



**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.**

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

Service Appeal No.236/2018

Date of presentation of appeal14.02.2018
Dates of Hearing.....19.07.2024
Date of Decision.....19.07.2024

Akhtar Ali S/O Wali Muhammad, R/O Lahore Thana Cham, District Swabi (Ex-FC No. 965, FRP/Head Quarter, Peshawar).....(Appellant)

Versus

1. **Government of Khyber Pakhtunkhwa** through Secretary Home and Tribal Affairs, Civil Secretariat Peshawar
2. **Inspector General of Police**, Khyber Pakhtunkhwa Central Police Office, Peshawar.
3. **Commandant Frontier Reserve Police**, Khyber Pakhtunkhwa, Peshawar.
4. **Deputy Commandant Frontier Reserve Police**, Headquarter, Peshawar.....(**Respondents**)

Present:

Mr. Jehan Afsar Khan Painsa Khel, Advocate.....For appellant.

Mr. Muhammad Jan, District Attorney.....For respondents.

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SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, AGAINST THE ACT OF THE RESPONDENT NO.2 WHO ISSUED IMPUGNED ORDER DATED 15.01.2018 (RECEIVED TO THE APPELLANT ON 26.01.2018), VIDE WHICH THE DEPARTMENTAL REPRESENTATION OF THE APPELLANT WAS DISMISSED AND THE IMPUGNED ORDER DATED 26.10.2017 PASSED BY RESPONDENT NO.3 AND DATED 05.04.2017 PASSED BY RESPONDENT NO.4 WAS UPHELD.
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JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Brief facts gathered from the memo and grounds of appeals are that the appellant was initially appointed as



Constable in the respondent department vide order dated 30.12.2014; that in the month of June, 2016 due to road accident, the appellant got serious and severe injuries; that in result of the said incident, he was unable to walk for few months; that the appellant was unable to perform his duties due to his health condition; that the respondent issued show cause notice and thereafter issued impugned order dated 05.04.2017; that the appellant against the impugned order, preferred departmental appeal which was turned down vide order dated 26.10.2017; that the appellant then filed revision petition under 11-A Police Rules, 1975, which was also dismissed vide order dated 15.01.2018, copy of which received to the appellant on 26.01.2018, hence, the instant service appeals.

2. 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 defence setup was a total denial of the claim of the appellant.

3. We have heard learned counsel for the appellant, learned District Attorney for respondents.

4. The appellant had admittedly remained absent from duty with effect from 23.06.2016 till the date of his discharge from service on 05.04.2017 without any proper leave/permission of the competent authority. He was issued charge sheet, which he had received and then after conducting of enquiry by RI/FRP/HQRs: Peshawar, he was issued final show cause notice, which was also received by him, but he did not file reply in response to the final show cause notice, he was provided opportunity of personal hearing but he could not avail the same. Besides a notice was also published in daily newspaper "Aaj" dated 10.03.2017. Consequently, on 05.04.2017 major penalty of discharge

from service was imposed upon him and period of his absence from duty was treated as leave without pay. He filed departmental appeal, which was dismissed by the Commandant on 26.10.2017 holding the same to be badly barred by time, whereas the Inspector General of Police, Khyber Pakhtunkhwa vide order No. S/307/18 dated 15.01.2018 rejected the application of the appellant for reinstatement into service. The appellant has annexed with his appeal certain medical prescriptions, but he has admittedly not submitted any application for seeking leave for such a long absence; therefore, the department has rightly proceeded against him for his absence without seeking leave or permission from the authorities. This being so, this appeal has no grounds and is dismissed. Costs shall follow the event. Consign.

5. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 19th day of July, 2024.*



KALIM ARSHAD KHAN
Chairman



RASHIDA BANO
Member (Judicial)

Adnan Shah, PA