Form- A

FORM OF ORDER SHEET

Court of_____

Execution Petition No. 186/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	11.04.2022	The execution petition of Mr. Sher Ali Baz submitted today by Mr. Yasir Saleem Advocate may be entered in the relevant register and put up to the Court for proper order please. REGISTRAR
2-		This execution petition be put up before to Single Bench at Peshawar on 16.05.2022. Original file be requisitioned. Notices to the appellant and his counsel be also issued for the date fixed. Notice & copies for submission of implementation report CHAIRMAN

16.05.2022 Learned counsel for the petitioner present. Mr. Muhammad Adeel Butt, Addl. Advocate General for the respondents present.

Learned AAG apprised the court about filing of CPLA No. 206-P of 2022 in the august Supreme Court of Pakistan. A request for early hearing has also been made. However, the respondent department is obligated to either get the Service Tribunal judgment dated 25.01.2022 suspended from the august Supreme Court of Pakistan or provisionally/conditionally implement it subject to the outcome of CPLA. To come up for further proceedings on 21.07.2022 before S.B.

(Mian Muhammad)
Member(E)

21.07.2022 Clerk of learned counsel for the petitioner present. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Implementation report not submitted. Learned Additional Advocate General seeks time to contact the respondents for submission of implementation report. Adjourned. To come up for implementation report on 10.10.2022 before S.B.

(Mian Muhammad)
Member (E)

BEFORE THE KHYBER PAKHTUNKWA
SERVICE TRIBUNAL PESHAWAR

Execution Petition No. 186/2022

In the matter of
Appeal No. 1003/2018
Decided on 25.01.2022

Sher Ali Baz, Warder (BPS-5), Internment Central Laki Marwat.

(Appellant)

VERSUS

Govt. of Khyber Pakhtunkhwa, through Chief Secretary, Khyber Pakhtunkhwa, Peshawar and others.

(Respondents)

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Appellant

Through

YASIR SALEEM
Advocate, Peshawar

BEFORE THE KHYBER PAKHTUNKWA
SERVICE TRIBUNAL PESHAWAR

Execution Petition no. 186/2022

In the matter of
Appeal No. 1003/2018
Decided on 25.01.2022

Sher Ali Baz, Warder (BPS-5), Internment Central Laki Marwat.

(Appellant)

VERSUS

1. Govt. of Khyber Pakhtunkhwa, through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
2. The Inspector General of Prisons, Khyber Pakhtunkhwa, Peshawar.
3. The Superintendent Circle Headquarters, Prison Peshawar.
4. The Superintendent, Internment Central Laki Marwat.

(Respondents)

Application for the implementation of the Judgment and Order dated 25.1.2022 in captioned service appeal of this Honourable Tribunal.

Respectfully Submitted:

1. That the above noted service appeal was pending adjudication in this Honourable Tribunal and was decided vide judgment and order dated 25.01.2022.

2. That vide judgment and order dated 25.01.2022, this Honorable Tribunal allowed the appeal and reinstated the appellant with all back benefits. The operating Para of the Judgment and order, is reproduced below:

> ***"8. In view of the foregoing, the appeal in hand and other connected appeals mentioned above are accepted and the appellant are entitled for salaries and all other benefits which would have accrued in their favour had they not been removed from service..***
>
> **(Copy of the consolidated Judgment and order dated 25.01.2022, is attached as Annexure A)**

3. That the judgment and order of this Honourable Tribunal, was duly communicated to the respondent by the applicant vide various applications for implementation. Thereafter the applicant is

continuously approaching the respondents for the implementation of the judgment dated 25.01.2022, however they are reluctant to implement the same.

4. That the respondents are legally bound to implement the judgment of this Honourable Tribunal dated 25.1.2022 in its true letter land sprit without any further delay.

It is, therefore, prayed that on acceptance of this application the judgment and order dated 25.01.2022 of this Honourable Tribunal be implemented in its true letter and spirit.

Appellant

Through

YASIR SALEEM
Advocate, Peshawar

AFFIDAVIT

It is solemnly affirm and declare on oath that the contents of the above implementation petition are true and correct to the best of my knowledge and belief and that nothing has been kept back or concealed from this Honourable Tribunal.

Shershali BAZ
DEPONENT

(3)

Khyber Pakhtunkhwa Service Tribunal Peshawar

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Khyber Pakhtunkhwa Service Tribunal
Diary No. 1355
Dated 29/8/2018

Service Appeal No. 1145/2018

Manzoor Khan, Warder (BPS-5), Central Prison Haripur.

