

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

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

Service Appeal No. 1082/2022

Date of Presentation of Appeal.....01.07.2022
Date of Hearing.....08.11.2024
Date of Decision.....08.11.2024

Mr. Zahir Ullah, Constable Belt No. 2967, Police line
Ghalanai, District Mohmand.....(**Appellant**).

Versus

1. The Provincial Police Officer/IG Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer, Mardan.
3. The District Police Officer, Mohmand.....(**Respondents**).

Present:

Mr. Muhammad Irshad Mohmand, Advocate.....For the appellants
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 APPELLATE ORDER DATED 13.06.2022 OF RESPONDENT NO. 02 /REGIONAL POLICE OFFICER MARDAN, WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT WAS DISMISSED AND THE INITIAL ORDER OF MAJOR PUNISHMENT OF DISMISSAL OF THE APPELLANT FROM SERVICE VIDE DATED 21.12.2021 PASSED BY THE RESPONDENT NO. 03 /DPO MOHMAND WAS MAINTAINED.

RASHIDA BANO MEMBER (J): Brief facts of the case, as per contents of the appeal, the appellant was initially appointed



as a Khasadar Levy in 2009. Following the merger of the Federally Administered Tribal Areas (FATA) into Khyber Pakhtunkhwa, the appellant was absorbed into the Police Service as a constable by Order dated 23-07-2020. The appellant was then sent to the Police Training School in Shakas, as documented in Daily Diary No. 21 dated 30-11-2021, issued from the Police Line, District Mohmand. This was duly acknowledged at the Shah Kas Training Center in District Khyber, as per Naqal Mad No. 8 Roznamcha dated 30-11-2021, where the appellant joined and successfully completed his training. While the appellant was engaged in completing his training, which is evidenced by the training certificate, he was unexpectedly dismissed from service by Respondent No. 3, the District Police Officer (DPO) Mohmand, through an impugned order dated 21-12-2021. This dismissal was based on allegations of non-reporting for training, issued without conducting a detailed inquiry or fulfilling the requisite legal procedures, despite the appellant's active participation in training. Furthermore, the dismissal order was not communicated to the appellant. Feeling aggrieved, filed a departmental appeal against the dismissal order before Respondent No. 2, which was rejected on 13-06-2022, hence 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 training of three months. His departure, along with that of other trainees, was duly recorded in Daily Diary No. 21 dated 30.11.2021. 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-212. Additionally, the Performance Report dated 02.03.2022 indicates that the appellant achieved an overall performance percentage of 68.75, 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 from which it implies that the appellant was indeed sent for the any other training beside the one for recorded in Daily Diary No. 21 dated 30.11.2021, 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. 1082/2022

Zahir Ullah

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
Order-15 08 th November, 2024.	<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

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... (Appellant)

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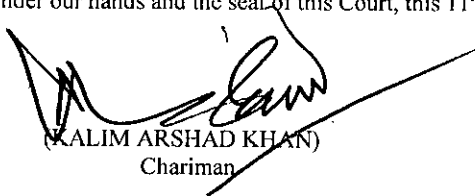
PRESENT

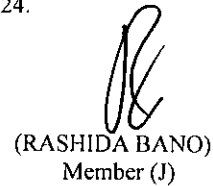
1. Muhammad Irshad Mohmand, Advocate, for the appellant
2. Mr. Naseer ud Din Shah, Assistant Advocate General, for the respondents.

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 11th day of November, 2024.


(KALIM ARSHAD KHAN)
Chariman


(RASHIDA BANO)
Member (J)