

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
CAMP COURT ABBOTTABAD.**

BEFORE: **KALIM ARSHAD KHAN ...CHAIRMAN**
SALAH UD DIN ...MEMBER (Judicial)

Service Appeal No.9400/2020

Date of presentation of appeal.....17.08.2020
Dates of Hearing.....28.04.2023
Date of Decision.....28.04.2023

Faisal Zaman, Constable No. 764, Police line Mansehra.
.....*Appellant*

Versus

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

Present:

Mr. Mohammad Aslam Khan Tanoli,
Advocate.....For the appellant.

Mr. Asif Masood Ali Shah,
Deputy District Attorney.....For respondents

**APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974
AGAINST THE ORDER dated 07.01.2020 OF THE
DISTRICT POLICE OFFICER MANSEHRA WHEREBY
APPELLANT HAS BEEN AWARDED PENALTY OF
"FORFEITURE OF 02 YEARS APPROVED SERVICE
AND PERIOD FROM 2010 TO 2019 CONSIDERED AS
OUT OF SERVICE" AND THE REGIONAL POLICE
OFFICER HAZARA REGION ABBOTTABAD ORDER
DATED 20.07.2020 (DELIVERED ON 04.08.2020)**

WHEREBY HIS DEPARTMENTAL APPEAL HAS BEEN REJECTED.

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: We have an appeal before us brought by Faisal Zaman who alleges that he was appointed as Constable on 28.01.2002; that the appellant was involved in a case under U/S-9C CNSA; that the Hon'ble Peshawar High Court, Bench, Abbottabad, in the year 2012, acquitted the appellant, in case FIR No. 435, dated 09.04.2009, vide its judgment and order dated 25.01.2012; that during the pendency of the said criminal case, the department had dismissed the appellant from service and also rejected the departmental appeal; that the appellant had then filed service appeal before this Tribunal and while accepting the service appeal vide order dated 21.11.2017 the appellant was re-instated in service leaving the department at liberty to conduct de-novo enquiry; that during the course of de-novo enquiry the appellant was again dismissed from service and his departmental appeal was rejected vide order dated 04.05.2018 and 05.09.2018 respectively; that aggrieved of the aforementioned orders of the respondent the appellant, filed service appeal No. 1221/2018 before this Tribunal, which was accepted vide order dated 17.09.2019 and the respondent/department was directed to conduct de-novo inquiry; that in the light of the decision dated 17.09.2019 of the this Tribunal, Mr.Mukhtiar Ahmed, Additional Superintendent of Police, Mansehra was appointed as Enquiry Officer, who directed the appellant to submit written statement in his defense, which the appellant submitted on 21.11.2019; that on receipt of enquiry report, the District Police Officer, Mansehra served upon the appellant with a final show cause notice dated 01.01.2020 which was replied by him on 03.01.2020; that the District Police Officer, Mansehra, vide his order dated 07.01.2020, awarded the appellant with minor penalty of "Forfeiture of two years



approved service" and for the period from 2010 to 2019 he was disentitled for any pay, this entire period was considered as "period out of service"; that the appellant preferred departmental appeal against the order dated 07.01.2020, which was rejected on 20.07.2022, communicated to the appellant on 04.08.2020, hence, the instant service appeal.

2. On receipt of the appeal and admission to full hearing, the respondents were summoned, who, on putting appearance, contested the appeal by filing written reply raising therein numerous legal and factual objections. The defence setup was a total denial of the claim of the appellant.

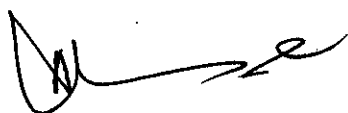
3. We have heard learned counsel for the appellant and learned Deputy District Attorney for the respondents.

4. The Learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned Deputy District Attorney controverted the same by supporting the impugned order.

5. Vide the impugned order, the appellant was awarded punishment of forfeiture of two year's approved service to the appellant. Through this appeal the appellant has prayed for setting aside the orders of the competent authority as well as appellate authority. The learned counsel for the appellant during the course of arguments referred to Rule 16.5 of the Police Rules, 1975 and submitted that the impugned orders were not in line with the above rules. The relevant rule is reproduced below for ready reference:-

"16.5 Stoppage of increments of forfeiture of approved service for increment.-

(1) The increment of police officer on a time-scale may be withheld as a punishment. The order must state definitely the period for which the increment is withheld, and whether the



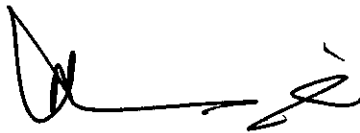
postponement shall have the effect of postponing future increments. The detailed orders regarding the grant and stoppage of increments are contained in rule 13.2.

(2) Approved service for increment may be forfeited, either temporarily or permanently, and such forfeiture may entail either the deferment of an increment or increments or a reduction in pay. The order must state whether the forfeiture of approved service is to be permanent; or, if not, the period for which it has been forfeiture.

(3) Reinstatement on the expiry of a period fixed under sub-rule (1) or (2) above shall be conditional upon good conduct in the interval, but, if it is desired under this rule not to reinstate an office, a separate order shall be recorded, after the officer concerned has been given opportunity to show cause why his reinstatement should not be deferred and the period for which such order shall be stated. Rules regarding the method of recording punishment under this rule in seniority rolls are contained in Chapter X.

6. When confronted with the above rule, the learned counsel for the appellant submitted that he might not be able to point out anything wrong with the impugned orders or at least to say that the same were not in line with the above rule, therefore, finding no merit in this appeal it is dismissed. Costs shall follow the event. Consign.

7. *Pronounced in open Court at Abbottabad and given under our hands and the seal of the Tribunal on this 28th day of April, 2023.*



KALIM ARSHAD KHAN

Chairman
Camp Court Abbottabad



SALAH UD DIN

Member (Judicial)
Camp Court Abbottabad