, the case is
adjourned to 20.11.2020 on which to come up for arguments
before D.B.


(Atiq-ur-Rehman Wazir)
Member (Executive)


(Muhammad Jamal Khan)
Member (Judicial)

19.03.2020

Appellant in person present. Addl: AG alongwith Mr. M. Raziq, Reader for respondents present. Due to general strike on the call of Peshawar Bar Council, the case is adjourned. To come up for arguments on 20.05.2020 before D.B.

A handwritten signature in black ink, consisting of a large, stylized 'M' followed by a diagonal stroke and a small star-like mark.

(MAIN MUHAMMAD)
MEMBER

A handwritten signature in black ink, consisting of the letters 'M' and 'A' written in a cursive style.

(M.AMIN KHAN KUNDI)
MEMBER

30.12.2019

Appellant with counsel present. Mr. Riaz Khan Paindakhel learned Assistant Advocate General for the respondents present.

The appeal was fixed for rejoinder and arguments but counsel for the appellant stated that after conducting de-novo inquiry on the direction of this Tribunal the major penalty of dismissal from service was converted in the major penalty of compulsory retirement vide order dated 28.06.2018 by the competent authority. It was further contended that the appellant filed departmental appeal on 04.07.2018 but the same was not decided within the statutory period by the departmental authority hence the present service appeal. It was further contended that after institution of the present service appeal the departmental authority has decided/dismissed the departmental appeal vide order dated 15.10.2018 therefore, he requested that the appellant may be allowed to challenge the impugned order as well as departmental authority order dated 15.02.2019 through amendment appeal. Learned Assistant Advocate General expressed no objection by filling an amendment appeal. The request of the learned counsel for the appellant is allowed. Adjournedg. To come up for amendment appeal on 14.02.2020 before D.B.



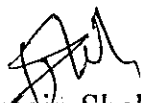
(Hussain Shah)
Member



(M. Amin Khan Kundi)
Member

14.02.2020

Appellant in person present. Mr. Kabirullah Khattak learned Additional AG for the respondents present. Appellant seeks adjournment as his counsel is not available today. Adjourned. To come up for further proceedings/arguments on 19.03.2020 before D.B.



(Hussain Shah)
Member



(M. Amin Khan Kundi)
Member

06.09.2019

Petitioner alongwith counsel and Mr. Usman Ghani District Attorney alongwith Muhammad Raziq, H.C for the respondents present.

The reply on behalf of respondents No. 2, 3 and 4 is already placed on record. Learned counsel for the appellant states that in the circumstances reply/comments on behalf of respondent No. 1 are not essential.

To come up for arguments before a D.B on 08.11.2019. The record of Appeal No. 433/2016 decided on 01.03.2018 shall also be made available on next date of hearing. The appellant may furnish rejoinder, within a fortnight, if so advised.


Chairman

08.11.2019

Appellant with counsel present. Mr. Zia Ullah learned Deputy District Attorney present. Learned counsel for the appellant seeks adjournment in view of decision of departmental appeal of the appellant, ~~dated~~ on 15.10.2018. Adjourn. To come up for further proceedings/arguments on 30.12.2019 before D.B.


Member


Member

26.04.2019

Appellant in person and Addl. AG alongwith Muhammad Raziq, H.C for the respondents present.

Representative of respondents requests for adjournment. Adjourned to 19.06.2019 on which written reply/comments shall positively be submitted.


Chairman

19.06.2019

Mr. Wali Muhammad, son of the appellant, on behalf of the appellant and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Muhammad Raziq, Head Constable for the respondents present. Written reply on behalf of respondents not submitted. Representative of the department requested for further adjournment. Adjourned but as a last chance. Case to come up for written reply/comments on 12.07.2019 before S.B.


(Muhammad Amin Khan Kundi)
Member

12.07.2019

Counsel for the appellant and Addl. AG alongwith Muhammad Raziq, H.C for the respondents present. Learned AAG requested for adjourned. To come up for written reply on 06.09.2019 before S.B.


Member

1227/2018

04.2.2019

Appellant in person and Addl. AG for the respondents present.

Learned AAG states that the requisite reply/comments are in the process of preparation and will be positively submitted on next date. Adjourned to 27.03.2019 before S.B.


Chairman

27.03.2019

AIA Clerk to counsel for the appellant present. Written reply not submitted. Salman H.C representative of the respondent department present and seeks time to furnish written reply/comments. Granted. To come up for written reply/comments on 26.04.2019 before S.B.


Member

~~27.03.2019~~

~~(Clerk to counsel for the appellant present. Written reply not submitted. Salman H.C representative of the respondent department present and seeks time to furnish written reply/comments. Granted. To come up for written reply/comments on 26.04.2019 before S.B.)~~

~~Member~~

13.12.2018

SCANNED
KPS
Peshawar

Counsel for the appellant Sultan Muhammad present. Preliminary arguments heard. It was contended by the learned counsel for the appellant that the appellant was serving in Police Department as Constable, he was removed from service vide order dated 29.04.2015 on the allegation of his involvement in criminal case as well as absence from duty. It was further contended that the appellant filed Service Appeal which was partially accepted vide judgment dated 06.03.2018, the appellant was reinstated in service and the respondent-department was directed to conduct de-novo inquiry against the appellant and the competent authority converted the major penalty of dismissal from service into major penalty of compulsory retirement vide order dated 28.06.2018. It was further contended that the appellant filed departmental appeal on 04.07.2018 but the same was not responded hence, the present service appeal. It was further contended that neither the appellant was provided opportunity of personal hearing and defence nor any show-cause notice was issued to the appellant before passing of impugned order therefore, the impugned order is illegal and liable to be set-aside.

Appellant Deposited
Security & Process Fee

The contention raised by the learned counsel for the appellant needs consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days, thereafter, notice be issued to the respondents for written reply/comments for 04.02.2019 before S.B.

MA

Muhammad Amin Khan Kundi
Member

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 1227 /2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	08/10/2018	<p>The appeal of Mr. Sultan Muhammad presented today by Mr. Saifullah Khalil Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR 2/10/18</p>
2-	9-10-18	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>26-10-2018</u>.</p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>
	26.10.2018	<p>Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 13.12.2018.</p> <p style="text-align: right;"><i>[Signature]</i> Reader</p>

BEFORE THE HONOURABLE SERVICES TRIBUNAL KHYBER

PAKHTUNKHWA, PESHAWAR

Services Appeal No. 1227 /2018

SULTAN MUHAMMAD

VERSUS

Govt of Khyber Pakhtunkhwa etc

INDEX

S.No	Description	Annexure	Pages
1.	Grounds of appeal		1-8
2.	Affidavit		8
3.	Addresses of parties		9
4.	Copy of order dated 04/05/2015 and departmental appeal	A, B	10-13
5.	Copy of order dated 01/03/2018	C	14-16
6.	Copy of order dated 28/06/2018	D	17
7.	Copy of appeal	E	18-20
8.	Wakalat nama		21-22

Appellant

Through

SAIF ULLAH KHALIL (SENIOR

Advocate, High court Peshawar

Cell # 0300 5941431

Office Address: - Zabeel Palace Hotel, G.T. Road, Peshawar

BEFORE THE HONORUABLE SERVICES TRIBUNAL KHYBER

PAKHTUNKHWA PESHAWAR

Services appeal No. _____/2018

SULTAN MUHAMMAD NO. FC 1141, son of Haji Fazal Mehmood
resident of Regi Malakandher, Peshawar

... APPELLANT

VERSUS

1. Government of Khyber Pakhtunkhwa, Peshawar through secretary Home and Tribal Affairs Department.
2. Inspector General of Police, Peshawar.
3. Chief Capital City Police Peshawar.
4. Superintendent of Police Head Quarter, Peshawar.

... RESPONDENTS

APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICES TRIBUNAL ACT 1973 AGAINST
THE ORIGINAL ORDER OB NO. 2141, DATED
28/06/2018, THROUGH WHICH THE APPELLANT HAS
BEEN COMPULSORILY RETIRED FROM SERVICE WITH
IMMEDIATE EFFECT AND THEREAFTER THE APPELLANT
FILED DEPARTMENTAL APPEAL ON 04/07/2018 VIDE
DIARY NO. 450 CCP PESHAWAR UPON WHICH THE
DEPARTMENT REMAINED MUM AND DID NOT DECIDE
THE SAME

PRAYER:

ON ACCEPTANCE OF THIS APPEAL BOTH THE
IMPUGNED ORDERS MENTIONED ABOVE MAY
VERY KINDLY BE SET ASIDE AND THE APPELLANT
MAY VERY KINDLY BE RE-INSTATED / RESTORED
IN SERVICE ALONG WITH ALL BACK BENEFITS

Respectfully Sheweth,

With due respect it is stated :-

1. That the appellant has joined police services on 17/12/1991 as F.C with No. 1141, and since then serving police department to the entire satisfaction of the seniors.
2. That during service the appellant was involved by his enemies in certain false, concocted and bogus criminal cases including FIR No. 72 dated 14/04/2014 U/s 302 / 341 PPC, FIR No.74 dated 15/04/2014 U/S 392/41 PPC both registered in P.S University Campus and FIR No. 110 dated 28/03/2014 U/S 324 / 34 PPC P.S Regi.
3. That the appellant was arrested in all the above cases and remained behind the bars since his acquittal in case FIR No. 72 acquitted on 19/10/2017 and in FIR No. 74 acquitted on 17/11/2015.
4. That during this process the appellant was dismissed from service vide order OB No. 1725 dated 04/05/2015 which

3

was impugned by the appellant through departmental appeal but the same was dismissed vide no. 793-98 dated 30/03/2016 (Copy of order dated 04/05/2015 and departmental appeal are annexure A & B respectively).

