

Service Appeal No.525/2020 titled "Shafi Ur Rehman Vs. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar and others"

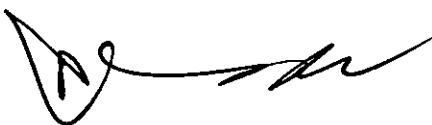
ORDER

24th Oct. 2023 **Kalim Arshad Khan, Chairman:** Learned counsel for the appellant present. Mr. Asif Masood Ali Shah learned Deputy District Attorney for the respondents present.

2. Learned counsel for the appellant pointed out that the appellant was serving under the District Police Officer, Battagram but the initial departmental proceedings were initiated by the SP CTD, Abbottabad, who was not the authority of the appellant, while the final impugned order was passed by the DPO Battagram. He disputed the proceedings by saying that those were not conducted in the proper manner by proper authorities. There is a letter bearing endorsement No.122-25/E&I dated 13.01.2015 on the file issued by the office of Inspector General of Police. Paragraphs No.2, 3 & 4 of the same are reproduced as under:

"2. It has reliably reported that on 30.10.2014 during Nakabandi local Police of Police Station Shinkiari has recovered 03 Kg Chars and 01 Pistol 30 bore from the possession of Zaib Ur Rehman and Shafi ur Rehman (an employee of CTD Battagram). During interrogation, accused Shafi Ur Rehman disclosed that he is serving in CTD and has earlier remained in another case of smuggling vide case Fir No.553 datd 02.05.2014 u/s 9C-CNSA Police Station Cantt: Abbottabad.

3. On receiving these information DIG CTD directed SP CTD Hazarata to initiate departmental enquiry against Head Constable for his direct involvement in two different heinous nature cases. As per direction of DIG CTD, proper departmental enquiry was conducted after fulfillment of all





codal formalities Head Constable Shafi Ur Rehman was found guilty of the allegations leveled against him and the enquiry officer recommended him for major punishment. During enquiry Head Constable Shafi Ur Rehman is found guilty of gross misconduct and he is recommended for major penalty but Head Constable Shafi Ur Rehman is serving on deputation basis in CTD and FRP is his parent department.

4. On perusal of the above report the Worthy IGP has passed the following remarks:-

❖ Orders be issued for repatriation to district Battagram with direction to DPO Battagram to issue him Show Cause Notice and to remove him from service in the light of findings of enquiry officer.

❖ He is placed under suspension”


According to this letter, the stance of the learned counsel for the appellant holds some field because the letter tells us that the appellant was employee of CTD Battagram and was serving on deputation basis with CTD, whereas, FRP was his parent department but the directions were issued to the DPO to issue show cause notice and remove the appellant from service in the light of findings of the inquiry officer. It was then the DPO Battagram issued the original dismissal order, which was assailed by the appellant before the Inspector General of Police in revision petition under Rule 11-A of the Police Rules, 1975. The IGP, on acceptance of the revision petition, converted the punishment of dismissal from service into compulsory retirement. The appellant is aggrieved of the same but as learned counsel has pointed out certain irregularities in the conduct of the departmental

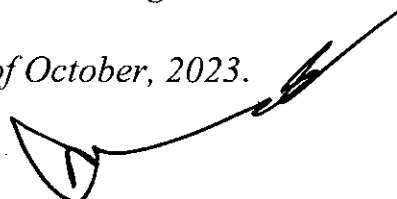
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proceedings by different authorities, the competency of which was also questioned, whereas, according to learned counsel, the departmental proceedings could have been initiated only by the competent authority of the appellant, who according to him is the DPO Battagram.

3. Therefore, we allow this appeal, set aside the impugned orders and remit the matter back to the DPO Battagram for conducting de-novo inquiry in accordance with law and rules within 60 days from the date of receipt of judgment. The issue of back benefits shall be subject to the outcome of de-novo inquiry. Consign.

4. *Pronounced in open Court at Abbottabad and given under our hands and seal of the Tribunal on this 24th day of October, 2023.*


(Fareeha Paul)
Member (E)


(Kalim Arshad Khan)
Chairman

Mutazem Shah