

Present: Sh. Riaz Ahmed, Qazi Muhammad Farooq and Javed Iqbal, JJ

FEDERATION OF PAKISTAN--Petitioner

Versus

Syed MUMTAZ AHMED BURNEY and another---Respondents

Civil Petition for Leave to Appeal No. 1161 of 1999, decided on 21st June, 2001.

(On appeal from the judgment dated 10.6-1999 of the Federal Service Tribunal in Appeal No. 1613(K)/1998).

(a) Service Tribunals Act (LXX of 1973)---

----S. 4---Govt. Servants (Efficiency and Discipline). Rules, 1973, R.4(1)(b) (ii)---Constitution of Pakistan (1973), Art.212(3)---Compulsory retirement---Reinstatement in service---Scrutiny of entire record by Service Tribunal---Civil servant was compulsorily retired from service as a result of departmental inquiry---Charge against the civil servant was that he released on bail a criminal involved in case under S.17(3) of the Offences Against Property (Enforcement of Hudood) Ordinance, 1979---Evidence on record showed that the criminal was not under the investigation with the civil servant, rather the investigation was carried on by some other official who was Subordinate to the present civil servant Investigating Officer was not penalized but major punishment of compulsory retirement was imposed on the civil servant---Service Tribunal, after indepth scrutiny of entire record including the charge-sheet, statements of allegations, show-cause notice and inquiry report, reached the conclusion that the allegations as levelled against the civil servant could not be proved---Appeal against the order passed by the Authorities was accepted by the Service Tribunal and the civil servant was reinstated in service---Validity---Findings of Service Tribunal were unexceptionable and did not warrant any interference---Leave to appeal could only be granted by Supreme Court if the case involved a substantial point of law and was of public importance---Leave to appeal was refused.

Muhammad Iqbal v. Secretary to Government of Punjab 1986 SCMR 1; Karamat Hussain v. Province of the Punjab 1982 SCMR 897; Miss Razia, Sultana v. Government of Punjab 1981 SCMR 715; M. Yamin Qureshi v. Islamic Republic of Pakistan PLD 1980 SC 22; Irtiqah Rasool Hashmi v. WAPDA 1980 SCMR 722; Dilbar Hussain v. Province of Punjab 1980 SCMR 148; Yousaf Hussain Siddiqui v. Additional Settlement and Rehabilitation Commissioner, Peshawar 1976 SCMR 268; Muhammad Azhar Khan v The Service Tribunal, Islamabad 1976 SCMR 262 and M.A. Majid v. Government of Pakistan 1976 SCMR 311 ref.

(b) Constitution of Pakistan (1973)-----

----Art. 12(3)---Re-appraisal of evidence---Jurisdiction of Supreme Court-- Concurrent findings of fact by Departmental Authorities and Service Tribunal---Effect---Supreme Court does not ordinarily interfere with such concurrent finding of fact---Where Service Tribunal had based its decision on report of Inquiry Officer after considering defence of the civil servant at length, such case was not fit to be interfered with by the Supreme Court in exercise of jurisdiction under Art.212(3) of the Constitution---Re-appraisal of evidence cannot be made in every case without sufficient justification.

Muhammad Binyamin v. WAPDA 1991 SCMR 382; Faiz Ahmad v, Deputy Postmaster General, Lahore 1991 SCMR 368; Muhammad Munir Ahmad v: WAPDA 1990 SCMR 907; Munir Ahmed v. Punjab Service Tribunal 1990 SCMR 1005; Barkat Ali v. Punjab Service Tribunal 1990 SCMR 1469; Muhammad Jaffar Toor v. Superintending Engineer, Headquarters, Irrigation, Sargodha 1989 SCMR 1740; Munawar Tahir Hussain v. Government of the Punjab 1990 SCMR 1470 and Najib Ullah v. Assistant Commissioner/Collector 1989 SCMR 679 ref.

