

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

BEFORE: **KALIM ARSHAD KHAN** ... **CHAIRMAN**
FAREEHA PAUL ... **MEMBER (Executive)**

Service Appeal No. 952/2022

Date of presentation of Appeal.....24.06.2022
Date of Hearing.....04.06.2024
Date of Decision.....04.06.2024

Imran S/O Malook (IHC No. 138(HC 203) District Police Mardan).
Village Lund Khwar District Mardan.*Appellants*

Versus

1. The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. The Secretary, Home Department, Khyber Pakhtunkhwa, Peshawar.
3. Regional Police Officer, Mardan.
4. District Police Officer, Mardan.(*Respondents*)

Present:

Mr. Muhammad Irshad, Advocate.....For the appellant
Mr. Asif Masood Ali Shah, Deputy DistrictFor respondents

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**APPEAL UNDER SECTION-4 OF THE KHYBER
PAKHTUNKHWA, SERVICE TRIBUNAL ACT, 1974
AGAINST THE ORDER OF THE IGP/RESPONDENT
NO. 1, VIDE ORDER DATED 04.02.2022 NO. 215/E-III
PESHAWAR, WHEREBY THE APPELLANT WAS
TRANSFERRED FROM MARDAN REGION TO
KOHAT KOHAT REGION WITHOUT WAITING FOR
THE RESULT OF THE CASE, AS THE APPELLANT
HAS BEEN ACQUITTED BY THE COURT IN FIR 452
DATED 02.05.2017 U/S 411 PPC PS SHER GARH AS A
RESULT OF DISCIPLINARY PROCEEDINGS.**

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN:- According to the facts gathered from the record, the appellant, while serving as Head Constable in Mardan Region was transferred and posted to Kohat Region vide impugned order dated 04.02.2022. Feeling aggrieved, the appellant filed

departmental appeal on 04.03.2022, which was not decided within the statutory period of 90 days, hence the instant appeal on 24.06.2022.

2. On receipt of the appeals and admission to full hearing, the respondents were summoned, who, on putting appearance, contested the appeal by filing para-wise comments raising therein numerous legal and factual objections.

3. We have heard learned counsel for the appellant and learned Deputy 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 appeals while the learned Deputy District Attorney controverted the same by supporting the impugned order.

5. The appellant is Head Constable and was transferred from Mardan Region to Kohat Region vide order dated 04.02.2022. The Tribunal asked the Deputy District Attorney as well as representative of the respondents to cite any law or rules on the basis of which a Head Constable could be transferred from one Region to other. They quoted Police Rule, 13(8) of The Khyber Pakhtunkhwa Police Act, 2017, which reads as under:-

"(8) Every police officer shall be liable for posting to any branch, division, bureau and section, or anywhere in or outside the police unless otherwise provided under this Act."

6. The above rule is not specific and clear to transfer of appellant from one region to another. No other law/rules/any order could be produced by the respondents compelling the Tribunal to remit the matter to Inspector General of Police, Khyber Pakhtunkhwa, Peshawar to decide it

Service Appeal No.952/2022 titled "Imran versus The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar and others", decided on 04.06.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman and Miss. Fareeha Paul, Member Executive, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

again citing the specific law/rules/any order within 30 days of receipt of copy of this judgment. Consign.

07. Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 04 day of June, 2024.



KALIM ARSHAD KHAN
Chairman



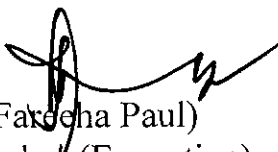
FAREEHA PAUL
Member (Executive)


Naeem Amin

ORDER

04th June, 2024

1. Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney alongwith Mr. Muhammad Wisal, Superintendent of Police for the respondents present. Arguments heard and record perused.
2. Vide our judgment of today placed on file, no other law/rules/any order could be produced by the respondents compelling the Tribunal to remit the matter to Inspector General of Police, Khyber Pakhtunkhwa, Peshawar to decide it again citing the specific law/rules/any order within 30 days of receipt of copy of this judgment. Consign.
3. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 04th day of June, 2024.*


(Fardaha Paul)
Member (Executive)


(Kalim Arshad Khan)
Chairman