



14.12.2023 1. Clerk to counsel for the appellant present. Mr. Muhammad Jan

learned District Attorney for the respondent present.

2. Lawyers are on strike, therefore, the case is adjourned. To come up for arguments on 11.03.2024 before D.B. P.P given to the parties.

SCANNED  
KADIST  
Peshawar

  
Muhammad Akbar Khan  
Member (E)

  
Rashida Bano  
Member (J)

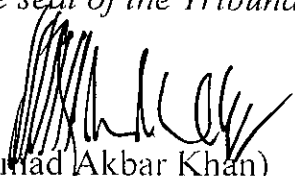
ORDER


11<sup>th</sup> Mar. 2024

1. Learned counsel for the appellant and Mr. Muhammad Jan, District Attorney for the respondents present.

2. Vide our detailed judgment of today placed on file, on allowing this appeal, we set aside the original as well as appellate order by reinstating the appellant with all back benefits. Costs shall follow the events. Consign.

3. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 11<sup>th</sup> day of March, 2024.*

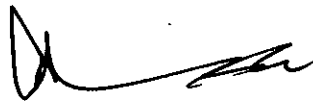
  
(Muhammad Akbar Khan)  
Member (E)

  
(Kalim Arshad Khan)  
Chairman

never used anywhere nor any benefit was taken by anybody. So much so, it is not approved or found anywhere that the bullet was actually an "unfired" bullet and not a "deformed" bullet while the other documents were containing the mention of "unfired" bullet in order to benefit either of the parties of the criminal case registered vide above FIR or at least it could be said that the alleged tampering, which actually seems to be correction, held the appellant guilty of some misconduct.

6. This being so, we do not think that disagreement of the appellate authority with the inquiry report was justified nor is that sustainable. Therefore, on allowing this appeal, we set aside the original as well as appellate order by reinstating the appellant with all back benefits. Costs shall follow the events. Consign.

7. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 11<sup>th</sup> day of March, 2024.*



**KALIM ARSHAD KHAN**  
Chairman



**MUHAMMAD AKBAR KHAN**  
Member (Executive)

be some internally used document and never used or made public, wherein, some cutting/overwriting, though made, but that has been explained by the appellant to be correction regarding the bullet allegedly recovered from the dead body of the deceased, whose murder was reported vide case FIR No.220 dated 17.06.2022 U/S 302/324-34-PC, PS Zaida District Swabi. The overwriting shows that initially, the word was written as "unfired" but that was cut and replaced with the word "deformed". The learned District Attorney was confronted as to whether the Inquiry Officer or DIG Investigation, to whom the matter was sent for comments, had perused or referred to or discussed the application of the concerned SHO sent to the Forensic Science Laboratory alongwith the sealed parcels containing the said bullet to ascertain the fact whether it was an "unfired" bullet or a "deformed" bullet to further enquire the matter whether the appellant could be held liable for any misconduct or not but the District Attorney could not utter a single word in this regard. Besides, there is no application of SHO P.S Zaida, District Swabi, placed on record nor is there any reference/discussion in the inquiry report or for that in the report of DIG Investigation to whom the matter was sent for comments. Be that as it may, copy of the FSL report has been produced during the course of arguments, which shows that sealed parcel No.5 sent by the SHO Police Station Zaida, District Swabi was containing the "deformed" bullet. This document further establishes that disputed cutting was for making correction and that could not affect any proceeding nor used for any gains. Last but not the least, when the document or paper, apparently shows to be for internal usage or some type of rough work to make analysis and to prepare a report, and was

comprising of Mr. Muhammad Irshad Khan, SSP Investigation and Mr. Janan Habib DSP Admin Investigation Unit CPO, Peshawar, wherein the appellant was exonerated from the charges but the Additional Inspector General of Police, Investigation wrote a letter to the DIG Investigation for comments regarding the role of the appellant. The DIG Investigation instead submitted a report with the subject of fact finding inquiry and in Para-d of finding/recommendation, the DIG Investigation observed as under:

