

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

Service Appeal No. 1425/2023

Muhammad Nawaz Khan Sub Inspector No. P/42, Police Lines, District
Nowshera.

.....Appellant

V E R S U S

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

.....Respondents

I N D E X

S.No.	Description of documents	Annexure	Pages
1.	Parawise comments	-	1-4
2.	Affidavit	-	05
3.	Authority letter	-	06
4.	Copy of enquiry report	A	07
5.	Copy of show cause notice	B	08
6.	Copy of enhancement of punishment	C	09-10


DSP Legal,
Nowshera.

①

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

Service Appeal No. 1425/2023

Muhammad Nawaz Khan Sub Inspector No. P/42, Police Lines, District
Nowshera.

.....Appellant

V E R S U S

1. The District Police Officer, Nowshera.
2. The Regional Police Officer, Mardan.
3. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.

*Khyber Pakhtunkhwa
Service Tribunal*

Entry No. 7218

Dated 27/8/23

.....Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1,2&3

Respectfully Sheweth: -

PRELIMINARY OBJECTIONS: -

1. That the appellant has got no cause of action and locus standi to file the instant appeal.
2. That the appeal is badly barred by law and limitation.
3. That the appellant is estopped by his own conduct to file the instant appeal.
4. That the appeal is not maintainable in its present form.
5. That the appellant has not come to the Honourable Tribunal with clean hands.
6. That the appeal is bad for mis-joinder and non-joinder of necessary and proper parties.

Reply on Facts: -

1. Para to the extent of joining Police department by the appellant pertains to record while rest of the para is incorrect, as promotions in Police department are not made on the sole ground of devotion, dedication and sincerity, rather, promotion to the next rank is made after qualifying certain courses as well as fulfilling certain criteria.
2. Correct to the extent that during posting of the appellant as SHO Police Station, Nizampur, reportedly he was involved in corruption/taking illegal gratification from persons who were involved in illegal mining in the area. Moreover, he also displayed cowardice while dealing with the persons involved in illegal mining which created law and order situation and this earned ill repute for the department, therefore, for the said misconduct he was proceeded against departmentally.
3. Incorrect. Appellant was posted for controlling crimes, but he himself was involved in criminal activities by obtaining illegal gratification from miners. Therefore, he was proceeded against departmentally by

(2)

initiating enquiry against him. The enquiry officer in his findings, held the delinquent officer responsible for the charges and recommended him for punishment as per law. (Copy of enquiry report is annexure "A").

4. Para already explained vide above para.
5. Para correct to the extent that on the recommendation of enquiry officer, appellant was awarded minor punishment of forfeiture of 02 years approved service as during the course of enquiry allegations were proved against the appellant.
6. Incorrect & misleading. Enquiry findings where he was exonerated from charges were based on allegations against appellant for failing to effectively control illegal mining in the area. However, subsequently, the appellant was charge sheeted with allegations that he reportedly was involved in corruption/taking illegal gratification from miners. Showing cowardice in dealing with the illegal miners which lead to the law and order situation. This brought ill reputation for Police department. After proper enquiry into the said allegations, he was found responsible for the charges. Then he was recommended for award of punishment as per law.
7. Para correct to the extent that appellant moved departmental appeal before the appellate authority against the punishment awarded by respondent No. 01. However, the appellate authority was of the opinion that punishment awarded to the appellant did not commensurate to the gravity of his misconduct therefore, prior to enhancement of punishment he was issued Show Cause Notice under Rule 11 Sub Rule-4 (clause-d) of the Khyber Pakhtunkhwa, Police Rules, 1975, as amended 2014, for enhancement of his punishment. His reply to the show cause notice was received and found unsatisfactory. Therefore, he was called in Orderly Room held in the office of appellate authority on 10-05-2023, but this time too he bitterly failed to produce any cogent reason in his defense. Hence, the appellate authority converted the minor punishment of forfeiture of two years approved service into major punishment of reduction in rank from Inspector to substantive rank of Sub Inspector. (Copy of Show Cause Notice is annexure "B" and copy of enhancement of punishment is annexure "C").
8. Para correct to the extent that against the order passed by the appellate authority, appellant moved revision petition under 11-A of Khyber Pakhtunkhwa, Police Rules 1975, amended 2014, appeal before respondent No. 03, however, without waiting for the outcome of the

same appellant filed service appeal before this Honorable Tribunal and at this score only the instant appeal is premature at this stage.

