

Service Appeal No.16202/2020 titled "Abdul Hadi Vs. Government
of Khyber Pakhtunkhwa"

ORDER

28th Feb. 2024 **Kalim Arshad Khan, Chairman.** Learned counsel for the appellant present. Mr. Asad Ali Khan, Assistant Advocate General for the respondents present.

2. Brief facts of the case are that appellant was serving as Junior PHC Technician (BPS-12). That vide order dated 27.07.2020, he was removed from service. Feeling aggrieved, he filed departmental appeal on 18.08.2020 but the same was not responded, hence, the instant service appeal.

3. Arguments heard. Record perused.

4. Admittedly, the inquiry was conducted by the same person who had conducted fact finding inquiry which proceedings are in utter disregard of the provisions of Rule-10(3) of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011. The relevant Rule-10(3) is reproduced below:

"10. (3) In case where preliminary or fact finding inquiry was conducted, and the competent authority decides to hold formal inquiry, the inquiry officer or the inquiry committee for the purpose of conducting formal inquiry shall be different from the inquiry officer or the inquiry committee which conducted the preliminary enquiry."

Therefore, the punishment awarded on the basis of such inquiry cannot sustain.

5. In view of the above, on allowing this appeal, we set aside the impugned orders reinstate the appellant into service and direct that de-novo inquiry should be conducted strictly in accordance with

the above Rule, within 60 days. The issue of back benefits shall be subject to the outcome of de-novo inquiry. Costs shall follow the event. Consign.

6. *Pronounced in open Court at Abbottabad under our hands and seal of the Tribunal on this 28th day of February, 2024.*



(Salah Ud Din)
Member(J)

Adnan Shah



(Kalim Arshad Khan)
Chairman
Camp Court Abbottabad