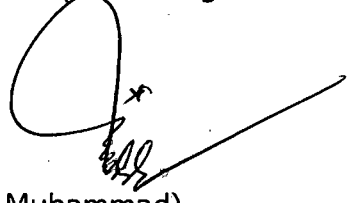


30.08.2022

Learned counsel for the petitioner present. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Mr. Suleman Khan, Senior Instructor for the respondents present.

02. Respondent department, in pursuance of the judgement of the Service Tribunal dated 08.04.2022, has reinstated the petitioner in service w.e.f. 07.07.2022 vide office order bearing No. 3697-701 dated 07.07.2022. Copy of the same is placed on file as well as provided to learned counsel for the petitioner. Learned counsel for the petitioner requested that time may be granted to him for submission of objections on ~~Office order~~ dated 07.07.2022 submitted by the respondents. Adjourned. To come up for objection(s)/further proceedings on 05.10.2022 before S.B.

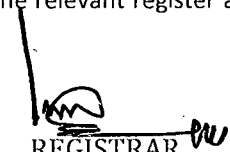

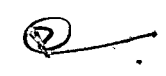


(Mian Muhammad)
Member (E)

Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 370/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	24.06.2022	<p style="text-align: center;">The execution petition of Mst. Ashi Bibi submitted today by Malik Ashfaq Ahmad 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>5.7.2022 Notices issued for 09/08/22 8.8.2022</p>	<p>This execution petition be put up before Single Bench at Peshawar on <u>09.08.2022</u>. Original file be requisitioned. AAG has noted the next date. The respondents be issued notices to submit compliance/implementation report on the date fixed.</p> <p style="text-align: right;">  CHAIRMAN </p> <p><i>Due to The Public Holidays The Case is adjourned to 31-8-2022</i></p> <p style="text-align: right;">  Reader </p>

BEFORE THE KHYBER PAKTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Application No. ³⁷⁰~~369~~/2022
In

Service Appeal No.4273/2021

Mst. Aashi Bibi. Applicant

VERSUS

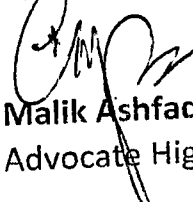
Govt. of Khyber Pakhtunkhwa & others. Respondents

I N D E X

S.No.	Description of Documents	Annex	Pages
1.	Application for Implementation of Order/ Judgment dated 08.04.2022 along with Affidavit		1-2
2.	Copy of Order/Judgment dated 08.04.2022	A	3-12

Through

Applicant


Malik Ashfaq Ahmad
Advocate High Court

Dated: 24.06.2022

BEFORE THE KHYBER PAKTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Application No. _____/2022

In

Service Appeal No.4273/2021

Mst. Aashi Bibi W/o Mir Anbas R/o Residential Colony Central Jail Bannu (Ex-Sweeper Central Jail, Bannu) at present resident of Judicial Complex, C/o Aslam Khan Sessions Court, Peshawar. Applicant

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Prisons, Khyber Pakhtunkhwa, Peshawar.
2. The Inspector General of Prisons, Khyber Pakhtunkhwa, Peshawar.
3. Superintendent of Central Prison, D.I.Khan.
4. Superintendent of Central Prison, Bannu. Respondents

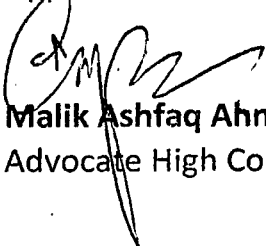
APPLICATION FOR THE IMPLEMENTATION OF THE ORDER/JUDGMENT DATED 08.04.2022 OF THIS HON'BLE TRIBUNAL.

Respectfully Sheweth:

1. That the captioned appeal was accepted/decided by this Hon'ble Tribunal, vide order/judgment dated 08.04.2022 in terms "**For what has been discussed above, we accept both these appeals and set aside the impugned order of dismissal as well as the order passed on departmental appeals and convert the same into minor penalties of "censure" under rule 4(1)(a)(i) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Disciplinary) Rules, 2011. The appellants are reinstated in service along with consequential benefits. The period of their absence shall be deemed to be leave of the kind due.**" (Copy of the order/judgment is annexed as annexure A).

