BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUAL,PESHAWAR

Appeal No. 1138/2016

Date of Institution ... 01.11.2016

Date of Decision ... 13.11.2017

Shah Zaman, Junior Clerk (BPS-11)
District Police Office Kohat.

... (Appellant)

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa Peshawar, and 3 others.

... (Respondents)

MR. FAZAL SHAH MOHAMAND,
Advocate --- For appellant.

MR. MUHAMMAD JAN,
Deputy District Attorney ... For respondents.

MR. AHMAD HASSAN, ... MEMBER(Executive)
MR. MUHAMMAD HAMID MUGHAL ... MEMBER(Judicial)

JUDGMENT

AHMAD HASSAN, MEMBER.- Arguments of the learned counsel for the parties heard and record perused.

FACTS

2. The brief facts are that the appellant was serving as Senior Clerk in Police Department. An enquiry was conducted against him on the allegations of willful negligence and inefficiency and as a result thereof reverted to the post of Junior Clerk vide impugned order dated 31.03.2015. He preferred departmental appeal on 29.04.2015 which was rejected on 06.10.2016, hence, the instant service appeal.

ARGUMENTS

3. Learned counsel for the appellant argued that disciplinary proceedings were initiated against him for not submitting the case of issuance of retirement order of Head Constable Rangeen Khan in time. After conclusion of inquiry major penalty of reversion from the rank of Senior Clerk BPS-14 to the post of Junior Clerk BPS-11 was imposed on him vide impugned order dated 31.03.2015. He preferred departmental appeal on 29.04.2014, but was rejected on 06.10.2016, hence, the instant service appeal. Inquiry was not conducted in the mode and manner prescribed in the rules. The impugned order is defective as time period required under F.R 29 has not been specified. No show cause notice was issued on the appellant prior to the imposition of major penalty. The appellant was made a scapegoat as other employees working in the branch were not proceeded departmentally.

4. On the other hand learned Deputy District Attorney argued that enquiry proceedings were conducted against the appellant in accordance with the spirit of Appeals Rules 1975 and penalty was imposed after observance of all codal formalities. The appellant was guilty of professional misconduct.

CONCLUSION.

5. Careful perusal of record would reveal that inquiry was not conducted in the mode and manner prescribed in the rules. No show cause notice was served on the appellant which is not only serious illegality but a valid ground to vitiate the entire disciplinary proceedings. Time period as required under F.R 29 was not specified in the impugned order, hence, the same is defective and not in accordance with law and rules. It is strange that other employees working in the concerned branch were not proceeded so treatment meted out to the appellant appears discriminatory.

Principles/para-meters laid down in Article-25 of the Constitution were not observed.

6. In view of the foregoing, we are constrained to accept the instant appeal and set aside the impugned order and the appellant is restored to his original position as Senior Clerk (BPS-14). The respondents are at liberty to conduct de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

(AHMAD HASSAN)
MEMBER

(MUHAMMAD HAMID MUGHAL)
MEMBER

ANNOUNCED
13.11.2017

Order

13.11.2017 Counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney alongwith Mr. Arif Saleem, ASI for respondents present. Arguments heard and record perused.

Vide detailed judgment of today of this Tribunal placed on file, we are constrained to accept the instant appeal and set aside the impugned order and the appellant is restored to his original position as Senior Clerk (BPS-14). The respondents are at liberty to conduct de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

Announced:
13.11.2017

(AHMAD HASSAN)
Member

(MUHAMMAD HAMID MUGHAL)
Member

8.05.2017 Clerk of counsel for the appellant and Addl. AG for the respondents present. Due to strike of the bar counsel for the appellant is not available. To come up for final hearing for 14.07.2017 before D.B.

Member Chairman

14.07.2017 Appellant alongwith counsel and Assistant AG alongwith Arif Saleem, S.I (Legal) for the respondents present. Rejoinder submitted. Learned counsel for the appellant seeks adjournment. To come up for arguments on 13.11.2017 before the D.B.

Member Chairman

Order

13.11.2017 Counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney alongwith Mr. Arif Saleem, ASI for respondents present. Arguments could not be heard [illegible]

Vide detailed judgment of today of this Tribunal placed on file, the [illegible] are directed to conduct de-novo inquiry [illegible] de-novo inquiry is conducted then issue of back benefits shall be subject to the final outcome of the inquiry [illegible] Parties are left to bear their own costs. File be consigned to the record.

ANNOUNCED
13.11.2017

(AHMAD HASSAN)
Member

(MUHAMMAD AMIN KHAN KUNDI)
Member

14.02.2017 Junior to counsel for the appellant and Mr. Arif Saleem (ASI) alongwith Addl: AG for the respondents present. Requested for further time adjournment. To come up for written reply/comments on 21.03.2017 before S.B.

(AHMAD HASSAN)
MEMBER

21.03.2017 Appellant in person and Mr. Arif Saleem, ASI alongwith Assistant AG for respondents present. Written reply by respondents submitted. The appeal is assigned to D.B for rejoinder and final hearing for 08.05.2017.

Chairman

29.11.2016 Learned counsel for the appellant argued that the appellant was serving as Senior Clerk when subjected to enquiry on the allegations of wilful negligence and inefficiency and as a result thereof reverted to the post of Junior Clerk vide impugned order dated 06.10.2016 here-against he preferred departmental appeal on 29.04.2015 which was rejected on 06.10.2016 and hence the instant service appeal on 01.11.2016.

That the enquiry was not conducted in the prescribed manners and that the appellant was not solely responsible for processing the case of H.C Rangeen Khan for retirement.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 11.1.2017 before S.B.

Appellant Deposited
Security & Process Fee

Chairman

11.01.2017 Appellant in person and Mr. Arif Saleem, ASI alongwith Additional AG for the respondents present. Written reply not submitted. Requested for adjournment. To come up for written reply/comments on 14.02.2017 before S.B.

Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 1138/2016

S.No.	Date of order proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
1	29/11/2016	The appeal of Mr. Shah Zaman Yousafzai submitted today by Mr. Fazal Shah Mohmand Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please. REGISTRAR This case is entrusted to S. Bench for preliminary hearing to be put up there on 29-11-16. MEMBER
2-		29.11.2016 Learned counsel for the appellant argued that the appellant was serving as Senior Clerk when subjected to enquiry on the allegations of willful negligence and [illegible] as [illegible] to the post of Junior Clerk vide impugned order dated 06.10.2016 here-against he preferred departmental appeal on 29.04.2015 which was rejected on 06.10.2016 and hence the instant appeal on 01.11.2016. Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 11.1.2017 before S.B. Chairman

The appeal of Mr. Shah Zaman Junior Clerk Distt. Police Kohat received today i.e. on 01.11.2016 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

1- Memorandum of appeal may be got signed by the appellant.
2- Copies of charge sheet, statement of allegations, show cause notice, enquiry report and replies thereto are not attached with the appeal which may be placed on it.
3- Annexures of the appeal are illegible which may be replaced by legible/better one.
4- Annexures of the appeal may be attested.
5- Annexures of the appeal may be flagged.
6- Six more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 1816 /S.T,

Dt. 01/11/2016

REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Fazal Shah Mohmand Adv. Pesh.

