


14 May, 2024 1. Learned counsel for the appellant present. Mr. Muhammad

Jan, learned District Attorney for the respondents present.

2. Vide our detailed judgment of today placed on file, we are unison to partially accept the instant appeal by modifying the minor penalty of two increments for two years without accumulative effect and period during which he remained out of service is treated as leave without pay. Costs shall follow the event. Consign.

3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 14<sup>th</sup> day of May, 2024.*

  
(FAJEEHA PAUL)  
Member (E)

  
(RASHIDA BANO)  
Member (J)

\*M.Khan


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service is treated as leave without pay. Costs shall follow the event. Consign.

10. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 14<sup>th</sup> day of May, 2024.*

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(FAREEHA PAUL)  
Member (E)

  
(RASHIDA BANO)  
Member (J)

*\*M.Khan*

*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.”*

Who 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 leave without pay vide order dated 11.12.2020. Fawad Khan PA/Stenographer is the one who received that fake transfer order from one of his friend Mr. Samiullah without following the requisited procedure. Inquiry officer inquired the matter in wrong direction, he must inquire about originator of the order from the available record, it seems that Mr. Fawad Khan is the official who brought it on record/introduced because same was not come from the custody of both constables 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 awarding minor penalty, then it is demand of the justice that appellant be treated leniently like him as this possibly cannot be ruled out that some opponents, if the appellants initiated it.

9. For what has been discussed above, we are unison to partially accept the instant appeal by modifying the minor penalty of two increments for two years without accumulative effect and period during which he remained out of

Amir Waseem and Rehmat Zameer and also gave its finding that disciplinary proceeding may be initiated against the appellant and LHC Asad Ullah. Inquiry committee recommended major punishment for the appellant and on the basis of that inquiry report the appellant was discharged from service vide order dated 28.08.2020. Appellant filed departmental appeal against the order dated 28.08.2020 on which de-novo inquiry was directed by the competent authority and for the purpose of de-novo inquiry, the appellant was reinstated into service on 04.11.2020. Respondent No.1 passed an order dated 17.12.2020 on the basis of de-novo inquiry, whereby the major punishment of discharge from service was converted into minor punishment of withholding of increments for two years with cumulative effect and period during which the appellant remained out of service was treated as leave without pay without observing the recommendation of inquiry committee.

7. Perusal of inquiry report reveals that appellant in his reply showed his ignorance from any transfer order dated 11.06.2020. Inquiry Officer mentioned in his report that said fake transfer/posting order was removed 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 order is of Fawad Khan PA to Commandant, inquiry officer recommended disciplinary action in the inquiry report against the appellant.

8. Respondent department initiated disciplinary proceedings against appellant 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***



well as learned District Attorney for the respondents and perused the case file.

4. Learned counsel for the appellant argued that the impugned order is illegal, unlawful, without authority, bases on malafide intention, against the natural justice, hence liable to be set aside; that the appellant 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 appellant with manipulating the fake transfer order; that no opportunity of personal hearing has been afforded to the appellant and he was condemned unheard; that no regular inquiry had been conducted in the matter and without examining any witness in support of the charges. Therefore, he requested for acceptance of the instant service appeals.

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

6. Perusal of record reveals that appellant is working as Senior Scale Stenographer in the respondent department and performing his duty, when a fact finding inquiry was inducted by inquiry committee against constable Amir Waseem and Constable Rehmat Zameer on the basis, that they have managed their transfer/posting orders under fake signature of AIG Establishment CPO Peshawar in which inquiry committee recommended major punishment for

**treat remaining out of service period of the appellant with pay as the allegations has not been proved on the appellant during the de-novo inquiry proceedings. Any other remedy which this august tribunal deems fit and appropriate that may also be awarded in favour of the appellant.”**

2. Brief facts of the case are that appellant is working on the post of Senior Scale Stenographer in the respondent department and performing his duty with full zeal and zest. During service a fact finding inquiry was initiated by inquiry committee against constable Amir Waseem and Constable Rehmat Zameer on the basis, that they have managed their transfer/posting orders under fake signature of AIG Establishment CPO Peshawar in which inquiry committee recommended major punishment for Amir Waseem and Rehmat Zameer and also gave its finding that disciplinary proceeding may be initiated against the appellant. Inquiry committee recommended major punishment for the appellant and on the basis of that inquiry report the he was discharged from service vide order dated 28.08.2020. Feeling aggrieved, he filed departmental appeal, on which de-novo inquiry was directed by the competent authority and for the purpose of de-novo inquiry, the appellant was reinstated into service on 04.11.2020. Respondent No.1 passed an order dated 17.12.2020 on the basis of de-novo inquiry, whereby the major punishment of discharge from service was converted into minor punishment of withholding of increments for two years with cumulative effect and period during which the appellant remained out of service was treated as leave without pay, hence the present service appeal.

3. Respondents were put on notice who submitted their joint parawise comments on the appeals. We heard the learned counsel for the appellant as

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 1415/2021

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

Fawad Khan, Senior Scale Stenographer, FRP Headquarter, Peshawar.

... (Appellant)

**VERSUS**

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. The Commandant FRP, Khyber Pakhtunkhwa, Peshawar.
3. Superintendent of Police, FRP, Peshawar Range, Peshawar.

... (Respondents)

Mr. Taimur Ali Khan  
 Advocate

... For appellant

Mr. Muhammad Jan  
 District Attorney

.... For respondents

Date of Institution.....13.01.2021  
 Date of Hearing.....14.05.2024  
 Date of Decision.....14.05.2024

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 Peshawar

**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 appeal, the order dated 17.12.2020 may kindly be set aside and the respondents may kindly be directed to restore the increments of the appellant of two years with all back and consequential benefits and the respondents may further be directed to**