

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 1522/2022

BEFORE: **MRS RASHIDA BANO** ... **MEMBER (J)**
MISS FAREEHA PAUL ... **MEMBER (E)**

Nouman Haider S/O Rafi Ud Din R/O Mohallah Bahadar Ghari, Hangu (Ex-Constable, Belt No. 420)..... (*Appellant*)

Versus

1. Inspector General of Police, Khyber Pakhtunkhwa, Central Police Office, Peshawar.
2. Regional Police Officer, Kohat Region, Kohat.
3. District Police Officer, District Hangu. (*Respondents*)

Mr. Irfan Ali Yousafzai
Advocate

...

For appellant

Mr. Muhammad Jan
District Attorney

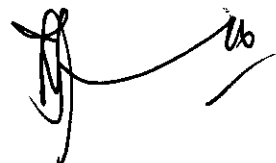
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For respondents

Date of Institution..... 18.10.2022
Date of Hearing..... 17.10.2023
Date of Decision..... 17.10.2023

JUDGEMENT


FAREEHA PAUL, MEMBER (E): The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the order dated 14.09.2022, whereby respondent No. 2 rejected the departmental appeal of the appellant filed against the order dated 19.07.2022 passed by respondent No. 3 whereby the appellant was removed from service. It has been prayed that on acceptance of the appeal, both the impugned orders, dated 14.09.2022 and 19.07.2022, might be set aside and the appellant might be reinstated in service with all back benefits.



2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was appointed as Constable in District Police Hangu in 2019. One, Zaryab S/O Haroon Rashid R/O Mohallah Al-Sheravi of Hangu, having cell phone No. 0347-9452707 appeared before respondent No. 3 and made a complaint against the appellant regarding black-mailing on social media through his Whatsapp No. 0336-9583028 and leveled the allegations of indiscipline and criminal gross misconduct against him. Respondent No. 3 issued a show cause notice to the appellant which was duly replied by him. An inquiry was conducted against him in the supervision of S.P Investigation Hangu. On the completion of requisite inquiry, the Inquiry Officer submitted his findings report to respondent No. 3, who removed the appellant from service vide impugned order dated 19.07.2022. Being aggrieved, he filed departmental appeal to respondent No. 2 which was also turned down vide impugned order dated 14.09.2022; hence the instant service appeal.

3. Respondents were put on notice who submitted written replies/ comments on the appeal. We heard the learned counsel for the appellant as well as the learned Deputy District Attorney for the respondents and perused the case file with connected documents in detail.

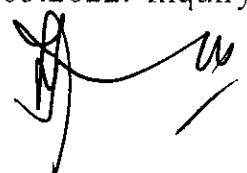
4. Learned counsel for the appellant, after presenting the case in detail, argued that the impugned order of removal from service of the appellant was not in accordance with law, facts, evidence on record, rules and principles of justice, hence liable to be set aside. He further argued that charge leveled against the appellant was vague and ambiguous because the competent



authority had not mentioned the period of alleged willful absence. According to him inquiry against the appellant was conducted unilaterally, at the back of the appellant, and no proper procedure was followed. He requested that the appeal might be accepted.

5. Learned District Attorney, while rebutting the arguments of learned counsel for the appellant, argued that proper show cause notice, charge sheet and statement of allegations was served upon the appellant in reply to which he admitted the charges leveled against him and entered into compromise deed with the complainant. He further argued that ample opportunity was given to the appellant and he was also heard in person but he failed to submit any satisfactory reply before the Inquiry Officer. He further argued that he, despite being a member of disciplined force, indulged himself in illegal activities and earned a bad name to the department. He argued that the appellant was enrolled in Police Department on 31.12.2019 and during his short span of less than three years, he earned a number of bad entries. He remained willful absent from duty on various occasions and was awarded different kinds of punishments. He also failed in the basic recruit course and also indulged himself in illegal activities, therefore, his retention in service was neither in the interest of the department nor general public. He requested that the appeal might be dismissed.

6. From the arguments and record presented before us, it transpires that appellant was appointed as Constable in the provincial police on 31.12.2019. Based on a complaint, disciplinary proceedings were initiated against him by issuing a charge sheet and statement of allegations on 19.05.2022. Inquiry

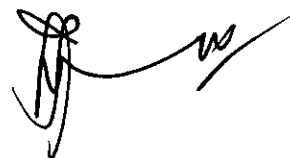


was conducted and a detailed report was submitted by the Inquiry Officer, which has been annexed with the reply of the respondents. The inquiry report proves the charges against the appellant and further shows that his previous service record was also tainted with bad entries. Perusal of the impugned order dated 19.07.2022 shows that major punishment of Removal from Service was awarded to the appellant under Police Rule 12.21. Rule 12.21 is reproduced as follows:-

“12.21. Discharge of inefficient.


A constable who is found unlikely to prove an efficient police officer may be discharged by the Superintendent at any time within three years of enrolment. There shall be no appeal against an order of discharge under this rule.

7. From the record presented before us, it is clear that there were numerous occasions where the appellant had proved himself to be an inefficient and indisciplined official, who refused to obey the orders of his seniors also. In the case under reference here, he was called by the Inquiry Officer, as is evident from the Inquiry Report, but instead of presenting himself, he simply forwarded his reply. Under the rules and as a member of a disciplined force, he was bound to present himself for inquiry before the I.O. This speaks volumes of his disobedience and shunning the lawful orders of his seniors. All this discussion shows that when he failed to mend his ways, he was removed from service under Rule 12.21 of the Police Rules 1934 and the action was taken within three years of his appointment, hence there lies no right of appeal under this rule.



8. In view of above, the service appeal in hand is dismissed. Costs shall follow the event. Consign.

9. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 17th day of October, , 2023.*


(FAREEHA PAUL)
Member (E)

Fazle Subhan, P.S



(RASHIDA BANO)
Member (J)

SA 1522/2022

17th Oct. 2023 01. Mr. Irfan Ali, Advocate for the appellant present. Mr. Muhammad Jan, District Attorney for the respondents present. Arguments heard and record perused.

02. Vide our detailed judgment consisting of 05 pages, the service appeal in hand is dismissed. Costs shall follow the event. Consign. .

03. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 17th day of October, 2023.*


(FARIEHA PAUL)
Member (E)


(RASHIDA BANO)
Member (J)

Fazal Subhan PS