Sir, Resubmitted after Compliance.

8/11/16

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No 1138 /2016.

Shah Zaman.....**Appellant**

V E R S U S

PPO and Others.....**Respondents**

I N D E X

S.No	Description of Documents	Annexure	Pages
1.	Service appeal with affidavit		1-4
2.	Copy of charge sheet, reply & inquiry report	A, B & C	5-11
3.	Copy of Order dated 31-03-2015	D	12-13
4.	Copy of departmental appeal & Order dated 06-10-2016	E & F	14-15
5.	Wakalat Nama		16

Dated-:01-11-2016

Appellant

Through

Fazal Shah Mohmand
Advocate Peshawar.

OFFICE:- Cantonment Plaza Flat 3/B Khyber Bazar Peshawar Cell# 0301 8804841

(1)

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No 1138 /2016.

Shah Zaman, Junior Clerk (BPS-11) at District Police Office Kohat.

.....**Appellant**

V E R S U S

1. Provincial Police Officer, Khyber Pakhtun Khwa Peshawar.
2. Deputy Inspector General of Police, Head Quarters Peshawar.
3. Additional Inspector General of Police, Head Quarters Peshawar.
4. District Police Officer Kohat. .....**Respondents**

APPEAL U/S 4 0F THE KPK SERVICE TRIBUNAL ACT 1974 AGAINST THE ORDER DATED 06-10-2016 PASSED BY RESPONDENT NO 1 WHEREBY DEPARTMENTAL APPEAL OF THE APPELLANT FILED AGAINST THE ORDER DATED 31-03-2015 HAS BEEN REJECTED/FILED.

PRAYER:-

On acceptance of this appeal the impugned order dated 06-10-2016 of respondent No 1 and Order dated 31-03-2015 of respondent No 2 may kindly be set aside and the appellant may kindly be ordered to be restored to his previous position of Senior Clerk (BPS-14) with all back benefits.

Respectfully Submitted:-

1. That the appellant was appointed as Junior Clerk on 09-01-1990 and was promoted as Senior Clerk in the year 2011 and since then performed his duties with honesty and full devotion and to the entire satisfaction of his superior officers with spotless service career.

2. That in the year 2015 the appellant was issued charge sheet on the allegations that "he while posted as Service Record Clerk at the Office of respondent No 4 intentionally omitted to submit the case of Head Constable Rangeen Khan No 229 for issuance of proper order with regard to his retirement well in time," the charge sheet was replied in detail explaining the true position. (Copy of charge sheet, reply and inquiry report are A, B & C)
3. That an illegal inquiry was conducted wherein the appellant was not allowed to fully present and defend the side of his case, where after the appellant was awarded the penalty of reversion from Senior Clerk (BPS-14) to Junior Clerk (BPS-11)

with immediate effect by respondent No 2 vide Order dated 31-03-2015. **(Copy of the Order dated 31-03-2015 is enclosed as Annexure** D).

4. That the appellant preferred departmental appeal before respondent No 1 on 29-04-2015 which was filed/rejected vide Order dated 06-10-2016. **(Copy of departmental appeal and Order dated 06-10-2016 is enclosed as Annexure** E **& F).**

5. That the impugned Order dated 06-10-2016 of respondent No 1 and Order dated 31-03-2015 of respondent No 2 are against the law, facts and principles of justice on grounds inter alia as follows:-

GROUNDS:-

A. That the impugned orders are illegal, unlawful and viod abinitio.

B. That mandatory provisions of law and rules have badly been violated by the respondents and the appellant has not been treated according to law and rules on the subject.

C. That no proper inquiry was conducted in the matter to find out the true facts and circumstances and the appellant was not provided opportunity to cross examine all the witnesses.

D. That no show cause notice was communicated and the appellant was not provided the opportunity of personal hearing.

E. That the impugned is defective being passed in violation of Fundamental Rule 29.

F. That even the complainant Rangeen Khan had submitted another application before respondent No 4 which was filed but maliciously illegally action was taken on instant application.

G. That the appellant has been made escape goat besides being discriminated as all those including, Abdul Hameed Pay officer, Ghulam Ishfaq Head Clerk, Mussadiq Junior Clerk etc have even not been preceded, and the orders as such are not maintainable in the eyes of law.

H. That no application was made by the complainant neither regarding his retirement nor ever approached the appellant in this respect and even the issue does not relate to the period of the appellant.

I. That even otherwise no loss has been caused to the Govt. exchequer nor the appellant has taken any sort of benefit nor is he involved in the matter in any other way.

J. That the appellant has no role in the matter, no complaint was made, against him he had no malafide, no benefit has been given to him nor has issued the retirement order being not within his powers.

K. That even otherwise the appellant has been discriminated, as only he was made escape goat while all others who were responsible have even not been proceeded including Ashfaq Taj, the Incharge/Assistant Grade Clerk, Musadiq Shah the Naib/Junior Clerk and even the respondent No 4.

L. That the appellant seeks the permission of this honorable Tribunal for further/additional grounds at the time of arguments.

It is, therefore, prayed that appeal of the appellant may kindly be accepted as prayed for in the heading of the appeal.

Dated:-01-11-2016

Appellant

Through

Fazal Shah Mohmand
Advocate, Peshawar

(4)

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No_____/2016.

