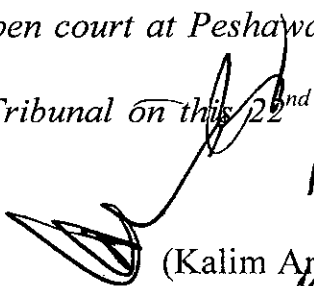
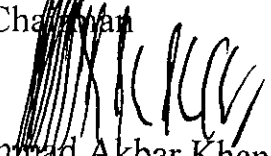


**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**

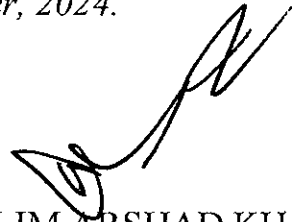
Service Appeal No. 2500/2023

Niaz Ali versus The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar  
and two others

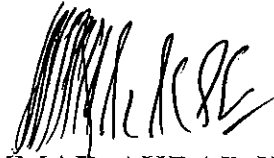
S. No. of Order & Date of Proceedings	<b>Order or other proceedings with signature of Chairman/Member (s)/Registrar and that of parties or counsel where necessary</b>
<p><u>Order-10</u> 22<sup>nd</sup> October, 2024</p>	<p>Present:</p> <ol style="list-style-type: none"><li>1. Miss Roeda Khan, Advocate on behalf of the appellant present.</li><li>2. Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.</li><li>3. Vide our detailed judgment of today placed on file, we set aside the impugned orders and remit the instant service appeal and direct the respondents to conduct de-novo inquiry. The said inquiry is to be conducted within 60 days of the receipt of judgment, strictly in accordance with law/rules. The appellant shall be fully associated with the inquiry proceedings by providing him fair opportunity of personal hearing and cross examination. The issue of back benefits shall be subject to the outcome of de-novo inquiry. Costs shall follow the event. Consign.</li><li>4. <i>Pronounced in open court at Peshawar and given under our hand and seal of the Tribunal on this 22<sup>nd</sup> day of October, 2024.</i></li></ol> <p> (Kalim Arshad Khan) Chairman</p> <p> (Muhammad Akbar Khan) Member (E)</p> <p>*Kamranullah*</p>

inquiry proceedings by providing him fair opportunity of personal hearing and cross examination. The issue of back benefits shall be subject to the outcome of de-novo inquiry. Costs shall follow the event. Consign.

07. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 22<sup>nd</sup> day of October, 2024.*



(KALIM ARSHAD KHAN)  
CHAIRMAN



(MUHAMMAD AKBAR KHAN)  
MEMBER (E)

*In view of the above discussion, the appeal in hand as well as connected service appeal bearing No. 570/2022 titled "Tariq Ali Versus District Police Officer Mardan and two others" are allowed by setting aside the impugned orders and the appellants are reinstated in service for the purpose of de-novo inquiry. The de-novo inquiry shall be completed within a period of one month of receipt of copy of this judgment, strictly in accordance with relevant law/rules. Needles to mention that the appellants shall be fully associated with the inquiry proceedings by providing them fair opportunity to cross examine the witnesses as well as production of evidence in their defense. The issue of back benefits shall be subject to the outcome of de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.*

06. Record reveals that the charges so leveled against the appellant were factual in essence, which cannot be proved without conducting a regular inquiry and the de-novo inquiry conducted cannot be termed as a regular inquiry, as the inquiry officer has skipped the mandatory provision to afford opportunity to the appellant to cross-examine witnesses. The Supreme Court of Pakistan in its judgment reported as 2008 SCMR 1369 have held that in case of imposing major penalty, the principles of natural justice required that a regular inquiry was to be conducted in the matter, otherwise civil servant would be condemned unheard and major penalty of dismissal from service would be imposed upon him without adopting the required mandatory procedure, resulting in manifest justice. There were no evidences, examination of prosecution witnesses or opportunity of cross-examination, hence the proceedings so conducted were not in accordance with law. We, therefore, set aside the impugned orders and remit the instant appeal as well as connected service appeals and direct the respondents to conduct de-novo inquiry. The said inquiry is to be conducted within 60 days of the receipt of judgment, strictly in accordance with law/rules. The appellant shall be fully associated with the inquiry proceedings by

of de-novo inquiry and was proceeded against in light of judgment of this Tribunal, but was dismissed again from service vide order dated 19.10.2023 & 22.11.2023. Feeling aggrieved, the appellants filed departmental appeal which were dismissed vide order dated 28.11.2023 & 29.01.2024, hence the instant service appeal with prayers that the impugned orders may be set aside and the appellant may be re-instated in service with all back benefits.

