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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.1237/2024

Taimoor Khan, Constable No.3229, District Police Swat.

.....Appellant

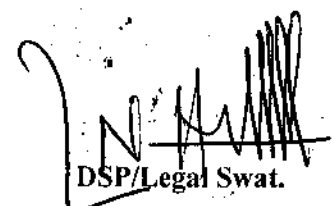
VERSUS

1. The District Police Officer, Swat.
2. The Regional Police Officer, Malakand Region at Saidu Sharif Swat.

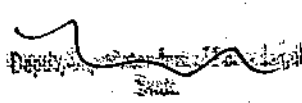
..... Respondents

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DSP/Legal Swat.

~~ATTESYEN~~



Superintendent of Police
Khyber Pakhtunkhwa Peshawar

①

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No.1237/2024

Taimoor Khan, Constable No.3229, District Police Swat.

.....Appellant

VERSUS

1. The District Police Officer, Swat.
2. The Regional Police Officer, Malakand Region at Saidu Sharif Swat.

..... Respondents

PARAWISE COMMENTS BY THE OF RESPONDENTS.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 16274

Dated 02-10-24

Respectfully Shewith,

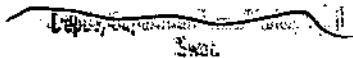
Preliminary Objections.

- 1) That the appellant has got no Cause of action and locus standi to file the present appeal.
- 2) That the appeal is bad due to misjoinder and non-joinder of necessary parties.
- 3) That the appeal is barred by law & limitation.
- 4) That the appellant has not come to the Tribunal with clean hands.
- 5) That this Hon'ble Tribunal has got no jurisdiction to entertain the present appeal.
- 6) That the instant appeal is not maintainable in its present form.
- 7) That the appellant has concealed the material facts from this Honorable Tribunal.

FACTS:

- 1) Correct to the extent that the appellant was initially alleged of gross-misconduct as he had developed illicit relationship with a girl in Asharray locality. Consequently, he was transferred and posted to Police Station Kalam on complaint basis however, after some time he managed to get posted himself as DFC PP Deolai by using external influence. In the same area he developed illicit relationship with another girl (married one). He was in the practice of visiting her house and persuading her to get divorce from her husband. He was proceeded departmentally and subsequently, dismissed from service vide OB No.27 dated 15/02/2018 (**Annexed-A**). The appellant logged an appeal before the appellant authorities which were filed accordingly. Feeling aggrieved, appellant preferred the Service Appeal No.968/2018 before the Honorable Service Tribunal Peshawar wherein, the Honorable Tribunal vide Judgment dated 05/03/2019 (**Annexed-B**) re-instated the appellant into service for the purpose of de-novo departmental enquiry. In compliance of Ibid Judgment, appellant was provisionally re-instated for the purpose of de-novo departmental enquiry by issuing Charge sheet and statement of allegations and Addl: SP Swat directed to carry out de-novo departmental

ATTESTED


Swat

enquiry wherein, after proper departmental enquiry against the appellant, enquiry officer held the appellant guilty of gross-misconduct therefore, he was awarded major punishment of dismissal from service vide OB No.77 dated 09/05/2019 (Annexed-C). Appellant filed another Service Appeal No.954/2019 before the Honorable Service Tribunal at Camp Court Swat which was dismissed vide Judgment dated 04/03/2020 (Annexed-D).

- 2) As explained at Para No.01 of Facts.
- 3) Pertains to record.
- 4) That in compliance of Order dated 06/04/2023 (Annexed-E) of Supreme Court of Pakistan, the Supreme Court of Pakistan Islamabad the appellant was re-instated into service vide Order dated 16/05/2023 by Respondent No.01, the Operating Para of Ibid Order is re-produced below:-

2. "We have gone through the record of the case including the inquiry report and have repeatedly asked the learned Additional Advocate General as well as the departmental representative to refer to any material on the record to establish the illicit relation of the petitioner with the two women as per the charge sheet but they have not been able to refer to any incriminating material to establish the charge. In this view of the matter, we set aside the impugned judgment of the Tribunal and re-instate the petitioner into service".

3. "This petitioner is converted into appeal and allowed accordingly".

