

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR
AT CAMP COURT SWAT

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

Service Appeal No. 184/2020

Date of presentation of Appeal.....23.12.2019
Date of Hearing.....06.06.2024
Date of Decision.....06.06.2024

Rahim Khan son of Amir Salam Khan resident of Islampur, Saidu Sharif Swat
(Ex-Head Constable B. No 1373).....(**Appellant**)

VERSUS

1. Inspector General of Police, Khyber Pakhtunkhwa at Peshawar.
2. Regional Police Officer, Malakand Range-III at Saidu Sharif, District Swat.
3. District Police Officer Swat Gulkada.
4. S.P Investigation District Swat.....(**Respondents**)

SHABIR AHMED KHAN (DAWALTKHEL),
Advocate

--- For appellant.

UMAIR AZAM,
Additional Advocate General

--- 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;

"That by acceptance of this service appeal, the impugned order to the extent of awarding punishment may be set aside and all the back benefits and seniority from the date of removal may be given/extended to the appellant. Any other relief as deemed appropriate in the circumstances of the case and not specifically asked/prayed for, may also be granted to

the appellant.”

02. Brief facts of the case are that the appellant while serving as Head Constable in Police Department, was proceeded against on the charges of absence/registration of FIR against him and was removed from service on 04.01.2019. Feeling aggrieved, the appellant filed departmental appeal followed by Service Appeal No 655/2019 and during the pendency of service appeal the respondent No. 2 reinstated the appellant into service vide order dated 18.07.2019 and penalty of removal from service was converted into reduction of salary by three stages and period spent out of service was counted as leave without pay. Feeling aggrieved from the impugned order dated 18.07.2019 the appellant filed departmental appeal on 20.08.2019 and withdrew the service appeal No. 655/2019 on 03.09.2019. As the departmental appeal of the appellant against the appellate order was not responded within 90 days he preferred the instant service appeal on 23.12.2019.

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 Additional Advocate General 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 District Attorney, controverted the same by supporting the impugned order(s).


05. From scrutiny of record it transpire that the appellant while posted as Head Constable in the Police Station Bunr an FIR No. 756 dated 01.11.2018 U/s 279, 337G, 320-PPC was registered against him. Departmental proceedings were initiated against him on the following charges/allegations


“An application was moved by applicants, namely Umar Ishaq and Umar Raziq r/o Islam Pur, citing an accident in the limits of Police Station Saidu Sharif and complaining against the role of Police personnel in the aftermath of the accident. SDPO Saidu Circle initially probed the matter and reported than an FIR had already been registered in this matter against you vide No. 756, dated 01.11.2018 u/s 279-337(G)-427 PPC, Police Station Saidu Sharif and following the death of one of the two injured persons, Section 320 had been incorporated in the case. It has been learnt that you were driving the vehicle while you were intoxicated which resulted into the accident. A show cause notice was issued to you vide this office No. 551/PA dated 12.11.2018 to explain your position but you failed to present any cogent reason to rebut the allegations leveled against you. Your therefore, issued this charge sheet and statement of allegations.”

06. Additional SP Swat was appointed as Inquiry officer to scrutinize the conduct of the appellant. The inquiry officer in his findings proved the charges/allegations against the appellant and the competent authority, based on findings of the inquiry, imposed major penalty of removal from service vide order dated 04.01.2019. The appellant approached the Service Tribunal and during pendency of his appeal upon receipt of the order of the appellate authority dated 17.07.2019 the appeal was withdrawn by the appellant. In the instant appeal the appellant has challenged the order of the appellate authority whereby the punishment of removal from service has been reduced/converted into reduction in salary by three stages and the period spent out of service treated as leave without pay. We did not find any illegality or shortcomings in observance of the codal formalities in disciplinary proceedings against the

appellant. The appellate authority taking lenient view has modified the penalty of removal from service. Moreover, during arguments the respondent also produced a copy of the order dated 13.02.2020 passed by the appellate board in its meeting on 23.01.2020 wherein the penalty imposed by the appellate authority has been further reduced. We feel that the appellant has been given relief keeping in view his 17 years long service by the appellate authority and appellate board and there is no room available for further relief. The appeal in hand is, therefore, stands dismissed. Costs shall follow the event.

07. *Pronounced in open court at camp court Swat and given under our hands and seal of the Tribunal on this 06th day of June, 2024.*


(RASHIDA BANO)
Member (J)
Camp Court Swat


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

ORDER

06th June, 2024 1. Learned counsel for the appellant present. Mr. Umair Azam, Additional Advocate General for the respondents present. Arguments heard and record perused.

2. Vide our detailed judgment of today, separately placed on file, the appeal in hand is dismissed. Costs shall follow the event.

3. *Pronounced in open court at camp court Swat and given under our hands and seal of the Tribunal on this 06th day of June, 2024.*



(RASHIDA BANO)
Member (J)
Camp Court Swat



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