



KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No.953/2022

Imran Khan 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-16 6 th November, 2024.	<p><u>Kalim Arshad Khan, Chairman</u></p> <p>Present:</p> <ol style="list-style-type: none">1. Miss. Uzma Syed, Advocate, on behalf of appellant.2. Mr. Naseer Ud Din Shah, Assistant Advocate General, on behalf of respondents.3. Vide our detailed judgment of today, the appeal is accepted and the impugned appellate order dated 18.05.2022 is set aside in terms that the said period of four months and twenty days (as without pay) be converted into leave of the kind due. 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 6th 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>

converted into leave of the kind due. Costs shall follow the event. Consign.

7. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 6th day of November, 2024.*



KALIM ARSHAD KHAN
Chairman



RASHIDA BANO
Member (Judicial)

Mutazem Shah

5. The matter involved in this case is regarding the back benefits of the intervening period as well as the period between 19.07.2014 to 08.12.2014. In the first round of litigation, the appellant was out of service, however, the respondents reinstated him into service. He had already been granted the period of three weeks w.e.f. 28.06.2014 to 18.07.2014 as medical leave.

5. After conducting denovo inquiry, the order dated 17.03.2022 was passed, but no back benefits were granted and the period w.e.f. 19.07.2014 to 08.12.2014 was treated as leave without pay, against which, the appellant again filed representation before the appellate authority. The appellate authority (Regional Police Officer, Bannu) vide his order dated 18.05.2022 exonerated the appellant from the charges but again, the period of four months and twenty days (from 19.07.2014 to 08.12.2014) was treated as leave without pay. Therefore, the dispute remained as it was and the appellant was compelled for filing the instant appeal. The competent authority ought to have considered the leave account and accordingly, leave should have been dealt with. However, neither the competent authority, nor the appellate authority have considered this aspect.

6. In view of above, the appeal is accepted and the impugned appellate order dated 18.05.2022 is set aside in terms that the said period of four months and twenty days (as without pay) be



Appeal No.729/2016, which was accepted with direction to respondents to conduct de-novo inquiry within 60 days of receipt of the judgment dated 09.12.2021; that he was reinstated into service for the purpose of de-novo inquiry, which was conducted and, vide order dated 17.03.2022, absence period of four months and twenty days was treated as leave without pay and three weeks were treated as medical leave, with no back benefits; that feeling aggrieved, he filed departmental appeal against the order dated 17.03.2022, which was accepted on 18.05.2022 by setting aside the order dated 17.03.2022, however, the period from 19.07.2014 to 08.12.2014 was treated as leave without pay while leaving the intervening period undecided, therefore, the appellant filed 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 of respondents 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.953/2022

Date of presentation of Appeal.....15.06.2022
Date of Hearing.....06.11.2024
Date of Decision.....06.11.2024

Imran Khan, Constable No.420, District Bannu
.....(*Appellant*)

Versus

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

Present:

Miss. Uzma Syed, 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 APPELLATE FINAL ORDER DATED 18.05.2022 RECEIVED ON 23.05.2022 WHEREBY THE PUNISHMENT OF APPELLANT HAS BEEN SET ASIDE AND PERIOD W.E.F 19.07.2014 TO 08.12.2014 TOTAL 04 MONTHS AND 20 DAYS WAS TREATED AS LEAVE WITHOUT PAY AND BACK BENEFITS OF INTERVENING PERIOD WAS ALSO DENIED ORALLY.

JUDGMENT

KALIM ARSHAD KHAN, CHAIRMAN: Brief facts of the case, as per averments of the appeal, are that appellant was serving as Constable in the Police Department; that vide order dated 25.02.2015, he was dismissed from service, which dismissal was challenged by the appellant through filing Service

MEMO OF COSTS
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

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.....(Appellant)

Versus

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

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


PRESENT


1. Miss. Uzma Syed, 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 6th day of November, 2024.


Rashida Bano
Member (Judicial)


Kalim Arshad Khan
Chairman