- 5) Correct to the extent that appellant submitted an application for claiming back benefit which was filed accordingly. Appellant had not performed his duties during the intervening period therefore, he was not entitled for the back benefit he claimed in the instant Service Appeal furthermore, he is not entitled to back benefit on the basis of "No work no pay" principle. Reliance is placed on the Apex Court Judgment dated 11/02/2021 in C.P Nos.517-L, 1019-L, 1062-L and 1232-L of 2016 and 1929-L/2017 & Civil Petition No.1066 of 2022 titled "**Rahimullah Khan VS Deputy Postmaster General Sothern Postal Region, Khyber Pukhtunkhwa & Others**".
- 6) Incorrect, that the appellant was treated in accordance with law and he was re-instated into service in pursuance of Order dated 04/03/2020 in Civil Petition No.1563/2020 wherein, the Apex Court set aside the impugned Judgment dated 04/03/2020 in Service Appeal No.954/2019 and re-instated the appellant into service. Appellant was remained out of service for the period against whom he prayed in the instant Service Appeal therefore, he is not entitled to back benefits on the basis of no work no pay principle hence, the instant Service Appeal may kindly be dismissed on the following grounds:-

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Deputy Superintendent of Police Legal

GROUND:

- A. Incorrect. The order of the respondent is legal, lawful and in accordance with law/rules.

- B. Incorrect. That no provision of law has been violated by the respondent department, rather orders of the respondents are legal and in accordance with law/rules.
- C. Incorrect. That the appellant was treated in accordance with law and he was re-instated into service in pursuance of Order dated 04/03/2020 in Civil Petition No.1563/2020 wherein, the Apex Court set aside the impugned Judgment dated 04/03/2020 in Service Appeal No.954/2019 and re-instated the appellant into service. Appellant was remained out of service for the period against whom he prayed in the instant Service Appeal therefore, he is not entitled to back benefits on the basis of no work no pay principle.
- D. Incorrect. This Para explained above in detail.
- E. Incorrect. As explained above in detail.
- F. Incorrect. As explained above, appellant was guilty of misconduct by keeping illicit relations with married girls and was awarded major punishment after completing all codal formalities under the law/rules.
- G. Incorrect. That the appellant has been treated in accordance with law/rules and was provided all opportunities of personal hearing and self-defense during departmental probe.
- H. This Para pertain to record.
- I. That other grounds not specifically answered in the reply, will be agitated with the permission of honorable Tribunal at the time of arguments.

PRAYER:

It is therefore requested that the appeal of appellant may kindly be dismissed with cost being devoid of merits and without any legal substance.

~~ATTESTED~~

~~Deputy Superintendent of Police
Swat~~

**District Police Officer,
Swat.
(Respondent No.01)
(BADSHAH HAZRAT)
(Incumbent)**

**Regional Police Officer,
Malakand Region.
(Respondent No.02)
(IRFAN ULLAH KHAN) PSP
(Incumbent)**

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No.1237/2024

Taimoor Khan, Constable No.3229, District Police Swat.

.....Appellant

VERSUS

1. The District Police Officer, Swat.
2. The Regional Police Officer, Malakand Region at Saidu Sharif Swat.

..... Respondents

AFFIDAVIT

We respondents do hereby solemnly affirm on oath and declare that the contents of the appeal are correct/true to the best of my knowledge/ belief and nothing has been kept secret from the honorable Tribunal. It is further stated on oath that in this appeal the answering respondent has neither been placed ex-parte nor his defense has been struck of.

**District Police Officer,
Swat.
(Respondent No.01)
(BADSHAH HAZRAT)
(Incumbent)**

**Regional Police Officer,
Malakand Region.
(Respondent No.02)
(IRFAN ULLAH KHAN) PSP
(Incumbent)**

ATTESTED



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Handwritten signature and the word 'ATTESTED' at the bottom right.

(5)

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No.1237/2024

Taimoor Khan, Constable No.3229, District Police Swat.

.....Appellant


VERSUS


1. The District Police Officer, Swat.
2. The Regional Police Officer, Malakand Region at Saidu Sharif Swat.

..... Respondents

AUTHORITY LETTER

We respondents do hereby authorize Mr. Naeem Hussain DSP/Legal Swat to appear before the Tribunal on our behalf and submit reply etc in connection with titled Service Appeal.