5. That both the above orders were impugned by the appellant before the KPK Services Tribunal who accepted the appellant appeal vide order dated 01/03/2018 and set aside both the orders above and the departments was directed to conduct denovo inquiry against the appellant (Copy of order dated 01/03/2018 is attached as annexure C).
6. That after conducting fresh inquiry the appellant was compulsory retired from service vide order dated 28/06/2018 (Copy of order dated 28/06/2018 is annexure D).
7. That against the above order the appellant filed departmental appeal vide diary no. 450 CCP Peshawar dated 04/07/2018 which is not yet decided and as the statutory period for the said appeal has been expired therefore the appellant filed the instant appeal before this Honourable Tribunal. (Copy of appeal is annexure E).
8. That the appellant has been condemned unheard and no opportunity of hearing has been provided to the appellant.
9. That no evidence has been recorded nor statement of the appellant has been recorded by the inquiry officer.

10. That no show cause notice nor statement of allegation nor any charge sheet, nor any final show cause notice has been given to the appellant prior to the passing of the impugned order dated 28/06/2018.
11. That the impugned order dated 28/06/2018 is against the law and fact because the appellant has already been acquitted by the competent courts and all the above criminal cases which become the base of the entire departmental proceedings.
12. That the appellant is the only source of income of his family as such cannot be deprived from his service on the basis of mere surmises, conjectures, assumption and presumptions.
13. That the appellant has been awarded double penalty i.e. on one hand compulsory retirement from service, while on the other hand period of absence has been counted without pay, which is not admissible under the law.
14. That the legal formalities have not been observed before passing the impugned order dated 28/06/2018 as such the entire proceedings is nullity in the eyes of law and the impugned order needs to be set aside on all the grounds mentioned above.

15. That the appellant having no other alternate remedy filed the instant appeal before this Honorable Tribunal inter alia: -

GROUNDS: -

- A. That both the impugned orders are against the law and facts, cannon of natural justice, hence liable to be set aside.
- B. That the appellant has been condemned unheard as no opportunity of personal hearing is given to the appellant by the respondents and on this score along both the impugned orders needs to be set at naught.
- C. That the appellant has an unblemished service record and has served the department to the entire satisfaction of his superiors, neither is involved previously in any criminal case, nor remained absent from his services, nor has received any adverse remarks throughout his services.
- D. That unfortunately the appellant was charged in the above false and concocted criminal cases by his opponents with whom the appellant has land dispute and the opponents have also murdered the brother of the appellant, for which criminal trial is pending against the opponents.
- E. That the appellant has been enroped in the above false and concocted cases by opponents of the appellant with the intention to deprive the appellant and his family members from their services and properties.

- F. That as the appellant himself surrendered before the local police in the above criminal cases and as such the appellant was sent behind the bars and for the same reason the appellant could not continue with his services.

- G. That the appellant was proceeded in his absence and the impugned orders NO. 1725, dated 04/05/2015 and No. 793-98, dated Peshawar the 30/03/2015 of Superintendent of police Head Quarters Peshawar was passed against the appellant ex-part through which the appellant was dismissed from his service without any plausible cause.

- H. That before issuance of impugned order, the appellant was not served upon with any show cause notice, statement of allegations, charge, neither any publication has been made against the appellant, nor the appellant has been contacted in central jail Peshawar through superintendent jail, and as such the appellant has been condemned unheard, which is not only against the law, but is also against the golden principles of Natural justice.

- I. That the appellant is also not associated with the inquiry proceedings and the same is conducted in the absence of appellant.

- J. That the appellant has been acquitted in all the criminal cases registered against him.

- K. That absence of the appellant from his duty was not willful but was due to the unavoidable circumstances mentioned above as such the impugned orders are liable to be set aside on this sole score.

L. That keeping in view the above law and facts, the appellant is entitled for re-instatement in his services along with all back benefits, keeping in view the facts that the impugned order of dismissal is totally against the law and facts, hence liable to be set aside.

M. That the appeal in hand as well as departmental appeal is within time.

N. That other points be raised at the time of arguments with the permission of this Honorable Court.

It is, therefore, most humbly prayed that on acceptance of this appeal both the impugned orders mentioned above may very kindly be set aside and the appellant may very kindly be reinstated in service along with all back benefits.

Dated: 06/10/2018



Appellant

Through

SAIF ULLAH KHALIL (SENIOR)

Advocate, High Court Peshawar

CERTIFICATE:

Certified that no such like appeal has earlier been filed before this Honorable Court.



Advocate

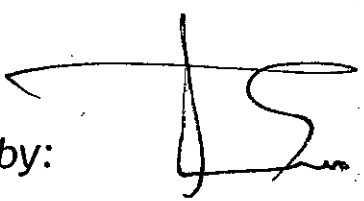
BEFORE THE HONOURABLE SERVICES TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

Services Appeal No. _____/2018

SULTAN MUHAMMAD
VERSUS
Govt of Khyber Pakhtunkhwa etc

AFFIDAVIT

I, SULTAN MUHAMMAD NO. FC 1141, son of Haji Fazal Mehmood resident of Regi Malakandher, Peshawar do hereby solemnly affirm and declare on oath that the contents of the instant appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.



Identified by:
Saif Ullah Khalil (Sr),
Advocate, High Court Peshawar



Deponent

~~ATTESTED~~
Anwar Zeb Advocate
Oath Commissioner
Peshawar
6-10-18



BEFORE THE HONOURABLE SERVICES TRIBUNAL KHYBER

PAKHTUNKHWA, PESHAWAR

Services Appeal No. _____/2018

SULTAN MUHAMMAD

VERSUS

Govt of Khyber Pakhtunkhwa etc

ADDRESSES OF PARTIES

ADDRESS OF APPELLANT:

SULTAN MUHAMMAD NO. FC 1141, son of Haji Fazal Mehmood
resident of Regi Malakandher, Peshawar

ADDRESSES OF RESPONDENTS:

1. Government of Khyber Pakhtunkhwa, Peshawar through
secretary Home and Tribal Affairs Department.
2. Inspector General of Police, Peshawar.
3. Chief Capital City Police Peshawar.
4. Superintendent of police Head Quarter, Peshawar

Appellant

Through

SAIF ULLAH KHALIL (SENIOR)

Advocate, High court Peshawar

(10) 23

ANX - "A"

ORDER

This office order relates to the disposal of formal departmental enquiry against Driver Constable Sultan Muhammad No.1141 of Capital City Police Peshawar on the allegations that he while posted at Police Lines, Peshawar involved in criminal cases vide FIR No.72 dated 14.04.2014 u/s 302-PPC & FIR No.74 dated 15.04.2014 u/s 392/341-PPC PS University Campus.

In this regard, he was placed under suspension vide OB No.1774 dated 28.05.2014 & issued charge sheet and summary of allegations vide No.102/E/PA/SP/H.Qrs, dated 02.06.2014. SDPO Rural was appointed as Enquiry Officer. He conducted the enquiry proceedings and submitted report that the defaulter official is a criminal Police official and involved in heinous cases. He is not fit for Police force. The E.O further recommended major punishment for the delinquent official vide Enquiry Report No.2104/ST dated 27.08.2014.

Upon the finding of E.O, he was issued final show cause notice & delivered to him through Jail authorities which received by himself & replied vide letter No.7489/ASH dated 15.09.2014. His reply found un-satisfactory.

Therefore, the opinion of DSP Legal was sought. "He opined that the enquiry may be disposed off in light of the recommendation of E.O as the accused official being involved in offence u/s 392/341-PPC. The authority is not bound to keep the enquiry pending till the decision of the court".

Similarly, another appeal of accused official was received through Jail authorities vide letter No.8645/ASH dated 02.10.2014 which was again marked to DSP Legal for further opinion. The DSP Legal opined that the plea of innocence he added that he has falsely been dragged in the aforesaid case as real culprits of the case have been arrested and stolen property were recovered from their possession. He further reported that appeal of the accused official may be sent to Investigating Officer (OII) of the case and if found genuine, then fate of the enquiry may be left at the mercy of court decision"

The appeal along with enquiry file was sent to OII of the cases. He was directed to submit detailed report in light of DSP Legal opinion. He provided a report wherein stated that all the accused of the case u/s 392/341-PPC have been arrested and challaned.

After that DSP Legal opinion was again sought. He opined that "the enquiry may be disposed off in light of the material available on record & recommendation of E.O."

In light of the recommendations of E.O, DSP Legal opinion & other material available on record, the undersigned came to conclusion that the alleged official found guilty in the above criminal cases. Therefore, he is hereby dismissed from service under Police & Disciplinary Rules-1975 with immediate effect.