Muhammad Nawaz Bhatti, Deputy Attorney-General and Ch Akhtar Ali, Advocate-on-Record for Petitioner.

Nemo for Respondents.

Date of hearings 21st June. 2001.

ORDER

JAVED IQBAL, J.---This petition for leave to appeal is directed against the judgment dated 10-6-1999 passed by the learned Federal Service Tribunal, Islamabad whereby the appeal tiled by Syed Mumtaz Ahmed Burney, Superintendent Police (hereinafter referred to as the respondent) has been accepted with the direction to be reinstated in the service from the date of his compulsory retirement with all back benefits. Being aggrieved, the Federation of Pakistan has preferred this petition.

2. Precisely stated the facts of the case are that the respondent joined, police service as DSP in Sindh Province on 1-7-1974 and subsequently promoted as SP (BPS-18) and thereafter move-over in BPS-19 was also & ranted. On 6-6-1994, while the respondent was performing his duties as SSP (CIA Police), Karachi, he was placed under suspension by the Government of Sindh and disciplinary action was initiated on account of his abnormal conduct and release of one Sourang Khan, allegedly a notorious smuggler, who was arrested in Case No. 392 of 1993 got registered under section 17(3), O.A.P. (E.H.) Ordinance, 1979 and after his arrest, investigation was to be conducted by the CIA but Sourang Khan was released on bail by the Investigating Officer namely Mr. Kher Muhammad Chandio in exercise of powers as conferred upon him under section 497-B, Cr.P.C. with the consent and knowledge of the respondent who at the particular moment was performing his duties as SSP (CIA). The respondent was charge-sheeted and a full-fledged enquiry was got conducted by, the Enquiry Officer and after completion of all the necessary mandatory formalities as contemplated in the relevant Act and Rules made thereunder, the case was forwarded to the Chief Minister under Sindh Government Rules of Business, 1986 for onward transmission to the Federal Government for further appropriate action with specific recommendation of imposition of major penalty of compulsory retirement. The Chief Minister, however, did not agree with the said recommendation and directed that the matter may be referred to the Federal Government without any specific recommendation. Pursuant to such observations, Sindh Government sent the entire record including the enquiry proceedings to the Secretary, Establishment Division on 8-8-1996 and resultantly final show-cause notice was served upon the respondent on 3-9-1996. After affording opportunity of personal hearing and completion of necessary formalities, Notification dated 9-8-1998 was issued whereby major punishment of compulsory retirement was imposed in view of the provision as contained in Rule 4(1) (b)(ii) of the Government Servants (E&D) Rules. 1973. Being aggrieved, the respondent preferred a departmental appeal for the redressal of his grievance which could not be decided and resultantly the respondent approached the learned Service Tribunal by filing appeal or, 5-10-1998 which has been accepted; hence this petition.

3. It is mainly contended by Mr. Muhammad Nawaz Bhatti, learned Deputy Attorney-General that findings of the learned Federal Service Tribunal regarding non-establishing the guilt beyond shadow of doubt are based on conjectural

presumption which is result of misreading and non reading of evidence which has not been appreciated in its true perspective and resulted in serious miscarriage of justice. It is argued with vehemence that the entire record was never perused with care and caution and the conclusion drawn by the learned Federal Service Tribunal has absolutely no nexus with the record and accordingly the same is liable to be set aside being It is contended emphatically that the charge of misconduct has been proved, as a notorious smuggler Sourang Khan was got Officer had acted with the consent of the respondent by releasing Sourang Khan against whom a heinous case was got registered on the fake ground of ailment. It is pointed out that by imposing the penalty of compulsory retirement, a lenient view has already been taken by the Government which hardly warranted any interference by the learned Federal Service Tribunal. It is further argued that the respondent could not have been reinstated with back benefits after commission of such a heinous offence which depicts his negligence, inefficiency and lack of proper supervision and thus according to the learned Deputy Attorney General, the respondent is not a fit person to be kept in police service.