Shah Zaman.....**Appellant**

V E R S U S

PPO and Others.....**Respondents**

A F F I D A V I T

I, Shah Zaman, Junior Clerk (BPS-11) at District Police Office Kohat, do hereby solemnly affirm and declare on oath that the contents of this **Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

Identified by **DEPONENT**

Fazal Shah Mohmand
Advocate Peshawar

ATTESTED
Mohammad Nevertale
Advocate
Distt. Court Peshawar

(5)

A

بخدمت جناب ڈسٹرکٹ پولیس آفیسر کوہاٹ

جناب عالی:-

گذارش ہے کہ میری تنخواہ ماہ ضروری نہیں ہے۔ اکاؤنٹ برانچ کے کمپیوٹر عملہ نے جو بتایا کہ تنخواہ اس لیے نہیں ہے کہ میری عمر ساٹھ سال ہوگئی ہے۔ اُن کا کہنا ہے کہ شناختی کارڈ کے مطابق سروس مزید دے گا کشن نہیں ہے حالانکہ میرے اندراج کے مطابق ابھی ساٹھ سال کا نہیں ہوں۔ شناختی کارڈ میں عمر غلط درج ہے۔ اسکیں غالط ہو سکتا ہے۔ عمدہ بزریں میری سروس ابھی 22 سال ہوئی ہے۔ 25 سال پوری نہیں ہوئی۔

لہٰذا میں جناب کی خدمت میں عاجزانہ عرض کرتا ہوں کہ مجھے مزید چند سال یعنی 25 سال سروس پوری کرنے کا موقع دیا جائے۔ مزید عمدہ تک کوئی دوسرا فرد نہیں ہے جو کہ کفالت کرے۔ براہ کرم میرے لیے مزید سروس کا نہ کا کشن کیا جائے میں آپ کا بے حد ممنون و مشکور رہوں گا۔ امید ہے آپ میرے حال پر رحم کریں گے اور بے حد مہربانی ہوگی۔

آپ کا تابعدار۔ زنگیس خان 229/HC متعلقہ پولیس لائن کوہاٹ

ATTESTED
to be true copy
Advocate

(6)

CHARGE SHEET

I **MUBARAK ZEB, DEPUTY INSPECTOR GENERAL POLICE HEAD QUARTER KHYBER PAKHTUNKHWA PESHAWAR**, competent authority, under Rule 5(h) of Khyber Pakhtunkhwa /Efficienc Disciplinary Rules 2011 hereby charge you **Shah Zaman Senior Clerk** follows:-

You Shah Zaman Senior Clerk while posted as SRC intentional omitted to submit the case of HC Rangeen Khan No. 229 issuance of proper order with regard to his retirement well time. Due to your this willful negligence, carelessness and efficient act, the said head constable over stayed in departm for about two months.

By reasons of the above, you appear to be guilty misconduct under Rule 4 of Khyber Pakhtunkhwa Govt. Servants (Efficiency a Disciplinary) Rules 2011 and have rendered yourself liable to all or any of penalties specified in the Rules ibid.

You are, therefore, required to submit your written defen within seven days of the receipt of this charge sheet to the Enqu Committee/Enquiry Officer as the case may be.

Your written defense, if any, should reach the Enqu Officer/Enquiry Committee within the specified period, failing which it shall presumed that you have no defence to put in and in that case exparte actio shall follow against you.

Intimate whether you desire to be heard in person.

A statement of allegations is enclosed.

DEPUTY INSPECTOR GENERAL OF POLICE
HEADQUARTER KHYBER PAKHTUNKHWA
PESHAWAR.

ATTESTED

to be true copy
Advocate

(7)

DISCIPLINARY ACTION

1. I, **MUBARAK ZEB, DEPUTY INSPECTOR GENERAL OF POLICE HEAD QUARTER KHYBER PAKHTUNKHWA PESHAWAR**, is of the opinion that you **Shah Zaman** rendered yourself liable to be proceeded against as you have committed the following acts/omission within the meaning of Rule 4 of the Khyber Pakhtunkhwa Civil Servant (Efficiency and Disciplinary) Rules 2011.

STATEMENT OF ALLEGATION

You Shah Zaman Senior Clerk while posted as SRC intentional omitted to submit the case of HC Rangeen Khan No. 229 f issuance of proper order with regard to his retirement well in tim Due to your this willful negligence, carelessness and in-efficient the said head constable over stayed in department for about months.

2. For the purpose of scrutinizing the conduct of the accused with reference to the above allegations, an enquiry committee consis of the following is constituted under the Rules.

i. Mr. Mansoor Aman SP Hqr Kohat

ii. _____

3. The enquiry Committee/Enquiry Officer shall in accordanc with the provisions of the Rules, provide reasonable opportunity of hearing t accused, record its findings and make within 25 days of the receipt of this or recommendations as to punishment or the appropriate action against the accused.

DEPUTY INSPECTOR GENERAL OF POL
HEADQUARTER KHYBER PAKHTUNKH
PESHAWAR.

ATTESTED
to be true copy
Advocate

STATEMENT OF SENIOR CLERK SHAH ZAMAN

8 & B4

Respected Sir,

With due veneration, in compliance with the enclosed charge sheet received vide Endst: No.7954/EC, dated 28.08.2014 from the Worthy Deputy Inspector General of Police, issued by the Worthy Deputy Inspector General of Police, Headquarter Khyber Pakhtunkhwa, Peshawar, it is submitted that when I was posted as A/SRC at District Police Officer, Kohat, which was my first posting in the entire service. In-spite of the facts that, I was totally unaware about the function of the post of A/SRC, but with grace of Allah I have performed my duties with due devotion, and tried by best for disposing-off official work, under the supervision of Mr. Ghulam Ishfaq Assistant Grade clerk was posted as SRC.

As far as suggestion/recommendation of the learned DSP Legal with regard to delay submission/issuance of superannuation order is concerned, in this regard it is submitted that the order in question was issued to HC Rangeen Khan well in time and other coddle formalities were being completed timely. Besides this it is also worth mentioning here that the SRC Branch is dealing to coup with multifarious kind of cases of the strength, but as far as stoppage of monthly salary of the subordinate staff is concerned, the District Police account/pay branch being having computerized record through which they can easily determined either to stop the salary or to informed the individual concerned about the age limitation i.e 60 years.

Further that upon perusal of the previous record at come to light that there is nothing in black in white through which any individual concerned was either informed through written or verbal about has superannuation, while on the other hands HC Rangeen Khan being a well educated member of Police disciplined force was bound to submit application to this effect but in-spite of the facts that he has submitted an application about correction in his date of birth, thus his monthly salary was stopped and later on he has withdrawn his application.

Keeping in view of the above it is very earnestly requested that there is no malafide intension, being a subordinate I have tried my best to disposed off the official work, but the instant matter was occurred due to dis interest of the computerized system of the district Police account/pay branch's officials, therefore it is requested that I may kindly be exonerated from the charges leveled against me, as desired please.

ATTESTED
to be true copy
Advocate

Yours obediently,

Shah Zaman
Senior Clerk DPO, Office Kohat.

(9)

STATEMENT OF JUNIOR CLERK MUSADIQ SHAH THAN A/SRC

Respected Sir,

It is submitted that Senior Clerk Shah Zaman was posted as SRC vide OB No. 867 dated 18.09.2013, and he remained SRC till his transfer to District Karak for which, he made his departure on 04.03.2014.

