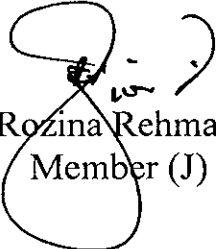


appellant to be their employee who served the department for long period and retired from service by attaining the age of superannuation. His pension case was not processed due to alleged involvement of the appellant in embezzlement case as after physical verification by the committee a Cultivator and Rotavator were found missing from the store. In this regard no demand certificate is available on file at page 15 & 16 of the appeal, which clearly shows that certificates was granted as per record of Agriculture Institute Tarnab, as there was nothing outstanding against the appellant. Store Officer SCRI, Store Keeper SCRI, Section Head (Breeding Section), Section Head (Entomology/Pathology), Farm Manager SCRI and Soil Chemistry Section signed the no demand certificate which means that nothing was outstanding against the appellant and despite this clear certificate his pension case was not processed.

7. As sequel to the above discussion, this appeal is allowed and the respondents are strictly directed to process the pension case of the appellant and make payment well within 30 days of the receipt of this judgment. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
27.02.2023


(Kalim Arshad Khan)
Chairman


(Rozina Rehman)
Member (J)

5. Conversely, learned District Attorney submitted that one Hasham Khan S/O Zafar Ali Khan filed a complaint against the appellant who was Director Sugar Crops Research Institute, Mardan on 08.09.2021 after his retirement. He leveled serious allegations against appellant regarding financial embezzlement which was the main cause of delay in processing his pension case. He contended that vide office order dated 23.09.2021 a committee was constituted to conduct physical verification of stock register, stock items/assets of ADP Funded Project Chip Bud Technology in the light of complaint mentioned above, and that as per finding of the committee Cultivator and Rotavator were found missing from the store. The committee visited the Hujra of the complainant and both the items were found in his Hujra as the same were sold by the appellant to him at a price of Rs.400000/- and that the appellant was asked time and again to return the government assets but he failed to return. Hence the processing of his pension case was subject to return of assets.

6. We are of the opinion that appellant served as Director Sugar Crops Research Institute, Mardan in (BS-19). He got retired from government service w.e.f 08.04.2021(A.N) on attaining the 60th years of age vide notification dated 30.07.2021. Sanction was also accorded to leave encashment preparatory to retirement equal to 365 days in his favour. He submitted different applications for grant of cash compensation allowance and all other allowances after retirement but the respondents were reluctant to process his pension case. The comments submitted on behalf of respondents are available on file, wherein the respondents admitted the



2. Brief facts of the case are that appellant retired from service as Director Sugar Crops Research Institute, Mardan on attaining the age of superannuation on 08.04.2021 vide notification dated 30.07.2021. He filed an application in respect of payment of compensation allowance equal to 365 days pay in lieu of LPR. The administration of Sugar Crops Research Institute, Mardan issued no demand certificate in respect of appellant and recommended further processing of his pension papers. Due to unwarranted attitude and delaying tactics of the respondents the appellant preferred departmental appeal for redressal of his grievance but to no avail; hence the present service appeal.

3. We have heard Tariq Kamal, Advocate learned counsel for the appellant and Muhammad Jan, learned District Attorney for respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Tariq Kamal Advocate, learned counsel for the appellant submitted that inaction of the respondents is against law and facts hence not tenable in the eyes of law. It was further submitted by learned counsel for appellant that the respondents deliberately delayed the pension case of the appellant and that his children suffered a lot as it was difficult for the appellant to meet their expenses besides daily expenses. He contended that the appellant was not dealt with in accordance with Article-4 of the Constitution of Islamic Republic of Pakistan as the payment of pension alongwith other emoluments to a civil servant on his retirement can be claimed as a right. He, therefore, requested for acceptance of the instant service appeal.



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.13/2022

Date of Institution ... 28.12.2021

Date of Decision ... 27.02.2023

Imran Ali, Ex-Director Sugar Crops Research Institute, Mardan.

... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa, through Chief Secretary, Civil Secretariat, Peshawar and three others.

... (Respondents)

Tariq Kamal
Advocate

... For appellant.

Muhammad Jan
District Attorney

... For respondents.

Mr. Kalim Arshid Khan
Mrs. Rozina Rehman

... Chairman
... Member (J)

JUDGMENT

ROZINA REHMAN, MEMBER: The appellant has invoked the jurisdiction of this Tribunal through above titled appeal with the prayer as copied below:

“That on acceptance of the instant appeal the respondents may please be directed to pay pension amount with all ancillary financial benefits alongwith 15 percent interest per annum, till realization to the appellant admissible under the rules.”

