

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
AT CAMP COURT SWAT.**

BEFORE: **KALIM ARSHAD KHAN ...CHAIRMAN**
M.AKBAR KHAN ...MEMBER (Executive)

Service Appeal No.6702/2021

Date of presentation of appeal.....01.07.2021
Dates of Hearing.....06.06.2023
Date of Decision.....06.06.2023

Hussain Ali S/O Farzan Ali R/O Gunbat Maira Mingora, Tehsil Babozai District Swat (Assistant Grade Clerk, DPO Office, Dir Upper).....Appellant)

Versus

1. **Provincial Police Officer**, Government of Khyber Pakhtunkhwa at Central Police Office (CPO) Peshawar.
2. **AIG Establishment** in the office of Inspector General of Police Khyber at Peshawar.
3. **Deputy Inspector General of Police/Regional Police Officer (RPO)** Malakand Region at Swat.
4. **District Police Officer**, Dir Upper at Dir.
.....(*Respondents*)

Present:

Mr. Muhammad Javaid Khan, Advocate.....For appellant.

Mr. Fazal Shah Mohmand,
Additional Advocate General.....For respondents

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 READ WITH OTHER RELEVANT PROVISIONS AGAINST THE IMPUGNED ORDER DATED 03.06.2021 ISSUED BY RESPONDENT NO.2 ON BEHALF OF RESPONDENT NO.1, WHEREBY THE DEPARTMENTAL APPEAL/REPRESENTATION FILED BY THE APPELLANT DATED 16.02.2021 HAS BEEN REJECTED ILLEGALLY, UNLAWFULLY AND UNCONSTITUTIONALLY.



JUDGMENT

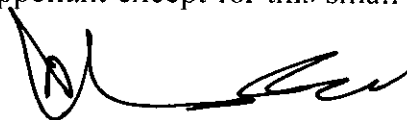
KALIM ARSHAD KHAN CHAIRMAN: According to the memorandum and grounds of appeal, the appellant was serving as Assistant Grade Clerk in the office of District Police Officer, Dir Upper; that on 16.02.2021, respondent No.4 District Police Officer, Dir Upper communicated ACR for the period 20.08.2019 to 31.12.2019 with adverse remarks to the appellant vide letter No. 79-80/AS, dated 20.01.2021; that on the same date, the appellant submitted an appeal/representation/application for expunging the adverse remarks to respondent No.1 through proper channel vide letter No. 1131/EC, dated 16.12.2021 issued by respondent No.4; that the same appeal/representation/application had been rejected vide order dated 03.06.2021 by respondent No.1, hence, the instant service appeal.

2. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents put appearance and contested the appeal by filing written reply raising therein numerous legal and factual objections. The defence setup was a total denial of the claim of the appellant.

3. We have heard learned counsel for the appellant and learned Additional Advocate General for the respondents.

4. The Learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned Additional Advocate General controverted the same by supporting the impugned order(s).

5. The record reflects that admittedly there is no adverse entry in the entire service record of the appellant except for this small period of just few months of the



year whereas the entries of the same year prior to the impugned entries were stated to be good. When in a year majority portion of the report is good this short period of adverse report will not be justified and that too without supporting material in the shape of advice, counseling, explanation or for that matter from any corner against the appellant regarding the allegation against him in presence of unblemished long service record of the appellant. Therefore, while allowing this appeal, we set aside the impugned order dated 03.06.2021 and the adverse remarks against the appellant for the period 20.08.2019 to 31.12.2019 is expunged. Costs shall follow the events. Consign.

6. *Pronounced in open Court at Swat and given under our hands and the seal of the Tribunal on this 6th day of June, 2023.*



KALIM ARSHAD KHAN
Chairman
Camp Court Swat



MUHAMMAD AKBAR KHAN
Member (Executive)
Camp Court Swat

Adnan Shah, PA