9. That appeal of the appellant is premature at this stage as revision appeal before respondent No. 03 is pending therefore, it is liable to be dismissed inter-alia on the following grounds: -

Reply on Grounds

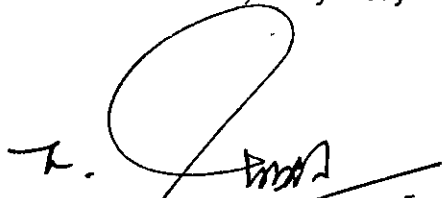
- A. Incorrect. Appellant has been treated in accordance with law and rules.
- B. Incorrect. Proper departmental enquiry was conducted in accordance with law and rules during which he was offered opportunity of defense. However, he failed to defend himself. Enquiry Officer in his findings recommended him for punishment, keeping in view the fact that he was held responsible for the charges.
- C. Incorrect. Respondent No. 01 thoroughly examined the enquiry report and on the recommendation of enquiry officer awarded punishment to the appellant. Moreover, he was also heard by the respondent No.01 in the Orderly Room held on 14-03-2023, but he failed to move any cogent reason in his defense.
- D. Incorrect. The appellate authority has enhanced punishment in accordance with law.
- E. Incorrect. Appellant feeling aggrieved from the order of appellate authority, as his punishment was enhanced by the appellate authority, moved appeal before respondent No. 03 but without waiting for the outcome of the same, he went into service appeal.
- F. Respondent No. 01 passed order in accordance with law.
- G. Incorrect. Enquiry findings where he was exonerated from charges were based on allegations against appellant for failing to effectively control illegal mining in the area. However, subsequently, the appellant was charge sheeted with allegations that he reportedly was involved in corruption/taking illegal gratification from miners. Showing cowardice in dealing with the illegal miners which lead to the law and order situation. This brought ill reputation for Police department. After proper enquiry into the said allegations, he was found responsible for the charges. Then he was recommended for award of punishment as per law.
- H. Incorrect. Appellant was awarded punishment under Police Rules 1975 while there is no mentioning in ibid Rules that punishment of reduction in rank would be for a specific period. Hence, plea of the appellant is not plausible.

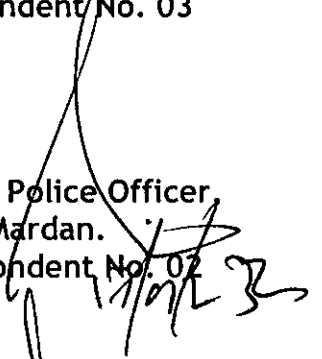
(4)

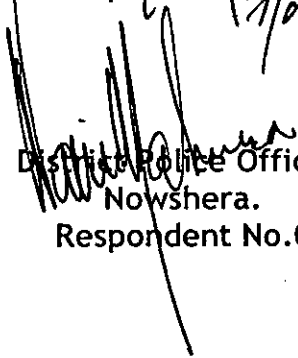
- I. Incorrect. Orders passed against the appellant are accordance with law and rules hence, are liable to be maintained.
- J. Para already explained.
- K. Para already explained.
- L. The respondents may also be allowed to advance additional grounds at the time of arguments.

Prayers

It is, therefore, most humbly prayed that on acceptance of above submissions, the appeal of the appellant being devoid of merit, may very kindly be dismissed with cost, please.


Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.
Respondent No. 03


Regional Police Officer,
Mardan.
Respondent No. 02


District Police Officer,
Nowshera.
Respondent No.01

5

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

Service Appeal No. 1425/2023

Muhammad Nawaz Khan Sub Inspector No. P/42, Police Lines, District
Nowshera.

.....Appellant

V E R S U S

1. The District Police Officer, Nowshera.
2. The Regional Police Officer, Mardan.
3. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.,

.....Respondents

AFFIDAVIT

We the respondents No. 1, 2 & 3 do hereby solemnly affirm and declare on Oath that the contents of reply to the appeal are true and correct to the best of our knowledge and belief and nothing has been concealed from the Honourable tribunal.

It is further stated on Oath that in this appeal the answering respondents have neither been placed ex-parte nor their defense has been struck off.



29 AUG 2023

[Signature]
Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.
Respondent No. 03

[Signature]
Regional Police Officer,
Mardan.
Respondent No. 02

[Signature]
District Police Officer,
Nowshera.
Respondent No.01

6

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

Service Appeal No. 1425/2023

Muhammad Nawaz Khan Sub Inspector No. P/42, Police Lines, District
Nowshera.

