

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 1542/2022

BEFORE: RASHIDA BANO --- MEMBER (J)
MUHAMMAD AKBAR KHAN --- MEMBER (E)

Mr. Muhammad Salman, Senior Clerk (BPS-14) , O/o the Principal Research Officer/Regional Director, Veterinary Research & Disease Investigation Centre,, D.I. Khan..... (*Appellant*)

VERSUS

1. The Secretary, Agriculture, Livestock and Cooperative Department, Khyber Pakhtunkhwa, Peshawar.
2. The Director General (Research), Livestock & Dairy Development Authority, Khyber Pakhtunkhwa, Peshawar.
3. The Director, Veterinary Research Institute, Khyber Pakhtunkhwa, Peshawar.
4. The Principal Research Officer/Regional Director, Veterinary Research & Disease Investigation Centre, D.I. Khan.
5. The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
6. The District Account Officer, D.I. Khan..... (*Respondents*)

Present:-

MIR ZAMAN SAFI,
Advocate

--- For Appellant

ASIF MASOOD ALI SHAH,
Deputy District Attorney

--- For the respondents.

Date of Institution.....26.10.2022

Date of Hearing..... 15.07.2024

Date of Decision.....15.07.2024

JUDGMENT.

MUHAMMAD AKBAR KHAN, MEMBER(E):- The instant service appeal has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as under;

“That on acceptance of this service appeal the impugned order dated 09.06.2022 may very kindly be modified/rectified to the

extent of re-instatement into service w.e.f. 21.03.2021 and the intervening period w.e.f. 21.03.2021 to 07.03.2022 be treated as medical leave with full pay with all other consequential benefits. Any other relief which this august Tribunal deems fit that may also be awarded in favor of the appellant."

02. Brief facts of the case are that appellant was working as Senior Clerk in the respondent department. Previously the appellant was removed from service on the allegations of absence from duty w.e.f. 12.01.2021 vide order dated 21.12.2021. Feeling aggrieved from the removal order dated 21.12.2021 the appellant filed departmental appeal which was partially accepted and major penalty of removal from service was converted into minor penalty of stoppage of two annual increments vide order dated 08.03.2022. Thereafter the appellant approached the Service Tribunal in Service Appeal No. 514/2022 and during pendency of the service appeal the respondent department issued the impugned order dated 09.06.2022 whereby the appellant has been reinstated into service w.e.f. 08.03.2022 instead of 11.03.2021 however, the intervening period w.e.f 11.03.2021 to 08.03.2022 was treated as extra ordinary leave without pay. The appellant withdraw his earlier service appeal vide order dated 01.08.2022 and preferred departmental appeal against the impugned order dated 09.06.2022 which was not responded, hence preferred the instant service appeal on 26.10.2022

03. Notices were issued to the respondents, who submitted their comments, wherein they refuted the assertions raised by the appellant in his appeal. We have heard arguments of learned counsel for the appellant and

learned Deputy District Attorney and have gone through the record with their valuable assistance.

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

05. Scrutiny of record reveal that the appellant upon his transfer as Veterinary Research & Disease Investigation Center, D.I. Khan vide order dated 12.01.2021 did not report for duty in his new place/station of duty. He submitted his arrival on 24.02.2021 (after 41 days) citing reasons of his domestic problem. After performing duties for 04 days he again remained absent. Since the appellant, in response to an absence notice issued by the competent authority for 3rd time, submitted application for medical leave for 90 days annexing prescription by a medical practitioner, the competent authority in order to ascertain the nature of medical claim by the appellant referred his cases to Director General Health Services for seeking 2nd opinion. The medical board proceedings were schedule for 01.09.2021 at 09: am but the appellant did not appear before the medical board. The competent authority after observing all the codal formalities under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 imposed major penalty of removal from service upon the appellant vide order dated 21.12.2021. Upon appeal by the appellant before the appellate authority the appellant was reinstated in service conditionally and referred him for medical board. The appellant was examined by the medical board on 25.05.2022 and found him fit for service having no complication, no sign

and symptoms of any disease. Upon receipt of the findings of medical board the appellate authority vide order dated 09.06.2022 reinstated the appellant into service w.e.f. 08.03.2022 treating the absence period from duty w.e.f. 11.03.2021 to 07.03.2022 (362 days) as extra ordinary leave without pay.

06. We observe that the appellate authority by taking lenient view has reinstated the appellant into service and treated the absence period as extra ordinary leave without pay in accordance with the findings of medical board. There is no room available for further relief to the appellant and we do not find any reason to interfere in the impugned order passed by the appellate authority, therefore, the instant service appeal stands dismissed being devoid of merit. Costs shall follow the event. Consign.

07. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 15th day of July, 2024.*



(Rashida Bano)
Member (J)



(Muhammad Akbar Khan)
Member (E)

ORDER

15.07.2024

1. Learned counsel for the appellant present. Mr. Muhammad Jan, District Attorney for the respondents present. Arguments heard and record perused.

2. Vide our detailed judgment of today separately placed on file, we do not find any reason to interfere in the impugned order passed by the appellate authority, therefore, the instant service appeal stands dismissed being devoid of merit. Costs shall follow the event. Consign.

3. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 15th day of July, 2024.*



(Rashida Bano)
Member (J)



(Muhammad Akbar Khan)
Member (E)