2. That thereafter applicant contacted the respondents for the implementation of order/judgment dated 08.04.2022 passed by this Hon'ble Tribunal, but to no avail, hence the instant implementation application.

It is therefore most humbly prayed that on acceptance of this application, the respondents may be directed to implement the order/judgment dated 08.04.2022 passed by this Hon'ble Tribunal in its letter and spirit.

Through Applicant

Malik Ashfaq Ahmad
Advocate High Court

Dated: 24.06.2022

AFFIDAVIT

It is stated on oath that the contents of the **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



DEPONENT

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR



Service Appeal No 4273 2021

Diary No. 4177

Dated 26/3/2021

Mst: Aashi Bibi W/O Mir Anbas R/O Residential Colony Central Jail Bannu (Ex-Sweeper Central Jail, Bannu), at present Judicial Complex, C/O Aslam Khan Sessions Court, Peshawar.....(Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Prisons, Khyber Pakhtunkhwa Peshawar.
2. The Inspector General of Prisons, Khyber Pakhtunkhwa Peshawar
3. Superintendent of Central Prison D.I Khan
4. Superintendent of Central Prison Bannu.....(Respondents)

Filed to-day
Registrar
26/3/2021

Re-submitted
to-day 29/3/2021

Appeal under Section 4 of Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the impugned order No 998-100 dated 16th February, 2021 issued by Respondent No 4, whereby the Appellant was illegally and unlawfully dismissed from service and also against the order of the Appellate authority on the departmental

Appeal vide Endst: No 6584-85 dated 4-03-2021.

ATTACHED
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

08th April, 2022

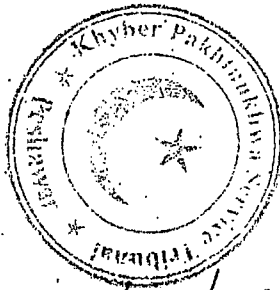
Learned counsel for the appellant present. Mr. Muhammad

Adeel Butt, Addl. AG for the respondents present. Arguments

heard and record perused.

2. Vide our detailed judgment of today, containing 07 pages, in connected Service Appeal, 4272/2021, we accept the present appeal and set aside the impugned order of dismissal as well as the order passed on the departmental appeal dismissing the departmental appeal and convert the same into minor penalty of "censure" under rule 4(1)(a)(i) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011. The appellant is reinstated in service along with consequential benefits. The period of her absence shall be deemed to be leave of the kind due.

3. Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal this 08th day of April, 2022.



SD/-
(KALIM ARSHAD KHAN)
Chairman

SD/-
(MIAN MUHAMMAD)
Member (E)

Date of Presentation of Appeal 11/04/22
Number of Words 500
Classifying Fee 10/-
Filing Fee 10/-
Date of Judgment 18/04/22
Date of Delivery of Copy 18/04/22

Certified to be true copy
E. W. M. KHAN
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR



Khyber Pakhtunkhwa
Service Tribunal

Diary No. 4176

Dated 26/3/2021

Service Appeal No 4272 / 2021

Mir Anbas S/O Mir Inayat Masih R/O Residential Colony Central Jail Bannu. (Ex-Sweeper Central Jail, Bannu) at present resident of Khyber Road, Judicial Complex C/O Aslam Khan, Sessions Court, Peshawar.....(Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Prisons, Khyber Pakhtunkhwa Peshawar
2. The Inspector General of Prisons, Khyber Pakhtunkhwa Peshawar
3. Superintendent of Central Prison D.I Khan
4. Superintendent of Central Prison Bannu.....(Respondents)

