

**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR**

**Service Appeal No. 7571/2021**

**BEFORE: MR. AURANGZEB KHATTAK ... MEMBER (J)**  
**MRS. RASHIDA BANO ... MEMBER (J)**

**Mr. Dost Muhammad (Constable No.483), Police Department, Khyber Pakhtunkhwa, presently serving at Traffic Warden, Peshawar.**

**.... (Appellants)**

**VERSUS**

1. The Superintendent of Police, Traffic (Cantt) Peshawar.
2. Chief Traffic Officer, Peshawar.
3. Capital City Police Officer (CCPO), Peshawar.

**.... (Respondents)**

Muhammad Arif Jan Afridi  
Advocate`

... For appellant

Mr. Naseer ud Din Shah,  
Assistant Advocate General

... For respondents

Date of Institution.....01.10.2021

Date of Hearing.....27.09.2024

Date of Decision.....27.09.2024

**JUDGMENT**

**RASHIDA BANO, MEMBER (J):** The instant service appeal has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as below:

**“It is therefore, most humbly prayed that on acceptance of this appeal, the impugned orders dated 14.01.2021 and 13.08.2021 of respondents may very graciously be set aside and appellant be restore to his original position with all consequential relief. Any**



**other remedy which deem fit appropriate may also be granted in favor of appellant.”**

2. Brief facts of the case are that the appellant has been serving in respondent department, on 04.07.2020, appellant was served with charge sheet on the allegation that he posted some objectionable remarks criticizing the police Senior Officer regarding deduction of salary on account of absence from duty. The said charge sheet was replied on 11.09.2020 and appellant denied the allegations with reasons. That on 08.10.2020, appellant was served with final show cause notice which was replied on 14.10.2020 in the aforesaid manner by denying the charges with cogent reasons, no inquiry documents were provided to him being mandatory. Appellant was awarded punishment of forfeiture of 2 years of service by respondent No.1. He filed departmental appeal on 12.02.2021 before the appellate authority but was rejected on 13.08.2021, hence the present 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. We have heard learned counsel for the appellant and learned Assistant Advocate General for the respondent.

4. We have heard learned counsel for the appellant and learned Assistant Advocate General 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 Assistant

Advocate General controverted the same by supporting the impugned order(s).

6. The perusal of records reveals that the appellant is currently employed in the respondent department. On 04.07.2020, the appellant was served with a charge sheet alleging that he had posted objectionable remarks criticizing a Senior Police Officer regarding salary deductions due to absence from duty. The appellant responded to the charge sheet on 11.09.2020, denying the allegations and providing reasons for his denial. Subsequently, on 8.10.2020, the appellant received a final show cause notice, to which he replied on 14.10.2020, again denying the charges with cogent reasons. It is pertinent to note that no inquiry documents, which are mandatory, were provided to the appellant. As a result, the appellant was subjected to a punishment of forfeiture of two years of service by respondent No. 1

7. The records further reveal that the appellant was departmentally proceeded by the authority on the allegation of posting some objectionable remarks in the Whats App group which are as under;

*“i) That on 03.09.2020 at about 1158pm, you have posted some objectionable remarks in the whatsapp group criticizing the policies of senior officers regarding deduction from salary on account of absence from duty. This act is clearly in violation of Government Servant (conduct) Rules 1964 which refrain/prohibit every government servant from misuse of social media. Moreover, clear instructions in this regard has been circulated from*



*this office and also displayed in urdu version) on notice board at Traffic Lines, Peshawar.”*

8. Mr. Iftikhar Ali SP/Traffic Headquarters Peshawar was nominated as Inquiry Officer who after inquiry submitted his report and found him guilty. Authority after final show cause notice, awarded impugned punishment of forfeiture of two years approved service vide impugned order but 12.01.2021 after hearing the appellant in orderly room. Appellant posted alleged derogatory remarks in Capital City Police official whatsapp group and not in any other public group. The Perusal of .... Views of the appellant reveals that he complained to his superiors of the acts of deduction from salary for the day of absence and non-sanctioning of leave in case of emergency, which compelled him to become absent.

9. It is admitted fact that the whatsapp group in question is not a public group posting in which will earn bad name for the department. The perusal of circular guideline for not participating of the civil servant in social media group reveals that the appellant act of posting his comments/view does not come within its ambit. Ban was mainly imposed to avoid bad name to the country, Government and or to dishonor religious sentiments of different sectors, if a civil servant lodge his complaint in his own community group to bring the matter into the notice of his high ups to resolve, it cannot be said or term as misconduct.

10. Traffic police official perform their duties in hot and cold weather by standing on metal roads in a polluted environment in a very tough situation, therefore, they must be treated simultaneously with kindness by their high ups

which will boost their moral, because high authorities role is always a pivotal in institution.

11. In our humble view, alleged misconduct is misconceived, therefore, we set aside the impugned order by accepting the instant service appeal as prayed for. Costs shall follow the event. Consign.

12. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 27<sup>th</sup> day of September, 2024.*

  
(AURANGZEB KHATTAK)  
Member (J)

  
(RASHIDA BANO)  
Member (J)

\*M.KHAN

23<sup>rd</sup> July, 2024 1.

Junior to counsel for the appellant present. Mr. Muhammad Jan, District attorney for respondents present.

2. Junior to counsel for the appellant requested for adjournment on the ground that learned senior counsel is indisposed today. Adjourned by way of last chance. To come up for arguments on 27.09.2024 before D.B. P.P given to the parties.

SCANNED.  
KP ST  
Peshawar

(Aurangzeb Khattak)  
Member (J)

(Kalim Arshad Khan)  
Chairman

\*Adnan Shah, P.A\*

**ORDER**

27.09.2024 1. Learned counsel for the appellant present. Mr. Naseer ud Din Shah, learned Assistant Advocate General, for the respondents present.

2. Vide our detailed judgment of today placed on file, we set aside the impugned order by accepting the instant service appeal as prayed for. Costs shall follow the event. Consign.

3. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 27<sup>th</sup> day of September, 2024.*

(AURANGZEB KHATTAK)  
Member (J)

(RASHIDA BANO)  
Member (J)

\*M.KHAN