

Abdul Waheed (Junior Clerk) Vs.
Chief Secretary, Govt. of the Punjab, Lahore & another.

Appeal No. _____

08.01.2024

PRESENT

1. Mr. Allah Nawaz Khosa Advocate,
Counsel for the appellant.
2. Mr. Atta Muhammad Khan, District Attorney.
3. Mr. M. Hassan, Assistant Litigation, D.R.
4. Mr. Rameez Ahmad Khan, Admin Officer, D.R.

Brief facts of the case are that the appellant was proceeded against under PEEDA Act, 2006 on the following charge:-

"He failed to perform his official duties as store keeper and did not make entry of store which is detected by the audit. He is thus guilty misconduct & inefficiency."

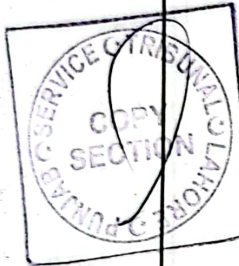
Resultantly, appellant was awarded Major penalty of "Dismissal from Service" & "Recovery of Rs.4,43,145/-" by the respondent No.2 i.e. Secretary, Livestock Department, Punjab, Lahore vide order dated 11.06.2014. Feeling aggrieved the appellant preferred departmental appeal before respondent No.1 i.e. Chief Secretary, Punjab, Lahore which was rejected vide order dated 23.01.2023. Hence the instant appeal before this Tribunal on 03.02.2023.

2. Learned counsel for the appellant as well as learned Deputy District Attorney having been heard at length, the available record has also been perused.

3. After hearing the learned counsel for the appellant and learned Deputy District Attorney on behalf of the respondents and perusal of file I am of the opinion that the appellant was departmentally proceeded against for:-

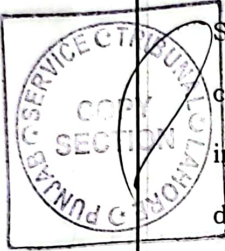
"He failed to perform his official duties as store keeper and did not make entry of store which is detected by the audit. He is thus guilty misconduct & inefficiency."

And major penalty of dismissal from service & recovery amounting of Rs.4,43,145/- imposed against the appellant, departmental appeal of the appellant was rejected, hence this appeal. I have perused the case



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		<p>file, from perusal of case file it appears that the appellant was jointly proceeded against alongwith other employees of the department namely Dr. Falak Sher Khan, Farm Superintendent & Mr. M. Arshad, Office Superintendent for misconduct and inefficiency and major penalty of recovery of Rs. 4,43,145/- was imposed against Dr. Falak Sher Khan, Officer Incharge, Livestock Experiment Station while M. Arshad, Superintendent Livestock Experiment Station was exonerated from the charges. While the present appellant who ws the junior clerk was imposed the penalty of recovery of Rs.4,43,145/- as well as penalty of dismissal from service. I have further perused the inquiry report, from perusal of the inquiry report, it appears that the Inquiry Officer did not record any evidence of any witness. Even though the appellant did not join the inquiry proceedings while the inquiry was conducted against the 02 other accused officials. However, the Inquiry Officer was under duty bound to record the evidence of the witnesses and discuss the documents on the basis of which he came to the conclusion. Moreover, the Inquiry Officer did not fix the liability of the appellant as well as other co-accused to the embezzlement of cotton. He was jointly held the present appellant and project director Muhammad Arshad held responsible for the embezzlement and he recommended the penalty of recovery of Rs.8,36,290/- jointly from the appellant and other co-officials. However, major penalty of recovery of Rs.4,43,145/- was imposed against Mr. Falak Sher Khan without his dismissal and major penalty of dismissal from service and recovery amounting of Rs.4,43,145/- was imposed against the present appellant, while Mr. M. Arshad, Superintendent Livestock was exonerated from the charges leveled against him. While the inquiry Officer had held all the 03</p>




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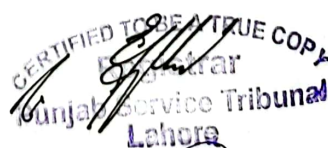
officials has guilty of the charges in his report and the present appellant has been discriminated against while imposing the punishment. The inquiry was initiated on the basis of audit reports. Moreover, there is no direct evidence on record against the present appellant on the basis of which he was held as guilty of the charges leveled against him and he has been discriminated while imposing the penalty. It was also brought in the knowledge of this Court that the recovery amount found outstanding against the appellant has already been recovered from the appellant. So, keeping in view the circumstances of the case as well as documents placed on record I am of the opinion that the appellant was given very harsh punishment.

