

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

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

Service Appeal No.1460/2023

Date of presentation of Appeal.....06.07.2023
Date of Hearing.....07.05.2024
Date of Decision.....07.05.2024

Mr. Bilal Masood, PST (BPS-12), GPS Sokari Karim Khan,
District Bannu.....(*Appellant*)

Versus

1. **The Secretary** Elementary & Secondary Education Department,
Khyber Pakhtunkhwa, Peshawar.
2. **The Director**, Elementary & Secondary Education, Peshawar.
3. **The DEO (Male)** Bannu.....(*Respondents*)

Present:

Mr. Waleed Adnan, 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 27.12.2022 COMMUNICATED TO THE APPELLANT ON 04.03.2023 WHEREBY MINOR PENALTY OF STOPPAGE OF TWO ANNUAL INCREMENTS FOR ONE YEAR HAS BEEN IMPOSED UPON THE APPELLANT AND AGAINST THE INACTION OF THE RESPONDENTS BY NOT DECIDING THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Appellant's case in brief is that he was appointed as PST vide order dated 02.03.2021; that after assuming charge, he started performing duty; that all of a sudden, he came to know regarding the impugned order dated

27.12.2022, whereby, minor penalty of stoppage of two annual increments for one year was imposed upon the appellant; that feeling aggrieved, he filed departmental appeal but the same 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 reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned District Attorney controverted the same by supporting the impugned order(s).

5. The only point involved in this appeal is that a minor penalty of stoppage of two annual increments for one year one was imposed upon the appellant on the allegations that he was found guilty of habitually absenting himself.

6. We are astonished to note that there is no single day pointed as to when the appellant was allegedly found absent. Secondly, the reference of some meetings under the chairmanship of Deputy Commissioner, Bannu was made which was stated to have been held on 27.12.2022 but that is totally incomprehensible in penalizing the

appellant because the DC might not be having any authority to direct penalizing the civil servant of any other department. Thirdly, there are copies of leave applications, which are shown to have been duly allowed. The only objection raised by the learned Deputy District Attorney is that the impugned order was passed on 27.12.2022 while the departmental appeal was filed on 06.03.2023. The appellant has very clearly stated in the departmental appeal that the impugned order was never communicated to him, about which he had come to know at the time of stoppage of two annual increments for one year, in the salary slip of February, 2023 and he then filed appeal, therefore, the objection of the DDA is having no legs to stand upon.

7. We see no justification of passage of impugned order in the absence of the above stated reason, therefore, this appeal is allowed and the impugned order is set aside. Costs shall follow the event. Consign.

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



KALIM ARSHAD KHAN
Chairman



MUHAMMAD AKBAR KHAN
Member (Executive)

20.03.2024

1. Learned counsel for the appellant present. Mr. Arshad Azam, Assistant Advocate General alongwith Mr. Bakhmal Jan, ADO for the respondents present. Preliminary arguments heard

2. Points raised need consideration. The appeal is admitted for regular hearing subject to all just and legal objections by the other side. Appellant is directed to deposited security fees within 10 days. Reply/comments on behalf of the respondents have already been submitted. To come up for arguments on 07.05.2024 before D.B. P.P given to the parties.

(Muhammad Akbar Khan)
Member (E)

Kamranullah

S.A #.1460/2023

ORDER

7th May. 2024

1. Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

2. Vide our detailed judgment of today placed on file, we see no justification of passage of impugned order in the absence of the above stated reason, therefore, this appeal is allowed and the impugned order is set aside. 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 7th day of May, 2024.*

(Muhammad Akbar Khan)
Member (E)

(Kasim Arshad Khan)
Chairman

Amazem Shah