Filed to-day

Registrar

26/3/2021

De-submitted

to-day

29/3/2021

Appeal under Section 4 of Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the impugned order No 993-96 dated 16th February, 2021 issued by Respondent No 4, whereby the Appellant was illegally and unlawfully dismissed from services and also against the order No 6581-82 dated 04-3-2021 passed by the Respondent No. 2 / Appellate authority on the departmental Appeal of the Appellant

ATTESTED

Khyber Pakhtunkhwa
Service Tribunal
Peshawar



1

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.**

BEFORE: MR. KALIM ARSHAD KHAN, ... CHAIRMAN
MR. MIAN MUHAMMAD, ... MEMBER(E)

Service Appeal No:4272/2021

Mir Anbas(Ex-Sweeper Central Jail, Bannu) son of Mir Inayat Masih, resident of Residential Colony, Central Jail Bannu at present resident of Khyber Road, Judicial Complex care of Aslam Khan Sessions Court, Bannu..... (Appellant)

Versus

1. Government of Khyber Pakhtunkhwa, through Secretary Prisons, Khyber Pakhtunkhwa, Peshawar.
2. The Inspector General of Prisons, Khyber Pakhtunkhwa, Peshawar.
3. Superintendent of Central Prison, DIKhan.
4. Superintendent of Central Prison, Bannu..... (Respondents)

Present:

Mr. Mehboob Ali Khan Dagai, Advocate ...For appellant.

Mr. Muhammad Adeel Butt, Addl. Advocate General...For respondents.

Date of Institution.....26.03.2021

Date of Hearing.....08.04.2022

Date of Decision.....08.04.2022

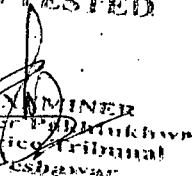
Service Appeal No.4273/2021

Mst. Aashi Bibi Ex-Sweeper Central Jail, Bannu) wife of Mir Anbas, resident of Residential Colony, Central Jail Bannu at present resident of Khyber Road, Judicial Complex care of Aslam Khan Sessions Court, Bannu..... (Appellant)

Versus

5. Government of Khyber Pakhtunkhwa, through Secretary Prisons, Khyber Pakhtunkhwa, Peshawar.
6. The Inspector General of Prisons, Khyber Pakhtunkhwa, Peshawar.
7. Superintendent of Central Prison, DIKhan.
8. Superintendent of Central Prison, Bannu.....(Respondents)

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Present:

Mr. Mehboob Ali Khan Dagai, Advocate ... For appellant.
Mr. Muhammad Adeel Butt, Addl. Advocate General... For respondents.

Date of Institution.....26.03.2021
Date of Hearing.....08.04.2022
Date of Decision..... 08.04.2022

CONSOLIDATED JUDGEMENT

KALIM ARSHAD KHAN CHAIRMAN. Through this single judgment this and the connected service appeal No.4273/2021 titled "*Aashi Bibi versus Government and others*", both being similar are decided.

2. This appeal is filed by the appellant Mir Anbas, Sweeper, against the order bearing No.993-96 dated 16.02.2021 issued by Respondent No.4, whereby the Appellant of this appeal, was dismissed from service. It is also against the order No.6581-82 dated 04.03.2021 passed by Respondent No.2/Appellate Authority, on the departmental appeal of the Appellant.

3. The facts gathered from the file of this appeal are that while being in service, Respondent No.4 tried to compel the Appellant for immorality in 2018; that owing to protest of the Christian Community in 2018, Respondent No.4 was transferred but he was again posted to Bannu Jail; that due to the above facts, the Respondents were annoyed/inimical and passed the impugned order; that aggrieved of the same, the appellant filed departmental appeal to Respondent No.2, which was dismissed and the instant appeal was filed.

ATTESTED

4. The connected appeal is of Mst. Aashi Bibi, wife of the appellant of this appeal, who was also Sweeper in Bannu Jail. Her appeal is against the


MEMBER
Cyber and E-Governance
Service Tribunal
Peshawar

order bearing No.998-100 dated 16.02.2021 issued by Respondent No.4, whereby the Appellant of the connected appeal, was dismissed from service. It is also against the order No.6584-85 dated 04.03.2021 passed by Respondent No.2/Appellate Authority, on the departmental appeal of the Appellant.