.....Appellant

V E R S U S

1. The District Police Officer, Nowshera.
2. The Regional Police Officer, Mardan.
3. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.

.....Respondents

AUTHORITY LETTER

Ijaz Hussain DSP Legal Nowshera is hereby authorized to appear and do the needful on behalf of respondents in the Khyber Pakhtunkhwa, Service Tribunal, in the above cited service appeal. He is also authorized to submit any document and record, statement etc required by the Honourable Tribunal


District Police Officer,
Nowshera.

7

POLICE DEPARTMENT

Annexure A-3
DISTRICT NOWSHERA.

FINDINGS IN DEPARTMENTAL ENQUIRY AGAINST INSPECTOR MUHAMMAD NAWAZ THE THEN SHO POLICE STATION NIZAMPUR

Departmental enquiry against Inspector Muhammad Nawaz the then SHO Police Station Nizampur now under suspension at police lines Nowshera is reportedly failed to effectively control illegal mining in the area which amount to grave misconduct on his part and rendered him liable for punishment under Khyber Pakhtunkhwa Police Rule, 1975.

PROCEEDINGS:-

For the purpose of scrutinizing, the conduct of the said Inspector Muhammad Nawaz the then SHO Police Station Nizampur to the above allegations undersigned is hereby appointed as Enquiry Officer to conduct departmental enquiry under Khyber Pakhtunkhwa Police Rules, 1975. The defaulter Inspector Muhammad Nawaz the then SHO Police Station Nizampur and the charge sheet/disciplinary action of the above allegations were served upon him. He submitted his reply in response to the charge sheet/disciplinary action which is enclosed herewith. Enquiry was conducted in the charge sheet issued to Inspector Muhammad Nawaz the then SHO Police Station Nizampur.

The subject issue which lead to the suspension of the then SHO PS Nizampur was on 27.02.2023 while he was on routine patrolling, the effective whom machinery has been made non-functional by Inspector Muhammad Nawaz stopped his way and argued with him over his extreme action. As the affectees were large in number while Inspector Muhammad Nawaz Khan was only with his gunners, he did not put a hand on them, neither initiated legal proceedings against them. It was also observed that after the incident too he did not gathered his strength to act against the wickedness of the offenders. It was of utmost importance for him to have moved the strength and acted against them.

OBSERVATION:

It is evident from the circumstances that Inspector Nawaz has failed to take proper action in regards to the resistance and aggression of the illegal miners.

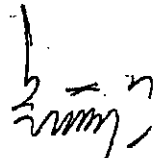
FINDINGS:

From the above observation and circumstances being enquiry officer am of the opinion that the alleged officer may be awarded minor punishment, if agreed, please.

No. 123 /S

Dated. 10.03.2023

→ 2 year convic
for 2 years
for 2 years
13/3


Sub-Divisional Police Officer,
Pabbi Circle.

ATTESTED

DSP Legal Nowshera

Attested

Appellant

8

Annexure B₃



Phone No: 0937-9230113-114,
Fax No: 0937-9230115
Email: digmardan@gmail.com

GOVERNMENT OF KHYBER PAKHTUNKHWA
OFFICE OF THE
REGIONAL POLICE OFFICER,
MARDAN

No. 2512 /ES, dated, Mardan Region the 26th April, 2023.

SHOW CAUSE NOTICE

Whereas, you (Inspector Muhammad Nawaz No.42/P), while posted as SHO Police Station Nizampur, Nowshera, were found guilty as under:

- i. That you were involved in corrupt practices/taking illegal gratification from persons who were involved in illegal mining in the area.
- ii. That you displayed cowardice while dealing with the persons involved in illegal mining, which created law and order situation and this earned ill-repute for the department.

On account of the aforementioned allegations, an enquiry was conducted through the then SDPO Pabbi and on 14-03-2023, DPO Nowshera awarded you minor punishment of forfeiture of two years approved service.

Feeling aggrieved, you filed a departmental appeal and during personal hearing it transpired that the order of punishment does not commensurate with the gravity of your misconduct. Therefore, it is proposed that why your punishment shall not be enhanced as envisaged under Rule 11, Sub Rule 4 of the Khyber Pakhtunkhwa Police Rules, 1975 as amended 2014.

