

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR

Service Appeal No. 14225/2020

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

Saqib Shaheen S/O Shaheen Islam (Shaheed) R/O Latember District,  
Karak. .... (Appellant)

Versus

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. Inspector General of Police, Government of Khyber Pakhtunkhwa, Peshawar.
3. Deputy Inspector General of Police, Kohat Division.
4. Assistant Inspector General of Police, Training Directorate, Khyber Pakhtunkhwa, Peshawar.
5. District Police Officer, District Karak. .... (Respondents)

Mr. Athar Abbas,  
Advocate ... For appellant

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

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Date of Institution.....27.10.2020  
Date of Hearing.....11.07.2023  
Date of Decision..... 11.07.2023

**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 the impugned termination order dated 14.11.2019 and 27.02.2020 issued by the respondents with the prayer that both the orders might be set aside and the respondents be directed to reinstate the appellant against the same post of Constable into his services with all back benefits.



2. Brief facts of the case, as given in the memorandum of appeal, are that father of the appellant was an employee of Police Department and was martyred on 18.11.2014 in a bomb blast, while performing his duty. After the death of his father, the appellant was appointed in the Police Department against the vacant post of Constable (BPS-5) in the Shaheed son Quota on 18.04.2016. The appellant honestly performed his duty and attended the mandatory training. While he was in the training course, he was informed by the police station Karak about the sudden killing incident of his sister due to some family issues and he left the training and lodged an FIR against the culprit on 27.05.2019 in District Karak. After the occurrence of that incident, the appellant suffered physically as well as mentally and became mentally distorted on one side and on the other hand, the enemy of the appellant started giving him threats of dire consequences to his life and property. Due to anxiety and tough circumstances, the appellant started his medical treatment and was diagnosed with Epilepsy. He remained absent from the duty/training from 04.07.2019 to 02.08.2019 and the District Police Officer Karak issued final show cause notice against him on 17.09.2019. The appellant properly replied to the show cause notice which was turned down by the respondent. A departmental inquiry was initiated against him by issuing a charge sheet and resultantly major penalty was imposed upon him by issuing the order of removal from service on 14.11.2019 according to which the absence period of 97 days was treated as leave without pay. Feeling aggrieved, the appellant filed departmental appeal to the Deputy Inspector General of Police, Kohat Division on 31.12.2019 which was



rejected on 27.02.2020. He then moved revision petition to the competent authority i.e Inspector General of Police Khyber Pakhtunkhwa on 11.3.2020 which was also rejected on 27.09.2020; hence the instant service 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.

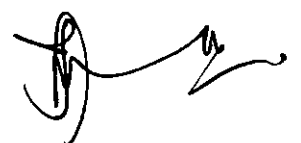
4. Learned counsel for the appellant after presenting the case in detail argued that act of the respondents was illegal, against law, facts and natural justice, hence could not be sustained in the eyes of law. He further argued that the appellant submitted his arrival report on 10.10.2019 but the same was not accepted and the respondents initiated departmental enquiry against him and by ignoring the stance of the appellant issued the impugned order. According to him, absence of the appellant was not intentional nor deliberate but due to the sudden mishap for which he was the only person to handle the situation.

5. Learned Additional Advocate General, while rebutting the arguments of learned counsel for the appellant, argued that the appellant absented himself from Recruit Training Centre, Manshara time and again and the total absence was 173 days, therefore, the respondent No. 5 imposed upon him major penalty of dismissal from service vide order dated 08.08.2017, however, he was reinstated on humanitarian grounds by the Inspector General of Police, Peshawar vide order dated 08.05.2018 and was allowed to



rejoin the recruit training course vide AIG, Training, Peshawar order dated 26.06.2019. The learned AAG informed that the appellant again absented himself from recruit course without any reason and justification and was hence repatriated unqualified to parent district vide letter dated 16.07.2019. He further argued that regarding his medical certificate, the appellant did not adopt the process through proper channel for medical examination nor the respondent department had any record of referring the appellant to medical board. He contended that Police force was a tough and challenging job that required mentally and physically fit person and moreover the appellant was a habitual absentee and there was no prospect of mending his way and was thus rightly removed from service. He requested that the appeal might be dismissed.

6. From the arguments and record presented before us it is found that the appellant was appointed as Constable in the Khyber Pakhtunkhwa Police on Shaheed son's quota in 2016. Record further indicates that during a short span of 2016 to 2017, he absented himself from his lawful duty for 173 days for which he was proceeded against departmentally and was awarded major penalty of removal from service on 08.08.2017 by his competent authority, the District Police Officer, Karak. Later on, that punishment was set aside vide order dated 08.05.2018 and he was reinstated into service on humanitarian grounds and was awarded minor penalty of stoppage of increment for two years by the appellate authority while deciding his departmental appeal. It appears that at the time of initiation of departmental proceedings, he was undergoing some training from which he absented,



therefore, when he was reinstated in service, he was again referred for the training. Again he absented himself from the training and his absence was reported by the Director of the Training School to the DPO, Karak. He was again proceeded against departmentally and was removed from service.

7. From the above discussion, it is evident that the appellant did not try to gain from a chance of reinstatement given to him on humanitarian grounds earlier and never tried to mend his ways. He repeated his irresponsible attitude again and absented himself from his lawful duty which is not acceptable for a disciplined establishment of the Provincial Police. The appeal in hand is, therefore, having no merits and is dismissed with cost. Consign.

8. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 11th day of July, 2023.*

  
(FARZEHA PAUL)  
Member (I)

  
(KALIM ARSHAD KHAN)  
Chairman