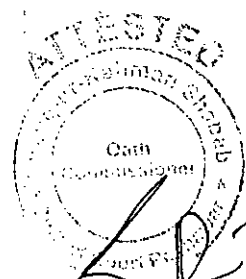
SUPERINTENDENT OF POLICE
HEADQUARTERS, PESHAWAR

OB. NO. 1725 / Dated 4/5 /2015

No. 1517-23/PA/SP/dated Peshawar the 29/4/2015

Copy of above is forwarded for information & n/action to:

- ✓ Capital City Police Officer, Peshawar.
- ✓ DSP/HQrs, Peshawar.
- ✓ Pay Office, OASI, CRC & FMC along-with complete departmental file.
- ✓ Officials concerned.



Attested
[Signature]

20-04-16

11

ANX-B

The Capital City Police Officer,
Peshawar.

Subject: -

Application for withdrawal of termination
order of the petitioner from service.

ir,

It is submitted as under:

That the petitioner was serving as constable in
Police Department and posted at Police Lines,
Peshawar.

That the petitioner was arrested in un-trace
cases as well as a murder case.

That the petitioner in all un-trace cases has
been granted bail while in murder case the
petitioner is in jail and the case is under trial.

That in murder case; the petitioner has neither
been convicted nor he is guilty of the offence
but inspite of these facts, the petitioner has
been dismissed from service vide order No.
1725 dated 4/5/15.

That the petitioner is in jail, and therefore,
could joint/ contest the enquiry proceedings
and an ex-parte order has been passed against
the petitioner.

Attested
LS



Signature
2-4-16

That no opportunity of personal hearing or
defence was provided to the petitioner.

~~26~~ (VU)

It is, therefore, requested that dismissed order of the petitioner may kindly be withdrawn and the petitioner be re-instated in service with all benefits.

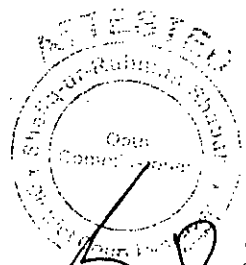
Dated: -4/7/15

Petitioner



Sultan Muhammad, 1141
Driver constable No. ~~441~~,
Police Lines, Peshawar,
At present Central Jail,
Peshawar.

L.F.I
Attested.
6/7/15



S. R.
20-04-16

Attested
[Signature]



(15)

OFFICE OF THE CAPITAL CITY
POLICE OFFICER
PESHAWAR

~~Amir J~~

ORDER.

This order will dispose off departmental appeal filed by ex-driver constable Sultan Mohammad No.1141 against the punishment order Dismissal from Service passed by the competent authority vide O.B No. 725 dated 4.5.2015.

Short facts behind the instant appeal are that the appellant was proceeded departmentally on the charge of involvement in two criminal cases registered against him vide FIR No.72 dated 14.04.2014 u/s 302 PPC, FIR No.74 dated 15.04.2014 u/s 392/341 PPC PS University Campus Peshawar and case vide FIR No.110 dated 28.3.2014 u/s 324/34 PPC PS Regi. SDPO Suburb was appointed to conduct proper departmental enquiry into the allegations. The enquiry officer after conducting detailed enquiry into the matter recommended the appellant for major punishment. On receipt of finding of E.O, the competent authority issued him final show cause notice which was served upon him to which he submitted his reply but his reply was found un-satisfactory, therefore he was awarded the major punishment of Dismissal from service vide order dated 4.5.2015.

Enquiry record was thoroughly examined, and the available record does not doubt or shatter the integrity of the enquiry officers and there does not exist any irregularity, having been occasioned during the course of enquiry proceedings. "Moreover, the Apex court in appeal C.F No.507-P, 508-P of Mumtaz Khan and Bahader Khan Constables of this district has held that the criminal and departmental proceedings are of different nature, requiring different standards of proof and acquittal in criminal case on the same fact would not ipso facto lead to exoneration of a civil servant in departmental proceedings."

Previous service record of the appellant was also perused, which reveals appellant's attitude towards performance of Government duty is lack luster as previously he has been discharged from service on the charge of absence from duty vide OB No.226 dated 19.3.1992 and earned several bad entries. His persistent involvement in criminal cases has injured reputation of the discipline force. The whole career of the officer shows that he is having a blotter record and his retention in force would not prove fruitful.

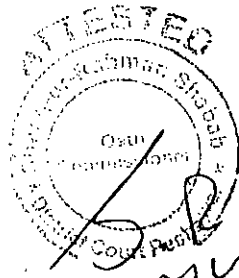
In circumstances, the under-signed find no cause and grounds to interfere; therefore departmental appeal filed by Ex-constable Sultan Mohammad No.1141 is filed.


CAPITAL CITY POLICE OFFICER,
PESHAWAR.

No: 793-98 /PA, Dated Peshawar the, 30 / 3 /2016.

Copies for information to the;

- 1- SP/HQrs: Peshawar
- 2- PO/OSI/CRC alongwith his Service Roll.
- 3- FMC alongwith complete FM
- 4- Sultan Mohammad No.1141.

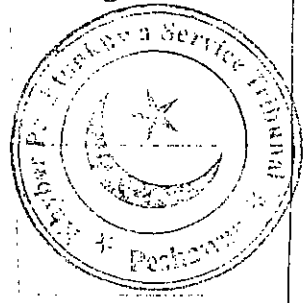


Attest


20-04-16

Name of
the
proceeding

Order or other proceedings with signature of Judge or Magistrate



**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL**

Service Appeal No. 433/2016

Date of Institution ... 21.04.2016
Date of Decision ... 01.03.2018

Sultan Muhammad No. FC 1141, son of Haji Fazal Mehmood
resident of Regi Malakandher, Peshawar.

Appellant

Versus

1. Government of Khyber Pakhtunkhwa through Secretary Home & Tribal Affairs Department.
2. Inspector General of Police, Peshawar.
3. Chief Capital Police Peshawar.
4. Superintendent of Police Head Quarter, Peshawar.

Respondents

01.03.2018

JUDGMENT

MUHAMMAD HAMID MUGHAL, MEMBER: - Learned

counsel for the appellant present. Mr. Muhammad Jan, Learned
Deputy District Attorney on behalf of the respondents present.

2. The appellant Sultan Muhammad (Ex. Driver Constable
No.1141) was dismissed from service vide order dated 04.05.2015
being involved in heinous cases/FIR No.72 dated 14.04.2014 u/s 302
PPC and FIR No.74 dated 15.04.2014 u/s. 392/341 PPC in Police
Station University Campus. The departmental appeal of the appellant
against the order of his dismissal from service was filed vide order
dated 30.03.2016. This led to the appellant to file the

ATTESTED

[Signature]
Secretary
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

not disputed that the appellant was behind the bars in the criminal cases during the departmental proceeding against him, as such the contention of the learned counsel for the appellant that the appellant has not been provided opportunity of self defense and personal hearing has a force in it. Learned DDA could not demonstrate that the original impugned order was timely communicated to the appellant in jail.

7. In the stated circumstances this Tribunal is constrained to accept the present service appeal. Consequently the impugned orders are set aside and the appellant is reinstated in service. The respondent department is directed to conduct denovo proceedings/inquiry against the appellant. The issue of back benefits shall remain subject to the outcome of the denovo inquiry.

Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
01.03.20.18

Dawid

Confidential
Hard copy
12/03/2018

[Signature]
(Gul Zeb Khan)
MEMBER

(Muhammad Hamid Mughal)
MEMBER

Number of Pages	06-03-18
Number of Words	1200
Copying Fee	8
Urgent	
Total	
Name of Clerk	<i>[Signature]</i>
Date of Completion	08-03-18
Date of Printing	

present service appeal.

3. Learned counsel for the appellant argued that the appellant has now been acquitted in the criminal cases mentioned above. Further argued that the inquiry proceedings were conducted at the back of the appellant as the appellant was behind the bars. Further argued that no charge sheet and statement of allegation was served upon the appellant. Further argued that no opportunity of hearing was given to the appellant during entire inquiry proceeding. Further argued that the inquiry officer has not recorded any statements during the inquiry proceedings. Further argued that the original order of dismissal from service was issued when the appellant was in jail and the same was communicated on 02.07.2015 in jail, hence the departmental appeal of the appellant is well within time. Learned counsel for the appellant stressed with vehemence that the impugned orders are not tenable in the eyes of law hence liable to be struck down.

4. As against that learned DDA argued that the appellant involved himself in criminal cases and the original impugned order of dismissal from service was issued after proper departmental inquiry. Further argued that the appellant being member of disciplinary force committed gross misconduct and the punishment order was passed after fulfillment of all the codal formalities hence the impugned orders are not open to any exception.

5. Arguments heard. File perused.

6. Learned DDA remained unable to demonstrate that any charge sheet and statement of allegation were served upon the appellant. It is

10/11/15

ATTESTED

[Signature]
 Jyoti Chavhan
 Assistant
 Registrar

(17)

ANX-D


ORDER

This office order relates to the disposal of Denovo departmental enquiry against Driver Constable Sultan Muhammad No.1141 of Capital City Police Peshawar on the allegations that he was involved in criminal cases vide FIR No.72 dated 14.04.2014 u/s 302/341, FIR No.74 dated 15.04.2014 u/s 392/341-PPC PS University Campus & FIR No.110 dated 28.03.2014 u/s 324/34-PPC PS Regl.

In light of the W/IGP, Khyber Pakhtunkhwa letter vide No.1125/Legal dated 29.03.2018 court judgment has been implemented, DFC Sultan Muhammad No.1141 re-instated in service subject and initiated denovo departmental enquiry while subject to the outcome of the enquiry.

