

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR**

BEFORE: **KALIM ARSHAD KHAN** ... **CHAIRMAN**  
**FAREEHA PAUL** ... **MEMBER(Executive)**

***Service Appeal No.1192/2019***

Date of presentation of Appeal.....19.09.2019  
Date of Hearing.....07.06.2024  
Date of Decision.....07.06.2024

**Ikramullah, Lecturer (BPS-17) Government Degree College, Khan Kohi, Nizampur, District Nowshera.....(Appellant)**

Versus

1. **Government of Khyber Pakhtunkhwa**, through Chief Secretary, Civil Secretariat, Peshawar.
2. **The Secretary Higher Education**, Khyber Pakhtunkhwa, Peshawar.
3. **The Director** Higher Education Department, Peshawar.
4. **The Principal** Government Degree College, Khan Kohi, Nizampur, District Nowshera.....(**Respondents**)

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**Ikramullah, Lecturer (BPS-17) Government Degree College, Khan Kohi, Nizampur, District Nowshera.....(Appellant)**

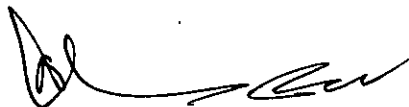
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5. **Government of Khyber Pakhtunkhwa**, through Chief Secretary, Civil Secretariat, Peshawar.
6. **The Secretary Higher Education**, Khyber Pakhtunkhwa, Peshawar.
7. **The Director** Higher Education Department, Peshawar.
8. **The Principal** Government Degree College, Khan Kohi, Nizampur, District Nowshera.....(**Respondents**)

Present:

Miss. Roeda Khan, Advocate.....For the appellant  
Mr. Asif Masood Ali Shah, Deputy District Attorney .....For respondents

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**SERVICE APPEAL NO. 1192/2019 UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ADVERSE REMARKS FOR THE PERIOD W.E.F 15.01.2017 TO 31.12.2017 COMMUNICATED ON 25.08.2018 VIDE LETTER NO.21592, DATED**



**10.08.2017 AND ORDER DATED 18.01.2019 COMMUNICATED ON 30.08.2019 WHEREBY DEPARTMENT APPEAL OF THE APPELLANT WAS REJECTED ON NO GOOD GROUNDS.**

**AND**

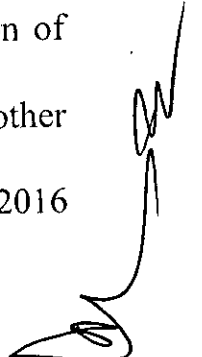
**SERVICE APPEAL NO. 1193/2019 UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ADVERSE REMARKS FOR THE PERIOD W.E.F 15.01.2016 TO 31.12.2016 COMMUNICATED ON 05.04.2018 AGAINST WHICH THE APPELLANT FILED DEPARTMENTAL APPEAL WITHIN ONE MONTH FROM THE DATE OF COMMUNICATION WHICH HAS NOT BEEN RESPONDED BY THE RESPONDENT DEPARTMENT WITHIN STATUTORY PERIOD OF 90 DAYS.**

**CONSOLIDATED JUDGMENT**

**KALIM ARSHAD KHAN CHAIRMAN:** Through this single judgment, both the above appeals, are jointly taken up as both are regarding expunction of adverse remarks recorded in different PERs and almost with the same contentions, therefore, can be conveniently decided together.

2. The appellant's cases in brief are that adverse remarks were communicated to him which were recorded in his Performance Evaluation Report (PER) for the period from 15.01.2016 to 31.12.2016 and 15.01.2017 to 31.12.2017.

3. Feeling aggrieved, he filed departmental appeals for expunction of the impugned adverse remarks but his appeal (for expunction of ACRs w.e.f 15.01.2017 to 31.12.2017) was rejected, while the other appeal filed for expunction of ACRs w.e.f 15.01.2016 to 31.12.2016 remained un-responded, hence, the present service appeals.



4. On receipt of the appeals and its admission to full hearing, the respondents were summoned, who 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.

