

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

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

Service Appeal No. 1085/2022

Date of Presentation of Appeal.....17.06.2022

Date of Hearing.....08.11.2024

Date of Decision.....08.11.2024

Mr. Sultan Shah, Constable Belt No. 2969, Police line Ghalanai, District Mohmand.....(*Appellant*).

Versus

1. The Government of Khyber Pakhtunkhwa, through Inspector General of Police, Peshawar.
2. The DPO (District Police Officer), Mohmand.
3. The PSP Regional Police Officer, Mardan (Appellate Authority)
4. The OSI, District Police Officer, Mohmand.....(*Respondents*).

Present:

Mr. Muhammad Irshad Mohmand, Advocate.....For the appellant
Mr. Naseer ud Din Shah, Assistant Advocate General...For respondents

JUDGMENT

APPEAL UNDER SECTION 4 OF THE Khyber Pakhtunkhwa, SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 21.12.2021 OF RESPONDENT NO. 02 WHEREBY DEPARTMENTAL APPEAL FILED BY THE APPELLANT AGAINST THE IMPUGNED ORDER 21.12.2021 OF RESPONDENT NO.2 WAS DISMISSED.

RASHIDA BANO MEMBER (J): Brief facts of the case, as per contents of the appeal, The appellant, serving as a Frontier Constabulary (FC) Khasadar, was absorbed into the Police

Service under the Shohada Quota as per Roznamcha dated 27-09-2021, Naqal Mad 23. Subsequently, on 31-10-2021, the appellant was transferred from the Police Line to the Kotatraf Post in Ambar. During this period, the appellant attended the Police Training Center from 29-11-2021 to 28-02-2022 in Shah Kas, District Khyber, as documented in Naqal Mad 30, Roznamcha dated 29-11-2021. While the appellant was engaged in completing his basic training course, he was unexpectedly charge-sheeted, and an inquiry was initiated against him. Mr. Ayaz Khan, the Sub-Divisional Police Officer (SDPO) of Upper Mohmand, served as the Inquiry Officer. It remains unclear how the Inquiry Officer fulfilled the basic requirements of the inquiry, leading to ex-parte recommendations that resulted in the imposition of a major punishment—dismissal from service. This decision was subsequently confirmed by the Regional Police Officer (RPO) Mardan, who acted as the appellate authority. It is noteworthy that on 17-02-2022, a letter (No. 68/PA) was issued from the Office of the Director of the Police Training School, Shakas, District Khyber, addressed to the DPO Mohmand, stating that the appellant was under training at the Police Training School in Shakas, Khyber. Feeling aggrieved by the aforementioned orders, the appellant has filed the present service appeal.



02. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents put appearance and contested the appeals by filing written reply raising therein numerous legal and factual objections. The defense setup was a total denial of the claims of the appellant.

03. We have heard learned counsel for the appellant and learned Assistant Advocate General for the respondents.

04. 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).

05. The Perusal of record reveals that the appellant was nominated and sent to the Police Training School in Shakas, District Khyber, for duration of three months. His departure, along with that of other trainees, was duly recorded in Daily Diary No. 30 dated 29.11.2021. The appellant attended training from 29.11.2021 to 28.02.2022, as evidenced by the certificate issued by the Director of the Police Training School, Shakas, District Khyber, bearing registration No. B-118. Additionally, the Performance Report dated 02.03.2022 indicates that the appellant achieved an overall performance percentage of 71.67, with remarks of "good," and it is noteworthy that there were no recorded absences. However, the appellant was dismissed from service by the impugned order dated 21.12.2021, based on



allegations of failing to report for training at his designated training center.

06. The perusal of the comments and replies submitted reveals that no other order regarding the appellant's nomination or assignment to any alternative training has been provided. The representative of the respondents was unable to produce such documentation, which implies that the appellant was indeed sent for the any other training beside the one recorded in Daily Diary No. 30 dated 29.11.2021, and he remained there until 28.02.2022.

07. So, order passed by the respondent department is against the rules and facts, the impugned orders are hereby set aside and the service appeal is accepted as prayed for. Costs shall follow the event. Consign.

08. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 08th day of November, 2024.*

KALIM ARSHAD KHAN
CHAIRMAN

RASHIDA BANO
Member (Judicial)

M.Khan



KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1085/2022

Sultan Shah

Versus

Govt. 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>Order-13 08th November, 2024.</p>	<p>Present:</p> <ol style="list-style-type: none">1. Muhammad Irshad Mohmand, Advocate, for appellant present.2. Mr. Naseer ud Din Shah, Assistant Advocate General, for the respondents present.3. Vide our detailed judgment of today placed on file, the impugned orders are hereby set aside and the service appeal is accepted as prayed for. Costs shall follow the event. Consign.4. <i>Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 08th day of November, 2024.</i> <p> (KALIM ARSHAD KHAN) CHAIRMAN</p> <p> (RASHIDA BANO) MEMBER (J)</p> <p>*M.KHAN*</p>

MEMO OF COSTS
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 1085/2022

Date of presentation of Appeal 17.06.2022
Date of hearing 08.11.2024
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APPEAL UNDER SECTION 4 OF THE Khyber Pakhtunkhwa, SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 21.12.2021 OF RESPONDENT NO. 02 WHEREBY DEPARTMENTAL APPEAL FILED BY THE APPELLANT AGAINST THE IMPUGNED ORDER 21.12.2021 OF RESPONDENT NO.2 WAS DISMISSED.

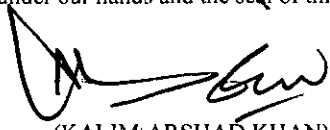
PRESENT


1. Muhammad Irshad Mohmand, Advocate, for the appellant
2. Mr. Naseer ud Din Shah, Assistant Advocate General, for the 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 08th day of November, 2024.


(KALIM ARSHAD KHAN)
Chariman


(RASHIDA BANO)
Member (J)