

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**PESHAWAR.**

BEFORE: **AURANGZEB KHATTAK** ... MEMBER (Judicial)  
**RASHIDA BANO** ... MEMBER (Judicial)

**Service Appeal No. 7318/2021**

Date of presentation of Appeal.....26.08.2021  
Date of Hearing.....08.10.2024  
Date of Decision.....08.10.2024

**Arif Mehmood**, ASI (1181) Police Station Parova, R/o Basti Ustrana  
Shumali D.I.Khan. .... **Appellant**

**Versus**

1. Provincial Police Officer (PPO) Khyber Pakhtunkhwa Peshawar.  
2. Inspector General of Police Peshawar.  
3. Regional Police Officer/DIG Dera Ismail Khan.  
4. District Police Officer Dera Ismail Khan.  
.....(Respondents)

Present:

Mr. Muhammad Anwar Awan, Advocate.....For appellant  
Mr. Asif Masood Ali Shah, Deputy District Attorney .....For respondents  
.....

**JUDGMENT**

**AURANGZEB KHATTAK, MEMBER (JUDICIAL):** The appellant, Arif Mehmood, serving as an Assistant Sub-Inspector (ASI) at Police Station Parova in 2020, was implicated on the allegations of involving in illegal gratification during his tenure as In-charge of security at the Benazir Income Support Programme (BISP) Centre at GHSS Ramak. Charge sheet along with statement of allegations were issued, citing involvement in illicit activities alongside another official. Following an inquiry, the appellant was dismissed from service vide order dated 15.04.2020 but subsequently on filing departmental appeal, his

departmental appeal was accepted and the punishment of dismissal from service was converted into stoppage of two years increments with cumulative effect and his intervening period was treated as leave without pay vide order dated 22.07.2020. The appellant there-after filed revision petition, which was rejected vide order dated 30.07.2021, hence he approached this Tribunal for redressal of his grievance.

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 inquiry was conducted without adherence to procedural fairness. He next contended that the failure to provide an adequate opportunity for cross-examination of witnesses and the absence of a final show-cause notice rendered the entire process unjust. He further contended that during the inquiry proceedings no concrete evidence of illegal gratification was produced, therefore, the charges against the appellant were based on assumptions without substantive proof. He next argued that the modified punishment of a two-years increment stoppage is excessive, particularly when no clear wrongdoing was established. In the last, he argued that the appeal in hand may be accepted as prayed for.

4. On the other hand, learned Deputy District Attorney for the respondents contended that the allegations of illegal gratification were substantiated by an inquiry conducted properly, confirming the misconduct. He next contended that the appellant's past service record is evidence of repeated misconduct, weakening his defense and justifying punitive actions taken. He further contended that the complete

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procedural standards were observed, with multiple opportunities for the appellant to present his defense, which he allegedly failed to effectively utilize. He also contended that all actions and penalties imposed were executed according to existing laws and rules and the relief was already extended by converting the dismissal into the stoppage of increments, which was deemed sufficient. In the last, he argued that the appeal in hand being meritless is liable to be dismissed.

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

6. The record shows that this appeal arises from the disciplinary actions taken against the appellant, Arif Mehmood, an Assistant Sub-Inspector (ASI) at Police Station Parova. He was subjected to a disciplinary inquiry resulting in a major punishment of dismissal from service due to allegations of illegal gratification linked to his role at the Benazir Income Support Programme (BISP) Centre at GHSS Ramak. The appellant contested these actions through filing of departmental appeal that resulted in the punishment being altered to a stoppage of increments for two years with cumulative effect and the intervening period was treated as leave without pay. The inquiry was conducted by Mr. Iftikhar Ali Shah, DSP Circle Parova, who gathered statements from key individuals including the appellant, the Station House Officer (SHO) Inam Ullah Khan and witness Mr. Fatheullah Khan. The findings indicate that Mr. Fatheullah testified that he had given money to the appellant, expecting its return, which did not occur. Moreover, there were no disciplinary actions initiated against Constable Rafique, who

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was alleged to be complicit in the misconduct. The appellant acknowledged receiving money, which he assured would be returned, yet failed to do so. The lack of communication to superiors regarding the incident further corroborated the suspicion of collusion. The inquiry established that the appellant was in league with Constable Rafique in accepting payments from the public unlawfully. The allegations of illegal gratification against the appellant were substantiated during the inquiry. The inquiry's findings demonstrated a clear breach of ethical conduct and professional responsibilities expected of a police official/officer. As such, the decision to impose a disciplinary action, albeit modified, aligns with the need to uphold the integrity of the police service.

7. The question, however hounds the mind is whether the penalty so awarded to the appellant commensurate with the gravity of the charge or was too harsh. It is acknowledged that the competent authority possesses the jurisdiction to impose any of the penalties outlined in the Police Rules, 1975. However, it is emphasized that the punishment should be commensurate with the nature and severity of the offense. Upon reviewing the facts and circumstances surrounding the case, we conclude that the penalty of stoppage of two years increments with cumulative effect was disproportionately considering the specifics of the case. To uphold the principles of safe administration of justice, we find it appropriate to modify the penalty to a stoppage of two increments for a period of three years but without cumulative effect. Furthermore, it is

determined that the intervening period will be treated as leave without pay.

8. In light of the above, we partially accept the appeal and convert the penalty of stoppage of two years increments with cumulative effect into stoppage of two years increments for three years without cumulative effect. The intervening period will be considered as leave without pay. 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 08<sup>th</sup> day of October, 2024.*

  
AURANGZEB KHATTAK  
Member (Judicial)

  
RASHIDA BANO  
Member (Judicial)



Note


4<sup>th</sup> October, 2024 The case could not be fixed before DB at Camp Court, D.I. Khan due to cancellation of tour. Therefore, instant case be fixed on 08/10/2024 before D.B at the Principal Seat, Peshawar. Counsel has been informed telephonically.


  
(Habib Ur Rehman Orakzai)  
Registrar

**ORDER**

08<sup>th</sup> Oct, 2024

1. Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present. Arguments heard and record perused.
2. Vide our judgment of today placed on file, we partially accept the appeal and convert the penalty of stoppage of two years increments with cumulative effect into stoppage of two years increments for three years without cumulative effect. The intervening period will be considered as leave without pay. Parties are left to bear their own costs. File be consigned to the record room.
3. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 08<sup>th</sup> day of October, 2024.*

  
(Rashida Bano)  
Member (Judicial)

  
(Aurangzeb Khattak)  
Member (Judicial) 08/10/2024