

In the Administrative Appeals Tribunal

Appeal No : AAT/65/2022 (NPC)
Date : 05.02.2025

Mr. E. M. S. K. Ekanayake,
Temple Road,
Waduragala,
Kurunegala.

Appellant

Vs

The National Police Commission
Respondent

Before : **Justice K. T. Chitrasiri (Chairman)**
J. J. Rathnasiri, Member
S. Nandasekaran (Member)

Appellant is present. Mr. D. R. D. U. Dissanayake, Government Servant appears on behalf of the appellant.

Ms. Mala Basnayake, Deputy Director is present representing the National Police Commission.

Heard both parties in support of their respective cases.

This appeal has been filed seeking to set aside the order dated 27.10.2022 made by the then Public Service Commission which institution had the power to make Disciplinary Orders in respect of the Police Officers at the relevant period. In the said letter it is stated that the 1st and the 2nd charges framed against the appellant had not been proved while he was convicted for the charge No. 3. The said charge No. 3 is that the appellant has not made an entry in the relevant books to send the production namely, the dress of the victimized girl who was subjected to a sexual offence. Therefore, it is clear that the charge that was proved against the appellant is the failure on the part of the appellant for not making entries in the relevant books when handing over the productions to Court.

Admittedly, the accused in that case which bears the No. 3640/2016 filed in the High Court of Kegalle had been convicted on 02.07.2018. Therefore, it is clear that no prejudice had been caused for the process of dispensing justice due to the failure to make entries in the relevant books by the appellant.

This incident has taken place while the appellant was functioning as the Officer-In-Charge of Dedigama Police Station. However we do not find the date of offence in the charges framed against him. Moreover, the punishment imposed on the appellant had been on 27.10.2022 whilst the offence referred to in the charges supposed to have been during the period when the appellant was functioning as the Officer-In-Charge of Dedigama Police Station. Mr. Dissanayake appearing on behalf of the

appellant informs the Tribunal that the appellant was functioning as the OIC, Dedigama during the period of 2002-2006. The appellant further informs the Tribunal that he was transferred from Dedigama in the year 2007 to Polgahawela Police Station and the fact of not recording of sending the production had been on a date closer to the date of his transfer from Dedigama. Therefore, he submits that it was the duty of the incoming OIC to check on those records and to make appropriate entries.

It is to be noted that the punishment imposed on the appellant had been made by the Police Commission after a lapse of a period of 16 years from the date of the offence committed. On behalf of the appellant it is also submitted that there had been no adverse reports against the appellant until the punishment was imposed on 27.10.2022. The aforesaid matters are not being contradicted or rejected by the officers appearing on behalf of the National Police Commission.

Having considered the above circumstances, the Tribunal notes that there had been no prejudice caused to the process of dispensing justice by not making entries about sending the productions to the relevant Court that was taken charge by the Police. In fact the productions have been handed over to the Court and the Accused had been found guilty. Therefore, it is unreasonable to impose a punishment on the appellant for not making entries in the relevant books on the issue of sending productions to Court.

In the circumstances, the Tribunal decides to set aside the order dated 27.10.2022 which bears the Ref. No. PSC/DIS/084/2020 made by the then Secretary to the Public Service Commission.

Appeal is allowed.

I agree

Justice K. T. Chitrasiri
(Chairman)

I agree

J. J. Rathnasiri (Member)

S. Nandasekaran (Member)

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