4. We have carefully examined the contention as agitated on behalf of the Federation of Pakistan in the light of relevant provision of law and record of the case. We have minutely scanned the Statement of Allegations, show-cause notice, Plea of the respondent, Enquiry Report and final action and the impugned judgment of the learned Federal Service Tribunal with care and caution. Before we could examine the main contention as agitated by the learned Deputy Attorney-General, it seems appropriate to reproduce hereinbelow the Statement of Allegations to know the exact nature of the charges as levelled against the respondent which culminated into his compulsory retirement:--

"STATEMENT OF ALLEGATION

Mr. Mumtaz Ahmed Burney, the then SSP, CIA, Karachi, presently under suspension is alleged to have committed the following acts of misconduct:--

It is alleged that on 17-5-1994, CIA Karachi on the basis of source information picked up a notorious smuggler Haji Shourang Khan from Al-Asif Square, Sohrab Goth, Karachi and obtained Police Custody Remand in case Crime No. 392 of 1993 under section 17(3), OAP (EH) Ordinance w.e.f. 18-5-1994 to 24-5-1994 for investigation. On 18-5-1994 he, the then SSP CIA vide his T.P. Message No.SSP/CIA RD/94-III informed all the SSPs in Pakistan, Director, PNCB and Director Excise, Karachi regarding the arrest of accused Shourang Khan to get information if the said accused was wanted by them in any case. On the same date i.e. 18-5-1994 the then SSP CIA, Karachi personally called Major Waheed the Deputy Director, ANTE and informed him about the arrest of the abovenamed accused. Major Waheed deputed ANTF Officers namely Ghulam Ali Sheikh, Athar Ali Naqvi and Muhammad Akhtar etc. for interrogation of accused Shourang Khan at CIA Centre, Karachi with reference to his activities in the business of Narcotics. On 20-5-1994 the CIA Police on the pointation of accused Shourang Khan also recovered 100 KGs of Hashish. Consequent upon the recovery of Hashish, a case F.I.R. No. 126 of 1994 dated 21-5-1994 under Articles 3/4 of Prohibition (EH) Order, 1979 was registered at Police Station Gulzar-e-Hijri but on the same evening accused Shourang Khan was released on bail under section 497-B of the Cr.P.C. by the Investigating Officer Inspector Khair Muhammad Chandio on the plea that accused was a heart patient and it was done with the consent and knowledge of SSP/CIA though there was no grounds for his release which could meet the conditions provided in the said section of Criminal Procedure Code.

(ii) Due to the abnormal conduct of CIA, the officials of ANTF were unable to complete their task. However, from the enquiries made by ANTF accused Shourang Khan was found involved in many cases of Narcotics registered at different Police Stations in the country.

- (iii) CIA officials knew fully well that Shourang Khan was a notorious Narcotics Smuggler whose interrogation by ANTF could reveal a lot of information about the organized drug smuggling in Pakistan. His release under the orders of the SSP/CIA on the day of recovery of 100 KGs Hashish on his pointation, under section 497-B, Cr.P.C. was unlawful."

A careful scrutiny of the statement of allegation would reveal that it revolves around the release of Shourang Khan, the notorious Narcotics Smuggler on bail by Kher Muhammad Chandio, Inspector CIA/Investigating Officer, under section 497-B, Cr.P.C. with the consent and knowledge of the respondent who was SSP (CIA) at that time. The pivotal question which needs determination would be that up to what extent the respondent was responsible for release of Shourang Khan under section 497-B, Cr.P.C. by Kher Muhammad Chandio, Inspector CIA and whether it was with his consent and factually the police was deprived from collecting further incriminating material against Shourang Khan. The learned Deputy Attorney General was questioned in a categoric manner that which specific material or particular evidence showing the connivance or responsibility of respondent by releasing Shourang Khan on bails, through Kher Muhammad Chandio, Investigating Officer with some ulterior motive has been ignored by the learned Federal Service Tribunal. It is worth mentioning that no specific incriminating material or evidence could be pointed out, showing that respondent was in fact responsible for the release of Shourang Khan. The learned Deputy Attorney-General failed to point out any written direction given by the respondent for release of Shourang Khan. Be that as it may, there are certain admitted facts which were not controverted by the learned Deputy Attorney-General which runs as under:--

