KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No.1394/2022 titled "Aman Ullah versus Government of Khyber Pakhtunkhwa"

S.No. of Order & Date of proceeding	**Order or other proceedings with signature of Chairman/Member(s)/Registrar and that of parties or counsel where necessary**
Order-14 25th October, 2024.	Present: 1. Syed Noman Ali Bukhari, Advocate, for the appellants. 2. Mr. Muhammad Jan, District Attorney for respondents. **Kalim Arshad Khan, Chairman:** Appellant's case in brief, as reflected from the record, is that he was serving as District Comptroller of Accounts in the respondent department; that in the year 2017, he was serving as District Accounts Officer, D.I.Khan, when he was served with charge sheet and statement of allegations that he had drawn unauthorized allowances through his pay; that an inquiry was conducted and show cause notice was issued to him, which were replied by the appellant; that after passing five years of the said issue, impugned order dated 12.05.2022 was issued whereby minor penalty of withholding of two annual increments for two years was imposed upon the appellant; that feeling aggrieved, he filed a departmental appeal but the same was not responded within statutory period of ninety days, therefore, he preferred the instant service appeal. 3. Arguments heard. Record perused. 4. From the record, it is evident that appellant was serving as District Accounts Officer at District D.I.Khan when he was issued charge sheet alongwith statement of allegations that he had drawn allowances not

authorized to him. Show cause notice dated 08.12.2017 had also been served upon the appellant which was replied by him. However, in the year 2022, the respondents again urged the issue and issued impugned order dated 12.05.2022 whereby, alongwith recovery of Rs.44,894/- withholding of two increments for two years was imposed upon the appellant. In order to assail the impugned order, he preferred departmental appeal but the same remained un-responded, hence, the appellant was compelled to approach this Tribunal by filing the appeal in hand.

5. At the very outset, learned counsel for the appellant referred to Rule-4 (a) (ii) of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, which is reproduced as under:

> *"(ii) Withholding of increment or increments for a specific period, subject to maximum of three years, without cumulative effect:*
>
> *Provided that the penalty of withholding of increment shall not be imposed upon a Government servant who has reached the maximum of his pay scale or shall superannuate within the period of penalty"*

6. When confronted with the situation, learned District Attorney could not controvert the situation that the appellant has reached the maximum of his pay, therefore, same punishment could not be awarded. Even then, we deem it appropriate to remit the matter to the

respondents to consider the case of appellant in accordance with rules termed above, and decide it in accordance with law and rules, within 60 days of the receipt of this order. Costs shall follow the event. Consign.

7. *Pronounced in open Court at Peshawar under our hands and seal of the Tribunal on this 25th day of October, 2024.*

(Muhammad Akbar Khan)
Member (E)

(Kalim Arshad Khan)
Chairman

Mutazem Shah

MEMO OF COSTS
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No.1349/2022

Date of presentation of Appeal	23.09.2022
Date of hearing	25.10.2024
Date of Decision	25.10.2024

Mr. Aman Ullah, District Comptroller of Accounts (BPS-19), Peshawar, the then DCA D.I Khan,.....*(Appellant)*

Versus

1. The Chief Secretary Khyber Pakhtunkhwa, Peshawar.
2. The Secretary to Government of Khyber Pakhtunkhwa Establishment Department, Khyber Pakhtunkhwa, Peshawar.
3. .....*(Respondents)*

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 12.05.2022 AND AGAINST NOT DECIDING DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN STATUTORY PERIOD OF 90 DAYS.

PRESENT

1. Syed Noman Ali Bukhari, Advocate, for the Appellant
2. Mr. Muhammad Jan, District Attorney, for respondents

Appellants	Amount	Respondent	Amount
1. Stamp for memorandum of appeal	Rs. Nil	1. Stamp for memorandum of appeal	Rs. Nil
2. Stamp for power	Rs. Nil	2. Stamp for power	Rs. Nil
3. Pleader's fee	Rs. Nil	4. Pleader's fee	Rs. Nil
4. Security Fee	Rs.100/-	4. Security Fee	Rs. Nil
5. Process Fee	Rs. Nil	5. Process Fee	Rs. Nil
6. Costs	Rs. Nil	6. Costs	Rs. Nil
Total	**Rs. 100/-**	**Total**	**Rs. Nil**

Note: Counsel Fee is not allowed as the required certificate has not been furnished.

Given under our hands and the seal of this Court, this 25th day of October 2024.

Muhammad Akbar Khan
Member (Executive)

Kalim Arshad Khan
Chairman