

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.**

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

Service Appeal No. 1008 of 2020

Date of presentation of Appeal.....09.09.2020
Date of Hearing.....25.07.2023
Date of Decision.....25.07.2023

Salman, Ex-FC No. 2126, FRP Headquarters Peshawar.....Appellant

Versus

1. **The Inspector General of Police, Khyber Pakhtunkhwa Peshawar.**
2. **Commandant Frontier Reserved Police, Khyber Pakhtunkhwa, Peshawar.**
3. **The Deputy Commandant Frontier Reserved Police, Khyber Pakhtunkhwa, Peshawar.....(Respondents)**

Present:

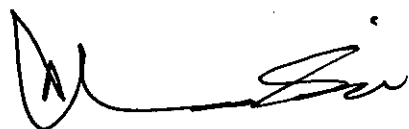
Naila Jan, Advocate.....For the appellant

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

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**APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974
AGAINST THE IMPUGNED ORDER DATED 05.07.2019,
WHEREBY THE APPELLANT WAS AWARDED
MAJOR PUNISHMENT OF REMOVAL FROM
SERVICE WITH RETROSPECTIVE EFFECT, AGAINST
ORDER DATED 05.09.2019, WHEREBY
DEPARTMENTAL APPEAL OF THE APPELLANT WAS
REJECTED AND ORDER DATED 10.08.2020,
WHEREBY REVISION UNDER POLICE RULES 11(A)
WAS REJECTED FOR NO GOOD GROUNDS.**

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Facts of the case are that
appellant was appointed in the year 2011; that he while performing his



duties, was informed that his son was seriously ill and on the verbal permission of his superior, he went to his house to take his son to the hospital; that after recovery of his son, the appellant went to join his duty but he was removed from service vide order dated 05.07.2019; that feeling aggrieved, the appellant preferred departmental, which was rejected on 05.09.2019; that thereafter, the appellant filed revision petition Under 11-A Police Rules, 1975, which was also rejected on 10.08.2020, 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 by filing written reply 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 Additional Advocate General 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 Additional Advocate General controverted the same by supporting the impugned order(s).

05. The appellant remained absent from 27.01.2019 till the date of his removal from service on 05.07.2019. The respondents had annexed certain documents in support of their reply. There is an order dated 07.02.2021 annexed with the reply, which shows that the

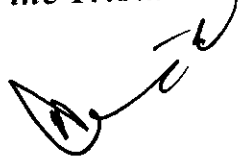
appellant was previously absent from 05.10.2018 to 07.11.2018 and again from 20.12.2018 to 25.01.2019, without leave/permission and once before, departmental proceedings were initiated against him wherein he had been dealt with leniently on his explaining the absence to be because of illness of his wife and son, therefore, absence period was treated as earned leave purely on compassionate grounds. Just two days after 25.01.2019, the date of last absence, the appellant again absented w.e.f. 27.01.2019. He was issued charge sheet, which he had received and then after conducting of enquiry by DSP/HQRs: FRP Peshawar, he was issued final show cause notice which was also received by him, but he did not file reply in response to the final show cause notice, he was provided opportunity of personal hearing but he could not avail the same. Consequently, on 05.07.2019 major penalty of removal from service was imposed upon him and period of his absence from duty was treated as leave without pay. He filed departmental appeal, which was dismissed by the Commandant on 05.09.2019, whereas the Inspector General of Police, Khyber Pakhtunkhwa vide letter No. S/3243/20 dated 10.08.2020 filed the application of the appellant for reinstatement into service holding the same to be badly barred by time. The appellant has annexed with his appeal certain medical prescriptions, allegedly in the name of his son, but he has admittedly not submitted any application for seeking leave for such a long absence, therefore, the department has rightly proceeded against him for his absence without seeking leave or




Service Appeal No. 1008 of 2020 titled "Salman versus The Inspector General of Police, Khyber Pakhtunkhwa Peshawar and others", decided on 25.07.2023 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Fareeha Paul, Member Executive, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

permission from the authorities. This being so, this appeal has no grounds and is dismissed. Cost shall follow the event. Consign.

06. Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 25th day of July, 2023.



KALIM ARSHAD KHAN
Chairman



FAREEHA PAUL
Member (Executive)

Adnan Shah, P.A.