

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

BEFORE: **AURANGZEB KHATTAK** ... MEMBER (Judicial)
FAREEHA PAUL ... MEMBER (Executive)

Service Appeal No. 2204/2023

Date of presentation of Appeal.....23.10.2023
Date of Hearing.....25.10.2024
Date of Decision.....25.10.2024

Sabir Hussain No. D/51, Sub-Inspector presently posted as SHO/MKH District Police Bannu.*Appellant*

Versus

1. The Inspector General of Police, Central Police Officer, IGP, Peshawar.
2. The Additional Inspector General of Police, Head Quarters CPO, Peshawar.
3. Regional Police Officer, D.I.Khan Range Deral Ismail Khan.
.....(*Respondents*)

Present:

Mr. Muhammad Abdullah Baloch, AdvocateFor appellant
Mr. Naseer-ud-Din Shah, Assistant Advocate GeneralFor respondents
.....

JUDGMENT

AURANGZEB KHATTAK, MEMBER (JUDICIAL): The facts of the case as narrated by the appellant in his memorandum of appeal are that the appellant was appointed as an Assistant Sub-Inspector on 17/03/2010 by the Khyber Pakhtunkhwa Public Service Commission and was subsequently promoted to the rank of Inspector on 16/04/2020. Over the course of his service, the appellant has served in multiple regions, including Kohat, Charsadda, Bannu, and with the Counter Terrorism Department (CTD). He, while serving as an SDPO, issued directives to the Incharge of Khutti Check Post, Riaz Hussain, on 25/05/2023, which directives were allegedly leaked on social media, attributed to Riaz

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Hussain. Subsequently, a charge sheet was issued by the Regional Police Officer (RPO) D.I. Khan, accompanied by an order of suspension. The appellant submitted a written reply. After an inquiry, the inquiry officer held the appellant responsible, leading to the issuance of an impugned order on 22/06/2023, demoting the appellant from Inspector to Sub-Inspector, effective immediately. Following the impugned order, the appellant filed a revision petition before the Inspector General of Police, Khyber Pakhtunkhwa, Peshawar on 26/06/2023, which was not responded within the statutory period of 90 days. Therefore, he approached this Tribunal through filing of instant appeal on 23/10/2023, however on the same day the revision petition of the appellant dated 26/06/2023 was rejected on 23/10/2023.

2. The respondents were summoned, who contested the appeal by way of filing their respective written reply/comments.

3. The learned counsel for the appellant contended that the impugned order of demotion is legally unsustainable, being in clear violation of KP Police Rules, 1975 (amended 2014). He next contended that charge sheet and statement of allegations were issued by the RPO (Respondent No. 3), who lacks the authority to initiate such disciplinary action under the rules, rendering the impugned order void ab-initio. He further contended that the inquiry was conducted with personal bias, as Respondent No. 3 had prior grievances against the appellant, which resulted in an unfair and partial inquiry, where the appellant was treated discriminatorily and unjustly made a scapegoat. He also contended that the appellant was unfairly held responsible for a social media leak

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allegedly caused by other officials, with no evidence proving the appellant's involvement in this incident. He next contended that the inquiry officer failed to follow proper procedures and did not distinguish the appellant's case from that of other officials, leading to an overly harsh and unjustified punishment. In the last, he requested that the impugned order may be set-aside, as it violates established service rules and principles of fair play.

4. On the other hand, learned Assistant Advocate General for the respondents contended that the appellant's service record includes multiple instances of disciplinary actions for misconduct and the current charge is consistent with a pattern of behavior that warranted serious consequences. He next contended that the appellant was involved in illegal activities, including accepting bribes, aiding in the smuggling of non-custom-paid vehicles and using his rank to safeguard these actions. He further contended that the inquiry conducted against the appellant revealed that the appellant directed certain vehicles to pass through the Khutti Check Post without inspection, an act corroborated by voice messages sent by the appellant and these messages, which were leaked on social media, indicated the appellant's involvement in corrupt practices and misuse of his authority to benefit financially. He next argued that the appellant was afforded due process under the law, including a departmental inquiry and a personal hearing. He further argued that the findings of the inquiry and statements of witnesses supported the allegations, confirming the appellant's involvement in misconduct as defined under Rule 5 of the Police Rules, 1975

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(as amended). In the last, he argued that the punishment of demotion was lawful and proportionate, given the nature of the offenses established against the appellant, therefore, the appeal in hand may be dismissed with cost.

