

Service Appeal No. 731/2023 titled "Inayat Shah versus The Inspector General of Police, Khyber Pakhtunkhwa Peshawar and others" and connected Appeal No.732/2023 titled "Wahid Ullah versus The Inspector General of Police, Khyber Pakhtunkhwa Peshawar and others" and Appeal No. 733/2023 titled "Amir Nawaz versus The Inspector General of Police, Khyber Pakhtunkhwa Peshawar and others" decided on 30.07.2024 by Division Bench comprising Kalim Arshad Khan, Chairman, and Rashida Bano, Member, Judicial Khyber Pakhtunkhwa Service Tribunal, Peshawar.

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.**

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

***Service Appeal No.731/2023***

Date of presentation of appeal .....01.03.2023  
Dates of Hearing.....30.07.2024  
Date of Decision.....30.07.2024

**Inayat Shah, EX-IHC NO. 678, Police Force Kohat.....(Appellant)**

Versus

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

Present:

Mr. Ashraf Ali Khattak, Advocate.....For appellant.  
Mr. Muhammad Jan, District Attorney.....For respondents.

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**SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER  
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, THE  
IMPUGNED FINAL ORDER OF RESPONDENT NO.2 DATED  
20.02.2023 PASSED ON THE DEPARTMENTAL APPEAL  
REFERRED AGAINST THE IMPUGNED ORDER OF  
RESPONDENT NO.3 DATED 22.12.2022 VIDE WHICH THE  
APPELLANT WAS DISMISSED FROM SERVICE WITHOUT  
ANY LEGAL OR FACTUAL JUSTIFICATION.**  
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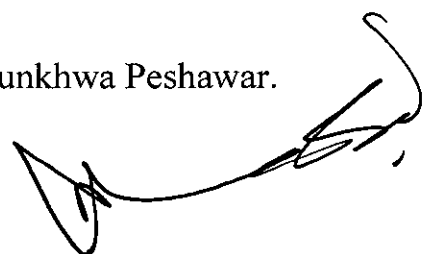
***Service Appeal No.732/2023***

Date of presentation of appeal .....01.03.2023  
Dates of Hearing.....30.07.2024  
Date of Decision.....30.07.2024

**Wahid Ullah, Ex-IHC No. 622 Police Force Kohat.....(Appellant)**

Versus

1. **The Inspector General of Police, Khyber Pakhtunkhwa Peshawar.**



2. **The Deputy Inspector General, Kohat Region, Kohat.**
3. **Mr. District Police Officer, Kohat Region, Kohat.....(Respondents)**

Present:

Mr. Ashraf Ali Khattak, Advocate.....For appellant.  
Mr. Muhammad Jan, District Attorney.....For respondents.

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**SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, THE IMPUGNED FINAL ORDER OF RESPONDENT NO.2 DATED 20.02.2023 PASSED ON THE DEPARTMENTAL APPEAL REFERRED AGAINST THE IMPUGNED ORDER OF RESPONDENT NO.3 DATED 22.12.2022 VIDE WHICH THE APPELLANT WAS DISMISSED FROM SERVICE WITHOUT ANY LEGAL OR FACTUAL JUSTIFICATION.**

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*Service Appeal No.733/2023*

Date of presentation of appeal .....01.03.2023  
Dates of Hearing.....30.07.2024  
Date of Decision.....30.07.2024

**Ameer Nawaz, Ex-Constable No. 12 Police Force Kohat.....(Appellant)**

Versus

4. **The Inspector General of Police, Khyber Pakhtunkhwa Peshawar.**
5. **The Deputy Inspector General, Kohat Region, Kohat.**
6. **Mr. District Police Officer, Kohat Region, Kohat.....(Respondents)**

Present:

Mr. Ashraf Ali Khattak, Advocate.....For appellant.  
Mr. Muhammad Jan, District Attorney.....For respondents.

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**SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, THE IMPUGNED FINAL ORDER OF RESPONDENT NO.2 DATED 20.02.2023 PASSED ON THE DEPARTMENTAL APPEAL REFERRED AGAINST THE IMPUGNED ORDER OF RESPONDENT NO.3 DATED 22.12.2022 VIDE WHICH THE APPELLANT WAS DISMISSED FROM SERVICE WITHOUT ANY LEGAL OR FACTUAL JUSTIFICATION.**

## **CONSOLIDATED JUDGMENT**

**KALIM ARSHAD KHAN CHAIRMAN:** Through this single judgment this appeal and the connected service appeal No.732/2023 titled "Wahid Ullah versus The Inspector General of Police, Khyber Pakhtunkhwa Peshawar and others" and Appeal No. 733/2023 titled "Amir Nawaz versus The Inspector General of Police, Khyber Pakhtunkhwa Peshawar and others" are decided as all the three are regarding the same subject matter and can conveniently be decided together.

2. Brief facts gathered from the memo and grounds of appeals are that the appellants were appointed as Constable in the respondent department; that the appellants while posted in Police Line, Kohat, were charged sheet on the ground that while deputed on challan duty and to produce hardened criminal including accused Najeeb Ullah S/O Taj Ali Khan R/O Civil Lines, District Tank involved in case FIR No. 35 dated 30.03.2022 u/s 302/324/353/120-B PPC, 4/5/ESA/15AA/7ATA P.S CTD D.I.Khan at ATC Kohat and during police custody the said accused made good his escape from the police party due to his alleged negligence and carelessness as such case had been registered against the above officials vide FIR No. 729 dated 23.11.2022 u/s 223-224 PPC P.S Cantt Kohat; that the appellants replied to the charges leveled against them but their replies were ignored and they were dismissed from service vide impugned order dated 22.12.2022; that the appellants, being aggrieved, filed departmental appeals



on 12.01.2023 to respondent No.2 which were rejected on 20.02.2023, hence the instant service appeal on 01.03.2023.

