

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR**

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**  
**AURANGZEB KHATTAK ... MEMBER (Judicial)**

*Service Appeal No.16436/2020*

Date of presentation of Appeal.....31.12.2020  
Date of Hearing.....25.07.2024  
Date of Decision.....25.07.2024

Mr. Sajid Ali, Ex-Naib Qasid, Deputy Commissioner Officer,  
District Swat.....(*Appellant*)

Versus

1. **The Commissioner** Malakand Division at Saidu Sharif, Swat.
2. **The Deputy Commissioner**, District Swat.....(*Respondents*)

Present:

Mr. Noor Muhammad Khattak, Advocate.....For the appellant  
Mr. Muhammad Jan, District Attorney.....For respondents

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**APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 12.11.2020 WHEREBY THE APPELLANT HAS BEEN AWARDED MAJOR PENALTY OF REMOVAL FROM SERVICE AND APPELLATE ORDER DATED 10.12.2020 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REGRETTEED ON NO GOOD GROUNDS.**

**JUDGMENT**

**KALIM ARSHAD KHAN, CHAIRMAN:** Appellant's case as per memo and grounds of appeal is that he was serving as Naib Qasid in the office of the Deputy Commissioner, Swat; that due to illness, he remained unable to attend the office and requested for leave but in vain; that after recovery from illness, he visited the office of respondent No.2 for his duty but he was informed



that he has been removed from service vide order dated 12.11.2020; that feeling aggrieved from the impugned order dated 12.11.2020, he preferred departmental appeal which was rejected vide order dated 10.12.2020, hence, the instant service appeal.

02. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents put appearance and contested the appeal by filing written reply raising therein numerous legal and factual objections. The defense setup was a total denial of the claim of the appellant.

03. We have heard learned counsel for the appellant and learned District Attorney for the respondents.

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 assisted by learned counsel for private respondents, controverted the same by supporting the impugned order(s).

05. Perusal of record reveals that appellant was serving as Naib Qasid in the office of Deputy Commissioner. Due to illness, he became unable to attend the office, but the respondent department vide impugned order dated 12.11.2020, removed the appellant on the allegation that he was habitual absentee. The respondents have annexed copies of explanations, absence notices and show cause notice. But, they have not conducted any inquiry in order to probe into the matter and they have

removed the appellant from service without conducting inquiry.

The respondents have relied solely on explanations, absence notices, and a show cause notice without probing into the matter further. The appellant's alleged illness, which caused his absence, was not adequately considered nor inquired.

06. Keeping in view the entire record, we are left with no option but to accept this appeal and set aside the impugned order, reinstating the appellant for the purpose of proper and thorough inquiry into the matter to be conducted within 60 days of the receipt of this judgment, where-after a speaking order shall be passed, stating the reasons for the decision. Needless to mention that the appellant shall be duly associated with the inquiry proceedings, providing him opportunity of cross examination and then proceeding and concluding the same in accordance with law and rules. The issue of back benefits shall be subject to the outcome of inquiry. Costs shall follow the event. Consign.

07. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 25<sup>th</sup> day of July, 2024.*



**KALIM ARSHAD KHAN**  
Chairman



**AURANGZEB KHATTAK**  
Member (Judicial)

S.A #.16436/2020


**ORDER**

25<sup>th</sup> July, 2024

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

2. Vide our detailed judgment of today placed on file we are left with no option but to accept this appeal and set aside the impugned order, reinstating the appellant for the purpose of proper and thorough inquiry into the matter to be conducted within 60 days of the receipt of the judgment, where-after a speaking order shall be passed, stating the reasons for the decision. Needless to mention that the appellant shall be duly associated with the inquiry proceedings, providing him opportunity of cross examination and then proceeding and concluding the same in accordance with law and rules. The issue of back benefits shall be subject to the outcome of inquiry. Costs shall follow the event. Consign.

3. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 25<sup>th</sup> day of July, 2024.*

  
(Aurangzeb Khattak)  
Member (J)

  
(Kalim Arshad Khan)  
Chairman

\*Mutazem Shah\*