

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 1463/2022

BEFORE: MRS. RASHIDA BANO ... MEMBER (J)
MR. MUHAMMAD AKBAR KHAN ... MEMBER (E)

Mr. Shahid Niaz Khan S/O Nazar Nawaz Khan, Resident of Sarmast, Mira
Khel, Tehsil and District Bannu. ... (*Appellant*)

VERSUS

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Bannu Region, Bannu.
3. District Police Officer, Bannu. ... (*Respondents*)

Mr. Qamar Zaman Khattak
Advocate ... For appellant

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

Date of Institution.....10.10.2022
Date of Hearing.....07.03.2024
Date of Decision.....07.03.2024

JUDGEMENT

RASHIDA BANO, MEMBER (J): The service appeal in hand has been
instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act,
1974 with the following prayer:

**“It is most respectfully prayed that the appeal of the
appellant may very kindly be accepted and impugned orders
vide OB No. 883 dated 17.08.2022 bearing No. 3697-991
passed by the respondent No. 3 and respondent No. 2 vide OB
No. 304 dated 27.09.2022 bearing No. 3517/EC, dated
27.09.2022 awarded major punishment of dismissal from
service may be set aside and the appellant may be reinstated
into service with all back benefits to meet the end of justice.”**



2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was appointed as Constable on 09.06.2007 in the District Police Bannu and was allotted belt No. 377. He while on refreshment tour to Swat was implicated in a criminal case u/s 392/397-PPC vide FIR No. 532 dated 12.07.2022 P.S Ghalegay, District Swat with malafide intentions and ulterior motives in connivance with the police officials. Actually co-accused of the FIR mentioned above contacted the appellant to accompany him while going back to his native District Bannu. The appellant while coming back crossing Landaki Check Post, the deployed police officials stopped the car wherein the appellant was sitting and arrested him without giving any cogent reason. Inquiry proceedings were initiated against the appellant and the Additional Superintendent of Police (Operation) Bannu was appointed as inquiry officer who conducted the one sided enquiry and the allegations against the appellant were established. He recommended the appellant for the award of major punishment. Respondent No. 3 awarded the appellant major punishment of dismissal from service vide impugned order dated 17.08.2022. Feeling aggrieved, the appellant filed departmental appeal to respondent No. 2 which was rejected on 27.09.2022; hence the instant service 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 the impugned orders were illegal, unlawful and against the



principle of nature justice. He further argued that no regular inquiry was conducted, and the appellant was not provided the opportunity of cross-examining the witnesses produced against him. He further argued that no opportunity of personal hearing was afforded to him and he was condemned unheard. He further argued that the case FIR No. 531 on the basis of which the appellant was dismissed from service was resolved and he was acquitted/exonerated from the charges leveled against him, hence the impugned orders were illegal and without any justification. He requested that the appeal might be accepted as prayed.

5. Learned Deputy District Attorney, while rebutting the arguments of learned counsel for the appellant, argued that the appellant was not on refreshment tour but was implicated in a criminal case u/s 392/397-PPC vide FIR No. 531 dated 12.07.2022 P.S Ghaligay, District Swat and was arrested at Landaki Check Post alongwith co-accused. He further argued that being a police personnel committing such kind of acts earned a bad image for Police Department. Proper departmental proceedings were initiated against the appellant and after fulfillment of all the codal formalities, he was dismissed from service by the competent authority. He requested that the appeal might be dismissed.


6. After going through the details of the entire case, it is clear that major penalty of dismissal from service has been imposed upon the appellant in an extremely cursory manner. Before taking any such action in which imposition of major penalty is involved, it would have been in the fitness of the matter to conduct a proper inquiry but in the instant case, the appellant was dismissed




from service through ex-parte proceedings, despite the fact that it was in the knowledge of the respondents that he was behind the bar and facing trial in a criminal case.

7. In view of the above discussion, the impugned orders are set aside and the appellant is reinstated into service for the purpose of a proper departmental inquiry under the Police Rules 1975 with the direction to the respondent department to conduct de-novo inquiry against the appellant and fully associate him in the inquiry proceedings, which shall be completed within sixty days of the receipt of this judgment. The issue of back benefits is subject to the outcome of inquiry. Cost shall follow the event. Consign.

8. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 7th day of March, 2024.*


(MUHAMMAD AKBAR KHAN)
Member (E)



(RASHIDA BANO)
Member (J)

7th Mar, 2024 1. Learned counsel for the appellant present. Mr. Asif Masood Ali

Shah learned Deputy District Attorney for the respondents present.

2. Vide our detailed judgment of today placed on file, the impugned orders are set aside and the appellant is reinstated into service for the purpose of a proper departmental inquiry under the Police Rules 1975 with the direction to the respondent department to conduct de-novo inquiry against the appellant and fully associate him in the inquiry proceedings, which shall be completed within sixty days of the receipt of this judgment. The issue of back benefits is subject to the outcome of inquiry. Cost shall follow the event. Consign.

3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 7th day of March, 2024.*


(Muhammad Akbar Khan)
Member (E)


(Rashida Bano)
Member (J)