

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**


Service Appeal No.1239/2022

Hidayat Ullah


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
<u>Order-16</u> 06 <sup>th</sup> November, 2024.	<p><b><u>Kalim Arshad Khan, Chairman</u></b></p> <p>Present:</p> <ol style="list-style-type: none"><li>1. Mr. Mansoor Islam, Advocate, on behalf of appellant.</li><li>2. Mr. Naseer Ud Din Shah, Assistant Advocate General, on behalf of respondents.</li><li>3: Vide our detailed judgment of today, placed on file, the appeal in hand is disposed of with direction to respondents to grant the appellant leave as per his leave account and pass suitable order for the remaining period.</li><li>4. <i>Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 6<sup>th</sup> day of November, 2024</i></li></ol>

  
(Rashida Bano)  
Member (J)

\*Mutazem Shah\*

  
(Kalim Arshad Khan)  
Chairman

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

**Service Appeal No.1239/2022**

Date of presentation of Appeal                      16.08.2022  
Date of hearing    05.11.2024  
Date of Decision    05.11.2024

**Hidayat Ullah** Senior Clerk (BPS-14) Department of Archives & Libraries, Khyber Pakhtunkhwa

.....(*Appellant*)

Versus

1. **Government of Khyber Pakhtunkhwa** through Secretary Higher Education Khyber Pakhtunkhwa, Peshawar.
2. **Director** Archives & Libraries, Khyber Pakhtunkhwa at Directorate of Archives & Libraries, Peshawar.....(*Respondents*)

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SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER  
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974.


**PRESENT**

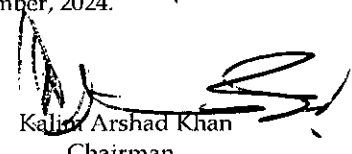
1. Mr. Mansoor Salam, Advocate, for the Appellant
2. Mr. Naseer Ud Din Shah, Assistant Advocate General, for respondents

<b>Appellants</b>	<b>Amount</b>	<b>Respondent</b>	<b>Amount</b>
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 4<sup>th</sup> day of November, 2024.

  
Rashida Bano  
Member (Judicial)

  
Kalim Arshad Khan  
Chairman

7. The appeal in hand is disposed of in the above terms.

Costs shall follow the event. Consign.

8. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 6<sup>th</sup> day of November; 2024.*



**KALIM ARSHAD KHAN**

Chairman



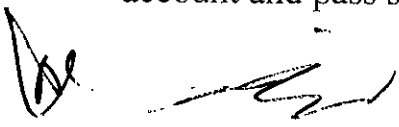
**RASHIDA BANO**

Member (Judicial)

*\*Mutazem Shah\**

5. The appellant, while serving at the Abdul Salam Library in Haripur, was unable to attend his duties due to illness. Despite submitting a leave application, his request was rejected. Consequently, a charge sheet was issued by respondent No. 2 on 25.10.2021, citing his 46-day absence from duty. The appellant was also served with a show-cause notice on 08.02.2022, followed by an inquiry. The Inquiry Committee recommended the imposition of a minor penalty, specifically a censure, and suggested converting the period of absence into leave without pay. However, the respondents, imposed penalty through the impugned order dated 14.04.2022, which included withholding the appellant's promotion for three years and treating the 46 days of absence as leave without pay. Aggrieved by this decision, the appellant filed a departmental appeal, which went unanswered. As a result, the appellant has now filed the present service appeal, challenging the imposed penalty and the lack of response to his appeal.

6. In the period for which his promotion was withheld, there is nothing which could show that any colleague of the appellant, junior to him, was promoted and placed senior to him. The issue revolves around the period of absence that has been treated as leave without pay. In this respect, this Tribunal is of the view to direct the respondents to grant him leave as per his leave account and pass suitable order for the remaining period.



remained unable to attend the duties; that he filed application for leave, however, the same was rejected; that respondent No.2 issued him charge sheet dated 25.10.2021 for 46 days absence; that he was also served with show cause notice dated 08.02.2022 followed by inquiry, wherein, the Inquiry Committee recommended imposition of minor penalty of Censure upon the appellant and conversion of the leave period into leave without pay; that vide impugned order dated 14.04.2022, penalty of withholding of promotion for a period of three years alongwith treating the 46 days absence as leave without pay, was imposed upon the appellant; that feeling aggrieved, he filed departmental appeal, but the same was not responded, 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 and 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 Assistant Advocate General controverted the same by supporting the impugned order(s).

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR**

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

*Service Appeal No.1239/2022*

Date of presentation of Appeal.....16.08.2022  
Date of Hearing.....05.11.2024  
Date of Decision.....05.11.2024

**Hidayat Ullah Senior Clerk (BPS-14) Department of Archives & Libraries, Khyber Pakhtunkhwa**  
.....(*Appellant*)

Versus

1. **Government of Khyber Pakhtunkhwa** through Secretary Higher Education Khyber Pakhtunkhwa, Peshawar.
2. **Director Archives & Libraries, Khyber Pakhtunkhwa** at Directorate of Archives & Libraries, Peshawar.....(*Respondents*)

Present:

Mr. Mansoor Salam, 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 IMPUGNED ORDER DATED 14.04.2022 WHEREBY MINOR PENALTY OF WITHHOLDING PROMOTION FOR A PERIOD OF THREE YEARS HAS BEEN IMPOSED UPON THE APPELLANT AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.**

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**JUDGMENT**

**KALIM ARSHAD KHAN, CHAIRMAN:** Brief facts of the case, as per averments of the appeal, are that appellant was serving at Abdul Salam Library Haripur; that due to illness, he