

Service Appeal No.1800/2023 titled "Amir Ali Shah versus Government of Khyber Pakhtunkhwa through Secretary Home & Tribal Affairs Department, Khyber Pakhtunkhwa, Peshawar and others", declared on 28.10.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Mrs. Rashida Bano, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar, at Camp Court, Abbottabad.

**KHYBER PAKHTUNKHWA SERVICE**  
**TRIBUNAL, PESHAWAR**  
**AT CAMP COURT, ABBOTTABAD**

BEFORE: **KALIM ARSHAD KHAN** ... CHAIRMAN  
**RASHIDA BANO** ... MEMBER(Judicial)

*Service Appeal No.1800/2023*

Date of presentation of Appeal.....07.09.2023  
Date of Hearing.....28.10.202  
Date of Decision.....28.10.2024

**Amir Ali Shah**, son of Mazhar Ali Shah, Junior Clerk, Haripur Prison.  
.....*Appellant*

Versus

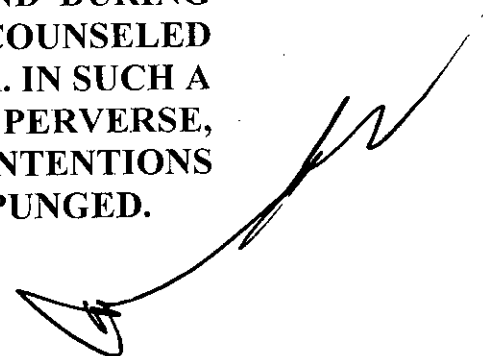
1. **Government of Khyber Pakhtunkhwa** through Secretary Home & Tribal Affairs Department, Khyber Pakhtunkhwa, Peshawar.
2. **Inspector General of Prisons**, Khyber Pakhtunkhwa, Peshawar.
3. **Superintendent Central Prison**, Haripur.
4. **Superintendent Sub Jail**, Dassu, Kohistan.....(*Respondents*)

Present:

Mr. Muhammad Arshad Khan Tanoli, Advocate.....For the appellant  
Mr. Umair Azam, Additional Advocate General.....For respondents

----

**APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 FOR DECLARATION TO THE EFFECT THAT ADVERSE REMARKS IN THE ACRS FOR THE PERIOD FROM 01.01.2022 TO 08.06.2022 ARE TO BE EXPUNGED FROM THE SAID ACR BECAUSE AS PER PART-II COLUMN OF ACR WITHOUT SPECIFICALLY NEGATING ACHIEVEMENTS/ASSIGNED DUTIES AWARDING OF ADVERSE REMARKS ARE NULLITY IN LAW. THE APPELLANT HAS SERVED FROM DAWN TO DUSK IN THE RESPONDENTS' DEPARTMENT AND DURING THE SAID PERIOD, HE HAS NOT BEEN COUNSELED VERBALLY OR THROUGH ANY LETTER. IN SUCH A SITUATION, ADVERSE REMARKS ARE PERVERSE, PUNGENT AND BASED ON MALAFIDE INTENTIONS AND THE SAME ARE LIABLE TO BE EXPUNGED.**



## **JUDGMENT**

**KALIM ARSHAD KHAN CHAIRMAN:** The appellant's case in brief, as per averments of the appeal, is that adverse remarks were communicated to him which were recorded in his Performance Evaluation Report (PER) for the period from 01.01.2022 to 08.06.2022 and communicated to him vide letter dated 20.02.2023.

2. Feeling aggrieved, he filed departmental appeal for expunction of the impugned adverse remarks but his appeal was not responded, hence, the present service appeal.

3. On receipt of the appeal and its admission to full hearing, the respondents were summoned, who 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.

4. We have heard learned counsel for the appellant and learned Additional Advocate General for the respondents.

5. The Learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned Additional Advocate General controverted the same by supporting the impugned order(s).

6. Perusal of record shows that appellant was serving as Junior Clerk in the Prisons Department in Haripur. The disputed remarks in the PER for the period from 01.01.2022 to 08.06.2022 vide order dated 20.02.2023 as under:

"PART-II

1. *Cooperation and lack.....Below average*
2. *Amenability to discipline....Below average*
3. *Skill in drafting.....Below average.*

7. We have given due consideration to the adverse observations in the light of relevant instructions and we find that some of them do not appear to have been strictly observed. It is provided in the Guidelines that reporting officer is expected to counsel the officer being reported upon about his weak points and advise him how to improve and that adverse remarks should ordinarily be recorded when the officer fails to improve despite counseling. In the present case, however, there is nothing to show that such proper counseling was ever administered to the appellant. In view of the importance of this instruction, the Reporting Officer, or the Countersigning Officer should not only impart appropriate advice but also keep a record of such an advice having been duly administered.

8. For the reasons mentioned above, we are of the opinion that the adverse remarks in this case have been recorded in disregard of the relevant instructions. Therefore, on acceptance of this appeal, the adverse remarks recorded in the PER for the period from 01.01.2022 to 08.06.2022 are expunged. Costs shall follow the event. Consign.

9. *Pronounced in open Court at Abbottabad and given under our hands and the seal of the Tribunal on this 28<sup>th</sup> day of*

*Service Appeal No. 1800/2023 titled "Amir Ali Shah versus Government of Khyber Pakhtunkhwa through Secretary Home & Tribal Affairs Department, Khyber Pakhtunkhwa, Peshawar and others", declared on 28.10.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Mrs. Rashida Bano, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar, at Camp Court, Abbottabad.*

October, 2024.