5. We have heard learned counsel for the appellant and learned Deputy District Attorney for the respondents.

6. The Learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeals while the learned Deputy District Attorney controverted the same by supporting the impugned order(s).

7. Perusal of record shows that appellant was serving as Lecturer in the Higher Education Department. While performing his duties, he was issued explanations regarding absence as well as making press conferences against high ups, in the year 2016. The ACRs of 2016 and 2017 are reflecting on the same page. In the ACRs of 2016, he had been marked as *"Not trustable, financially dishonest, not dutiful, unreliable, always disgrace seniors, misbehavior to each and everyone. No ability to routine work. No competency in the subject, disobedient"*. In the ACRs for 2017, he has been reflected as *Dull person. He repeated the same practice as like in GDC, Shabqadar, GDC Khan Kohi"*

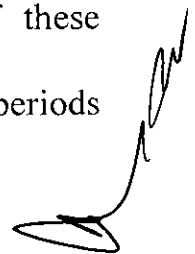
8. The explanations called from the appellant on in the year 2016 were also not the same as recorded in the ACRs for the period w.e.f 01.01.2016 to 31.12.2016. While in the ACRs w.e.f 01.01.2017 to



31.12.2017, the appellant has been given adverse remarks for the conduct of the year 2016 and the term ACR (Annual Confidential Report) does not mean to repeat or record the conduct of previous years.

9. We have given due consideration to the adverse observations in the light of relevant instructions and we find that some of them do not appear to have been strictly observed. It is provided in the Guidelines that reporting officer is expected to counsel the officer being reported upon about his weak points and advise him how to improve and that adverse remarks should ordinarily be recorded when the officer fails to improve despite counseling. In the present case, however, there is nothing to show that such proper counseling was ever administered to the appellant. In view of the importance of this instruction, the Reporting Officer, or the Countersigning Officer should not only impart appropriate advice but also keep a record of such an advice having been duly administered. Besides it seems that the remarks pertain to the assignments allegedly given to the appellant while as regards his performance as Lecturer, nothing has been said.

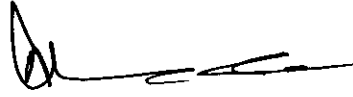
10. For the reasons mentioned above, we are of the opinion that the adverse remarks in both the cases have been recorded in disregard of the relevant instructions. Therefore, on acceptance of these appeals, the adverse remarks recorded in the PER for the periods



*Service Appeal No.1192/2019 and Service Appeal No.1193/2019 titled "Ikram Ullah Vs. Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat Peshawar and others" decided on 07.06.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and M/s. Fareeha Paul, Member Executive, Khyber Pakhtunkhwa Service Tribunal, Peshawar.*

from 01.01.2016 to 31.12.2016 and 01.01.2017 to 31.12.2017 are expunged. Costs shall follow the event. Consign.

*11. Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 7<sup>th</sup> Day of June, 2024.*



**KALIM ARSHAD KHAN**  
Chairman





**FAREEHA PAUL**  
Member (Executive)

*\*Muazem Shah\**

29.05.2024 1. Learned counsel for the appellant present. Mr. Arshad Azam learned Assistant Advocate General for the respondents present.

2. Former requested for adjournment on the ground that she has not prepared the brief. Granted. Absolute last chance is given. To come up for arguments on 06.06.2024 before D.B. P.P given to parties. *in case of failure appeal shall be deem to dismissed.*

  
(Fareeha Paul)  
Member (E)

  
(Rashida Bano)  
Member (J)

SCANNED  
Kist  
Peshawar

Kaleemullah

S.A No.1192/2019


ORDER

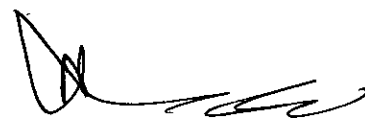
7<sup>th</sup> June. 2024

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, on acceptance of these appeals, the adverse remarks recorded in the PERs for the period from 01.01.2017 to 31.12.2017 are expunged. 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 7<sup>th</sup> day of June, 2024.*

  
(Fareeha Paul)  
Member (E)

  
(Kalim Arshad Khan)  
Chairman

\*Mutazem Shah\*