03. Notices were issued to the respondents, who submitted their comments, wherein they refuted the assertions raised by the appellant in his appeal. We have heard arguments of learned counsel for the appellant and learned Assistant Advocate General for the respondents and have gone through the record with their valuable assistance.

04. 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 comments submitted by the respondents.

05. Placed on record is an earlier judgments of this tribunal passed in service appeals No. 569/2022 & 570/2022 & 620/2022 in favor of the appellants, which shows that the appellants were dismissed from service without providing opportunity for cross examination of the witnesses during the inquiry proceedings and the appellants were condemned unheard. In view of the illegality on part of the respondents, the impugned orders were set aside and the appellants were re-instated in service with direction to the respondents to conduct denovo inquiry. Para-8 of the operative part of the judgment is reproduced as under;

Date of presentation of Appeal.....16.02.2024  
 Date of Hearing.....22.10.2024  
 Date of Decision.....22.10.2024

Abid Khan, Ex-IHC No. 203, Police Line, Mardan.....(Appellant)

VERSUS

1. The Regional Police Officer, Mardan Region, Mardan.
2. The District Police Officer, Mardan.....(Respondents)

TAIMUR ALI KHAN,  
 Advocate

--- For appellant.

NASEER UD DIN SHAH,  
 Assistant Advocate General

--- For respondents

CONSOLIDATED JUDGMENT

MUHAMMAD AKBAR KHAN, MEMBER (E):-. Through this single judgment, we intend to dispose of the instant service appeal as well as connected Service Appeal bearing No. 2501/2023 “Muhammad Tariq The Provincial Police Officer Khyber Pakhtunkhwa, Peshawar & others” and Service Appeal bearing No. 340/2024 “Abid Khan versus The Provincial Police Officer Khyber Pakhtunkhwa, Peshawar & others”, as common question of law and facts are involved in all these appeals.

02. Brief facts of the case are that the appellant, while serving as constable in Mardan Police, was previously dismissed from service vide order dated 09.03.2022. The appellants namely Niaz Ali & Tariq Ali filed service appeals No. 569/2022 & 570/2022, which was decided vide consolidated judgment dated 25.10.2022 while the appellant namely Abid Khan filed service appeal No. 620/2022 which was decided vide judgment dated 24.07.2023 with direction to the respondents to conduct denovo inquiry within a period of one month. Consequently, the appellants were re-instated in service for the purpose

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL**  
**PESHAWAR**

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

*Service Appeal No. 2500/2023*

Date of presentation of Appeal.....30.11.2023  
Date of Hearing.....22.10.2024  
Date of Decision.....22.10.2024

Niaz Ali (LHC No. 3333) District Police Mardan.....(**Appellant**)

**VERSUS**

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

ROEEDA KHAN,  
Advocate

--- For appellant.

NASEER UD DIN SHAH,  
Assistant Advocate General

--- For respondents

*Service Appeal No. 2501/2023*

Date of presentation of Appeal.....30.11.2023  
Date of Hearing.....22.10.2024  
Date of Decision.....22.10.2024

Muhammad Tariq (LHC No. 1608) District Police Mardan.....(**Appellant**)

**VERSUS**

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

ROEEDA KHAN,  
Advocate

--- For appellant.

NASEER UD DIN SHAH,  
Assistant Advocate General

--- For respondents

*Service Appeal No. 340/2024*

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

**Service Appeal No.2500/2023**

Date of Institution..... 30.11.2023  
Date of Hearing..... 22.10.2024  
Date of Decision..... 22.10.2024

Niaz Ali (LHC No. 3333) District Police Mardan..... (*Appellant*)  
**VERSUS**

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

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**APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 19.10.2023 OF RESPONDENT NO. 1 WHEREBY THE APPELLANT WAS DISMISSED FROM SERVICE AND ORDER DATED 28.11.2023 OF RESPONDENT NO. 2 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED.**


**PRESENT**


1. Miss Roeda Khan, Advocate on behalf of the appellant present.
2. Mr. Naseer Ud Din Shah, Assistant Advocate General, for respondents present.

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 22<sup>nd</sup> day of October, 2024.

  
(Kalim Arshad Khan)  
Chairman

  
(Muhammad Akbar Khan)  
Member (E)