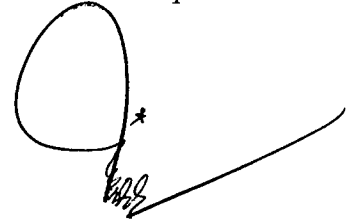


20.07.2022

Counsel for the petitioner present. Mr. Muhammad Adeel Butt, Addl. AG alongwith Shah Jehan, Inspector (Legal) for the respondents present.

Learned Additional Advocate General stated at the bar that he is constantly in touch with the respondent department where the case is under process for implementation of the judgment dated 12.01.2022. He sought time and requested for adjournment. Request is acceded to. To come up for implementation report on 21.09.2022 before S.B.

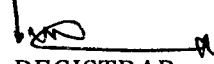



A handwritten signature in black ink, consisting of a large, stylized 'M' followed by a long horizontal stroke extending to the right.

(Mian Muhammad)
Member (E)

Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 173/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	05.04.2022	<p>The execution petition of Mr. Jan Bahadur submitted today by Mr. Taimur Ali Khan Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	<p><i>Noted</i> <i>18/4/22</i></p>	<p>This execution petition be put up before Single Bench at Peshawar on <u>24-05.2022</u>. Notices to the appellant and his counsel be also issued for the date fixed.</p> <p style="text-align: right;"> CHAIRMAN</p>
	24.05.2022	<p>Counsel for the appellant present. Notices be issued to the respondents. To come up for implementation report on 23.06.2022 before S.B.</p> <p style="text-align: right;"> Chairman</p>
	23 rd June, 2022	<p>Petitioner in person present. Mr. Muhammad Riaz Khan Paindakhel, Asst: AG alongwith Mr. Shah Jehan, ASI for respondents present.</p> <p>Respondents are directed through Asst: AG to submit implementation report on the next date. To come up for implementation report on 20.07.2022 before S.B.</p> <p style="text-align: right;"> (Kalim Arshad Khan) Chairman</p>

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

Execution Petition No. 173 /2022
In Service Appeal No.14056/2020



Jan Bahadur S.I MR-28,
Investigation Wing Charsadda.

PETITIONER

VERSUS

1. The Provincial Police officer, Khyber Pakhtunkhwa, Peshawar.
2. The regional Police Officer, Mardan Region Mardan.
3. The District Police Officer, Charsadda.

RESPONDENTS

.....
**EXECUTION PETITION FOR DIRECTING THE
RESPONDENTS TO IMPLEMENT THE
JUDGMENT DATED 12.01.2022 OF THIS
HONOURABLE TRIBUNAL IN LETTER AND
SPIRIT.**
.....

RESPECTFULLY SHEWETH:

1. That the petitioner has filed service appeal No.14056/2020 in the Honourable Tribunal against the order dated 30.09.2020, whereby the departmental appeal of the petitioner for seniority and promotion along with his batchmates namely Pir Shahab Ali and Raiz Ahmad has been rejected for no good grounds with the prayer that order dated 30.09.2020 may kindly be set aside and the petitioner may be granted seniority and promotion along with his batchmates namely Pir Shahab Ali and Raiz Ahmad on the basis of Supreme Court direction and notification dated 17.03.2020 with all back and consequential benefits.


2. The said appeal was heard by this Honourable Service Tribunal on 12.01.2022. The Honourable Service Tribunal accepted the appeal the petitioner as prayed for and the petitioner was hold entitled to his seniority and promotion as well as consequential benefits at par with his batchmates namely Pir Shahab Ali and Raiz Ahmad and on the analogy set by IGP Punjab and Islamabad. **(Copy of judgment dated 12.01.2022 is attached as Annexure-A)**
3. That the Honourable Tribunal has accepted the appeal of the petitioner on 12.01.2022, but after the lapse of more than two months the respondent has not implemented the judgment dated 12.01.2022 of this Honourable Tribunal.
4. That in-action and not fulfilling formal requirements by the respondents after passing the judgment of this Honourable Service Tribunal, is totally illegal amount to disobedience and Contempt of Court.
5. That the judgment is still in the field and has not been suspended or set aside by the Supreme Court of Pakistan, therefore, the department is legally bound to obey the judgment dated 12.01.2022 of this Honourable Service Tribunal in letter and spirit.
6. That the petitioner has having no other remedy except to file this execution petition for implementation of judgment dated 12.01.2022 of this Honourable Tribunal.

It is, therefore, most humbly prayed that the respondents may kindly be directed to implement the judgment dated 12.01.2022 of this Honourable Service Tribunal in letter and spirit. Any other remedy, which this august Service Tribunal deems fit and appropriate that, may also be awarded in favour of petitioner.


