

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL AT CAMP COURT ABBOTTABAD

Service Appeal No.7677/2021

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

Raziq Khan, Sub Inspector No.H/367, presently posted at PS Beer District Haripur.
(Deceased appellant)

- Mumtaza Bibi (Widow)
- Hammad Ali
- Uzma Bibi
- Iqra Raziq
- Shamsa Raziq
- Ozeema Raziq
- Havia Raziq
- Bisma Raziq

.... (Legal Heirs)

VERSUS

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Hazara, Hazara Range, Abbottabad.
3. District Police Officer, Haripur.

.... (Respondents)

Muhammad Aslam Tanoli
Advocate

... For appellant

Mr. Asif Masood Ali Shah
Deputy District Attorney

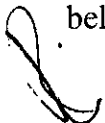
... For respondents

Date of Institution.....21.10.2021
Date of Hearing.....23.07.2024
Date of Decision.....23.07.2024

JUDGMENT

RASHIDA BANO, MEMBER (J): The instant appeal instituted under section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as

below:



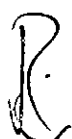
“On acceptance of this appeal, the both the impugned orders dated 07.05.2024 and 23.09.2021 of the respondents may graciously be set aside and appellant be restored his two stages reduced pay from the date of reversion with grant of all consequential service back benefits.”

2. Brief facts of the case are that appellant while posted as OII at Police Station Beer, registered case FIR No. 45 dated 27.02.2021 under section 9-C CNSA Police Station Beer against one Mr. Hassan Zaib s/o Aurangzeb on the basis of which a charge sheet alongwith statement of allegations was served upon him, to which he replied. Inquiry proceedings were initiated against him by issuing a final show cause notice. Consequently, District Police Officer Haripur awarded him punishment of forfeiture of two years approved service vide order dated 07.05.2021, Feeling aggrieved, he filed departmental appeal on 03.06.2021 which was rejected vide order dated 23.09.2021, hence, the instant service appeal.

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 defense setup was a total denial of the claim of the appellant.

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

5. The learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned Deputy

 District Attorney controverted the same by supporting the impugned order(s).

6. Perusal of record reveals that appellant was serving as OII at Police Station Beer, when on 11.03.2021, he was issued with charge sheet and statement of allegations on the ground of involving an innocent citizen Hassan Zeb son of Aurangzeb in FIR No.45 dated 27.02.2021 U/S 9CNSA of Police Station Beer being investigation officer of the criminal case which earned bad name for the department. Appellant replied charge sheet and denied all the allegations by mentioning that he had no grudges or ill will against the accused and he was arrested being found in possession of charas. Inquiry officer Mr. Umar Hayat SDPO Circle Ghazi Haripur conducted inquiry who although mentioned that chance of cross examination was afforded to the appellant but cross examination conducted upon Hassan Zeb is seem to be out of context and irrelevant except last question. Appellant in his departmental appeal as well as in the instant appeal had taken specific plea of non-providing of chance of cross examination if infact said opportunity was provided, then appellant will not take this plea before his appellate authority.


7. Appellant had vast experience of police service served over more than thirty years and is fully aware of importance and value of cross examination then in such situation to put irrelevant, out of context question will not make a sense. Moreover, appellant was not issued with show cause notice which is evident from the impugned order and respondents were failed to produce it upon direction of this tribunal. Issuance of show cause notice is necessary for fair trial and inquiry, particularly for safe dispensation of justice, its non-issuance is against the rules and render the impugned order violative of rules on the subjects as per rules 5(5) and 6 of Police Rules, 1975.


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Appellant was awarded penalty of forfeiture of two years approved service without adopting proper procedure which is injustice.

8. For what has been discussed above, we accept the appeal with the direction to provide proper opportunity of cross examination and adopt proper procedure as provided in police rules, 1975 with direction to conclude it within 90 days after receipt of copy of judgment. Costs shall follow the event. Consign.

9. *Pronounced in camp court at Abbottabad and given under our hands and seal of the Tribunal on this 23rd day of July, 2024.*


(FAREEHA PAUL)
Member (E)
Camp Court, Abbottabad


(RASHIDA BANO)
Member (J)
Camp Court, Abbottabad

ORDER


23.07.2024 1 Learned counsel for the appellant present. Mr. Asif Masood Ali


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learned Deputy District Attorney alongwith Mr. Israr Ullah Inspector for the respondents present.

2. Vide our detailed judgement of today placed on file, we accept the appeal with the direction to provide proper opportunity of cross examination and adopt proper procedure as provided in police rules, 1975 with direction to conclude it within 90 days after receipt of copy of judgment. Costs shall follow the event. Consign.

3. *Pronounced in camp court at Abbottabad and given under our hands and seal of the Tribunal on this 23rd day of July, 2024.*


(FAREEHHA PAUL)
Member (E)
Camp Court, Abbottabad


(RASHIDA BANO)
Member (J)
Camp Court, Abbottabad

*Kaleemullah