

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**PESHAWAR.**

BEFORE: **AURANGZEB KHATTAK** ... **MEMBER (Judicial)**  
**FAREEHA PAUL** ... **MEMBER (Executive)**

**Service Appeal No. 1850/2023**

Date of presentation of Appeal.....13.09.2023  
Date of Hearing.....12.11.2024  
Date of Decision.....12.11.2024

**Ameer Muhammad Durrani S/o Khan Muhammad Durrani, R/o Nowshera Kalan, Nowshera. Ex-Section Officer (Transport) Administration Department, Civil Secretariat, Peshawar.**

.....**Appellant**

Versus

1. Secretary, Government of Khyber Pakhtunkhwa, Establishment Department, Peshawar.
2. Chief Minister, Government of Khyber Pakhtunkhwa, Peshawar through Chief Secretary, Government of Khyber Pakhtunkhwa Civil Secretariat, Peshawar.
3. Secretary, Government of Khyber Pakhtunkhwa, Administration Department, Peshawar.

.....(**Respondents**)

Present:

Mr. Muhammad Zafar Khan (Tahirkheli) , Advocate .....For appellant  
Mr. Naseer-ud-Din Shah, Assistant Advocate General .....For respondents

**JUDGMENT**

**AURANGZEB KHATTAK, MEMBER (JUDICIAL):** The appellant, Amir Muhammad, an ex-Section Officer (BPS-17) in the Transport wing of the Administration Department, Civil Secretariat Peshawar, was dismissed from service on 18-05-2010 on the allegations of embezzlement, corruption and corrupt practices. In response, he filed Service Appeal No. 1381/2010 before this Tribunal, challenging the dismissal order and seeking revocation of the penalty. However, his

*Handwritten signature and date: 12/11/2024.*

service appeal was dismissed for non-prosecution in November 2018 and a subsequent restoration application filed in 2022 was disposed of by this Tribunal on 03<sup>rd</sup> May, 2023 on the basis of request of the appellant to the effect that in view of case Law reported in 1996 SCMR 1185 and 2009 SCMR-1, he is going to approach the concerned authority for similar treatment already extended to his colleagues Balqiaz Khan and Ijaz Hussain. Similar appeals were filed by officials, Mr. Balqiaz Khan and Mr. Ijaz Hussain, both facing similar charges in a related National Accountability Bureau (NAB) reference before the National Accountability Court, Peshawar, were accepted by this Service Tribunal, with the direction to the respondents to conduct de-novo inquiry within a period of 60 days, which resulted in both officials temporarily reinstatement to facilitate the inquiry and upon conclusion, they faced penalties of retirement with recovery. The appellant now through instant appeal is seeking similar relief, citing parity with these officials.

2. The respondents were summoned, who contested the appeal by way of filing their respective written reply/comments.

3. The learned counsel for the appellant argued that, in accordance with the constitutional guarantee of equal treatment under Article 25 of the Constitution of Pakistan, the appellant is entitled to the same treatment granted to Mr. Balqiaz Khan and Mr. Ijaz Hussain. He next contended that the appellant is also entitled to receive the pension benefits granted to his colleagues in similar cases. Citing the judgments of the Supreme Court of Pakistan reported as 1996 SCMR 1185 and

*12/11/2024*

2009 SCMR 1, he asserted that the appellant is also similarly entitled to comparable relief. He further argued that denying the appellant such relief would infringe upon his fundamental rights, warranting the intervention. He next argued that the principles of justice require uniform application in cases with similar circumstances, thereby upholding fairness and preventing discrimination. In the last, he requested that the respondents may be directed to extend pension benefits to the appellant in line with the equitable treatment afforded to other colleagues in comparable positions.