4. For the aforesaid reasons, the instant appeal is partially accepted and the impugned orders are set aside and the penalty of "Dismissal from Service" awarded to the appellant is modified into penalty of "Forfeiture of Approved Service for Two Years". Consequently, the appellant is reinstated in service, however, the intervening period is treated as leave without pay.


Mian Muhammad Abdul Rafique
D&SJ/MEMBER-VI

Punjab Service Tribunal Lhr. Form No. 76-29

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Punjab Service Tribunal
Lahore

25/1/29

(1)

BEFORE THE HONORABLE PUNJAB SERVICE TRIBUNAL, LAHORE

Service Appeal No. 1278/2023

Mr. Abdul Waheed S/o Abdul Rasheed (Ex Junior Clerk) ,R/o House
No.59 Al Raheem City ,Tehsil Pattoki District Kasur.

...APPELLANT

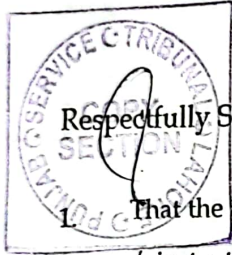
VERSUS

1. Chief Secretary ,Government of Punjab, Lahore.
2. Secretary Livestock ,Government of Punjab ,Lahore

...RESPONDENTS

APPEAL U/S 4 OF THE PUNJAB SERVICE TRIBUNAL ACT

1974,



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.

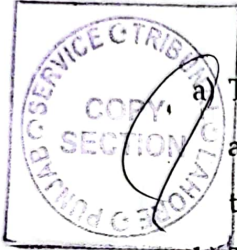
2. That Briefly stated the facts of the case are that appellant Mr. Abdul Waheed was appointed at Junior Clerk at Govt. Livestock Farms, Jugaitpeer District Bahawalpur vide order No. 2062-65 dated 31:08 200 on contract basis. On completion of requisite contract period his services was regularized on 14.01.2010 vide order No. 60-63 dated 14.01.2010.

3. That the appellant while working as Junior clerk proceeded on following allegations :-

"He failed to perform his official duties as store keeper and did not make entry of store which is detected by the audit He is thus guilty of misconduct and inefficiency"

4. That version of the appellant was not recorder by the competent authority and as well inquiry officer and competent authority awarded Major penalties of dismissal from service under section alongwith recovery of Rs.443145/- are imposed under section 4(1)(b)(vi)-& 4(1)(b)(1). Copy of impugned order 11/06/2014 is hereby enclosed as Annexure-A

5. That impugned order was not communicated to the appellant however appellant filed service before the respondent No.01 immediately upon knowledge of punishment order. Copy of appeal is hereby enclosed as Annexure-B
6. That the respondent no.01 without considering the version of the appellant rejected the appeal of the appellant in an arbitrary manner vide impugned order dated 23/01/2023. Copy of order dated 23/01/2023 is hereby enclosed as Annexure-C
7. That the impugned order dated 11/06/2014 and appellate order dated 23/01/2023 are illegal, without jurisdiction, ab-initio, void, mala fide, ex-parte arbitrary, discriminatory against law and facts on the following grounds:

