

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**CAMP COURT ABBOTTABAD.**

Service Appeal No.1049/2023

BEFORE: MR. SALAH-UD-DIN ... MEMBER (J)  
MISS FAREEHA PAUL ... MEMBER (E)

Mr. Nazakat Cook-cum-Constable No. 796, District Police, Haripur.  
..... (Appellant)

Versus

1. Provincial Police Officer Khyber Pakhtunkhwa Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. District Police Officer, Haripur. .... (Respondents)

Mr. Muhammad Aslam Khan Tanoli,  
Advocate ... For appellant

Mr. Asif Masood Ali Shah, ... For respondents  
Deputy District Attorney

Date of Institution..... 08.05.2023  
Date of Hearing..... 13.12.2023  
Date of Decision..... 13.12.2023

**JUDGEMENT**

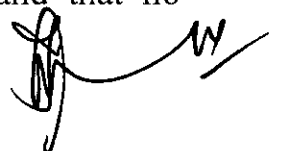
**FAREEHA PAUL, MEMBER (E):** The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 12.01.2023 of the District Police Officer, Haripur whereby the appellant was awarded penalty of forfeiture of 02 years approved service and order dated 07.04.2023 of the Regional Police Officer, Hazara Region, Abbottabad whereby his departmental appeal was filed/rejected. It has been prayed that on acceptance of the instant service appeal both the impugned orders dated 12.01.2023 and 07.04.2023 might be set aside and 02 years forfeited approved service of the appellant be restored with all consequential service back benefits.



2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was posted as Cook-cum-Constable at Police Station Beer Haripur when his father fell ill and became paralyzed. He submitted application for grant of leave which was granted. His father was admitted in DHQ Hospital Haripur. The appellant and his brother had to look-after their ailing father on turns in the hospital. Though appellant was granted leave yet during that leave period he himself used to prepare food for the staff. He requested one of his relatives to help him in serving food to staff when he was out and attending his ailing father at the hospital. That arrangement was made only for 5/6 days when his father was in the hospital. Later on his father expired on 29.01.2023, hence the allegations that appellant engaged a person for Rs. 12000/- per month was totally incorrect. The appellant was served with a charge sheet dated 29.11.2022 which was duly replied by him. On receiving the inquiry report, the DPO Haripur vide order dated 12.01.2023 awarded the appellant penalty of forfeiture of 02 years approved service. Feeling aggrieved, he preferred departmental appeal dated 31.01.2023 before the Regional Police Officer, Hazara Region, Abbottabad which was filed/rejected vide order dated 07.04.2023; hence the instant service appeal.

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

4. Learned counsel for the appellant, after presenting the case in detail, argued that no proper departmental inquiry was conducted and that no



statement of witnesses was recorded in his presence nor was he afforded an opportunity to cross examine them. He stated that even opportunity of personal hearing was not afforded to him. Learned counsel further argued that the allegations leveled against the appellant were totally false and that he did not hire anyone to serve in his place, rather he requested his relative just to help him in his work for only 5 or 6 days during illness of his father. He requested that the appeal might be accepted as prayed for.

5. Learned Deputy District Attorney, while rebutting the arguments of learned counsel for the appellant, argued that the appellant was posted at Police Post Swabi Maira and it was reported by SDPO Saddar that he had hired a private cook in his place @ Rs. 12000/- per month. The learned DDA stated that the appellant could not delegate his functions to any private person and hence he failed to discharge his official responsibilities in accordance with the law and rules. He further argued that charge sheet alongwith statement of allegations was served upon him and Mr. Kameelur Rehman DSP/Khanpur was appointed as enquiry officer, who conducted proper departmental enquiry and submitted his findings wherein charges leveled against him were proved. According to the learned DDA, the appellant was given opportunity of personal hearing but he could not prove his innocence and was awarded minor punishment of forfeiture of two years approved service by the competent authority. He further argued that his departmental appeal was rejected by the DIG Hazara Region, Abbottabad after being heard in orderly room. He requested that the appeal might be dismissed.





S.A 1049/2023

13<sup>th</sup> Dec. 2023 01. Mr. Muhammad Aslam Khan Tanoli, Advocate for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present. Arguments heard and record perused.

02. Vide our detailed judgment consisting of 04 pages, the appeal is dismissed being devoid of merit. Cost shall follow the event. Consign.

03. *Pronounced in open court at Camp Court, Abbottabad and given under our hands and seal of the Tribunal on this 13<sup>th</sup> day of December, 2023.*

  
(FAREEHA PAUL)  
Member (E)  
Camp Court, Abbottabad

  
(SALAH-UD-DIN)  
Member (J)  
Camp Court, Abbottabad

*\*Fazle Subhan, P.S\**

6. This service appeal has been preferred against an order vide which the appellant has been awarded minor punishment of forfeiture of two years approved service. From the arguments and record presented before us, it transpires that the appellant while serving as Cook Constable at PP Swabi Maira hired a private person to perform duty in his place. The appellant, in his service appeal, has himself admitted that he asked one of his relatives to perform duty as cook in his place, as his father was in the hospital and he had to look after him. This admission on the part of the appellant is enough to prove his misconduct. Being a civil servant and a member of a uniformed and disciplined force, he was bound to fulfill his duties as required under the law and rules governing his service, but he miserably failed to do so and hence was proceeded against departmentally, as a result of which minor penalty was imposed upon him. Record provided before us shows that all the legal formalities were duly fulfilled by the respondent department before awarding the punishment

7. In view of the above discussion, the appeal in hand is dismissed, being devoid of merit. Cost shall follow the event. Consign.

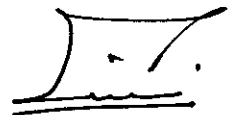
8. *Pronounced in open court at Camp Court, Abbottabad and given under our hands and seal of the Tribunal this 13<sup>th</sup> of December, 2023.*



(FAREEHA PAUL)  
Member (E)

Camp Court, Abbottabad

\*Fazle Subhan, P.S\*



(SALAH-UD-DIN)  
Member (J)

Camp Court Abbottabad