HC Rangeen Khan No. 229 has attained age of superannuation (60 years) on 11.01.2014 according to his service roll which was based on Matric Certificate. In addition to this fact, his date of birth, according to CNIC was also 1954. He was fully aware of this fact because his salary was stopped due to this fact.

Moreover, he consult me in his matter immediately, after the transfer of said SRC on 04.03.2014, and next day I brought the matter into the OS notice and he ordered me to compose his retirement order immediately. When it came to the notice of the said HC, he put an application requesting therein for extra service beyond the age of 60 years preceding by another application regarding claiming his salary for about two month delaying his pension order. Both applications were filed by the W/DPO.

(MUSADIQ SHAH)
Junior Clerk
DPO Office, Kohat

اسکی تحریر Superannuation کے ساتھ بے بنیاد ادرا سکو پتہ تھا

ATTESTED
to be true copy
Advocate

FINDING

(10)

IN DEPARTMENTAL ENQUIRY AGAINST SENIOR CLERK SHAH ZAMAN

This is a finding in departmental enquiry against Senior Clerk Shah Zaman for the allegations that he while posted as SRC in DPO Office Kohat intentionally omitted to submit the case of one HC Rangeen Khan for issuance of proper order with regard to this retirement well in time. Due to this willful negligence, carelessness and inefficient act, the said HC overstayed in Department for about two months.

On these allegations he was issued with charge sheet and statement of allegations. The undersigned was appointed as enquiry officer to conduct enquiry into the matter.

On receipt of the enquiry file, necessary enquiry proceedings were adopted. Summoned OS DPO Kohat Anees Ul Hassan, Assistant Grade Clerk Ghulam Ishfaq, defaulter Senior Clerk Shah Zaman, present SRC Jahanzeb Babar, HC Rangeen Khan heard them in person and recorded their statements. Service record of the defaulter Senior Clerk as well as pension case of HC Rangeen was also perused. Relevant orders with regard posting of SRC at that time was also perused.

Opportunity of cross question was given to the defaulter clerk which he availed.

Defaulter Senior Clerk Shah Zaman stated that he was Assistant SRC that time when HC Rangeen was retired on pension. Assistant Grade Clerk Ghulam Ishfaq was SRC at that time. He further submitted that the orders of HC Rangeen of Kohat Police to be retired on pension is concerned, it was done in time. SRC branch is dealing to cope with multifarious of cases of the entire strength. As far as stoppage of monthly salary of the subordinates staff is concerned, the District Police Accounts Office / Pay Branch being having computerized record through which they can easily determine either to stop the salary or to inform individual concerned about the superannuation age. He thrown all the responsibility of informing an official about his superannuation age on pay branch.

Assistant Grade Clerk Ghulam Ishfaq presently Head Clerk to DPO Kohat stated that in these days Shah Zaman was performing the duty of SRC. He (Shah Zaman) falsely mentioned his name as SRC just to save his skin from the negligence he occurred in the case of HC Rangeen Khan.

The Than A/SRC Mussadiq Shah Junior Clerk stated that senior clerk Shah Zaman was posted as SRC vide OB No 867 dated 18.09.2013 and remained SRC till his transfer to Karak, in compliances of which he departed on 04.03.2014. HC Rangeen No 229 has attained the age of superannuation on 11.01.2014 according to his service roll which was based on Matric Certificate. In addition to this fact, his date of birth according to CNIC was also 1954. He was fully aware of this fact because his salary was stopped due to this fact. Moreover, he (HC Rangeen) consult him (J/C Mussadiq) in his matter of interest immediately after the transfer Senior Clerk Shah Zaman on 04.03.2014 by means to not put up his case which has attained the age of superannuation but instead of doing so he forthwith brought it into the notice of OS, who ordered him to compose his retirement order immediately. When it came to the notice of HC Rangeen, he moved an application requesting in it for extra service beyond the age of 60 years preceding by another application regarding claiming his salary for about two months delaying his pension order. Both the applications were filed by Worthy PPO.

ATTESTED

to be true copy

Advocate

(11)

Assistant Grade Clerk Abdul Hameed Pay Officer DPO Kohat stated that defaulter clerk Shah Zaman wrongly mentioned in his statement that determination of superannuation age of an official is the duty of Pay Branch. It is the sole responsibility of Establishment Clerk in whose possession all the service records of Police officials are existing. He is also bound to take up the case of an official before at least six months prior of becoming age of superannuation. He further mentioned in his statement that throwing the responsibility of determination of superannuation age on pay branch by the defaulter clerk is just to attempt to save his skin from this negligence act's expected punishment.

HC Rangeen Khan who is basically hails from Attock Punjab and residing in Kohat City was repeatedly searched through local Police of PS City and after long efforts he was traced and appeared, heard in person and recorded his statement. He stated that he was busy in performing duty in Police Lines Kohat. On 11.01.2014 an order of his retirement was issued by the competent authority but he was not informed by anybody. On 06.03.2014 he brought accused to District Courts from District Jail Kohat, there he was handed over with retirement order. He had did duty for one month and six days and did not given salary for these days. Under compulsion he moved applications before the high-ups in which besides the grant of outstanding salary, he requested to be given two years extension. He denied any bribery to be given to Senior Clerk Shah Zaman for not preparing the pension case / retirement order.

Service record of the defaulter Senior Clerk Shah Zaman perused and found that he has been enlisted in 1990 as Junior Clerk and there is no good or bad entry in his service record.

From the enquiry so far conducted and in light of the statement of his Assistant Junior Clerk Mussadiq and other PWs it came to light that the allegations of intentionally omitting to submit the case of HC Rangeen No 229 of Kohat Police for issuance of proper order with regard to his retirement well in time when he was SRC to DPO is based on facts and he did this act for mutual unlawful benefits i.e. for himself and for Ex HC Rangeen Khan, therefore, recommended for major punishment.

Submitted please.

Addl: Superintendent of Police,
Kohat.

No -- -
Dt --/--/--

ATTESTED

to be true copy
Advocate

7501
24/10/14

(12)

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
CENTRAL POLICE OFFICE
PESHAWAR
Ph: 091-9210545 Fax: 091-9210927

15904

No 2125 /E-V, Dated Peshawar the 31—3 /2015

ORDER

This is an order on the Departmental Enquiry of Senior Clerk Shah Zaman of District Police Office, Kohat who committed the following, acts of omission/commission that:-

1. **While he was posted as SRC intentionally omitted to submit the case of Head Constable Rangeen Khan No 229 for the issuance of proper order with regard to his retirement well in time. Due to his willful negligence, carelessness and inefficient act, the said Head Constable over stayed in Department for about two months.**

On the score of above mentioned allegation, he was issued charge sheet with statement of allegations under Civil Servant Efficiency and Discipline Rules 1974/ (amended in 2011) and Mr. Mansoor Amaan, SP, HQrs: was appointed as Enquiry Officer to probe into the matter.

