

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

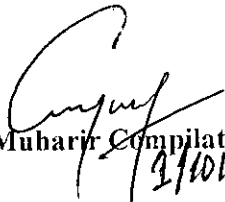
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RAJA WAQAS VS GOVERNMENT OF KPK

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ABDUL MEHMOOD
Judge High Court
D.I. Khan

Service Appeal No7729/2021 titled "Raja Waqas Vs. Deputy Inspector General of Police/RPO Hazara Region, at Abbottabad and another" declared on 25.09.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Miss. Fareeha Paul, Member Executive, Khyber Pakhtunkhwa Service Tribunal, Peshawar at Camp Court, Abbottabad.

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
AT CAMP COURT, ABBOTTABAD

BEFORE: **KALIM ARSHAD KHAN** ... **CHAIRMAN**
FAREEHA PAUL ... **MEMBER(Executive)**

Service Appeal No.7729/2020

Date of presentation of Appeal.....29.06.2020
Date of Hearing.....25.09.2024
Date of Decision.....25.09.2024

Raja Waqas, Ex-Constable No.940 of District Upper Kohistan,
Resident of Mohallah Makki Near Makki Masjid House No.59,
Street No.2 Khola Kehal Tehsil and District Abbottabad.
.....(***Appellant***)

Versus

1. **Deputy Inspector General of Police/RPO** Hazara Region, at Abbottabad.
2. **District Police Officer**, Upper Kohistan.....(***Respondents***)

Present:

Mr. Sardar Aman Khan, Advocate.....For the appellant
Mr. Asif Masood Ali Shah, Deputy District Attorney...For respondents

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 READ WITH ALL THE OTHER ENABLING LAWS AGAINST THE IMPUGNED ORDER DATED 02.10.2019 WHEREBY, RESPONDENT NO.2 DISMISSED APPELLANT FROM SERVICE AND SIMILARLY ORDER DATED 19.03.2020 PASSED BY THE RESPONDENT NO.1 UPON THE DEPARTMENTAL APPEAL OF THE APPELLANT WHICH ARE ILLEGAL, AGAINST THE LAW AND FACT AND ARE LIABLE TO BE SET ASIDE.

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JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Facts of the case of the appellant, gathered from memorandum and grounds of appeal are that the appellant was serving as



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Constable in the Police Department; that vide impugned order dated 02.10.2019, he was dismissed from service; that feeling aggrieved of his dismissal from service, the appellant filed departmental appeal on 31.10.2019 which was filed on 19.03.2020, hence, the instant service appeal.

2. On receipt of the appeal and its admission to full hearing, the respondents were summoned, who 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.

3. We have heard learned counsel for the appellant learned Deputy District Attorney for 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 Deputy District Attorney, controverted the same by supporting the impugned order(s).

5. Record reflects that the appellant was serving the Police Department as Constable. Upon alleged illness of his wife and mother, he had filed a number of applications for leave but those were not considered. The inquiry held against the appellant shows that he was summoned for statement on 12.05.2019, 18.05.2019 and 25.05.2019, but he did not turn up. As there are some applications of the appellant on the file which were not seriously contested by the respondents. Besides, the inquiry was held ex-parte coupled with the fact

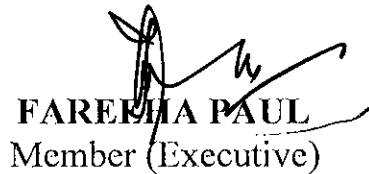
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that the appellant is present today before the Court, therefore, in the larger interest of justice, we would like to remit this matter to the department for conducting de-novo inquiry by properly associating the appellant in the inquiry proceedings and giving him fair opportunity of defense, within 60 days of the receipt of this judgment. Costs shall follow the event. Consign.

6. *Pronounced in open Court at Abbottabad and given under our hands and the seal of the Tribunal on this 25th day of September, 2024.*



KALIM ARSHAD KHAN
Chairman



FAREEHA PAUL
Member (Executive)

Mutazem Shah

(4)

S.A #.7729/2020


ORDER


25th Sep. 2024

1. Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present. Heard.

2. Vide our detailed judgment of today placed on file, we would like to remit this matter to the department for conducting de-novo inquiry by properly associating the appellant in the inquiry proceedings and giving him fair opportunity of defense, within 60 days of the receipt of the judgment. Costs shall follow the event. Consign.

3. *Pronounced in open Court at Abbottabad and given under our hands and the seal of the Tribunal on this 25th day of September, 2024.*


(Fareeha Paul)
Member (E)


(Kalim Arshad Khan)
Chairman

Mutazem Shah