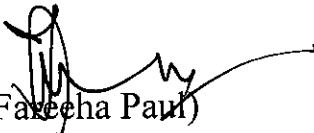



recovery of loss of Rs.7,74,116/- was neither proposed nor confronted with the appellant, therefore, that is not sustainable and is accordingly set aside. The department is, however, at liberty to issue show cause notice of recovery of the alleged amount and then proceed in accordance with law. Appeal stands disposed of in the above manner. Consign.

3. Pronounced in open Court at Peshawar under our hands and seal of the Tribunal on this 24th of May, 2023.


(Fareeha Paul)
Member (E)


(Kalim Arshad Khan)
Chairman

Mutazem Shah

**Service Appeal No.06/2016 titled "Muhammad Shaukat Vs. Chief Secretary
Khyber Pakhtunkhwa and others**

24th May, 2023

1. Learned counsel for the appellant present. Mr. Muhammad Jan, District Attorney for respondents present.

2. At the very outset learned counsel for the appellant submitted that vide the impugned order, the appellant was awarded two punishments. One was reduction of time scale of pay by three stages for three years and the other was for recovery of loss of Rs.7,74,116/-. Learned counsel further submits that first part of the punishment had been undergone by the appellant and if the other side agreed that the said punishment would not adversely affect his previous service, he would not press appeal to that extent. The learned AAG agreed to that, therefore, the appeal stands disposed of to the extent of the prayer made in the memorandum of appeal by the appellant in above manner.

3. As regard the second prayer regarding setting aside the punishment of the punishment of recovery of loss of Rs.7,74116/-, the learned counsel referred to the show cause notice, wherein, the appellant was not confronted nor the tentative decision was mentioned therein. Learned counsel for appellant relies on 2009 TD (Service) page 248 titled "Shahid Mehmood v. Battalion Commander & another", wherein, it was held that non-disclosure in the show cause notice of penalty to be imposed, would be violative not only of the law but also against the natural justice, therefore, he submits that the punishment of recovery would not sustain. Admittedly, in the show cause notice, the penalty of

