

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR AT  
CAMP COURT ABBOTTABAD**

Service Appeal No.4802/2021

BEFORE: MRS. RASHIDA BANO ... MEMBER (J)  
MR. MUHAMMAD AKBAR KHAN ... MEMBER (E)

Mr. Muhammad Khurshid S/O Behram Khan R/O Village Deverian Phulra  
Tehsil & District Mansehra.

.... (Appellant)

**VERSUS**

1. District Police Officer, Mansehra.
2. Inspector General of Police, Khyber Pakhtunkhwa.
3. Regional Police Officer, Hazara Region, Abbottabad.

.... (Respondents)

Ms. Roeeda Khan  
Advocate

... For appellant

Mr. Asif Masood Ali Shah  
Deputy District Attorney

... For respondents

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Date of Institution.....31.03.2021  
Date of Hearing.....25.01.2024  
Date of Decision.....25.01.2024

**JUDGMENT**

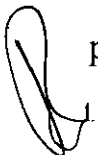
Rashida Bano, Member (J): The instant appeal instituted under section 4 of the  
Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as  
below:

**“On acceptance of this appeal both the impugned orders  
dated 24.09.2020 & 13.11.2020 may kindly be set aside and  
the appellant may kindly be reinstated in service along  
with all back benefits. Any other remedy which this august**



**tribunal deems fit that may also be onward tribunal deems fit that may also be granted in favour of appellant.”**

2. Brief facts of the case are that appellant was appointed vide order dated 25.03.2019 in connection with compensation of killing of Shahzad Son of Ali Khan, by the Police. That on 13.05.2019, the said appointment order was withdrawn but later on, he was once again appointed as Constable in Special Police Force on 21.06.2020 and was regularized on 08.04.2020. That on 24.09.2020, appellant was discharged from service. Feeling aggrieved, he filed departmental appeal which was rejected on 13.11.2020. Then he filed revision petition on 17.11.2020 which was also rejected vide order dated 17.03.2021, hence, the instant service appeal.
3. Respondents were put on notice who submitted written replies/comments on the appeal. We have heard learned Deputy District Attorney and have gone through the record and the proceedings of the case in minute particulars.
4. Learned counsel for the appellant argued that the impugned order dated 24.09.2020 was void *ab-initio* as it had been passed without fulfilling codal formalities. She further argued that no regular inquiry had been conducted and no charge sheet/statement of allegations as well as show cause notice had been served upon appellant. She further submitted that the appellant had been condemned unheard as no opportunity of personal hearing as well as cross-examination had been provided to him.



Lastly, she concluded that the appellant was appointed on merit, therefore, she requested for acceptance of the instant service appeal.

5. Conversely, learned Deputy District Attorney argued that the impugned order was correct, legal and passed after observing all the codal formalities. He submitted that the competent authority had the power to pass any order under summary proceedings; that the appellant had been appointed on the basis of compensation in the lice of murder which had been found void by the trial court due to which he had been dismissed. Further submitted that there was no need of final show cause notice as he had been dismissed in compliance of court order. Lastly, he submitted that the appeal was groundless and not maintainable, therefore, requested for dismissal of the same.

Consign.

6. Perusal of record reveals that that appellant for the first time appointed as SPO on 25.03.2019 as result of comprise arrived at among respondent department and legal heirs of one Shehzad S/O Ali Khan R/O Phulra deceased in case FIR No 208 dated 06.11.2018 under section 302 PPC registered at police station Phulra. This appointment order was withdrawn upon application of Shehzad the father of the deceased name of Muhammad Junaid was given for appointment by him. Appellant was again appointed/enlisted on contract as SPO vide order dated 21.06.2019 service of the appellant was regularized on 23.04.2020 at the strength of Khyber Pakhtunkhwa Special Police officer (Regulation of service)



October 2019 Act. Appellant was performing his duties to entire satisfaction of his superior but all of sudden appellant was discharged from service vide impugned order which was passed as result of Judgment & order delivered in criminal case bearing FIR No 208 under 302 PPC of Police station Phulra given on 07.09.2020. In the said order trial Judge observed that government jobs are not public franchises and cannot be awarded to the people on different pretext. Their jobs given in live of compromise are illegal. Therefore, DPO concern is directed to deal it in accordance with law being competent authority. It is established from the withdrawal of appointment order dated 13.05.2019 that appointment order of the appellant on the basis of compromise FIR No 208 was withdrawn by the authority. So chapter of appointment in live of diyat in compromise was closed in case of appellant on 13.05.2019, however same was corrected to the extent of other constable Junaid nephew of father of deceased Shahzad.

7. Furthermore subsequently enlistment as constable of appellant vide order dated 21.06.2019 was not as result of any compromise and afterwards send contract service of the appellant was regularized upon the strength of Khyber Pakhtunkhwa special Police force regularization of service HCT 2017.


8. When subsequent entitlement/appointment order of the appellant was not on the basis of compromise then in such a situation to discharge him




from service vide impugned order is against the law and rules which is not sustainable in the eyes of law.

9. For what has been discussed above, we are unison to set aside impugned orders and reinstate appellant into service, however intervening period be consider as leave without pay. Costs shall follow the event. Consign.

10. *Pronounced in camp court at Abbottabad and given under our hands and seal of the Tribunal on this 25<sup>th</sup> day of January, 2024.*

  
(MUHAMMAD AKBAR KHAN)  
Member (M)  
Camp Court, Abbottabad


  
(RASHIDA BANO)  
Member (J)  
Camp Court, Abbottabad


**ORDER**

25.01.2024 1      Learned counsel for the appellant present. Mr. Asif Masood Ali Shah learned Deputy District Attorney for the respondents present.

2.    Vide our detailed judgement of today placed on file, we are unison to set aside impugned orders and reinstate appellant into service, however intervening period be consider as leave without pay. Costs shall follow the event. Consign.

3.    *Pronounced in camp court at Abbottabad and given under our hands and seal of the Tribunal on this 25<sup>th</sup> day of January, 2024.*

  
(Muhammad Akbar Khan)  
Member (M)  
Camp Court, Abbottabad

  
(Rashida Bano)  
Member (J)  
Camp Court, Abbottabad