The enquiry officer completed the Subject Enquiry and submitted his finding with the following contents that:-

During the Course of Enquiry, the statement of Senior Clerk Shah Zaman was recorded who stated that he was Assistant SRC at that time when Head Constable Rangeen Khan was retired on Pension and Ghulam Ishfaq was SRC at that time and the orders of Pension of Head Constable Rangeen Khan was done in time. SRC Branch is dealing to cope with multifarious nature of cases of the entire strength. As far as stoppage of monthly salary of the Subordinates staff is concerned, the District Accounts Office/Pay Branch of DPO being having computerized record through which they can easily determine either to stop the salary or to inform the individual concerned about the superannuation age while Assistant Grade clerk Ghulam Ishfaq presently Head Clerk to DPO Kohat stated that in these days Shah Zaman was performing the duty of SRC. He (Shah Zaman) falsely mentioned his name as SRC just to save his skin from the negligence.

Similarly, the statement of Assistant Grade Clerk Abdul Hameed (Pay Officer of DPO, Kohat) was also recorded who stated that Senior Clerk Shah Zaman (SRC) has wrongly mentioned his name in his statement stating that determination of superannuation age of an official is the duty of Pay Officer. He further stated that it is the sole responsibility of Establishment Clerk who possesses all Service Records of Police official in his custody. He is bound to take up the case of an official at least six months before attaining the age of superannuation. He also mentioned in his statement that throwing the responsibility of determination of superannuation age on Pay Brach by the defaulter Clerk is just an attempt to save his skin from his negligence act and the expected punishment.

To dig out the facts into the matter, the statement of Head Constable Rangeen Khan was also recorded who stated that on 11.01.2014 while he was performing at Police Lines Kohat, and order of his retirement was issued by the Competent Authority but he was not informed by anybody. However, later on, he was handed over his Retirement Orders on 06.03.2014. During such period i.e. 11.01.2014 to 06.03.2014 he duly performed his duty and he was not given any salary of one month and six days.

Under compulsion, he Head Constable Rangeen Khan No.229 moved an application before high ups in besides the grant of outstanding salary for the above mentioned period i.e. 11.01.2014 to 06.03.2014 he also requested for the grant of two years extension. He also denied any bribery to be given to Senior Clerk Shah Zaman for not issuance of his Retirement Notification/Orders.

Therefore, the Enquiry Officer has stated in his Findings that the Enquiry so far conducted and recording the Statements of other staff it was concluded that the allegations of intentionally omitting to submit the case of Head Constable Rangeen Khan No. 229 of District Police Office Kohat for issuance of proper orders with regard to his Retirement well in time when he was SRC to DPO, Kohat is based on facts and he did this act for mutual unlawful benefits i.e. for himself and for Ex- Head Constable Rangeen Khan No 229, the defaulter Senior Clerk is recommended for Major Punishment.

ATTESTED

to be true copy
Advocate

(13)

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
CENTRAL POLICE OFFICE
PESHAWAR
Phone No. 091-9210545 Fax 091-9210927

Thus, on going through the findings/recommendation of the Enquiry Officer and the material on record, I, **Mubarak Zeb, PSP, Deputy Inspector of Police, Headquarters Khyber Pakhtunkhwa, Peshawar** as competent authority hereby order of reversion of the above mentioned delinquent official **from Senior Clerk (BPS-14) to Junior Clerk (BPS-11) with immediate effect.**

ORDER ANNOUNCED

(MUBARAK ZEB)
DIG/HQrs,
For Inspector General of police,
Khyber Pakhtunkhwa
Peshawar

No. 2126-32 /E-V Dated; Peshawar the 3/13 /2015.

Copy of above is forwarded for information and necessary action to the:-

1. Addl: Inspector General of Police HQrs: Khyber Pakhtunkhwa Peshawar.
2. Regional Police Officer, Kohat Region Kohat.
3. Asstt: Inspector General of Police Establishment CPO Peshawar.
4. District Police Officer, Kohat.
5. Addl: SP, Kohat.
6. Registrar CPO, Peshawar.
7. Office Supdt: Secret CPO, Peshawar.

ATTESTED

7 E 4 (B)

(14)

To

The Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.

Subject: **APPEAL AGAINST THE ORDER PASSED VIDE YOUR GOOD OFFICE ENDST: NO.2126-32/E-V, DATED 31.03.2015.**

Sir,

1. Humbly submitted that I was posted as SRC at DPO Office Kohat on 18.09.2013.
2. That I was posted as SRC for the first time in my whole service and I remained SRC for only six months and just after four months this incident was occurred.
3. That I was not fluent in the work of SRC.
4. That HC Rangeen Khan No.229 has attained the age of superannuation on 11.01.2014 and his salary was stopped due to this fact.
5. As he disclosed in cross questions that he asked the Pay Branch staff for his pay stoppage.
6. It was he, who told my Assistance this fact but when my Assistance brought forward the matter, so he started applications for claiming salaries.
7. That I was totally unaware of the fact and I could not observe the whole work of SRC during this short span of time.
8. That I was assisted by inexperienced newly appointed Junior Clerks.
9. That I was alleged for commission of the mistake due to some malafide intention which could not be substantiated during the course of enquiry.
10. Moreover, I am poor man and my children are seeking education. Bearing domestic expenditure alongwith standard education in such low salary is very difficult for me.
11. In view of above, it is therefore, requested that I may please be forgiven for my mistake and I may be granted acquittal from this punishment as a whole or it may be reduced to minor one.
12. I will be very careful in future and I shall be very thankful to you for your kind consideration and I will pray for your long life please.

Yours obediently,

(SHAH ZAMAN)
Junior Clerk
DPO Office Kohat
29-4-15

ATTESTED
to be true copy
Advocate

OFFICE OF THE
INSPECTOR GENERAL OF POLICE,
KHYBER PAKHTUNKHWA,
CENTRAL POLICE OFFICE,
PESHAWAR
Ph: 091-9210545 Fax: 091-9210927

No 6208 /E-V Dated Peshawar the 6—10 /2016

ORDER.

