



Office Of The  
Additional Inspector General of Police,  
Counter Terrorism Department (CTD),  
Khyber Pakhtunkhwa, Peshawar.

☎# 091-9212518-19; 📠# 091-9212530.

Dated 09/09/2024.

No. 16318 /Legal/CTD/HQrs

To: The Regional Police Officer (RPO),  
Bannu Region.

Subject: COMPLIANCE OF THE ORDERS OF HONOURABLE SERVICE TRIBUNAL IN S.A No. 710/2017 (E.P No. 974/2023).

In reference to letter No. 1 dated 19.07.2024 on the subject cited above, issued by District Police Officer, Lakki Marwat.

The CPLA has already been filed against the judgment of the service Tribunal.

The record of this office has been perused in detail. It was observed that the appellant namely Muhammad Sadiq was transferred to CTD KP on deputation basis from his parent District i.e. Lakki Marwat and now he is serving in his parent District Lakki Marwat and drawing pay thereof. In this connection, the W/Addl: IGP CTD KP, Peshawar has passed the following remarks:

**"Since he is not serving with us the matter of his arrears, if any, due to him may be decided by his parent district. He came here on deputation basis. Therefore, please send it to his parent district through the concerned RPO".**

The copy of the Judgment of Service Tribunal is appended herewith.

*Saminna Zaffar*  
(Saminna Zaffar)  
SP Adm CTD HQrs:  
For Addl: Inspector General of Police,  
CTD, Khyber Pakhtunkhwa,  
Peshawar

CC to:

1. The Addl: IGP CTD Khyber Pakhtunkhwa, Peshawar.
2. The Registrar Service Tribunal, Khyber Pakhtunkhwa, Peshawar.
3. The District Police Officer, Lakki Marwat with reference to his office letter No. 1 dated 19.07.2024.
4. The Superintendent of Police, CTD, District Bannu with reference to his office letter No. 54/Acctt/MTO, dated 08.08.2024.

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

Service Appeal No. 710/2017

BEFORE: MRS. ROZINA REHMAN ... MEMBER (J)  
MISS FAREEHA PAUL ... MEMBER (E)

Muhammad Sadiq Ex-Constable Police Line, Lakki Marwat.  
..... (Appellant)

Versus

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. Deputy Inspector General of Police, CTD, Khyber Pakhtunkhwa, Peshawar.
3. Additional Inspector General of Police CTD, Khyber Pakhtunkhwa, Peshawar.
4. District Police Officer, Lakki Marwat.
5. Regional Police Officer, Bannu Range, District Bannu.  
..... (Respondents)

Miss Uzma Syed,  
Advocate

... For appellant

Mr. Asif Masood Ali Shah,  
Deputy District Attorney,

... For respondents


Date of Institution..... 06.07.2017

Date of Hearing..... 09.01.2023

Date of Decision..... 10.01.2023

**JUDGEMENT**

**FAREEHA PAUL, MEMBER (E):** The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the impugned order dated 20.10.2016 whereby major penalty of compulsory retirement had been imposed upon the appellant and against the appellate order dated 14.06.2017, whereby departmental appeal



of appellant had been rejected on no good grounds. It has been prayed that by accepting this appeal, the impugned orders dated 20.10.2016 and 14.06.2017 might be set aside and the respondents be directed to reinstate the appellant in service with all back benefits and any other remedy which this august tribunal deems fit might also be awarded in favour of the appellant.

2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was an employee of the respondent department and was serving as Head Constable. He served the respondent department for more than 24 years quite efficiently and up to the entire satisfaction of his superiors. While performing his duty as Head Constable CTD Lakki Marwat, a criminal case was registered vide FIR No. 438 dated 20.07.2016 u/s 15-AA/9CNSA at Police Station Serai Naurang in which the appellant was not directly charged but he was arrested by the police on 11.08.2016 and was put in confinement till 21.10.2016. Thereafter he was taken to Peshawar in the office of AIG, CTD and there too he was kept in confinement for sufficient days based on a statement of Mr. Nasib before the police. Lastly major penalty of compulsory retirement was imposed upon him vide order dated 20.10.2016 (communicated to the appellant on 10.11.2016) without conducting fact finding inquiry in the matter. Feeling aggrieved from the impugned order, the appellant preferred departmental appeal before respondent No. 1 on 30.11.2016 which was rejected on 14.06.2017; hence the instant service appeal.



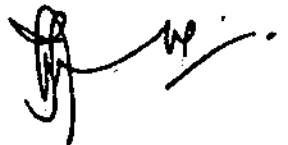
3. Respondents were put on notice who submitted written replies/comments on the appeal. We have heard the learned counsel for the appellant as well as the learned Deputy District Attorney for the respondents and perused the case file with connected documents in detail.

