

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,PESHAWAR
AT CAMP COURT, ABBOTTABAD

BEFORE: **KALIM ARSHAD KHAN** ... CHAIRMAN
SALAH UD DIN ... MEMBER(Judicial)

Service Appeal No.945/2022

Date of presentation of Appeal.....12.05.2022
Date of Hearing.....27.02.2024
Date of Decision.....27.02.2024

Shahzad Shah, Constable No.2398 Elite Force, Khyber Pakhtunkhwa,
Peshawar*Appellant*

Versus

1. **Provincial Police Officer**, Khyber Pakhtunkhwa, Peshawar.
2. **Commandant**, Elite Force, Khyber Pakhtunkhwa, Peshawar.
3. **Deputy Commandant**, Elite Force, Khyber Pakhtunkhwa,
Peshawar.....(*Respondents*)

Present:

Mr. Muhammad Aslam Tanoli, Advocate.....For the appellant
Mr. Asad Ali Khan, Assistant Advocate General.....For respondents

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 20.02.2018 OF DEPUTY COMMANDANT ELITE FORCE KHYBER PAKHTUNKHWA PESHAWAR WHEREBY APPELLANT WAS "DISMISSED FROM SERVICE" AND ORDER DATED 25.02.2021 OF COMMANDANT ELITE FORCE KHYBER PAKHTUNKHWA PESHAWAR VIDE WHICH HIS DEPARTMENTAL APPEAL HAS BEEN REJECTED AND ORDER DATED 15.04.2022 OF PROVINCIAL POLICE OFFICER PESHAWAR WHEREBY WHILE PARTIALLY ACCEPTING APPELLANT'S REVISION PETITION PENALTY OF DISMISSAL FROM SERVICE HAS BEEN CONVERTED INTO STOPPAGE OF TWO YEARS INCREMENTS WITH CUMULATIVE EFFECT, THE PERIOD APPELLANT WAS KEPT OUT OF SERVICE HAS BEEN TREATED AS LEAVE WITHOUT PAY.



JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Brief facts of the case, as enumerated in the memo and grounds of appeal are that appellant was serving as Constable in the Police Department. That on 27.01.2018 FIR No.133 was registered against him at City Police Station Haripur and on the basis of the said FIR, he was dismissed from service. That after acquittal in the mentioned charge, he filed departmental appeal against his dismissal order, which was rejected, where-after, he filed revision petition before the Inspector General of Police and vide order dated 15.04.2022, his revision petition was partially accepted and appellant was reinstated in service by converting the penalty of dismissal into stoppage of two years increments with cumulative effect and the out of service period was treated as leave without pay. Therefore, against the punishment of stoppage of two years increments and treating out of service period as leave without pay, he filed the instant service appeal.

2. On receipt of the appeal and its admission to full hearing, the respondents were summoned, who 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.

3. We have heard learned counsel for the appellant and learned Assistant 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

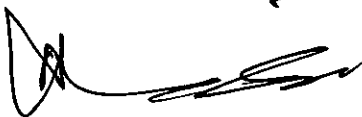


learned Assistant Advocate General controverted the same by supporting the impugned order(s).

5. Perusal of record reveals that appellant was charged in FIR No.133 dated 27.01.2018. Due to the circumstances, he could not attend his duties. In response, the respondents initiated disciplinary proceedings against him. Charge sheet was issued to the appellant for absence without leave as well as alleged involvement in a case vide FIR No.133. For the purpose of scrutinizing the conduct of the appellant with reference to allegations, one Waqar Ahmad, Superintendent of Police Headquarters, Elite Force, Peshawar was deputed to conduct inquiry against the accused official. Final show cause notice was issued in accordance with Khyber Pakhtunkhwa Police Rules, 1975. Lastly, vide order dated 20.02.2018, the appellant was awarded major punishment of dismissal from service for 46 days absence without any permission or leave. However, upon acceptance of revision petition of the appellant, the Inspector General of Police converted the punishment of dismissal from service into stoppage of two annual increments for two years and treated the period out of service spent as leave without pay appointed.

6. The appellant admitted his absence but could not plausibly explain that. All the above proceedings show that the respondents have fulfilled the codal formalities and despite that, lenient view has already been taken, and his dismissal has been converted into minor penalty.

7. In view of the circumstances of the case, we do not find any viable reason to interfere in the impugned order. Resultantly, this



Service Appeal No.945/2022 titled "Shahzad Shah -vs- Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others", declared on 27.02.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Mr. Salah Ud Din, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar, at Camp Court, Abbottabad.

appeal having no substance is dismissed. Costs shall follow the event.

Consign.

8. *Pronounced in open Court at Abbottabad and given under our hands and the seal of the Tribunal on this 27th day of February, 2024.*



KALIM ARSHAD KHAN
Chairman



SALAH UD DIN
Member (Judicial)

Mutazem Shah

ORDER

27th Feb, 2024

1. Learned counsel for the appellant and Mr. Asad Ali Khan, Assistant Advocate General for the respondents present.

2. Vide our detailed judgment of today placed on file, we do not find any viable reason to interfere in the impugned order. Resultantly, this appeal having no substance is dismissed. Costs shall follow the event. Consign.

3. *Pronounced in open Court at Abbottabad and given under our hands and the seal of the Tribunal on this 27th day of February, 2024.*



(Salah Ud Din)
Member (J)
Camp Court Abbottabad



(Kalim Arshad Khan)
Chairman
Camp Court Abbottabad

Mutazem Shah