

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

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

Service Appeal No.7434/2021

Date of presentation of appeal.....07.09.2021
Dates of Hearing.....20.09.2024
Date of Decision.....20.09.2024

Ghani Ur Rehman (Ex-Assistant) S/O Said Rehman R/O Chorlakk
District Kohat.....(**Appellant**)

Versus

1. **Inspector General of Police**, Khyber Pakhtunkhwa, Peshawar.
2. **AIG/Establishment** for Inspector General of Police Khyber Pakhtunkhwa, Peshawar.
3. **Chairman/Members** Departmental Promotion Committee for promotion to the rank of Superintendent, Khyber Pakhtunkhwa, Police Peshawar through AIG Police, Peshawar.....(**Respondents**)

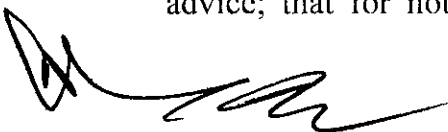
Present:

Mr. Arif Jan, Advocate.....For the appellant
Mr. Naseer Ud Din Shah, Assistant Advocate General...For respondents

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDERS DATED 03.03.2023 AND 04.01.2023 OF RESPONDENTS NO.1 & 2 RESPECTIVELY IN RESPECT OF DISMISSAL FROM SERVICE OF THE APPELLANT.

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Brief facts of the case, as per averments of appeal, are that appellant was appointed as Constable in the Police Department; that during service, he fell ill and was unable to attend the duties; that he applied for medical leave, which was accorded till November, 2022 as he was on bed rest as per doctor's advice; that for not attending the duties, the respondents served the



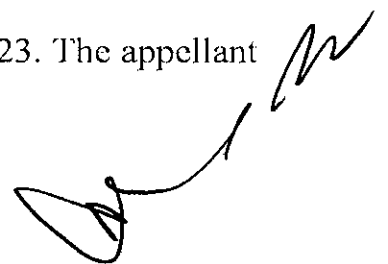
appellant with a show cause notice and resultantly, vide order dated 04.01.2023, he was dismissed from service; that feeling aggrieved of his dismissal order, he filed departmental appeal but the same was dismissed on 03.03.2023, hence, the instant service appeal.

2. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents put appearance and submitted reply.

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

4. 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 impugned order.

5. Upon examination of the case, it is clear that the appellant, appointed as a Constable in the Police Department, faced a significant health issue that rendered him unable to fulfill his duties. He had allegedly applied for medical leave, which was granted until November 2022, following his doctor's advice for bed rest. However, despite his medical circumstances, the respondents issued a show cause notice for his absence, resulted into dismissal from service 04.01.2023. The dismissal appears to lack sufficient consideration of the appellant's medical condition and the approved leave. After his dismissal, the appellant pursued a departmental appeal; however, that was dismissed on 03.03.2023. The appellant



had submitted his medical documents, however, the same had not been considered for verification.

6. In view of the above circumstances, the impugned order is set aside and the matter is remitted to the department for the purpose of inquiry in order to verify the medical prescriptions. Appellant is reinstated into service for the purpose of inquiry. The issue of back benefits shall be subject to the outcome of inquiry, which is to be conducted within 60 days of the receipt of this judgment. Costs shall follow the event. Consign.

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



KALIM ARSHAD KHAN
Chairman



RASHIDA BANO
Member (Judicial)

Mutazem Shah

S.A #.7434/2021


ORDER

20th Sep. 2024

1. Learned counsel for the appellant present. Mr. Naseer Ud Din Shah, Assistant Advocate General for respondents present.
2. Vide our detailed judgment of today placed on file, the impugned order is set aside and the matter is remitted to the department for the purpose of inquiry in order to verify the medical prescriptions. Appellant is reinstated into service for the purpose of inquiry. The issue of back benefits shall be subject to the outcome of inquiry, which is to be conducted within 60 days of the receipt of the judgment. 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 20th day of September, 2024.*


(Rashida Bano)
Member (J)


(Kalim Arshad Khan)
Chairman

Mutazem Shah