

S.A #.316/2023

ORDER

29<sup>th</sup> 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 are unison to remit the matter back to the department for departmental proceedings/enquiry strictly in accordance law, by issuing charge sheet, statement of allegations and then proper inquiry to be held within 60 days of receipt of this judgment, duly associating the appellant and the departmental representative, and bringing all the facts on the record. The appellant is reinstated for the purpose of enquiry. The issue of back benefits shall be subject to the outcome of the inquiry. Costs shall follow the events. Consign.

3. *Pronounced in open Court at Abbottabad and given under our hands and the seal of the Tribunal on this 29<sup>th</sup> day of February,*

2024.



(Salah Ud Din)

Member (J)

Camp Court, Abbottabad



(Kalim Arshad Khan)

Chairman

Camp Court, Abbottabad

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6. The appeal in hand is decided in the above terms. Costs shall follow the even. Consign.

7. *Pronounced in open Court at Abbottabad and given under our hands and the seal of the Tribunal on this 29<sup>th</sup> day of February, 2024.*



**KALIM ARSHAD KHAN**  
Chairman  
Camp Court, Abbottabad



**SALAH UD DIN**  
Member (Judicial)  
Camp Court, Abbottabad

\*Mutazem Shah\*

against him, in which, his pre-arrest bail was confirmed. That later on, through compromise between the appellant and the complainant, he was acquitted. That on 22.05.2022 he filed application for grant of leave but the same was not forwarded by the Principal concerned. That vide order dated 30.09.2022, he was dismissed from service. Feeling aggrieved, he filed departmental appeal which was rejected, hence, the instant service appeal.

2. On receipt of the appeal and its admission to full hearing, the respondents were issued notices. They put appearance and submitted reply.

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.

5. From the record, it is evident that the appellant was serving as Lab Attendant in the Government Higher Secondary School Ziarat Masoom when the impugned order dated 30.09.2022 was passed and the appellant was dismissed from service. Admittedly, before passing of impugned order, show cause notice was issued to the appellant on 02.07.2022, however, the same was not served upon the appellant. Besides, we could not find any charge sheet, statement of allegations and even formal inquiry was not conducted in accordance with the provisions of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, compelling the Tribunal to remit the matter back to the department for departmental

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR**

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

***Service Appeal No.316/2022***

Date of presentation of appeal.....13.02.2023  
Dates of Hearing.....29.02.2024  
Date of Decision.....29.02.2024

**Dilawar Zaman**, Son of Sabir Zaman resident of Village Akhrota  
P.O Makol Payeen, Tehsil and District Abbottabad, Ex Lab Attendant  
GHSS Ziarat Masoom Abbottabad .....(**Appellant**)

Versus

1. **Government of Khyber Pakhtunkhwa**, through Secretary Elementary & Secondary Education Department, Khyber Pakhtunkhwa, Peshawar.
2. **Director** Elementary & Secondary Education Department, Khyber Pakhtunkhwa, Peshawar.
3. **District Education Officer (M) Abbottabad.....(Respondents)**

Present:

Mr. Muhammad Liaqat, Advocate.....For appellant  
Mr. Asad Ali Khan, Assistant Advocate General.....For respondents

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**SERVICE APPEAL UNDER SECTION 4 OF THE  
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT,  
1974 AGAINST THE IMPUGNED ORDER ISSUED  
UNDER ENDST: NO.7213 DATED 30.09.2022 WHEREBY  
RESPONDENT NO.3 IMPOSED MAJOR PENALTY OF  
DISMISSAL FROM SERVICE AND APPELLANT FILED  
DEPARTMENTAL APPEAL BEFORE RESPONDENT  
NO.2 WHICH WAS REJECTED VIDE ENDST NO.6293-  
94 DATED 10.01.2023 RECEIVED ON 06.02.2023 WHICH  
IS TOTALLY AGAINST THE LAW, POLICY WITHOUT  
JURISDICTION, ARBITRARILY, VOID ABINITIO, AND  
HAVING NO LEGAL EFFECT UPON THE VESTED  
RIGHTS OF THE APPELLANT.**

**JUDGMENT**

**KALIM ARSHAD KHAN CHAIRMAN:** According to the memorandum  
and grounds of appeal, the appellant was serving as Lab Attendant in the  
Education Department. That an FIR No.624/22 dated 14.06.2019 was lodged