SA 2450/2023

06th Mar. 2024 01. Mr. Taimur Ali Khan, 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 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 06th day of March, 2024.

(FAREEHA PAUL)
Member (E)

(RASHIDA BANO)
Member(J)

Fazal Subhan PS

before the appellant and any opportunity was provided to him for cross examination or not. The entire procedure looks like a one sided affair in which principles of fair trial have been vehemently ignored.

7. In view of the above, we are unison that the charges levelled against the appellant were not proved in the Inquiry Report and hence he could not be punished for any wrong that had not been done by him. The appeal in hand is, therefore, allowed as prayed for. Cost shall follow the event. Consign.

8. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 06th day of March, 2024.*

(FARIEHA PAUL)
Member (E)

(RASHIDA BANO)
Member(J)

FazleSubhan P.S

mentioned that from CDR the accused appellant official, i.e the appellant, was in contact with drug peddlers and outlaws. He further argued that the Inquiry Officer had given his finding that from secret and reliable/credible sources it was found that the appellant had contact with the drug peddlers but no phone number of drug peddlers or outlaws was cited in the inquiry report. He requested that the appeal might be accepted.

5. Learned Deputy District Attorney, while rebutting the arguments of learned counsel for the appellant, argued that charge sheet alongwith statement of allegations was served upon the appellant to the effect that the appellant while posted at PS MRS, Kohat had connection with drug peddlers and out laws and was bringing bad name to Police Force. He submitted reply to the charge sheet, which was found not satisfactory. He further argued that during the course of inquiry, it was established that the appellant had connection with drug peddlers and outlaws, and he was recommended for award of punishment. Final show cause notice was issued to the appellant, reply to which was found unsatisfactory. He was also heard in person but could not extend any cogent explanation. Learned DDA requested that the appeal might be dismissed.

6. The appellant was proceeded against departmentally on the charges of having links with drug peddlers and outlaws, and awarded major penalty of dismissal from service. An inquiry was conducted and according to the Inquiry Officer he examined the CDR. He also mentioned about some "reliable and credible source" based on which it was proved that the appellant had links with drug peddlers. Inquiry report is silent on the point whether record of CDR and the information gathered from the "reliable and credible source" was placed

2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was appointed in the respondent department as constable in the year 1995 and was promoted to the rank of ASI after completion of mandatory training and courses. While performing his duty, charge sheet alongwith statement of allegations were issued to him on baseless allegation of link with drug peddlers and outlaws without specification of any occurrence. He submitted proper reply to the charge sheet in which he denied the allegations leveled against him. An inquiry was conducted against him in which no statement from any one was recorded about the allegation nor any opportunity of cross examination was given to him and the Inquiry Officer found him guilty on presumption. Show cause notice was issued to him which was duly replied, but he was dismissed from service vide order dated 16.08.2023. Feeling aggrieved, he filed departmental appeal on 27.08.2023, which was rejected on 13.11.2023; hence the instant appeal.

3. Respondents were put on notice who submitted their joint parawise comments on the appeal. We heard the learned counsel for the appellant as well as 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 in the charge sheet and statement of allegations no occurrence was specified nor names of drug peddlers and outlaws, allegedly having links and relationship with the appellant, had been shown. He further argued that no proper and regular inquiry was conducted, no statement was recorded, nor any opportunity of cross examination was given to him. In the inquiry report it was

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 2450/2023

BEFORE:	MRS. RASHIDA BANO	....	MEMBER(J)
	MISS FAREEHA PAUL	....	MEMBER(E)

Muhammad Khan, Ex-ASI, Police Station MRS, Kohat..... .....*(Appellant)*

Versus

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer, Kohat Region, Kohat.
3. The District Police Officer, Kohat.....*(Respondents)*

Mr. Taimur Ali Khan, Advocate	...	For appellant
Mr. Asif Masood Ali Shah, Deputy District Attorney	...	For respondents

Date of Institution.....	22.11.2023
Date of Hearing.....	06.03.2024
Date of Decision.....	06.03.2024

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 order dated 16.08.2023, whereby major punishment of dismissal from service was imposed upon the appellant and against the order dated 13.11.2023, whereby his departmental appeal was rejected. It has been prayed that on acceptance of the appeal, the impugned orders dated 16.08.2023 and 13.11.2023 might be set aside and the appellant might be reinstated into his service with all back and consequential benefits, alongwith any other remedy which the Tribunal deemed fit and appropriate.