

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
CAMP COURT, ABBOTTABAD.

BEFORE: MR. KALIM ARSHAD KHAN ... CHAIRMAN  
 MISS FAREEHA PAUL ... MEMBER(E)

Service Appeal No. 929/2022

Ishtiaq Khan Ex-H.C No. 4934, R/O Village Banda Said Khan, Tehsil and  
 District Abbottabad. ....(Appellant)

Versus

1. Government of Khyber Pakhtunkhwa through Secretary Home & Tribal Affairs, Peshawar.
  2. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
  3. Commandant RRF, Khyber Pakhtunkhwa Peshawar.
  4. Deputy Commandant RRF, Khyber Pakhtunkhwa, Peshawar.
  5. RPO Hazara Range, Abbottabad.
  6. District Police Officer, Abbottabad
- ..... (Respondents)

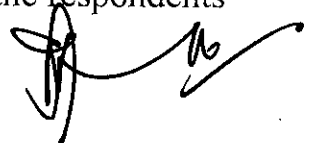
Mr. Muhammad Arshad Khan Tanoli,  
 Advocate ... For appellant

Mr. Asif Masood Ali Shah,  
 Deputy District Attorney ... For respondents

Date of Institution.....20.05.2022  
 Date of Hearing.....24.09.2024  
 Date of Decision..... 24.09.2024

JUDGEMENT

FAREEHA PAUL, MEMBER (E): The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 03.01.2022, whereby the appellant was dismissed from service. It has been prayed that on acceptance of the appeal, the impugned order dated 03.01.2024 might be set aside and the respondents




be directed to reinstate the appellant in service with all service back benefits, alongwith any other remedy which the Tribunal deemed appropriate.

2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant had rendered 18 years' service in the Police Department. He applied for four months earned leave which was properly granted w.e.f 26.07.2021 to 26.11.2021. After expiry of the said leave, he applied for extension of leave which was not granted and he was dismissed from service vide impugned order dated 03.01.2021. Feeling aggrieved, he filed departmental appeal which was not responded by the department; hence the instant service appeal.

3. Respondents were put on notice who submitted written reply/comments on the appeal. We heard the learned counsel for the appellant as well as learned Deputy District Attorney for the respondents and perused the case file with connected documents in detail.

4. Learned counsel for the appellant, after presenting the case in detail, argued that no show cause notice and statement of allegations were served upon the appellant nor opportunity of personal hearing was afforded to him, which was mandatory under the law. He argued that the respondent department carried out ex-parte proceedings against the appellant and not only he was dismissed from service vide impugned order dated 03.01.2022 but his absence period w.e.f 28.07.2021 till 03.01.2022 was also treated as leave without pay, which was against the rules and not maintainable in the eyes of law. He requested that the appeal might be accepted as prayed for.




5. Learned Deputy District Attorney, while rebutting the arguments of learned counsel for the appellant, argued that as per report of the Superintendent of Police Elite Force/RRF Hazara Region dated 24.08.2021, the appellant remained absent from his lawful duty w.e.f 26.07.2021 without any leave or prior permission of the competent authority. Being a member of a disciplined force, his act was highly deplorable and against the norms of the police force. He further argued that after expiry of four months leave, further leave was not granted to him and he was bound to join his duty but he went abroad without any sanction and NOC for ex-Pakistan leave. He stated that proper departmental proceedings were carried out against him. Charge sheet, summary of allegations and show cause notice were served upon him and as he was abroad, the same were received by his brother. Learned Deputy District Attorney argued that after fulfilling all the codal formalities, he was dismissed from service. He requested that the appeal might be dismissed.

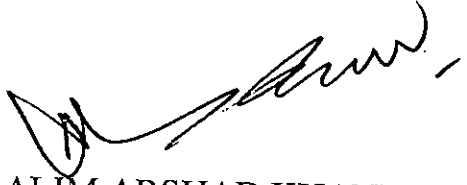
6. This appeal has been preferred by the appellant against an order dated 03.01.2022 vide which he was dismissed from service. Arguments and record presented before us transpired that the appellant went abroad without getting his leave sanctioned and without an NOC for going abroad from the competent authority. When asked from the learned counsel for the appellant about the sanction order and NOC, he referred to a document at page 10-A of the appeal which was mere a *parvana* for information and not an authentic document to be relied upon. In view of the fact that the appellant left the country without any sanctioned leave and NOC from the competent authority which was frankly admitted by learned counsel for the appellant



himself before us, we do not find any substance in the appeal, and hence dismiss it being devoid of merit. Cost shall follow the event. Consign.

7. *Pronounced in open court at Camp Court, Abbottabad and given under our hands and seal of the Tribunal on this 24<sup>th</sup> day of September, 2024.*

  
(FAREEHA PAUL)  
Member (E)  
(Camp Court, A/Abad)

  
(KALIM ARSHAD KHAN)  
Chairman  
(Camp Court, A/Abad)

\*FazleSubhan, P.S\*

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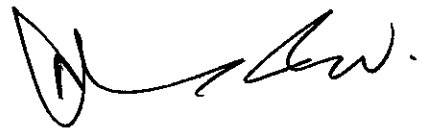
24.09 2024 01. Mr. Muhammad Arshad Khan Tanoli, Advocate for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present. Arguments heard and record perused.

02. Vide our detailed judgment consisting of 04 pages, we do not find any substance in the appeal, and hence dismissed it being devoid of merit. Cost shall follow the event. Consign.

03. *Pronounced in open court at Camp Court, Abbottabad and given under our hands and seal of the Tribunal on this 24<sup>th</sup> day of September, 2024.*



(FAREEHA PAUL)  
Member (E)  
Camp Court, A/Abad



(KALIM ARSHAD KHAN)  
Chairman  
Camp Court, A/Abad

\*Fazle Subhan PS\*