KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

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

Service Appeal No.4840/2021

Date of presentation of appeal 29.03.2021
Dates of Hearing.....23.10.2024
Date of Decision.....23.10.2024

Said Khan, Ex-Constable No. 1776 (Ex-Khasadar), District Police, Kohat.....(***Appellant***)

Versus

1. **The Provincial Police Officer,** Khyber Pakhtunkhwa Peshawar
2. **The Regional Police Officer,** Kohat Region Kohat.
3. **The Commandant, Levies/Khasadar,** Dara Sub Division Kohat/District Police Officer, Kohat.....(***Respondents***)

Present:

Mr. Taimur Ali Khan, Advocate.....For appellant.

Mr. Muhammad Jan, District Attorney.....For respondents.

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SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, AGAINST THE ORDER DATED 01.11.2019, WHEREBY THE APPELLANT WAS DISMISSED FROM SERVICE, AGAINST THE ORDER DATED 06.07.2020, WHEREBY DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED AND AGAINST THE ORDER DATED 04.03.2021, WHEREBY THE REVISION OF THE APPELLANT WAS ALSO REJECTED FOR NOT GOOD GROUNDS.

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JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Brief facts gathered from the memo and grounds of appeals are that the appellant, a Khasadar from the FATA region (now Merged Areas), was nominated by his tribe to receive honorary payments, which were then distributed among tribe members. This practice was

part of the Khasadari System, in place before FATA's merger with Khyber Pakhtunkhwa due to the 25th Amendment to the Constitution; that following the merger, the Khasadar Force was integrated into the Police Department, making the appellant a member of the police force. However, he was not allegedly informed of this change. When his salary was halted, he discovered that he had been absorbed into the police department and later received a dismissal order dated 01.11.2019; that the dismissal order was passed on 01.11.2019, while the inquiry was conducted on 13.11.2019 after 12 days of passing the impugned order; that after receiving the dismissal order, the appellant filed a departmental appeal, which was rejected on 06.07.2020. Subsequently, he filed a revision under Rule-11-A of the Police Rules 1975, but it was also rejected on 04.03.2021 for insufficient grounds, hence, the instant service appeals.

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 defence 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. In light of the circumstances surrounding the appellant's case, it is evident that the dismissal process was fraught with significant procedural irregularities. The appellant, a Khasadar from the former FATA region, was absorbed into the Police Department following the merger with Khyber Pakhtunkhwa. However, he was never formally notified of this change, nor was he made aware of the implications for his employment status. The impugned dismissal order issued on 01.11.2019 was executed without a prior inquiry,

which is a fundamental breach of due process. Notably, the inquiry was conducted 12 days post-dismissal, undermining the validity of the decision and raising concerns about the fairness of the process. The appellant's attempts to seek clarification regarding his salary and status further highlight the lack of proper communication from the authorities. Moreover, the rejection of the appellant's departmental appeal on 06.07.2020, and subsequently, the revision under Rule 11-A of the Police Rules, 1975 on 04.03.2021, without providing a substantive basis, exacerbates the injustices faced by the appellant.

5. In view of the above, the appeal is accepted, the impugned orders dated 01.11.2019, 06.07.2020 and 04.03.2021 are set aside. The matter is remitted back to the department for a de-novo inquiry to be completed within ninety days after the date of receipt of this judgment. The appellant is reinstated for the purpose of enquiry. In case he is exonerated in the enquiry and is reinstated by the department, the back benefits will be subject to the outcome of enquiry. The department shall conduct a fair and transparent inquiry in accordance with law and rules and that the appellant is provided with an opportunity to present his case. Costs shall follow the event. Consign.

6. *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)

Adnan Shah, PA

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Restoration Application No. 1162/2024 in Service Appeal No. 4840/2021

Said Ullah versus Police Department

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-03 23rd October, 2024.	Present: 1. Mr. Taimoor Ali Khan, advocate on behalf of the appellant. 2. Mr. Muhammad Jan, District Attorney for the respondents. 3. Arguments on the restoration application as well as main service appeal No. 4840/2021 were heard. 4. Restoration application filed by the appellant accepted and the main appeal stands restored on its original number. 5. Vide our detailed judgment of today placed on file, the appeal is accepted, the impugned orders dated 01.11.2019, 06.07.2020 and 04.03.2021 are set aside. The matter is remitted back to the department for a de-novo inquiry to be completed within ninety days after the date of receipt of this judgment. The appellant is reinstated for the purpose of enquiry. In case he is exonerated in the enquiry and is reinstated by the department, the back benefits will be subject to the outcome of enquiry. The department shall conduct a fair and transparent inquiry in accordance with law and rules and that the appellant is provided with an opportunity to present his case. Costs shall follow the event. Costs shall follow the event. Consign. 6. Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 23rd day of October, 2024. (Muhammad Akbar Khan) Member (E) (Kalim Arshad Khan) Chairman *Adnan Shah*

MEMO OF COSTS
KHYBER PAKHTUNKHKWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No.4840/2021

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SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, AGAINST THE ORDER DATED 01.11.2019, WHEREBY THE APPELLANT WAS DISMISSED FROM SERVICE, AGAINST THE ORDER DATED 06.07.2020, WHEREBY DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED AND AGAINST THE ORDER DATED 04.03.2021, WHEREBY THE REVISION OF THE APPELLANT WAS ALSO REJECTED FOR NOT GOOD GROUNDS.

PRESENT

1. Mr. Taimur Ali Khan, 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 23rd day of October 2024.

Muhammad Akbar Khan
Member (Executive)

Kalim Arshad Khan
Chairman