

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR
AT CAMP COURT ABBOTTABAD

Service Appeal No. 11497/2020

Date of Institution ... 02.10.2020

Date of Decision... 25.05.2023

Farraukh Mehmood S/O Kala Khan (Ex-Constable No. 221 Police Department) R/O Village Murad-abad, P.O Sera-e-Saleh, Tehsil & District Haripur.

... (Appellant)

VERSUS

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and 02 others.

... (Respondents)

MR. MOHAMMAD ASLAM TANOLI,
Advocate

--- For appellant.

MR. ASIF MASOOD ALI SHAH,
Deputy District Attorney

--- For respondents.

MR. SALAH-UD-DIN
MR. MUHAMMAD AKBAR KHAN

--- MEMBER (JUDICIAL)
--- MEMBER (EXECUTIVE)

JUDGMENT:

SALAH-UD-DIN, MEMBER:- Precisely stated the relevant facts of the case are that disciplinary action was taken against the appellant on the allegations of his absence from duty. On conclusion of the inquiry, he was dismissed from service, which was challenged by the appellant through filing of Service Appeal No. 254/2018 before this Tribunal, which was allowed vide judgment 21.05.2019 and respondents were directed to conduct de-novo inquiry within a period of 90 days of receipt of the judgment. In compliance of the judgment of this Tribunal, the appellant was reinstated in service for the purpose of de-novo inquiry and he was issued charge sheet as well as statement of allegations on 21.06.2019. On conclusion of the

de-novo inquiry, the appellant was awarded major punishment of dismissal from service vide order dated 28.08.2019 passed by District Police Officer Torghar. The departmental appeal of the appellant was also rejected vide order dated 16.09.2020, hence the instant service appeal.

2. On admission of the appeal for regular hearing, notices were issued to the respondents, who contested the appeal by way of filing of reply, wherein they refuted the assertions raised by the appellant in his appeal.

3. Learned counsel for the appellant has argued that the inquiry proceedings were conducted in violation of mandatory provisions of Police Rules, 1975 and the appellant was not even provided an opportunity of personal hearing; that the absence of the appellant from duty was not willful rather the same was due to the reason that the appellant had to attend his ailing brother; that the rights of the appellant as enshrined in Articles 4 & 25 of the constitution of Islamic Republic of Pakistan were badly violated; that even the appellate Authority had failed to consider the grounds agitated in the departmental appeal and the order of appellate Authority is in violation of Section 24-A of General Clauses Act; that the impugned orders are wrong and illegal, therefore, the same are liable to be set-aside by reinstating the appellant into service with all back benefits.

4. On the other hand, learned Deputy District Attorney for the respondents has argued that a regular inquiry was conducted in the

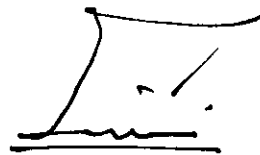
matter by complying the relevant provisions of Police Rules, 1975 and there exist no material dents in the inquiry proceedings; that the appellant had remained absent for a period of 166 days without any leave or seeking permission of the competent Authority; that the appellant even after his reinstatement into service for the purpose of de-novo inquiry had remained absent and did not bother to appear for personal hearing despite issuing of final show-cause notice to him, which was served upon the appellant through his brother; that the appellant was dismissed from service vide order dated 28.08.2019, while he filed departmental appeal after lapse of 08 months and 21 days, which was rejected on merit as well as on the ground of being time barred; that as departmental appeal of the appellant was barred by time, therefore, the appeal in hand is not maintainable; that the appellant was in the habit of absenteeism and was previously awarded punishments on so many occasions, however he did not mend his way, therefore, the appeal in hand is liable to be dismissed.

5. Arguments have already been heard and record perused.
6. A perusal of the record would show that in light of the judgment dated 21.05.2019 passed by this Tribunal in previous service appeal of the appellant, the appellant was reinstated in service for the purpose of de-novo inquiry. He was issued charge sheet as well as statement of allegations on 21.06.2019. Mr. Gul Zar Khan DSP/Hqrs was deputed as inquiry officer in the matter. In his reply to the charge sheet issued to the appellant, he had not been able

to bring on record any documentary proof which could show that the appellant had even submitted any application to the competent Authority for seeking leave. The appellant has also not put forward anything in black and white, which could justify his absence from duty without availing casual leave or permission of the competent Authority. The available record would show that previously too, the appellant had remained absent on so many occasions and he was issued warning as well as minor punishment of censure, however he did not mend his way. The appellant being a police official was serving in a disciplined force and his long absence from duty without availing any leave or permission of the competent Authority was an act of misconduct on his part, therefore, he had rightly been dismissed from service.

7. Consequently, the appeal in hand being without any merit stands dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
25.05.2023



(SALAH-UD-DIN)
MEMBER (JUDICIAL)
CAMP COURT ABBOTTABAD



(MUHAMMAD AKBAR KHAN)
MEMBER (EXECUTIVE)
CAMP COURT ABBOTTABAD