


Service Appeal No. 765/2017 titled "Qabil Shah versus Government of Khyber Pakhtunkhwa through Secretary Home & Tribal Affairs Department, Peshawar and others", decided on 04.10.2023 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Mr. Muhammad Akbar Khan, Member Executive, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

07. *Pronounced in open Court at Peshawar and given under our hands and seal of the Tribunal on this 04th day of October, 2023.*



KALIM ARSHAD KHAN
Chairman



MUHAMMAD AKBAR KHAN
Member (Executive)

**Mutazem Shah **

District Attorney controverted the same by supporting the impugned order(s).

05. The representation of the appellant was turned down on the sole ground that the appellant had tendered resignation from service on 29.08.2019, which was allegedly accepted by the Superintendent Jail, Lakki Marwat. As against that, the appellant contends that he had never resigned from service, rather he denied submission of any resignation as well as denying his signature on the alleged resignation, which the respondents claim to have been submitted/tendered by the appellant. In a situation when a document is asserted by one party and the same or the signature thereon or handwriting attributed to a person are denied by that person, in such an eventuality, the proper course was to conduct an inquiry into the matter and also sending the signatures and handwriting of the person (in this case, the appellant) to the handwriting expert as well as Forensic Science Laboratory (FSL) for chemical analysis and verification as to the genuineness of the handwriting as well as signature of the appellant.

06. Viewing the case in the above situation, we deem it appropriate that the matter be remitted to the respondents for conducting inquiry into the matter to verify the signature and genuineness of the alleged resignation and then proceed in accordance with law and rules. The appellant is reinstated in service for the purpose of inquiry. The issue of back benefits shall be subject to the outcome of the inquiry. Consign.



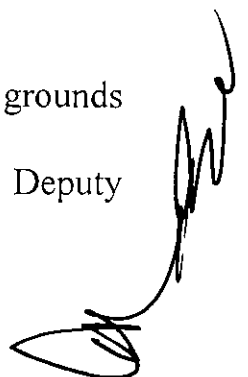
JUDGMENT

KALIM ARSHAD KHAN, CHAIRMAN: The facts gathered from the memo and grounds of appeal are that the appellant was serving in the Prisons Department as Cook/Class-IV since 31.12.2017; that after serving for two years, his salary was stopped and he was restrained from performing of duty, therefore, he approached the Peshawar High Court and the Peshawar High Court vide order 03.12.2019, passed in Writ Petition No.1159/2019, converted the writ petition into representation, with direction to the authorities to redress the grievance of the appellant, within 30 days, positively; that during the course of proceedings, the appellant was informed regarding his removal from service, on the ground of submission of fake resignation letter; that taking the ground of resignation, the respondents dismissed the departmental appeal. Therefore, he filed the instant 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 Deputy 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 Deputy



KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

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

Service Appeal No.938/2020

Date of presentation of Appeal.....13.02.2020

Date of Hearing.....04.10.2023

Date of Decision.....04.10.2023

Mr. Qabil Jan (Class-IV) in District Jail Lakki Marwat, Tehsil & District Lakki Marwat.**Appellant**

Versus

1. **The Government** of Khyber Pakhtunkhwa Peshawar through Secretary Home & Tribal Affairs Department, Khyber Pakhtunkhwa, Peshawar.
2. **Inspector General of Prison**, Khyber Pakhtunkhwa, Peshawar.
3. **Superintendent Circle Headquarter Prisons Bannu**.
4. **Superintendent District Jail**, Lakki Marwat.
5. **District Account Officer**, Lakki Marwat.
6. **Deputy Commissioner**, District Lakki Marwat.....(**Respondents**)

Present:

Arbab Saiful Kamal, Advocate.....For the appellant
Mr. Asif Masood Ali Shah, Deputy District Attorney.....For respondents

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**APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974
AGAINST THE ORDER NO.ESTB/WARD/ORDERS/1907
DATED 14.01.2020 OF THE (INSPECTOR GENERAL OF
PRISON) RESPONDENT NO.2 VIDE WHICH THE
DEPARTMENTAL APPEAL OF THE APPELLANT WAS
REJECTED.**