**District Police Officer,
Swat.
(Respondent No.01)
(BADSHAH HAZRAT)
(Incumbent)**


**Regional Police Officer,
Malakand Region.
(Respondent No.02)
(IRFAN ULLAH KHAN) PSP
(Incumbent)**

ATTESTED


**Deputy Superintendent of Police Legal
Swat**

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ORDER

This order pertains to Show Cause Notice served on Constable Taimoor No. 1680. He while posted as DFC Shah Dherai developed illicit relations with a local girl in Asharay locality. The complaints about his misconduct were received his SDPO, therefore, he was transferred and posted to Police Station Kalam on complaint basis. Later on he was posted in Police Post dewlai as DFC and developed illicit relation with a married girl in Mohallah Spiro Gato. He was in the practice of visiting her house by motorbike and persuading her to get divorce from her husband by doing so he was bringing a bad name to Police department and stigmatizing the reputation of the force.

He was issued Show Cause Notice vide this office No. 71/PA, dated 01-01-2018 to explain his position. The delinquent Constable was called to appear before the undersigned in connection with the allegations leveled against him. He was heard in person but he failed to produce any plausible defence against the leveled allegations. Due to creating illicit relations/moral turpitude in all areas where he is posted, he brought a big bad name to Police department.

By exercising the powers vested in the undersigned under Rules 2 (iii) of Police Disciplinary Rules-1975, I, Capt: (R) Wahid Mehmood, PSP, District Police Officer, Swat as a competent authority, am constrained to award him major punishment of dismissal from service.

Order announced.

Handwritten signature of the District Police Officer, Swat, enclosed in a large oval.

District Police Officer, Swat

O.B. No. 27

Dated 15.2.18.

Copies to:-

- 1. Establishment Clerk
- 2. OASI

For necessary action.

ATTESTED
Handwritten signature
Deputy Superintendent of Police Legal
Swat

ORDN-58
2.4.19

6 Deposits
E

Pay fixed Rs. 15260/-

ORDER. In compliance of H. Service Rules
re-constituted provisionally re-instated
for the purpose of depute department
ensuring against him with immediate
effect

6 Deposits
B

ORDER: Appeal is re-constituted in service
rejected by worthy Inspector General of
Police Kpk, Peshawar vide his office order
no. 3158-64/18, dated 31-07-2018
as well as regular office, good records
no. 6928/E, dated 08-08-2018.

6 Deposits
A

ORDER: Appeal for Re-constituted in service
filed by worthy RPO, Mardan, vide
ORDER Enclat: no. 390/E, dated 24-4-18.

10
8-B

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
CAMP COURT SWAT

Service Appeal No. 968/2018

Date of Institution ... 06.08.2018

Date of Decision ... 05.03.2019 ✓



Taimoor Khan S/o Muhammad Gul R/o Shawkalay R/o Koper, Tehsil Dargai,
District Malakand (Ex-constable no. 1680). ... (Appellant)

VERSUS

The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar and two others.
... (Respondents)

MR. SHABIR AHMAD KHAN,
Advocate

For appellant.

MIAN AMIR QADAR,
District Attorney

For respondents

MR. AHMAD HASSAN,
MR. HAMID FAROOQ DURRANI

MEMBER (Executive)
CHAIRMAN

JUDGMENT

AHMAD HASSAN, MEMBER:- Arguments of the learned counsel for the
parties heard and record perused.

ARGUMENTS.

2. Learned counsel for the appellant argued that on the basis of a complaint received from SDPO, a show cause notice was served on him and thereafter major penalty of dismissal from service was awarded vide impugned order dated 15.02.2018. He preferred departmental appeal which was dismissed on 24.04.2018 followed by review petition under Rule-11(A) of Police Rules 1975 and was also turned down vide order dated 31.07.2018, hence, the instant service appeal. Though charges leveled against the appellant were frivolous and baseless but for the purpose

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Deputy Superintendent of Police Legat
Swat

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Member (Executive)
Chairman

Copy to:-

(11) (8)
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ensuring justice, proper enquiry was required to be conducted. In the present circumstances, the appellant was condemned unheard.

Learned District Attorney argued that the appellant was found guilty of having illicit relations with a girl and was proceeded under Police Rules 1975. Major punishment was awarded to him after observance of codal formalities.

CONCLUSION.

