


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.

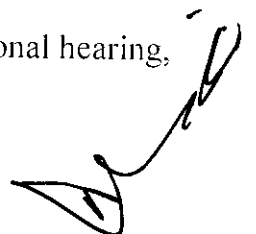
7. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 12th day of September, 2023.*


KALIM ARSHAD KHAN
Chairman


MUHAMMAD AKBAR KHAN
Member (Executive)

informed by the respondents; that the said dismissal order dated 21.12.2021 was never communicated to the appellant rather it was communicated to the appellant on 17.01.2022 upon submission of application for providing the copy of dismissal order; that the appellant submitted departmental appeal on 20.01.2022 against the impugned order dated 21.12.2021 which was rejected on 29.04.2022; that the appellant filed revision petition dated nil which was not responded, hence, the instant service appeal on 24.05.2022.

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. Admittedly the enquiry was not conducted by the Sub-Divisional Police Officer Tehsil Ambar, Lower Mohmand Sub Division in accordance with the relevant rules nor any show cause notice was issued by the District Police Officer, Mohmand Tribal District or even the appellant was not associated either with the enquiry proceedings or the authorities had provided him any opportunity of personal hearing.



Service Appeal No.899/2022 titled "Ahmad Ali-vs- District Police Officer Mohmand Tribal District and others",
decided on 12.09.2023 by Division Bench comprising Kalim Arshad Khan, Chairman, and Muhammad Akbar
Khan, Member, Executive, Khyber Pakhtunkhwa Service Tribunal Peshawar.

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR**

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

Service Appeal No.899/2022

Date of presentation of appeal.....24.05.2022
Dates of Hearing.....12.09.2023
Date of Decision.....12.09.2023

**Ahmad Ali S/O Mehmood Khan R/o Abdur Rehman Banda
Mardan.....(Appellant)**

Versus

1. **District Police Officer, Mohmand Tribal District.**
2. **Regional Police Officer, Mardan.**
3. **Inspector General of Police, Khyber Pakhtunkhwa Peshawar.**
.....(Respondents)

Present:

Mr. Kabir Ullah Khattak, Advocate.....For appellant.

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

**APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST
THE ORDER DATED 21.12.2021, WHEREBY THE
APPELLANT HAS BEEN AWARDED MAJOR PUNISHMENT
OF DISMISSAL FROM SERVICE AGAINST WHICH THE
APPELLANT FILED DEPARTMENTAL APPEAL DATED
20.01.2022 WHICH WAS REJECTED ON 29.01.2022 ON NO
GOOD GROUNDS.**

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: According to the memorandum and
grounds of appeal, the appellant was appointed as Constable in the year 2011 in the
respondent department; that while performing of official duty. the appellant was
dismissed from service on 21.12.2021 by the respondent department on the allegation
that the appellant failed to attend the basic recruit course but the appellant was never