

# PUNJAB SERVICE TRIBUNAL, LAHORE

## ORDER SHEET

APPELLANT/  
PETITIONER

5048/2022

APPEAL NO. 200

Muhammad Sultan Mehmood

**Versus**

Additional IGP, South Punjab etc.

**RESPONDENT**

Date of order of proceeding	Order with signature of Chairman, Members and that of parties or counsel, where necessary.
1	2
16.11.2023	<p><u>PRESENT</u></p> <p>1. Mr. Allah Nawaz Khosa, Advocate Counsel for the appellant. 2. Mr. Masood Karim, D.A. 3. Mr. Muhammad Sajjad, ASI, DR.</p> <p>Briefly, the appellant was proceeded against under the Punjab Police (E&amp;D) Rules, 1975 (the Rules) through charge sheet dated 7.12.2021 issued by the DPO, Muzaffargarh and DSP/HQrs. Muzaffargarh was appointed as inquiry officer to hold regular departmental inquiry against the appellant on the following charges:-</p> <p><i>i. The DSP/SDPO Kot Adu reported that it came to know through reliable sources that he (Defaulter Police Officer) arrested Muhammad Azam s/o Muhammad Hashim caste Chawan r/o Mauza Pattl Khar in case FIR No.672/21 dated 29.11.2021 u/s 302/311 PPC PS Sinawan and later on released him. He was called and heard who denied the allegations.</i></p> <p><i>ii. After making thorough probe it came to know that he (Defaulter Police Officer) being I.O of the above case arrested Muhammad Azam in the above said case. He kept him in illegal custody without any intimation to the Circle Officer. He left him after bargaining through Constable Muhammad Imran No.1655 while in the said case only one accused namely Rab Nawaz s/o Peer Bakhsh caste Gatl was nominated. No other person had</i></p>

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	<p><i>a role in the case, nor did he being I.O clarified any role.</i></p> <p><i>iii. He (Defaulter Police Officer) arrested innocent person, kept him in illegal custody only for the fulfillment of an illegitimate wish and released him after bargaining which speaks of his misuse of official power, indulgence in corrupt practices and misconduct on his part. His act is highly objectionable and against the law/rules warranting stern disciplinary action against him."</i></p> <p>The inquiry officer after conducting inquiry submitted his report on 7.12.2021 in which appellant was held guilty of the charge of keeping Muhammad Azam in his illegal detention. The competent authority thereafter passed impugned order dated 7.12.2021 awarding punishment of dismissal from service. Being aggrieved, the appellant submitted departmental appeal which was entertained and the appellate authority without setting aside the order of competent authority, appointed Superintendent of Police, Investigation, Muzaffargarh vide order dated 7.3.2022 to conduct denovo inquiry. The said inquiry officer after conducting inquiry submitted his report on 8.4.2022 to the appellate authority who vide impugned order dated 13.4.2022 rejected the departmental appeal. His revision petition before the Additional Inspector General of Police, South Punjab, Multan was partially accepted vide order dated 13.10.2022 whereby major penalty of dismissal from service was converted into reduction in rank from Sub Inspector to ASI. Hence this service appeal was filed.</p> <p>2. Arguments heard record perused.</p> <p>3. The case of the appellant is that the departmental proceedings are a nullity in the eye of law as a denovo inquiry was not conducted as per procedure laid down under the Rules.</p> <p>The perusal of order dated 7.12.2021 reveals that the competent authority after holding regular departmental inquiry awarded major penalty of dismissal from service. When the appellant filed his departmental appeal then the appellate authority was under a legal obligation to proceed in accordance</p>

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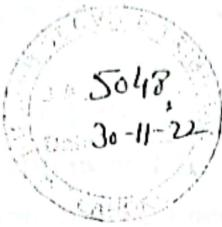
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	<p>with the powers given to the appellate authority as mentioned in the Rules. In this case the appellate authority himself appointed an inquiry officer and conducted denovo inquiry which is not provided under the law. This inquiry conducted on the order of the appellate authority cannot be considered as an inquiry conducted under the Rules. I am of the opinion that the Rules nowhere empowers the appellate authority to conduct a denovo inquiry nor on the basis of findings of the inquiry officer he can pass an order of punishment. The only course which could be adopted by the appellate authority was to remand the matter to the competent authority to hold a denovo inquiry and then pass a fresh order. Hence the orders passed by the respondents are nullity in the eye of law.</p> <p>Even otherwise, for the sake of arguments it is presumed that the appellate authority was competent to appoint the inquiry officer then inquiry should have been conducted in accordance with law.</p> <p>4. Record reflects that the inquiry officer did not record any evidence in order to prove the charges during the inquiry proceedings which depicts that there was nothing on record to hold the appellant guilty of the charges. It was obligatory for the prosecution to prove the charges against the appellant by production of unimpeachable and trustworthy evidence which is absolutely missing.</p> <p>Furthermore, it has been settled by the Hon'ble Supreme Court of Pakistan in various judgments passed by the apex court that competent authority as well as appellate authority while passing the order of punishment or appellate order are bound to scrutinize the evidence on record and order is to be passed referring any incriminating evidence against the accused. In this regard reliance is placed upon "<u>Chief Secretary, Government of the Punjab versus Muhammad Ali Saqib</u>" (2020 SCMR 1245). The relevant paragraph is reproduced as under:-</p> <p style="text-align: center;"><i>"The orders of the competent authority as well as departmental appeal are on the basis that they agreed with the recommendation of the inquiry officer. They</i></p> <p style="text-align: center;"><i>AMZ</i></p>

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Appeal No. 5048/2022

BEFORE THE PUNJAB SERVICE TRIBUNAL, LAHORE



Very Kindly Fix This Service

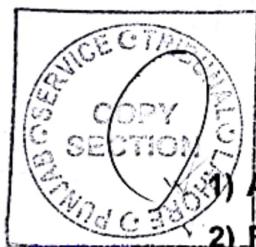
Appeal for Lahore

ADVOCATE

PST LAHORE.  
Dairy No. 4776  
Date 14-11-22

Service Appeal No. \_\_\_\_\_/2022

MUHAMMAD SULTAN MEHMOOD S/o MUHAMMAD  
SULEMAN ,EX-SI,DG/398 ,R/o Basti Mirwala P.O Khas  
,District Dera Ghazi Khan.



...APPELLANT

VERSUS

- 1) Additional IGP, South Punjab ,Bosan Road, Multan
- 2) Regional Police Officer (RPO) ,Dera Ghazi Khan.
- 3) District Police Officer , Muzzafargarh..

...RESPONDENTS

APPEAL UNDER SECTION 4 OF THE PUNJAB SERVICE TRIBUNALS ACT, 1974 READ WITH ALL OTHER ENABLING PROVISIONS OF LAW AGAINST THE IMPUGNED ORDER 13.10.2022 PASSED BY THE RESPONDENT NO.01 WHEREBY DISMISSAL FROM SERVICE WAS CONVERTED INTO MAJOR PUNIHSMENT OF REDUCTION IN RANK FROM SUB-INSPECTOR TO ASI

Respectfully Sheweth:-

1. That the addresses of the parties have rightly been incorporated in the title / instant appeal for effective service of summons and notices upon the parties.