- (i) Mr. Kher Muhammad Chandio was competent to release Shourang Khan on bail under section 497-B, Cr.P.C. on account of serious ailment.
- (ii) Haji Shourang Khan made a complaint of heart trouble which was duly incorporated in the Roznamcha.
- (iii) Shourang Khan was 76 years old person with feeble physique.
- (iv) Various custodial death of shourang Khan during 1990-1995.
- (v) Apprehension of death of shourang khan due to heart problem old age and critical physical condition in police custody
- (vi) Shourang Khan remained hospitalized from where the proper Court of law was approached for grant of bail and the learned ADM/CIA, Karachi granted bail to him on 30-5-1994. .
- (vii) The appearance of Shourang Khan before the Court of ADM on 30-5-1994.
- (viii) Grant of bail by the ADM on the ground of serious ailment coupled with old age.

5. We have carefully perused the entire evidence which has come on record against the respondent and got recorded during the enquiry proceedings. Mr. Athar Ali Naqvi, DSP Crimes has stated in an unambiguous manner as follows:--

"Major Waheed did not direct me-or the members of the team in writing or verbally about involvement of accused Shourang in any particular case with ANTE/PNCB, Karachi. After submission of report containing release of accused I was not directed by Major Waheed to contact CIA Centre, or SSP or Court for arrest of the accused. I was not directed to apprehend the accused. We were also not directed to contact accused officer in any way.

Mr. Muhammad Akhtar Khan, Assistant Director, ANF while answering a few questions during cross-examination highlighted the details of the episode in the following words:--

"I was not instructed by Major Waheed either in writing or orally about involvement of accused Shourang in any of the cases registered or not registered with ANTF/PNCB, - Karachi. After publication of news about the release of accused in newspaper I was not directed by Major Waheed to contact CIA Centre or Court or S.S.P. for arrest of the accused. I was never directed on submission of my report about the release of the accused by Major Waheed to apprehend the accused. The accused was about 65 years of age, lean and thin and was complaining severe pain in his both hand and body on 20th May. 1994. Nor we were directed to contact accused officer nor we contacted of our own\ in connection with the interrogation of accused Shourang."

The statement of Mr. Waheed Haider has also been examined by whom the following version of the incident has been given:--

"Our office does maintain the record of involved accused as well as suspected persons dealing in Narcotics throughout country. It is correct to suggest that accused officer on 18th May, 1994 requested me in person to take over the custody of accused Shaurang if needed by ANTF and also to assist the CIA in his interrogation. It is correct that to my knowledge we have not arrested in our records accused Shaurang on 18th, 19th and 20th May, 1994. It is correct that I was away from Karachi for one week approximately. I do not remember if I returned by 27th of May from Eid Holidays. I do not know if accused Shaurang did appear in the Court of ADM CIA from 25th May to 30th May, 1994 for getting confirmation of his bail. We first time came to know about the appearance of accused Shaurang before Court of ADM CIA for confirmation of his bail at the time of enquiry by FIA on 2nd June, 1994. We never requested Court of ADM CIA for cancellation of the bail of accused Shaurang. Voluntarily says he made such request to Government to transfer the case to ANTE. I do not remember if accused officer made a request before FIA enquiry team to allow him time of two or three days for re-arrest of accused Shaurang or to provide him a list of cases in which he was wanted by ANTE. It is incorrect to suggest that any TP message dated 18th May, 1994 received by me or my office dispatched from S.S.P. CIA, Karachi. I do not remember if ANTF had ever challaned accused Shaurang under section 512, Cr.P.C. or directly from 18th May, 1994 to my departure from ANTF I did try to establish contact on phone with accused officer on my return from Eid Holidays but cannot tell the exact dates. During my entire posting particularly after 18th May, 1994 I did not initiate to challan accused Shaurang in my pending Narcotics case. It is correct that I did not contact with the superiors of Syed Mumtaz Burney when he was not being contacted on telephone. "