We would like to first highlight that the allegations of illicit relations with a local girl were leveled against the appellant in a report of SDPO and resultant show cause notice was served under Sub-rule-3 of Rule-5 of Police Rules 1975 on 01.02.2018. However, copy of the said complaint is not annexed with the parawise comments of the respondents. In these circumstances, it is really difficult for this Tribunal to give any clear findings on the veracity/contents of the above reference. We are also unable to comprehend as to what abstained the respondents from holding formal enquiry. Perusal of the show cause notice further revealed that no reason has been recorded for dispensing with regular enquiry. As major penalty was awarded to the appellant so the principle of natural justice supported by numerous judgments of the superior courts demanded that for the proper dispensation of justice regular ^{enquiry} should have been conducted in the case in hand. Action taken by the respondents appeared to be harsh, arbitrary and against the laid down procedure.

ATTESTED

[Signature]
Deputy Superintendent of Police Legal
Smt.

As a sequel to above, the appeal is accepted, the impugned order dated 15.02.2018 and 3-1-07-2018 are set aside and the appellant is reinstated in service.

The respondents are directed to conduct proper enquiry under the Police Rules 1975

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[Signature]
Deputy Superintendent of Police
Smt.

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within a period of ninety days from the date of receipt of this judgment. The issue of back benefits shall be subject to the outcome of the de-novo enquiry. Parties are left to bear their own costs. File be consigned to the record room.

(HAMID FAROOQ DURRANI)
Chairman

(AHMAD HASSAN)
Member
Camp court Swat

ANNOUNCED
05.03.2019

Certified to be true copy
Khyber Pakhtunkhwa
Services Tribunal,
Peshawar

Number of Pages 1600 18-03-19
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Urgent 2.00
Total 12.00
Name of the
Date of Submission of
Date of Delivery of Copy 18-03-19
18-03-19

ATTESTED

Deputy District Judge of Public Legal
Swat

1. ATG/Legal with reference to CPO Peshawar Memo: NO. 10477/Legal, dated 20-03-2019 please.
2. Establishment Clerk
3. OSI

BEFORE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA AT PESHAWAR

Service Appeal no 954 2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1034

Dated 24/7/19

Taimoor Khan S/O Muhammad Gul R/O Shawkalay Koper,
Tehsil Dargai, District Mlakand (Ex-Constable No.1680)
.....(Appellant)



Versus

1. Provincial Police Officer Khyber Pakhtunkhwa at CPO Peshawar
2. Regional police Officer Malakand Range-III at Saidu Sharif Swat.
3. District Police Officer Swat at Gul Kada Swat.
4. Additional SP Swat.....(Respondents)

SERVICE APPEAL U/S 4 OF THE KHYBER
PUNKHWA SERVICE TRIBUNAL ACT,1974
AGAINST THE IMPUGNED ORDER OF
RESPONDENT NO 3 DATED 9/5/2019, WHEREBY
THE RESPONDENT NO 3 DISMISSED THE
APPELLANT FROM SERVICE ,AGRIEVED FROM
THE SAID ORDER THE APPELLANT PREFFERED
A DEPARTMENTAL APPEAL BUT THE SAME
WAS ALSO FILLED BY THE RESPONDENTS NO 2

Filed to-day
Registrar
24/7/19

ATTESTED

Respectfully sheweth:

ATTESTED
[Signature]
Deputy Sp. Independent of Justice Legal
Swat.

Facts arising to the present appeal as under:

[Signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

1) That the appellant was initially recruited as a constable into police department but later on 15-2-2018 the appellant was dismissed from service.

11
EC
"C"

ORDER

This order will dispose of Denove Departmental enquiry against Constable Taimoor No. 1680 (re-instated in service for the purpose of Denove Departmental Enquiry). He while posted as DFC Police Station Shah Dherai was alleged of gross misconduct as it was reported that he was transferred and posted to Police Station Kalam on complaint basis after developing illicit relations with a girl in Asharray locality. After sometime he was posted as DFC Police Post Dewlai by using external influence. In the same area he developed illicit relations with yet another girl (married one). He was in the practice of visiting her house and persuading her to get divorce from her husband.

He was proceeded against departmentally and subsequently dismissed from service vide this office OB No. 27 dated 15-02-2018. In compliance of the Honorable Service Tribunal Peshawar judgment in Service Appeal No. 968/2018, he was provisionally reinstated for the purpose of denove departmental enquiry.

