

**KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR**

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

Service Appeal No.1622/2021

Date of presentation of Appeal.....20.11.2021
Date of Hearing.....03.10.202
Date of Decision.....03.10.2024

Mr. Shafiq Ur Rehman, DSP/DFU, Counter Terrorism Department at Hangu.....Appellant

Versus

1. **The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.**
2. **The Regional Police Officer, Bannu Region, District Bannu.**
3. **The District Police Officer, Lakki Marwat.....(Respondents)**

Present:

Mr. Noor Muhammad Khattak, Advocate.....For the appellant
Mr. Naseer Ud Din Shah, Assistant Advocate General...For respondents

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED LETTER DATED 17.9.2020 COMMUNICATED TO THE APPELLANT ON 1.10.2020 WHEREBY THE ADVERSE REMARKS IIN THE ANNUAL CONFIDENTIAL REPORT FOR THE PERIOD W.E.F. 4.4.2019 TO 25.7.2019 HAS BEEN COMMUNICATED TO THE APPELLANT AND AGAINST THE APPELLATE ORDER COMMUNICATED TO THE DATED 17-12-2020 22.12.2020 WHEREBY APPELLANT ON THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED ON NO GOOD GROUNDS

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: The appellant's case in brief, as per averments of the appeal, is that adverse remarks were communicated to him which were recorded in his Performance Evaluation Report (PER) for the period from 04.04.2019 to 25.07.2019.

2. Feeling aggrieved, he filed departmental appeal for expunction of the impugned adverse remarks but his appeal was rejected, hence, the present service appeal.
3. On receipt of the appeal and its admission to full hearing, the respondents were summoned, who 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 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 Deputy District Attorney controverted the same by supporting the impugned order(s).
6. Perusal of record shows that appellant was serving as Inspector in the Police Department. While performing his duties, an explanation dated 28.05.2019 which was replied by him. The disputed remarks in the PER for the period from 04.04.2019 to 25.07.2019 vide order dated 12.09.2020 as under:

"PART-IV

1. *His overall progress was very low. Command was very weak and lack of supervision. During his tenure crime against persons and property were increased. He had no control over crimes. He was affiliated with Tours for corruption and sending SMS on citizen portal against SHOs and other officers.*
2. *A letter of displeasure was issued to him No.501/PA, dated 12.06.2019.1*

3. *A letter No.500/PA, dated 12.06.2019 was sent to RPO Bannu for his transfer and departmental action against him.*
4. *An explanation No.442/PA, dated 28.05.2019 was issued to him.*
5. *Reportedly he was a corrupt officer and there were many complaints of corruption against him.*
6. *Many times he was called to my office for counseling but he failed to change his behavior.*
7. *W/A-Session Judge "Banda Daud Shah" wrote against him in his judgment and a departmental inquiry was initiated against him and found guilty.*
8. *Due to his inefficiency roads were blocked and Police Post "GANDI" was burnt and ultimately, he was closed to CPO. He is stigma and Black Sheep in Police Department."*

7. We have given due consideration to the adverse observations in the light of relevant instructions and we find that some of them do not appear to have been strictly observed. It is provided in the Guidelines that reporting officer is expected to counsel the officer being reported upon about his weak points and advise him how to improve and that adverse remarks should ordinarily be recorded when the officer fails to improve despite counseling. In the present case, however, there is nothing to show that such proper counseling was ever administered to the appellant. In view of the importance of this instruction, the Reporting Officer, or the Countersigning Officer should not only impart appropriate advice but also keep a record of such an advice having been duly administered.

8. For the reasons mentioned above, we are of the opinion that the adverse remarks in this case have been recorded in

disregard of the relevant instructions. Therefore, on acceptance of this appeal, the adverse remarks recorded in the PER for the period from 04.04.2019 to 25.07.2019 are expunged. Consign.

9. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 3rd day of October, 2024.*

KALIM ARSHAD KHAN
Chairman

RASHIDA BANO
Member (Judicial)

Mutazem Shah



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ORDER

3rd Oct. 2024

1. Learned counsel for the appellant and Mr. Naseer Ud Din Shah, Assistant Advocate General for respondents present. Heard.
2. Vide our detailed judgment of today placed on file, on acceptance of this appeal, the adverse remarks recorded in the PER for the period from 04.04.2019 to 25.07.2019 are expunged. Costs shall follow the event. Consign.
3. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 3rd day of October, 2024.*

(Rashida Bano)
Member (J)

(Kalim Arshad Khan)
Chairman

Mutazem Shah