

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**  
**AT CAMP COURT, SWAT**

Service Appeal No.4758/2021

Date of Institution	...	09.04.2021
Date of Decision	...	04.05.2023

Abdul Kabir (KPO) S/O Abdul Jalil R/O Gandigar, Tehsil Dir District  
Dir Upper.

... (Appellant)

**VERSUS**

Provincial Police Officer Government of Khyber Pakhtunkhwa at  
Central Police Office (CPO) Peshawar and two others.

... (Respondents)

Muhammad Javaid Khan,  
Advocate

... For appellant

Muhammad Jan,  
District Attorney

... For respondents


Mrs. Rozina Rehman  
Miss Fareeha Paul

... Member (J)  
... Member (E)

**JUDGMENT**

Rozina Rehman, Member(J): The appellant has invoked the jurisdiction of  
this Tribunal through above titled appeal with the prayer as copied below:

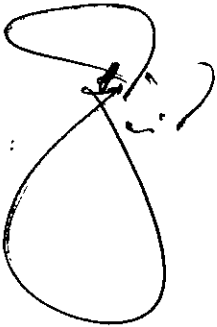
**“On acceptance of this service appeal the impugned  
order issued by Respondent No.3 Dated: 17/09/2020  
may kindly be declared *void ab initio*, illegal, unlawful  
to the extent of not allowing all service back benefits  
and salaries of the intervening period (from 14/11/2018  
to 04/11/2019) and respondents may be directed to  
grant all service back benefits along with the salaries of  
the intervening period.”**



2. Brief facts leading to filing of the instant appeal are that appellant was appointed as Constable Computer Operator. During service, he was implicated in a criminal case vide FIR No.41 dated 12.01.2018 U/S 419/420/468/471/167-PPC at Police Station Dir District Dir Upper. An inquiry was conducted and appellant was dismissed from service. Feeling aggrieved, he filed Service Appeal No.1511/2018 and vide judgment of this Tribunal dated 04.11.2019, his appeal was partially accepted and case was sent back to the Department with direction to conduct de-novo inquiry strictly in accordance with law and rules. Accordingly, de-novo inquiry was conducted, wherein, appellant was declared innocent, however back benefits were refused to him.

3. We have heard Muhammad Javaid Khan Advocate learned counsel for the appellant and Muhammad Jan, learned District Attorney for the respondents and have gone through the record and the proceedings of the case in minute particulars.

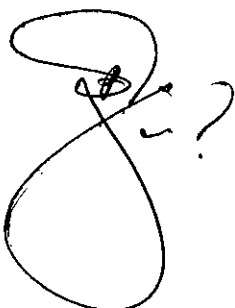
4. Muhammad Javaid Khan Advocate, learned counsel for appellant, inter-alia, contended that the impugned order is wrong, against law, rules and facts, hence, not tenable and liable to be set aside. He argued that formation of committee on the departmental appeal of the appellant dated 09.09.2020 instead of forwarding the appeal of the appellant to the office of respondent No.2 is *void ab initio* and against the dictates of Articles-4 & 10-A of the Constitution of Islamic Republic of Pakistan, 1973. It was argued that the appellant was declared innocent in the de-novo inquiry and there is nothing on record to show that the appellant served anywhere during the intervening



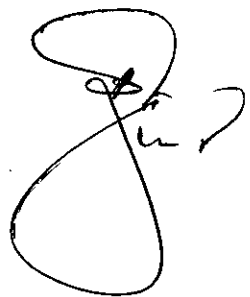
period, therefore, he was entitled to get back benefits of the intervening period but the same were refused without any reason. He, therefore, requested for acceptance of the instant service appeal.

5. Conversely, learned District Attorney contended that the appellant was reinstated into service on the directions of Khyber Pakhtunkhwa Service Tribunal, where-after, fresh show cause notice was issued to the appellant and the issue in respect of back benefits were left subject to the de-novo inquiry. Accordingly, de-novo inquiry was conducted and back benefits were refused as the appellant had not served the Department during the intervening period.

6. From the record it is evident that information was received to the District Police Officer in respect of a shopkeeper namely Bakht Bacha in Sherdil Chowk Main Bazar Dir, regarding issuance of bogus token of traffic licenses to the general public. In this connection an inquiry U/S 156(3) Cr.PC at Police Station Dir was initiated. During the process of inquiry, the alleged person disclosed in his statement recorded U/S164/161 Cr.PC that he had given Rs.3,00,000/- to Constable Abdul Kabir, the present appellant, for traffic licenses. Shopkeeper Bakht Bacha also produced two DLs to the Inquiry Officer and stated that the same DLs had been provided by the said Constable. One DL was found incorrect due to picture of inappropriate person. After a detailed inquiry U/S 156(3) of Cr.PC, it was found that Abdul Kabir KPO Traffic Branch had used Government machinery for bogus licenses. After getting opinion from District Public Prosecutor Dir Upper, a proper case vide FIR No.41 U/S 419/420/468/471/167-PPC was registered. In order to scrutinize the conduct of the appellant, Shahi Bakht Khan



SDPO was appointed as Inquiry Officer who submitted his report stating therein the involvement of appellant in criminal act. Accordingly, final show cause notice was issued to him and he was dismissed from service vide order dated 14.11.2018 of District Police Officer Dir Upper. He filed departmental appeal but failed, where-after, he filed Service Appeal No.1511/2018. His appeal was referred back to the Department for de-novo inquiry. In the light of order of this Tribunal, he was reinstated into service for the purpose of de-novo inquiry. Charge sheet alongwith statement of allegations were issued and Superintendent of Police Investigation Dir Upper was appointed as Inquiry Officer. During inquiry proceedings, statement of Zafar Khan DSP, Nawabzada, Muhammad Ishaq and Abdul Hamid KPO were recorded. The entire record was checked in the light of opinion of IT expert for matching with the manual record from Traffic Clerk. As per report of Traffic Clerk of DPO Office Dir Upper, computer record provided by the IT expert from centralized database did not match with the manual record out of 272 except two licenses which were forged and fake. Moreover, these four forged licenses had been entered in the computer data from 19.02.2016 to 10.01.2017 during the period of one Shafi Ullah who being KPO was responsible for those entries. Admittedly, the present appellant did not serve as KPO during that period. Accordingly, one Shafi Ullah was held guilty and was recommended for appropriate punishment while the allegation against the present appellant could not be proved and he was declared innocent in view of the inquiry report. His de-novo inquiry for back benefits was



filed. The impugned order dated 16.03.2020 of the DPO is hereby reproduced for ready reference:


*“On the receipt of the findings report, the defaulter official was called in orderly room and heard in person. The inquiry papers alongwith connected papers were perused on the recommendation of the Inquiry Officer, his de-novo inquiry for back benefits is filed. His remaining pay is released.”*

From the record it is very much evident that the present appellant was not held guilty for the forged licenses. He was declared innocent and that is why he was reinstated into service. He was not granted back benefits, however, there is nothing on file which could show that he served anywhere during the intervening period.

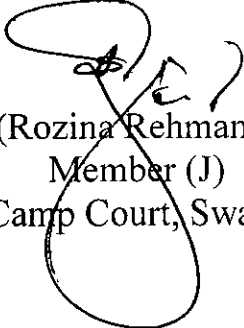
7. In this view of the matter, instant service appeal is accepted and appellant is held entitled to all back benefits right from the date of his dismissal to the date of his reinstatement for the purpose of de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.

04.05.2023

  
(Fareeha Paul)  
Member (E)  
Camp Court, Swat

\*Mutazem Shah\*

  
(Rozina Rehman)  
Member (J)  
Camp Court, Swat