

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR AT CAMP COURT ABBOTTABAD

BEFORE: SALAH-UD-DIN ... MEMBER (Judicial)
FAREEHA PAUL ... MEMBER (Executive)

Service Appeal No. 623/2023

Haq Nawaz, Ex-Constable No. 852 District Police Haripur, R/O
Village Bhaira, Tehsil & District Haripur. (Appellant)

Versus

Provincial Police Officer Khyber Pakhtunkhwa Peshawar and 02
others. (Respondents)

Present:

Mr. Muhammad Aslam Tanoli, Advocate.....For the appellant
Mr. Asif Masood Ali Shah, Deputy District AttorneyFor respondents

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Date of presentation of Appeal.....22.03.2023

Date of Hearing.....13.12.2023

Date of Decision.....13.12.2023

JUDGMENT

SALAH-UD-DIN, MEMBER: Brief facts giving rise to filing of the instant appeal are that disciplinary action was taken against the appellant on the allegations that he while transferred/posted from Police Lines to Police Station Ghazi, had absented himself from official duty with effect from 01.07.2022 to 28.07.2022 without obtaining any leave or permission of the competent Authority. On conclusion of the inquiry, the appellant was awarded major punishment of dismissal from service vide order dated 01.09.2022 passed by District Police Officer Haripur. The appellant challenged the said punishment by way of filing departmental appeal before the Regional Police Officer


Hazara Region Abbottabad, however the same was also rejected vide order dated 23.02.2023, hence the instant appeal.

2. 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.

3. Learned counsel for the appellant argued that absence of the appellant from duty was not willful, rather the same was on account of his illness, which fact is supported by the medical documents annexed by the appellant with his appeal. He next argued that the mandatory provisions of Police Rules, 1975 were not complied in the inquiry proceedings and the appellant was not provided opportunity of personal hearing as well as self defence. He further contended that the departmental appeal of the appellant was rejected in a cursory manner without assigning any cogent reasons. He also argued that the alleged absence of the appellant from duty was just 28 days, therefore, the punishment of dismissal from service was too harsh. 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.

4. On the other hand, learned Deputy District Attorney for the respondents has contended that the appellant had remained absent from duty for 28 days without availing any leave or permission of the competent Authority, which amounted to

gross misconduct. He next contended that the appellant was issued charge sheet as well as statement of allegations but he failed to submit satisfactory reply of the same. He further contended a proper inquiry was conducted in the matter, wherein the appellant had himself admitted his absence. He next argued that the appellant was provided ample opportunity of self defense as well as personal hearing but he could not produce any cogent material in rebuttal of the allegations leveled against him. He also argued that as the allegations of willful absence from duty stood proved against the appellant in a regular inquiry, therefore, the impugned orders may be kept intact and the appeal in hand may be dismissed with cost.



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

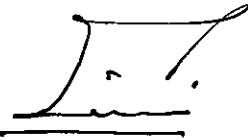
6. A perusal of the record would show that allegations against the appellant were that he had willfully remained absent from duty with effect from 01.07.2022 to 28.07.2022 (28 days) without any leave or permission of the competent Authority. Charge sheet as well as statement of allegations were issued to the appellant and Mr. Iftikhar Ahmed, Deputy Superintendent of Police Circle Saddar, Haripur was appointed as inquiry officer. The appellant was duly associated with the inquiry proceedings and was provided opportunity of self defence. During the inquiry, the appellant took the stance that his absence from duty was on account of his illness as well as illness of his

children and wife, however the medical documents so produced by him to the inquiry officer were not found to be in accordance with the stance of the appellant. Although the charge of absence from duty for 28 days stands proved from the record as the appellant had remained absent from duty without any sanctioned leave or prior permission of the competent Authority, however the penalty awarded to the appellant is too harsh and does not commensurate with the gravity of the misconduct committed by him.

7. In light of the above discussion, the appeal in hand is partially accepted and the impugned orders are modified by converting major punishment of dismissal from service into minor punishment of stoppage of two annual increments for two years without cumulative effect. The appellant stands reinstated into service, however the absence as well as intervening period shall be treated as leave without pay. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

13.12.2023



(SALAH-UD-DIN)
MEMBER (JUDICIAL)
CAMP COURT ABBOTTABAD



(FAREEHA PAUL)
MEMBER (EXECUTIVE)
CAMP COURT ABBOTTABAD

ORDER
13.12.2023


Appellant alongwith his counsel present. Mr. Israr Shah, ASI alongwith Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the appeal in hand is partially accepted and the impugned orders are modified by converting major punishment of dismissal from service into minor punishment of stoppage of two annual increments for two years without cumulative effect. The appellant stands reinstated into service, however the absence as well as intervening period shall be treated as leave without pay. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
13.12.2023


(Farzeha Paul)
Member

Camp Court Abbottabad


(Salah-Ud-Din)
Member (Judicial)
Camp Court Abbottabad