

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR

Service Appeal No.2468/2023

BEFORE: MR. AURANGZEB KHATTAK... MEMBER (J)  
MISS FAREEHA PAUL ... MEMBER (E)

Sibghat Ullah Ex-Senior Clerk CCPO Peshawar. .... (*Appellant*)

VERSUS

1. The AIG/Headquarter Police Lines, Peshawar.
2. The Capital City Polie Officer, CCPO Peshawar.

....(*Respondents*)

Mr. Muhammad Asif Yousafzai,  
Advocate

... For appellants

Mr. Naseer-ud-Din Shah,  
Assistant Advocate General

... For respondents

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Date of Institution..... 27.11.2023  
Date of Hearing.....31.10.2024  
Date of Decision..... 31.10.2024

JUDGMENT

FAREEHA PAUL, MEMBER (E): The instant service appeal has been instituted under section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974, against the order dated 02.05.2023, whereby major penalty of dismissal from service was imposed upon the appellant and against the order dated 30.10.2023, whereby his departmental appeal was rejected. It has been prayed that on acceptance of the appeal, the impugned orders dated 02.05.2023 and 31.10.2023 might be set aside and the appellant might be reinstated into service with all back and consequential service benefits, alongwith any other remedy which the Tribunal deemed appropriate.



02. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was appointed as Constable in the Police Department in the year 2006. Mr. Hamayun Khan S.I submitted a report on 21.06.2022, wherein it was alleged that fake and bogus clearance reports of two Afghan citizens were issued by the appellant. The DSP Admn. Security marked it for initiating fact-finding inquiry. The appellant filed an application on 23.06.2022 for changing the inquiry officer but in vain. The fact-finding inquiry was conducted by the same un-trusted and biased officer. Charge sheet and statement of allegations were issued on 30.06.2022 but were not served upon the appellant. Regular inquiry was conducted on 06.04.2023, wherein statements of different officials were record in the absence of the appellant. In the light of the inquiry report, the respondent department passed the order dated 02.05.2023, whereby the appellant was awarded major penalty of dismissal from service. Feeling aggrieved, he filed departmental appeal on 08.05.2023 but the same was rejected on 30.10.2023; hence the instant service appeal.

03. Respondents were put on notice, who submitted their joint written reply/comments. We heard the learned counsel for the appellant and learned Assistant Advocate General for the respondents and perused the case file with connected documents in detail.

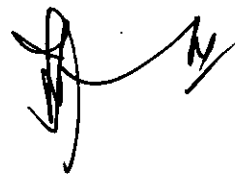
04. Learned counsel for the appellant, after presenting the case in detail, argued that the impugned orders were against the law, facts, norms of justice and material on record. He argued that the inquiry was conducted by an officer upon which the appellant had already expressed his dissatisfaction.



Even the inquiry was not conducted in a fair manner because neither any statement was recorded in the presence of the appellant nor he was given the opportunity to cross examine the witnesses. No chance of personal hearing was afforded to him and he was condemned unheard. He argued that the impugned order was passed by the authority who was incompetent to do so. He requested that the appeal might be accepted as prayed for.

05. Learned Assistant Advocate General, while rebutting the arguments of learned counsel for the appellant, argued that as per report of Incharge PAL office Hayat Abad, Police clearance certificate vide serial No. 537 and 538 were found fake and bogus. The matter was preliminary inquired by the DSP Security/Admn, wherein the charges were proved against the appellant and he was recommended for proper inquiry as well as criminal proceedings under the relevant sections of law. Learned AAG stated that appellant, involved himself in malpractices by making fake signatures of the competent authority and issuing clearance certificates to two Afghan nationals in receipt of illegal gratification. He argued that proper departmental inquiry was conducted and during the course of inquiry his guilt was fully established and he was dismissed from service by the competent authority. His departmental appeal and revision petition were thoroughly examined and rejected on sound grounds. He requested that the appeal might be dismissed.