4. On the other hand, Assistant Advocate General for the respondents contended that the appellant was dismissed from service on 18.05.2010 due to involvement in embezzlement, corruption and corrupt practices. He next contended that the appellant initially filed Service Appeal No. 1381/2010 before this Tribunal but the same was dismissed for non-prosecution on 20.11.2018, the appellant then filed Restoration Application No. 318/2022, which was dismissed as withdrawn on 03.05.2023. He further contended that unlike the appellant, Mr. Balqiaz and Mr. Ijaz Hussain pursued their Service Appeals (No. 1606/2010 and 1379/2010) diligently before this Tribunal but the appellant failed to pursue his case, seemingly due to the weak merit of his appeal and only sought relief after observing the outcomes of Balqiaz and Ijaz Hussain cases. He also contended that this Tribunal granted partial relief to Mr. Balqiaz Khan and Ijaz Hussain, ordering a de-novo inquiry within 60 days, this relief was based on the specifics of their cases, however, the

appellant cannot claim identical treatment as he is not similarly placed with Mr. Balqiaz Khan and Ijaz Hussain; they differ in role, grade and the nature of their respective penalties, which were imposed according to the degree of their involvement and official positions. He next argued that de-novo inquiry was conducted by the Establishment Department, which found both Mr. Balqiaz and Mr. Ijaz Hussain guilty of corruption, therefore, major penalties were recommended and penalties were imposed as retirement with recovery for Mr. Balqiaz Khan and compulsory retirement with recovery for Mr. Ijaz Hussain. He further argued that the appellant's application for the same relief is unfeasible as he was dismissed a day before retirement, a situation not shared by Mr. Balqiaz or Mr. Ijaz Hussain. He further argued that the appellant had previously exhausted his right to appeal and subsequently withdrew his Restoration Application, which bars him from now claiming identical relief. In the last, he argued that the appellant's request, lacks grounds for equal treatment and cannot be extended the relief provided to Mr. Balqiaz and Mr. Hussain.

5. We have heard the arguments of learned counsel for the parties and have perused the record.

6. The record shows that the appellant, while serving as Section Officer (BPS-17) on acting charge basis in the Transport Department, Civil Secretariat Peshawar, was dismissed from service on the allegations of corruption vide impugned order dated 26-06-2010 and subjected to a recovery penalty of Rs. 1,26,16,435/-. He filed Service

*Amir S. P.*  
*12/11/2024.*

Appeal No. 1381/2010 before this Tribunal, challenging his dismissal and the penalty imposed upon him. However, his service appeal was dismissed for non-prosecution in November 2018 and he subsequently filed restoration application in 2022, which was disposed of on 03<sup>rd</sup> May 2023. The appellant is now seeking similar treatment as accorded to Mr. Balqiaz Khan and Mr. Ijaz Hussain, two officials with analogous cases who were reinstated with an order for a de novo inquiry. As the appellant, along with Mr. Balqiaz Khan and Mr. Ijaz Hussain, were initially implicated in a corruption case before the National Accountability Court, Peshawar, leading to dismissal and financial penalties. The service appeals of Mr. Balqiaz Khan and Mr. Ijaz Hussain were subsequently decided by this Tribunal vide judgment dated 29.03.2022, resulting in orders for their reinstatement and conducting of de-novo inquiry, to be completed within 60 days. Following this judgment, both Mr. Balqiaz Khan and Mr. Ijaz Hussain were re-investigated, ultimately resulting in their compulsory retirement along with recovery penalties but with the concession of pension benefits. It is the contention of the appellant that under Article 25 of the Constitution of Pakistan, he is also entitled to equal treatment, claiming that the underlying facts, circumstances and charges in his case are analogous to those of Mr. Balqiaz Khan and Mr. Ijaz Hussain. The principle of equality as enshrined in Article 25 of the Constitution of Islamic Republic of Pakistan, 1973 which stipulates that all persons in similar situations should receive equal treatment under the law. In the precedent established in the judgments reported as 1996 SCMR 1185 and 2009

12/11/2024


SCMR 1, the Supreme Court of Pakistan held that similarly placed civil servants should receive comparable relief, even if they were not parties to the original litigation. The appellant's failure to pursue his case for a time does not detract from his fundamental right to equal treatment, especially given that he has resubmitted his claim, aligning his relief requests with those granted to similarly charged officials. The records show that the charges against the appellant, Mr. Balqiaz Khan and Mr. Ijaz Hussain stem from the same misconduct reference before the National Accountability Court, indicating parity in terms of the grounds for their penalties. We find that the nature and background of the charges justify the application of analogous treatment. Denying relief to the appellant solely due to procedural delays could contravene principles of fairness, especially as the respondents have conceded that the appellant is at liberty to seek remedies consistent with applicable laws. The respondents granted Mr. Balqiaz Khan and Mr. Ijaz Hussain pension benefits following their compulsory retirements under Khyber Pakhtunkhwa Civil Servants Pension Rules, 2021. As the appellant's case involves similar charges and outcomes, denial of pension benefits would amount to unequal treatment under Article 25 of the Constitution of Pakistan.