He was issued a charge sheet and statement of allegations vide this office No. 17/PA, dated 08-04-2019 and Addl: SP Swat was directed to carry out denove departmental enquiry against the provisionally reinstated Constable. The Enquiry Officer after carrying out the needful reported that apart from keeping illicit relations with various girls, the Constable under enquiry was also in the practice of bringing "charas" to Shah Dherai locality. The Enquiry Officer held the delinquent Constable guilty of gross misconduct.

The Constable under enquiry was in the practice of establishing illicit relations with girls in the areas of his posting which is against discipline and unbecoming of a Police Officer. He was also bringng charas to Shah Dherai locality and selling the same to a notorious drug seller namely Sahib Jan which is a blatant violation of discipline. By doing so the Constable under discussion has brought a bad name for Police Department. His conduct is detrimental to discipline and his further retention in Police is bound to negatively influence attitude of other personnel of the Force. His further retention in Police will also facilitate him to commit wrongdoings and evade law by using Police uniform. Hence, in exercise of the powers vested in the undersigned under Rules 2 (iii) of Police Disciplinary Rules - 1975, I Syed Ashfaq Anwar, PSP, District Police Officer, Swat being competent authority, am constrained to again award him major punishment of dismissal from service.

Order announced.

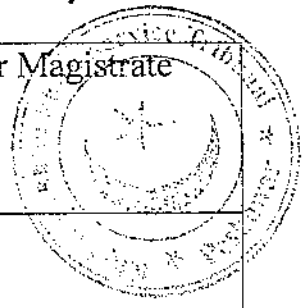
ATTESTED
[Signature]
Deputy Swat

[Signature]
District Police Officer
Swat

O.B. No. 77
Dated: 9-5-19

- Copy to:-
1. AIG/Legal with reference to CPO Peshawar Memo: No. 1649/Legal, dated 28-03-2019, please.
 2. Establishment Clerk
 3. OSI
- For necessary action, please.

12 D.



Sr. No	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
At Camp Court, Swat.
Service Appeal No. 954/2019

Date of Institution 27.07.2019
Date of Decision 04.03.2020 ✓

Taimoor Khan son of Muhammad Gul, resident of Shawkalay Koper, Tehsil Dargai, District Malakand (Ex-Constable no.1680).

Appellant

Versus

1. Provincial Police Officer, Khyber Pakhtunkhwa Peshawar.
2. Regional Police Officer Malakand Range-III at Saidu Sharif Swat.
3. District Police Officer Swat at Gulkada Swat.
4. Additional S.P Swat.

Respondents.

04.03.2020

Mr. Muhammad Hamid Mughal-----Member(J)
Mr. Hussain Shah -----Member(E)

JUDGMENT
MUHAMMAD HAMID MUGHAL, MEMBER: Learned

counsel for the appellant present. Mr. Usman Ghani learned District Attorney alongwith Khawas Khan S.I (Legal) present.

2. The appellant (Ex-Constable) has filed the present service appeal against the order dated 09.05.2019 whereby the appellant was awarded major punishment of dismissal from service and against the order dated 16.07.2019 of the appellate authority through which the departmental appeal filed by the appellant was regretted/filed.

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(Signature)
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

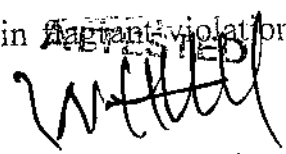
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(Signature)

Deputy Superintendent of Police Legal
Swat

(Signature)
4.3.2020

3. Learned counsel for the appellant argued that the appellant was recruited as Constable in the Police Department; that the appellant was dismissed from service vide order dated 15.02.2018 and his departmental appeal against the order of dismissal dated 15.02.2018 was also filed however consequent upon the judgment dated 05.03.2019 in Service Appeal No.968/2018 filed by the appellant he was reinstated in service for the purpose of de-novo departmental inquiry; that the de-novo departmental inquiry was entrusted to Additional S.P Swat who after conducting one sided inquiry, submitted his finding report. Further argued that the appellant was again dismissed from service vide the impugned order dated 09.05.2019 without affording him opportunity of hearing; that feeling aggrieved against the impugned order dated 09.05.2019 the appellant filed departmental appeal however the same was also filed, hence the present service appeal. Further argued that impugned orders are against law and norms of justice; that no proper opportunity of defense was given to the appellant; that the appellant was not treated in accordance with law and rules on the subject; that the impugned orders were passed in ^{Aggravated violation} of law and are tainted with malafide intention.


