

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR.

Service Appeal No. 985/2018

Date of Institution... 10.08.2018

Date of Decision... 06.06.2023

Inayat Zaman S/O Subhan R/O Rehmant Abad Tehsil & District Karak.

... (Appellant)

VERSUS

Provincial Police Officer/Inspector General of Police, Khyber Pakhtunkhwa,
Peshawar and 03 others.

... (Respondents)

MR. SHAHAB FAHEEM,
Advocate

--- For appellant.

MR. ASAD ALI KHAN,
Assistant Advocate General

--- For respondents.

MR. SALAH-UD-DIN
MS. FAREEHA PAUL

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


JUDGMENT:

SALAH-UD-DIN, MEMBER:- Brief facts of the case are that departmental action was taken against the appellant on the allegations that he while posted as SHO Police Station Gurguri District Karak had delayed submission of parcels of case property to FSL Peshawar in case FIR No. 17 dated 21.03.2011 under section 4 PO and case FIR No. 18 dated 24.03.2011 under section 4 PO. On conclusion of the inquiry, the appellant was awarded minor punishment of stoppage of one annual increment with cumulative effect vide order dated 21.09.2011 passed by District Police Officer Karak. The appellant challenged the same through filing of departmental appeal before the Regional Police Officer Kohat Region Kohat on 07.05.2018, however



the same was dismissed on 13.07.2018 on merit as well as on the ground that the same was barred by time for 06 years. The appellant then preferred the appeal in hand before this Tribunal for redressal of his grievance.

2. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents put appearance and contested the appeal by filing written reply raising therein numerous legal and factual objections. The defense setup was a total denial of the claim of the appellant.

3. Learned counsel for the appellant contended that neither any show-cause notice was served upon the appellant nor he was provided an opportunity of hearing; that the allegations against the appellant were not proved through any cogent evidence but even then he was  wrongly and illegally awarded the punishment of stoppage of one annual increment with cumulative effect; that the appellate Authority had rejected the departmental appeal of the appellant through a non-speaking order, which is having no legal sanctity; that the appellant has been awarded the penalty of stoppage of one annual increment with cumulative effect, which is violative of Rule-29 of the Fundamental Rules.

4. On the other hand, learned Assistant Advocate General for the respondents argued that regular inquiry was conducted in the allegations leveled against the appellant and he was provided opportunity of personal hearing as well as self defence; that the appellant had admitted the delay of sending parcels to FSL for

chemical analysis and he was awarded minor penalty by treating him leniently; that the departmental appeal of the appellant was barred by 06 years, therefore, in view of various judgments of worthy apex court, the appeal in hand is not competent and is liable to be dismissed on this score alone.

5. We have heard the arguments of learned counsel for the parties and have perused the record.

6. The appellant was proceeded against departmentally on the allegations that he while posted as SHO Police Station Gurguri District Karak had delayed sending of parcels of case property to FSL Peshawar in case FIR No. 17 dated 21.03.2011 under section 4 PO and case FIR No. 18 dated 24.03.2011 under section 4 PO. Charge sheet as well as statement of allegations were issued to the appellant on 03.08.2011 and Mr. Subhan Khan, SDPO Takht-e-Nasrati was appointed as inquiry officer. Reply submitted by the appellant to the charge sheet issued to him is available on the record, wherein the appellant has not denied the fact that the case properties were sent with a delay of 48 and 45 days respectively in case F.I.Rs No. 17/2011 and 18/2011 Police Station Gurguri. On submission of the inquiry report, final show-cause notice was issued to the appellant and opportunity of personal hearing was provided to him. It is evident from the record that a regular inquiry was conducted in the matter by providing the appellant an opportunity of personal hearing as well as self defence. The appellant was serving as SHO, however he could not

put forward any justifiable reason for delay in sending of parcels to the FSL Peshawar.

7. One of the contentions^s of learned counsel for the appellant is that the impugned penalty awarded to the appellant is violative of FR-29 for the reason that the Authority has not specified the period for which the penalty of stoppage of one annual increment is to remain enforced. In order to appreciate the afore-mentioned contention of learned counsel for the appellant in a proper way, it would be advantageous to reproduce rule-29 of Fundamental Rules as below:-

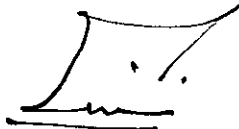
“F. R. 29. If a Government servant is, on account of misconduct or inefficiency, reduced to a lower grade or post, or to a lower stage in his time -scale, the authority ordering such reduction shall state the period for which it shall be effective and whether, on restoration, it shall operate to postpone future increments and if so, to what extent.”

A perusal of FR-29 would show that the same is not regarding penalty of stoppage of annual increment with cumulative effect and is thus of no avail to the appellant.

8. Consequently, the appeal in hand being devoid of any merit stands dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
06.06.2023


(FAREEHA PAUL)
MEMBER (EXECUTIVE)


(SALAH-UD-DIN)
MEMBER (JUDICIAL)