7. In view of the above and while relying on the case law reported in 1996 SCMR 1185 and 2009 SCMR-1, the appeal in hand is allowed by setting-aside the impugned orders. The appellant is reinstated in service for the purpose of de-novo inquiry and the matter is remitted


12/11/2024

back to the respondents for conducting de-novo inquiry. The respondents are further directed to conduct a de novo inquiry strictly in accordance with the laws/rules, allowing the appellant the opportunity to defend himself fully. The de-novo inquiry is to be concluded within a period of three (3) months from the date of receipt of copy of this judgment. The issues concerning back benefits, if any, owed to the appellant will be decided based on the outcome of the de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

8. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 12<sup>th</sup> day of November, 2024.*

  
AURANGZEB KHATTAK  
Member (Judicial)

12/11  
2024.

  
FAREEHA PAUL  
Member (Executive)

\*Naeem Amin\*

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

**Service Appeal No. 1850/2023**

Date of presentation of Appeal 13.09.2023  
Date of hearing 12.11.2024  
Date of Decision 12.11.2024

**Ameer Muhammad Durrani** S/o Khan Muhammad Durrani, R/o Nowshera Kalan, Nowshera. Ex-Section Officer (Transport) Administration Department, Civil Secretariat, Peshawar. ....**Appellant**

Versus

1. Secretary, Government of Khyber Pakhtunkhwa, Establishment Department, Peshawar.
  2. Chief Minister, Government of Khyber Pakhtunkhwa, Peshawar through Chief Secretary, Government of Khyber Pakhtunkhwa Civil Secretariat, Peshawar.
  3. Secretary, Government of Khyber Pakhtunkhwa, Administration Department, Peshawar.
- .....(**Respondents**)

---


**PRESENT**


1. Mr. Muhammad Zafar Khan (Tahirkheli), Advocate .....For 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 12<sup>th</sup> day of November 2024.

  
**Fareeha Paul**  
Member (Executive)

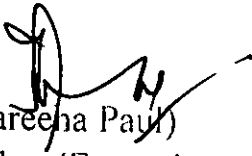

  
**Aurangzeb Khattak**  
Member (Judicial) 12/11/2024.



**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**

Service Appeal No. 1850 of 2023

Ameer Muhammad Durrani versus Secretary, Government of Khyber Pakhtunkhwa,  
Establishment Department, Peshawar and 02 others.

S.No. of Order & Date of proceeding.	<b>Order or other proceedings with signature of Chairman/Member(s)/Registrar and that of parties or counsel where necessary</b>
<u>Order-10</u> 12 <sup>th</sup> November, 2024.	<p>Present:</p> <ol style="list-style-type: none"><li>1. Mr. Muhammad Zafar Khan (Tahirkheli), Advocate on behalf of the appellant.</li><li>2. Mr. Naseer-ud-Din Shah, Assistant Advocate General on behalf of respondents.</li></ol> <p>Arguments heard and record perused.</p> <p>Vide our judgment of today placed on file, while relying on the case law reported in 1996 SCMR 1185 and 2009 SCMR-1, the appeal in hand is allowed by setting-aside the impugned orders. The appellant is reinstated in service for the purpose of de-novo inquiry and the matter is remitted back to the respondents for conducting de-novo inquiry. The respondents are further directed to conduct a de novo inquiry strictly in accordance with the laws/rules, allowing the appellant the opportunity to defend himself fully. The de-novo inquiry is to be concluded within a period of three (3) months from the date of receipt of copy of this judgment. The issues concerning back benefits, if any, owed to the appellant will be decided based on the outcome of the de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.</p> <p><i>Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 12<sup>th</sup> day of November, 2024.</i></p> <p style="text-align: center;"> (Fareeha Paul) Member (Executive)</p> <p style="text-align: right;"> (Aurangzeb Khattak) 12<sup>th</sup> 2024 Member (Judicial)</p>