

S.A #.932/2017

ORDER

22nd 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 22nd day of May,*

2024.



(Muhammad Akbar Khan)
Member (E)

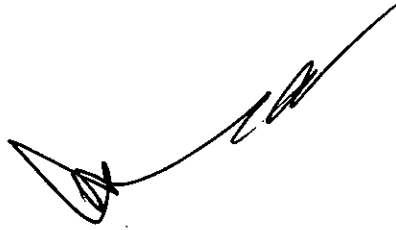


(Kalim Arshad Khan)
Chairman

dismissal order into compulsory retirement and secondly, he wants compensatory allowance. In either way, the impugned order of 08.05.1999 has to be touched, while the provisions of *constructive res-judicata* will also come in the way of the appellant. Besides, Rule-23 of the Khyber Pakhtunkhwa Service Tribunal Rules, 1974 bars second appeal against the earlier appeal which had already been decided.

7. In view of the above instant service appeal is dismissed. 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 22nd day of May, 2024.*



KALIM ARSHAD KHAN
Chairman



MUHAMMAD AKBAR KHAN
Member (Executive)

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, learned District Attorney and learned counsel for private 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 assisted by learned counsel for private respondents, controverted the same by supporting the impugned order(s).
5. This is second round of litigation. The earlier case was filed by the appellant against the same impugned order (impugned herein) in Service Appeal No.284/2008, filed by the appellant, which appeal was dismissed by the Tribunal vide its judgment dated 20.08.2008. The appellant has suppressed the factum of filing of earlier appeal in this appeal as there is no reference of filing of that appeal against the same impugned order made anywhere in the memo and grounds of this appeal.
6. When confronted with the above situation, learned counsel for the appellant tried to explain that the earlier appeal was for reinstatement, while the instant appeal is for compensatory allowance. This contention of the appellant is also not worth consideration. Firstly, because the appellant seeks conversion of his

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

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

Service Appeal No.932/2017

Date of presentation of Appeal.....24.08.2017
Date of Hearing.....22.05.2024
Date of Decision.....22.05.2024

Muhammad Saeed S/o Muhammad Yousaf R/o House No.R/45, Mohallah Syed Ahmad Colony, Near Sunehri Masjid Peshawar.....(**Appellant**)

Versus

1. **The Inspector General of Prisons**, Khyber Pakhtunkhwa, Peshawar
2. **The Provincial Police Officer** Khyber Pakhtunkhwa, Peshawar.
3. **The Secretary Home & Tribal Affairs Department**, Khyber Pakhtunkhwa.....(**Respondents**)

Present:

Miss. Roeda Khan, AdvocateFor 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 THE IMPUGNED ORDER DATED 08.05.1999 WHERE THE APPELLANT HAS BEEN REMOVED FROM SERVICE W.E.F 03.08.1996.

JUDGMENT

KALIM ARSHAD KHAN, CHAIRMAN: Appellant's case in brief is that he was initially appointed as Junior Clerk on 30.06.1981 in the Prisons Department; that due to illness, he was unable to perform duty; that vide impugned order dated 08.05.1999, he was removed from service; that feeling aggrieved, he filed departmental appeal on 28.04.2017, which was not responded, hence the instant service appeal.

