

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR AT  
CAMP COURT ABBOTTABAD

Service Appeal No. 556/2022

BEFORE: MR. SALAH UD DIN ... MEMBER (Judicial)  
MRS. RASHIDA BANO ... MEMBER (Judicial)

Muhammad Ajmal, Inspector No. H/72, Presently posted at Police Training School, Mansehra.

.... (Appellant)

Versus

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. District Police Officer, Mansehra.

.... (Respondents)

Mr. Muhammad Aslam Tanoli  
Advocate

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For appellant

Mr. Asif Masood Ali Shah  
Deputy District Attorney

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For respondents

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Date of Institution.....07.04.2022  
Date of Hearing.....25.07.2023  
Date of Decision.....25.07.2023

JUDGMENT

RASHIDA BANO, MEMBER (J): The instant service appeal has been instituted under section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as below:

**“On acceptance of the instant service appeal order dated 15.03.2022 may graciously be set aside and impugned adverse remarks in ACR for the period from 01.01.2020 to 23.09.2020 be expunged.”**

2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was inducted as Constable in Police Department in the year 1987 in Sind

Police at Karachi and subsequently transferred and posted at Mansehra in Khyber Pakhtunkhwa Police Department. He performed his duties with devotion, dedication and honesty and never provided a chance of reprimand. He was promoted to the rank of Inspector BPS-16 on 05.11.2014. All of sudden he was communicated with adverse remarks by his highups recorded in his ACR for the period from 01.01.2020 to 23.09.2020. The appellant while posted as Incharge Police Lines Mansehra for the period from 01.01.2020 to 23.09.2020, the reporting officer (District Police Officer Mansehra) had incorporated adverse remarks in his ACR and communicated to him on 24.03.2021. Feeling aggrieved, he filed departmental appeal on 12.04.2021 before Provincial Police Officer, Khyber Pakhtunkhwa Peshawar which was rejected vide order dated 15.03.2022 without giving any reason.

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 Deputy District Attorney and perused the case file with connected documents in detail.

4. Learned counsel for the appellant argued that order passed by the respondents is illegal, unlawful, against the facts and Police Rules 1975, hence, liable to be set aside. He contended that no explanation, charge sheet or show cause notice was issued nor he was informed by officer with regard to his any deficiency in performance and he was condemned unheard by recording adverse remarks in his ACR which is violation of principle of natural justice. Lastly, he submitted that the impugned order of appellate authority is contrary to law as laid down in guidelines for recording Evaluation Report, Police Rules, 1975 read with Section 24-A of General Clause Act, 1897 and Article 10-A of the Constitution of Islamic Republic of Pakistan, 1973.



5. Learned Deputy District Attorney contended that appellant has been treated in accordance with law and rules. He further contended that the appellant was warned time and again about his activities but he doesn't bother to obey the orders of his highups, therefore, he was awarded adverse remarks in Category "C" by competent authority under Police Rules, 1934 on account of inefficiency and negligence in performing his official duties.

6. Perusal of record reveals that appellant was appointed in year 1987 in Sindh Police at Karachi and was subsequently transferred and posted in Khyber Pakhtunkhwa Police Department. Appellant had also been promoted as Inspector (BPS-16) vide order dated 05.11.2014. It was on 24.03.2021, when DPO Mansehra communicated to the appellant adverse remarks of his Annual Confidential Report pertaining to period from 01.01.2020 to 23.09.2020. The remarks are i.e "The officer does not know anything about practical police. He is capable of wearing uniform and doing sentry duties." Appellant filed departmental appeal against the said adverse remarks on 12.04.2021, which was dismissed on 15.03.2022 by Additional Inspector General of Police Khyber Pakhtunkhwa, Peshawar.

7. According to the guide lines for filling of ACRs and settled procedure, before recording of adverse remarks in Annual Confidential Report, Reporting Officer is required to issue letter for reformation and improving oneself to his subordinate. In the instant case, no letter for reformation and improvement in shape of counseling was issued. Similarly even no explanation before recording of adverse remarks in the ACR was asked from the appellant by the reporting officer and countersigning authority. Adverse remarks recorded by reporting officer is without any documentary proof in shape of complaint from any quarter. Record is silent in respect of bringing into the notice of the appellant about his weaknesses



and defects by the reporting officer and also that whether appellant has not taken steps to remedy/remove such defects which was mentioned by the reporting officer in his ACR. Respondent failed to bring on record that whether ACR of the appellant for preceding year was also not good which clearly means that same was good that is why respondent deliberately not produce the same otherwise too, if same was not good it must have been conveyed to the appellant. So in such a situation, when preceding year ACR of the appellant is good, recording of adverse remarks in the ACR without issuing any reformation letter and counseling is not in accordance with mandate and sprit of law.

8. Learned counsel for the appellant stated at the bar that appellant has now a days been assigned acting charge DSP and he is performing very well to satisfaction of his superiors which is proof of the fact that adverse remarks recorded in ACR of the appellant were even not believed by the respondent and that's why appellant was assigned duties of DSP. Beside good performance of DSP duties by appellant is also proof of negation of adverse remarks recorded by the reporting officer.

9. As sequel to above discussion, the appeal in hand is allowed and the impugned adverse remarks in ACR for the period from 01.01.2020 to 23.09.2020 stands expunged. Costs shall follow the event. Consign.

10. *Pronounced in open court at Abbottabad and given under our hands and seal of the Tribunal on this 25<sup>th</sup> day of July, 2023.*



(SALAH UD DIN)  
Member (J)  
Camp Court, Abbottabad



(RASHIDA BANO)  
Member (J)  
Camp Court, Abbottabad