**KALIM ARSHAD KHAN**  
Chairman  
Camp Court, Abbottabad



**RASHIDA BANO**  
Member (Judicial)  
Camp Court, Abbottabad

\*Muazem Shah\*


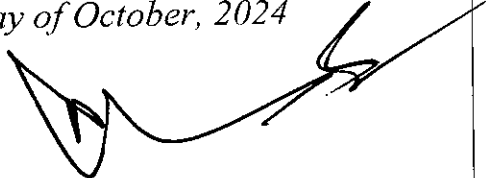
**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**

Service Appeal No.1800 of 2023

Amir Ali Shah

versus

Government of Khyber Pakhtunkhwa

S.No. of Order & Date of proceeding	<b>Order or other proceedings with signature of Chairman/Member(s)/Registrar and that of parties or counsel where necessary</b>
<p>Order-07 28<sup>th</sup> October, 2024.</p>	<p>Present:</p> <ol style="list-style-type: none"><li>1. Mr. Muhammad Arshad Khan Tanoli, Advocate on behalf of appellatant.</li><li>2. Mr. Umair Azam, Additional Advocate General on behalf of respondents.</li></ol> <p><b><u>Kalim Arshad Khan, Chairman:</u></b> Vide our detailed judgment of today, placed on file, we are of the opinion that the adverse remarks in this case have been recorded in disregard of the relevant instructions. Therefore, on acceptance of this appeal, the adverse remarks recorded in the PER for the period from 01.01.2022 to 08.06.2022 are expunged. Costs shall follow the event. Consign.</p> <p>2. <i>Pronounced in open Court at Abbottabad and given under our hands and the seal of the Tribunal on this 28<sup>th</sup> day of October, 2024</i></p> <p style="text-align: center;"> (Rashida Bano) Member (J)</p> <p style="text-align: center;"> (Kalim Arshad Khan) Chairman</p> <p><small>*Mubtazen Shah*</small></p>

Due to cancellation of low case is  
adjourn to 27-5-2024.

R

27<sup>th</sup> May, 2024 01. Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

02. Reply/comments on behalf of respondents submitted through office which are placed on file. Copy of the same handed over to learned counsel for the appellant. To come up for arguments on 23.07.2024 before D.B at camp court Abbottabad. P.P given to the parties.

\*Kaleemullah\*

(Muhammad Akbar Khan)  
Member (E)  
Camp Court A/Abad

23.07.2024 1. Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney alongwith Tariq Sheikh, Law Officer for the respondents present.

2. Former requested for adjournment on the ground that he has not prepared the brief. Adjourned. To come up for arguments on 28.10.2024 before D.B at Camp Court, Abbottabad. P.P given to the parties.

SCANNED  
KPPT  
Peshawar  
\*Kaleemullah\*

(Fareeha Paul)  
Member (E)  
Camp Court, Abbottabad

(Rashida Bano)  
Member (J)  
Camp Court, Abbottabad

**MEMO OF COSTS**  
**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR**

**Service Appeal No.1800/2023**

Date of presentation of Appeal      07.09.2023  
Date of hearing                              28.10.2024  
Date of Decision                             28.10.2024

**Amir Ali Shah**, son of Mazhar Ali Shah, Junior Clerk, Haripur Prison.  
.....*Appellant*

Versus

1. **Government of Khyber Pakhtunkhwa** through Secretary Home & Tribal Affairs Department, Khyber Pakhtunkhwa, Peshawar.
2. **Inspector General of Prisons**, Khyber Pakhtunkhwa, Peshawar.

---

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 FOR DECLARATION TO THE EFFECT THAT ADVERSE REMARKS IN THE ACRS FOR THE PERIOD FROM 01.01.2022 TO 08.06.2022 ARE TO BE EXPUNGED FROM THE SAID ACR BECAUSE AS PER PART-II COLUMN OF ACR WITHOUT SPECIFICALLY NEGATING ACHIEVEMENTS/ASSIGNED DUTIES AWARDING OF ADVERSE REMARKS ARE NULLITY IN LAW. THE APPELLANT HAS SERVED FROM DAWN TO DUSK IN THE RESPONDENTS' DEPARTMENT AND DURING THE SAID PERIOD, HE HAS NOT BEEN COUNSELED VERBALLY OR THROUGH ANY LETTER. IN SUCH A SITUATION, ADVERSE REMARKS ARE PERVERSE, PUNGENT AND BASED ON MALAFIDE INTENTIONS AND THE SAME ARE LIABLE TO BE EXPUNGED..


**PRESENT**

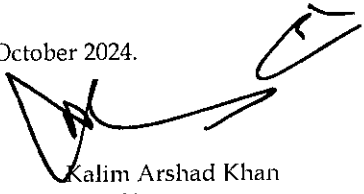
1. Mr. Muhammad Arshad Khan Tanoli, Advocate, for the Appellant
2. Mr. Umair Azam, Additional Advocate General, for respondents

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
<b>Total</b>	<b>Rs. 100/-</b>	<b>Total</b>	<b>Rs. Nil</b>

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 28<sup>th</sup> day of October 2024.

  
Rashida Bano  
Member (Judicial)

  
Kalim Arshad Khan  
Chairman