

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**PESHAWAR**

**Service Appeal No. 261/2019**

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

Behram Gul Khan S/o Ziarat Gul R/o Mera Kachori, Tehsil and District Peshawar.....(*Appellant*)

**VERSUS**

1. The Inspector General of Police Khyber Pakhtunkhwa Peshawar.
2. Chief Capital Police Officer (CCPO), CPO, Peshawar.
3. Senior Superintendent of Police (SSP) Police Line, Peshawar.....(*Respondents*)

**Present:-**

BILAL UD DIN,  
Advocate --- For Appellant

MUHAMMAD JAN,  
District Attorney --- For respondents.

Date of Institution.....20.02.2019  
Date of Hearing.....29.11.2023  
Date of Decision.....29.11.2023

**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 on acceptance of this Service Appeal, the order/letter dated 13.07.2018 may kindly be set aside and respondent be directed to cancel the said order and appellant be reinstated as SHO Police Station Khazana, Peshawar.”*

02. Brief facts of the case are that the appellant was appointed as Constable on 28.03.1987. He was promoted to the post of ASI on 10.03.2012 and then promoted to the post of Inspector on Adhoc Basis in BPS-16 with immediate effect for his outstanding performance vide order dated 14.01.2013. He was posted as Security Incharge of Peshawar High Court, Peshawar from 23.09.2016 to 23.04.2018 and then posted as SHO Khazana Police Station on 21.05.2018. The appellant while posted as SHO Police Station Khazana, the SSP Operation Peshawar issued show cause notice to the appellant on 08.06.2018 on different allegations i.e. (he had been extremely bad moral reputation and has persistent reputation of being financially corrupt and having links with NCP vehicle smugglers, and ASP Chamkani was appointed as inquiry officer. Initially Show Cause Notice was issued to the appellant by SSP Peshawar and ASP Gulbahar was nominated as inquiry officer who conducted inquiry and not suggested any punishment for the appellant; that during the pendency of first inquiry another inquiry on the same allegation was initiated by ASP Chamkani. That on 13.07.2018, the respondent No. 3 issued impugned order dated 13.07.2018 whereby major punishment of reversion from the rank of Inspector to the rank of Sub Inspector was imposed on the appellant. Feeling aggrieved from the impugned order dated 13.07.2018, the appellant filed departmental appeal which was not responded within the statutory period. He filed Writ Petition against the impugned order as the Tribunal was non functional which was withdrawn after the Tribunal become functional. Thereafter, the appellant filed the instant service appeal on 20.02.2019.

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 learned District Attorney for the respondents and have gone through the record with their valuable assistance.

04. Learned counsel for the appellant contended that the allegations is baseless on the reason that the NCP vehicle use to entire through Jam side or from Swat, a large number of Police Stations are situated in the way while Police Station Khazana is situated in the mid of Peshawar City. No evidence in this respect against the appellant and just after two weeks he was given show cause notice and there was no single incident which shows his poor performance or bad reputation, even during inquiry appellant was awarded excellence certificate. That the impugned order 13.07.2018 is illegal, against the law, based on malafide and against fundamental rights of the appellant. That the impugned order dated 13.07.2018 is without jurisdiction and without lawful authority.




05. Learned District Attorney on the other hand contended that the appellant was issued charge sheet and statement of allegations and SDPO Chamkani was appointed as enquiry officer who conducted the enquiry and found the appellant guilty of the charges; that proper opportunity was provided to the appellant; that FSCN was issued before passing the punishment order; that the punishment order passed by the competent authority is lawful, and in accordance with the law and no fundamental right of the appellant has been violated by the respondents.


06. Scrutiny of record reveals that the appellant was posted as SHO Khazana vide order dated 21.05.2018. Disciplinary proceedings were initiated against him on 8.06.2018 within fortnight of his posting. The charge sheet

against the appellant contained five different charges of serious but general nature. Two different orders of inquiry are available on record. Both the inquiry orders have been issued on the same date i.e. 08.08.2018. In one order ASP Gulbahar was appointed inquiry officer and in the other ASP Chamkani appointed inquiry officer. The final impugned order has been passed on the basis of inquiry report submitted by ASP Chamkani. Nothing is available on record regarding the fate of other inquiry required to be conducted by ASP Gulbahar. Comments/reply submitted by the respondents are silent on this point raised in the appeal. The report submitted by the ASP Chamkani cannot be termed inquiry in any respect. It is a one page document. Half of the page contains list of the charge leveled against the appellant and in the other half page the five charges have been summarized and shown as findings without substantiating the charges/allegations against the appellant. It seems to be summary trial of the appellant as the whole process right from framing of the charges to the passing of final order took 35 days including weekly holidays.

07. In view of above discussion we are constrained to set aside the impugned order dated 13.07.2018 and remit the instant appeal to the respondent for conducting denovo inquiry in accordance with law. Costs shall follow the event. Consign.

08. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 29<sup>th</sup> day of November, 2023.*

  
(Rashida Bano)  
Member (J)

  
(Muhammad Akbar Khan)  
Member (E)

ORDER

29.11.2023

01. Learned counsel for the appellant present. Mr. Muhammad Jan, District Attorney for the respondents present. Arguments heard and record perused.

02. Vide our detailed judgment of today separately placed on file, consisting of (04) pages, we are constrained to set aside the impugned order dated 13.07.2018 and remit the instant appeal to the respondent for conducting denovo inquiry in accordance with law. 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 29<sup>th</sup> day of November, 2023.*



(Rashida Bano)  
Member (J)



(Muhammad Akbar Khan)  
Member (E)