Mr. Abdur Rauf Babar SSP Coordination was appointed as Enquiry Officer by the DIG E&I vide letter No.618/E&I dated 13.04.2018. He conducted the enquiry proceedings and submitted his finding/report that the defaulter official not fit for member of Khyber Pakhtunkhwa Police. He has been involved in criminal cases and if re-instated permanently, possibly of misuse of power by him cannot be ruled out. The Enquiry Officer further stated that he was rightly punished in previous concluded by SP-HQrs Peshawar vide Enquiry Report No.760/R dated 23.04.2018.

In the light of recommendations of E.O & other material available on record, the undersigned came to conclusion that the alleged official found guilty of the misconduct and not fit to be retained further in Police department. Therefore, he is hereby compulsory retired from service with immediate effect under Police & Disciplinary Rules, 1975. Hence the period he remained out of service be counted without pay.


SUPERINTENDENT OF POLICE
HEADQUARTERS, PESHAWAR

OB. NO. 2141 / Dated 28/6 /2018

No. 1435-12/PA/SP/dated Peshawar the 28/6 /2018

Copy of above is forwarded for information & n/action to:

- ✓ The Deputy Inspector General of Police, Enquiry & Inspection, KPK Peshawar w/r quoted above.
- ✓ The Capital City Police Officer Peshawar.
- ✓ DSP/HQrs, Peshawar.
- ✓ Budget Officer, OASI, CRC & FMC along-with complete departmental file.
- ✓ Official concerned

Obd
4-7-18

BEFORE THE HONORABLE CCP PESHAWAR

DEPARTMENTAL APPEAL AGAINST THE
ORDER OB .NO.2141 DATED 28/06/2018
OF THE HONORABLE SUPRENTENDANT OF
POLICE (HQ) PESHAWAR THROUGH WHICH
THE APPELLANT HAS BEEN COMPULSORY
RETIRED FROM SERVICE WITH IMMEDIATE
EFFECT UNDER POLICE AND DICIPANARY
RULES 1975.

PRAYER

On acceptance of this departmental
appeal the impugned order dated
28/06/2018 may very kindly be set aside
and the appellant be reinstated in service
with all back benefits.

Sir,

With due respect it is stated :-

1. That the appellant has joined police services on 17/12/1991 as F.C with No. 1141, and since then serving police department to the entire satisfaction of the seniors.
2. That during service the appellant was involved by his enemies in certain false, concocted and

bogus criminal cases including FIR No. 72 dated 14/04/2014 U/s 302 /341 PPC, FIR No.74 dated 15/04/2014 U/S 392/41 PPC both registered in P.S University Campus and FIR No. 110 dated 28/03/2014 U/S 324 / 34 PPC P.S Regi.

3. That the appellant was arrested in all the above cases and remained behind the bars since his acquittal in case FIR No. 72 acquitted on 19/10/2017 and in FIR No. 74 acquitted on 17/11/2015 (copies attached)
4. That during this process the appellant was dismissed from service vide order OB No. 1725 dated 04/05/2015 which was impugned by the appellant through departmental appeal but the same was dismissed vide no. 793-98 dated 30/03/2016 (copies attached)
5. That both the above orders were impugned by the appellant before the KPK Services Tribunal who accepted the appellant appeal vide order dated 01/03/2018 and set aside both the orders above and the departments was directed to conduct denovo inquiry against the appellant (copy of order dated 01/03/2018 is attached).
6. That after conducting fresh inquiry the appellant was compulsory retired from service vide order dated 28/06/2018 (copy attached).

7. That the appellant has been condemned unheard and no opportunity of hearing has been provided to the appellant.
8. That no evidence has been recorded nor statement of the appellant has been recorded by the inquiry officer.
9. That no show cause notice nor statement of allegation nor any charge sheet, nor any final show cause notice has been given to the appellant prior to the passing of the impugned order dated 28/06/2018.
10. That the impugned order dated 28/06/2018 is against the law and fact because the appellant has already been acquitted by the competent courts and all the above criminal cases which become the base of the entire departmental proceedings.
11. That the appellant is the only source of income of his family as such cannot be deprived from his service on the basis of mere surmises, conjectures, assumption and presumptions.
12. That the appellant also request for the personal hearing before your honor.

13. That the legal formalities have not been observed before passing the impugned order dated 28/06/2018 as such the entire proceedings is nullity in the eyes of law and the impugned order needs to be set aside on all the grounds mentioned above.

It is therefore most humbly prayed that On acceptance of this departmental appeal the impugned order dated 28/06/2018 may very kindly be set aside and the appellant be reinstated in service with all back benefits.

Appellant

Sultan Muhammad S/o Fazal Mehmood
Belt No. 1141/ 1187 R/o Regi
Malakndher, Peshawar P.S Nasir Bagh.
Cell No. 0311-9664248

450 ⁽²²⁾ cep. P. P. A
= 4-2-18

DSP L to cep

12-7-2018

ERC.

13-7-2018

5-9-2018 = ^{by} CFE

BEFORE THE KYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service appeal No.1227/2018

Sultan Muhammad Ex- Constable No.1141 CCP, Peshawar..... Appellant

Versus

1. Provincial Police Officer, Khyber Pakhtunkhwa Peshawar.
2. SP/HQrs: Capital City Police, Peshawar..
3. Capital City Police Officer, Peshawar..... Respondents

Reply on behalf of respondents No.1, 2, & 3.

Respectfully Sheweth:-

PRELIMINARY OBJECTIONS.

1. That the appeal is badly time barred.
2. That the appeal is bad for mis-joinder and non-joinder or necessary parties.
3. That the appellant has not come to this Tribunal with clean hands.
4. That the appellant has no cause of action.
5. That the appellant is estopped by his own conduct to file the instant appeal.
6. That the appellant concealed the material facts from Honorable Tribunal.
7. That the appellant got no locus standi and cause of action to file the instant appeal.

FACTS:-

- 1- Para No.1 is correct to the extent of appellant's appointment order i-e 17.12.1991. However the rest of para in respect of unblemished Service record is subject to proof.
- 2- Para No.2 is incorrect. The appellant being a member of disciplined force involved himself in a criminal case vide FIR No. 72 dated 14.04.2014 u/s 302-PPC and FIR No. 74 dated 15.04.2014 u/s 392-341-PPC PS University Campus Peshawar, and also FIR No. 110 dated 28.03.2014 u/s 324-34-PPC PS Reggi Peshawar.
- 3- Para No.3 pertains to record, subject to proof.
- 4- Para No.4 is incorrect. In fact proper departmental enquiry was conducted against him and SDPO Rural was appointed as enquiry officer. The enquiry officer after fulfilling all codal formalities recommended him for major punishment. Upon the recommendations of enquiry officer, he was issued final show cause notice and was properly served upon him, which he replied but his reply was found unsatisfactory, hence he was awarded major punishment of dismissal from service by SP HQrs Peshawar vide OB NO.1725 dated 04.05.2015. The appellant then filed

departmental appeal which after due consideration was filed/rejected on the grounds that his appeal was badly time barred for about 01 Month.

- 5- Para No.5 is correct to the extent that the appellant filed service appeal before the Honorable Service Tribunal Peshawar. The Honorable Tribunal accepted his appeal and sent back to the department for the purpose of denovo enquiry.
- 6- Para No. 6 is correct to the extent that in compliance with the judgment of Honorable Service Tribunal, the appellant was re-instated into service, and SSP/Coordination Peshawar was appointed as enquiry officer. He conducted the enquiry proceedings and submitted his finding/report that the appellant not fit for member of Khyber Pakhtunkhwa Police. On recommendation of the enquiry officer, he was awarded the punishment of compulsory retirement from service.
- 7- Para No.7 is incorrect. In fact the appellant filed departmental appeal which after due consideration was filed/rejected on the ground that the appellant failed to submit any plausible explanation in his defence (Copy of departmental appeal rejection order is annexed)
- 8- Para No.8 is incorrect. The appellant was given proper opportunity of personal hearing and defense before passing the punishment order.
- 9- Para No.9 is incorrect. The appellant was associated in the enquiry proceedings and opportunity of defense was provided to appellant.
- 10-Para NO.10 is incorrect. After fulfilling all the codal formalities he was awarded major punishment.
- 11-Para No.11 is incorrect. The appellant was found guilty of misconduct, after conducting proper departmental enquiry against him.
- 12-Para No.12 is incorrect that the appellant himself is responsible for the situation by committing gross misconduct.
- 13-Para No.13 is incorrect. The appellant was treated as per the law/rules.
- 14-Para No.14 is incorrect. After fulfilling all the codal formalities he was awarded the punishment.
- 15-The appeal of the appellant being devoid of merits may kindly be dismissed on the following grounds.

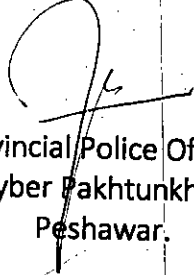
GROUND:-

- A- Incorrect. The orders are just, legal and have been passed in accordance with law/rules.
- B- Incorrect. The appellant was given full opportunity to defend himself.
- C- Incorrect. The appellant had blemished service record, the appellant earned 07 Bad Entry, 03 Minor Punishment and 02 Major Punishment in his service.


