

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

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

Service Appeal No. 1768/2020

Date of presentation of Appeal.....16.03.2020
Date of Hearing.....06.06.2024
Date of Decision.....06.06.2024

Kabal Khan S/o Nasrullah Jan, Ex-Tehsil Naib Qasid/Tehsil Sepoy, Cast Khoidad Khel, R/o Village Chapri, Lower Kurram, District Kurram.
.....*Appellants*

Versus

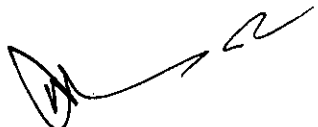
1. Deputy Commissioner District Kurram.
2. District Police Officer, District Kurram.
3. District Accounts Officer, District Kurram.
4. Government of Khyber Pakhtunkhwa, through its Secretary Home, Civil Secretariat, Peshawar.....(*Respondents*)

Present:

Mr. Muhammad Ilyas Orakzai, Advocate.....For the appellant
Mr. Asif Masood Ali Shah, Deputy DistrictFor respondents

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**APPEAL UNDER SECTION-4 OF THE KHYBER
PAKHTUNKHWA, SERVICE TRIBUNAL ACT, 1974
R/W KHYBER PAKHTUNKHWA E&D RULES, 2011
AGAINST THE IMPUGNED ORDER DATED
01.02.2014, WHEREBY THE APPELLANT HAS BEEN
DISMISSED FROM HIS SERVICE.**

JUDGMENT



KALIM ARSHAD KHAN CHAIRMAN:- According to the facts gathered from the record, the appellant while serving as Tehsil Naib Qasid/Tehsil Sepoy was dismissed from service vide impugned order dated 01.12.2014 on the allegations of not facilitating the Political Administration in securing arrest of his son namely Umar Farooq, who was allegedly involved in Anti State Activities. The appellant was arrested and kept behind the bar, however after his acquittal from jail, the appellant approached the department for

resuming his duty but he was orally told that he had been dismissed from service but the copy of the dismissal order was not provided to him. As per memorandum of the appeal, the appellant was provided copy of impugned dismissal order dated 01.12.2014 on 03.11.2019, therefore, he filed departmental appeal on 11.12.2019, which was not responded. The appellant has now approached this Tribunal through filing of instant service appeal on 16.03.2020 for redressal of his grievance.

2. On receipt of the appeals and admission to full hearing, the respondents were summoned but they failed to submit reply/comments, therefore, vide order dated 30.11.2021, the right of the respondents for submission of reply/comments was ceased.

3. Learned counsel for the appellant argued that the appellant the appellant was dismissed from service vide impugned order dated 01.12.2014 on the allegations of not facilitating the Political Administration in securing arrest of his son namely Umar Farooq, who was allegedly involved in Anti State Activities, however the appellant had no nexus with his son. He next argued that the son of the appellant has already been released from jail, therefore, the very grounds on the basis of which the appellant was dismissed from service has been vanished away. He further argued that the appellant was imposed major penalty of dismissal from service without conducting any inquiry in the matter, which is illegal and against the principal of natural justice. In the last, he requested that the impugned order might be set-aside and the appellant might be reinstated in service with all back benefits.

4. The respondents are ex-parte, however, the learned Deputy District Attorney was provided opportunity of arguments, who argued that son of the appellant was involved in the anti state activities and heinous crimes and was

wanted to security agencies, therefore, the appellant was asked time and again to facilitate in securing arrest of his son but he deliberately avoided to secure the arrest of his son, hence he was rightly dismissed from service. He further argued that the appellant was dismissed from service vide order dated 01.12.2014, however, he filed departmental appeal on 11.12.2019, which is badly barred by time, hence the appeal in hand is liable to be dismissed on this score alone.

5. We have heard the arguments of learned counsel for the parties and have perused the record.

6. In this case, the respondents have not filed any reply nor is there any document placed on file by them. So much so, there is no representative of the respondents present before the Tribunal. In the absence of the documents and the respondents being ex-parte, we allow this appeal ex-parte and remand the matter back to the respondents for conducting proper inquiry in the matter within a period of 60 days of receipt of copy of this judgment. Consign.

07. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 06 day of June, 2024.*



KALIM ARSHAD KHAN
Chairman



FAREEHA PAUL
Member (Executive)

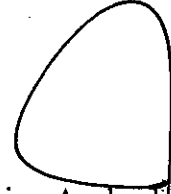
20th May, 2024

1. Learned counsel for the appellant present. Mr. Muhammad Jan, District Attorney for the respondents present.

2. Learned counsel for the appellant seeks further time for preparation of brief. Absolute last chance is given for arguments. To come up for arguments on 06.06.2024 before the D.B. Parcha Peshi given to the parties.



(Muhammad Akbar Khan)
Member (Executive)



(Kalim Arshad Khan)
Chairman

Naeem Amin

ORDER

06th June, 2024

1. Appellant alongwith his counsel present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present. Arguments heard and record perused.

2. Vide our judgment of today placed on file, in the absence of the documents and the respondents being ex-parte, we allow this appeal ex-parte and remand the matter back to the respondents for conducting proper inquiry in the matter within a period of 60 days of receipt of copy of this judgment. Consign.

3. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 06th day of June, 2024.*



(Farzeha Paul)
Member (Executive)



(Kalim Arshad Khan)
Chairman

Naeem Amin