KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**
MUHAMMAD AKBAR KHAN ... MEMBER (Executive)

Service Appeal No.692/2024

Date of presentation of Appeal.....22.05.2024
Date of Hearing.....23.10.2024
Date of Decision.....23.10.2024

Mr. Naqeeb Ullah Ex-Constable No.950 P.S Saddda, District Kurram.....***(Appellant)***

Versus

1. **The District Police Officer,** Kurram, Khyber Pakhtunkhwa.
2. **The Regional Police Officer,** Kohat Region, Kohat.

.....***(Respondents)***

Present:
Syed Noman Ali Bukhari, Advocate.....For the appellant
Mr. Naseer Ud Din Shah, Assistant Advocate General.....For respondents

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SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 12.12.2023 WHEREBY THE PENALTY OF DISMISSAL FROM SERVICE WAS IMPOSED UPON THE APPELLANT AND AGAINST THE ORDER DATED 09.05.2024 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED FOR NO GOOD GROUNDS.

JUDGMENT

KALIM ARSHAD KHAN, CHAIRMAN: Appellant's case as reflected from the record, in brief is that he was serving in the Police Department as Constable; that while posted as Incharge City Sadda Lower Kurram, a complaint was lodged against the SHO Sadda Kurram alleging therein involvement/dealing hand with drug dealers; that charge sheet was issued to the appellant; that an inquiry was

conducted, wherein, the appellant was held guilty by the Inquiry Officer, recommended him for major punishment; that vide order dated 12.12.2023 of the District Police Office, Kurram, appellant was dismissed from service; that feeling aggrieved, he filed departmental appeal, but the same was rejected on 09.05.2024, therefore, appellant filed the instant service appeal.

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 defense setup was a total denial of the claim of the appellant.

3. We have heard learned counsel for the appellant and learned Assistant Advocate General 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 Assistant Advocate General controverted the same by supporting the impugned order(s).

5. Record reflects that appellant was serving in the Police Department. The allegation was against the Station House Officer, Sadda Kurram for involvement of taking money from drug dealers, allowing them in their drug business. In connection with that issue, appellant was also charge sheeted and inquiry was initiated against the appellant. The said inquiry resulted into his dismissal from service by the order dated 12.12.2023 of the District Police Officer, Kurram. The said dismissal order was assailed by the appellant through a

departmental appeal but the same was rejected vide order dated 09.05.2024, prompting the appellant to file the instant service appeal.

6. The description of complaint shows that the same has been made regarding the dispute over land property, however, in the departmental proceedings, contacts and facilitating the drug dealers, has been based. Besides, if there was any proof of his being involved in drugs dealing etc. the authorities ought to have collected evidence and lodged criminal case, but no solid proof has been brought on record that appellant was involved in drug dealing. Furthermore, there is nothing on record that the SHO concerned has either been punished or otherwise. But the appellant has strictly been proceeded against and punishment of dismissal has been awarded to him vide impugned order dated 12.12.2023 on totally wrong premises.

7. For what has been discussed above, the impugned order dated 12.12.2023 stands set aside the appeal in hand is allowed. Appellant is reinstated into service with all back benefits from the date of his dismissal from service. Costs shall follow the event. Consign.

8. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 23rd day of October, 2024.*

KALIM ARSHAD KHAN
Chairman

MUHAMMAD AKBAR KHAN
Member (Executive) 0

Mutazem Shah

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No. 692/2024

Naqeeb 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-05 23rd October, 2024.	Present: 1. Syed Noman Ali Bukhari, Advocate on behalf of appellant. 2. Mr. Naseer Ud Din Shah, Assistant Advocate General for the respondents. **Kalim Arshad Khan, Chairman:** Vide our detailed judgment of today, placed on file, the impugned order dated 12.12.2023 stands set aside the appeal in hand is allowed. Appellant is reinstated into service with all back benefits from the date of his dismissal from service. Costs shall follow the event. Consign. *2. Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 23rd day of October, 2024* (Muhammad Akbar Khan) Member (E) (Kalim Arshad Khan) Chairman **Mutazem Shah**

MEMO OF COSTS
KHYBER PAKHTUNKHKWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No.692/2024

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Versus

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SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 12.12.2023 WHEREBY THE PENALTY OF DISMISSAL FROM SERVICE WAS IMPOSED UPON THE APPELLANT AND AGAINST THE ORDER DATED 09.05.2024 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED FOR NO GOOD GROUNDS.

PRESENT

1. Syed Noman Ali Bukhari, Advocate, for the Appellant
2. Mr. Naseer Ud Din Shah, Assistant Advocate General 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 23rd day of October 2024.

Muhammad Akbar Khan
Member (Executive)

Kalim Arshad Khan
Chairman