

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR**  
**AT CAMP COURT ABBOTTABAD**

Service Appeal No. 4898/2021

Date of Institution ... 19.04.2021

Date of Decision... 25.05.2023

Babar Mukhtiar, IHC No. 31, District Police Haripur, presentable posted at Beat No. 1, Hazara Motorway, Haripur.

... (Appellant)

**VERSUS**

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

... (Respondents)

MR. MOHAMMAD ASLAM TANOLI,  
Advocate

--- For appellant.

MR. ASAD ALI KHAN,  
Assistant Advocate General


--- For respondents.

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

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

**JUDGMENT:**


**SALAH-UD-DIN, MEMBER:-** Precise facts giving rise to filing of the service appeal are that the appellant while posted at Police Station Kot Najeebullah, was proceeded against under Rule-5 (3) (a) of Khyber Pakhtunkhwa Police Rules, 1975 for misconduct on account of the following allegations:-

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- “1. *There was contradiction in statement of PW.*
  2. *IO of the case did not mention presence of constable who took Murrasla to PS.*
  3. *The court observed that the FSL report was not as per rules.*

4. *The accused was acquitted by giving benefit of doubt."*

2. The appellant submitted reply to the above mentioned allegations, however vide order bearing O.B No. 206 dated 26.03.2020, he was awarded minor punishment of forfeiture of 06 months approved service. The same was challenged by the appellant through filing of departmental appeal, which was declined vide order dated 23.02.2021, hence the instant service appeal.

3. 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 assertion raised by the appellant in his appeal.



4. Learned counsel for the appellant has addressed his arguments supporting the grounds agitated by the appellant in his service appeal. On the other hand, learned Assistant Advocate General for the respondents has controverted the arguments of learned counsel for the appellant and has supported the comments submitted by the respondents.

5. We have heard the arguments of learned counsel for the appellant as well as learned Assistant Advocate General for the respondents and have perused the record.

6. A perusal of the record would show that the appellant was proceeded against under Rule-5 (3)(a) of the Khyber Pakhtunkhwa Police Rules, 1975 by dispensing with inquiry through an inquiry officer. The allegations as mentioned in the show-cause notice are as below:-

1. *There was contradiction in statement of PW.*
2. *IO of the case did not mention presence of constable who took Murasla to PS.*

3. *The court observed that the FSL report was not as per rules.*

4. *The accused was acquitted by giving benefit of doubt."*

7. The appellant was not the investigation officer of the relevant case FIR No. 395 dated 10.12.2016 under sections 9-C/CNSA Police Station Saddar, therefore, the allegations No. 2 & 3 are having no nexus with the appellant. Similarly, the allegation that there was contradiction in statement of PW is also vague in nature as the contradiction was not at all been put to the appellant in specific form so as to show that there was any fault on his part. When the very show-cause notice issued to the appellant was so vague in nature, the competent Authority was not at all justified in dispensing with the inquiry. In such a situation, the competent Authority was not justified in awarding penalty to the appellant.

8. Consequently, the appeal in hand is allowed by setting aside the impugned orders and the appellant is restored six months approved service with all consequential and back benefits. 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