

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR.**

Service Appeal No. 583/2023

Date of Institution ... 14.03.2023

Date of Decision... 01.11.2023

Muhammad Ilyas Khan S/O Hashm Khan Ex-IHC No. 102 CCP Peshawar,  
R/O Pakistan Kalay, Boobak, Tehsil and District Charsadda.

... (Appellant)

**VERSUS**

Inspector General of Police, Khyber Pakhtunkhwa Peshawar and 02 others.

... (Respondents)

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MR. ASAD KHAN MUHAMMAD ZAI,

Advocate

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For appellant.

MR. HABIB ANWAR,

Additional Advocate General

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For respondents.

SALAH-UD-DIN

FAREEHA PAUL

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MEMBER (JUDICIAL)

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MEMBER (EXECUTIVE)

**JUDGMENT:**

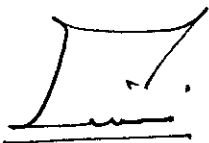
**SALAH-UD-DIN, MEMBER:-** Brief facts giving rise to filing of  
the instant appeal are that departmental action was taken against the  
appellant on the allegations reproduce as below:-

*"i. He was found taking undue advantage of his assigned duty. The fact was evident that he was getting bribe from different smugglers of the area and developed contacts with anti social and criminal's elements.*

*ii. Being hands in gloves with smugglers, he brought bad name to police in general and Arbab Tapu Police in Particular.*

*iii. He has a persistent reputation of being corrupt and has maintained a standard of living beyond his known source of income.*

2. On conclusion of the inquiry, he was dismissed from service vide the impugned order dated 16.11.2022. The penalty so awarded to the appellant was challenged by him through filing of departmental appeal before the Capital City Police Officer Peshawar, which was rejected



vide order dated 27.02.2023. The appellant then preferred revision petition before the Inspector General of Police Khyber Pakhtunkhwa Peshawar, which was rejected during the pendency of the instant appeal on 21.07.2023.

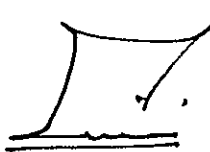
3. On receipt of the appeal and its admission to regular hearing, respondents were summoned, who put appearance through their representative and contested the appeal by way of filing written reply raising therein numerous legal as well as factual objections.

4. Learned counsel for the appellant contended that the allegations against the appellant were factual in nature, however no evidence was collected during the inquiry, which could prove the baseless allegations leveled against the appellant. He next contended that the inquiry was conducted in a haphazard manner without providing opportunity of personal hearing as well as self defence to the appellant. He further contended that the statements of the witnesses were recorded by the inquiry officer in absence of the appellant and no opportunity of cross-examination was provided to him. He also argued that Bahar Ahmed S.I and Javid Khan S.I were also suspended and proceeded against on same allegations, however they were reinstated in service, while the appellant was treated with discrimination by dismissing him from service. In the last he requested, that the impugned orders may be set-aside and the appellant may be reinstated in service with all back benefits.

5. On the other hand, learned Additional Advocate General for the respondents contended that the appellant had indulged himself in



contacts with smugglers and criminals, which brought bad name to the Police Department. He next contended that the allegations against the appellant were proved in a regular inquiry conducted against him. He further contended that the appellant was provided opportunity of self defense as well as personal hearing, however he was unable to produce any cogent evidence in his defense. He next argued that the service career of the appellant is full of bad entries and previously he was also awarded minor punishment but he did not mend his ways. He also argued that all the legal and codal formalities were fulfilled before passing of the impugned orders, therefore, the same may be kept intact and the appeal in hand may be dismissed with cost.

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


7. A perusal of the record would show that the inquiry in the matter was conducted by Superintendent of Police, Sadler Division, CCP Peshawar, who submitted his report to the competent Authority on 27.07.2022. The inquiry report as available on the record would show that the inquiry officer has examined S.I Imran Ullah SHO Police Station Mattani, Shahid Khan ASI Police post Arbab Tapu as well as Asghar Khan Constable No. 6912 Police Post Arbab Tapu. We have gone through the statements of the aforementioned witnesses examined during the inquiry. The witnesses examined during the inquiry had categorically stated that the appellant was honest police official and had not remained indulged in any illegal activities. The witnesses examined during the inquiry had supported the stance of the appellant regarding his innocence. None of the witnesses examined in

the inquiry had uttered a single word in support of the allegations against the appellant. It is, however astonishing that the inquiry officer opined in his findings that the allegations stood partially proved against the appellant to the extent of his contacts with one Ansar Ali, who was smuggler. Regarding the alleged contacts of the appellant with Ansar Ali through cell phone, no one was examined as witness by the inquiry officer and even any CDR was not put to the appellant in the inquiry proceedings. The perfunctory findings of the inquiry officer were not based on any evidence recorded during the inquiry but the District Police Officer awarded major punishment of dismissal to the appellant on the basis of such findings. The impugned orders are thus not sustainable in the eye of law and are liable to be set-aside.

8. Consequently, the appeal in hand is accepted by setting-aside the impugned orders dated 16.11.2022, 07.02.2023 as well as 21.07.2023 and the appellant stands reinstated in service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
01.11.2023

  
(FAREEHA PAUL)  
MEMBER (EXECUTIVE)


  
(SALAH-UD-DIN)  
MEMBER (JUDICIAL)


ORDER  
01.11.2023

Appellant alongwith his counsel present. Mr. Zahoor Khan, Inspector (Legal) alongwith Mr. Habib Anwar, Additional 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 is accepted by setting-aside the impugned orders dated 16.11.2022, 07.02.2023 as well as 21.07.2023 and the appellant stands reinstated in service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
01.11.2023

  
(Farzeha Paul)  
Member (Executive)

  
(Salah-Ud-Din)  
Member (Judicial)