

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

**Service Appeal No. 1633/2022**

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

Wajid Ali No. 884 Head Constable Police Lines District Police  
Nowshera..... (*Appellant*)

**VERSUS**

1. District Police Officer, Nowshera.
2. Deputy Inspector General of Police Region Mardan, District Mardan.
3. Inspector General of Police, Police Headquarters, Police Line,  
Peshawar.....(*Respondents*)

**Present:**

MUHAMMAD ARIF JAN,  
Advocate

--- For Appellant

MUHAMMAD JAN,  
District Attorney

--- For respondents

Date of Institution.....15.11.2022

Date of Hearing.....29.11.2023

Date of Decision.....29.11.2023

**JUDGEMENT**

**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 follows;

*“That on acceptance of the instant appeal, the impugned order dated 19.10.2022 and order dated 20.07.2022 passed by the respondents No. 2 & 1 respectively may very graciously be set aside and the appellant may kindly be restored to his substantive rank of ASI with all back benefits.”*

SCANNED  
KPST  
Peshawar


02. Brief facts of the case, as per memorandum of the service appeal, are that, the appellant while posted at Police Station Akbarpura of District Nowshera was issued Show Cause Notice dated 28.06.2022 by respondent No. 1 on the allegations that he had close links with a notorious criminal Jan Sher Khan R/o Dawood Zai, District Peshawar who was involved/charged in multiple cases; that the appellant was giving him information about the police raids which is evident from his CDR; that the appellant duly replied to the Show Cause Notice which was not considered by the respondent department. That respondent No. 1 issued the impugned order dated 20.07.2022 whereby the appellant was awarded major punishment of reduction in rank (substantive rank of ASI to H.C). Feeling aggrieved from the impugned order dated 20.07.2022, the appellant filed departmental appeal on 03.08.2022 which was rejected on 19.10.2022, hence preferred the instant service appeal on 15.11.2022.

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 and have gone through the record with their valuable assistance.

04. Learned counsel for the appellant contended that the impugned orders dated 20.07.2022 & 19.10.2022 issued by the respondents is illegal, unlawful, without lawful authority, hence liable to be set aside; that the allegations leveled against the appellant is baseless because the appellant is competent and trustworthy officer. Learned counsel for the appellant contended that proper charge sheet/statement of allegations was not issued to the appellant. No chance of personal hearing was provided to the appellant. He has, therefore, been condemned unheard. He submitted that no regular inquiry has been conducted in the matter which is mandatory obligation on the part of competent authority. He next argued that no proper procedure as required under the law, has been followed

by the respondents and all the proceedings were carried out at the back of appellant, therefore, the impugned orders are not sustainable in the eye of law and are liable to be set aside, he concluded.

05. Learned District Attorney for the respondents controverted the assertions made in the service appeal as well as arguments of the learned counsel for appellant and contended that the impugned order dated 20.07.2022 passed by respondent No. 1 whereby major punishment of reduction in rank was awarded to the appellant and the order dated 19.10.2022 passed by respondent No. 2 whereby appeal of the appellant was filed, are in accordance with law and rules, hence are liable to be maintained; that the contacts/links of the appellant with a notorious criminal had been established through obtaining CDR of the appellant, which has been also admitted by the appellant;. He further argued that proper charge sheet and summary of allegations were issued to the appellant and proper inquiry was conducted into the allegations against the appellant. He was also provided ample opportunity of self defense but he failed to prove his innocence. Since all the codal formalities were fulfilled before passing the impugned order, the appeal in hand may therefore, be dismissed, he concluded.



06. Scrutiny of available record transpires that the appellant was proceeded against the allegation that he was allegedly involved in telephonic contact with a proclaimed offender facilitating the PO to avoid arrest through police raids. On the basis of CDR direct Show Cause Notice was served upon the appellant and he was awarded major punishment of reduction from the rank of ASI to H.C vide order dated 20.07.2022. Upon departmental appeal of the appellant the appellate authority sent back to the competent authority (DPO, Nowshera) for conducting inquiry. Placed on record is a one page inquiry report submitted by SDPO Cantt Circle,

Nowshera. No copy of order of inquiry, statement of allegations, Show Cause Notice issued to appellant in light of inquiry findings, reply to the Show Cause Notice, opportunity of personal hearing afforded the accused are forthcoming on record which are mandatory before passing major punishment. The inquiry report does not substantiate the allegations leveled against the appellant as there is no statement of any one recorded and no cross examination and analysis of the CDR has been carried out by the inquiry officer. We observe that the inquiry report is mere repetition of the allegations leveled against the appellant. The inquiry has been conducted in cursory, slipshod manner and in violation of principles of natural justice.

07. In view of foregoing finding of legal scrutiny the impugned orders dated 20.07.2022 and 19.10.2022 are set aside and the case is remitted back to the respondents for conducting denovo inquiry in accordance with law and legal procedure. 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, learned District Attorney for the respondents present. Arguments heard and record perused.

02. Vide our detailed judgment of today, placed on file consisting of (04) pages, the impugned orders dated 20.07.2022 and 19.10.2022 are set aside and the case is remitted back to the respondents for conducting denovo inquiry in accordance with law and legal procedure. 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)