

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No. 1650 of 2022
Muhammad Javed versus PPO Khyber Pakhtunkhwa, Peshawar and others.

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-17 31 st October, 2024.	<p>Present:</p> <ol style="list-style-type: none">1. Appellant in person.2. Mr. Naseerud Din Shah, Assistant Advocate General on behalf of the respondents. <p>Former requested for adjournment on the ground that his learned counsel is busy in the Hon'ble Peshawar High Court today. Adjourned. To come up for arguments on 08.11.2024 before the D.B. at the Principal Seat, Peshawar. <i>Parcha Peshi</i> given to the parties.</p> <p>(Fareeha Paul) Member (Executive)</p> <p>(Aurangzeb Khattak) Member (Judicial)</p> <p><i>*Fazle Subhan PS*</i></p>

SECRET
KPST
Peshawar



KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No. 1650/2022

Muhammad Javed

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
<p><u>Order-18</u> 8th November, 2024.</p>	<p>Present:</p> <ol style="list-style-type: none">1. Mr. Murad, Clerk to Mr. Noman Ali Bukhari, Advocate on behalf of the appellant.2. Mr. Naseer Ud Din Shah, Assistant Advocate General for respondents.3. Former requested for adjournment on the ground that learned counsel is not available today. Since this case dates back to 2022, it will be scheduled for an order. The counsel may present arguments before announcement of the order. Adjourned. To come up for order/arguments on 11.11.2024 before the Division Bench. P.P given to the parties. <p style="text-align: center;"> (Rashida Bano) Member (J)</p> <p style="text-align: center;"> (Kalim Arshad Khan) Chairman</p> <p>*Adnan Shah*</p>



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Order-19 11 th November, 2024.	<p><u>Kalim Arshad Khan, Chairman</u></p> <p>Present:</p> <ol style="list-style-type: none">1. Syed Noman Ali Bukhari, Advocate, on behalf of appellant.2. Mr. Muhammad Jan, District Attorney, on behalf of respondents.3. Vide our detailed judgment of today, placed on file, we set aside the impugned order dated 24.10.2022 and remit the matter back to the appellate authority for passing of appropriate order on the appeal, if any, filed by the appellant. The authority is at liberty to pass order on the merits as well as on limitation, to decide the matter according to its own wisdom, within 60 days of the receipt of the judgment. Where-after, the appellant may approach the relevant forum for the redressal of his grievance, if he feels aggrieved and if that is filed, that has to be decided in accordance with its own merits and as per law. 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 11th 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>



be decided in accordance with its own merits and as per law.

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 11th day of November, 2024.*

KALIM ARSHAD KHAN
Chairman

RASHIDA BANO
Member (Judicial)

Mutazem Shah

the order dated 24.10.2022 wherein, it was held that he remained absent for nine years and after passage of nine years, he filed departmental appeal for his arrival. In the impugned order dated 24.10.2022 the department has based his termination/removal, on the following analogy:

"After 5 years of continuous absence, services of a Civil Servant shall automatically stand terminated under FR-18 and Rule-12 of the NWFP Civil Servant Revised Leave Rules 1981. In the light of Rule-12 of the ibid rules, a willful absence of more than five years shall not be converted into leave without pay."

6. The appellant was terminated on the basis of Rule 18 of Fundamental Rules, however, that is not in field and does not justify the order dated 24.10.2022 in the eyes of law.

7. Therefore, we set aside the impugned order dated 24.10.2022 and remit the matter back to the appellate authority for passing of appropriate order on the appeal, if any, filed by the appellant. The authority is at liberty to pass order on the merits as well as on limitation, to decide the matter according to its own wisdom, within 60 days of the receipt of this judgment. Where-after, the appellant may approach the relevant forum for the redressal of his grievance, if he feels aggrieved and if that is filed, that has to





dated 18.11.2013; that the appellant allegedly requested the SP Bannu to either mark his attendance or retire him from service but in vain; that the appellant fell ill and was unable to resume his duties; that on 12.01.2022 he reached the age of superannuation but no order was issued regarding his retirement from service; that he filed representation for service benefits, however, the said departmental appeal was disposed of vide order dated 24.10.2022 with the remarks that appellant stood automatically terminated/removed from service under FR-18, 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 District Attorney 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 District controverted the same by supporting the impugned order(s).

5. The appellant, after his transfer to another Range of FRP i.e. FRP Bannu Range, disappeared and remained absent but did not bother to submit any application for leave. The same stance has also been taken by the respondents in

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

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

Service Appeal No.1650/2022

Date of presentation of Appeal.....22.11.2022
Date of Hearing.....11.11.2024
Date of Decision.....11.11.2024

Muhammad Javed Ex-Constable No.7369 FRP Bannu Range,
Bannu.

.....(*Appellant*)

Versus

1. **The Provincial Police Officer**, Khyber Pakhtunkhwa, Peshawar.
2. **Commandant Frontier Reserve Police**, Khyber Pakhtunkhwa, Peshawar.
3. **The Superintendent of Police FRP Bannu.**(*Respondents*)

Present:

Syed Noman Ali Bukhari, Advocate.....For the appellant
Mr. Muhammad Jan, District Attorney.....For respondents

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER OF RESPONDENT NO.2 DATED 24.10.2022 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT REJECTED AND HELD THAT APPELLANT STOOD AUTOMATICALLY TERMINATED/REMOVED FROM SERVICE UNDER FR-18 WHICH IS UNLAWFUL.

JUDGMENT

KALIM ARSHAD KHAN, CHAIRMAN: Brief facts of the case, as per averments of the appeal, are that appellant was appointed in the Police Department on 12.01.1987 and served for about 26 years till 2013; that he was transferred from FRP D.I.Khan Range to FRP Bannu Range vide order

MEMO OF COSTS
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

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Date of Decision 11.11.2024

Muhammad Javed Ex-Constable No.7369 FRP Bannu Range, Bannu.

.....(*Appellant*)

Versus

1. **The Provincial Police Officer**, Khyber Pakhtunkhwa, Peshawar.
2. **Commandant** Frontier Reserve Police, Khyber Pakhtunkhwa, Peshawar.

Respondents)

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


PRESENT

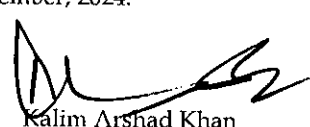
1. Syed Noman Ali Bukhari, Advocate, for the Appellant
2. Mr. Muhammad Jan, District Attorney, for respondents

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 11th day of November, 2024.


Rashida Bano
Member (Judicial)


Kalim Arshad Khan
Chairman