

5. Admittedly the enquiry was ^{not} conducted by the Additional Deputy Commissioner in accordance with the relevant rules nor any show cause notice was issued by the Deputy Commissioner or even the appellant was not associated either with the enquiry proceedings or the authorities had provided him any opportunity of personal hearing, rendering the entire disciplinary proceedings to be an irregular exercise, paving the way for acceptance of this appeal.

6. Therefore, while accepting this appeal, we set aside both the impugned orders and remit the matter back to the authorities to conduct proper de-novo enquiry under the rules within a period of sixty (60) days after receipt of copy of this judgment/order. The issue of back benefits shall be subject to the outcome of de-novo inquiry. Date of receipt of copy of the judgment shall be acknowledged in writing to the Registrar of this Tribunal. Costs shall follow the events. Consign.

7. ***Pronounced in open Court at Swat and given under our hands and the seal of the Tribunal on this 5th day of September, 2023.***



KALIM ARSHAD KHAN

Chairman
Camp Court Swat



MUHAMMAD AKBAR KHAN

Member (Executive)
Camp Court Swat

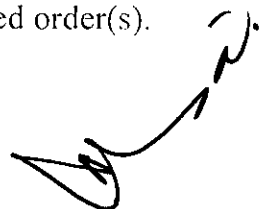
JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: According to the memorandum and grounds of appeal, the appellant was appointed as Naib Qasid vide order No. 04.03.2006; that the appellant was then promoted to the post of Junior Clerk vide order dated 29.10.2019; that the appellant while performing his duties as Junior Clerk at the office of the Additional Assistant Commissioner (R) received order dated 01.12.2022, whereby he was suspended on the allegation of involvement in malpractice/demanding money; that the respondents conducted an enquiry; that the respondents issued impugned order dated 28.12.2022, whereby major penalty of dismissal from service was imposed upon the appellant; that feeling aggrieved, the appellant preferred departmental appeal to respondent No. 2; that departmental appeal of the appellant was partially accepted vide order dated 23.02.2023 by reinstating the appellant into service and major penalty of removal from service into minor penalty of withholding of increments for three years, 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).



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

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

Service Appeal No.594/2023

Date of presentation of appeal.....20.03.2023
Dates of Hearing.....05.09.2023
Date of Decision.....05.09.2023

Ikram Ud Din, Junior Clerk at AAC (R) Dir Lower.
.....*Appellant*

Versus

1. **The Senior Member Board of Revenue** Government of Khyber Pakhtunkhwa, Peshawar.
2. **The Commissioner** Malakand at Saidu Sharif Swat.
3. **The Deputy Commissioner Dir Lower.**
.....(*Respondents*)

Present:

Mr. Imdad Ullah, Advocate.....For appellant.

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

PARTIAL SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER NO. 21373/ESTT; DATED 28.12.2022, WHEREBY THE MAJOR PENALTY OF DISMISSAL FROM SERVICE WAS IMPOSED UPON THE APPELLANT AGAINST THE LAW, RULES AND FACTS, FEELING AGGRIEVED FROM THE SAME THE APPELLANT PREFERRED A DEPARTMENTAL APPEAL ON 02.01.2023, WHICH WAS PARTIALLY ACCEPTED BY REINSTATING THE APPELLANT WHILE THE SAME TIME PENALTY OF WITHHOLDING OF THREE INCREMENTS WAS IMPOSED WITH FURTHER DIRECTIONS TO TRANSFER THE APPELLANT AS WELL, WHICH IS ALSO AGAINST THE LAW, RULES AND FACTS AND IS LIABLE TO BE SET ASIDE.

