

Agency for four years i.e. the period for which his salaries were withheld.

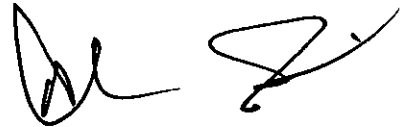
5. Besides, withholding of salaries is typically a measure taken against employees who are willfully absent or neglecting their duties. While the appellant's absence was involuntary, rather beyond his control, and therefore, withholding his salaries was not justified.

6. Since the situation is beyond the control of a civil servant and, therefore, he cannot be said to be willfully absenting from his duty, therefore, the impugned order dated 25.03.2022 is set aside and the appeal in hand is allowed. Costs shall follow the event. Consign.

7. *Pronounced in open Court at Peshawar given under our hands and seal of the Tribunal on this 29th day of July, 2024.*



(Rashida Bano)
Member (J)



(Kalim Arshad Khan)
Chairman

*Mutazem Shah *

Service Appeal No.1083/2022 titled "Zabih Ullah Vs. Education
Department"

ORDER

29th July. 2024

Kalim Arshad Khan, Chairman: Learned counsel for the appellant and Mr. Muhammad Jan, District Attorney for the respondents present.

2. Brief facts of the case, as per averments of the appeal, are that he was serving as Lab Attendant at Government Higher Secondary School Ghallani, District Mohmand; that he was arrested by Mohmand Rifles on 10.11.2014, remained in their custody and accordingly, was suspended by the department; that after having proved innocent, he was handed over to the District Administration Mohmand on 20.08.2018 and was also issued clearance certificate by the Assistant Commissioner Upper Mohmand; that by approaching the department for his duty, he was informed that vide impugned order dated 25.03.2022, the respondents accorded the absence period w.e.f 10.11.2014 to 20.11.2018 as leave without pay; that feeling aggrieved, he filed departmental appeal on 28.03.2022 but the same was not responded, hence, the instant service appeal.

3. Arguments heard. Record perused.

4. The reply of respondents shows that the respondents have not seriously contested the matter as the reply, submitted by them, is evasive. There is no denial of the fact that the appellant remained in the custody of Law Enforcement