This order is hereby passed to dispose of departmental appeal under Rule 17 of Government Khyber Pakhtunkhwa Government Civil Servant (Efficiency & Discipline) Rules- 2011 submitted by Junior Clerk Shah Zaman. The Appellant while was posted in District Police Office, Kohat was awarded Major Punishment of Reversion from Senior Clerk (BPS-14) to Junior Clerk (BPS-11) by the Deputy Inspector General of Police, HQrs: Khyber Pakhtunkhwa, Peshawar vide Order Endst: No 2126-32/E-V Dated 31.03.2015. The grounds of his Reversion was that while he was posted as SRC in District Police Office, Kohat intentionally omitted to submit the Retirement case of Head Constable Rangeen Khan No 229 for the issuance of proper order with regard to his Retirement well in time. Due to his wilful negligence, carelessness and inefficient act, the said Head Constable over stayed in Department for one month and six days. Therefore, Departmental Enquiry was initiated against him.

He was issued Charge Sheet with Statement of Allegations and Mr. Mansoor Amaan SP, Hqrs: was appointed as Enquiry Office to probe into the matter. The Enquiry Officer conducted proper Enquiry wherein Senior Clerk Shah Zaman was found guilty for not issuing the Retirement order of HC Rangeen Khan No 229 well in time being fallen such duty in his responsibility due to which the said HC performed his duty from 11.01.2014 to 06.03.2014 in Police Department. Therefore the Enquiry Officer recommended him for Major Punishment.

Similarly, in the light of recommendations of the Enquiry Officer, he was awarded Major Punishment of Reversion from Senior Clerk (BPS-14) to Junior Clerk (BPS-11) by the Competent Authority.

After awarding the above mentioned punishment of Reversion, the Petitioner went for an appeal to the next Appellate Authority for setting aside his punishment awarded to him by the Competent Authority.

In this connection, he was called in Orderly Room held on 29.09.2016 at CPO, Peshawar wherein the appellant was heard in person in detail but nd he failed to offer any plausible grounds/reason in his defense. Besides, the allegations/charges were also proved against him in the Departmental Proceedings. Hence, his appeal has no substance.

Keeping in view the position explained above, the Departmental Appeal submitted by the Junior Clerk Shah Zaman is hereby rejected/filed by the Appellant Authority

-sd
MIAN MUHAMMAD ASIF PSP
Addl: IGP, Hqs:
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.

No 6209-17 /E-V Dated Peshawar the 6—10 /2016.

Copy of above is forwarded for information and necessary action to the:-

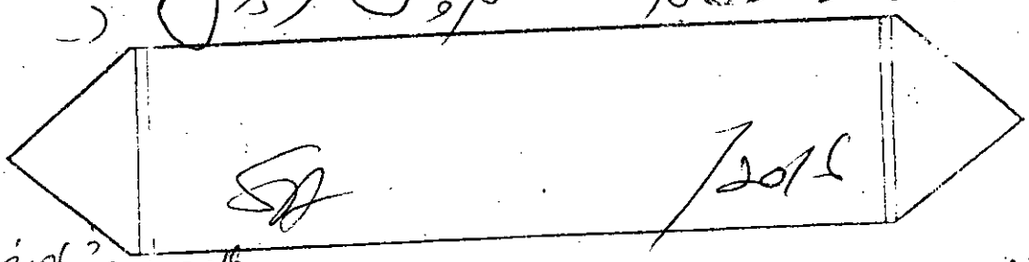
1. Additional Inspector General of Police, HQrs:, Khyber Pakhtunkhwa, Peshawar.
2. Deputy Inspector General of Police, Hqrs: Khyber Pakhtunkhwa, Peshawar.
3. Regional Police Officer, Kohat Region Kohat with reference to the his office Letter No 331011/EC Dated 07.05.2016.
4. PSO/PRO to Worthy Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
5. PA to Asstt: Inspector General of Police, Establishment, Khyber Pakhtunkhwa, Peshawar
6. Registrar, CPO, Peshawar.
7. Office Supdt: Secret, CPO, Peshawar.
8. Incharge Central Registry, CPO, Peshawar.

(NAJEEB UR REHMAN BUGVI) PSP
AIG, Estt:
For Inspector General of Police

ATTESTED
To be true copy
Advocate

(16)

بعدالت کمرشل ڈویژن پشاور



مورخہ _____ العبد
مقدمہ _____ شاہ رضا بنام
دعویٰ _____
جرم _____

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی وجواب دہی وکل کاروائی متعلقہ آن مقام _____ کیلئے صفی شاہ ایڈووکیٹ

مقرر کرکے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے وتقرر ثالث وفیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک وروپیہ ارعرضی دعویٰ اور درخواست ہر قسم کی تصدیق زرایں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برامدگی اور منسوخی نیز دائر کرنے اپیل نگرانی ونظر ثانی وپیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بااختیارات حاصل ہوں گے اور اس کا ساختہ پرداختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہرجانہ التوائے مقدمہ کے سبب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھدیا کہ سند رہے۔

المرقوم _____ ماہ نومبر 2016ء

العبد _____ گواہ العبد _____

بمقام پشاور کے لئے منظور ہے

Attested & Accepted

Cal (Adv)

العبد
شاہ رضا ولد محمد رضا کرگری کھاصان خوازہ لوئر دیر
CNIC 15301-0015936-5

BEFORE THE HONORABLE SERVICE TRIBUNAL,
KHYBER PAKHTUNKHWA PESHAWAR.

Service appeal No. 1138/2016

Shah Zaman ..... Appellant.

VERSUS

Provincial Police Officer,
Khyber Pakhtunkhwa Peshawar and others .... Respondents.

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS.

Respectively Sheweth:-

Parawise comments are submitted as under:-

Preliminary Objections:-

1. That the appeal is not maintainable in the present form.
2. That the appellant has got no cause of action and locus standai to file the appeal.
3. That the appellant has not come to this Hon: Tribunal with clean hands.
4. That the appeal is **badly time barred.**
5. That the appellant has been estopped by his own conduct to file the appeal.
6. That the appeal is bad for non-joinder and miss-joinder of unnecessary parties.

FACTS:-

1. Correct to the extent that the appellant was appointed as junior clerk in Police department in 1990 and was promoted as senior clerk in the year 2012. The remaining portion of the para is incorrect.
2. Pertains to record.
3. Incorrect. Infact a proper departmental inquiry was initiated against the appellant on the charges that while posted as SRC in DPO office intentionally ommitted to submit the case of Head Constable Rangeen Khan No. 229 for issuance of proper order with regard to his retirement well in time. The appellant was given all the lawful opportunities of defense during the course of inquiry.
4. Pertains to record.
5. Incorrect. The orders were passed by the Competent Authorities in accordance with law & rules after proper departmental proceedings in which the appellant was held guilty.

