

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
AT CAMP COURT ABBOTTABAD

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

Service Appeal No. 281/2023

Date of presentation of Appeal.....06.02.2023
Date of Hearing.....29.05.2024
Date of Decision.....29.05.2024

Nawaz Khan Assistant Sub Inspector Police, presently posted in District
Mansehra..... (Appellant)

VERSUS

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region Abbottabad.
3. District Police Officer, Mansehra.....(Respondents)

MUHAMMAD ASLAM TANOLI,
Advocate

For appellant.

ASIF MASOOD ALI SHAH,
Deputy District Attorney

For respondents

JUDGMENT

MUHAMMAD AKBAR KHAN, MEMBER (E):-The instant service appeal has
been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act
1974 with the prayer copied as under;

*"On acceptance of instant service appeal both the order dated
10.11.2022 and 10.01.2023 of the respondents may graciously
be set aside and appellant be reinstated in his rank of Sub
Inspector from the date of reduction with all consequential
service back benefits on rendition of accounts."*

02. Brief facts of the case are that the appellant was serving as Sub
Inspector in the respondent department; that on the basis of complaint filed by

Muhammad Pervez General Councilor VC Phulra District Mansehra departmental proceedings were initiated against the appellant and District Police Manshera issued impugned order 10.11.2022 whereby the appellant was awarded major penalty of "Reduction in Rank" from Sub Inspector to Assistant Sub Inspector. Feeling aggrieved from the impugned order dated 10.11.2022, the appellant filed departmental appeal which was rejected vide order dated 10.01.2023, hence preferred the instant service appeal on 06.02.2023.

03. Notices were issued to the respondents, who submitted their comments, wherein they refuted the assertions raised by the appellant in his appeal. We have heard arguments of learned counsel for the appellant, learned Deputy District Attorney for the respondents and have gone through the record with their valuable assistance.

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

05. Perusal of record reveals that vide impugned order dated 10.11.2022 the appellant was awarded major punishment of one step reduction in rank. The allegations against the appellant were that while conducting investigation in case FIR No. 169 dated 28.07.2022 U/s 302/109/107/427/34 PPC/15AA, Police Station Phulra District Mansehra, he had allegedly assaulted the accused namely Muhammad Shoaib. Against the impugned order 10.11.2022 the appellant filed department appeal to Regional Police Officer on 21.11.2022 which was rejected on 10.01.2023 and then the appellant filed this appeal.

06. The punishment awarded to the appellant was after conducting inquiry by one Mr. Muhammad Jamil Akhtar, Additional Superintendent of Police, Mansehra. We have gone through the inquiry report annexed with the reply but were unable to see anything by the inquiry officer to be in accordance with the procedure prescribed for conduct of inquiry. There is no statement of anyone recorded by the inquiry officer nor is there any opportunity of defense provided to the appellant depriving him to cross examine the witnesses. The inquiry is thus not in accordance with law and rules, therefore, cannot be held as basis for imposing the punishment as awarded to the appellant in this case.

07. Therefore on allowing this appeal we set aside the punishment awarded to the appellant both by the original as well as appellate order. Costs shall follow the event. Consign.

08. *Pronounced in open court at camp court Abbottabad and given under our hands and seal of the Tribunal on this 29th day of May, 2024.*




(KALIM ARSHAD KHAN)
Chairman
Camp Court Abbottabad




(MUHAMMAD AKBAR KHAN)
Member (E)
Camp Court Abbottabad

ORDER29th May, 2024

1. Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present. Arguments heard and record perused.
2. Vide our detailed judgment of today, separately placed on file, by allowing this appeal we set aside the punishment awarded to the appellant both by the original as well as appellate order. Costs shall follow the event. Consign.
3. *Pronounced in open court at camp court Abbottabad and given under our hands and seal of the Tribunal on this 29th day of May, 2024.*



(KALIM ARSHAD KHAN)
Chairman
Camp Court Abbottabad



(MUHAMMAD AKBAR KHAN)
Member (E)
Camp Court Abbottabad