

BEFORE SERVICE TRIBUNAL PESHAWAR

Amended appeal No. 917 /2019

Original Appeal No. 917/2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 5494

Dated 22/5/2023

Muhammad Usman (Constable) Belt No.131 S/O Muhammad Ayaz R/O
Muhallah Payanda khel Charsada town, Tehsil and District Charsada

(Appellant)

VERSUS

1. The Regional Police Officer (R.P.O) Mardan
2. District Police Officer Charsada (D.P.O)
3. Inquiry Officer / D.S.P Charsada
4. Inquiry Officer / D.S.P Charsada
5. Inspector General of Police, Khyber Pakhtunkhawa

(Respondents)

Amended appeal

Appeal under section 4 Khyber Pakhtunkhawa Service Tribunal Act 1974 against the impugned order issued vide No. 2826/ES, dated Mardan the 02/04/2019 and order No.1021/EC, dated Charsada the 24/06/2019 passed by the respondents in a harsh manner and without affording opportunity of hearing under the settle principle of law.

PRAYER

On acceptance of this appeal the impugned order dated 02/04/2019 and dated 24-06-2019 passed by the respondents may kindly be set aside and reinstated the appellant with all back benefits.

RESPECTFULLY SHEWETH

The appellant submits the following factual and legal grounds of appeal which is as under:-

- A. That the petitioner was recruited on 07/08/2009 in District Police Hangu as Constable and after completion of necessary training and passed the requisite examination and posted in different Police Stations of District Hangu and performed his duty with great zeal and Zeist to entire satisfaction of his Superior (**Copy of appointment order is attached as Annexure—A**)
- B. That respondent No. 3 and 4 without giving any opportunity for personal hearing to appellant and initial disciplinary action and conducted the inquiry and issued final show cause notice (**Copy of show cause notice is attached as Annexure—B**)
- C. That respondent No. 4 conducted one sided inquiry in which the appellant was not called for personal hearing and on the bases of said inquiry report the respondents dismissed the appellant due to long absentee from service without any reason, the respondents has imposed a major penalty upon the appellant and dismissed the appellant from service on 18/09/2017.
- D. That the appellant filed a departmental appeal against the order dated 06/02/2018 (**Copy of the appeal is attached as Annexure—C**)
- E. The respondent No.1 dismissed the department appeal on the bases of technical knockout and without touching the merit of case (**Copy of order is attached as Annexure—D**)
- F. That respondent being aggrieved from the finding of the respondent No.1 filed a revision petition before respondent No-5 (**Copy of revision petition is attached as Annexure—E while filed order is Annexure—F**)

The appellant aggrieved from the orders of the respondents and want to file an appeal before the Honorable Court / Tribunal on the following grounds amongst other:-

GROUND OF APPEAL

1. That the impugned order passed by the respondents, dated 06/02/2018 is against law and facts of case and liable to be set-aside.

2. That the respondent has failed to appreciate the legal question involved in the case and on mala fide intention and personal garages with appellant not only process one sided inquiry and also without giving an opportunity passed the impugned order and imposed major penalty of dismissal from service.

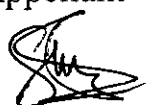
It is settled principle of law no one should be condemn unheard but the respondent violated the judgment of August Supreme court of Pakistan SCMR-2005-PAGE678.

3. That the appellant also violated the 24-A of general clause Act and passed the Impugned order it is apparent that the order is a non-speaking order.
4. That the face values of the impugned order, it is very much clear the appellant was not given a chance for fair trial under the constitution of Pakistan-1973 whereby they violated the fundamental rights of the appellant.
5. That the impugned order is the result of discriminatory in nature and the appellant is not treated as a respectable citizen as defined by the constitution of Pakistan.
6. That the value able right and status and character is attached with the instant appeal and the respondent in hurry and harsh manner and without application of judicial mind passed the impugned order which is liable to be set-aside.
7. That the appellant spent 12 years of golden time of his life and honestly performed his duty and throughout in the 12 years of service no complaint or disciplinary action or any type of adverse remarks on the official file of the appellant is available but the respondent totally ignored the document available on file.
8. That the appellant has old aged parents and the petitioner is the sole bread earner for family.
9. That when the appellant relived from the treatment and surgery of his mother and came for duty the office in charge informed the appellant that he has suspended from service but in the fact the appellant filed the application of sick leave and the mother of the petitioner was severe ill and was admitted in the Rehman Medical Institute and hospital (**copy of the medical history is attached as Annexure-G**)

10. That the appellant also request on humanitarian ground for reinstatement in to his service as the appellant did not absent himself from the duty intentionally rather he had applied for leave and due to severe illness and due to his mother was hospitalized therefore imposition of harsh punishment of dismissed from service is unjustified and liable to be set aside.

It is, therefore, most humbly prayed that on acceptance of this appeal the impugned order dated 06/02/2018 and order dated 02/04/2019 and 24/06/2019 may kindly be set-aside and the service of appellant may kindly be restored / reinstated along with all back benefits.

Any other relief if this honorable court may be deems fit in the circumstances of the case may also be granted.

Appellant
Through 
Saif ur Rehman
Advocate
High Court Peshawar

BEFORE SERVICE TRIBUNAL PESHAWAR

Appeal No. 917 2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 911

Dated 02-7-2019

Muhammad Usman (constable) Belt No. 131 S/O Muhammad Ayaz R/O Muhallahi
Paynda Khel Charsada Town, Tehsil and District Charsada

(Appellant)

VERSUS



1. The Regional Police Officer (R.P.O) Mardan.
2. Distret Police Officer Charsadda (D.P.O)
3. Inquiry Officer / D.S.P Charsada
4. Inquiry Officer / D.S.P Tangi

(Respondents)

Filed to-day
Registrar
2/7/19

Appeal under section 4 Khyber Pakhtunkhwa Service Tribunal Act 1974 against the impugned order issued vide No. 2826/ES, dated Mardan the 02.04.2019 passed by respondent No. 1 in a harsh manner and without affording opportunity of hearing under the settle principle of law.

PRAYER

On acceptance of this appeal the impugned order dated 02-04-2019 passed by the Respondent No. 1 may kindly be set aside and reinstated the appellant with all back benefits.

Certified to be true copy

[Signature]
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

917/2019

19th April, 2023

M. Usman vs Govt



1. Counsel for the appellant present. Mr. Muhammad Jan,
District Attorney for the respondents present.

2. Learned counsel for the appellant submits that he could not have challenged the order passed by Inspector General of Police on the Revision Petition of the appellant nor could he array the IGP in the panel of respondents. He seeks some time to file amended appeal to challenge the revision order of I.G.P and to array him as respondents. He may do so within 15 days. Copy of which shall be handed over to the learned Law Officer who shall contact the respondents to submit reply within next 15 days or rely on previous reply. To come up for arguments on 31.05.2023 before the D.B. P.P given to the parties.

[Signature]
(Farecha Paul)
Member (E)

[Signature]
(Kalim Arshad Khan)
Chairman

Fazle Subhan P.S

Sanitized & ...
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