

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 735/2023

BEFORE: KALIM ARSHAD KHAN ... CHAIRMAN
MISS FAREEHA PAUL ... MEMBER(E)

Azam Din son of Yar Din, Ex-Sub Inspector (BPS-14) Khyber Pakhtunkhwa Police R/O Caste Qambar Khel, Tappa Saaf Khel, Kandy Adal Khel Bargarah, P.O Bara Tehsil Bara, District Khyber.
.....(Appellant)

Versus

1. Inspector General of Police, Khyber Pakhtunkhwa Peshawar.
2. Secretary Home and Tribal Affairs, Khyber Pakhtunkhwa Peshawar.
3. Secretary to Government of Khyber Pakhtunkhwa, Finance Department, Civil Secretariat Peshawar.
4. District Police Officer, Khyber.(Respondents)

Mr. Inayatullah Khan,
Advocate

... For appellant

Mr. Asif Masood Ali Shah,
Deputy District Attorney.

... For respondents

Date of Institution.....	03.04.2023
Date of Hearing.....	04.06.2024
Date of Decision.....	04.06.2024

JUDGEMENT

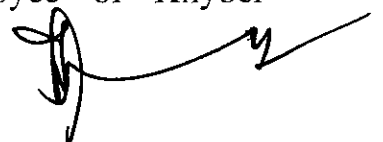
FAREEHA PAUL, MEMBER (E): The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 with the prayer to allow the service appeal by directing the official respondents to grant pensionary benefits to the appellant without any further loss of time, with further prayer that monthly pension/salary be awarded to him till finalization of his pension case to minimize his financial hardships.



2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was appointed as Khasadar in the Khyber Khasadar Force vide order dated 06.03.1988. The said force was merged in Police Department of Khyber Pakhtunkhwa in the year 2018 and like many other Khasadars, the appellant was also merged in the Khyber Pakhtunkhwa Police and posted at District Police Office Khyber, in BPS- 14, in the rank of Sub Inspector. He was posted as Sub Inspector/Incharge Police Station Bara and was issued service card No. 0095119 by the District Police Officer, Khyber. Prior to the merger, the appellant was performing his duties as Subedar in Khyber Khasadar Force. After reaching the age of superannuation, he got retired on 01.01.2023 and his pay was accordingly stopped w.e.f. 01.01.2023 by the Accountant General Office Khyber Pakhtunkhwa, Peshawar. The appellant filed departmental appeal on 01.01.2023 for grant of pension and other emoluments to the District Police Officer, District Khyber. His pension case was forwarded to the Secretary, Home & Tribal Affairs Department for consideration vide letter dated 01.03.2023, but no remedial action was taken; hence the instant service appeal.

3. Respondents were put on notice. They submitted written reply/comments on the appeal. We heard the learned counsel for the appellant as well as learned Deputy District Attorney for the respondents and perused the case file with connected documents in detail.

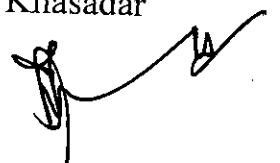
4. Learned counsel for the appellant, after presenting the case in detail, argued that the appellant was an employee of Khyber



Pakhtunkhwa Police and got retired as Sub Inspector (BPS-14) on 01.01.2023, therefore he was entitled to pensionary benefits. He argued that according to the pay roll, deductions were made from his pay, therefore, the respondents were bound to process his pension case which was recommended by the District Police Officer, Khyber and forwarded to the Secretary, Home & T.As Department for consideration but no action was taken on that application. Learned counsel for the appellant argued that since his retirement, no gratuity or monthly pension was paid to him and he was unable to cater to the livelihood of his family. He further argued that the administration of good governance required prompt action in the matter but no action was taken on the request of the appellant. He requested that the appeal might be accepted as prayed for.

5. Learned Deputy District Attorney, while rebutting the arguments of learned counsel for the appellant, argued that Khyber Khassadar Force was absorbed in Police Department in the year 2019, however, according to notification dated 13.02.2020, appellant was not absorbed in Khyber Pakhtunkhwa Police Department. His application for pension was forwarded to the Secretary Home Department, Khyber Pakhtunkhwa for further process. He requested that the appeal might be dismissed.

6. Through the instant service appeal, the appellant has prayed for payment of pensionary benefits. He was in the Khyber Khasadar Force which was later on absorbed in the Khyber Pakhtunkhwa Police after merger of FATA with the Khyber Pakhtunkhwa in 2019. An order dated 13.02.2020 was available before us vide which the members of Khasadar




Force of the Khyber Tribal District were absorbed in the Khyber Pakhtunkhwa Police. Name of the appellant was not included in that list. Record produced before us further showed that a letter by the District Police Officer, Khyber was addressed to the Secretary to Government of Khyber Pakhtunkhwa, Home and Tribal Affairs Department on 01.03.2023, vide which he stated that the name of the appellant was submitted to the Home Department for absorption after observing codal formalities but his absorption notification was not issued. He requested for considering the case of the appellant on humanitarian grounds. Reply of the respondents also stated that application of the appellant for pension was sent to Secretary Home for further proceedings. When asked, during the arguments, learned Deputy District Attorney, as well as the departmental representative, stated that no action had been taken on that letter or application by the Home Department.

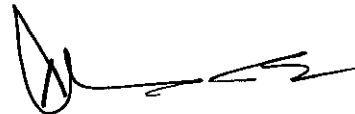
7. As neither any order of absorption of the appellant, nor any response of Home Department to the letter of District Police Officer Khyber was produced before us, therefore it was difficult for us to arrive at any informed decision. It would be, therefore, in the fitness of the matter to direct respondent No. 2 to pass an appropriate order on the letter dated 01.03.2023 of the DPO Khyber within thirty days of the receipt of copy of this judgment. The appellant would be at liberty to come to this Tribunal, if he so desires, in case he is aggrieved of the action or inaction of the respondents.



8. The appeal is disposed of in the above terms. Cost shall follow the event. Consign.

9. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 04th day of June, 2024.*


(FARIDHA PAUL)
Member (E)


(KALIM ARSHAD KHAN)
Chairman


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04th June, 2024 01. Mr. Inayatullah Khan, Advocate for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present. Arguments heard and record perused.

02. Vide our detailed judgment consisting of 05 pages, the appeal is disposed in the terms as spelled out in the judgment. Cost shall follow the event. Consign.

03. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 04th day of June, 2024.*


(FAREEHIA PAUL)
Member (E)


(KALIM ARSHAD KHAN)
Chairman

Fazal Subhan PS