

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**CAMP COURT, SWAT.**

Service Appeal No. 3913/2021

BEFORE: MRS. ROZINA REHMAN ... MEMBER(J)  
 MISS FAREEHA PAUL ... MEMBER(E)

1. Muhammad Javid s/o Shir Dil r/o village Nawagai Tehsil Mandanr, District Buner, legal heir of Ex-Police Officer Shir Dil District Buner.
2. Ulfat D/O Shir Dil W/O Sahib R/O village Nawagai Tehsil Mandanr, District Buner, legal heir of Ex-Police Officer Shir Dil District Buner.
3. Shabina D/O Shir Dil W/O Imran R/O village Nawagai Tehsil Mandanr District Buner, legal heir of Ex-Police Officer Shir Dil District Buner.
4. Salma D/O Shir Dil R/O Village Nawagai Tehsil Mandanr District Buner, legal heir of Ex-Police Officer Shir Dil District Buner.
5. Robina D/O Dhir Dil W/O Noor Ali Shah R/O village Agarai Tehsil Mandanr, District Buner, legal heir of Ex-Police Officer Shir Dil District Buner.
6. Fozya D/O Shir Dil R/O village Nawagai, Tehsil Mandanr District Buner, legal heir of Ex-Police Officer Shir Dil, District Buner.  
 .... (Appellant)

Versus

1. District Police Officer, Swat.
2. Regional Police Officer Malakand Division at Saidu Sharif, Swat.
3. Provincial Police Officer (IGP) at Khyber Pakhtunkhwa, Peshawar.
4. District Police Officer, Buner.
5. Government of Khyber Pakhtunkhwa through Secretary Home, Khyber Pakhtunkhwa, Peshawar.  
 ..... (Respondents)

Mr. Mushtaq Ahmad Alizai,  
 Advocate

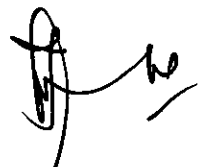
... For appellant

Mr. Muhammad Jan,  
 District Attorney

... For respondents

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Date of Institution.....04.03.2021  
 Date of Hearing.....07.03.2023  
 Date of Decision..... 07.03.2023



**JUDGEMENT**

**FAREEHA PAUL, MEMBER (E):** The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the impugned order dated 03.04.1996 whereby father of the appellants (legal heirs) was dismissed from service in violation of law, rules and constitution of Islamic republic of Pakistan. It has been prayed that on acceptance of the appeal, the impugned order might be set aside and be converted to retirement on the basis of being medically unfit and consequently all the fund, pension and back benefits be directed to be paid to the appellants being legal heirs of the deceased civil servant Shir Dil alongwith any other relief which this Tribunal deems fit and appropriate.

2. Brief facts of the case, as given in the memorandum of appeal, are father of the appellants, namely Shir Dil, was appointed as Police Constable on 14.07.1976 and he performed his duties for about 20 years. During his service, father of the appellants had become insane and due to his insanity he had no sense of his duties and other activities and often became dangerous for others. Due to the aforesaid reasons he was kept in chains and confined in the room. The appellant No. 1 was born in the year 1997 while his sisters were minor and their mother used to remain ill and there was no earning hand when father of the appellant became insane. Mother of the appellant died and he became the only earning hand in the



family. His father died in 2006. As the financial condition of the family was not good, therefore, he filed an application for providing documents of his father where his name was struck off from service due to his insanity but the appellant was provided the order dated 03.04.1996 whereby his father was dismissed from service due to absentia. The appellant filed a departmental appeal before respondent No. 2 but the same was not decided within the statutory period; hence the present appeal.

3. Respondents were put on notice who submitted written reply/comments on the appeal. We have heard the learned counsel for the appellant as well as the learned District Attorney for the respondents and perused the case file with connected documents in detail.

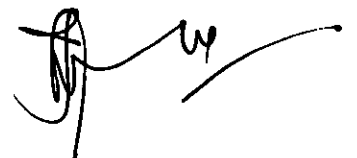
4. Learned counsel for the appellant presented the details of the case and argued that the impugned order dated 03.04.1996 was void and had been passed without observing the law and rules. He further argued that the order was a result of malafide intentions of the department as neither any show cause notice was served upon the appellant nor an opportunity of defence was given to him. He further argued that as the impugned order was void, therefore, no limitation ran against such an order. He requested that the appeal might be accepted as prayed for.

5. The learned District Attorney, while rebutting the arguments of the learned counsel for the appellant, argued that father of the appellant was appointed as Constable in the year 1976 in Police Department. However,



during his service he did not perform his duty efficiently. He was habitual absentee and remained absent from duty on many occasions without prior permission or approved leave and was also awarded 56 bad entries in his service. He further argued that neither any report or application was available on record regarding illness of the father of appellants nor were his high ups informed about his insanity or any other severe illness. He requested that the appeal might be dismissed.

6. After hearing the arguments and going through the record presented before us it is clear that the father of the appellant was appointed as Constable in Police Department in 1976 but he did not perform his duty efficiently and upto the satisfaction of his superiors. It is further admitted by the appellant that his father frequently absented himself from his lawful duty, without informing his superiors, on the ground that he was mentally ill and later on his condition deteriorated to such an extent that he had to be kept in chains and confined in his home. The appellant admits that no application for leave was submitted by his father at that time keeping in view his medical condition. The official record is also silent about receiving any such application and sanctioning of leave in favour of the father of the appellants, rather the record is replete with numerous bad entries. Official record further transpires that due process was followed before passing the impugned order. It is important to note that father of the appellant was an employee of a uniformed and disciplined force. He was bound to follow the rules applicable on him to



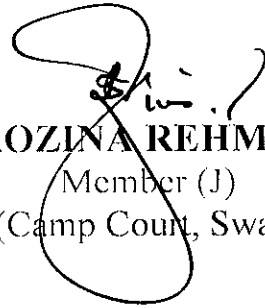
which he did not pay any heed and hence was guilty of misconduct and rightly proceeded against.

7. In view of the above discussion, the appeal in hand is dismissed. Parties are left to bear their own costs. Consign.

8. *Pronounced in open court at camp court, Swat and given under our hands and seal of the Tribunal this 07<sup>th</sup> day of March, 2023.*



(FAREEHA PAUL)  
Member (E)  
(Camp Court, Swat)



(ROZINA REHMAN)  
Member (J)  
(Camp Court, Swat)