The star witness of prosecution produced against the respondent is Mr. Kher Muhammad Chandio, Inspector CIA by whom the following statement has been given:--

"I got registered the F.I.R. at Police Station Gulzar-e-Hijri under Articles 3 and 4 of Prohibition Order. Before coming to Police Station I also arrested the accused because of his involvement and recovery of Charas at his pointation. I brought the accused property to CIA Centre, after mid-night and made entry in the station diary on 21st May, 1994 at 2-40 a.m. I intimated the fresh arrest of the accused in Case Crime No. 126 of 1994 to my S. S. P. Mr. Mumtaz Burney who directed me to get remand of the accused from concerned Magistrate For this purpose vide Entry No.52 at 12-36 A.S.-I. Ameer Gonda 'R' departed and returned at 4-30 p.m. without getting any remand disclosing that - because of Eid holidays no Magistrate was available. He made such entry in the Roznamcha and further mentioned in it that accused was complaining heart trouble. I personally verified the fact and found accused sustaining fits of heart trouble.

I apprised of such position to the accused officer on telephone at about 5 p.m. and was informed to adopt the legal way. The condition of accused further worsened as such his relatives present there created a scene. Because of such atmosphere and keeping in fact that many accused had died in CIA custody in past and that accused was of 70 years of age, I decided to my own to release him on bail. I accepted the surety and personal bond of Rs.1 lac each and released the accused on bail with directions to re-appear after Eid holidays before concerned Court for confirmation or rejection of bail as the case may be. On 25th May, 1994 I received the letter from the Court of ADM CIA, Karachi for production of case papers in connection with bail application filed by the accused. Since investigation was otherwise complete, I produced the papers to A.S.-I. Ameer Gondal for submission of challan before Court on 30th May, 1994. Magistrate CIA by order dated 30th May, 1994 released the accused on bail in sum of Rs.50,000. On 8th June, 1994 I got the letter of my suspension issued by the DIGP, Karachi. I have also been served charge-sheet on account of release of accused on bail. My statement was also recorded before FIA. Now I produce the Roznamcha entry showing arrest of accused in F.I.R. No. 392 of 1993 at Exh.2-A. Mashirnama of arrest and recovery from accused at Exh.2-B, a copy of F.I.R. No. 126 of 1994 at Exh.2-C, copy of Roznamcha regarding remand of accused at Exh.2-D, copy of Roznamcha showing complaint of heart trouble and release of accused on bail at Exh.2-E, copy of challan submitted before Court at Exh. 2-F, copy of bail order by Court at Exh. 2-G."

Mr. Kher Muhammad Chandio was subjected to cross-examination and while answering a few questions he mentioned as follows:--

"It is correct that under instructions of accused officer with his own signature tele-printer message dated 19th May, 1994 was relayed to all S.S.Ps. in Pakistan, Director, Narcotics Control Board and Director Excise, Karachi requiring involvement of accused Shourang Khan in any case registered with them. I produce the copy of it at Exh.2-II. No response to my knowledge was received of this message from any corner till my handing over the charge on 8th June, 1994. It is correct that on 19th and 20th May, 1994, the team of ANTF comprising Ghulam Muhammad Shaikh, Athar Naqvi and Akhtar visited for interrogation from the accused. It is correct that under instructions of accused officer I requested them to take away accused with them if they so desired. It is correct that they refused to take away accused on the plea of his non-involvement in any crime registered with them. It is correct that neither I was forced nor directed to release the accused by accused officer. It is correct that many cases of murder are registered against official of CIA for deaths of accused in their custody. I produce the list of some of them at Exh.2-I.

No Re. R.O. & A.C.

ENQUIRY OFFICER."

