
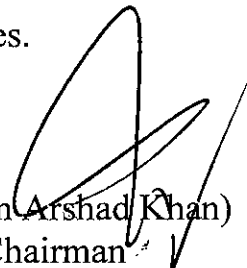


FORM OF ORDER SHEET

Court of _____

Appeal No. _____

2541/2023

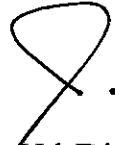
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	06/12/2023	<p>The appeal of Mr. Muhammad Ikramullah Khan resubmitted today by Mr. Muhammad Yousaf Khan Advocate. It is fixed for preliminary hearing before touring Single Bench at D.I.Khan on <u>18/12/23</u>.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>
	18 th Dec. 2023	<ol style="list-style-type: none">1. Learned counsel for the appellant present.2. Let this appeal be heard by a bench not headed by the undersigned, therefore, be sent to second Single Bench for tomorrow i.e. 19.12.2023 for preliminary hearing at Camp Court, D.I.Khan. P.P given to the parties. <p> (Kalim Arshad Khan) Chairman Camp Court, D.I.Khan</p>

SCANNED
K. I. T
Peshawar

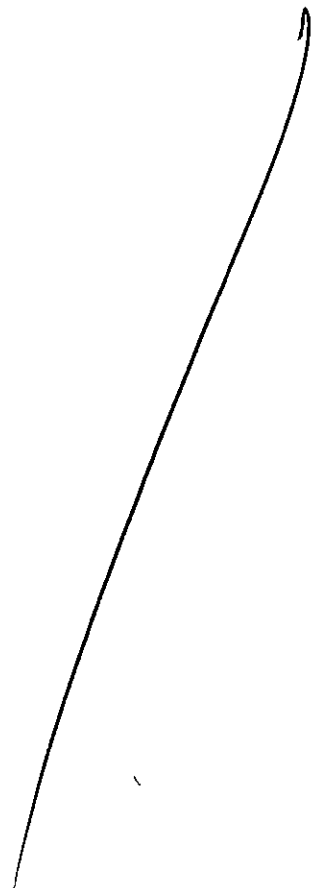
*Adnan Shah *

19.12.2023

Appellant alongwith his counsel present.
Learned counsel for the appellant requested that the case law on which he is relying is not available with him today, therefore, an adjournment may be granted. Adjourned. To come up for preliminary hearing on 21.12.2023 before the S.B at Camp Court D.I.Khan. Parcha Peshi given to the appellant.


(Salah-Ud-Din)
Member (J)
Camp Court D.I.Khan

Naeem Amin




Service Tribunal established under the Khyber Pakhtunkhwa Province Service Tribunals Act, 1974 (Khyber Pakhtunkhwa Act No. I of 1974).

(2).....

6. The right of appeal provided to a government servant against any penalty awarded to him under the *Rules*, is not a general right of appeal rather the same has been specifically provided in Rule-19 of the very *Rules* and could be invoked only after exhausting of the right of appeal or review as provided in Rule-17 of the *Rules*. Moreover, according to Section-4 of Khyber Pakhtunkhwa Service Tribunal Act, 1974, any civil servant aggrieved by any final order, whether original or appellate made by a departmental authority in respect of any of the terms and conditions of his service may, invoke the jurisdiction of the Khyber Pakhtunkhwa Service Tribunal through filing of service appeal under Section-4 of the said act. Keeping in view Rules 17 & 19 of the *Rules* read with Section-4 of Khyber Pakhtunkhwa Service Tribunal Act, 1974 the appeal of the appellant is premature at this stage.

7. Resultantly, the appeal in hand stands dismissed in *limine* being premature. The appellant may, however retrace his footsteps and may seek the desired relief by making recourse to the competent forum, if he is so advised. No order as to cost. File be consigned to the record room.

ANNOUNCED
21.12.2023


(Salah-Ud-Din)
Member (Judicial)
Camp Court D.I.Khan

Pakhtunkhwa Peshawar, which was entrusted to an inquiry officer for fact finding inquiry. The inquiry officer submitted his report on 29.08.2023, however the departmental appeal of the appellant remained un-responded, hence the instant appeal.