ATTESTED


4. As against that learned District Attorney ^{Deputy Superintendent of Police Swat} argued that the appellant has not come to this Tribunal with clean hands; that the appellant was dismissed from service on the charges of developing illicit relations with women ; that the directions of this Tribunal were complied with by reinstating the appellant for de-novo inquiry;

4. 3.2020
ATTESTED

Deputy Superintendent of Police Legal
 Swat

ATTESTED


 MEMBER
 Peshawar Service Tribunal,
 Peshawar

19

that the requirement of law was fully observed before the issuance of the impugned order; that charge sheet/statement of allegation was issued; that the inquiry officer has verified the charges of illicit relations with married women and dealing in narcotics; that the appellant was provided all the opportunities of personal hearing and self-defense; that the allegation leveled against the appellant was fully established during the course of inquiry; that the appellant was treated in accordance with law and after observing all the codal formalities, he was awarded punishment.

5. Arguments heard. File perused.

6. On the allegations of illicit relations, Show Cause Notice was served upon the appellant followed by order dated 15.02.2018 of dismissal from service. Service Appeal filed there against by the appellant was accepted and the appellant was reinstated in service with the direction to the respondents to conduct proper inquiry. Consequent upon the judgment of this Tribunal dated 05.03.2019 in Service Appeal No.968/2018 charge sheet/statement of allegation was issued to the appellant on the allegation that he was transferred and posted to Police Station Kalam on complaint basis after developing illicit relations with a girl in Asharay locality; that after some time, he was posted as DFC Police Post Dewlai by using external influence and in the same area he developed illicit relation with another girl (married one) and he was in the practice of frequently visiting her house and persuading her to get divorce from her husband.

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EXAMINER
Peshawar
Service Tribunal,
Peshawar

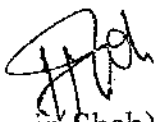
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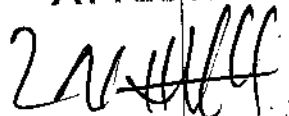
4.3.2020

7. The competent authority appointed Additional S.P Swat as inquiry officer. The appellant was associated with the inquiry proceeding. The inquiry officer submitted his report wherein he gave findings against the appellant. The appellate authority also personally heard the appellant. Learned counsel for the appellant could not demonstrate that the finding report submitted by the inquiry officer is arbitrary or actuated with malice. With their joint comments, the respondents also annexed complaint of the S.H.O Police Station Shah Dheri and report of Incharge DSB Swat against the appellant. The technical questions raised by learned counsel for the appellant are not found sufficient for setting aside the impugned orders.


8. In view of the facts and circumstances of the case, this Tribunal is of the considered opinion that the impugned orders do not call for any interference. Consequently the present service appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.


(Hussain Shah)
Member


(Muhammad Hamid Mughal)
Member
Camp Court, Swat.

ATTESTED

Deputy Superintendent
Swat

ANNOUNCED
04.03.2020

Certified to be true copy

Khushalpur District
Service Tribunal
Peshawar

Date of Presentation of Application 10-03-2020
Number of Words 2000
Copying Fee 22500
Urgent ✓
Total 22500
Name of Copy [Signature]
Date of Completion of Copy 08-06-2020
Date of Delivery of Copy 08-06-2020

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

16

"E"

Bench-IV:

Mr. Justice Syed Mansoor Ali Shah
Mr. Justice Jamal Khan Mandokhail

Civil Petition No. 1563 of 2020.

(Against the judgment of Khyber Pakhtunkhwa Service Tribunal
dated 04.3.2020 passed in Appeal No. 954/2019)

Taimoor Khan

Versus

..... **Petitioner**

Provincial Police Officer, KP at CPO Peshawar, etc.

..... **Respondent(s)**

For the petitioner: Mr. Misbullah Khan, ASC.

For the respondent(s): Mr. Sultan Mazhar Sher, Addl. A.O. KP.
Mr. Naeem Hussain, DSP.