5. We have heard the arguments of learned counsel for the parties and have perused the record.

6. The perusal of the record shows that that the appellant, while serving as Acting SDPO, Saddar DI Khan, engaged in corrupt activities, including accepting illegal payments in exchange for allowing non-custom paid (NCP) vehicles, carrying various goods and food items, to pass through his jurisdiction. Evidence emerged through voice messages circulated on social media, wherein the appellant was heard instructing the in-charge of the Khutti Check Post to permit passage of certain vehicles. These communications further revealed that the appellant misused the authority of senior officers by referencing their ranks in an apparent effort to lend legitimacy to his actions and evade scrutiny. The appellant's conduct contravenes the disciplinary standards established under Rule 5, Clause 1 of the Police Rules 1975, as amended on August 2, 2014. These rules mandate the standard of behavior required of police officers and prescribe disciplinary action for breaches of conduct. The District Police Officer (DPO) of D.I. Khan, was appointed as inquiry officer, who undertook a comprehensive investigation in compliance with procedural requirements under the Police Rules. During the investigation, the appellant was provided with a charge sheet, detailing the allegations and underlying evidence.

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Statements from key officers were recorded, including testimony from Head Constable (HC) Riaz, the Naib in-charge at the Khutti Check Post. HC Riaz confirmed that on May 25, 2023, he received instructions from the appellant via WhatsApp messages, specifying vehicle numbers to be allowed through the check post. Although HC Riaz claimed not to know the contents of these vehicles, the instructions were clear. The inquiry further reviewed voice messages circulated on social media in which the appellant referenced his superiors to mask his actions. The appellant was later issued a final show-cause notice. In his response, he failed to provide a satisfactory defense. Furthermore, he was granted a personal hearing, during which he was unable to offer adequate evidence to refute the allegations or demonstrate his innocence. The inquiry report concluded that the appellant had indeed engaged in misconduct, as evidenced by the admissions in cross-examination, where he acknowledged invoking his superior's rank, specifically the RPO, within the voice messages to deflect suspicion and imply legitimacy. Evidence was also provided showing the appellant's previous involvement in incidents related to NCP goods, corroborating the current charges. Prior to the present punishment of demotion, right from the year 2014 till the year 2022, seventeen different types of punishments have been imposed on him by the competent authority at different times for his misconduct. The appellant's acknowledgment of the voice messages, alongside the inquiry findings, substantiated his role in permitting vehicles to pass in exchange for illegal payments. Moreover, the appellant filed a revision petition, which was reviewed by the Appellate Board on October 10,

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2023. During the appeal hearing, by the Appellate Board, the appellant taken the stance that the voice messages circulated due to personal animosity and alleged negligence by the Khutti Check Post in-charge. After examining the evidence and inquiry report, the Board concluded that the appellant's arguments lacked substance. The appellant failed to provide credible evidence or valid rebuttal to counter the charges. As such, the Board resolved to reject the review petition of the appellant, finalizing this decision in Order No. 2536-45/23 dated October 23, 2023. According to Section 6 of the Police Rules 1975, as amended in 2014, the competent authority possesses the right to initiate disciplinary proceedings, issue a charge sheet, and appoint an inquiry officer. In adherence to Rule 6(1), a formal charge, accompanied by a detailed statement of allegations, was duly communicated to the appellant. The inquiry process followed all procedural requirements, and the appellant's conduct was clearly established as misconduct under the Police Rules. The appellant's involvement in accepting illegal payments, facilitating smuggling activities and misusing his authority constitutes a serious breach of duty and ethics expected of a senior police officer. Such actions not only brought disrepute to the department but also compromised the integrity of the police force. Consequently, the decision to impose the major penalty of demotion from the rank of Inspector to Sub-Inspector was fully justified.