4. In essence the appellant has challenged the inquiry proceedings initiated against him as well as one Abdul Waheed Patwari under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 (hereinafter be referred as the Rules). According to the available record, the disciplinary proceedings have not yet culminated into any order, which could be challenged through filing of departmental appeal or review under Rule-17 of the Rules. Sub-rule-1 of Rule-17 of the Rules is reproduced as below:-

“17. Departmental appeal and review.---(1) An accused who has been awarded any penalty under these rules may, within thirty days from the date of communication of the order, prefer departmental appeal to the appellate authority: (Emphasis supplied)

Provided that where the order has been passed by the Chief Minister, the accused may, within the aforesaid period, submit a review petition directly to the Chief Minister.

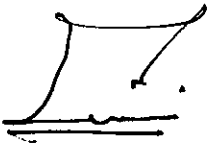
(2).....

(3).....

5. Furthermore, a government servant aggrieved by any final order passed on his departmental appeal under Rule-17 of the Rules may challenged the same by way of filing service appeal under Rule-19 of the Rules, sub rule-1 of which is reproduced as below:-

“19. Appeal before Khyber Pakhtunkhwa Province Service Tribunal.---(1) Notwithstanding anything contained in any other law or rules for the time being in force, any Government servant aggrieved by any final order passed under rule 17 may, within thirty days from the date of communication of the order, prefer an appeal to the Khyber Pakhtunkhwa Province

challenged by him through filing of service appeal before this Tribunal, which was disposed of with the directions to conduct de-novo inquiry in the matter. On conclusion of the de-novo inquiry proceedings, Abdul Waheed Patwari was again dismissed from service, which was challenged by him through filing of service appeal before this Tribunal, however the same was dismissed. The review filed by Abdul Waheed Patwari was, however accepted and he was ordered to be reinstated in service vide judgment dated 15.12.2020 passed by this Tribunal. The said judgment was challenged by the respondents through filing of Civil Appeal No. 327 of 2021 before Supreme Court of Pakistan, which was disposed of vide order dated 26.07.2021, whereby the judgment dated 15.12.2020 passed by this Tribunal was set-aside and the matter was remanded to the respondents for re-conducting an inquiry and obtaining of FSL report regarding the signatures of Abdul Waheed Patwari on the two fake mutations. Vide letter No. 2385/DC-Kt/Estab dated 13.08.2021 issued from the office of Deputy Commissioner Kohat, request was made to the Assistant Secretary (Etab) Board of Revenue and Estate Department to initiate inquiry against the appellant and Abdul Waheed Patwari. The appellant was then issued charge sheet as well as statement of allegations by Chief Secretary Khyber Pakhtunkhwa and the inquiry officer summoned him for joining the inquiry proceedings. The inquiry officer opined in his findings that due to non-provision of the original record by Deputy Commissioner Kohat to the FSL, the matter could not proceed further. The appellant then filed departmental appeal before the SMBR Khyber



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR AT CAMP COURT D.I.KHAN

Service Appeal No. 2541/2023

Muhammad Ikramullah Khan, S/O Raheem Bakhsh, R/O D.I.Khan, Additional
Assistant Commissioner, Jandola, Tribal Sub-Division/TSD Tank.

VERSUS

Government of Khyber Pakhtunkhwa through, through Chief Secretary, Khyber
Pakhtunkhwa, Peshawar and 07 others.

ORDER

21.12.2023

Appellant alongwith his counsel present. Preliminary arguments heard and the available record perused.

2. The appellant has invoked the jurisdiction of this Tribunal through filing of the instant appeal with the prayer copied as below:-

“On acceptance of the instant service appeal, the orders dated 13.08.2021, 18.04.2022, 09.05.2022 and 12.09.2022 may be set-aside and all the impugned proceedings may be declared void ab-initio, illegal, coram-non-judice, amounting to double jeopardy, liable to cancellation.”

3. Precise averments as per memo of the appeal are that upon complaint being filed by one Mst. Laila Shah, Deputy Commissioner Kohat ordered conducting of an inquiry regarding the review of mutation No. 2432 dated 16.05.2012 and mutation No. 1890 dated 19.03.2012. Abdul Qayyum Revenue Officer Kohat was appointed as inquiry officer, who conducted fact finding inquiry in the matter. According to the inquiry report, the appellant was exonerated while one Abdul Waheed Patwari was held responsible for attestation of two fake mutations mentioned above. On conclusion of the disciplinary proceedings, Abdul Waheed Patwari was awarded major penalty of dismissal from service vide order dated 16.03.2014, which was