Grounds:-

a. Incorrect. The orders were passed by the Authorities in accordance with law & rules, thus are sustainable.
b. Incorrect. The departmental proceedings against the appellant were initiated purely on merits and in accordance with law & rules.
c. Incorrect. A proper departmental inquiry was initiated against the appellant and was provided proper opportunities of defense including cross examination to the witnesses.
d. Incorrect. All the lawful opportunity of defense including person hearing have been provided to the appellant.

e. Incorrect. The order was passed by the Authority in accordance with law & rules.

f. Incorrect. Infact proper departmental inquiry was initiated against the appellant in accordance with law & rules and he was held guilty.

g. Incorrect. The appellant was held responsible for professional misconduct against whom proper departmental inquiry was initiated and he was held guilty.

h. Incorrect. The allegations have been proved against the appellant in proper departmental proceedings conducted purely on merits and in accordance with law & rules.

i. Incorrect. The appellant committed professional misconduct upon which a proper departmental inquiry was initiated and he was held guilty.

j. Incorrect. The appellant while posted at responsible position committed professional misconduct upon which a proper departmental action was taken and he was held guilty.

k. Incorrect. The departmental inquiry was initiated against the appellant purely on merits and no discriminated has been made.

l. The respondents may also be allowed to advance additional grounds at the time of hearing.

Keeping in view of the above, factual and legal aspects the appellant had committed a gross professional misconduct, earned bad name to whole Police force. It is, therefore, requested that the appeal being devoid of merits/facts may kindly be dismissed.

Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 1)

Dy: Inspector General of Police,
Kohat Region, Kohat
(Respondent No. 2)

District Police Officer
Kohat
(Respondent No. 3)

BEFORE THE HONORABLE SERVICE TRIBUNAL,
KHYBER PAKHTUNKHWA PESHAWAR.

Service appeal No. 1138/2016

Shah Zaman ..... Appellant.

VERSUS

Provincial Police Officer,
Khyber Pakhtunkhwa Peshawar and others .... Respondents.

COUNTER AFFIDAVIT

We, the below mentioned respondents, do hereby solemnly affirm and declare on oath that contents of parawise comments are correct and true to the best of our knowledge and belief. Nothing has been concealed from this Hon: Court.

Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 1)

Dy: Inspector General of Police,
Kohat Region, Kohat
(Respondent No. 2)

District Police Officer
Kohat
(Respondent No. 3)

8351
6/X/2016

OFFICE OF THE
INSPECTOR GENERAL OF POLICE,
KHYBER PAKHTUNKHWA,
CENTRAL POLICE OFFICE,
PESHAWAR
Ph: 091-9210545 Fax: 091-9210927

No. 6908 /E-V Dated Peshawar the 6—10 /2016

ORDER.

This order is hereby passed to dispose of departmental appeal under Rule 17 of Government Khyber Pakhtunkhwa Government Civil Servant (Efficiency & Discipline) Rules- 2011 submitted by Junior Clerk Shah Zaman. The Appellant while was posted in District Police Office, Kohat was awarded Major Punishment of Reversion from Senior Clerk (BPS-14) to Junior Clerk (BPS-11) by the Deputy Inspector General of Police, HQrs; Khyber Pakhtunkhwa, Peshawar vide Order Endst: No 2126-32/E-V Dated 31.03.2015. The grounds of his Reversion was that while he was posted as SRC in District Police Office, Kohat intentionally omitted to submit the Retirement case of Head Constable Rangeen Khan No 229 for the issuance of proper order with regard to his Retirement well in time. Due to his wilful negligence, carelessness and inefficient act, the said Head Constable over stayed in Department for one month and six days. Therefore, Departmental Enquiry was initiated against him.

He was issued Charge Sheet with Statement of Allegations and Mr. Mansoor Amean SP, Hqrs: was appointed as Enquiry Office to probe into the matter. The Enquiry Officer conducted proper Enquiry wherein Senior Clerk Shah Zaman was found guilty for not issuing the Retirement order of HC Rangeen Khan No 229 well in time being fallen such duty in his responsibility due to which the said HC performed his duty from 11.01.2014 to 06.03.2014 in Police Department. Therefore the Enquiry Officer recommended him for Major Punishment.

Similarly, in the light of recommendations of the Enquiry Officer, he was awarded Major Punishment of Reversion from Senior Clerk (BPS-14) to Junior Clerk (BPS-11) by the Competent Authority.

After awarding the above mentioned punishment of Reversion, the Petitioner went for an appeal to the next Appellate Authority for setting aside his punishment awarded to him by the Competent Authority.

In this connection, he was called in Orderly Room held on 29.09.2016 at CPO, Peshawar wherein the appellant was heard in person in detail but nd he failed to offer any plausible grounds/reason in his defense. Besides, the allegations/charges were also proved against him in the Departmental Proceedings. Hence, his appeal has no substance.

Keeping in view the position explained above, the Departmental Appeal submitted by the Junior Clerk Shah Zaman is hereby rejected/filed by the Appellant Authority.

9906
13/10/16

-sd
MIAN MUHAMMAD ASIF PSP
Addl: IGP, Hqs:
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.

No. 6909-17 /E-V Dated Peshawar the 6—10 /2016.

Copy of above is forwarded for information and necessary action to the:-

1. Additional Inspector General of Police, HQrs:, Khyber Pakhtunkhwa, Peshawar.
2. Deputy Inspector General of Police, Hqrs: Khyber Pakhtunkhwa, Peshawar.
3. Regional Police Officer, Kohat Region Kohat with reference to the his office Letter No 331011/EC Dated 07.05.2016.
4. PSO/PRO to Worthy Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
5. PA to Asstt: Inspector General of Police, Establishment, Khyber Pakhtunkhwa, Peshawar
6. Registrar, CPO, Peshawar.
7. Office Supdt: Secret, CPO, Peshawar.
8. Incharge Central Registry, CPO, Peshawar.

(NAJEEB UR REHMAN BUGVI) PSP
AIG, Estt:
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.

DPO KOHAT
9 OCT 2016

15904

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
CENTRAL POLICE OFFICE
PESHAWAR
Ph: 091-9210545 Fax: 091-9210927

No 2125 /E-V, Dated Peshawar the 31—3 /2015

ORDER

This is an order on the Departmental Enquiry of Senior Clerk Shah Zaman of District Police Office, Kohat who committed the following, acts of omission/commission that:-

1. **While he was posted as SRC intentionally omitted to submit the case of Head Constable Rangeen Khan No 229 for the issuance of proper order with regard to his retirement well in time. Due to his willful negligence, carelessness and inefficient act, the said Head Constable over stayed in Department for about two months.**

On the score of above mentioned allegation, he was issued charge sheet with statement of allegations under Civil Servant Efficiency and Discipline Rules 1974/ (amended in 2011) and Mr. Mansoor Amaan, SP, HQrs: was appointed as Enquiry Officer to probe into the matter.