The statement of Amir Muhammad, A.S.-I. has also been examined and relevant portion whereof is reproduced hereinbelow for the sake of convenience:--

"Mr. Mumtaz Burney, SSP CIA on that date issued tele-printer message to officials of Anti-Narcotics, all S.S.Ps. in Pakistan and Director Excise, Karachi for any need of the accused in connection with any crime registered with them. So far I know none has responded this message, however, team of anti-narcotics comprising Ghulam Muhammad Shaikh, Athar Naqvi and Akhtar visited us on 19th and 20th May, 1994 for purpose of interrogation of accused Shourang. I fully cooperated with them and conveyed the message of accused officer to take away the accused if they so desired. They departed without accused disclosing that he was not in need."

6. We have kept the defence version of the respondent in juxtaposition and examined the defence version and evidence produced by the respondent. The statements of

defence witnesses namely Muhammad Younus and Khalid Khan have been perused thoroughly. The main plea of the respondent can be summarized as follows:--

"In his reply to the charge-sheet, accused officer admitted the allegation at Sr. No.(1) but with the difference that on 21-5-1994, in the evening, Investigating Officer Inspector Khair Muhammad Chandio informed the accused officer on phone about heart problem of accused Shourang and his apprehension that he might die in custody and that despite two consecutive days of interrogation by ANTF they have not effected his arrest, to which accused officer agreed and advised him to strictly act in accordance with law and if appropriate release him on bail under section 497-B, Cr.PC and to further ensure fulfilment .of legal requirements and production of accused before Court for confirmation or rejection of his bail."

7. A careful scrutiny and analysis of the evidence as discussed and mentioned hereinabove would reveal as follows:-

- (a) Major Waheed has never made any formal request to CIA for arrest of Shourang Khan.
- (b) No effort worth the name was ever made by the ANF to get Shourang Khan arrested who could have been apprehended easily on 25-5-1994 when an application for bail was moved which was decided on 30-5-1994 and arrest could have been effected during the intervening period i.e. 25-5-1994 to 30-5-1994.
- (c) No case whatsoever was either got registered by the ANF or directed to be registered by the police against Shourang Khan.
- (d) No case was pending in any Court against Shourang Khan prior to his arrest.
- (e) ANF was asked in a categorical manner to take custody of Shourang Khan which was not done by the ANF.
- (f) No effort whatsoever was- made for the cancellation of bail granted by the learned ADM in favour of Shourang Khan.
- (g) The respondent has issued tele-printer message on 18-5-1994 to the SSPs in Pakistan, Director Narcotics Control Board, Director Excise, Karachi requiring involvement of accused Shourang Khan in any case. There appears to be no response.
- (h) The accused was, released by Kher Muhammad Chandio, Investigating Officer without having any written order and consent of the respondent.
- (i) The bail application of Shourang Khan was accepted on the ground of serious ailment as pointed out by Kher Muhammad Chandio in his statement got recorded before the Enquiry Officer and duly incorporated in the Roznamcha.

On the basis of the abovementioned conclusions it can be inferred safely that it could not be proved that bail was granted on the written direction or consent of the respondent or with his connivance. It is, however, to be noted that bail was granted in favour of Shourang Khan at the first instance by Kher Muhammad Chandio, Investigating Officer and subsequently by the Court of competent jurisdiction on 30-5-1994 and no effort whatsoever was made to get it cancelled. If Shourang Khan was a notorious smuggler as per the allegations, then why no application for cancellation of bail was moved. The learned Deputy Attorney-General could not furnish any plausible explanation in this regard. It also transpires from the scrutiny of