(Appellant)

VERSUS

1. Govt. of Khyber Pakhtunkhwa, through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
2. That Home Secretary, Khyber Pakhtunkhwa, Peshawar
3. The Inspector General of Prisons, Khyber Pakhtunkhwa, Peshawar.
4. The Superintendent Central Prison Haripur.

(Respondents)

Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the Order dated 04.04.2018, whereby, though the appellant has been re-instated in service, however the intervening period has been treated as Extra- Ordinary leave without pay against which his Departmental Appeal dated 23.04.2018 has not been responded till the lapse of Statutory Period of 90 days.

Filed today
29/8/18
Registrar

Prayer in Appeal: -

Re-submitted to -day and filed.
Registrar
13/9/18

On acceptance of this appeal the Order dated *04.04.2018*, to the extent of treating the intervening period as Leave without Pay may please be set-aside and the appellant may also be allowed the back benefits of service.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

ORDER
25.01.2022

Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of the today, separately placed on file, the appeal in hand and other connected appeals mentioned above are accepted and the appellants are entitled for salaries and all other benefits which would have accrued in their favor, had they not been removed from service. Parties are left to bear their respective costs. File be consigned to the record room.

ANNOUNCED
25.01.2022

(AHMAD SULTAN TAREEN)
CHAIRMAN

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

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1145/2018

Date of Institution ... 29.08.2018

Date of Decision ... 25.01.2022

Manzoor Khan, Warder (BPS-05) Central Prison Haripur.

... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and three others.

... (Respondents)

Yasir Saleem,
Advocate ... For Appellant

Asif Masood Ali Shah
Deputy District Attorney ... For respondents

AHMAD SULTAN TAREEN ... CHAIRMAN
ATIQ-UR-REHMAN WAZIR ... MEMBER (EXECUTIVE)

JUDGMENT

ATIQ-UR-REHMAN WAZIR MEMBER (E):- This single judgment shall dispose of the instant service appeal as well as the following connected service appeals having common questions of law and facts:-

1. 1002/2018 titled Noor Islam
2. 1003/2018 titled Sher Ali Baz
3. 1067/2018 titled Muhammad Arif
4. 1068/2018 titled Malik Aftab
5. 1069/2018 titled Hameed Ullah
6. 1119/2018 titled Muhammad Sajid
7. 1146/2018 titled Zaib Nawaz

03. Brief facts as narrated in the memo of appeal are that the appellant was initially appointed as Warder in the Prison Department in the year, 2007. While posted at District Jail Lakki Marwat on 24.05.2013, an incident of escape of under trial prisoners took-place due to which the appellant was proceeded against departmentally and was ultimately awarded with major punishment of removal from service vide order dated 17.03.2014. Feeling aggrieved, the appellant filed departmental appeal followed by Service Appeal No. 880/2014 before this Tribunal, which was accepted vide judgment dated 01-03-2018 and the appellant was re-instated in service by converting major penalty into minor penalty of withholding of three increments for three years. Benefits of the period in which the appellants remained out of service were also allowed subject to the condition if they were not gainfully employed during the period. The appellant submitted affidavit to the respondents to the effect that he never remained in gainful employment during the period he remained out of service. Respondent No. 3 though reinstated the appellant in service vide order dated 04.04.2018 but treated the intervening period as extraordinary leave without pay. After exhausting departmental remedy, the appellant filed the instant service appeal with the prayer that on acceptance of the appeal, the order dated 04.04.2014 to the extent of treating the intervening period as leave without pay may be set aside and the appellant may be allowed the back benefits of service.

04. Learned counsel for the appellant has contended that the appellant has not been treated in accordance with law; that the appellant was re-instated in service by orders of this tribunal and back benefits were also allowed and the appellant also submitted affidavit to the effect that he was not gainfully employed anywhere; that the respondent should have

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

considered the affidavit submitted by him to this effect, which however was not considered; that the appellant remained out of service due to the penalty which was subsequently set aside by this Tribunal, hence he is entitled to all back benefits.

05. Learned Deputy District Attorney appearing on behalf of the respondents while rebutting the arguments of learned counsel for the appellant, argued that the enquiry proceedings conducted were strictly in accordance with law. The appellant was given ample opportunity to defend himself but he could not prove his innocence. He further argued that in pursuance to the directions given in the judgment dated 01.03.2018 the appellant was reinstated into service vide order dated 04.04.2018, however, the intervening period was treated as Extra-ordinary leave without pay because the department on the basis of well-settled principle "No Work No Pay", could not pay salary to the appellant for the period during which he did not perform his duty and requested for dismissal of the appeal with cost.