The enquiry officer completed the Subject Enquiry and submitted his finding with the following contents that:-

During the Course of Enquiry, the statement of Senior Clerk Shah Zaman was recorded who stated that he was Assistant SRC at that time when Head Constable Rangeen Khan was retired on Pension and Ghulam Ishfaq was SRC at that time and the orders of Pension of Head Constable Rangeen Khan was done in time. SRC Branch is dealing to cope with multifarious nature of cases of the entire strength. As far as stoppage of monthly salary of the Subordinates staff is concerned, the District Accounts Office/Pay Branch of DPO being having computerized record through which they can easily determine either to stop the salary or to inform the individual concerned about the superannuation age while Assistant Grade clerk Ghulam Ishfaq presently Head Clerk to DPO Kohat stated that in these days Shah Zaman was performing the duty of SRC. He (Shah Zaman) falsely mentioned his name as SRC just to save his skin from the negligence.

Similarly, the statement of Assistant Grade Clerk Abdul Hameed (Pay Officer of DPO, Kohat) was also recorded who stated that Senior Clerk Shah Zaman (SRC) has wrongly mentioned his name in his statement stating that determination of superannuation age of an official is the duty of Pay Officer. He further stated that it is the sole responsibility of Establishment Clerk who possesses all Service Records of Police official in his custody. He is bound to take up the case of an official at least six months before attaining the age of superannuation. He also mentioned in his statement that throwing the responsibility of determination of superannuation age on Pay Brach by the defaulter Clerk is just an attempt to save his skin from his negligence act and the expected punishment.

To dig out the facts into the matter, the statement of Head Constable Rangeen Khan was also recorded who stated that on 11.01.2014 while he was performing at Police Lines Kohat, and order of his retirement was issued by the Competent Authority but he was not informed by anybody. However, later on, he was handed over his Retirement Orders on 06.03.2014. During such period i.e. 11.01.2014 to 06.03.2014 he duly performed his duty and he was not given any salary of one month and six days.

Under compulsion, he Head Constable Rangeen Khan No.229 moved an application before high ups in besides the grant of outstanding salary for the above mentioned period i.e. 11.01.2014 to 06.03.2014 he also requested for the grant of two years extension. He also denied any bribery to be given to Senior Clerk Shah Zaman for not issuance of his Retirement Notification/Orders.

Therefore, the Enquiry Officer has stated in his Findings that the Enquiry so far conducted and recording the Statements of other staff it was concluded that the allegations of intentionally omitting to submit the case of Head Constable Rangeen Khan No. 229 of District Police Office Kohat for issuance of proper orders with regard to his Retirement well in time when he was SRC to DPO, Kohat is based on facts and he did this act for mutual unlawful benefits i.e. for himself and for Ex- Head Constable Rangeen Khan No 229, the defaulter Senior Clerk is recommended for Major Punishment.

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
CENTRAL POLICE OFFICE
PESHAWAR
Phone No. 091-9210545 Fax 091-9210927

Thus, on going through the findings/recommendation of the Enquiry Officer and the material on record, I, **Mubarak Zeb, PSP, Deputy Inspector of Police, Headquarters Khyber Pakhtunkhwa, Peshawar** as competent authority hereby order of reversion of the above mentioned delinquent official **from Senior Clerk (BPS-14) to Junior Clerk (BPS-11) with immediate effect.**

ORDER ANNOUNCED

(MUBARAK ZEB)
DIG/HQrs,
For Inspector General of police,
Khyber Pakhtunkhwa
Peshawar

No. 2126-32 **/E-V Dated; Peshawar the** 3/13 **/2015.**

Copy of above is forwarded for information and necessary action to the:-

1. Addl: Inspector General of Police HQrs: Khyber Pakhtunkhwa Peshawar.
2. Regional Police Officer, Kohat Region Kohat.
3. Asstt: Inspector General of Police Establishment CPO Peshawar.
4. District Police Officer, Kohat.
5. Addl: SP, Kohat.
6. Registrar CPO, Peshawar.
7. Office Supdt: Secret CPO, Peshawar.

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

Service Appeal No 1138/2016.

Shah Zaman .....**Appellant.**

VERSUS

PPO & Others.....**Respondents**

REPLICATION ON BEHALF OF THE APPELLANT.

REPLY TO PRELIMINARY OBJECTIONS.

All the objections raised by the respondents are incorrect and as such denied. The appellant has got a valid cause of action and locus standi to bring the present appeal, and the appellant is not estopped by his conduct to bring the instant appeal. Instant appeal is well within time, in which necessary parties have been imp leaded and the appellant has concealed nothing from this honorable Tribunal, he has come to this honorable Tribunal with clean hands.

REPLY TO FACTS/GROUNDS:

Comments of the respondents are full of contradictions, rather amounts to admissions and are based on malafide. Respondents have failed to show that the version of the appellant is incorrect. Even respondents have failed to show and substantiate their version referring to any law and rules. Respondents have failed to substantiate their version and bring anything on record in support of their version. In the circumstances the appellant has been deprived of his rights without any omission or commission on his part and he has been deprived of his rights guaranteed by the Constitution and law of the land.

In the circumstances the appellant has been punished without any fault on his part. It is also worthwhile to mention here that the appellant is entitled to be restored to his previous position with consequential benefits. Respondents have failed to deny the plea of the appellant that the impugned order is according to FR 29 and that his earlier application had been filed. Even no complaint was filed by the complainant and no loss was caused to the Govt. exchequer, in the circumstances awarding the appellant any punishment is not tenable in the eyes of law. Respondents have also not denied the plea of the appellant that the appellant has been discriminated.

It is therefore prayed that appeal of the appellant may kindly be accepted as prayed for.

Dated:-~~08-05~~ 14-7-2017.

Appellant

Through

Fazal Shah Mohmand

Advocate Peshawar

AFFIDAVIT

I, Shah Zaman, Junior Clerk (BPS-11) Office of District Police Officer Kohat, (the appellant), do hereby solemnly affirm and declare on oath that the contents of this **Replication** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

Identified by

DEPONENT

Fazal Shah Mohmand

Advocate Peshawar.

MUHAMMAD QAMARWOOD ADVOCATE NOTARY PUBLIC PESHAWAR HIGH COURT 14/07/17

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No 2513 /ST Dated 21 /11/2017

To

The District Police Officer,
Government of Khyber Pakhtunkhwa,
Kohat.

Subject: **JUDGEMENT IN APPEAL NO. 1138/16, MR.SHAH ZAMAN.**

I am directed to forward herewith a certified copy of Judgment dated 13/11/2017 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.