KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

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

Service Appeal No.292/2023

Date of presentation of Appeal.....08.08.2023
Date of Hearing.....21.10.2024
Date of Decision.....21.10.2024

Mr. Qaiser Abbas, Ex-Constable No.602, Police Lines, Hangu
.....***(Appellant)***

Versus

1. **The Provincial Police Officer,** Khyber Pakhtunkhwa, Peshawar.
2. **The Regional Police Officer,** Kohat Region, Kohat.
3. **The District Police Officer,** Hangu.....***(Respondents)***

Present:
Mr. Taimur Ali Khan, 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 ORDER DATED 21.07.2022, WHEREBY THE APPELLANT HAS BEEN REMOVED FROM THE SERVICE AND AGAINST THE ORDER DATED 14.09.2022, WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED FOR NO GOOD GROUNDS AND AGAINST MEMO/ORDER DATED 26.05.2023, WHEREBY THE REVISION OF THE APPELLANT WAS REJECTED FOR NO GOOD GROUNDS DURING PENDENCY OF SERVICE APPEAL.

JUDGMENT

KALIM ARSHAD KHAN, CHAIRMAN: Appellant's case as reflected from the record, in brief is that he was appointed as Constable and was posted as Computer Operator in the DPO Office,

Hangu; that a complaint was filed by the Manager LEAs Jazz to respondent No.2 about the leakage of personal customer data (Cell detail record) against the cell numbers of DPO and SP Investigation Offices; that inquiry was conducted in the matter and charge sheet alongwith statement of allegations were served upon the appellant; that the same were replied by the appellant, denying therein the allegations of leakage of data; that another inquiry was also conducted against the appellant whereby the appellant was held guilty for the said leakage of data; that after issuance of final show cause notice which was replied by the appellant with stance that the leakage of data was caused due to not changing the password of his predecessor Mr. Muhammad Ilyas, who had changed the language of password and the said issue was also brought by the appellant into the notice of the DPO and there was no role in the leakage of data; that on the basis of the above mentioned allegations, vide order dated 21.07.2022, he was removed from service; that he preferred departmental appeal on 10.08.2022 which was rejected on 14.09.2022; that then he filed revision petition under Rule 11-A of the Khyber Pakhtunkhwa Police Rules, 1975 on 03.10.2022 but the same was also rejected on 26.05.2023, 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, 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 District Attorney controverted the same by supporting the impugned order(s).

5. It is evident that the appellant was posted as Computer Operator in the office of District Police Officer, Hangu. In the meanwhile, the Manager Law Enforcement Agencies, Jazz made an application to the Deputy Inspector General of Police, Kohat Region, regarding a complaint that data of the numbers of DPO office and SP Investigation Office have been leaked. Inquiries were conducted, wherein, the appellant was held guilty of the said leakage of data as he was Incharge/Operator of the ID from which the data was leaked. The appellant in his reply, stated that the said ID was under the use of his predecessor Muhammad Ilyas who had changed the language of password. Therefore, he held the said Muhammad Ilyas guilty for the said leakage. However, his stance was not considered by the authorities; consequently, he was awarded major punishment of removal from service vide impugned order dated 21.07.2022. The said order was assailed by him through departmental appeal followed by revision petition under Rule 11-A of the Khyber Pakhtunkhwa Police Rules, 1975, while the same met failure by rejection. Therefore, he preferred the instant service appeal before the Tribunal.

6. In the issue of leakage of data, proper inquiry has been conducted by the respondents. Everything on the part of respondents seem correct as the appellant ought to have changed the passwords etc. at the relevant point of time. The stance raised by the appellant that he had tried to approach Muhammad Ilyas for changing his password and also pointed out the matter before the DPO. However, there is nothing in black & white which could satisfy the Tribunal that appellant had brought the matter into the notice of his high-ups or had taken care of his sensitive job requirements. The allegation that his predecessor might have leaked the information, is not worth consideration without any substance on file. Being part of disciplined force, the officials posted on such a responsible position, should be vigilant regarding the information of the department.

7. In view of above, we see no merits in this case, 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 21st day of October, 2024.*

KALIM ARSHAD KHAN
Chairman

MUHAMMAD AKBAR KHAN
Member (Executive)

**Muazem Shah*2*

MEMO OF COSTS
KHYBER PAKHTUNKHKWA SERVICE TRIBUNAL, PESHAWAR

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SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 21.07.2022, WHEREBY THE APPELLANT HAS BEEN REMOVED FROM THE SERVICE AND AGAINST THE ORDER DATED 14.09.2022, WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED FOR NO GOOD GROUNDS AND AGAINST MEMO/ORDER DATED 26.05.2023, WHEREBY THE REVISION OF THE APPELLANT WAS REJECTED FOR NO GOOD GROUNDS DURING PENDENCY OF SERVICE APPEAL.

PRESENT

1. Mr. Taimur Ali Khan, 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 21st day of October 2024.

Muhammad Akbar Khan
Member (Executive)

Kalim Arshad Khan
Chairman

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No.292 of 2023

Qaiser Abbas 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-17 21st October, 2024.	Present: 1. Mr. Taimur Ali Khan, Advocate on behalf of appellant. 2. Mr. Naseer Ud Din Shah, Assistant Advocate General for the respondents. 3. Vide our detailed judgment of today, placed on file, we see no merits in this case, which is dismissed with costs. Consign. 4. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 21st day of October, 2024* (Muhammad Akbar Khan) Member (E) (Kalim Arshad Khan) Chairman *Mutazem Shah*

18.09.2024 1. Junior to learned counsel for the appellant present. Mr. Arshad Azam, Assistant Advocate General for the respondents present.

2. Former requested for short adjournment on the ground that learned counsel for the appellant is busy before the Hon'ble Peshawar High Court, Peshawar. To come up for arguments on 19.09.2024 before D.B. P.P given to the parties.

(Fareeha Paul)
Member (E)

(Rashida Bano)
Member (J)

Kaleemullah

19.09.2024 1. Learned counsel for the appellant present. Mr. Muhammad Jan, District Attorney for the respondents present.

2. Learned counsel for the appellant requested for adjournment in order to further prepare the brief. To come up for arguments on 21.10.2024 before D.B. P.P given to the parties.

(Rashida Bano)
Member (J)

(Kalim Arshad Khan)
Chairman

Kaleemullah