- D- Incorrect. The appellant intentionally involved himself in the above mentioned cases.
- E- Incorrect. The appellant being a member of a disciplined force committed gross misconduct.
- F- Para for the appellant to prove.
- G- Incorrect. The appellant was awarded major punishment of dismissal from service after fulfilling all codal formalities.
- H- Incorrect. After fulfilling all the codal formalities he was awarded the major punishment.
- I- Incorrect. The appellant was properly associated with the enquiry proceedings and all codal formalities were fulfilled.
- J- Para is not related hence needs no comments.
- K- Incorrect. The appellant intentionally involved himself in the criminal cases and also deliberately absented himself from his lawful duty.
- L- Incorrect. The punishment order passed by the competent authority as per law/rules and liable to be upheld.
- M- Para pertains to record, hence needs no comments.
- N- That respondents also seeks permission of this Honorable Service Tribunal to raise additional grounds at the time of arguments.

PRAYERS:-

In view of the above, and keeping in view the gravity of slackness, willful negligence and misconduct of appellant, it is prayed that his appeal being devoid of any legal force may kindly be dismissed.


Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.


Capital City Police Officer,
Peshawar.


Superintendent of Police,
HQs: Peshawar.

BEFORE THE KYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service appeal No.1227/2018

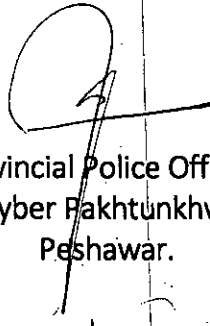
Sultan Muhammad Ex- Constable No.1141 CCP, Peshawar..... Appellant.


Versus


1. Provincial Police Officer, Khyber Pakhtunkhwa Peshawar.
2. SP/HQrs: Capital City Police, Peshawar.
3. Capital City Police Officer, Peshawar..... Respondents.

AFFIDAVIT

We respondents No. 1 ,2 & 3 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and nothing has concealed/kept secret from this Honorable Tribunal.


Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.


Capital City Police Officer,
Peshawar.


Superintendent of Police,
HQrs: Peshawar.



OFFICE OF THE
SENIOR SUPERINTENDENT OF POLICE,
COORDINATION, CCP/PESHAWAR

Phone No. 091-9213757

2958

245-18

No. 760 / 11

3

Dated Peshawar the 23 / 04 / 2018.

Received for file,
113 file pages,
48 pages
11/4/18

TO: The Capital City Police officer
Peshawar.

Subject: - **DENOVO DEPARTMENTAL ENQUIRY AGAINST EX-FC SULTAN
MUHAMMAD NO.1141**

Memo.

Kindly refer to your office Diary No. 6200 dated 16.04.18 on the subject noted above.

Brief facts of the case are that Driver Constable Sultan Muhammad No. 1141 was charged in three criminal cases vide FIR No. 110 dated 28.03.2014; U/S 324/34 PPC P/S Regi, FIR NO. 72 dated 14.04.2014 U/S 302 PPC, FIR No.74 dated 15.04.2014 U/S 392/341 PPC P/S University Campus. In this regard he was placed under suspension vide SP/HQrs office order No.2066-75/PA, dated 28.05.2014 and SDPO Subrub was appointed as Enquiry Officer who returned the enquiry papers with the remarks that arrest of the accused official was effected in his tenure as SDPO Regi in Case FIR No.110, dated 28.03.2014 U/S 324/34 PPC PS Regi and requested for nomination of another Enquiry Officer. Subsequently, the enquiry was entrusted to SDPO Rural, who carried out a thorough enquiry and mentioned in his findings that the accused official has been involved in heinous cases and not fit to be retained in Police Force. The E.O recommended major punishment for the accused official. After necessary legal formalities he was dismissed from service by SP/HQrs under Police & Disciplinary Rules-1975 vide SP/HQrs office order No. 1517-23/PA/SP dated 29.04.2015.

The accused official being aggrieved with the punishment then filed appeal before the CCPO which was rejected vide order No. 793-98/PA dated 30.03.2018.

After his appeal was rejected by CCPO, he filed service appeal No.433/2016 before the Hon'ble Services Tribunal, Khyber Pakhtunkhwa which was accepted and decided in favour of the accused official. Relevant para of the judgment dated 01.03.2018 is reproduced below:

21
1
C
1
1
1
2
4
6
2/10
11/10

"Consequently the impugned orders are set aside and the appellant is reinstated in service. The respondent department is directed to conduct de-novo proceedings/inquiry against the appellant. The issue of back benefits shall remain subject to the outcome of the de-novo inquiry."

PROCEEDINGS

In compliance with the judgment of Hon'ble Services Tribunal, KP Constable Sultan Muhammad was provisionally re-instated in service vide Endst: No. 929-36/PA dated 09.04.2018 and original file was sent to CPO for de-novo proceedings against the aforementioned official. The DIG Enquiry and Inspection vide his office memo No. 618/E&I and 619/E&I dated 13.04.2018 ordered for de-novo departmental enquiry and nominated the undersigned as Enquiry Officer to dig out the actual facts with reference to the allegations leveled against the accused official in the charge sheet already issued against him 102/E/PA dated 02.06.2014.

Personal Hearing / Analysis of Statement of accused officials

The accused official was called to office of the undersigned on 16.05.2018 and heard in person beside recorded his statement. In his statement, he deposed that his brother was killed by opponents due to land dispute and FIR No. 127 dated 08.03.2013 u/s 302/324/148/149 PPC was registered at PS Nasir Bagh. His opponents were highly influential persons and used various tactics for compromise and thus dragged him in false criminal cases through Police. He further stated that all the above criminal cases have been registered against him with malafide intent but now the Hon'ble Court has acquitted him in all the criminal cases registered against him in PS Regi and PS Campus). At the end, he prayed for filing the de-novo departmental proceedings.

Findings

Having gone through the entire enquiry file, personal hearing of the accused official, it is clear crystal that the accused official has been acquitted in all the criminal cases by the Hon'ble Court. However, the accused official has been charged in three subsequent criminal cases which make his character


doubtful. In order to know the actual facts, the undersigned carried out a secret probe which revealed that the official does not carry a sound reputation and is not fit to be retained in Police Forces. Being a Police official he violated the norms of Police Force and took law into his own hands at times.

Conclusion

To sum up, the official carries a repute not fit for member of Khyber Pakhtunkhwa Police. He has been involved in criminal cases and if re-instated permanently, possibility of misuse of power by him cannot be ruled out. He was rightly punished in previous enquiry concluded by SP HQ: Peshawar.

The undersigned is of the view that by lowering his punishment, he may kindly be retired prematurely and shall not be retained in Police Force at any cost.

Submitted please


Abdul Rauf Babar PSP
Enquiry Officer
Senior Superintendent of Police,
(Coordination), Peshawar



OFFICE OF THE
CAPITAL CITY POLICE OFFICER,
PESHAWAR

Phone No. 091-9210989

Fax No. 091-9212597

ORDER.

This order will dispose off the departmental appeal preferred by **Ex-Constable Sultan Muhammad No.1187** who, was awarded the major punishment of "**compulsory retirement from service**" by SP/HQrs Peshawar vide OB No.2141, dated 28-06-2018.

2- The allegations leveled against him were that the appellant was charged in 03 criminal cases, and in consequences of which an enquiry against him was initiated and after completion of codal formalities the same ~~was~~ ended in dismissal from service by SP/HQrs Peshawar. After exhausting remedy at departmental level, the appellant filed service appeal before the Services Tribunal Peshawar which was accepted in his favour and the appeal was remanded to department with the directions to conduct denovo departmental enquiry into the charges previously framed against him.

3- A denovo departmental enquiry was conducted by SSP/Coordination Peshawar on the direction of Honorable Services Tribunal Khyber Pakhtunkhwa and on the recommendation of the enquiry officer, the SP/HQrs Peshawar awarded him the major punishment of "**compulsory retirement from Service**" for his involvement in criminal cases vide FIR s No.72, dated 14-04-2014 u/s 302/341, FIR No.74, dated 15-04-2014 u/s 392/41-PPC PS University Campus and FIR No.110, dated 28-03-2014 u/s 324/34/PPC PS Regi.

4- He was heard in person in O.R. The relevant record perused along with his explanation but he failed to submit any plausible explanation in his defence. The competent authority has completed all codal formalities before awarding him the major punishment of **compulsory retirement**. Hence his appeal for set-asideing the punishment order is hereby ~~rejected~~/filed.

Jam
(QAZI JAMIL UR REHMAN)PSP
CAPITAL CITY POLICE OFFICER,
PESHAWAR

No. 1197-1302 /PA dated Peshawar the 15/10/ 2018

Copies for information and n/a to the:-

1. SP/HQrs Peshawar.
2. BO/L *CRC* for making necessary entry in his S.Roll.
- ✓ 3. FMC along with FM
4. Official concerned.

