

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR**

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**  
**RASHIDA BANO ... MEMBER(Judicial)**

***Service Appeal No.218/2022***

Date of presentation of Appeal.....23.02.2022

Date of Hearing.....03.07.2024

Date of Decision.....03.07.2024

**Noor Shah Ali** S/O Jamrooz Kha R/O Sokhta Shabqadar, Ex-Junior Clerk/Moharrir, Court of Civil Judge/Judicial Magistrate, Shabqadar .....(**Appellant**)

Versus

1. **District & Sessions Judge**, Charsadda.
2. **Registrar**, Peshawar High Court, Peshawar.
3. **Civil Judge/Judicial Magistrate**, Shabqadar, District Charsadda.....(**Respondents**)

***Service Appeal No.219/2022***

Date of presentation of Appeal.....23.02.2022

Date of Hearing.....03.07.2024

Date of Decision.....03.07.2024

**Liaqat Ali** S/O Shakhel R/O Mirzaï Shabqadar, Ex-Execution Moharrir, Court of Civil Judge/Judicial Magistrate, Shabqadar .....(**Appellant**)

Versus

1. **District & Sessions Judge**, Charsadda.
2. **Registrar**, Peshawar High Court, Peshawar.
3. **Civil Judge/Judicial Magistrate**, Shabqadar, District Charsadda.....(**Respondents**)

Present:

Mr. Arbab Saiful Kamal, Advocate.....For the appellant  
Mr. Asif Masood Ali Shah, Deputy District Attorney ...For respondents

**APPEALS UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974**

**CONSOLIDATED JUDGMENT**

**KALIM ARSHAD KHAN CHAIRMAN:** Through this single judgment, the above two appeals, are jointly taken up, as both are similar

in nature and almost with the same contentions, therefore, can be conveniently decided together.

2. Brief facts of the cases as per averments of the appeals, are that appellants were serving in the District Judiciary Charsadda; that on the allegations of burning the record, they were issued show cause notices, (Appellant Noor Shah Ali was suspended by the Additional District & Sessions Judge, Charsadda); that statement of allegations were also served upon the appellants which were replied by them; that criminal proceedings were initiated against the appellants alongwith one Raham Sher, wherein, they were sentenced to imprisonment for five years vide order dated 21.08.2006 which sentence was though maintained by the Peshawar High Court on 14.11.2006, however, declaring the undergone sentence as sufficient; that vide orders dated 23.08.2006 (of Noor Shah Ali) and 07.01.2007 (of Liaqat Ali) they were dismissed from service w.e.f 21.08.2006; feeling aggrieved, they filed departmental appeal which were dismissed, therefore, the appellants filed appeals before this Tribunal, which were returned with the direction to approach proper forum, hence, they filed Writ Petitions No.1658-P/2019 (of Noor Shah Ali) and 1670/2019 (of Liaqat Ali) before the Hon'ble Peshawar High Court, Peshawar and the Hon'ble High Court, vide order dated 16.02.2022 sent the said writ petitions to this Tribunal, which were converted into the instant service appeals.

3. On receipt of the appeals and their admission to full hearing, the respondents were summoned, who put appearance. They had already

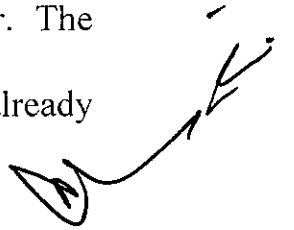
submitted comments before the Hon'ble Peshawar High Court, Peshawar which were considered in the instant cases. The defense setup was a total denial of the claim of the appellants.

4. We have heard learned counsel for the appellants and learned Deputy District Attorney for respondents.

5. The learned counsel for the appellants reiterated the facts and grounds detailed in the memo and grounds of the appeals while the learned Deputy District Attorney assisted by the learned counsel for private respondents, controverted the same by supporting the impugned order(s).

6. The issue involved in these cases was of putting on fire the official documents. In the said case, appellants had proceeded against, and were in the first round of litigation, were imprisoned for five years by the learned Trial Court. The judgment of sentence to imprisonment was impugned before the Hon'ble Peshawar High Court, Peshawar. The Hon'ble High Court, had reduced the sentence to the one already undergone by them.

7. The appellants have been proceeded departmentally as well as criminally. In the initial stage, they were proceeded criminally and were sentenced to imprisonment. Besides, they were also proceeded departmentally and were accordingly dismissed from service. In quite a similar case i.e. in Civil Appeal No.1520/2008 titled Abdul "Qudus Vs. Government of NWFP through Secretary Education Department, NWFP



Peshawar, etc." decided by the Supreme Court of Pakistan on 23.04.2013, it was held that:

"3. *It is being argued by the learned counsel for the appellant that after reinstatement of the appellant in service the order dated 24.09.2000, withdrawing his reinstatement, had been illegally passed without adopting proper procedure as no show cause notice was issued. That the said order of withdrawal of his reinstatement had been passed after the appellant had served for 6/7 years as such he was fully entitled to pensionary benefits. His appeal was accepted in terms as "... The Tribunal holds that the appellant has a long service at his credit and consider it appropriate to compensate him for the service rendered by him before he was involved in the criminal case which subsequently resulted in conviction of the appellant by the court through judicial proceedings. In order to enable the appellant to get his pension for the period before his involvement in the criminal case the retirement order dated 26.08.2000 is amended to the extent that he will stand retired from service on the date of registration of FIR i.e. 5.6.1985. The appeal is accepted to that extent and the impugned order is partially set aside. No order as to costs file be consigned to the record". He further asserted that the Tribunal has also failed to take into consideration that the appellant after reinstatement have rendered service for 6/7 years on account of which he was entitled to pension from the period 06.02.1989 to 17.07.1994. therefore, while granting the appellant partial relief the same should have been allowed which needs to be rectified.*

*06. The appellant has a long service record at his credit. He had been inducted in service as CT Teacher on 01.08.1961, he has not been involved in any departmental disciplinary proceeding and prior to the period of his conviction his performance has been judged to be satisfactory. Moreover, the contention of the appellant for the grant of pension for the period from 06.02.1989 to 17.07.1994 cannot be justified in any manner as during this period he has been absent from service which, on sympathetic grounds, has been converted into Extra Ordinary Leave without pay."*

8. Following the above judgment of the Supreme Court of Pakistan, and keeping in view the length of their service, this bench is of the opinion to modify the punishment of dismissal and convert into that of consideration of the cases of the appellants for pensionary benefits. Costs

Service Appeal No.218/2022 titled "Noor Shah Ali Vs District & Sessions Judge, Charsadda and others", and Service Appeal No.219/2022 titled "Liaqat Ali Vs District & Sessions Judge, Charsadda and others" decided on 03.07.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Mrs. Rashida Bano, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar

shall follow the event. Copy of this judgment be placed on files of the connected appeal. Consign.

9. Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 3<sup>rd</sup> day of July, 2024.



**KALIM ARSHAD KHAN**  
Chairman



**RASHIDA BANO**  
Member (Judicial)

\*Mutazem Shah\*