Date of hearing: 06.04.2023

JUDGMENT

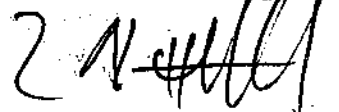
Syed Mansoor Ali Shah, J.- Petitioner was dismissed
from service on 09.5.2019 on the following charges:-

"You were transferred and posted to Police Station Kalam on complaint basis after developing illicit relations with a girl in Asharay locality. After sometimes you were posted as DFC Police Post Dewlai by using external influence. In the same area you developed illicit relation with yet another girl (married one). You are (sic) the practice of frequently visiting her house and persuading her to get divorce from her husband. You were proceeded against departmentally and subsequently dismissed from service vide this office OB No. 27, dated 15-02-2018, to compliance of the Honorable Service Tribunal Peshawar Judgment in appeal No. 968/2018 you are provisionally re-instated for the purpose of denove departmental enquiry. You are therefore issued this Charge Sheet and statement of allegations.

2. By reason of the above, you appear to be guilty of misconduct and rendered yourself liable to all or any of penalties specified in Rule 4 of the Disciplinary Rules 1975."

Thereafter his departmental appeal was also dismissed on 16.7.2019, as well as, his appeal before the Khyber Pakhtunkhwa Service Tribunal ("Tribunal") through impugned judgment dated 04.3.2020. The sole contention of the learned counsel for the

ATTESTED


Deputy Superintendent of Police Swat

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Senior Court Associate
Supreme Court of Pakistan
Islamabad

petitioner is that there is no evidence whatsoever on the record to establish the charges against the petitioner.

2. We have gone through the record of the case including the inquiry report and have repeatedly asked the learned Additional Advocate General as well as the departmental representative to refer to any material on the record to establish the illicit relation of the petitioner with the two women as per the charge sheet but they have not been able to refer to any incriminating material to establish the charge. In this view of the matter, we set aside the impugned judgment of the Tribunal and reinstate the petitioner into service.

4. This petitioner is converted into appeal and allowed accordingly. ✓

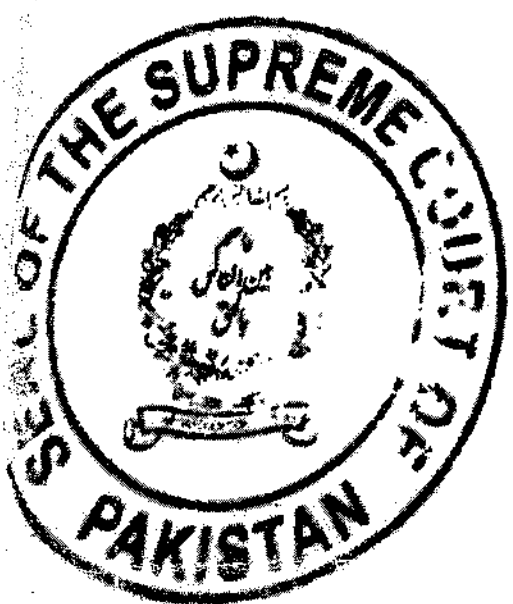
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Certified to be True Copy

**Senior Court Associate
Supreme Court of Pakistan
Islamabad**

Islamabad,
06th April, 2023.

Not approved for reporting
Sadaqat



7765/2023

GR No: _____ Civil/Criminal

Date of Presentation: 6-4-2023

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OFFICE OF THE ADVOCATE GENERAL, KHYBER PAKHTUNKHWA, PESHAWAR

No. 15536-38 /AG/Supreme Court

Dated, Peshawar, the 18/04 2023

Address: High Court Building, Peshawar
Tel No. 091-9210119

Exchange: 091-9213833
Fax No. 091-9210270

To

- 1- The Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.
- 2- District Police Officer, Swat.

SUBJECT: CP NO.1563/20.TAIMOOR KHAN-VS-IGP KPK ETC

Dear Sir,

Enclosed herewith please find photocopy of judgment passed in the subject matter by the august Supreme Court of Pakistan, Islamabad on 06-04-2023 (received today) whereby the matter has been decided against the Govt, of Khyber Pakhtunkhwa, for your information and further necessary action.

Yours faithfully,

Muhammad Arshad Khan
(MUHAMMAD ARSHAD KHAN)
SENIOR ADMIN. OFFICER

Endst. No. & date even

Copy to SPS to the Ld. Advocate General, Khyber Pakhtunkhwa, Peshawar.

SENIOR ADMIN. OFFICER

Dsp legal
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District Police Officer
SWAT.

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