

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

**Service Appeal No. 5195/2021**

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

Inayat Ali Amjid Sub-Inspector, presently posted at District Police Peshawar.....(*Appellant*)

Versus

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Mardan Region-I, Mardan.
3. District Police Officer, Nowshera.....(*Respondents*)

Mr. Yasir Saleem  
Advocate

... For appellant

Mr. Asif Masood Ali Shah  
Deputy District Attorney

... For respondents

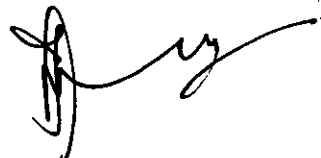
Date of Institution.....	19.04.2021
Date of Hearing.....	10.01.2024
Date of Decision.....	10.01.2024

**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 appellate order dated 08.11.2019, whereby the penalty of forfeiture of two years service, imposed vide order dated 12.09.2019, was modified and reduced to one year forfeiture of service and against the order dated 22.03.2021 whereby revision petition of the appellant was rejected. It has been prayed that on acceptance of the appeal, the original order dated 12.09.2019, the appellate order dated 08.11.2019 and the Board's order dated 22.03.2021 might be set aside and the forfeited service be restored to the appellant with full back and consequential benefits of service.



2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was initially appointed as ASI in the Police Department vide order dated 04.11.2010. He was posted as SHO at Police Station Misri Banda, when an incident took place. A lady, namely Aysha, lodged an FIR No. 209 dated 08.08.2019 u/s 337/A(i)(ii)/337F(ii)/336/445/34 PPC at Police Station Misri Banda, District Nowshera against one, Inzemam S/O Zamanat Khan R/O Nandrak. When the issue was raised on social media, the appellant was departmentally proceeded on the allegations of not taking action against the accused Inzemam when the said lady earlier came to the Police Station for redressal of her grievance against Inzemam prior to the registration of FIR and also on the allegations that due to his negligent attitude by not taking preventive measures, the lady sustained injuries. Without serving any charge sheet and statement of allegations, an inquiry was conducted in the matter and the enquiry officer held him responsible and recommended for forfeiture of two years from service vide his report dated 05.09.2019. Thereafter, the competent authority, without serving any show cause notice upon the appellant, awarded him minor punishment of forfeiture of two years from active service vide order dated 12.09.2019. Feeling aggrieved, the appellant filed his departmental appeal, which was partially accepted and vide order dated 08.11.2019, the penalty was reduced to forfeiture of service to one year. The appellant, being aggrieved from partial acceptance of his departmental appeal, filed his revision petition by invoking Rule 11-A of Khyber Pakhtunkhwa Police Rules, 1975 which was rejected vide order dated 22.03.2021; hence the instant service appeal.



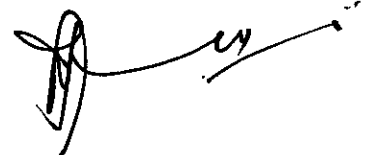
3. Respondents were put on notice who submitted written replies/ comments on the appeal. We heard the learned counsel for the appellant as well as the learned Deputy District Attorney for the respondents and perused the case file with connected documents in detail.

4. Learned counsel for the appellant, after presenting the case in detail, argued that the appellant was not afforded opportunity of personal hearing before the imposition of penalty upon him and was condemned unheard. He further argued that no charge sheet, statement of allegation or show cause notice was ever served upon him before awarding him the penalty. He further argued that when the lady, Aysha, sustained injuries, FIR was promptly lodged which showed that the appellant performed his duty and was vigilant enough in the matter. Later on, when the lady/complainant was called to Police Station, she appeared alongwith the elders of the locality and deposed that she did not want any action against the accused Inzemam. Her statement was duly entered in daily diary vide Mad No. 12 dated 06.08.2019. The learned counsel contended that when the complainant did not want to initiate proceedings against Inzemam, then how could the appellant initiate proceedings against him. Learned counsel for the appellant further argued that neither any witness was examined nor the appellant was given opportunity of cross-examination during the enquiry proceedings. According to him, the charges leveled against the appellant were never proved and the enquiry officer gave his findings on the basis of surmises and conjectures. 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 served with charge sheet and statement of allegations on 16.08.2019. Enquiry was conducted through the ASP Cantt: Nowshera and it was proved that the appellant failed to protect the victim when the matter was reported to him vide FIR dated 08.08.2019. According to the learned DDA, the appellant was provided opportunity to defend himself during the enquiry proceedings but he failed to give any plausible reason in his defence. He requested that the appeal might be dismissed.

6. Arguments and record presented before us shows that the appellant was initially awarded minor punishment of forfeiture of approved service of two years by his competent authority which was reduced to one year by the appellate authority, in response to his departmental appeal. There was an allegation against him that, he, while posted as SHO Police Station, Misri Banda badly failed to take proper action against the accused, Inzimam s/o Zamanat Khan r/o Nandrak, because a victim lady, Mst. Aysha, time and again approached him for redressal of her grievances, which resulted in registration of FIR No. 209 dated 08.08.2019 u/s 337 A(i)(ii)F(ii)/336/455/34 PPC P.S Misri Banda. According to the same statement of allegations, the said lady sustained grievous injuries due to his lethargic and negligent attitude, which shows his inefficiency and lack of interest in official duties and amounts to grave misconduct on his part and because of that he rendered himself liable for minor or major punishment under Khyber Pakhtunkhwa Police Rules, 1975. An inquiry officer was appointed to conduct the inquiry who submitted his

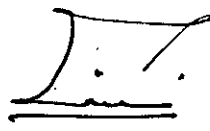


report, according to which the appellant failed to protect the victim when the matter was reported to him and his casual response resulted in the incident as reported in the FIR dated 08.08.2019. Based on those findings he was awarded the minor penalty. Perusal of the proceedings of the inquiry report shows that statement of the appellant was recorded, but no such statement was available with the Inquiry Report annexed with the reply of the respondents. In a single page Inquiry Report, the Inquiry Officer has not tried to get statements of any witnesses related to the incident which resulted in the inquiry against the appellant. When the learned Deputy District Attorney was asked to elaborate the lethargic attitude of the appellant, as stated in the statement of allegations, and how was it proved against him, he could not lay hand on a single document which could establish that allegation.

7. In view of the above discussion, the appeal in hand is allowed as prayed for. Cost shall follow the event. Consign.

08. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 10<sup>th</sup> day of January, 2024.*

  
(FAREEHA PAUL)  
Member (I)

  
(SALAH-UD-DIN)  
Member (J)


S.A 5195/2021


10<sup>th</sup> Jan, 2024 01. Mr. Yasir Saleem, 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 05 pages, the  
appeal in hand is allowed as prayed for. Cost shall follow the  
event. Consign.

03. *Pronounced in open court in Peshawar and given under  
our hands and seal of the Tribunal on this 10<sup>th</sup> day of January,*

2024.

  
(FARIEMA PAUL)  
Member (E)

  
(SALAH-UD-DIN)  
Member (J)

\*Fazal Subhan PS\*