PETITIONER

Jan Bahadur

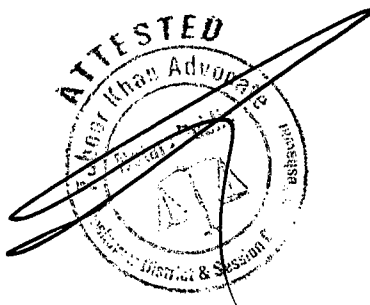
THROUGH:


(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT

AFFIDAVIT

It is affirmed and declared that the contents of the execution petition are true and correct to the best of my knowledge and belief.


DEPONENT



BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR



14056
APPEAL NO. _____/2020

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 13337

Dated 27/10/2020

Jan Bahadur S.I MR-28,
Investigation Wing Charsadda.

(APPELLANT)

VERSUS

1. The Provincial Police Officer, KPK, Peshawar.
2. The Regional Police Officer, Mardan Region, Mardan.
3. The District Police Officer, Charsadda.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 30.09.2020 COMMUNICATED TO THE APPELLANT ON 05.10.2020, WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT FOR SENIORITY AND PROMOTIONS ALONG WITH HIS BATCHMATES NAMELY PIR SHAHAB ALI AND RAIZ AHMAD HAS BEEN REJECTED AGAINST FOR NO GOOD GROUNDS.

Filed to-day

Registrar
27/10/2020

PRAYER:

Re-submitted to -day
and filed.

Registrar
9/11/2020

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 30.09.2020 MAY KINDLY BE SET ASIDE AND THE APPELLANT MAY BE GRANTED SENIORITY AND PROMOTIONS ALONG WITH HIS BATCHMATES NAMELY PIR SHAHAB ALI AND RAIZ AHMAD ON THE BASIS OF SUPREME COURT DIRECTION AND NOTIFICATION 17.03.2020 WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

ATTESTED


Registrar
Khyber Pakhtunkhwa
Service Tribunal

Attested

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 14056/2020

Date of Institution ... 27.10.2020

Date of Decision ... 12.01.2022



Jan Bahadur S.I MR-28, Investigation Wing Charsadda.

... (Appellant)

VERSUS

The Provincial Police Officer, Khyber Pakhtunkhwa Peshawar and two others.

... (Respondents)

Taimur Ali Khan,
Advocate

... For Appellant

Kabirullah Khattak,
Additional Advocate General

... For respondents

AHMAD SULTAN TAREEN ...
ATIQU-UR-REHMAN WAZIR ...

CHAIRMAN
MEMBER (EXECUTIVE)


JUDGMENT

ATIQU-UR-REHMAN WAZIR MEMBER (E):-

Brief fact of the

case are that the appellant joined police department as Assistant Sub Inspector (ASI) in the year 1984 and was promoted as Sub Inspector (SI) in the year 1995 and was deputed to National Highways and Motorways Police as Patrol Officer (BPS-14) for three years vide order dated 12-05-1998, where he was granted one step promotion as Senior Patrol Officer (BPS-16). The appellant was confirmed as SI with effect from 20-08-1998 in his parent department vide order dated 08-01-2001. The appellant was permanently inducted in motorway police with effect from 12-05-1998 vide order dated 24-04-2003 and was confirmed as senior patrol officer and was promoted as Chief Patrol Officer(BPS-17) on officiating basis with immediate effect alongwith other officials vide order dated 13-10-2008. In

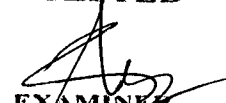
ATTESTED


Chairman
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

pursuance of judgment dated 05-10-2018 of Supreme Court of Pakistan, the appellant alongwith other officials were de-inducted and placed on deputation until process of repatriation to their parent departments vide order dated 28-05-2019. In continuation of such notification, another notification dated 17-03-2020 was issued, wherein the appellant alongwith others were repatriated from motorway police to their parent departments in their substantive ranks, pay & allowances with immediate effect. Upon joining his parent department, the appellant was not given seniority and promotion and was placed in the seniority of SI, therefore the appellant filed departmental appeal for his due seniority and promotion alongwith his batch-mates, but his appeal was rejected vide order dated 30-09-2020, hence the instant service appeal with prayers that the impugned order dated 30-09-2020 may be set aside and the appellant may be granted seniority and promotion alongwith his batch-mates namely Fir Shahib Ali Shah and Riaz Ahmad on the basis of Supreme Court direction and notification dated 17-03-2020 with all back and consequential benefits.