7. The only illegality in the impugned order dated 22.06.2023 is that the impugned order lacks a specific period for the effectiveness of the appellant's reduction in rank, as required by Rule-29 of the Fundamental


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Rules. Rule-29 mandates that any authority ordering the reduction of a government servant to a lower grade or post must specify the period for which the order shall remain effective. Upon consideration, impugned order dated 22.06.2023 is modified to the extent of rectifying this procedural defect.

8. Consequently, the appeal is partially accepted and the impugned order dated 22.06.2023, which demotes the appellant from the rank of Inspector to Sub-Inspector, is hereby ordered to remain effective for a period of five (5) years from the date of issuance. Parties are left to bear their own costs. File be consigned to the record room.

9. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 25th day of October, 2024.*




AURANGZEB KHATTAK 25/10/2024.
Member (Judicial)


FAREEHA PAUL
Member (Executive)

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No. 2204 of 2023

Sabir Hussain versus The Inspector General of Police, Central Police Officer, IGP, Peshawar.
and 02 others.

S.No. of Order & Date of proceeding	Order or other proceedings with signature of Chairman/Member(s)/Registrar and that of parties or counsel where necessary
<p>Order-08 25th October, 2024.</p>	<p>Present:</p> <ol style="list-style-type: none">1. Mr. Muhammad Abdullah Baloch, Advocate on behalf of appellant.2. Mr. Naseer-ud-Din Shah, Assistant Advocate General on behalf of respondents. <p>Arguments heard and record perused.</p> <p>Vide our judgment of today placed on file, the appeal is partially accepted and the impugned order dated 22.06.2023, which demotes the appellant from the rank of Inspector to Sub-Inspector, is hereby ordered to remain effective for a period of five (5) years from the date of issuance. Parties are left to bear their own costs. File be consigned to the record room.</p> <p><i>Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 25th day of October, 2024.</i></p> <p style="text-align: center;"> (Fareeha Paul) Member (Executive)</p> <p style="text-align: right;"> (Aurangzeb Khattak) 25-10-2024 Member (Judicial)</p> <p>*Naeem Amin*</p>

MEMO OF COSTS
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 2204/2023

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1. The Inspector General of Police, Central Police Officer, IGP, Peshawar.
2. The Additional Inspector General of Police, Head Quarters CPO, Peshawar.
3. Regional Police Officer, D.I.Khan Range Deral Ismail Khan.
.....(Respondents)

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER NO. 4497-99/ES DATED 22.06.2023 WHEREBY THE APPELLANT HAS BEEN AWARDED "MAJOR PUNISHMENT OF REDUCTION IN RANK FROM INSPECTOR TO SUB-INSPECTOR WITH IMMEDIATE EFFECT" AND SERVICE APPEAL AGAINST INDISICION OF THE DEPARTMENTAL APPEAL OF THE APPELLANT.

PRESENT


1. Mr. Muhammad Abdullah Baloch, AdvocateFor appellant
2. Mr. Naseer-ud-Din Shah, Assistant Advocate GeneralFor respondents

Appellants	Amount	Respondent	Amount
1. Stamp for memorandum of appeal	Rs. Nil	1. Stamp for memorandum of appeal	Rs. Nil
2. Stamp for power	Rs. Nil	2. Stamp for power	Rs. Nil
3. Pleader's fee	Rs. Nil	4. Pleader's fee	Rs. Nil
4. Security Fee	Rs.100/-	4. Security Fee	Rs. Nil
5. Process Fee	Rs. Nil	5. Process Fee	Rs. Nil
6. Costs	Rs. Nil	6. Costs	Rs. Nil
Total	Rs. 100/-	Total	Rs. Nil

Note: Counsel Fee is not allowed as the required certificate has not been furnished.

Given under our hands and the seal of this Court, this 25th day of October 2024.


Fareeha Paul
Member (Executive)


Aurangzeb Khattak
Member (Judicial)