13.07.2023 Appellant in person present. Mr. Asad Ali Khan, Assistant Advocate General alongwith Mr. Shaheenullah, ASI for the respondents present.

Reply/comments on behalf of respondents submitted which are placed on file. Copy of the same handed over to the appellant. Representative of the respondents paid cost of Rs. 2000/- as ordered on 06.06.2023, on proper receipt. To come up for arguments on 14.09.2023 before D.B. P.P given to the parties.

(Muhammad Akbar Khan)
Member (E)

S.A #.6740/2021

ORDER

14th Sept: 2023 1. Learned counsel for the appellant present. Mr. Fazal Shah Mohmand, Additional Advocate General for the respondents present.

2. Vide our detailed judgment of today placed on file, we are of the opinion that the adverse remarks in this cases have been recorded in disregard of the relevant instructions. Therefore, on acceptance of this appeal, the adverse remarks recorded in the PERs for the period from 01.04.2019 to 28.11.2019 are expunged. Consign.

3. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 14th day of September, 2023*

(Muhammad Akbar Khan)
Member (E)

(Kalim Arshad Khan)
Chairman

Mutazem Shah

such an advice having been duly administered. The PERs are silent about any reason for recording adverse remarks.

8. For the reasons mentioned above, we are of the opinion that the adverse remarks in these cases have been recorded in disregard of the relevant instructions. Therefore, on acceptance of these appeals, the adverse remarks recorded in the PERs for the period from 01.04.2019 to 28.11.2019 are expunged. Consign.

9. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 14th day of September, 2023.*

KALIM ARSHAD KHAN
Chairman

MUHAMMAD AKBAR KHAN
Member (Executive)

Mutazem Shah

5. We have heard learned counsel for the appellant and learned Additional Advocate General for the respondents.

6. The learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned Additional Advocate General controverted the same by supporting the impugned order(s).

7. Perusal of record shows that appellants were serving as IHCs. While performing their duties, they were warned regarding their performance of duties as well as their presence at duty station. In the disputed remarks in the PER for the period from 01.04.2019 to 28.11.2019 vide order dated 18.02.2021, the appellants were given downgraded to "C" and the same were communicated to the appellants on 25.01.2021. The remarks in the PERs were that the appellants were a counterproductive officials and had failed to perform their duties vigilantly.

8. We have given due consideration to the adverse observations in the light of relevant instructions and we are obliged to find that they do not appear to have been strictly observed. It is provided in the Guidelines that the officer being reported upon, should be counseled about his weak points and also advised how to improve and that adverse remarks should ordinarily be recorded when the officer fails to improve despite counseling. In the present case, however, there is nothing to show that such proper counseling was ever administered to the appellant. In view of the importance of this instruction, the Reporting Officer, or the Countersigning Officer should not only impart appropriate advice but also keep a record of

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APPEALS UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 18.02.2021 VIDE NO.138/CC IN WHICH THE RESPONDENT NO.2 WITHOUT ANY LAWFUL JUSTIFICATION OR COGENT REASON AND WITHOUT ISSUING ANY COUNSELING TO THE APPELLANTS BLESSED WITH ADVERSE REMARKS IN ACR/PER AND THE APPELLANTS PREFERRED DEPARTMENTAL REPRESENTATIONS FOR EXPUNCTION ON 25.02.2021 AND THE RESPONDENT GIVEN FALSE CONSOLATION THAT REPRESENTATION WILL BE ACCEPTED BUT THE SAME WAS NOT CONSIDERED/ENTERTAINED NOR REJECTED TILL TO DATE.

CONSOLIDATED JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Through this single judgment all the above appeals are going to be decided as all the three are similar in nature and almost with the same contentions, therefore, all can conveniently be decided together.

2. The appellants' cases in brief are that adverse remarks were communicated to them vide order dated 18.02.2021, which were recorded in his Performance Evaluation Report (PER) for the period from 01.04.2019 to 28.11.2019.

3. Feeling aggrieved, they filed departmental appeals for expunction of the impugned adverse remarks but their appeals were not responded to, hence, the present service appeal.

4. On receipt of the appeals and their admission to full hearing, the respondents were summoned, who 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.

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,PESHAWAR

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**
MUHAMMAD AKBAR KHAN ... MEMBER(Executive)

Service Appeal No.6740/2021

Date of presentation of Appeal.....21.06.2021
Date of Hearing.....14.09.2023
Date of Decision.....14.09.2023

Mr. Waqar Alam IHC/39 District Hangu.....***Appellant***

Versus

1. **The Inspector General of Police,** Khyber Pakhtunkhwa, Peshawar
2. **Deputy Inspector General of Police,** Kohat Region, Kohat.....(***Respondents***)

Service Appeal No.6742/2021

Date of presentation of Appeal.....21.06.2021
Date of Hearing.....14.09.2023
Date of Decision.....14.09.2023

Mr. Ihsan Ullah, IHC No.412, District Hangu, P.S Doaba.
.....***Appellant***

Versus

1. **The Inspector General of Police,** Khyber Pakhtunkhwa, Peshawar
2. **Deputy Inspector General of Police,** Kohat Region, Kohat.....(***Respondents***)

Service Appeal No.6738/2021

Date of presentation of Appeal.....21.06.2021
Date of Hearing.....14.09.2023
Date of Decision.....14.09.2023

Mr. Eid Manoor IHC/ 125 District Hangu.....***Appellant***

Versus

1. **The Inspector General of Police,** Khyber Pakhtunkhwa, Peshawar.
2. **Deputy Inspector General of Police,** Kohat Region, Kohat.....(***Respondents***)

Present:

Syed Mudasir Pirzada, Advocate.....For the appellants
Mr. Fazal Shah Mohmand,Additional Advocate General .....For respondents