

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**
RASHIDA BANO ... MEMBER (Judicial)

Service Appeal No.2764/2021

Date of presentation of Appeal.....11.02.2021
Date of Hearing.....11.07.2024
Date of Decision.....11.07.2024

Mr. Mubarik Shah Khan Head Constable (C-II) CDI PTS Kohat
.....(*Appellant*)

Versus

1. **The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.**
2. **The Additional Inspector General of Police (Establishment), Khyber Pakhtunkhwa, Peshawar.**
3. **The Regional Police Officer, Kohat Region, District Kohat.....(*Respondents*)**

Present:

Mr. Noor Muhammad Khattak, Advocate.....For the appellant
Mr. Muhammad Jan, District Attorney.....For respondents
.....

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 21.12.2020 WHEREBY THE APPELLANT HAS BEEN REVERTED TO HIS SUBSTANTIVE RANK OF THE IHC AND AGAINST THE APPELLATE ORDER DATED 04.02.221 WHEREBY THE DEPARTMENTAL APPEAL DATED 22.12.2020 OF THE APPELLANT HAS BEEN REJECTED ON NO GOOD GROUNDS.

JUDGMENT

KALIM ARSHAD KHAN, CHAIRMAN: Appellant's case as per memo and grounds of appeal are that he was appointed as Constable in the Police Department vide order dated 07.03.1982; that vide order dated 27.11.2004, he was promoted to the rank of

SI/PC; that he was further promoted to the post of Inspector (BPS-16) and he opted for allowing annual increment in the lower scale on 01.12.2011; that vide impugned order dated 21.12.2020, he was reverted from the rank of SI/PC to the rank of C-II Constable; that feeling aggrieved, he filed departmental appeal on the same date i.e. 21.12.2020 but the same was rejected on 27.01.2021, communicated to the appellant on 04.02.2021, hence, the instant service appeal.

02. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents put appearance and contested the appeal by filing written reply raising therein numerous legal and factual objections. The defense setup was a total denial of the claim of the appellant.

03. We have heard learned counsel for the appellant and learned District Attorney for the respondents.

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 the record, it is evident that vide promotion order dated 05.11.2011, the appellant was promoted to the rank of Inspector (BPS-16) as CDI. The said order is reproduced below:

"ORDER

SI/PC Mubarak Shah of Kohat Region on deputation to PTC Hangu as drill instructor is hereby promoted to the rank of Inspector BPS-16 as CDI in the light of PTC Manual Rule 87 & 88.

His promotion will take effect from the date he actually take over the charge of his higher responsibility.

His promotion is purely on temporary basis and relating to the premises of PTC Hangu.

In case of his repatriation to his parent region he will be reverted to his original rank of SI/PC".

06. While the impugned order, whereby, the appellant has been reverted back on the analogy that the appellant had completed three years on the rank of Inspector. For more details, the same is reproduced as under:

ORDER

C-II Head Constable Mubarak Shah of this Region, presently posted at Police Training School Kohat, was promoted from the rank of C-II Head Constable to the Rank of SI/PC for a period of 03 years vide this office order Ends:2952-55/EC dated 28.11.2004, governed by Standing Order No.1/2006/FRP.

*Record indicates that the official has completed his specified tenure of promotion, but still performing duty in the same rank, which is unjustified and contrary to the Standing Order *ibid*. Moreover, the Standing Order is not operative in the district presently.*

In view of the above, legal and factual aspects, SI/PC Mubarak Shah is hereby reverted to this substantive rank of C-II Head Constable with immediate effect."

The said impugned order of reversion is neither a detailed order nor is well reasoned because in the reply, the respondents have repeated the words "only for a period of 03 years" in bold font, while there is no mention for specific period of promotion in the promotion order dated 05.11.2021. Besides, the appellant has been reverted, however, he has not been given any chance of defense.



07. Keeping in view the above situation, we allow this appeal by setting aside the impugned order dated 21.12.2020 and remit the matter to the respondents for inquiry, properly associating the appellant for his defense, and then to pass an appropriate and well reasoned speaking order, in accordance with law and rules. Costs shall follow the event. Consign.

08. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 11th day of July, 2024.*



KALIM ARSHAD KHAN
Chairman



RASHIDA BANO
Member (Judicial)

S.A No.2764/2021

ORDER

11th July, 2024

1. Learned counsel for the appellant present. Mr. Muhammad Jan, District Attorney for the respondents present.

2. Vide our detailed judgment of today placed on file we allow this appeal by setting aside the impugned order dated 21.12.2020 and remit the matter to the respondents for inquiry, properly associating the appellant for his defense, and then to pass an appropriate and well reasoned speaking order, in accordance with law and rules. Costs shall follow the event. Consign.

3. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 11th day of July, 2024.*



(Rashida Bano)
Member (J)



(Kalim Arshad Khan)
Chairman