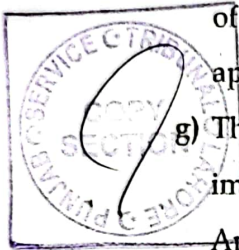


GROUND

- a) That authority while deciding the case of the appellant did not apply their mind to the facts of the case and law applicable thereto and decided the same in an arbitrary manner.
- b) That allegations which made on me are made in hasty, mechanical, arbitrary and fanciful manner and without applying judicial and judicious mind, in slipshod manner whereas under the law it is required that when there is allegation has been made out it should be made with convincing reasons which are missing in the proceedings the actual facts of the case are that appellant applied for leave 03/09/2012 to 01/12/2012 which was sanctioned vide order no.5428-31 dated 18/08/2012 and further 90 days leave was sanctioned 02/12/2012 to 01/03/2012.
- c) That leave was sanctioned after completion of codal formalities and after obtaining leave the appellant moved to Karachi but during the stay in Karachi the appellant was abducted by some unknown culprits and was confined for forced labor.
- d) That the appellant finally succeeded to escape from culprits in February 2022 and immediately submitted joining report before the DG(Production) Livestock and also explained the

actual fact. Copy of joining report is hereby enclosed as Annexure-D

- e) That the appellant was restrained to join his duty hence the appellant filed appeal before the respondent No.01 which was rejected without considering the facts and circumstances.
- f) That the facts of the case were disputed by the parties and as such a regular inquiry should have been conducted by some independent inquiry officer to sift truth and lie of the matter involved in the case of the appellant but defective inquiry was conducted in absence of the appellant without providing relevant record to the appellant and even recording the version of the appellant as a result of the same the defense of the appellant was seriously prejudiced.
- g) That the appellant cannot be subjected to be punished with improper enquiry, which is also to dictum laid down by the Apex Court of the country in various judgments and Fair trial opportunity shall be granted according to Article 10-A of constitution of Islamic Republic of Pakistan, 1973.
- h) That it is settled principle of law that whenever controversial question regarding evidence is involved, an opportunity of cross examination of witnesses is to be given to accused civil servant and for that proper clause is to initiate regular inquiry against accused civil servant otherwise finding recorded against civil servant will be more on conjectures than on evidence. 2005 TD (Service) 625(c)
- i) That the appellant is innocent and all allegations mentioned in impugned order are false, fabricated, concocted, against the law and facts.
- j) That entire service record of the appellant is clean, blotless, and admirable and not a single major punishment existing in the service record of the appellant, the appellant always performed my official duties efficiently and diligently. The appellant always obeyed the orders of his Senior Officers and complied



with orders/instructions issued by the Senior Officers. It proves my good conduct, behavior, competence; good reputation, honesty, effective supervision; monitoring, management and command this particular aspect may also be considered while decided the appeal of the appellant.

- k) That a large number of family members of the appellant are dependents on the appellant, if they are deprived of the only source of income, the whole family of a poor person would suffer hardships, therefore, the appellant is entitled to the grant of relief on humanitarian grounds as well.

PRAYER

In view of the above submission, it is therefore respectfully prayed that the impugned order 11/06/2014 and appellate order dated 23/01/2023 may very kindly be set-aside, after declaring the same to be illegal, without jurisdiction, ab-initio, void, arbitrary, discriminatory, mala fide, against law and facts and very kindly order the re-instatement of the appellant in service, along with all back benefits and as such departmental appeal of the appellant may very kindly be accepted accordingly.

Any other relief, which this Honorable Court deems fit and proper, may also be awarded.

...APPELLANT

Through

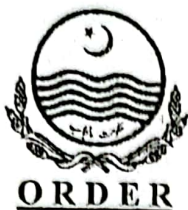
ALLAH NAWAZ KHOSA
Advocate High Court,
33/A Queens Road, Lahore.

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Punjab Service Tribunal
Lahore

CERTIFICATE:

As per instructions, this is the first appeal in this Hon'ble Punjab Service Tribunal, Lahore against the impugned orders

ADVOCATE



Diary No.	227
Date	25/11/15
By	
For	
PO	
DO	
CO	

GOVERNMENT OF THE PUNJAB,
LIVESTOCK & DAIRY DEVELOPMENT
DEPARTMENT

No. SO(E-I)/L&DD/23-1/20(NG/DLF)(Bhalkar): WHEREAS, Mr. Abdul Waheed, Ex-Junior Clerk, Govt. Livestock Farm, Jugaitpeer, Bahawalpur filed appeal against order dated 06.06.2014 passed by the Secretary L&DD/ Competent Authority whereby penalties of "dismissal from service" and "recovery of Rs.443,145/-" were imposed upon the appellant under the PEEDA Act, 2006.