Hence, in the exercise of powers vested under Rule 11, Sub Rule 4 of the Khyber Pakhtunkhwa Police Rules, 1975 as amended 2014, call you to Show Cause as to why not impose upon you the enhanced punishment of dismissal/removal of service or any other major punishment provided in the above-mentioned rules.

Your reply shall reach this office within 07 days of receipt of the Notice, failing which it will be presumed that you have no explanation to offer and ex-parte action shall be taken against you.

You are at liberty to appear for personal hearing before the undersigned.

Attested
Appellant

REGIONAL POLICE OFFICER,
MARDAN.

Inspector Muhammad Nawaz No.42/P
District Nowshera

CC.

1. The District Police Officer, Nowshera
2. The Office Supdt: Region Office.

ATTESTED

DSP Legal Nowshera

(9)

Annexure C₃

ORDER.

This order will dispose-off the departmental appeal preferred by Inspector Muhammad Nawaz No. P/42 of Nowshera District Police against the order of District Police Officer, Nowshera, whereby he was awarded minor punishment of forfeiture of two years approved service vide OB: No. 192 dated 14.03.2023. The appellant was proceeded against departmentally on the allegations that he while posted as SHO Police Station, Nizampur, was reportedly involved in corruption/taking illegal gratification from illegal miners in the jurisdiction of Police Station Nizampur, it was further alleged that he showed cowardice while dealing with these illegal miners, created law and order situation, which brought ill repute for police department.

Proper departmental enquiry proceedings were initiated against him. He was issued Charge Sheet alongwith Statement of Allegations and the then Sub Divisional Police Officer, Pabbi Nowshera was nominated as Enquiry Officer. The Enquiry Officer after fulfilling codal formalities submitted his findings to District Police Officer, Nowshera, wherein he held responsible the delinquent Officer and recommended him for minor punishment.

The delinquent Officer was heard in person in Orderly Room on 14.03.2023 by the District Police Officer, Nowshera, during which, he failed to produce any plausible reason in his defense, therefore, he was awarded minor punishment of forfeiture of two years approved service vide OB: No. 192 dated 14.03.2023.

Feeling aggrieved from the order of District Police Officer, Nowshera, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 19.04.2023 but he failed to advance any plausible reason to justify his innocence. Hence, he was issued Show Cause Notice under Rule-11, Sub Rule-4 Clause (d) of the Khyber Pakhtunkhwa Police Rules, 1975 as amended 2014 for enhancement of his punishment. His reply was received and found unsatisfactory. Therefore, he was called in Orderly Room held this on 10.05.2023 but this time too he bitterly failed to advance any cogent reasons in his defense.

From the perusal of the enquiry file and service record of the appellant, it has been found that not only did the appellant obtain illegal gratification in the form of money but at the same time he showed cowardice and dealt these illegal miners in an unprofessional manner which created law and order situation and the same brought a bad name for the entire Police Force. As instead of fighting crime, he has himself indulged in criminal activities. The competent authority has treated him leniently by not registering a criminal case although the misconduct of the appellant deserved a

Attested
[Signature]
Appellant

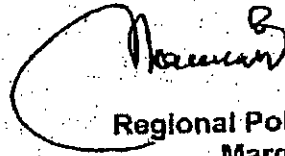
ATTESTED
[Signature]
DSP Legal Nowshera

10

harsher punishment. Hence, the very conduct of appellant is unbecoming of a disciplined Police Officer. Moreover, the appellant could not offer any cogent justification in his defense.

Keeping in view the above, I, Muhammad Ali Khan, PSP Regional Police Officer, Mardan, being the appellate authority, hereby convert the minor punishment of forfeiture of two years approved service into major punishment of reduction in rank from Inspector to substantive rank of Sub Inspector with immediate effect.

Order Announced.



Regional Police Officer,
Mardan.

No. 3273-77IES, Dated Mardan the 26/05 /2023.

Copy forwarded for information and necessary action to the:-

1. Capital City Police Officer, Peshawar.
2. District Police Officer, Nowshera w/r to his office Memo: No. 1166/PA dated 10.04.2023. His service record is returned herewith.
3. Office Superintendents Secret and Establishment-II Branch Central Police Office, Peshawar.
4. ACR Clerk Region Office, Mardan.
5. District Accounts Officer, Nowshera.

(*****)

Attested

Appellant


DSP Legal Nowshera