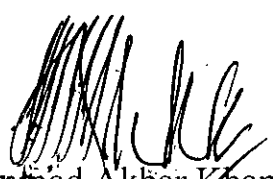
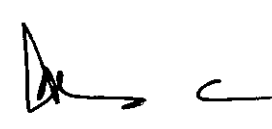


KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Restoration Application No. 1163/2024 in Service Appeal No. 819/2021

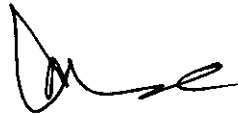
Dr. Murad Khan versus Police Department

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 23 rd October, 2024.	<p>Present:</p> <ol style="list-style-type: none">1. Mr. Taimoor Ali Khan, advocate on behalf of the appellant.2. Mr. Naseer Ud Din Shah, Assistant Advocate General for the respondents.3. Arguments on the restoration application as well as main service appeal No. 819/2021 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 present appeal is partially accepted and major penalty of dismissal from service is modified/ converted into removal from service. Costs shall follow the event. Consign.6. <i>Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 23rd day of October, 2024.</i> <p style="text-align: center;"> (Muhammad Akbar Khan) Member (E)</p> <p style="text-align: center;"> (Kalim Arshad Khan) Chairman</p> <p><i>*Adnan Shah*</i></p>

reason mentioned in the departmental appeal, absence from duty was proved against the appellant beyond any shadow of doubt. Learned counsel for the appellant was confronted on this point but was unable to given any plausible explanation. Learned counsel for the appellant was unable to make out a case for indulgence of this Tribunal. Taking lenient view of the situation, we are inclined to convert the penalty of dismissal into removal from service.

7. As a sequel to above, the present appeal is partially accepted and major penalty of dismissal from service is modified/ converted into removal from service. Cosign.

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

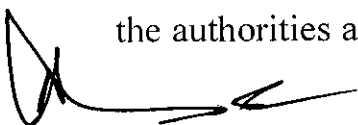


MUHAMMAD AKBAR KHAN
Member (Executive)

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. The appellant's case revolves around his appointment as Assistant Director and Analysis Qualitative Expert (BPS-17) in the Counter Terrorism Department of Khyber Pakhtunkhwa, effective from 23.11.2016, with his assumption of charge on 30.11.2016. He sought extraordinary leave without pay for the period from 01.03.2019 to 29.02.2020, which was granted. However, on 16.04.2019, a show-cause notice was issued to him by the respondent No.2 for alleged intentional and deliberate absence. The appellant responded to the notice, but despite this, he was awarded the major penalty of dismissal from service on 20.04.2020, retroactive to 22.02.2019, and was also directed to return the double pay he had received for three months. The appellant, dissatisfied with the decision, filed a departmental appeal on 24.07.2020. However, this appeal was not decided within the statutory period of ninety days, prompting him to file the present service appeal.

6. Perusal of impugned order would reveal that appellant had admittedly gone abroad. For the said visit, he had submitted an application for one year leave without pay. However, before approval of the said application, he left the country, due to which the authorities awarded him punishment. On the strength of the



JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: The appellant's case in brief, as per averments of the appeal, is that he was appointed as Assistant Director and Analysis Qualitative Expert (BPS-17) in Counter Terrorism Department Khyber Pakhtunkhwa vide order dated 23.11.2016; that he took over charge of the post on 30.11.2016; that the appellant submitted an application for extra ordinary leave without pay for a period of one year w.e.f 01.03.2019 to 29.02.2020; that on 16.04.2019, the respondent No.2 issued him show cause notice for intentional and deliberate absence, which was duly replied by the appellant; that he was awarded major penalty of dismissal from service vide impugned order dated 20.04.2020 but with effect from 22.02.2019 and the double pay he had received for three months to be recovered from him; that feeling aggrieved, he filed departmental appeal on 24.07.2020 but the same was not responded within statutory period of ninety days, hence, the instant service appeal.

2. 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.

3. We have heard learned counsel for the appellant and learned Assistant Advocate General for the respondents.



KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

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

Service Appeal No.819/2021

Date of presentation of Appeal.....12.01.2021
Date of Hearing.....23.10.2024
Date of Decision.....23.10.2024

Dr. Murad Khan, Ex-Assistant Director (Research & Analysis),
Counter Terrorism Department, Khyber Pakhtunkhwa,
Peshawar.....**Appellant**

Versus

1. **Inspector General of Police**, Khyber Pakhtunkhwa, Peshawar.
2. **Deputy Inspector General of Police**, CTD, Khyber Pakhtunkhwa, Peshawar.
3. **Superintendent of Police**, CTD Malakand Region, Swat
.....(**Respondents**)

Present:

Mr. Taimur Ali Khan, Advocate.....For the appellant
Mr. Naseer Ud Din Shah, Assistant Advocate General...For respondents

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 20.04.2020, WHEREBY THE APPELLANT WAS DISMISSED FROM SERVICE W.E.F 22.02.2019 AND ALSO THE RECOVERY OF DOUBLE PAY FOR THREE MONTHS HAS BEEN IMPOSED UPON HIM AND AGAINST THE LETTER DATED 16.06.2020 WHEREBY "IN THE CONSEQUENCE OF ORDER DATED 20.04.2020" THE RECOVERY OF THREE MONTHS OF WORTH OF RS.184425/- HAS MENTIONED AND THE ORDERS DATED 20.04.2020 AND LETTER DATED 16.06.2020 WERE RECEIVED BY THE APPELLANT ON 06.07.2020 AND AGAINST THE ORDER DATED 17.03.2021, WHEREBY THE DEPARTMENTAL APPEAL/REVIEW OF THE APPELLANT HAS REJECTED DURING THE PENDENCY OF INSTANT APPEAL.



MEMO OF COSTS
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No.819/2021

Date of presentation of Appeal 12.01.2021
Date of hearing 23.10.2024
Date of Decision 23.10.2024

Dr. Murad Khan, Ex-Assistant Director (Research & Analysis), Counter Terrorism Department, Khyber Pakhtunkhwa, Peshawar(Appellant)

Versus

1. **Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.**
2. **Deputy Inspector General of Police, CTD, Khyber Pakhtunkhwa, Peshawar.**
3. **Superintendent of Police, CTD Malakand Region, Swat**
.....(Respondents).

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 20.04.2020, WHEREBY THE APPELLANT WAS DISMISSED FROM SERVICE W.E.F 22.02.2019 AND ALSO THE RECOVERY OF DOUBLE PAY FOR THREE MONTHS HAS BEEN IMPOSED UPON HIM AND AGAINST THE LETTER DATED 16.06.2020 WHEREBY "IN THE CONSEQUENCE OF ORDER DATED 20.04.2020" THE RECOVERY OF THREE MONTHS OF WORTH OF RS.184425/- HAS MENTIONED AND THE ORDERS DATED 20.04.2020 AND LETTER DATED 16.06.2020 WERE RECEIVED BY THE APPELLANT ON 06.07.2020 AND AGAINST THE ORDER DATED 17.03.2021, WHEREBY THE DEPARTMENTAL APPEAL/REVIEW OF THE APPELLANT HAS REJECTED DURING THE PENDENCY OF INSTANT APPEAL.

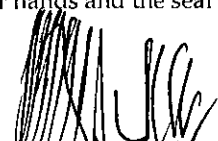
PRESENT


1. Mr. Taimoor 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.	6. Costs	Rs. Nil
Total	Rs. 100/-	Total	Rs. Nil

Note: 1. 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