

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**PESHAWAR AT CAMP COURT SWAT**

Service Appeal No. 10/2021

**BEFORE:**      AURANGZEB KHATTAK      ---      MEMBER (J)  
                     MUHAMMAD AKBAR KHAN ---      MEMBER (E)

Jamal-ud-din son of Niamatullah resident of Gujaro Kass Sheringal,  
District Dir Upper..... (*Appellant*)

**VERSUS**

1. District Police Officer, Dir Upper.
2. Deputy Inspector General of Police Malakand Region at Saidu Sharif,  
Swat.
3. Inspector General of Police at Civil Secretariat Peshawar.
4. District Accounts Officer Dir Upper..... (*Respondents*)

**Present:-**

IMDAD ULLAH,  
Advocate

---      For Appellant

MUHAMMAD JAN,  
District Attorney

---      For respondents.

Date of Institution.....04.01.2021

Date of Hearing..... 03.07.2024

Date of Decision.....03.07.2024

**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 appeal to issue directions to the respondent department.*

- (i)      *To release the back benefits/salary i.e. 17 months & 13 days of the appellant.*

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(ii) *Any other relief which this Honorable Courts deems fit and proper in the circumstances may also very kindly granted.*

02. Our this single judgment shall dispose of the instant service appeal as well as connected service appeal bearing No. 11/2021 titled "Muhammad Islam versus District Police Officer, Dir Upper & others", as common question of law and facts are involved therein.

03. Brief facts of the case are that appellant was initially appointed as Constable on 27.07.2007. Previously, the appellant alongwith 05 other Constable were removed from service vide order dated 17.06.2009. Feeling aggrieved they filed service appeals which were remanded back to the respondents to initiate denovo inquiry vide consolidated judgment dated 11.06.2010. After conducting of denovo inquiry the appellants were reinstated in service and the period which they remained out of service after dismissal was counted as leave without pay vide order dated 29.11.2010; that one of the appellant namely Umara Khan filed an application for back benefits of his dismissal period which was allowed and the period from 17.06.2009 to 30.11.2010 (17months and 13 days) were treated as leave of the kind due. The appellant also filed applications for similar treatment as per his other colleagues namely Umara Khan which was not responded, hence preferred the instant service appeal on 04.01.2021

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 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 District Attorney, controverted the same by supporting the comments submitted by the respondents.


05. Perusal of record reveals that the appellant alongwith his 08 other colleagues were proceeded and dismissed from service vide order dated 17.06.2009 by District Police Officer Dir upper, (respondent No. 1).. The said order was challenged in the service Tribunal and the Tribunal remanded the matter to the respondents for initiating denovo inquiry vide order dated 11.06.2010. The respondents conducted denovo inquiry and on the basis of findings and recommendations of the inquiry officer the appellant alongwith his other colleagues were reinstated into service treating the period which they remained out of service as leave without pay vide order dated 19.11.2010 passed by Deputy Inspector General of Police (respondent No. 2). The appellant preferred departmental appeal before IGP (respondent No. 3) which was not responded. The appellant produced a copy of order dated 11.02.2015 in respect of Umara Khan, Head Constable where-under the period from 17.06.2009 to 30.11.2010 has been treated as leave of the kind due. During course of arguments another copy of order passed by respondent No. 3 was produced before the Tribunal where-under appeal of another colleague of the appellant namely Constable Ubaid Ullah, No. 692 was accepted by treating the period as leave of the kind due. We observe that the

aforementioned two colleagues of the appellant who alongwith the appellant were proceeded against under a joint inquiry against the same allegations have been treated differently by regularizing the period which they remained out of service as leave of the kind due while the appeal of the appellant remained unconsidered by the appellate authority for no legally valid reasons.

06. In view of above findings we accept the prayer asked for in the instant appeal as well as connected service appeal and direct the respondents to treat the appellant at par with his aforementioned colleagues by treating the period which he remained out of service as leave of the kind due. Costs shall follow the event. Consign.

07. *Pronounced in open court at Camp Court Swat and given under our hands and seal of the Tribunal on this 03<sup>rd</sup> day of July, 2024.*

  
(Aurangzeb Khattak)  
Member (J)  
Camp Court Swat


  
(Muhammad Akbar Khan)  
Member (E)  
Camp Court Swat


\*Kamranullah\*

ORDER

03.07.2024

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 accept the prayer asked for in the instant appeal and direct the respondents to treat the appellant at par with his aforementioned colleagues by treating the period which he remained out of service as leave of the kind due. Costs shall follow the event. Consign.
3. *Pronounced in open court at Camp Court Swat and given under our hands and seal of the Tribunal on this 03<sup>rd</sup> day of July, 2024.*

  
(Aurangzeb Khattak)  
Member (J)  
Camp Court Swat

  
(Muhammad Akbar Khan)  
Member (E)  
Camp Court Swat

\*Kamranillah\*