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

07. This Tribunal vide judgment dated 01-03-2018 has very clearly re-instated the appellant as well as made him entitled for back benefits of the intervening period, subject to the condition if he was not gainfully employed elsewhere. The respondents re-instated him in service but the intervening period was treated as leave without pay, inspite of the fact the appellant had submitted affidavit to the effect that he was not gainfully employed anywhere, but such benefits were refused to the appellant, which however was not warranted. Now the point remains for determination is that during

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

the period in question the appellant remained jobless or otherwise. In Para-9 of the Memo. of Appeal, the appellant clearly stated that he submitted affidavit to the respondents which is sufficient proof that he never engaged in gainful employment during the period, he remained out of service which has not been considered by the respondents.

08. In view of the foregoing, the appeal in hand and other connected appeals mentioned above are accepted and the appellants are entitled for salaries and all other benefits which would have accrued in their favor, had they not been removed from service. Parties are left to bear their respective costs. File be consigned to the record room.

ANNOUNCED
25.01.2022

(AHMAD SULTAN TAREEN)
CHAIRMAN

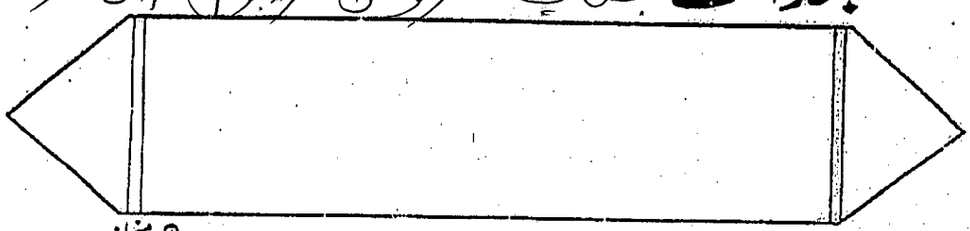
(ATIQ-UR-REHMAN WAZIR)
MEMBER (E)

Certified to be ture copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 15/2/2022
Number of Words 2800
Copying Fee 30 -
Urgent 4 -
Total 34 -
Name of Copyist
Date of Completion of Copy 15/2/22
Date of Delivery of Copy 15/2/22

بعدالت جناب سروس ٹریبونل پشاور



2 منجانب

شہر علی خان بنام گورنمنٹ

موزخہ _____
مقدمہ _____
دعویٰ _____
جرم _____

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ

آن مقام پشاور کیلئے یاسر سلیم ایڈووکیٹ

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے وتقرر ثالث و فیصلہ برحلف دینے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارعرضی دعویٰ اور درخواست ہر قسم کی تصدیق زرایں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برامدگی اور منسوخی نیز دائر کرنے اپیل نگرانی ونظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بااختیارات حاصل ہوں گے اور اس کا ساختہ پرداختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھدیا کہ سند رہے۔

المرقوم 7 ماہ 4 2022ء

العبد نگواہ العبد

بمقام پشاور

لئے منظور ہے۔

Shershah Khan

GS&PD-444/1-RST-12,000 Forms-22.09.21/PHC Jobs/Form A&B Ser. Tribunal/P2

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

No. SB

Appeal No. E.P No. 186 of 2022

Sher Ali Baz .....Appellant/Petitioner

Versus

Through Chief Secy KPK Peshawar .....Respondent

Respondent No. (4)

Notice to: — The Suprintendent, Internment Central Lakki Marwat

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 16/05/2022 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 22nd

Day of April 2022.

(For Implementation Report)

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.

GS&PD-444/1-RST-12,000 Forms-22.09.21/PHC Jobs/Form A&B Ser. Tribunal/P2

"B"

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

No. Regd SB

~~Appeal No~~ E.P No. 186 of 2022

Sher Ali Baz .....Appellant/Petitioner

Versus

Through Chief Secy KPK Peshawar .....Respondent

Respondent No. (4)

Notice to: — The Suprintendent, Interment Central Lakki Marwat

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E.P ✓

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

ffice Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this 22nd day of April 2022.

Registrar,
Khyber Pakhtunkhwa Service Tribunal.

BEFORE THE KHYBER PAKHTUNKWA
SERVICE TRIBUNAL PESHAWAR

E.P. No. 186/2022

In the matter of
Appeal No. 1003/2018
Decided on 25.01.2022

Sher Ali Baz, Warder (BPS-5), Internment Central Laki Marwat.

(Appellant)

VERSUS

Govt. of Khyber Pakhtunkhwa, through Chief Secretary, Khyber Pakhtunkhwa, Peshawar and others.

