

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 4807/2021

BEFORE: RASHIDA BANO --- MEMBER (J)
MUHAMMAD AKBAR KHAN --- MEMBER (E)

Mr. Majid Hussain Assistant Sub Inspector Excise taxation and
Narcotics Control Peshawar.....(*Appellant*)

VERSUS

1. Secretary to Government of Khyber Pakhtunkhwa, Excise Taxation
and Narcotics Control Department Peshawar.
2. Director General Excise taxation and Narcotics Control Khyber
Pakhtunkhwa Peshawar.....(*Respondents*)

Present:-

SALMAN FAROOQ,
Advocate --- For Appellant

MISS PARKHA AZIZ KHAN,
Legal Advisor --- For respondents

Date of Institution.....06.04.2021
Date of Hearing.....13.11.2023
Date of Decision.....13.11.2023

JUDGMENT.


MUHAMMAD AKBAR KHAN, MEMBER(E):- The instant service appeal
has been instituted under Section 4 of the Khyber Pakhtunkhwa Service
Tribunal, Act 1974 with the prayer copied as under;

*“That the impugned order dated 10.03.2021 may be set aside
and declared as null and void.”*

02. Brief facts of the case are that the appellant was appointed as Assistant
Sub-Inspector in the respondent department and was posted in Excise Police
Station Peshawar; that on 06.08.2020 the appellant was issued charge sheet

on the allegation that he has changed the tires of Hino Truck parked near the main gate of the Excise Police Station. He was awarded minor penalty of withholding of two annual increments for two years vide order dated 19.10.2020. Feeling aggrieved from the order dated 19.10.2020 of respondent No. 2, the appellant filed departmental appeal to respondent No. 1 which was accepted and the minor penalty of two (02) annual increments for two years was converted into minor penalty of withholding of one increment, hence preferred the instant service appeal on 06.04.2021.

03. Notices were issued to the respondents, who submitted their comments, wherein they refuted the assertions raised by the appellant in his appeal. We have heard arguments of learned counsel for the appellant and legal advisor for the respondents and have gone through the record with their valuable assistance.



04. Learned counsel for the appellant contended that the respondent No. 1 without considering the facts and circumstances which was explained by the appellant to the committee, awarded penalty to the appellant which is illegal, false and have no legal effect; that the respondent No. 1 awarded the impugned penalty on the basis of illegally framed charge sheet, statement of allegation and enquiry committee. He further contended no opportunity of personal hearing was provided to the appellant. He has, therefore, been condemned unheard.


05. Legal Advisor on behalf of respondents contended that the appellant has been treated in accordance with law; that the charge sheet and statement of allegations were duly framed and he deserved severe penalty; that he was provided the opportunity of personal hearing but he could not clarify his

position; that he was cross examined on a number of occasions and all the witnesses directly testified against him.

06. Perusal of record reveal that all the codal requirements have properly been observed and completed by the respondents before imposition of minor penalty against the appellant. We do not find any lacuna in the disciplinary proceedings. Statement of witnesses have properly been recorded and ample opportunity of self defense provided to the appellant. The appellate authority has taken very lenient view by converting the minor penalty of stoppage of two increments for two years into stoppage of one annual increment for one year against the appellant. We believe that the order of the appellate authority commensurate well with the charge proved against the appellant in the disciplinary proceedings. We, therefore, dismiss the instant appeal having no room for further relief. Costs shall follow the event. Consign.

07. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 13th day of November, 2023.*


(Rashida Bano)
Member (J)


(Muhammad Akbar Khan)
Member (E)

ORDER


13.11.2023

01. Learned counsel for the appellant present. Miss Parkha Aziz Khan, legal advisor for the respondents present. Arguments heard and record perused.

02. Vide our detailed judgment of today separately placed on file, consisting of (03) pages, we dismiss the instant appeal having no room for further relief. Costs shall follow the event. Consign.

03. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 13th day of November, 2023.*


(Rashida Bano)
Member (J)


(Muhammad Akbar Khan)
Member (E)