92-3
; Re
lo.21

CR
CRC

W/CCPO

BEFORE THE HONOURABLE SERVICES TRIBUNAL KHYBER

PAKHTUNKHWA, PESHAWAR

Amended Services Appeal No. 1287 /2018

SULTAN MUHAMMAD

VERSUS

Govt of Khyber Pakhtunkhwa etc

AMENDED SERVICE APPEAL

INDEX

S.No	Description	Annexure	Pages
1.	Grounds of appeal		1-7
2.	Affidavit		8
3.	Addresses of parties		9
4.	Copy of order dated 04/05/2015 and departmental appeal	A, B	10-13
5.	Copy of order dated 01/03/2018	C	14-16
6.	Copy of order dated 28/06/2018	D	17
7.	Copy of appeal	E	18-21
8.	Copy of order dated: 15-10-2018	F	22

Appellant

Through

SAIF ULLAH KHALIL (SENIOR

Advocate, High court Peshawar

Cell # 0300 5941431

Office Address: - Zabeel Palace Hotel, G.T. Road, Peshawar

(1)

BEFORE THE HONORUABLE SERVICES TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR

Amended Services appeal No. 1227 /2018

SULTAN MUHAMMAD NO. FC 1141, son of Haji Fazal Mehmood
resident of Regi Malakandher, Peshawar

... APPELLANT

VERSUS

1. Government of Khyber Pakhtunkhwa, Peshawar through secretary Home and Tribal Affairs Department.
2. Inspector General of Police, Peshawar.
3. Chief Capital City Police Peshawar.
4. Superintendent of Police Head Quarter, Peshawar.

... RESPONDENTS

AMENDED SERVICE APPEAL:-

APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICES TRIBUNAL ACT 1973 AGAINST
THE ORIGINAL ORDER OB NO. 2141, DATED
28/06/2018, THROUGH WHICH THE APPELLANT HAS
BEEN COMPULSORILY RETIRED FROM SERVICE WITH
IMMEDIATE EFFECT AND THEREAFTER THE APPELLANT
FILED DEPARTMENTAL APPEAL ON 04/07/2018 VIDE
DIARY NO. 450 CCP PESHAWAR WHICH IS DISMISSED ON
15-10-2018

PRAYER:

**ON ACCEPTANCE OF THIS APPEAL BOTH THE
IMPUGNED ORDERS MENTIONED ABOVE MAY
VERY KINDLY BE SET ASIDE AND THE APPELLANT
MAY VERY KINDLY BE RE-INSTATED / RESTORED
IN SERVICE ALONG WITH ALL BACK BENEFITS**

Respectfully Sheweth,

With due respect it is stated :-

1. That the appellant has joined police services on 17/12/1991 as F.C with No. 1141, and since then serving police department to the entire satisfaction of the seniors.
2. That during service the appellant was involved by his enemies in certain false, concocted and bogus criminal cases including FIR No. 72 dated 14/04/2014 U/s 302 /341 PPC, FIR No.74 dated 15/04/2014 U/S 392/41 PPC both registered in P.S University Campus and FIR No. 110 dated 28/03/2014 U/S 324 / 34 PPC P.S Regi.
3. That the appellant was arrested in all the above cases and remained behind the bars since his acquittal in case FIR No. 72 acquitted on 19/10/2017 and in FIR No. 74 acquitted on 17/11/2015.
4. That during this process the appellant was dismissed from service vide order OB No. 1725 dated 04/05/2015 which was impugned by the appellant through departmental

(3)

appeal but the same was dismissed vide no. 793-98 dated 30/03/2016 (Copy of order dated 04/05/2015 and departmental appeal are annexure A & B respectively).

5. That both the above orders were impugned by the appellant before the KPK Services Tribunal who accepted the appellant appeal vide order dated 01/03/2018 and set aside both the orders above and the departments was directed to conduct denovo inquiry against the appellant (Copy of order dated 01/03/2018 is attached as annexure C).
6. That after conducting fresh inquiry the appellant was compulsory retired from service vide order dated 28/06/2018 (Copy of order dated 28/06/2018 is annexure D).
7. That against the above order the appellant filed departmental appeal vide diary no. 450 CCP Peshawar dated 04/07/2018 which is dismissed on 15-10-2018 (Copy of which is provided to the appellant on 08-11-2019) therefore the appellant filed the instant appeal before this Honourable Tribunal. (Copy of appeal is annexure E and order dated: 15-10-2018 is attached as annexure F).
8. That the appellant has been condemned unheard and no opportunity of hearing has been provided to the appellant.
9. That no evidence has been recorded nor statement of the appellant has been recorded by the inquiry officer.

10. That no show cause notice nor statement of allegation nor any charge sheet, nor any final show cause notice has been given to the appellant prior to the passing of the impugned order dated 28/06/2018.
11. That the impugned orders dated 28/06/2018 and dated: 15-10-2018 is against the law and facts because the appellant has already been acquitted by the competent courts in all the above criminal cases which become the base of the entire departmental proceedings.
12. That the appellant is the only source of income of his family as such cannot be deprived from his service on the basis of mere surmises, conjectures, assumption and presumptions.
13. That the appellant has been awarded double penalty i.e. on one hand compulsory retirement from service, while on the other hand period of absence has been counted without pay, which is not admissible under the law.
14. That the legal formalities have not been observed before passing the impugned orders dated 28/06/2018 and dated: 15-10-2018 as such the entire proceedings is nullity in the eyes of law and the impugned order needs to be set aside on all the grounds mentioned above.

(5)

15. That order dated: 15-10-2019 is passed during the pendency of this appeal and its copy was provided to the appellant on 08-11-2019 before this Tribunal as such the appellant challenge the impugned order and the appellate order dated: 15-10-2019 though the instant amended appeal which is well within time as no copy of order dated: 15-11-2019 was provided to the appellant till date.
16. That the appellant having no other alternate remedy filed the instant appeal before this Honourable Tribunal inter alia: -

GROUND: -

- A. That both the impugned orders are against the law and facts, cannon of natural justice, hence liable to be set aside.
- B. That the appellant has been condemned unheard as no opportunity of personal hearing is given to the appellant by the respondents and on this score along both the impugned orders needs to be set at naught.
- C. That the appellant has an unblemished service record and has served the department to the entire satisfaction of his superiors, neither is involved previously in any criminal case, nor remained absent from his services, nor has received any adverse remarks throughout his services.
- D. That unfortunately the appellant was charged in the above false and concocted criminal cases by his opponents with whom the appellant has land dispute and the opponents have also

(6)

murdered the brother of the appellant, for which criminal trial is pending against the opponents.

E. That the appellant has been enroped in the above false and concocted cases by opponents of the appellant with the intention to deprive the appellant and his family members from their services and properties.

F. That as the appellant himself surrendered before the local police in the above criminal cases and as such the appellant was sent behind the bars and for the same reason the appellant could not continue with his services.

G. That the appellant was proceeded in his absence and the impugned orders NO. 1725, dated 04/05/2015 and No. 793-98, dated Peshawar the 30/03/2015 of Superintendent of police Head Quarters Peshawar was passed against the appellant ex-part through which the appellant was dismissed from his service without any plausible cause.


H. That before issuance of impugned order, the appellant was not served upon with any show cause notice, statement of allegations, charge, neither any publication has been made against the appellant, nor the appellant has been contacted in central jail Peshawar through superintendent jail, and as such the appellant has been condemned unheard, which is not only against the law, but is also against the golden principles of Natural justice.

I. That the appellant is also not associated with the inquiry proceedings and the same is conducted in the absence of appellant.

- J. That the appellant has been acquitted in all the criminal cases registered against him.
- K. That absence of the appellant from his duty was not willful but was due to the unavoidable circumstances mentioned above as such the impugned orders are liable to be set aside on this sole score.
- L. That keeping in view the above law and facts, the appellant is entitled for re-instatement in his services along with all back benefits, keeping in view the facts that the impugned order of dismissal is totally against the law and facts, hence liable to be set aside.
- M. That the appeal in hand as well as departmental appeal is within time.
- N. That other points be raised at the time of arguments with the permission of this Honorable Court.

It is, therefore, most humbly prayed that on acceptance of this appeal both the impugned orders mentioned above may very kindly be set aside and the appellant may very kindly be re-instated in service along with all back benefits.

Dated: 11-11-2019

Appellant
Through 
SAIF ULLAH KHALIL (SR)
Advocate, High Court Peshawar

CERTIFICATE:

Certified that no such like appeal has earlier been filed before this Honorable Court.


Advocate

3)

BEFORE THE HONOURABLE SERVICES TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

Services Appeal No. _____/2019

SULTAN MUHAMMAD
VERSUS
Govt of Khyber Pakhtunkhwa etc

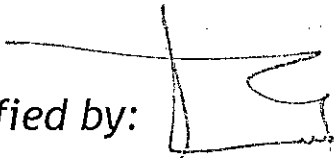
AFFIDAVIT

I, SULTAN MUHAMMAD NO. FC 1141, son of Haji Fazal Mehmood resident of Regi Malakandher, Peshawar do hereby solemnly affirm and declare on oath that the contents of the instant appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.



Deponent

Identified by:



Saif Ullah Khalil (SR),
Advocate, High Court Peshawar

(9)

BEFORE THE HONOURABLE SERVICES TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

Services Appeal No. _____/2019

SULTAN MUHAMMAD

VERSUS

Govt of Khyber Pakhtunkhwa etc

ADDRESSES OF PARTIES

ADDRESS OF APPELLANT:

SULTAN MUHAMMAD NO. FC 1141, son of Haji Fazal Mehmood
resident of Regi Malakandher, Peshawar

ADDRESSES OF RESPONDENTS:

1. Government of Khyber Pakhtunkhwa, Peshawar through
secretary Home and Tribal Affairs Department.
2. Inspector General of Police, Peshawar.
3. Chief Capital City Police Peshawar.
4. Superintendent of police Head Quarter, Peshawar

Appellant,

Through


SAIF ULLAH KHALIL (SENIOR)

Advocate, High court Peshawar

(10) 23

ANX - A

ORDER

This office order relates to the disposal of formal departmental enquiry against Driver Constable Sultan Muhammad No.1141 of Capital City Police Peshawar on the allegations that he while posted at Police Lines, Peshawar involved in criminal cases vide FIR No.72 dated 14.04.2014 u/s 302-PPC & FIR No.74 dated 15.04.2014 u/s 392/341-PPC PS University Campus.