*"After going through the inquiry report of FSL Peshawar, Inquiry conducted at concerned district, De-novo Inquiry report, review of the De-Novo inquiry report and hearing all concerned, I came to the conclusion that Technician ASI Kamran Aziz and Ex-Inspector Ayaz/SI Izhar Ali tried to shift responsibilities to prove themselves innocent. Record clearly shows that none of them fulfilled their responsibilities as per rules and with honesty of purpose. I found all the three officials responsible for the mishandling of a sensitive nature case resulting in delaying the dispensation of justice and destroying an important piece of evidence. I therefore recommend that suitable punishment may be awarded to Ex-Inspector Ayaz, SI Izhar Ali and Technician Kamran Aziz."*

On receipt of the report and not the comments, the Additional Inspector General of Police passed the order dated 16.06.2023, rejecting the appeal of the appellant. The allegations against the appellant were that he had tampered with some record, but there is nothing said by the DIG Investigation to whom the Additional IG Investigation had sent the matter for comments as to what tampering the appellant had done and in which public/official or public document the alleged tampering was made thereby rendering him liable to such disciplinary action. Similarly, there is nothing said about violation of any such instructions of the superiors by the appellant nor any instructions were disclosed or confronted with the appellant. There is a handwritten document placed on file, which appears to



appellant he was again served with charge sheet/statement of allegations and de-novo inquiry was conducted, wherein, the Inquiry Officer exonerated the appellant from the charges leveled against him, however, the authority disagreed with the recommendations of Inquiry Officer and vide order dated 02.03.2023, the penalty of compulsory retirement from service was maintained, hence, this appeal.

2. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents put appearance and contested the appeal by filing written reply raising therein numerous legal and factual objections. The defense setup was a total denial of the claim of the appellant.

3. We have heard learned counsel for the appellant and learned District Attorney for the respondents.

4. The learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned District Attorney controverted the same by supporting the impugned order(s).

5. Vide order dated 12.01.2023, punishments were awarded to Inspector Muhammad Ayaz and the appellant S.I Izhar Ali. The appellant was compulsorily retired from service. He filed departmental appeal before the Additional Inspector General of Police, Investigation, who, on appeal, reinstated the appellant in service for the purpose of de-novo proceedings and treated the intervening period as leave without pay, vide order dated 02.03.2023, where-after, the Director Forensic Science Laboratory Khyber Pakhtunkhwa issued charge sheet on 06.03.2023 followed by summary of allegations and de-novo inquiry was conducted by an Inquiry Committee

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR**

BEFORE: **KALIM ARSHAD KHAN ...CHAIRMAN**  
**MUHAMMAD AKBAR KHAN ...MEMBER (Executive)**

*Service Appeal No.1465/2023*

Date of presentation of appeal.....09.10.2023  
Dates of Hearing.....11.03.2024  
Date of Decision.....11.03.2024

**Izhar Ali** (Ex-Sub Inspector Fire Arms Section FSL Khyber Pakhtunkhwa Peshawar) .....(*Appellant*)

Versus

1. **The Provincial Police Officer**, Peshawar.
2. **The Director** Forensic Science Laboratory, Khyber Pakhtunkhwa, Peshawar.
3. **The Addl. Inspector General of Police Investigation**, Khyber Pakhtunkhwa, Peshawar.....(*Respondents*)

Present:

Mr. Muhammad Asif Yousafzai, Advocate.....For appellant  
Mr. Muhammad Jan, District Attorney.....For respondents

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**SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 12.01.2023 WHEREBY, THE APPELLANT WAS COMPULSORY RETIRED FROM SERVICE AND AGAINST THE ORDER DATED 16.06.2023 WHEREBY, THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED FOR NO GOOD GROUNDS.**

**JUDGMENT**

**KALIM ARSHAD KHAN CHAIRMAN:** According to the memorandum and grounds of appeal, the appellant was serving as Sub Inspector in the Police Department; that an inquiry was initiated against the appellant and show cause notice was issued to him on 29.09.2022. Resultantly, he, vide order dated 12.01.2023, was compulsorily retired from service. Feeling aggrieved, the appellant filed departmental appeal, on acceptance of which, he was reinstated into service for the purpose of de-novo inquiry; that the