3. 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 defence setup was a total denial of the claim of the appellant.

4. We have heard learned counsel for the appellants and learned District Attorney for the respondents.

5. Learned counsel for the appellant asserts that the disciplinary process violated fundamental rights of the appellant, lacking transparency and fairness, as enshrined in Article 10-A of the Constitution of Pakistan. That he was not issued a final show cause notice, nor was he aware of any inquiry proceedings. The charge sheet was deficient, lacking details on specific dates and duties that directly implicated him in the escape. The charges did not clearly establish his responsibility for the custody of the escaped accused. The appellant was not granted the chance to participate actively in the inquiry, denying him the right to cross-examine witnesses, thus questioning the reliability of the inquiry outcome. Only a select few out of 28 officers were dismissed without a clear basis for this selective disciplinary measure, raising concerns about inequality and fairness in the disciplinary process. The disciplinary action proceeded while criminal proceedings for the same incident were still ongoing. The appellant cited

precedents suggesting such actions should be deferred until criminal matters are resolved. The learned counsel for the appellant contended that the inquiry report was not furnished to him as mandated by legal protocols, and his dismissal did not adhere to the procedural requirements of the Khyber Pakhtunkhwa Civil Servant Act, 1973.

6. Learned District Attorney argued that there was no violation of the Constitution of Pakistan in taking disciplinary action. The processes followed were in accordance with the law and relevant departmental rules. Learned District Attorney emphasizes that criminal and departmental proceedings are distinct and can proceed simultaneously. The pendency of a criminal trial did not preclude the department from conducting its own inquiry and taking action. The appellant was given an opportunity to be heard in person during an orderly room hearing. However, he failed to present any substantial justification that could mitigate his responsibility for the incident. Due to the significant negligence displayed by the appellant, which resulted in a serious breach of duty, the dismissal was deemed appropriate. The respondents maintain that all necessary procedures were adhered to before imposing the punishment. Given the severity of the misconduct and negligence, the appellant is argued to be ineligible for reinstatement into service. The respondents assert that reinstatement would undermine the disciplinary standards expected within the police force.



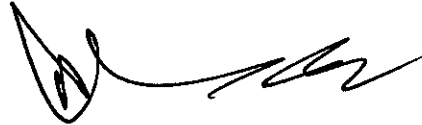
7. A total of 28 officers were implicated in an alleged misconduct case, resulting in their suspension. It was reported that out of these officers, 25 were subsequently reinstated. However, the appellants, were not initially reinstated. During the pendency of this appeal, appellant Amir Ullah was reinstated, and Wahid Ullah's status was rectified, leaving only one appellant, named, Inayat Shah without reinstatement, therefore, appeals of Amir Ullah and Wahid Ullah have rendered fruitless. The central issue in the appeal Inayat Shah was the lack of a clear distinction between the roles of the appellant who was not reinstated and those of their colleagues who were. There was no cogent explanation provided to justify the differential treatment of the appellants vis-a-vis the other officials. The inconsistency in handling similar cases runs contrary to the principles of equality and fairness enshrined in the Constitution of the Islamic Republic of Pakistan. Equal treatment must be afforded to individuals in congruent situations unless a substantive and lawful rationale is presented. The defense has failed to present any distinguishing factor or specific allegations that set the appellant apart from their reinstated colleagues. In the absence of such differentiation, the unequal treatment is arbitrary. With the majority of the involved officers being reinstated, including appellant Amir Ullah during the pendency of this appeal, a precedent has been set that supports the reinstatement of all involved officers. Without evidence proving additional misconduct or different circumstances for appellant Inayat Shah, denying his reinstatement goes against the fairness principle.



Service Appeal No. 731/2023 titled "Inayat Shah versus The Inspector General of Police, Khyber Pakhtunkhwa Peshawar and others" and connected Appeal No.732/2023 titled "Wahtid Ullah versus The Inspector General of Police, Khyber Pakhtunkhwa Peshawar and others" and Appeal No. 733/2023 titled "Amir Nawaz versus The Inspector General of Police, Khyber Pakhtunkhwa Peshawar and others" decided on 30.07.2024 by Division Bench comprising Kalim Arshad Khan, Chairman, and Rashida Bano, Member, Judicial Khyber Pakhtunkhwa Service Tribunal, Peshawar.

8. In light of the aforementioned reasons, the appeal is allowed. The non-reinstatement of appellant Inayat Shah cannot be justified under legal and constitutional scrutiny. Therefore, we order that like others, the appellant Inayat Shah be also reinstated forthwith, ensuring parity and adherence to the fundamental rights enshrined in the Constitution. Costs shall follow the event. Consign.

09. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 30<sup>th</sup> day of July, 2024.*



**KALIM ARSHAD KHAN**  
Chairman



**RASHIDA BANO**  
Member (Judicial)

\*Adnan Shah, PA\*