

07.03.2022 was issued to him by the Regional Police Officer, Mardan, which was responded by him. After that the impugned order dated 28.04.2022 was passed by the same authority i.e the RPO, Mardan. On his departmental appeal to the Inspector General of Police his punishment was modified in the light of FR-29 and it was specified for a period of 60 days vide an order dated 06.07.2022. Here a point has been noted that the Police Rules, 1975, in Schedule-1, have clearly defined the authorities competent to award punishments to different levels. In this case the appellant is a Sub-Inspector posted as SIO in Police Station Mandani, Charsadda and according to the power of punishment table, competent authority to award him punishment of reduction from substantive rank to lower rank is the District Police Officer/Senior Superintendent of Police. It has been noted that the show cause notice as well as the impugned order of reduction to lower rank had been issued by the Regional Police Officer Mardan, which are a clear violation of the Police Rules, 1975. As there had been violation of rules while issuing the order, it is, therefore, not sustainable in the eyes of law.

7. In view of the above, the impugned order is set aside and the appeal is allowed as prayed for. Costs shall follow the event. Consign.

8. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 09th day of May, 2023.*


(FARISCHA PAUL)
Member (E)


(KALIM ARSHAD KHAN)
CHAIRMAN

and on the other hand as judge in the matter which was beyond the scope of law. He further argued that the appellant alone could not control the angry mob and could not be held responsible for the incident. According to him before awarding major penalty of reduction in rank, no proper procedure was adopted i.e neither regular enquiry was conducted in the matter nor the appellant was afforded an opportunity of cross examination. He requested that the appeal might be accepted as prayed for.

5. Learned Additional Advocate General, while rebutting the arguments of learned counsel for the appellant, argued that being SHO of Police Station, Mandani, he was responsible to control the situation but due to his poor performance, not only the said Police Station but also 07 police chowkies were burnt by the mob. He further argued that against the punishment of reduction in rank, the appellant moved departmental appeal before respondent No. 2, who modified the order and specified 60 days period for the punishment in the light of FR-29. According to him already a lenient view had been taken by the respondents and requested that the appeal might be dismissed.

6. After hearing the arguments and going through the record presented before us, it is found that the appellant was posted at Police Station Mandani as SHO when an incident of burning of the Holy Quran was reported by unknown persons and an FIR was registered. As a result of that, the P.S Mandani was attacked also and the appellant, being the SHO of that Police Station, was accused of failure on his part to control the situation which resulted in loss to government property. A show cause notice dated



situation. On 10.03.2022, the said show cause notice was replied and the appellant denied the allegations with cogent reasons. Without conducting enquiry into the matter, major penalty of reduction to the rank of ASI from the rank of S.I was imposed by respondent No. 1 on 28.04.2022 on the appellant, with further observation that he should not be posted as SIO again. On 13.05.2022, departmental appeal was preferred before respondent No. 2 for setting aside the imposed punishment who modified the punishment of reduction to the extent of period of 60 days; hence the instant appeal.

3. Respondents were put on notice who submitted written replies/comments on the appeal. We have heard the learned counsel for the appellant as well as the learned Additional Advocate General for the respondents and perused the case file with connected documents in detail.

4. Learned counsel for the appellant after presenting the case in detail argued that in fact on 28.11.2021, complainant Sayed Rehman S/O Muhammad Zarin reported the matter to ASI Ziarat Gul Khan and not the appellant. The accused was then identified with the name of Arshullah who was arrested and sent to the jail. He further argued that the appellant was served with show cause notice regarding the matter which was duly replied by the appellant with the clarification that he tried his best to cope with the situation but the people of the area were very angry over the incident. He further argued that respondent No. 01 on one hand issued show cause notice to the appellant and on the other hand imposed major punishment of reduction which indicated that he, on the one hand acted as a complainant



that on acceptance of the appeal, both the impugned orders might be set aside and the period of 60 days be remitted from the service record of the appellant alongwith any other relief deemed appropriate in the circumstances of the case.

2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was appointed as Probationer Assistant Sub-Inspector on 22.01.2014 and on successful completion of probation period, he was confirmed as Assistant Sub Inspector in the year 2017 from the date of his initial appointment. On satisfactory performance, he was promoted to the rank of Officiating Sub Inspector on 22.01.2019 and was confirmed as Sub Inspector on 22.01.2022. On 23.11.2021, FIRs No. 763, 764 and 765 dated 24.11.2021 were registered in the Police Station, Mandani by the appellant against qabza Mafia/group regarding dispute over land. On 28.11.2021, Murasla was scribed by ASI Amin Khan and the said Murasla was then incorporated into FIR No. 780 u/s 295 A-B PPC for burning the Holy Quran by unknown person(s). The said person was then arrested and was put in custody who later on was identified with the name of Arshullah S/O Pervez R/O Gujrat, but he pretended to be in-sane and was not able to disclose the facts of the case. On 07.03.2022, the appellant was served with a show cause notice by respondent No. 01 with the allegations that when the provoked mob attacked the Police Station Mandani, Charsadda in the wake of FIR No. 780 and torched it alongwith other Police establishments of the surroundings, it resulted in heavy loss to government and public property, and reflected poor performance of the appellant who failed to manage the



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 1123/2022

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

Bahramand Shah S/O Murad Ali Shah, Sub-Inspector, Police Lines, Mardan. (Appellant)

Versus

1. **Regional Police Officer, Mardan Region, Mardan.**
2. **Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.**
3. **District Police Officer, Charsadda..... (Respondents)**

Mr. Saadullah Khan Marwat,
Advocate ... For appellant

Mr. Fazal Shah Mohmand,
Addl. Advocate General ... For respondents

Date of Institution.....19.07.2022
Date of Hearing.....09.05.2023
Date of Decision..... 09.05.2023

JUDGEMENT

FAREEHA PAUL, MEMBER (E): The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against office order dated 28.04.2022 of respondent No. 1 whereby major punishment of reduction in rank i.e. from Sub Inspector to the rank of Assistant Sub-Inspector, was imposed upon the appellant with further observation not to post him as SHO again and against office order dated 06.07.2022 of respondent No. 2 whereby penalty of reduction was effected for a period of sixty days for no legal reason. It has been prayed