In this regard, he was placed under suspension vide OB No.1774 dated 28.05.2014 & issued charge sheet and summary of allegations vide No.102/E/PA/SP/H.Qrs, dated 02.06.2014. SDPO Rural was appointed as Enquiry Officer. He conducted the enquiry proceedings and submitted report that the defaulter official is a criminal Police official and involved in heinous cases. He is not fit for Police force. The E.O further recommended major punishment for the delinquent official vide Enquiry Report No.2104/ST dated 27.08.2014.

Upon the finding of E.O, he was issued final show cause notice & delivered to him through Jail authorities which received by himself & replied vide letter No.7489/ASH dated 15.09.2014. His reply found un-satisfactory.

Therefore, the opinion of DSP Legal was sought. "He opined that the-enquiry may be disposed off in light of the recommendation of E.O as the accused official being involved in offence u/s 392/341-PPC. The authority is not bound to keep the enquiry pending till the decision of the court".

Similarly, another appeal of accused official was received through Jail authorities vide letter No.8645/ASH dated 02.10.2014 which was again marked to DSP Legal for further opinion. The DSP Legal opined that the plea of innocence he added that he has falsely been dragged in the aforesaid case as real culprits of the case have been arrested and stolen property were recovered from their possession. He further reported that appeal of the accused official may be sent to Investigating Officer (OII) of the case and if found genuine, then fate of the enquiry may be left at the mercy of court decision"

The appeal along with enquiry file was sent to OII of the cases. He was directed to submit detailed report in light of DSP Legal opinion. He provided a report wherein stated that all the accused of the case u/s 392/341-PPC have been arrested and challaned.

After that DSP Legal opinion was again sought. He opined that "the enquiry may be disposed off in light of the material available on record & recommendation of E.O."

In light of the recommendations of E.O, DSP Legal opinion & other material available on record, the undersigned came to conclusion that the alleged official found guilty in the above criminal cases. Therefore, he is hereby dismissed from service under Police & Disciplinary Rules-1975 with immediate effect.

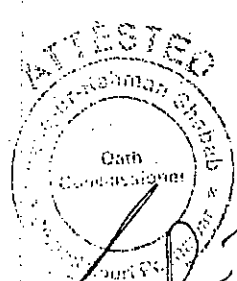
SUPERINTENDENT OF POLICE
HEADQUARTERS, PESHAWAR

OB. NO. 1725 / Dated 4/5/2015

No. 1517-23/PA/SP/dated Peshawar the 29/4/2015

Copy of above is forwarded for information & n/action to:

- ✓ Capital City Police Officer, Peshawar.
- ✓ DSP/HQrs, Peshawar.
- ✓ Pay Office, OAST, CRC & FMC along-with complete departmental file.
- ✓ Officials concerned.



Attested
[Signature]

20-04-16

(11)

ANX-B

Capital City Police Officer,
Peshawar.

Subject: -

Application for withdrawal of termination order of the petitioner from service.

It is submitted as under:

That the petitioner was serving as constable in Police Department and posted at Police Lines, Peshawar.

That the petitioner was arrested in un-trace cases as well as a murder case.

That the petitioner in all un-trace cases has been granted bail while in murder case the petitioner is in jail and the case is under trial.

That in murder case, the petitioner has neither been convicted nor he is guilty of the offence but in spite of these facts, the petitioner has been dismissed from service vide order No. 1725 dated 4/5/15.

That the petitioner is in jail, and therefore, could not contest the enquiry proceedings and an ex-parte order has been passed against the petitioner.

Attested
LS

That no opportunity of personal hearing or defence was provided to the petitioner.



Signature
20-04-16

(12) ~~26~~ (22)

It is, therefore, requested that dismissed order of the petitioner may kindly be withdrawn and the petitioner be re-instated in service with all benefits.

Dated: -4/7/15.

Petitioner

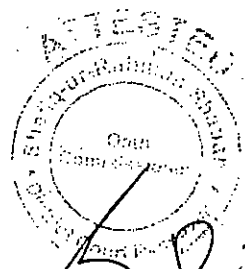


Sultan Muhammad, 1141
Driver constable No. ~~11~~,
Police Lines, Peshawar,
At present Central Jail,
Peshawar.

L.T.1

Attested

6/7/15



S. R. Mir
20-04-16

Attested



(13) (13)
 OFFICER OF THE CAPITAL CITY
 POLICE OFFICER
 PESHAWAR

~~Amir J~~

ORDER.

This order will dispose off departmental appeal filed by ex-driver constable Sultan Mohammad No.1141 against the punishment order Dismissal from Service passed by the competent authority vide O.B No. 725 dated 4.5.2015.

Short facts behind the instant appeal are that the appellatant was proceeded departmentally on the charge of involvement in two criminal cases registered against him vide FIR No.72 dated 14.04.2014 u/s 302 PPC, FIR No.74 dated 15.04.2014 u/s 392/341 PPC PS University Campus Peshawar and case vide FIR No.110 dated 28.3.2014 u/s 324/34 PPC PS Regi. SDPO Suburb was appointed to conduct proper departmental enquiry into the allegations. The enquiry officer after conducting detailed enquiry into the matter recommended the appellatant for major punishment. On receipt of finding of E.O, the competent authority issued him final show cause notice which was served upon him to which he submitted his reply but his reply was found un-satisfactory, therefore he was awarded the major punishment of Dismissal from service vide order dated 4.5.2015.

Enquiry record was thoroughly examined, and the available record does not doubt or shatter the integrity of the enquiry officers and there does not exist any irregularity, having been occasioned during the course of enquiry proceedings. "Moreover, the Apex court in appeal C.F No.507-P, 508-P of Mumtaz Khan and Bahader Khan Constables of this district has held that the criminal and departmental proceedings are of different nature, requiring different standards of proof and acquittal in criminal case on the same fact would not ipso facto lead to exoneration of a civil servant in departmental proceedings."

Previous service record of the appellatant was also perused, which reveals appellatant's attitude towards performance of Government duty is lack luster as previously he has been discharged from service on the charge of absence from duty vide OB No.226 dated 19.3.1992 and earned several bad entries. His persistent involvement in criminal cases has injured reputation of the discipline force. The whole career of the officer shows that he is having a blotted record and his retention in force would not prove fruitful.

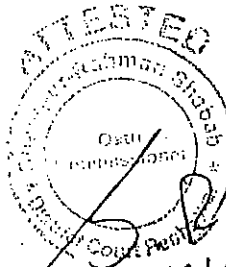
In circumstances, the under-signed find no cause and grounds to interfere; therefore departmental appeal filed by Ex-constable Sultan Mohammad No.1141 is filed.

CAPITAL CITY POLICE OFFICER,
PESHAWAR.

No: 793-98 /PA, Dated Peshawar the, 30 / 3 /2016.

Copies for information to the;

- 1- SP/HQrs: Peshawar
- 2- PO/OSI/CRC alongwith his Service Roll.
- 3- FMC alongwith complete FM
- 4- Sultan Mohammad No.1141.



msv
20-04-16

Amir J

... of ...
... reading

Order or other process with signature of Judge or Magistrate



**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL**

Service Appeal No. 433/2016

Date of Institution ... 21.04.2016

Date of Decision ... 01.03.2018

Sultan Muhammad No. FC 1141, son of Haji Fazal Mehmood
resident of Regi Malakandher, Peshawar.

Appellant

Versus

1. Government of Khyber Pakhtunkhwa through Secretary Home & Tribal Affairs Department.
2. Inspector General of Police, Peshawar.
3. Chief Capital Police Peshawar.
4. Superintendent of Police Head Quarter, Peshawar.

Respondents

01.03.2018

JUDGMENT

MUHAMMAD HAMID MUGHAL, MEMBER: - Learned

counsel for the appellant present. Mr. Muhammad Jan, Learned Deputy District Attorney on behalf of the respondents present.

2. The appellant Sultan Muhammad (ix. Driver Constable No.1141) was dismissed from service vide order dated 04.05.2015 being involved in heinous cases/FIR No.72 dated 14.04.2014 u/s 302 PPC and FIR No.74 dated 15.04.2014 u/s 392/341 PPC in Police Station University Campus. The departmental appeal of the appellant against the order of his dismissal from service was filed vide order dated 30.03.2016. This led the appellant to file the

ATTESTED

[Handwritten signature]
Secretary, Tribunal,
Peshawar

present service appeal.

3. Learned counsel for the appellant argued that the appellant has now been acquitted in the criminal cases mentioned above. Further argued that the inquiry proceedings were conducted at the back of the appellant as the appellant was behind the bars. Further argued that no charge sheet and statement of allegation was served upon the appellant. Further argued that no opportunity of hearing was given to the appellant during entire inquiry proceeding. Further argued that the inquiry officer has not recorded any statements during the inquiry proceedings. Further argued that the original order of dismissal from service was issued when the appellant was in jail and the same was communicated on 02.07.2015 in jail, hence the departmental appeal of the appellant is well within time. Learned counsel for the appellant stressed with vehemence that the impugned orders are not tenable in the eyes of law hence liable to be struck down.