5. The facts gathered from the connected appeal file are also the same as those of this appeal, therefore, there is no need of reproducing the same.

6. The grounds taken in both the appeals are same. It is urged in both the appeals that the impugned orders were against law, facts, circumstances of the case and thus not tenable rather liable to be set aside; that the impugned orders were passed against the principles of service laws and policy as no charge sheet, statement of allegations, opportunity of replication, hearing first show cause notice, final show cause notice, in short no formal enquiry was conducted; that the appellants were punctual and on duty, never absented and the alleged proceedings were on the basis of annoyance malafide; revenge due to the above stated facts.

7. On receipt and admission of the appeals, the respondents were put on notice. On their putting appearance, they filed joint para-wise comments wherein it was contended that the appellants were not performing their duties efficiently and remained absent from the duty leaving the jail premises on their sweet will without taking permission of the competent authority and the Jail Authority issued various notices for resuming duty but the appellants always turned deaf ear upon all the notices. The absence period of both the appellants was given as under:

ATTESTED

08/4/22

[Signature]

MEMBER
Jail Authority
Service Tribunal
Bhopal

- i. from 04.10.2020 to 11.10.2020
- ii. from 16.10.2020 to 21.10.2020
- iii. from 07.11.2020 to 16.11.2020
- iv. from 23.11.2020 to 28.11.2020
- v. from 07.12.2021 to 10.12.2021

That the appellants held unlawful press conference leveling baseless allegations against the Superintendent Jail/Administration without any proof/witness; that the said complaint was totally groundless because a well versed Muslim Officer could not do the immoral act with a Christian Sweeper even amongst 342 employees; that the appellant had brought no solid proof during enquiry proceedings in 2018, hence, the case was rejected and decided in favour of Superintendent Jail/Administration; that suspected guests would meet the appellant at unusual night hours, which was quite undesirable from security and moral point of view; that the appellant held the press conference in 2018 but was not proceeded against under the rules in 2018 because of his belonging to minority community; that the impugned orders were based on rules & regulations and prolonged absence of the appellants on the report of the Deputy Superintendent Jail as well as the complaints of immoral and rude behavior of the appellants; that prior to dismissal the appellants were issued various notices but these notices were responded with cold shoulder; that enquiries were initiated by the Respondents, wherein the appellants were recommended for dismissal from service, hence, dismissed vide the impugned orders; that the appellants failed to defend themselves before the departmental appellate forum; that the orders were based on complaints received against the appellants; absence periods and threats to the Jail Authorities after issuance of various notices

ATTESTED

08/12/21
 ATTESTER
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

and enquiry proceedings purely under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011.

9. We have heard the learned counsel for the appellants and learned Additional Advocate General for the respondents and have also gone through the file.

10. The learned counsel for the appellants reiterated the grounds urged in the memorandum and grounds of appeals and prayed for acceptance of the appeals while learned Additional Advocate General refuted the arguments of the learned counsel for the appellants and supported the impugned orders with the prayer for dismissal of the appeals.

11. The both impugned orders of dismissal show that these were based on the following two grounds:

- a. The alleged threats of the appellants to the Deputy Superintendent Jail for holding press conference against the Jail Administration and second
- b. Absence from duty.

12. When confronted with the situation that mere threat of holding press conference, if any, and not doing that would constitute a misconduct within the meaning of rule 2(1)(l) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, to which the learned Additional Advocate General submitted that the act could be a misconduct under rule 2(1)(l)(i) (ii) & (iii) as such a conduct was prejudicial to good order or service discipline as well as contrary to the Khyber Pakhtunkhwa Province Government Servants (Conduct) Rules, 1987 and unbecoming of Government Servant and a gentleman. Be that as it may there is no evidence of holding a press conference or for that matter any such threat is also not

ATTESTED

MEMBER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

proved nor the appellants were confronted in true sense about the above provisions of the rules. The reply submitted by the respondents, however, shows that no departmental action was taken on holding of the alleged press conference in 2018 because the appellants belong to minority. There is no record of any other press conference to hold the appellants guilty of any misconduct on such charge.

