



KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No.1290/2022

Faheem 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
Order-13 4 th November, 2024.	<p><u>Kalim Arshad Khan, Chairman</u></p> <p>Present:</p> <ol style="list-style-type: none">1. Mr. noor Muhammad Khattak, on behalf of appellant.2. Mr. Naseer Ud Din Shah, Assistant Advocate General, on behalf of respondents.3. Vide our detailed judgment of today, placed on file, the impugned order dated 27.07.2022 stands set aside and instant service appeal is accepted. Costs shall follow the event. Consign.4. <i>Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 4th day of November, 2024</i> <p style="text-align: center;"> (Rashida Bano) Member (J)</p> <p style="text-align: center;"> (Kalim Arshad Khan) Chairman</p> <p><small>*Mutazem Shah*</small></p>

MEMO OF COSTS
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No.1290/2022

Date of presentation of Appeal 19.08.2022
Date of hearing 04.11.2024
Date of Decision 04.11.2024

Mr. Faheem Ullah, Computer Operator (BPS-16), Office of Service Delivery Center
(Land Computerization) Tehsil Building Near DC Office, Peshawar.

.....(*Appellant*)

Versus

1. **The Senior Member Board of Revenue**, Khyber Pakhtunkhwa, Peshawar.
2. **The Director Land Record**, Board of Revenue, Peshawar.

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


PRESENT


1. Mr. Noor Muhammad Khattak, 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 4th day of November, 2024.


Rashida Bano
Member (Judicial)


Kalim Arshad Khan
Chairman

7. Sometimes, the departments initiate departmental proceedings against the employees in order to obscure a serious haphazard/mishap. In this case too, the proceedings initiated against the appellant seem to serve a similar purpose. However, concern of the bench is, whether the impugned order was passed in accordance with Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 or otherwise and whether being a Computer Operator, the appellant had any job description in the matter involved in this case. It also merits to mention that no serious loss has been occurred.

8. Therefore, the impugned order dated 27.07.2022 stands set aside and instant service appeal is accepted. Costs shall follow the event. Consign.

9. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 4th day of November, 2024.*



KALIM ARSHAD KHAN
Chairman



RASHIDA BANO
Member (Judicial)

Mutazem Shah

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, while serving as Computer Operator in the Revenue Department at Peshawar was charge sheeted on the allegations as under:

"i. That you deliberately issued contradictory Fardat in violation of Rules and without consent of land owners, which are illegitimate.

ii. That you deliberately did not verify the CNIC of the land owners, hence, and embarrassment situations were created. Resultantly, a fake Power of Attorney was issued and registered involving violation of prevailing Rules and procedure.

iii. That this act on your part tantamount & liable to be against under the rules."

6. The said charge sheet was followed by an inquiry and issuance of show cause notice. The appellant replied the said correspondence in his defense. But his defense was not brought into consideration and the proceedings were concluded resulting into his compulsory retirement and in response to his departmental appeal, vide appellate order dated 20.07.2022, impugned herein, minor penalty of stoppage of three annual increments with cumulative effect was imposed. Before initiating departmental proceedings, the respondents ought to have observed the job description of the appellant whether the said Fard was the jurisdiction of the appellant or otherwise. Secondly, no loss or other mishap has been occurred, even if so done by the appellant.



JUDGMENT

KALIM ARSHAD KHAN, CHAIRMAN: Brief facts of the case, as per averments of the appeal, are that appellant was serving as Computer Operator in the respondent department; that he was charge sheeted on the allegations of deliberately issuing contradictory Fardat in violation of law & rules and without the knowledge of the land owner and also not verified the CNIC of the land owner; the said charge sheet was replied by the appellant by denying the charges; that a show cause notice was also issued and he was compulsorily retired from service vide order dated 08.06.2022; that the said order was assailed by the appellant through filing departmental appeal in response of which, his penalty of compulsory retirement was converted into minor penalty of stoppage of three annual increments with cumulative effect by treating the intervening period as leave without pay, vide impugned appellate order dated 20.07.2022, 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.

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

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

Service Appeal No.1290/2022

Date of presentation of Appeal.....19.08.2022
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.....(*Appellant*)

Versus

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2. **The Director Land Record**, Board of Revenue, Peshawar.

.....(*Respondents*)

Present:

Mr. Noor Muhammad Khattak, Advocate.....For the appellant
Mr. Naseer Ud Din Shah, Assistant Advocate General.....For respondents

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED APPELLATE ORDER DATED 20.07.2022 WHEREBY THE MAJOR PENALTY OF COMPULSORY RETIREMENT FROM SERVICE HAS BEEN CONVERTED INTO MINOR PUNISHMENT OF STOPPAGE OF THREE ANNUAL INCREMENTS WITH CUMULATIVE EFFECT HAS BEEN IMPOSED ON THE APPELLANT AND AGAINST THE ORIGINAL IMPUGNED ORDER DATED 08.006.2022 WHEREBY MAJOR PENALTY OF COMPULSORY RETIREMENT FROM SERVICE HAS BEEN IMPOSED ON THE APPELLANT.

