

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

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

Service Appeal No.978/2019

Date of presentation of Appeal.....15.07.2019
Date of Hearing.....03.05. 2024
Date of Decision.....03.05. 2024

Taj Ali Khan S/O Fainda Khan R/O Multan Manji Wala, Ex-Sweeper, GMS (Boys) Multan Maji Wala, Lakki Marwat.
.....(***Appellant***)

Versus

1. **District Education Officer (M), Elementary & Secondary Education, Lakki Marwat.**
2. **Director of Education Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.**
3. **Secretary Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.....(*Respondents*)**

Present:

Mr. Arbab Saiful Kamal, Advocate.....For the appellant
Mr. Muhammad Jan, District AttorneyFor respondents

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APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST OFFICE ORDER NO.2977-80, DATED 20.06.2014 OF RESPONDENT NO.1 WHEREBY APPELLANT WAS TERMINATED FROM SERVICE WITH EFFECT FROM 28.05.2013 FOR NO LEGAL REASONS.

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Appellant's case in brief, as per the averments of the Appeal, is that he was appointed as Sweeper on 04.04.2004; that he was convicted in FIR U/S 324 PPC and was sentenced for three years imprisonment; that after completion of sentenced period, he was released from jail on 30.09.2013 and joined service on



01.10.2013; that vide impugned order dated 20.06.2014, he was terminated from service; that the impugned order was allegedly received to appellant on 14.03.2019; that on 16.03.2019, he filed departmental appeal, which was not responded, 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 District Attorney for respondents.

4. The learned counsel for the appellant made a simple request that keeping in view the service of the appellant, his punishment might be converted from dismissal/termination into that of compulsory retirement from service.

5. On the other hand, learned District Attorney submitted that the appellant had less than 10 year service on his credit. Further submitted that the appellant had been dismissed/terminated from service on the ground that he had been sentenced to imprisonment for three years by the court. Therefore, he requested for dismissal of the instant service appeal.

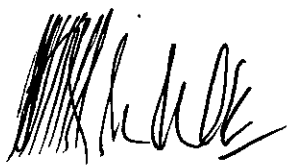
6. After hearing the learned counsel for the parties, going through the record of the case with their assistance and after perusing the precedent cases cited before us, we are of the opinion that submission made by the learned counsel for the appellant for conversion of penalty into compulsory

retirement cannot be considered because the appellant has not completed qualified service for granting the relief prayed during the course of arguments. Otherwise, there is no case of the appellant made out, therefore, the appeal stands dismissed. Costs shall follow the event. Consign.

6. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 3rd day of May, 2024.*



KALIM ARSHAD KHAN
Chairman



MUHAMMAD AKBAR KHAN
Member (Executive)

Mutazem Shah

S.A #.978/2019

ORDER

3rd May. 2024 1. Learned counsel for the appellant present. Mr.

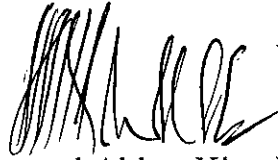
Muhammad Jan, District Attorney for the respondents present.

2. Vide our detailed judgment of today placed on file, instant service appeal is dismissed. Costs shall follow the event.

Consign.

3. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 3rd day of May,*

2024.



(Muhammad Akbar Khan)
Member (E)



(Kalim Arshad Khan)
Chairman