

Station Shakardar was arrested in case FIR No. 661 dated 30.12.2019 under Section 9D-CNSA Police Station Lachi on the statement of accused Sajjad S/O Zameer Khan. Later on, inquiry was conducted and on the strength of that FIR, appellant was dismissed from service. Feeling aggrieved the appellant filed departmental appeal against the impugned order dated 05.03.2020 which was not respondent to, hence the instant service appeal.

3. We have heard learned counsel for the appellant and Additional Advocate General for the respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Learned counsel for appellant contended that appellant was not treated in accordance with law and rules. He argued that proceedings initiated against the appellant was ex-parte and no opportunity of personal hearing was given to the appellant and he was condemned unheard which is against Police Rules, 1975. He contended that appellant was neither directly charged in FIR nor any authentic source disclosed his involvement in the case. Lastly, he submitted that he was proceeded against departmentally on the allegations that he was involved in case F.I.R No.661 dated 30.12.2019 but now the appellant was acquitted by Competent Court of Law. He, therefore, requested for acceptance of instant appeal.

5. Conversely, learned Additional Advocate General contended that appellant was proceeded against departmentally under the rules who was found guilty of charges by the enquiry officer. The appellant being



member of disciplined force got involved in heinous moral turpitude offence, earned bad name to the department, thus after fulfillment of all codal formalities he was dismissed from service.

6. Admittedly at the time of issuance of charge sheet and statement of allegations, appellant was confined in judicial lockup and was behind the bar. That is why, copy of charge sheet was given to appellant through Superintendent Jail District Kohat on 11.01.2020. Appellant requested through letter dated 12.01.2020 to stop the disciplinary proceedings till conclusion of trial in criminal case because then he will in better position to defend himself but inquiry officer paid no heed to the request of appellant. Inquiry officer also mentioned in his inquiry report about factum of appellant's confinement in Kohat Jail and his request to stop inquiry proceedings. It is admitted fact that appellant was suspended vide order dated 03.01.2020 and it is duty of the inquiry officer to meet personally for recording statement of the appellant in connection with inquiry but he sent charge sheet through Superintendent Jail which is against the rules. Moreover, no opportunity of self defence was provided to the appellant as his statement or proper reply of the charge sheet was not taken by the inquiry officer, which is against the settled norms, rules, procedure and principle of justice. From the record, it is evident that appellant was proceeded against departmentally on the allegations that during service he was involved in case FIR No. 661 dated 30.12.2019 under Section 9D-CNSA Police Station Lachi on the statement of co-accused Sajjad S/O Zameer Khan.




7. As discussed earlier that the only allegation against the appellant was his involvement in the criminal case but now the appellant was acquitted in the criminal case registered against him vide F.I.R No.661 by the competent court of Law on 04.11.2021.

8. It has been held by the superior fora that all the acquittals are certainly honorable. There can be no acquittal which may be said to be dishonorable. Involvement of the appellant in the criminal case was the only ground on which he had been dismissed from service and the said ground had subsequently disappeared, therefore, his acquittal, made him re-emerge as fit and proper person entitled him to continue with service.

9. For what has been discussed above, we allow this appeal as prayed for. Costs shall follow the event. Consign.

10. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 2nd day of August, 2023.*


(Fareeha Paul)
Member (E)


(Rashida Bano)
Member (J)