2. AND WHEREAS, Comments were obtained from the Administrative Department. Mr. Asim Sadiq Qureshi, Member-I (Enquiries), S&GAD was appointed as Hearing Officer to afford personal hearing to the appellant and submit a detailed report to arrive at a definitive decision.

3. AND WHEREAS, the Member-I (Enquiries), S&GAD after affording personal hearing to the appellant in the presence of the Departmental Representative of L&DD Department submitted hearing report stating therein that the appellant reiterated the points already raised in his appeal. He stated that the amount was recovered from the pension of his father at the rate of 10,000/- per month. He prayed that the impugned penalty might be set aside and he exonerated from the charges levelled against him.

4. AND WHEREAS, on the other hand, the Departmental Representative stated that the appellant was appointed as Junior Clerk at Govt. Livestock Farm, Jugaitpeer, District Bahawalpur vide order dated 31.08.2007 on contract basis. His services were regularized on 14.01.2010 vide order dated 14.01.2010. On account of embezzlement in the shortage of 10,000/-liter diesel, the appellant was awarded the penalty of Rs.664,500/-recovery by Farm Superintendent/ Competent Authority. Subsequently, the appellant was transferred and posted in Directorate Livestock Farms, Punjab, Lahore vide order dated 10.10.2011. The appellant applied for six months leave without pay but was turned down and he was directed to report to the Admin. Department but the appellant failed to comply with those orders. Resultantly, disciplinary proceedings were initiated against the appellant on account of misconduct, inefficiency and manipulation of the store record. Dr. Abdul Rehman, Director Small Ruminants, Multan was appointed as Inquiry officer. The Inquiry Officer issued show-cause-cum personal hearing notice to officials/ officials but the appellant was reluctant to appear. Therefore, after adopting all the

formalities, the Secretary L&DD/ Competent Authority imposed the impugned penalty upon the appellant in accordance with law.

5. **AND WHEREAS**, after examining the record/material available in the case file, considering arguments advanced by the appellant and report of the Hearing Officer, I am of the view that the appellant failed to provide any material to rebut the evidence already available on record. The appellant absented himself from duty in the year 2011, following which he was dismissed from service on 06.06.2014. Section 7(f)(ii) of the PEEDA Act, 2006 provides that "*where charge of absence from duty for a period of more than one year is proved against the accused, the penalty of compulsory retirement or removal or dismissal from service shall be imposed upon the accused*". The Secretary L&DD/ Competent authority has therefore rightly imposed the impugned penalty upon the appellant, in accordance with law. The appellant failed to substantiate his stance in the appeal. Moreover, the appellant was required to file appeal within 30 days after receipt of the impugned penalty order whereas he filed appeal on 25.05.2022 (after a lapse of more than 08 years). Hence, the appeal of the appellant besides being time barred is also liable to be rejected on merits as well.

6. **NOW THEREFORE**, I, Muhammad Abdullah Khan Sumbal, Chief Secretary, Punjab in exercise of powers confirmed upon me under section 16 of the PEEDA Act, 2006, do hereby reject the appeal of Mr. Abdul Waheed, Ex-Junior Clerk, Government Livestock Farm, Jugaitpeer, District Bahawalpur, on account of being time-barred and devoid of merit.

BY ORDER OF THE CHIEF SECRETARY PUNJAB

Dated Lahore the,
13th January, 2023

(MUHAMMAD MALIK BHULLA)
SECRETARY L&DD

No. & Date Even

A copy is forwarded for information and necessary action to:

1. Director General (Prod.) L&DD Punjab, Lahore.
2. Superintendent, Govt. Livestock Farm, Jugaitpeer, District Bahawalpur.
3. District Accounts Officer, Bahawalpur.
4. Personal File/Mater File.
5. DBA.

6. MR. Abdul Waheed et al s/c Jugaitpeer
SECTION OFFICER (E-I)

R.K.
copy to P.F.
District Bahawalpur
13/1/23