

of arguments. In the reply to show cause notice the appellant had admitted all the discrepancies, which he had done during performance of his duties, which speak about his inefficiency and was thus rightly dealt with by the authority. Seeing no merit in this appeal it stands dismissed. Cost shall follow the events. Consign.

06. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 14th day of June, 2023.*



KALIM ARSHAD KHAN
Chairman



FARIHA PAUL
Member (Executive)

Adnan Shah, P.A.

05. The appellant was proceeded against on the inspection report of Additional Deputy Commissioner, Peshawar, who pointed out certain discrepancies in the performance of the Patwari/appellant. The appellant was called upon to explain his position vide letter No. 1081/DK dated 30.05.2019; the appellant replied to the explanation on 31.05.2019, which was found unsatisfactory, he was then issued show cause notice on 27.06.2019, which he replied on 04.07.2019 explaining his guilt. Opportunity of personal hearing was provided to him on 05.07.2019 and he was accordingly removed from service vide order dated 05.07.2019. He filed appeal before the Commissioner, Peshawar Division. The Commissioner, Peshawar Division partially accepted the appeal and, while reinstating him, the punishment awarded to him by the Deputy Commissioner, was reduced to deduction of one increment for a period of one year under Rule 4(1)(a)(ii) of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011. The appellant then filed this appeal. The order of the Commissioner, Peshawar Division shows that the appellant had verbally requested that he was a diabetic patient and due to unstable health condition, he frequently proceeded on medical leave, which resulted in non-completion of crops inspection and entries in the Roznamcha Karguzari during his posting at Daman Afghani. He further submitted he did not chalk out the unsigned mutation part e sarkar with malafide intention nor any complaint was made by the relevant parties against him in this regard. While the unsigned documents were also later on signed by the Revenue Officer Girdawar. The above portion of the impugned order was not controverted by the appellant either in the memo and grounds of appeal or during the course

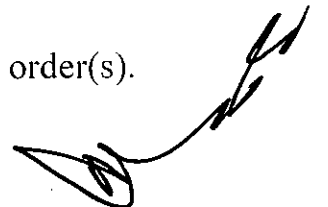
JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Brief facts of the case are that the appellant was posted as Patwar Khana Daman-e-afghan Peshawar; that the appellant was issued an explanation dated 30.05.2019, whereby some allegation was leveled against the appellant, which was replied by the appellant; that thereafter respondent No.1 issued a show cause notice, which was also replied by the appellant; that the respondents, without issuing charge sheet/statement of allegation and conducting regular or even fact finding inquiry, removed the appellant from service vide impugned order dated 05.07.2019; that feeling aggrieved, the appellant filed departmental appeal dated nill, which was partially accepted by converting the major penalty of removal from service into minor penalty of deduction of one increment for a period of one year and the period of his absence was treated as leave without pay; hence, the present service appeal.

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

03. We have heard learned counsel for the appellants and learned District Attorney for the respondents.

04. The Learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned District Attorney controverted the same by supporting the impugned order(s).



**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.**

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**
FAREEHA PAUL ... MEMBER (Executive)

Service Appeal No.1597/2019

Date of presentation of Appeal.....25.11.2019

Date of Hearing.....14.06.2023

Date of Decision.....14.06.2023

Saleem Shahzad the then Patwari Halqa e Daman Afghan Peshawar.
.....*Appellant*

Versus.

1. **The Commissioner, Peshawar.**
 2. **The Deputy Commissioner, Peshawar.**
-(*Respondents*)

Present:

Miss. Naila Jan, Advocate.....For the appellant

Mr. Muhammad Jan, District AttorneyFor respondents.

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APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER OF RESPONDENT NO.2 DATED 05.07.2019, WHEREBY THE APPELLANT WAS REMOVED FROM SERVICE AND AGAINST ORDER DATED 09.10.2019 OF RESPONDENT NO.1 WHEREBY THE MAJOR PENALTY OF REMOVAL FROM SERVICE WAS CONVERTED INTO DEDUCTION OF ONE INCREMENT FOR A PERIOD OF ONE YEAR AND ORDER OF RESPONDENT NO.2 DATED 18.10.2019 WHEREBY IN COMPLIANCE WITH ORDER DATED 09.10.2019 OF RESPONDENT NO.1 THE APPELLANT WAS REINSTATED INTO SERVICE AND THE MINOR PENALTY DEDUCTION OF ONE INCREMENT WAS AWARDED ON THE BASIS OF THE APPELLANT ORDER AND IN ADDITION THE INTERVENING PERIOD WAS TREATED AS LEAVE WITHOUT PAY.

