KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

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

Service Appeal No.1230/2022

Date of presentation of Appeal.....05.08.2022
Date of Hearing.....25.10.2024
Date of Decision.....25.10.2024

Amjid Khan S/O Bukhari Gul R/O Gulbahar colony, Takhtbhai, Mardan, Ex-Constable No.2142, District Police, Mardan .....***(Appellant)***

Versus

1. **District Police Officer,** Mardan.
2. **Regional Police Officer,** Mardan.
3. **Provincial Police Officer,** Khyber Pakhtunkhwa, Peshawar

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

Present:
Mr. Arbab Saiful Kamal, Advocate.....For the appellant
Mr. Muhammad Jan, District Attorney.....For respondents

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST OB NO.739 DATED 21.03.2022 OF R. NO. 01 WHEREBY APPELLANT WAS DISMISSED FROM SERVICE RETROSPECTIVELY OR OFFICE ORDER NO.4111/ES DATED 13.06.2022 OF R. NO.02 WHEREBY DEPARTMENTAL APPEAL OF THE APPELLANT WAS REJECTED OR OFFICE ORDER NO.1521/22 DATED 18.07.2022 OF R. NO.3 WHEREBY REVISION PETITION OF APPELLANT WAS REJECTED.

JUDGMENT

KALIM ARSHAD KHAN, CHAIRMAN: Brief facts of the case, as per averments of the appeal, are that appellant was appointed as Constable in the year 2010; that due to his sister's illness (cancer

patient), the appellant was unable to attend the duties for her look after; that vide order dated 21.03.2022, he was dismissed from service w.e.f 24.09.2021; that feeling aggrieved, he filed departmental appeal on 20.04.2022 but the same was rejected on 13.06.2022, therefore, he filed revision petition before the Inspector General of Police, Khyber Pakhtunkhwa, which was also rejected on 18.07.2022, 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 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 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 District Attorney controverted the same by supporting the impugned order(s).

5. The appellant, while serving as Constable, faced an issue regarding his sister, who was allegedly suffering from cancer. For the said reason, he was unable to attend the office, which caused his dismissal from service vide impugned order dated 21.03.2022. He assailed his dismissal from service order through departmental appeal as well as revision petition. However, both the efforts met failure. So

the appellant knocked at the door of this Tribunal by filing the appeal in hand.

6. His absence without prior obtaining leave, was admitted as he has based his justification as illness of his sister. However, disappearance from duty without permission or leave is not an appreciable act on the part of appellant belonging to disciplined force. If there was any urgency, the appellant ought to have approached the respondents by submitting application for leave, and ought to have waited for written permission by the authorities. Instead of filing departmental appeal and revision petition after his dismissal, prior permission through application could save him from disciplinary proceedings, but admittedly there is no application for leave, what to talk of granting of sanction of the same, therefore, the appellant could not make out a case.

7. In view of above, we see no merits in this appeal, which is dismissed with costs. Consign.

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

KALIM ARSHAD KHAN
Chairman

MUHAMMAD AKBAR KHAN
Member (Executive)

Mutazem Shah

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No.1230/2022

Amjid Khan 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-12 25th October, 2024.	Present: 1. Arbab Saiful Kamal, Advocate on behalf of appellant. 2. Mr. Muhammad Jan, District Attorney on behalf of respondents **Kalim Arshad Khan, Chairman:** Vide our detailed judgment of today, placed on file we see no merits in this appeal, which is dismissed with costs. Consign. *2. Pronounced in open Court at Peshawar and given under our hands and the 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 PAKHTUNKHKWA SERVICE TRIBUNAL, PESHAWAR

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PRESENT

1. Mr. Arbab Saiful Kamal, 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