(Respondents)

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Appellant

Through

YASIR SALEEM
Advocate, Peshawar

BEFORE THE KHYBER PAKHTUNKWA SERVICE TRIBUNAL PESHAWAR

In the matter of
Appeal No. 1003/2018
Decided on 25.01.2022

Sher Ali Baz, Warder (BPS-5), Internment Central Laki Marwat.

(Appellant)

VERSUS

1. Govt. of Khyber Pakhtunkhwa, through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
2. The Inspector General of Prisons, Khyber Pakhtunkhwa, Peshawar.
3. The Superintendent Circle Headquarters, Prison Peshawar.
4. The Superintendent, Internment Central Laki Marwat.

(Respondents)

Application for the implementation of the Judgment and Order dated 25.1.2022 in captioned service appeal of this Honourable Tribunal.

Respectfully Submitted:

1. That the above noted service appeal was pending adjudication in this Honourable Tribunal and was decided vide judgment and order dated 25.01.2022.

2. That vide judgment and order dated 25.01.2022, this Honorable Tribunal allowed the appeal and reinstated the appellant with all back benefits. The operating Para of the Judgment and order, is reproduced below:

> *"8. In view of the foregoing, the appeal in hand and other connected appeals mentioned above are accepted and the appellant are entitled for salaries and all other benefits which would have accrued in their favour had they not been removed from service..*
>
> **(Copy of the consolidated Judgment and order dated 25.01.2022, is attached as Annexure A)**

3. That the judgment and order of this Honourable Tribunal, was duly communicated to the respondent by the applicant vide various applications for implementation. Thereafter the applicant is

continuously approaching the respondents for the implementation of the judgment dated 25.01.2022, however they are reluctant to implement the same.

4. That the respondents are legally bound to implement the judgment of this Honourable Tribunal dated 25.1.2022 in its true letter land sprit without any further delay.

It is, therefore, prayed that on acceptance of this application the judgment and order dated 25.01.2022 of this Honourable Tribunal be implemented in its true letter and spirit.

Appellant

Through

YASIR SALEEM
Advocate, Peshawar

AFFIDAVIT

It is solemnly affirm and declare on oath that the contents of the above implementation petition are true and correct to the best of my knowledge and belief and that nothing has been kept back or concealed from this Honourable Tribunal.

DEPONENT

ATTESTED
Gul Daraz Khan
Advocate High Court

(3)

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Khyber Pakhtunkhwa Service Tribunal Peshawar

Khyber Pakhtunkhwa Service Tribunal
Dated 1355
29/8/2018

Service Appeal No. 1145/2018

Manzoor Khan, Warder (BPS-5), Central Prison Haripur.

(Appellant)

VERSUS

1. Govt. of Khyber Pakhtunkhwa, through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
2. That Home Secretary, Khyber Pakhtunkhwa, Peshawar
3. The Inspector General of Prisons, Khyber Pakhtunkhwa, Peshawar.
4. The Superintendent Central Prison Haripur.

(Respondents)

Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the Order dated 04.04.2018; whereby, though the appellant has been re-instated in service, however the intervening period has been treated as Extra- Ordinary leave with out pay against which his Departmental Appeal dated 23.04.2018 has not been responded till the lapse of Statutory Period of 90 days.

Prayer in Appeal:-

Re-submitted to -day and filed.
Registrar
13/9/18

On acceptance of this appeal the Order dated *04.04.2018*, to the extent of treating the intervening period as Leave without Pay may please be set-aside and the appellant may also be allowed the back benefits of service.

ATTESTED
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

ORDER
25.01.2022

Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of the today, separately placed on file, the appeal in hand and other connected appeals mentioned above are accepted and the appellants are entitled for salaries and all other benefits which would have accrued in their favor, had they not been removed from service. Parties are left to bear their respective costs. File be consigned to the record room.

ANNOUNCED
25.01.2022

(AHMAD SULTAN TAREEN)
CHAIRMAN

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

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

(5)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1145/2018

Date of Institution ... 29.08.2018

Date of Decision ... 25.01.2022

Manzoor Khan, Warder (BPS-05) Central Prison Haripur.

... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and three others.

