

Service Appeal No. 7360/2021, titled "Javed Iqbal Versus Inspector General of Police (PPO) Khyber Pakhtunkhwa Peshawar and two others decided on 16.05.2023 by the Division Bench comprising Kalim Arshad Khan, Chairman and Miss Fareeha Paul, Member(Executive), Khyber Pakhtunkhwa Service Tribunal, Peshawar, Camp Court, D.I.Khan.

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
CAMP COURT, D.I.KHAN.**

Service Appeal No. 7360/2021

**BEFORE: MR. KALIM ARSHAD KHAN, ... CHAIRMAN
MISS. FAREEHA PAUL, ... MEMBER(E)**

**Javed Iqbal, Son of Ghulam Qasim, Ex-Head Constable R/O
Kalapani, Tehsil Paharpur, Dera Ismail Khan.(Appellant)**

Versus

- 1. Inspector General of Police (PPO) Khyber Pakhtunkhwa, Peshawar.**
- 2. Regional Police Officer/DIG, Region Dera Ismail Khan.**
- 3. District Police Officer, Dera Ismail Khan. (Respondents)**

Mr. Muhammad Waqar Alam, ... For appellant.
Advocate

Mr. Muhammad Jan, ... For respondents.
District Attorney

Date of Institution..... 09.08.2021
Date of Hearing.....16.05.2023
Date of Decision..... 16.05.2023

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN. Through the instant service appeal, the appellant Javed Iqbal has challenged order vide OB No. 2214, dated 16.10.2020 passed by respondent No. 3, whereby, the appellant was awarded major penalty of "reduction in rank to constable from Head Constable, against the order No. 244/ES, dated 13.01.2022, whereby his departmental appeal was rejected and against the order No. 3053-59/21, dated 12.07.2021, whereby his revision petition was rejected.

Service Appeal No. 7360/2021, titled "Javed Iqbal Versus Inspector General of Police (PPO) Khyber Pakhtunkhwa Peshawar and two others decided on 16.05.2023 by the Division Bench comprising Kalim Arshad Khan, Chairman and Miss Fareeha Paul, Member(Executive), Khyber Pakhtunkhwa Service Tribunal, Peshawar, Camp Court, D.I.Khan.

2. The facts gathered from the file of this appeal, are that the appellant was inducted in the Police Department D.I.Khan as Constable and performed his duties to the entire satisfaction of his high-ups. He was then promoted as Head Constable. The appellant was served upon a charge sheet with the allegations that he while posted at CP Hathala P.S Kulachi involved himself with smugglers and passed smuggled goods/vehicles by taking illegal gratification, which was replied by the appellant on 26.08.2020. Enquiry officer was appointed, who conducted the enquiry and submitted his finding report. The appellant was found guilty of the charges leveled against him. Vide order dated OB No. 2214 dated 16.10.2020 of respondent No. 3, the appellant was awarded major punishment of reduction in rank from Head Constable to the rank of Constable with immediate effect. Feeling aggrieved, he preferred departmental appeal to the respondent No. 2 which was rejected vide order OB No. 94 dated 15.01.2021. The appellant then filed a revision petition under Rule 11-A of Khyber Pakhtunkhwa Police Rules, 1975 to the respondent No. 1 who called comments from respondent No. 2 which were duly submitted and thereafter the revision petition was rejected on 12.07.2021; hence the present appeal.

3. On admission of the appeal to full hearing on 31.01.2012 subject to all legal objections, respondents were put on notice. They submitted parawise comments and denied the claim of the appellant by raising several legal and factual objections.



Service Appeal No. 7360/2021, titled "Javed Iqbal Versus Inspector General of Police (PPO) Khyber Pakhtunkhwa Peshawar and two others decided on 16.05.2023 by the Division Bench comprising Kalim Arshad Khan, Chairman and Miss Fareeha Paul, Member(Executive), Khyber Pakhtunkhwa Service Tribunal, Peshawar, Camp Court, D.I.Khan.

4. We have heard arguments of learned counsel for the parties and perused the record with their assistance.

5. The appellant was awarded major punishment of reduction in rank from Head Constable to the rank of Constable, with immediate effect vide order dated 16.10.2020, passed on the basis of an enquiry conducted by Khalid Mehmood Khan, SDPO/Kulachi Circle, D.I.Khan on the allegations that the appellant had links with smugglers and was involved in the passage of smuggled goods and vehicles by taking illegal gratifications. We have perused the enquiry report, annexed with the reply of the respondents, which, as framed, can in no way be sustained because the enquiry officer appears to have failed to conduct the enquiry in proper manner as he has not brought on record anything supporting the allegations against the appellant. He has done nothing and made observations of his own. It appears that the enquiry officer was immediate officer of the appellant, who had himself been allegedly informing the superiors about the allegations against the appellant, therefore, he was witness of the allegations, and was not an appropriate officer to be appointed by the competent authority to conduct enquiry in case of the appellant. Everything appearing from the enquiry report seems to be based on hearsay and not having any sanctity under the law. Therefore, on acceptance of the appeal, we set aside the impugned order and direct that the appellant be restored to his original position and seniority with all back benefits. Needless to say that the department may proceed



Service Appeal No. 7360/2021, titled "Javed Iqbal Versus Inspector General of Police (PPO) Khyber Pakhtunkhwa Peshawar and two others decided on 16.05.2023 by the Division Bench comprising Kalim Arshad Khan, Chairman and Miss Fareeha Paul, Member(Executive), Khyber Pakhtunkhwa Service Tribunal, Peshawar, Camp Court, D.I.Khan.

against its employees but strictly in accordance with law and rules. Costs shall follow the event. Consign.

6. *Pronounced in open court at Camp Court, D.I.Khan and given under our hands and seal of the Tribunal this 16th day of May, 2023.*



(FAREEHA PAUL)
Member (E)
(Camp Court, D.I.Khan)



(KALIM ARSHAD KHAN)
Chairman
(Camp Court, D.I.Khan)