

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

**Service Appeal No. 1335/2018**

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

**Muhammad Ghani Inspector, Police Department, Peshawar.**  
..... **(Appellant)**

Versus

1. **Government of Khyber Pakhtunkhwa through Secretary Home & Tribal Affairs Department, Peshawar.**
2. **Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.**
3. **Capital City Police Officer, Peshawar.**
4. **Senior Superintendant of Police, Peshawar.**
5. **Assistant Superintendant of Police/Inquiry Officer, Hayatabad Sub Division, Peshawar..... (Respondents)**

Mr. Ijaz Ahmad Malik,  
Advocate

... For appellant

Mr. Fazal Shah Mohmand,  
Addl. Advocate General

... For respondents

Date of Institution.....23.10.2018

Date of Hearing.....25.05.2023

Date of Decision..... 25.05.2023

**JUDGEMENT**

**FAREEHA PAUL, MEMBER (E):** Through this single judgment, we intend to dispose of the instant service appeal as well as connected Service Appeal No.1337/2018, titled "Jan Ali, Assistant Sub Inspector, Police Department, Peshawar Versus Government of Khyber Pakhtunkhwa through Secretary Home & Tribal Affairs Department, Peshawar and



others.” as in both the appeals common questions of law and facts are involved.

2. The service appeal has been instituted under section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the order dated 10.10.2018, whereby the departmental appeal of the appellant was partially accepted by respondent No. 3 and the punishment awarded vide order dated 22.05.2018 of the respondent No. 4 of major punishment of reversion from the rank of inspector was modified and the appellant was awarded minor punishment of stoppage of 3 annual increments with cumulative effect and forfeiture of 2 years approved service with further punishment of not posting the appellant to the post of SHO for 1 year with the prayer that impugned order dated 10.10.2018, 22.05.2018 and 06.04.2018 might be set aside and the appellant be exonerated from the allegations and be posted at Peshawar on his previous post.

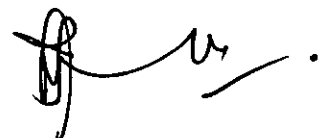
3. Brief facts of the case, as given in the memorandum and grounds of appeal, are that the appellant had been appointed in the respondent department on 13.01.1987. He, while serving as SIIO PS Chamkani, was served with charge sheet alongwith statement of allegations on 20.02.2018 according to which he indulged himself in corrupt practices and developed contacts with smugglers. The appellant submitted reply to the charge sheet and denied the allegations leveled against him. Mr. Muhammad Waqar Azeem Kharal, Assistant Superintendent of Police, Hayatabad Sub Division, Peshawar was appointed as enquiry officer, who, without recording any statement or to dig out any evidence regarding the



allegations against the appellant, submitted his findings report on the basis of which final show cause notice was served upon the appellant which was duly replied by him. Finally, vide impugned order dated 22.05.2018 the competent authority imposed upon the appellant major penalty of reversion from the rank of Inspector to the rank of Sub Inspector. Moreover at the same time, the appellant was also transferred from District Peshawar to Kohistan. Feeling aggrieved, he filed departmental appeal/representation before respondent No. 3 which was partially accepted vide order dated 10.10.2018 and the impugned punishment was set aside and minor punishment of stoppage of 03 annual increments with accumulative effect and forfeiture of 02 years approved service was imposed upon the appellant. It was further stated that he would remain under observation for one year during which he would not be posted as SHO; hence the present appeal.

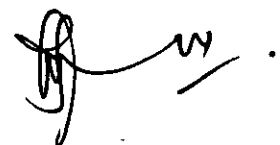
4. Respondents were put on notice who submitted written replies/comments on the appeal. We have heard the learned counsel for the appellant as well as the learned Addl. Advocate General for the respondents and perused the case file with connected documents in detail.

5. Learned counsel for the appellant after presenting the case in detail argued that the enquiry officer failed to record any statement or to dig out any evidence to substantiate the allegation against the appellant regarding corrupt practices and contacts with the smugglers. No opportunity was afforded to the appellant to defend himself. According to him the godown



of the smugglers was situated at Madina Market which did not fall within the jurisdiction of Police Station Chamkani in which the appellant was posted. He further argued that on one hand major penalty of reversion was imposed upon the appellant while on the other hand he was transferred from District Peshawar to Kohistan which was a double jeopardy and was against the Constitution of Islamic Republic of Pakistan. He requested that the appeal might be accepted as prayed for.

6. Learned Additional Advocate General, while rebutting the arguments of the learned counsel for the appellant, argued that the appellant while posted as SHO P.S Chamkani Peshawar indulged himself in corrupt practices and developed contacts with smugglers which came within the ambit of corruption. He further argued that charge sheet alongwith statement of allegations was served upon him. An enquiry officer was appointed who after doing the needful submitted his findings and the allegations leveled against the appellant were proved against him. The competent authority issued him final show cause notice the reply of which was found unsatisfactory, hence, he was awarded major punishment of reversion from the rank of Inspector to the rank of Sub Inspector. So far as his transfer from one district to another was concerned, the learned AAG argued that it was not a punishment and the appellant was bound to obey the lawful orders of his seniors. He further argued that already a lenient view had been taken by the appellate authority who converted the punishment of reversion to the rank of S.I to that of stoppage of 03 annual



increments with accumulative effect and forfeiture of two years approved service. He requested that the appeal might be dismissed.

7. From the arguments and record presented before us, it transpires that the appellant, while posted at P.S Chamkani, was found to be involved in corrupt practices of having contacts with the smugglers. The matter was enquired after issuing charge sheet and statement of allegations. A two page inquiry report is available with the service appeal according to which written reply of the appellant was recorded and there was verbal cross examination also. In his findings, the Inquiry Officer states as follows:-

*“Inspector Muhammad Ghani had prior information of dumping areas of the smuggling goods and he did accept it before the undersigned. He stated that he brought into the notice of S.P but action was not taken because those dumping grounds were in AOR of Police Station Gulbahar and also it was domain of customs. It amounts to abdication of official duty of a Police Officer and brought bad name to the department.*

*Therefore, the statement of allegations against him is proved.”*

8. If we look at the statement of allegations it states as follows:-

*“It has reportedly been learnt that he while posted as SHO PS Chamkani has indulged himself in corrupt practices and developed contacts with smugglers which comes within the ambit of corruption and renders him liable for disciplinary proceedings under Police Rules, 1975.”*


9. If the statement of allegations is compared with the Inquiry report, it transpires that neither the source of information has been mentioned in the



statement of allegations nor has it been discussed in the inquiry report. The inquiry report is deficient in recording the statements of the witnesses and providing opportunity of cross-examination to the appellant which makes the report questionable in the eyes of law.

10. In view of above, we allow this appeal, set aside the impugned order. Consequently, the case is remitted back to the respondents for denovo inquiry strictly according to the rules, with the directions to complete it within 60 days of the receipt of this judgment. Costs shall follow the event. Consign,

11. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 25<sup>th</sup> day of May, 2023.*

  
(FAREEHA PAUL)  
Member (E)

  
(KALIM ARSHAD KHAN)  
CHAIRMAN

*\*Fazle Subhan PS\**