02. Learned counsel for the appellant has contended that not giving seniority and promotion to the appellant alongwith his batch-mates as per Supreme Court direction and notification dated 17-03-2020 by parent department and the impugned rejection order dated 30-09-2020 are against law, facts and norms of natural justice, therefore not tenable and liable to be set aside, that the Supreme Court of Pakistan in its judgment dated 05-10-2018 clearly mentioned that the official on repatriation to their parent department, their seniority and other benefits should be protected, despite the appellant has not been given seniority and promotion alongwith his batch-mates, which is violation of Supreme Court Judgment; that the notification dated 17-03-2020, on which the appellant was repatriated has also clarified that the officials who have been repatriated to their parent department shall be entitled to salaries and other benefits from the date, they were relieved to join their parent departments and expiry of the lien shall not


ATTESTED


EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

come in the way of officers to deprive them from joining the parent department, despite the appellant has not been given his due seniority and promotion alongwith his batch-mates, which is clear violation of notification dated 17-03-2020; that the appellant was discriminated as in other provinces and in capital area, the officials on repatriation to their parent departments have been given their due seniority and promotion alongwith their batch-mates which is evident from notification dated 09-04-2020 and 29-09-2020, but the same benefit was not extended to the appellant, which shows arbitrariness of the parent department; that batch-mates of the appellant has been promoted to the rank of SSP, but the appellant was adjusted as SI on repatriation to his parent department although his seniority and promotion was protected by the Supreme Court of Pakistan and notification dated 17-03-2020 and such action of respondents is against the fair play and norms of justice; that the appellant was deputed to motorway police after fulfilling all codal formalities and was repatriated to his parent department in the light of judgment dated 05-10-2018, which shows that the appellant obeyed the orders of his superiors and should not be punished for no fault of him; that the appellant was promoted to BPS-17 in the borrowing department and adjusting him in BPS-14 on his repatriation is against the norms of justice and fair play; that the appellant is on the verge of retirement and not granting him his due seniority and promotion will affect his gratuity and pension badly and his family will suffer, as such it will cause irreparable financial loss to the appellant and his family.

03. Learned Additional Advocate General for respondents has contended that it is correct that the appellant alongwith others , who had been inducted in motorway police, were de-inducted vide order dated 28-05-2019 and vide order dated 17-03-2020 were repatriated to their parent department in their substantive ranks; that upon repatriation, the appellant was given his due seniority and was placed in the seniority list of SI as the appellant was permanently inducted in motorway police vide order dated 24-04-2003, which means that he was no more

ATTESTED


 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

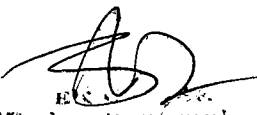
employee of the respondents department and the appellant was not part of the respondent department with effect from 24-04-2003 to 17-03-2020; that the appellant cannot be given seniority and promotion alongwith his batch-mates because for such promotion, the appellant has not fulfilled the requisite courses/criteria, hence rejection order dated 30-09-2020 is in accordance with law; that at the time of his induction in motorway police, the appellant was in the rank of SI, hence upon repatriation, he was placed in the seniority list of SI, hence he cannot claim his seniority and promotion in his parent department due to his long deputation period.

04. We have heard learned counsel for the parties and have perused the record.

05. Record reveals that the appellant joined police department as Assistant Sub Inspector(ASI) in the year 1984 and was promoted as Sub Inspector (SI) in the year 1995 and was deputed to National Highways and Motorways Police as Patrol Officer(BPS-14) for three years vide order dated 12-05-1998 and was granted one step promotion as Senior Patrol Officer (BPS-16). The appellant was confirmed as SI with effect from 20-08-1998 in his parent department alongwith his batch-mates namely Pir Shahab Ali Shah and Riaz Ahmad vide order dated 08-01-2001. The appellant was inducted in motorway police with effect from 12-05-1998 vide order dated 24-04-2003 and was confirmed as senior patrol officer and was promoted as Chief Patrol Officer (BPS-17) on officiating basis with immediate effect alongwith other officials vide order dated 13-10-2008.

06. In compliance with judgment of Supreme Court of Pakistan reported as 2013 SCMR 1752, Motorway Police withdrew/cancelled the absorption/induction of the appellant and others in its establishment and repatriated them to their respective parent departments on the ground that their induction was without the recommendation of the departmental induction committee. The petitioners had also approached Islamabad High Court against the order by filing ICAs wherein

ATTESTED


 H. S. Khan
 Secretary
 Motorway Police

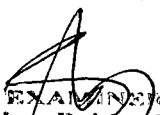
stay was initially granted but subsequently in the light of order passed by Supreme Court in Criminal Original Petition No 31/2016 dated 10-05-2016, whereby it was observed that the High Court could not exercise its jurisdiction in relation to the matters pertaining to terms and condition of service of civil servants in view of the bar contained under Article 212(3) of the Constitution, the said ICAs were dismissed, hence the appellants approached the Supreme Court to review the judgment of Supreme Court passed in criminal original petition No 89/2011 etc, which was decided vide judgment dated 05-10-2018 by placing reliance on judgment of supreme court of Pakistan in Criminal Original Petition No 8/2011 etc, relevant portion of which is reproduced as under:

"The officers/officials who have been repatriated to their parent departments shall be entitled to salaries and other benefits from the date they were relieved to join their parent departments. Their seniority shall be maintained in their parent departments with their batch-mates as if they were never relieved from their parent departments. Expiry of period lien shall not come in the way of the officers to deprive them from joining the parent departments..."