... (Respondents)

Yasir Saleem,
Advocate ... For Appellant

Asif Masood Ali Shah
Deputy District Attorney ... For respondents

AHMAD SULTAN TAREEN ... CHAIRMAN
ATIQ-UR-REHMAN WAZIR ... MEMBER (EXECUTIVE)

JUDGMENT

ATIQ-UR-REHMAN WAZIR MEMBER (E):- This single judgment shall dispose of the instant service appeal as well as the following connected service appeals having common questions of law and facts:-

1. 1002/2018 titled Noor Islam
2. 1003/2018 titled Sher Ali Baz
3. 1067/2018 titled Muhammad Arif
4. 1068/2018 titled Malik Aftab
5. 1069/2018 titled Hameed Ullah
6. 1119/2018 titled Muhammad Sajid
7. 1146/2018 titled Zaib Nawaz

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

03. Brief facts as narrated in the memo of appeal are that the appellant was initially appointed as Warder in the Prison Department in the year, 2007. While posted at District Jail Lakki Marwat on 24.05.2013, an incident of escape of under trial prisoners took-place due to which the appellant was proceeded against departmentally and was ultimately awarded with major punishment of removal from service vide order dated 17.03.2014. Feeling aggrieved, the appellant filed departmental appeal followed by Service Appeal No. 880/2014 before this Tribunal, which was accepted vide judgment dated 01-03-2018 and the appellant was re-instated in service by converting major penalty into minor penalty of withholding of three increments for three years. Benefits of the period in which the appellants remained out of service were also allowed subject to the condition if they were not gainfully employed during the period. The appellant submitted affidavit to the respondents to the effect that he never remained in gainful employment during the period he remained out of service. Respondent No. 3 though reinstated the appellant in service vide order dated 04.04.2018 but treated the intervening period as extraordinary leave without pay. After exhausting departmental remedy, the appellant filed the instant service appeal with the prayer that on acceptance of the appeal, the order dated 04.04.2014 to the extent of treating the intervening period as leave without pay may be set aside and the appellant may be allowed the back benefits of service.

04. Learned counsel for the appellant has contended that the appellant has not been treated in accordance with law; that the appellant was re-instated in service by orders of this tribunal and back benefits were also allowed and the appellant also submitted affidavit to the effect that he was not gainfully employed anywhere; that the respondent should have

ATTESTED

Khyber Pakhtunkhwa
Service Tribunal
Peshawar

considered the affidavit submitted by him to this effect, which however was not considered; that the appellant remained out of service due to the penalty which was subsequently set aside by this Tribunal, hence he is entitled to all back benefits.

05. Learned Deputy District Attorney appearing on behalf of the respondents while rebutting the arguments of learned counsel for the appellant, argued that the enquiry proceedings conducted were strictly in accordance with law. The appellant was given ample opportunity to defend himself but he could not prove his innocence. He further argued that in pursuance to the directions given in the judgment dated 01.03.2018 the appellant was reinstated into service vide order dated 04.04.2018, however, the intervening period was treated as Extra-ordinary leave without pay because the department on the basis of well-settled principle "No Work No Pay", could not pay salary to the appellant for the period during which he did not perform his duty and requested for dismissal of the appeal with cost.

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

07. This Tribunal vide judgment dated 01-03-2018 has very clearly re-instated the appellant as well as made him entitled for back benefits of the intervening period, subject to the condition if he was not gainfully employed elsewhere. The respondents re-instated him in service but the intervening period was treated as leave without pay, inspite of the fact the appellant had submitted affidavit to the effect that he was not gainfully employed anywhere, but such benefits were refused to the appellant, which however was not warranted. Now the point remains for determination is that during

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the period in question the appellant remained jobless or otherwise. In Para-9 of the Memo. of Appeal, the appellant clearly stated that he submitted affidavit to the respondents which is sufficient proof that he never engaged in gainful employment during the period, he remained out of service which has not been considered by the respondents.

08. In view of the foregoing, the appeal in hand and other connected appeals mentioned above are accepted and the appellants are entitled for salaries and all other benefits which would have accrued in their favor, had they not been removed from service. Parties are left to bear their respective costs. File be consigned to the record room.

ANNOUNCED
25.01.2022

(AHMAD SULTAN TAREEN)
CHAIRMAN

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

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Date of Presentation of Application	15/2/2022
Number of Words	2800
Copying Fee	30 -
Urgent	4 -
Total	34 -
Name of Copyist	
Date of Completion of Copy	15/2/2022
Date of Delivery of Copy	15/2/2022

بعدالت جناب سروس ٹریبونل پشاور

2 منجانب

مظہر علی خان بنام گورنمنٹ

موزخہ - - - - - -
مقدمہ - - - - - -
دعویٰ - - - - - -
جرم - - - - - -

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی و کل کاروائی متعلقہ آن مقام پشاور کیلئے یاسر سلیم ایڈووکیٹ

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارعرضی دعویٰ اور درخواست ہر قسم کی تصدیق زرایں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برامدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظرثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پرداختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند رہے۔

المرقوم 7 ماہ 4 2022ء

العبد ______ گواہ ______ العبد ______

بمقام پشاور

منظور ہے۔

Sher Ali Khan