

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 12778/2020

BEFORE: MRS. RASHIDA BANO ... MEMBER (J)
MISS. FAREEHA PAUL ... MEMBER (E)

Amir Waseem S/o Watan Wali R/o Babal Khel, Tehsil Takht-e-Nasrati,
District Karak.

... (*Appellant*)

VERSUS

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. The Commandant FRP, Khyber Pakhtunkhwa, Peshawar.
3. Deputy Commandant FRP, Khyber Pakhtunkhwa, Peshawar.
4. Superintendent of Police, FRP, Peshawar Range, Peshawar.
5. Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar.
... (*Respondents*)

Mr. Syed Roman Shah
Advocate

... For appellant

Mr. Muhammad Jan
District Attorney

.... For respondents

Date of Institution.....22.10.2020
Date of Hearing.....14.05.2024
Date of Decision.....14.05.2024

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:

“That on acceptance of this appeals, the punishment awarded to the appellants through impugned orders dated 04.08.2020 may graciously be set aside by declaring it illegal, void, unlawful, without authority, based on



malafide, void ab-initio and thus not sustainable and the appellants were entitled for reinstatement in service with all back benefits of pay and service.”

2. Through this single judgment, we intend to dispose of the instant Service appeal as well as connected service appeal No.12779/2020, titled “Rehmat Zameer Vs. Police Department” as in both the appeals common questions of law and facts are involved.

3. Brief facts of the instant cases are that appellants were inducted in police department as Constables and were performing their duties upto the entire satisfaction of their superiors. On 27.02.2020, appellants applied for transfer under the order of SP FRP, Kohat range to home District Karak by application through the office of OHC Branch FRP Kohat Range which application is still pending in record of the OHC Office FRP Kohat. On 27.06.2020 appellants were informed through SMS about attending SSP/FRP Peshawar Range on 29.06.2020 and in compliance they appeared before the SSP Peshawar. They were informed that their transfer orders issued on 11.06.2020 by CPO Peshawar were found bogus. The order was allegedly received by the office of Commandant FRP, Peshawar regarding which the appellants showed complete ignorance as the orders were neither implemented nor they were aware of the issuance of the same. The appellants were proceeded departmentally against the charges of manipulating fake and bogus transfer orders and the departmental proceedings were culminated by passing impugned orders of removal from service on 30.09.2020. They filed departmental appeals, which were dismissed, hence the present service appeals.



4. Respondents were put on notice who submitted their joint parawise comments on the appeals. We heard the learned counsel for the appellants as well as learned District Attorney for the respondents and perused the case file with connected documents in detail.

5. Learned counsel for the appellants argued that the impugned orders are illegal, unlawful, without authority, based on malafide intention, against the natural justice, hence liable to be set aside; that the appellants had not been treated in accordance with law and rules; that no evidence has been collected and brought on record which may link the involvement of appellants with manipulating the fake transfer order; that no opportunity of personal hearing has been afforded to the appellants and they were condemned unheard; that no regular inquiry had been conducted in the matter and without examining any witness in support of the charges. Therefore, they requested for acceptance of the instant service appeals.

6. Conversely, learned District Attorney argued that the impugned orders issued by the respondent are legally justified and in accordance with rules as the same was passed after fulfilling all codal formalities; that the allegations leveled against the appellants were fully established by the enquiry committee against the appellants and after fulfillment of all codal formalities, they were awarded major punishment of removal from service in accordance with law/rules.

7. Perusal of record reveals that appellants were inducted in FRP Police as Constables and performing their duties with full zeal and zest, that on 27.02.2020 appellants applied for transfer under the order of SP FRP, Kohat range to home District Karak by submitting written application through the

office of OHC branch FRP Kohat range which application is still pending in the record of OHC Office FRP Kohat. Appellants were informed through SMS on 27.06.2020 about attending SSP/FRP Peshawar range on 29.06.2020 and in compliance of the said order appellant appeared before SSP Peshawar on the prescribed date. They were informed that their transfer orders issued vide No.9616-17/E-IV dated 11.06.2020 CPO Peshawar was found fake and Bogus. The orders were allegedly received by the office of Commandant FRP, Peshawar regarding which the appellants show complete ignorance as the same orders have not been implemented nor appellants were aware of the issuance of the same order as they have filed only applications for transfer. They were proceeded against departmentally on the charges of manipulating fake and bogus transfer orders dated 29.06.2020 about which appellants have no knowledge and the departmental action culminated in passing the impugned order of removal from service vide order dated 04.08.2020.

8. Perusal of inquiry report reveals that appellants in their reply showed their ignorance from any transfer order dated 11.06.2020 which seems to be true from the fact that they were still working in their old place of posting and had not left for the new place of posting at their native District Karak. Inquiry Officer mentioned in his report that said fake transfer/posting order was received by Fawad Khan PA to Deputy Commandant, who sent for onward process to office of Superintendent. The main role in the matter of submitting fake transfer orders is of Fawad Khan PA to Commandant, against whom inquiry officer recommended disciplinary action in the inquiry report.

9. Respondent department initiated disciplinary proceedings against said PA/Stenographer Fawad Khan by issuing charge sheet on 04.11.2020 with the



allegation;

“(i) Constable Amir Waseem No.6090/6019 and Rehmat Zameer No.5138 have managed their transfer/posting orders under the fake signature of AIG/Establishment CPO Peshawar. In this regard preliminary enquiry was conducted through inquiry committee comprising of DSP/FRP/HQs & RI/FRP/PR wherein he was found guilty and involved in submission of the same orders in the office of Superintendent FRP/KP.

ii) All this speaks highly adverse on his part warranting stern disciplinary action against him.”

He was discharged from service vide order dated 28.08.2020. He filed revision petition which was partially accepted by converting his major penalty of discharge from service into minor penalty of stoppage of two annual increments with accumulative effect by treating intervening period as leave without pay vide order dated 11.12.2020. Fawad Khan PA/Stenographer is the one who received those fake transfer orders of the appellants from one of his friends Mr. Samiullah without following the requisite procedure. Inquiry officer inquired the matter in wrong direction; he must have inquired about originator of the order. From the available record, it seems that Mr. Fawad Khan is the official who brought it i.e. fake order on record because same was not came from the custody of both appellants on record and they showed their ignorance from the same. The official who brought on record the said fake orders for the first time was awarded minor penalty then it is demand of the justice that appellants be treated leniently like him as this possibly cannot be ruled out that some opponents of the appellants initiated it to spoil their career.

10. For what has been discussed above, we are unison to partially accept the instant service appeal as well as connected service appeal by converting

major penalty of dismissal from service into minor penalty of stoppage of two increments for two years without cumulative effect and period during which they remained out of service is treated as leave without pay. Cost shall follow the event.

11. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 14th day of May, 2024.*


(FAREEHA PAUL)
Member (M)


(RASHIDA BANO)
Member (J)

**M.Khan*