06. Through the instant service appeal, the appellant has impugned order dated 02.05.2023 whereby he was dismissed from service based on the allegations as follows:-



- i. *He while posted as I/C CC Branch CCP Peshawar allegedly involved himself in malpractices by doing fake signatures of the competent authority on Police Clearance Certificates in order to receive illegal gratification from innocent people.*
- ii. *As per written statement of SP/Security, that Police Clearance Certificates in r/o two Afghan Nationals were issued through bogus signatures vide daily diary No. 5796 and 5797 dated 17.06.2022. It has also been learnt that for such certificates he received Rs. 15000/- to Rs. 20000/- as bribe per certificate.*
- iii. *In the recent past he was dismissed from service on similar allegations that he interferes in the affairs of others and filed anonymous complaints against his fellow staff for his choice postings.*
- iv. *He is disreputable, villainous, notorious and infamous for using various complaints in Pakistan Citizen Portal for black mailing the staff members."*

07. Arguments and record transpired that an inquiry was conducted and some statements were also recorded but the appellant was not properly associated with the inquiry as he was not provided any opportunity of cross-examination. It was further noted that the complainant based on whose complaint the inquiry was initiated, was also not associated/involved during the inquiry process which makes the entire procedure faulty.


08. In view of the above discussion, the case is remitted back to the respondent department for conducting denovo inquiry by strictly observing the rules and all the formalities of fair trial. The appellant is reinstated into service for the purpose of denovo inquiry. The proceedings of the denovo



inquiry shall be completed within sixty days of the receipt of copy of this judgment. Back benefits are subject to the outcome of the proceedings of the denovo inquiry. Cost shall follow the event. Consign.

09. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 31<sup>st</sup> day of October, 2024.*

  
(FAREEHA PAUL)  
Member (E)

  
(AURANGZEB KHATTAK) 31-10-2024.  
Member (J)

\*Fazle Subhan P.S\*

MEMO OF COSTS.  
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No.2468/2023

Sibghat Ullah Ex-Senior Clerk CCPO Peshawar. .... (Appellant)

VERSUS

1. The AIG/Headquarter Police Lines, Peshawar.
2. The Capital City Police Officer, CCPO Peshawar.

....(Respondents)

Mr. Muhammad Asif Yousafzai,  
Advocate

... For appellants

Mr. Naseer-ud-Din Shah,  
Assistant Advocate General

... For respondents

Date of Institution..... 27.11.2023


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Date of Decision..... 31.10.2024

Appellant	Amount	respondents	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. Services of processes	Rs. Nil	3. Services of processes	Rs. Nil
4. Pleader's fee	Rs. Nil	4. Pleader's fee	Rs. Nil
5. Security fee	Rs. 100/-	5. Security Fee	Rs. Nil
6. Profess fee	Rs. Nil	6. Process fee	Rs. Nil
7. Costs	Rs. Nil	7. 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 31<sup>st</sup> day of October, 2024.

  
(FAZLEHA PAUL)  
Member (E)



  
(AURANGZEB KHAN)  
Member(J)

\*Fazle Subhan, P.S\*

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 2468 of 2023

Sibghatullah Versus AIG/Headquarter, Police Lines, Peshawar  
and one other.

S.No. of Order & Date of proceedings	Order or other proceedings with signature of Chairman/Member(s)/Registrar and that of parties or counsel where necessary
Order-10 31st October, 2024	<p>Present:</p> <ol style="list-style-type: none"><li>1. Mr. Muhammad Asif Yousafzai, Advocate on behalf of the appellants.</li><li>2. Mr. Naseerud Din Shah, Assistant Advocate General for the respondents.</li></ol> <p>01. Vide our detailed judgment consisting of 05 pages, the case is remitted back to the respondent department for conducting denovo inquiry by strictly observing the rules and all the formalities of fair trial. The appellant is reinstated into service for the purpose of denovo inquiry. The proceedings of the denovo inquiry shall be completed within sixty days of the receipt of copy of this judgment. Back benefits are subject to the outcome of the proceedings of the denovo inquiry. Cost shall follow the event. Consign.</p> <p>02. <i>Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 31<sup>st</sup> day of October, 2024.</i></p> <p> (FAREEHA PAUL) Member (E)</p> <p> (AURANGZEB KHATTAK) 2024. Member (J)</p> <p>*Fazle Subhan, P.S</p>