4. Learned counsel for the appellant after presenting the case in detail contended that the appellant was not directly charged in the FIR dated 20.07.2016 but the respondents malafidely involved him on the basis of baseless statement of one Naseeb. He further contended that no charge sheet and statement of allegations had been issued to the appellant nor show cause notice was served upon him, which were mandatory before passing the impugned order. He further contended that no chance of personal hearing/defence had been afforded to him and the respondents acted in an arbitrary manner. He requested that the appeal might be accepted as prayed.

5. Learned Deputy District Attorney, while rebutting the arguments of learned counsel for the appellant, contended that the appellant alongwith DSP Muhammad Subhan colluded with the notorious criminal gang of Naseeb who was involved in heinous offences including the murder of Police Officer and utilized the services of Zarpayon Jan alias Bajjan of District Karak, a notorious gambler and runner of gambling den, and planned the surrender of the members of that gang. The appellant also facilitated the said gang in fake recovery of weapons snatched from the

prosecution of criminal cases registered against that gang. They intended to surrender before Police, however, they colluded with the police officials, DSP CTD Muhammad Subhan and the present appellant. Later on certain persons of the said gang surrendered themselves to the local police on 04.08.2016 and during their interrogation they disclosed contact with Muhammad Sadiq, the present appellant. He further contended that after conducting preliminary inquiry, the appellant was issued charge sheet and statement of allegations and proper departmental inquiry was conducted. He was given a chance of personal hearing and cross examining the witnesses but he could not prove his innocence and had rightly been dismissed from service. Learned DDA requested that the appeal might be dismissed with cost.

6. From the arguments and record presented before us it transpires that the appellant, who was serving as Head Constable at CTD Lakki Marwat, was arrested and put behind bar on 11.08.2016 on the basis of FIR No. 438 dated 20.07.2016 u/s 15AA/9CNSA registered at P.S Naurang, despite the fact that he was not directly charged in that FIR. He was arrested on the allegations that he, alongwith DSP Muhammad Subhan, colluded with the notorious criminal gang of Naseebo who were involved in heinous offences including the murder of police officer and utilized the services of Zarpayon Jan alias Bajjan of District Karak, a notorious gambler and runner of gambling den, and planned the surrender of the members of the gang. It was further alleged that the appellant alongwith the DSP also facilitated fake



recovery of the weapons belonging to the gang with the sole aim and motive of weakening the prosecution of criminal cases registered against them. According to a copy of an order dated 20.10.2016 signed by the DIG H.Q an inquiry was conducted through a committee comprising of Mr. Sher Akbar Khan, RPO, D.I.Khan and Mian Naseeb Jan, DPO Karak and the allegations were established against the appellant and the DSP Muhammad Subhan. Prior to that the appellant had been put under suspension and later on, after the charges against him were proved, he was compulsory retired from service from the date of his suspension. Charge sheet signed by the DIG/HQrs for Inspector General of Police, Khyber Pakhtunkhwa, Peshawar is available in the case file, however statement of allegations is missing to ascertain the composition of Inquiry Committee. It has been noted here that the order of compulsory retirement of the appellant has been passed by the DIG, HQ declaring himself the competent authority. Departmental appeal of the appellant has been decided by the Additional IGP/Hqrs. Both the officers have passed their respective orders for the Inspector General of Police, Khyber Pakhtunkhwa. Now a point worth consideration here is that the Police Department Delegation of Powers Rules 1958 have clearly defined the authorities for appointment, awarding punishment, appellate authorities, transferring authorities and so on in the schedule appended with it. The appellant was Head Constable at CTD Lakki Marwat and as per the rules, the authority competent to award the punishment of compulsory retirement was his appointing authority which was the Assistant I.G, P.A.R/Superintendent of Police concerned. Appellate authority in this case is




the Additional I.G. While going through the entire proceedings of the case, it was noted that in case of the appellant, order of compulsory retirement was passed by the DIG, HQ for I.G Police, Khyber Pakhtunkhwa and the appellate order was passed by the Additional IG, HQ for IG Police Khyber Pakhtunkhwa, which apparently means that both the orders were passed by the same authority i.e. the Inspector General of Police Khyber Pakhtunkhwa. On the order passed by the DIG HQ, he has declared himself the competent authority for the appellant, which in this case is not correct as the appellant was a Head Constable at CTD Lakki Marwat and his competent authority was the Superintendent of Police concerned. Hence the entire proceedings become void in the light of Police Department Delegation of Powers Rules 1958. Above all a judgment dated 22.06.2022 of the Judge Anti Terrorism Court Bannu Division was presented before the bench according to which the appellant alongwith Muhammad Subhan were discharged from the case FIR No. 438 dated 20.07.2016 u/s 9-CNSA/109/120-B/203 PPC/ISAA. of P.S Naurang District Lakki Marwat for want of evidence.

7. In view of the above discussion, the appeal in hand is allowed as prayed for. Parties are left to bear their own costs. Consign.

8. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 10<sup>th</sup> January, 2023.*

  
(FAJEEHA PAUL)  
Member (E)

  
(ROZINA REHMAN)  
Member (J)