

Muhammad Imran (Ex-Constable No.3615), Vs. Inspector General of Police, Punjab Lahore & 3 others.

Appeal No. _____

08.11.2023

PRESENT

1. Mr. Allah Nawaz Khosa Advocate, Counsel for the appellant.
2. Ms. Saima Nawaz, D.D.A.
3. Mr. Rashid Nawaz, Assistant, D.R.
4. Muhammad Ishaq, ASI, D.R.
5. Mr. Muhammad Sarfraz, ASI, D.R.

Through this appeal filed under Section 4 of the Punjab Service Tribunals Act, 1974 the appellant has assailed the vires of the orders dated 22.10.2018, 12.06.2021 and 19.03.2022 passed by the respondents.

2. Precisely, the appellant was serving as constable. He was proceeded against Punjab Police (E&D) Rules, 1975 on the following charges:

"As per contents of letter received from the office of the DIG Operations, Lahore vide his office letter No.DIG/PADIG/ 180730/0251 dated 30.07.2018 alongwith enquiry report conducted in the office of the SSP D&I, Lahore duly approved by the CCPO, Lahore on the application of Muhammad Shahid s/o Muhammad Ilyas against Constable Imran.

The applicant alleged that he purchased a vehicle Courve Applied for with Engine number R066337, Chasis number 7566139 Color Red on 03.07.2017 without invoice. Thereafter, he asked Constable Imran for invoice upon which he stated that owner of the vehicle was died. An agreement was made for Rs.350000/- with them. On 17.02.2018, he alongwith other two persons went to the applicant and asked for return of said car. On his permission, he asked applicant for drive test but did not return.

Upon which, an enquiry was conducted in the office of the SSP D&I and the enquiry officer concluded that Constable Imran sold a Courve car model 2009 for Rs.250000/- to Muhammad Shahid (applicant) and made an agreement of Rs.350000/-. However, the owner of the car was died due to which registration could not be made. But later on, he (Constable) took car from the applicant and did not return the same or amount to the applicant.

During enquiry, he has been found guilty for taking car in his illegal possession which comes within the ambit of grave misconduct. Being member of disciplined force, his act is highly objectionable and liable to initiate strict departmental action against him under the Punjab Police (E&D) Rules, 1975."



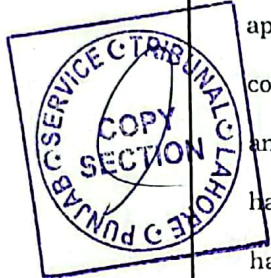
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	<p>An inquiry in the matter was conducted and finally the competent authority, vide order dated 22.10.2018, imposed upon the appellant major penalty of "dismissal from service". The departmental appeal of the appellant was dismissed, vide order dated 05.06.2021. Thereafter the appellant filed revision petition before IGP Punjab which was rejected by CCPO, Lahore on 19.03.2022. Hence, this appeal.</p> <p>3. Learned counsel for the appellant submitted that matter was of private transaction and departmental proceedings could not have been initiated against the appellant. Learned counsel for the appellant further stated that the misunderstanding regarding the alleged transaction had been verified and Mr. Shahid Ilyas, who had earlier submitted on application against the appellant, had sworn on affidavit on 14.06.2019 that he (Mr. Shahid) had submitted application against the appellant due to misunderstanding. Learned counsel for the appellant stated that no proper regular inquiry had been conducted in the matter. Reliance was placed on 2007 SCMR 693, 2023 SCMR 291 and 2022 PLC (C.S) 367. He further stated that right of cross-examination was also not given to the appellant during the course of departmental inquiry proceedings. Reliance was placed on 2023 SCMR 603. On the other hand, learned Deputy District Attorney opposed and stated that proper inquiry had been held by the department and the applicant Mr. Shahid's statement had also been recorded during the inquiry proceedings. Learned Deputy District Attorney requested for dismissal of the appeal.</p> <p>4. Learned counsel for the appellant as well as learned Deputy District Attorney have been heard at length and the available record has also been perused.</p> <p>5. From perusal of file, it has transpired that one Muhammamad Shahid son of Muhammad Ilyas had submitted an application stating therein that the appellant had committed breach of trust by not returning a motor car which he (appellant) had earlier sold to him (applicant) and later the</p>



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appellant had taken that vehicle for "test drive" for re-selling the same but had not returned the vehicle to him (appellant). It has further transpired that show cause notice No.1507/PA dated 12.08.2018 was issued to the appellant by the Competent Authority with the allegation of having failed to perform official duty in an appropriate manner and had committed grave misconduct due to sale of a vehicle to Mr. Muhammad Shahid and due to taking back that vehicle from Mr. Muhammad Shahid. It has been observed that punishment was awarded by the Competent Authority on 22.10.2018 and appeal was rejected on 12.06.2021 by the departmental appellate authority. A copy of an affidavit of Mr. Muhammad Shahid, sworn on 14.06.2019, has been annexed with the appeal wherein Mr. Muhammad Shahid had stated that he had submitted application against the appellant due to misunderstanding. It has been observed that the role of Mr. Muhammad Shahid is important as he is the complainant in the matter for which departmental disciplinary proceedings had been conducted against the appellant which had resulted in awarding punishment to the appellant. In my view, the matter requires fresh inquiry to arrive at the truth since definitely the matter is not mere violation of service discipline but the matter revolves around the alleged grievance of Mr. Muhammad Shahid for which the appellant has now produced a copy of his (Mr. Shahid's) affidavit, which requires considerations.

6. For the reasons discussed supra, the impugned orders do not hold good in the eyes of law. Therefore, the appeal in hand is **partially accepted** and the impugned orders are set aside and the appellant is reinstated into service while the fate of the intervening period will be decided after the outcome of the inquiry proceedings. However, the case is remanded to the competent authority for conducting a proper regular enquiry into the allegations against the appellant and deciding the matter afresh, strictly in accordance with law and procedure on the subject.



CERTIFIED TO BE A TRUE COPY
 Registrar ANNOUNCED
 Punjab Service Tribunal 2023
 Lahore
 27/11/23

(Signature)
 8-11-2023
ASIM SADIQ QURESHI
 MEMBER-V