07. In compliance with the above order of Supreme Court of Pakistan, the National Highway and Motorway Police repatriated the appellant as well as others vide order dated 17-03-2020 with clear guidance that upon repatriation to their parent departments, the matter of their seniority and other consequential benefits will be taken care of in light of the above judgment of Supreme Court of Pakistan, but upon repatriation, such benefits were refused to the appellant.

08. In compliance with the above order of the Supreme Court, the IGP Punjab vide order dated 09-04-2020 had granted similar relief to one Mr. Abdul Ghani SI by granting him promotions, which was already granted in motorway police. Similarly IGP Islamabad vide order dated 29-09-2020 had granted similar relief to

ATTESTED

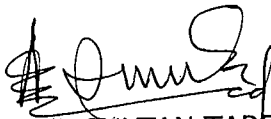

 EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

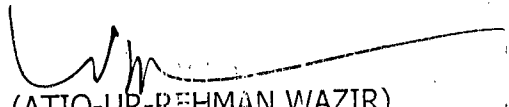
one Mr. Muhammad Zahid Khan on the same analogy, which is placed on record, whereas the same relief was refused to the appellant.

09. We are of the considered opinion that judgment of Supreme Court of Pakistan is very clear and the relief granted by IGP Punjab as well as Islamabad to the concerned officials are a clear example of such relief. Moreover the letter dated 17-03-2020 is also very clear on the issue in hand and the appellant having the same issue and a similarly placed employee deserve the same relief and its refusal to the appellant would amount to discrimination.

10. In view of the foregoing discussion, the instant appeal is accepted as prayed for and the appellant is held entitled to his seniority/promotion as well as consequential benefits at par with his batch-mates namely Pir Shahab Ali Shah and Riaz Ahmad and on the analogy set by IGP Punjab and Islamabad. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
12.01.2022


(AHMAD SULTAN TAREEN)
CHAIRMAN


(ATIQ-UR-REHMAN WAZIR)
MEMBER (E)

Certified to be true copy


Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 04-04-22
Number 2400
U. 261-
E. 51-
P. 301-
Date of Delivery of Copy 04-04-22
Date of Delivery of Copy 04-04-22

VAKALAT NAMA

NO. _____/2021

IN THE COURT OF KP Service Tribunal, Peshawar

Tan Bahadur (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Police Deptt (Respondent)
(Defendant)

I/We, Tan Bahadur


Do hereby appoint and constitute **Taimur Ali Khan, Advocate High Court Peshawar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/We authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/2021


(CLIENT)

ACCEPTED


TAIMUR ALI KHAN
Advocate High Court
BC-10-4240
CNIC: 17101-7395544-5
Cell No. 0333-9390916

OFFICE:

Room # FR-8, 4th Floor,
Bilour Plaza, Peshawar,
Cantt: Peshawar

د. ت. ا. خان

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

No.

Regd

SP

Appeal No. *E.P No. 173* of 20*22*

Jar Boludai

Appellant/Petitioner

Provincial Police Officer ^{Versus} *KPK Peshawar*

Respondent

Respondent No. *07*

Notice to: *The RPO, Mardan Region*

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on *23/06/2022* at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

E.P

Copy of ~~appeal~~ is attached. ~~Copy of appeal has already been sent to you vide this~~ office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this *30th*

Day of *May*.....20*22*.

For Impl-ment-tion Report

[Signature]

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

"B"

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.**

No. *Regd*

SE

E.P No. 173
Appeal No..... of 2022.

Jan Bahadur.....Appellant/Petitioner

Provincial Police Officer KPK Peshawar.....Respondent
Versus

Respondent No. *C31*

Notice to: *The DPO Charsadda*

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on.....*23/06/2022*.....at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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Copy of ~~appeal~~ *EP* is attached. Copy of appeal has already been sent to you vide this

office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this.....*30/6*.....

Day of.....*May*.....2022.

For Gmpt-men-tion Report

[Signature]
Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

"B"

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.**

SB

No.

Appeal No. *E.P No. 173* of 20 *22*

Jan Bahadur Appellant/Petitioner

Versus

Provincial Police Officer KPK Peshawar Respondent

Respondent No. *12*

Notice to: — *The Provincial Police Officers, KPK Peshawar*

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on.....*23/05/2022*.....at 8.00 A.M. If you wish to urge anything against the appelland/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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Copy of appeal ^{*E.P*} is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this.....*30th*.....

Day of.....*May*.....20 *22*

For Impl-ment-ion Report

31/05

[Signature]
Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.