shows that during hearing of the departmental appeal, the Regional Police Officer, Mardan had summoned the Officer Incharge of the criminal cases alongwith the case files to ascertain the facts. The Officer Incharge had confirmed involvement of the appellant in stolen property cases and also disclosed that during investigation of the cases, the stolen property was recovered from the possession of the appellant, therefore, acquittal of the accused in a non-compoundable case of moral turpitude on the basis of concessional statement made by the complainant of the case, would of its own absolve the appellant from the liabilities or disciplinary action initiated by the department, which could run separately and the outcome of the same, at times, is not interdependent as in the present case. True that the appellant might have been acquitted in the criminal case but on the basis of concessional statement of the complainant but recovery of the stolen property from him and repetition of the same offence seems to be one of the reason of departmental action besides admitted absence of the appellant.

6. For what has been discussed above, this appeal has no merit and is dismissed. Costs shall follow the event. Consign.

7. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 6th day of May, 2024.*

KALIM ARSHAD KHAN
Chairman

MUHAMMAD AKBAR KHAN
Member (Executive)

Mutazem Shah

he filed departmental appeal, which was rejected vide order dated 01.01.2019, hence, the instant service appeal.

2. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents 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 Deputy District Attorney for 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 Deputy District Attorney controverted the same by supporting the impugned order(s).

5. It is evident that it is the case of the appellant that he was penalized by the departmental authorities on the sole ground of his involvement in different criminal cases registered vide FIRs No.53, 54 & 55 in Police Station Utla. He contended that he had been acquitted in the criminal cases, therefore, he ought to have been reinstated into service. Besides, involvement in the criminal cases, the appellant remained absent from duty w.e.f 05.11.2017 till passage of dismissal order. The first FIR was shown to have been registered against the appellant on 03.12.2017 and the appellant was absent prior thereto. The absence from 05.11.2017 to 03.12.2017 is admitted by the appellant but with the contention that he had fallen ill. There is, however, no application placed on file for obtaining medical leave nor such fact has been disclosed anywhere in the appeal. The appellate order

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**
MUHAMMAD AKBAR KHAN ... MEMBER (Executive)

Service Appeal No.150/2019

Date of presentation of Appeal.....29.01.2019
Date of Hearing.....06.05. 2024
Date of Decision.....06.05. 2024

Mr. Muhammad Fayaz, Ex-Constable No.511, Police Lines, District Swabi.....***(Appellant)***

Versus

1. **The Inspector General of Police,** Khyber Pakhtunkhwa, Peshawar.
2. **The Regional Police Officer,** Mardan.
3. **The District Police Officer,** District Swabi.....(***Respondents***)

Present:
Mr. Umar Farooq, Advocate.....For the appellant
Mr. Asif Masood Ali Shah, Deputy District Attorney.....For respondents

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APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 15.01.2018 WHEREBY THE APPELLANT HAS BEEN DISMISSED FROM SERVICE AND AGAINST THE APPELLATE ORDER DATED 01.01.2019 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED ON NO GOOD GROUNDS.

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Brief facts of the case are that appellant was appointed as Constable in the Police Department and was serving as Constable; that he was convicted in FIRs No.53, 54 & 55 under Section 381-A/411 on different dates and was arrested accordingly; that he was acquitted in the mentioned FIRs on the basis compromise; that after acquittal, the appellant approached the department, where, he was handed over the impugned removal order dated 15.01.2018; that feeling aggrieved,