record that no case whatsoever was got registered against him except the one wherein bail was granted. It has further come on record that no case was got registered by any of the Agencies including the ANF by whom Shourang Khan was never arrested in spite of the request made by the CIA. The proper course in our view would have been that Shaurang Khan could have been referred for medical examination and therefore action could have been taken under section 497-B, Cr.P.C. but initially it was to be done by Mr. Kher Muhammad Chandio who amazingly has been absolved from all the charges and in such view of the matter, how respondent can be held responsible when there is nothing in black and white that any order for release of Shourang Khan was given by him. In such background, the imposition of extreme penalty of compulsory retirement appears to be very harsh and discriminatory. It has, however, come on record that Mr. Chandio had informed the respondent about the ailment of Shourang Khan and his intended action i.e. grant of bail under section 497-B Cr P C but no comprehensive guideline could be provided by the Superintendent of Police which amounts to dereliction of duty and his complete failure to handle the situation in a proper and brilliant manner. It appears that he did not want to take any responsibility and besides that he did not care to have examined the record of the case with such prudence as his office demanded of him He appears to have failed to apply his conscious mind to the facts of the case and instead toed the line so ill-foundedly and unscrupulously drawn by Kher Muhammad Chandio and adopted the same reasoning as are pointed out by Mr. Chandio and obviously subscribed thereto rather mechanically. In our considered view, for such careless and callous approach departmental action should have been initiated for being negligent and inefficient but no action could have been initiated regarding release of Shourant; Khan on bail which in fact was done by Mr. Kher Muhammad Chandio who is still in service. All the concerned agencies have acted in a reckless manner showing lack of supervision and coordination which aspect of the matter should have been taken care of by Inspector-General Police, Sindh. Be that as it may, the allegations as levelled against the respondent could not be proved. In our considered view, the learned Federal Service Tribunal after an in-depth scrutiny of entire record including the charge-sheet, statements of allegations, show-cause notice and Enquiry Report has accepted the appeal preferred on behalf of the respondents and its findings being unexceptionable, do not warrant any interference. It is worth mentioning that leave to appeal can only be granted by this Court if the case involved a substantial point of Law and public importance. In this regard we are fortified by the dictum laid on in Muhammad Iqbal v. Secretary to Government of Punjab 1986 SCMR 1, Karamat Hussain v. Province of the Punjab 1982 SCMR 897, Miss Razia Sultana v. Government of Punjab 1981 SCMR 715, M. Yamin Qureshi v. Islamic Republic of Pakistan PLD 1980 SC 22, Irtiqa Rasool Hashmi v. WAPDA 1980 SCMR 722, Dilbar Hussain v. Province of Punjab 1980 SCMR 148, Yousaf Hussain Siddiqi v. Additional Settlement and Rehabilitation Commissioner, Peshawar, 1976 SCMR 268, Muhammad Azhar Khan v. The Service Tribunal, Islamabad 1976 SCMR 262, M.A. Majid v. Government of Pakistan 1976 SCMR 311. It is well-entrenched legal principle that "Supreme Court does not ordinarily interfere with a concurrent finding of fact given by the Departmental Authority and Service Tribunal. Where Service Tribunal based its decision on report of Enquiry Officer after considering defence of petitioner at length, case being not fit to be interfered with, leave to appeal was refused and more so reappraisal of evidence cannot be made in every case without sufficient justification which is barely lacking in this case". (Muhammad Binyamin v. WAPDA 1991 SCMR 382, Faiz Ahmad v. Deputy Postmaster General, Lahore 1991 SCMR 368, Muhammad Munir Ahmad v. WAPDA 1990 SCMR 907, Munir Ahmed v. Punjab Service Tribunal, 1990 SCMR 1005, Barkat Ali v. Punjab Service Tribunal 1990 SCMR 1469, Muhammad Jaffar Toor v . Superintending Engineer, Headquarters, Irrigation, Sargodha 1.989 SCMR 1470, Munawar Tahir Hussain v. Government of the Punjab 1990 SCMR 1470, Najib Ullah v. Assistant Commissioner/Collector 1989 SCMR 679).

In the light of foregoing discussion we find no scope for interference in the impugned judgment and accordingly the petition being devoid of merits is dismissed.

Q.M.H./M.A.K./F-43/S Petition dismissed.

