

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR.

Service Appeal No. 692/2021

Date of Institution ... 15.12.2020

Date of Decision... 08.09.2023

Sultan Bahadur, Sub-Inspector Police No. 256, MR Police Lines Mardan.

... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Home, Civil Secretariat, Peshawar and 03 others.

... (Respondents)

MR. MUHAMMAD RIAZ KHAN,
Advocate

--- For appellant.

MR. ASAD ALI KHAN,
Assistant Advocate General

--- For respondents.

SALAH-UD-DIN
FAREEHA PAUL

--- MEMBER (JUDICIAL)
--- MEMBER (EXECUTIVE)

JUDGMENT:

SALAH-UD-DIN, MEMBER:- Brief facts giving rise to filing of the instant appeal are that during posting of the appellant as S.I in Police Station Sheikh Maltoon (now Police Station Katlang), case FIR No. 561 dated 31.10.2018 under section 489-F was registered against Muhammad Arif as well as his wife namely Mst. Parveen Akhtar. The aforementioned Muhammad Arif submitted an application to the Regional Police Officer Mardan, complaining therein that he as well as his wife were falsely charged in the said case which led to initiation of disciplinary action against the appellant. On conclusion of the inquiry, the appellant was awarded minor punishment of stoppage of two increments with cumulative



effect vide bearing OB No. 1358 dated 26.06.2019. Penalty so awarded to the appellant was challenged by him by way of filing departmental appeal, which was also declined, hence the instant service appeal.

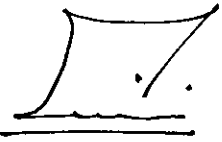
2. On receipt of the appeal and its admission to regular hearing, respondents were summoned, who put appearance through their representative and contested the appeal by way of filing written reply raising therein numerous legal as well as factual objections.

3. Learned counsel for the appellant contended that the appellant was innocent and the departmental action against him was wrong and illegal. He next contended that the appellant was not at all associated in the inquiry proceedings and was thus condemned unheard. He also argued that mandatory provisions of Police Rules, 1975 were not complied with and the impugned orders are thus not sustainable in the eye of law. He next argued that the impugned order dated 26.06.2019 is in violation of FR-29 and the competent Authority was not legally authorized to award punishment of stoppage of two increments with cumulative effect. In the last he requested that the impugned orders may be set-aside and the increments of the appellant may be restored with all consequential benefits.

4. On the other hand, learned Assistant Advocate General for the respondents argued that the appellant is an in-efficient police official and his whole service record is tainted with bad entries in



the shape of various penalties awarded to him. He next contended that in view of clear cut opinion of DPP Mardan as well as order dated 29.10.2018 passed by learned Additional Sessions Judge Mardan upon 22-A Cr.PC application, FIR was required to be registered only against Muhammad Arif but the appellant had wrongly and illegally arrayed Mst. Parveen Akhtar W/O Muhammad Arif as an accused also in the concerned criminal case, which amounted to in-efficiency and gross misconduct on part of the appellant. He also argued that a regular inquiry was conducted in the matter and the appellant was fully associated in the inquiry proceedings by providing him opportunity of personal hearing as well as self defence. In the last he requested that all the legal and codal formalities were fulfilled before passing the impugned orders, therefore, the appeal in hand may be dismissed with cost.



5. We have heard the arguments of learned counsel for the parties and have perused the record.

6. A perusal of the record would show that one Gul Muhammad S/O Akhtar Muhammad resident of Sheikh Maltoon District Mardan had submitted an application to the DIG Mardan for registration of FIR against Muhammad Arif and his wife Mst. Parveen Akhtar residents of Cooperative Housing Society, Sector E-11/2, Islamabad on the allegations that cheque given by them to the applicant was dishonored on its presentation in the concerned bank. Initially an inquiry was initiated in the matter and the same was entrusted to the appellant. During inquiry

proceedings, legal opinion of Deputy Public Prosecutor Mardan was sought, who had categorically opined that Muhammad Arif and Mst. Parveen Akhtar were though joint account holders, however as the cheque was signed by Muhammad Arif, therefore, he may be proceeded against. The aforementioned opinion was furnished by Deputy Public Prosecutor and agreed to by District Public Prosecutor on 29.09.2018. In the meanwhile, complainant Gul Muhammad submitted an application under 22-A Cr.PC in the court of learned Sessions Judge, Mardan, soliciting directions to the SHO Police Station Sheikh Maltoon District Mardan for registration of FIR against accused Muhammad Arif only. The said 22-A Cr.PC application was disposed of vide order dated 29.10.2018, whereby too, directions were given for registration of FIR only against Muhammad Arif. The appellant, however chalked out FIR by arraying Mst. Parveen Akhtar W/O Muhammad Arif as an accused also. In view of the order dated 29.10.2018 passed by learned Additional Sessions Judge Mardan on 22-A Cr.PC application as well as opinion of learned DPP Mardan, the appellant was required to have registered FIR only against Muhammad Arif, however he arrayed Ms. Parveen Akhtar as an accused also. Such reckless attitude of the appellant in the discharged of his official functions was an act of misconduct on his part and stood proved in the inquiry proceedings.

7. The appellant was issued charge sheet as well as statement of allegations and was associated in the inquiry proceedings. The appellant was also issued final show-case notice and was provided

opportunity of personal hearing. Learned counsel for the appellant could not point out any material dent in the inquiry proceedings.

8. In view of the above discussion, the appeal in hand stands dismissed being without any merits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
08.09.2023



(FAREEHA PAUL)
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)




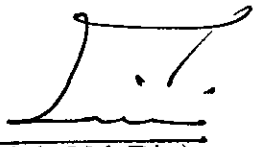
ORDER
08.09.2023

Appellant alongwith his counsel present. Mr. Atta-ur-Rehman, Inspector (Legal) alongwith Mr. Asad Ali Khan, Assistant Advocate General for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the appeal in hand stands dismissed being without any merits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
08.09.2023


(Fareeha Paul)
Member (Executive)


(Salah-Ud-Din)
Member (Judicial)

Naeem Amin