

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 480/2019

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

Shaukat Ali, Junior Clerk, Traffic Head Quarter, Khyber
Pakhtunkhwa Peshawar. (Appellant)

VERSUS

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Capital Police Officer, Peshawar.
3. Senior Superintendent of Police/Chief Traffic Officer, Peshawar.
.... (Respondents)

Mr. Taimoor Ali Khan
Advocate ... For appellant

Mr. Muhammad Jan
District Attorney ... For respondents

Date of Institution.....10.04.2019
Date of Hearing.....18.10.2023
Date of Decision.....18.10.2023

JUDGMENT

RASHIDA BANO, MEMBER (J):The instant service appeal has been
instituted under section 4 of the Khyber Pakhtunkhwa Service Tribunal,
Act 1974 with the prayer copied as below:

**“On acceptance of instant appeal the order dated
22.03.2019 and 24.01.2019 may kindly be set aside and
the appellant may be restored to his original post/scale
of senior clerk as he was before the penalty imposed
with all back and consequential benefits.”**



2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant while serving as Senior Clerk, was posted in driving license branch Traffic Headquarter, Peshawar. Departmental action was taken against him on the allegations that he failed to stop process of the 14 cases having fake/bogus signatures of SSP/T and MLA on learner permits and driving test files and had also allowed and facilitated Junior Clerks, Shahzeb and Sanaullah, to process the fake license cases. On conclusion of the inquiry, the appellant was awarded major penalty of reduction to a lower post for a period of three years vide order dated 24.01.2019. Feeling aggrieved, he preferred departmental appeal, which was rejected vide order dated 22.03.2019; hence the instant service appeal.

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

4. Learned counsel for the appellant has contended that the appellant is having an unblemished record of service and did not remain involved in preparation of any fake/bogus Learner Permits; that the witnesses examined during the inquiry have not leveled any allegation against the appellant; that the appellant has not been provided any opportunity of personal hearing and he was thus condemned unheard; that the appellant has not been treated in accordance with law and his rights guaranteed under the law and constitution were badly violated; that the appellant has never committed any act or omission, which could be considered as misconduct and even otherwise too, the penalty imposed upon the appellant is too harsh.



5. Conversely, learned District Attorney for the respondents contended that a regular inquiry was conducted in the matter, wherein proper charge sheet and summary of allegations was issued to which appellant submitted his reply, in which he pleaded innocence. Final show cause notice was issued, but his reply was not satisfactory. Therefore, the competent authority in light of finding on enquiry report, awarded major penalty of reduction to lower scale.

6. Perusal of record reveals that appellant while performing his duties in driving license branch Traffic Headquarter, received charge sheet and statement of allegation that he failed to stop process of the 14 cases for issuance of driving license having fake/bogus signatures of SSP Traffic and MLA Traffic on learner permits and driving license test files and allowed and facilitated Junior Clerks, Shahzeb and Sanaullah to process fake license. Appellant submitted reply of the charge sheet and was associated with inquiry proceedings. Inquiry committee consisting of Mr. Muhammad Shoaib Khan (PSP) Faqirabad and Najam ul Hussan Laiqat (ASP) Hayatabad, after fulfillment of all legal and codal formalities submitted their report on 09.01.2019 to the authority, who after issuance of final show cause notice, passed impugned order dated 24.01.2019 and awarded major penalty of reduction to a lower post for a period of three years with immediate effect.

7. Perusal of enquiry report reveals that inquiry committee in its finding mentioned that nowhere, during inquiry proceedings, it could be established that Mr. Shoukat Ali was involved in this scam directly or indirectly, but being incharge of driving license branch it was his responsibility to keep



check. So it is established, that the appellant had no involvement in issuing of 14 cases having bogus/fake signature of MLA and there is only negligence at his part being senior. He would have to keep check his juniors who were directly involved. It is pertinent to mention here that the main accused Shahzeb and Sanaullah junior clerks, who were dismissed from service and major penalty of their dismissal from service was converted into minor penalty of stoppage of three annual increments for a period of three years with cumulative effect by the Tribunal in service appeal No. 1008/2019 on 01.02.2022.

8. In our humble view, the quantum of penalty awarded to the appellant does not commensurate with the act of negligence and is too harsh. Consequently, the appeal in hand is partially allowed and the impugned orders are modified and major penalty of reduction to lower post for the three years is converted into minor penalty of stoppage of one increment for one year. Cost shall follow the events. Consign.

9. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 18th day of October, 2023.*


(FAREEHA PAUL)
Member (E)

*Kaleemullah


(RASHIDA BANO)
Member (J)