4. As against that learned DDA argued that the appellant involved himself in criminal cases and the original impugned order of dismissal from service was issued after proper departmental inquiry. Further argued that the appellant being member of disciplinary force committed gross misconduct and the punishment order was passed after fulfillment of all the codal formalities hence the impugned orders are not open to any exception.

5. Arguments heard. File perused.

6. Learned DDA remained unable to demonstrate that any charge sheet and statement of allegation were served upon the appellant. It is

11/11/15

APPEALED
 [Signature]
 [Stamp]
 [Text]

not disputed that the appellant was behind the bars in the criminal cases during the departmental proceeding against him, as such the contention of the learned counsel for the appellant that the appellant has not been provided opportunity of self defense and personal hearing has a force in it. Learned DDA could not demonstrate that the original impugned order was timely communicated to the appellant in jail.

7. In the stated circumstances this Tribunal is constrained to accept the present service appeal. Consequently the impugned orders are set aside and the appellant is reinstated in service. The respondent department is directed to conduct denovo proceedings/inquiry against the appellant. The issue of back benefits shall remain subject to the outcome of the denovo inquiry.

Parties are left to bear their own costs. File bc consigned to the record room.

ANNOUNCED
01.03.20.18

Certified true copy
12/03/2018
MEMBER

Gul Zeb Khan
(Gul Zeb Khan)
MEMBER

Muhammad Hamid Mughal
(Muhammad Hamid Mughal)
MEMBER

Dawid

Issue of Process Fee and Court Fee 06-03-18

Number of Pages 1200

Copying Fee 8

Urgent _____

Total _____

Name of _____

Date of Completion 08-03-18

(17)

ANN-D

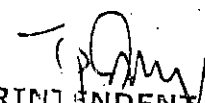
ORDER

This office order relates to the departmental enquiry against Driver Constable Muhammad No.1141 of Capital City Police Peshawar on the allegations that he was involved in criminal cases vide FIR No.72 dated 14.04.2014 u/s 302/341, FIR No.74 dated 15.04.2014 u/s 392/341-PPC PS University Campus & FIR No.110 dated 28.03.2014 u/s 324/34-PPC PS Regl.

In light of the W/IGP, Khyber Pakhtunkhwa letter vide No.1125/Legal dated 29.03.2018 court judgment has been implemented, DFC Sultan Muhammad No.1111 re-instated in service subject and initiated denovo departmental enquiry while subject to the outcome of the enquiry.

Mr. Abdur Rauf Babar SSP Coordination was appointed as Enquiry Officer by the DIG E&I vide letter No.618/E&I dated 13.04.2018. He conducted the enquiry proceedings and submitted his finding/report that the defaulter official not fit for member of Khyber Pakhtunkhwa Police. He has been involved in criminal cases and if re-instated permanently, possibly of misuse of power by him cannot be ruled out. The Enquiry Officer further stated that he was rightly punished in previous concluded by SP-PQrs Peshawar vide Enquiry Report No.760/R dated 23.04.2018.

In the light of recommendations of E.O & other material available on record, the undersigned came to conclusion that the alleged official found guilty of the misconduct and not fit to be retained further in Police department. Therefore, he is hereby compulsory retired from service with immediate effect under Police & Disciplinary Rules, 1975. Hence the period he remained out of service be counted without pay.


SUPERINTENDENT OF POLICE
HEADQUARTERS, PESHAWAR

OB. NO. 2141 / Dated 28/6 /2018

No. 1435-42/PA/SP dated Peshawar the 28/6 /2018

Copy of above is forwarded for information & n/action to:

- The Deputy Inspector General of Police,
Enquiry & Inspection, KPK Peshawar w/r quoted above.
- The Capital City Police Officer, Peshawar,
DSP/HQrs, Peshawar.
- Budget Officer, OASI, CRC & FMC along-with complete
departmental file.
- Official concerned

97/18

BEFORE THE HONORABLE CCP PESHAWAR

DEPARTMENTAL APPEAL AGAINST THE
ORDER OB .NO.2141 DATED 28/06/2018
OF THE HONORABLE SUPRENTENDANT OF
POLICE (HQ) PESHAWAR THROUGH WHICH
THE APPELLANT HAS BEEN COMPULSORY
RETIRED FROM SERVICE WITH IMMEDIATE
EFFECT UNDER POLICE AND DICIPANARY
RULES 1975.

PRAYER

On acceptance of this departmental
appeal the impugned order dated
28/06/2018 may very kindly be set aside
and the appellant be reinstated in service
with all back benefits.

Sir,

With due respect it is stated :-

1. That the appellant has joined police services on 17/12/1991 as F.C with No. 1141, and since then serving police department to the entire satisfaction of the seniors.
2. That during service the appellant was involved by his enemies in certain false, concocted and

bogus criminal cases including FIR No. 72 dated 14/04/2014 U/S 302 /341 PPC, FIR No.74 dated 15/04/2014 U/S 392/41 PPC both registered in P.S University Campus and FIR No. 110 dated 28/03/2014 U/S 324 / 34 PPC P.S Regi.

3. That the appellant was arrested in all the above cases and remained behind the bars since his acquittal in case FIR No. 72 acquitted on 19/10/2017 and in FIR No. 74 acquitted on 17/11/2015 (copies attached)
4. That during this process the appellant was dismissed from service vide order OB No. 1725 dated 04/05/2015 which was impugned by the appellant through departmental appeal but the same was dismissed vide no. 793-98 dated 30/03/2016 (copies attached)
5. That both the above orders were impugned by the appellant before the KPK Services Tribunal who accepted the appellant appeal vide order dated 01/03/2018 and set aside both the orders above and the departments was directed to conduct denovo inquiry against the appellant (copy of order dated 01/03/2018 is attached).
6. That after conducting fresh inquiry the appellant was compulsory retired from service vide order dated 28/06/2018 (copy attached).

7. That the appellant has been condemned unheard and no opportunity of hearing has been provided to the appellant.
8. That no evidence has been recorded nor statement of the appellant has been recorded by the inquiry officer.
9. That no show cause notice nor statement of allegation nor any charge sheet, nor any final show cause notice has been given to the appellant prior to the passing of the impugned order dated 28/06/2018.
10. That the impugned order dated 28/06/2018 is against the law and fact because the appellant has already been acquitted by the competent courts and all the above criminal cases which become the base of the entire departmental proceedings.
11. That the appellant is the only source of income of his family as such cannot be deprived from his service on the basis of mere surmises, conjectures, assumption and presumptions.
12. That the appellant also request for the personal hearing before your honor.

13. That the legal formalities have not been observed before passing the impugned order dated 28/06/2018 as such the entire proceedings is nullity in the eyes of law and the impugned order needs to be set aside on all the grounds mentioned above.

It is therefore most humbly prayed that On acceptance of this departmental appeal the impugned order dated 28/06/2018 may very kindly be set aside and the appellant be reinstated in service with all back benefits.

Appellant

Sultan Muhammad S/o Fazal Mehmood
Belt No. 1141/ 1187 R/o Regi
Malakndher, Peshawar P.S Nasir Bagh.
Cell No. 0311-9664248



(22)

OFFICE OF THE
CAPITAL CITY POLICE OFFICER,
PESHAWAR

Phone No. 091-9210989
Fax No. 091-9212597

ANX-F


ORDER.

This order will dispose off the departmental appeal preferred by Ex-Constable Sultan Muhammad No.1187 who was awarded the major punishment of "compulsory retirement from service" by SP/HQrs Peshawar vide OB No.2141, dated 28-06-2018.

2- The allegations leveled against him were that the appellant was charged in 03 criminal cases, and in consequences of which an enquiry against him was initiated and after completion of codal formalities the same was ended in dismissal from service by SP/HQrs Peshawar. After exhsusting remedy at departmental level the appellant filed service appeal before the Services Tribunal Peshawar which was accepted in his favour and the appeal was remanded to department with the directions to conduct denovo departmental enquiry into the charges previously framed against him.

3- A denovo departmental enquiry was conducted by SSP/Coordination Peshawar on the direction of Honorable Sevicees Tribunal Khyber Pakhtunkhwa and on the recommendation of the enquiry officer; the SP/HQrs Peshawar awarded him the major punishment of " compulsory retirement from Service" for his involvement in criminal cases vide FIR's No.72, dated 14-04-2014 u/s 302/341, FIR No.74, dated 15-04-2014 u/s 392/41-PPC PS University Campus and FIR No.110, dated 28-03-2014 u/s 324/34/PPC PS Regi.

4- He was heard in person in O.R. The relevant record perused along with his explanation but he failed to submit any plausible explanation in his defence. The competent authority has completed all codal formalities before awarding him the major punishment of compulsory retirement. Hence his appeal for set-asideing the punishment order is hereby rejected/filed.


(QAZI JAMIL UR REHMAN)PSP
CAPITAL CITY POLICE OFFICER,
PESHAWAR

No. 1197-1303 /PA dated Peshawar the 15/10/ 2018

Copies for information and n/a to the:-

1. SP/HQrs Peshawar.
2. BO/OASI, LRC for making necessary entry in his S.Roll.
3. FMC along with FM
4. Official concerned.