

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

**Service Appeal No. 935/2022**

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

**Hafiz Jamsheed Khan Ex-SST Government Midde School**  
**Kalagay, District Swat. .... (Appellant)**

Versus

1. **The Secretary Elementary & Secondary Education, Government of Khyber Pakhtunkhwa, Peshawar.**
2. **The Director, Elementary & Secondary Education, Government of Khyber Pakhtunkhwa, Peshawar.**
3. **The District Education Officer (Male) at Gulkada, District Swat. .... (Respondents)**

**Mr. Imdadullah,**  
 Advocate

...

For appellant

**Mr. Fazal Shah Mohmand,**  
 Additional Advocate General

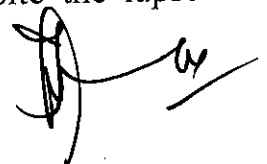
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For respondents

Date of Institution.....21.06.2022  
 Date of Hearing.....03.05.2023  
 Date of Decision..... 03.05.2023

**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 order dated 28.02.2022, whereby major penalty of compulsory retirement was imposed upon the appellant against which his departmental appeal was not responded despite the lapse of



statutory period. It has been prayed that on acceptance of the appeal, the impugned order might be set aside and the appellant might be reinstated in service with all back/consequential benefits.

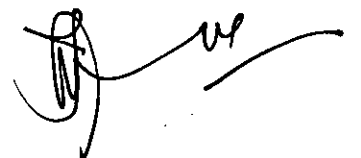
2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was appointed as T.T on 30.10.1986. He was promoted as SST (General) on 01.08.2017. He submitted applications for extraordinary leave on various occasions, which were all sanctioned by the authority. All the necessary entries in this regard were made in his service book. On 26.07.2021, he received a show cause notice from the office of respondent No. 2 regarding visiting abroad without getting the NOC for travelling abroad, alongwith alleged absence from personal hearing to which he submitted a detailed reply. Vide order dated 29.10.2019, he was warned by respondent No. 3 to be careful in future. The appellant subsequently submitted an application on 10.12.2019 for permission to proceed for Umrah. Again in the year 2020 a complaint was filed against him and after conducting inquiry, he was duly found present on the station of duty and thus complaint was disposed of. Vide letter dated 26.10.2020, the appellant was again asked to provide documents and also appear for personal hearing. He reported at the DEO (Male) office and submitted all the requisite record and also submitted reply to the letter. On 30.08.2021, he was again issued show cause notice to which he submitted detailed reply. Another letter dated 06.09.2021 was received by him whereby he was called for personal hearing. An anonymous



complaint was received on the Pakistan Citizen's Portal which was found to be totally wrong. According to the Monitoring Report since 15.09.2015 the appellant had been shown as regularly performing his duties. Furthermore the FIA report regarding the departure and arrival of the appellant showed that he had proceeded only for Umrah and never had overstayed. Major penalty of compulsory retirement from service was imposed upon him vide notification dated 28.02.2022. Feeling aggrieved, he preferred departmental appeal on 18.03.2022 followed by another appeal which was not responded despite lapse of statutory period; hence the present appeal.

3. Respondents were put on notice who submitted written replies/comments on the appeal. We have heard the learned counsel for the appellant as well as the learned Additional Advocate General 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 appellant has not been treated in accordance with law and rules on the subject. He further argued that the appellant had never absented himself willfully which was clear from the record. According to him no proper enquiry was conducted against him which was mandatory under the law before awarding major penalty of compulsory retirement from service. He further argued that no opportunity was extended to him to defend himself and he had been condemned unheard. He requested that the appeal might be accepted as prayed for.



5. The learned Additional Advocate General while rebutting the arguments presented by learned counsel for the appellant contended that the appellant was in the habit of remaining absent from duty for long periods without getting approval from his competent authority and that the travel history obtained from the FIA indicated that he travelled abroad on many occasions without formal approval, sanctioned leave and NOC of the provincial government. As far as his replies to various notices were concerned, the appellant concealed the actual facts and they were declared unsatisfactory by his competent authority. The learned AAG informed that the appellant had obtained his passport without declaring himself a government servant. He further informed that a complaint was received on the Pakistan Citizen's Portal and an inquiry was conducted in the matter which revealed all the facts that the appellant travelled abroad several times without getting his leave sanctioned and without the NOC of the government. He requested to dismiss the instant appeal.

6. After hearing the arguments and going through the record presented before us, it transpires that the appellant was appointed as Theology Teacher in 1986 and was promoted as SST (G) in 2017. During his service he submitted applications for leave as a result of which extraordinary leave was sanctioned by his department at various occasions. Record provided by the appellant with his service appeal indicates two sanction orders dated 02.07.1997 and 17.08.1999 of extraordinary leave without pay for 730 days each and another order dated



25.08.2001 of extra-ordinary leave without pay for 365 days. Another sanction order dated 15.04.2004 is available for 61 days leave with full pay. Copy of service book annexed with the appeal indicates sanction of 105 days earned leave on half pay vide order dated 18.03.2006. After this order, the record is silent on any leave requested by the appellant and sanctioned by his competent authority. However, the record of FIA indicates that the appellant travelled frequently to Dubai and UAE between March 2007 to February 2020. When confronted to produce any sanction order of leave and NOC issued by the government, the appellant was not able to respond. He admitted that he did not get his leave sanctioned nor got the NOC of the government to travel abroad. This revealed another fact that he had concealed his status as government servant, during this entire period, in his passport and it came to the knowledge of the official respondents through a complaint submitted by a citizen, whose identity has been hidden, on the Pakistan Citizen's Portal maintained by the Prime Minister's Performance Delivery Unit, on 25.07.2019. The matter was inquired and as a result of that he was compulsory retired from government service.


7. There is no second opinion on the fact that a civil servant is bound by certain rules made under the Civil Servants Act, 1973 and the appellant, being a civil servant, was bound to act keeping himself within the ambit of those rules. He was also a Headmaster of a school and being a head of an educational institution, he was under obligation to keep




himself disciplined and set an example for his subordinate staff and the students studying in that school. Facts presented before us reveal that he miserably failed to do so.

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

9. *Pronounced in open court at camp court, Swat and given under our hands and seal of the Tribunal this 03<sup>rd</sup> day of May, 2023.*

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

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