13. Next ground for dismissal is the alleged absence of the appellants for a few days. Few days' alleged absence of the appellants, even if proved, would not result in major penalty of dismissal from service especially when the procedure, provided in Rule 9 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, was not followed by the respondents. The punishment of dismissal does not commensurate with the quantum of the period of absence and for which the appellants could have been awarded any of the minor penalties.

14. As to the allegations, detailed in the para-wise comments of the respondents, regarding the alleged involvement of the appellants in the immoral activities, such allegations were neither made part of the statement of allegations bearing No.708 dated 04.02.2021 nor in the final show cause notices or for that matter the impugned orders of dismissal from service, so the reply cannot be considered regarding such allegations.

15. For what has been discussed above, we accept both these appeals and set aside the impugned orders of dismissal as well as the orders passed on the departmental appeals dismissing the departmental appeals and convert the same into minor penalties of "censure" under rule 4(1)(a)(i) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline)

[Handwritten signature]
08/11/22

[Handwritten signature]
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Rules, 2011. The appellants are reinstated in service along with consequential benefits. The period of their absence shall be deemed to be leave of the kind due.

16. Copy of this judgment be placed in the connected appeal No.4273/2021 titled "Aashi Bibi versus Government and others". Consign.

17. Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal this 08th day of April, 2022.



SD/
(KALIM ARSHAD KHAN)
Chairman

SD/
(MIAN MUHAMMAD)
Member (E)

Certified to be true copy

[Signature]
Khwyer Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 11-04-2022
Number of Words 3200
Copying Fee 34/-
Urgent -
Total 34/-
Name of Copyist -
Date of Completion of Copy 18-04-22
Date of Delivery of Copy 18-04-22

"A"

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

S.B

No.

APPEAL No. _____ of 20 _____
E.P. No. 370 22

Mst. Aashi Bibi

Appellant/Petitioner

Versus

Govt. of KPK through Secretary Prison RESPONDENT(S)

Respondent No. 2
Notice to Appellant/Petitioner The Inspector General of
Prison KPK Peshawar.

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 9/8/22 at 9:am

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

Copy of E.P. is Attached
for Implementation
Report

Registrar

Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Received
03/08/2022

"A"

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

No.

S.B

APPEAL No..... of 20

E.P. No. 370

22

Mst. Aashi Bibi

Appellant/Petitioner

Versus

Govt. of KPK through Secy. Prison RESPONDENT(S)

Notice to Appellant/Petitioner

1

Govt. of KPK through Secretary
Prison Peshawar.

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on..... at.....

9/8/22

9:am.

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

copy of E.P. is attached

for Implementation
Report

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

9/8/22



OFFICE OF THE SUPERINTENDENT
CENTRAL PRISON BANNU

No. _____ Dated 7/7/2022

Telephone & Fax No: 0928-633327

SEEN	
I.G.	
A.I.G.	
P.O.	

OFFICE ORDER

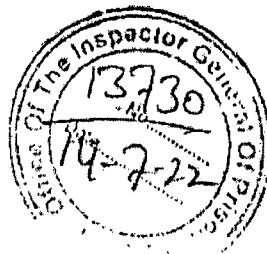
In pursuance to the directions contained in the worthy Inspector General of Prisons Khyber Pakhtunkhwa, memo No.21884/WE dated 06.07.2022, Sweepers Mir Anbas and Mst. Ashi Bibi both attached to Central Prison Bannu are reinstated into service w.e.f 07.7.2022, in the light of court orders of Hon'ble Provincial service Tribunal Khyber Pakhtunkhwa, Peshawar, judgment dated 08.04.2022.

Sd/-
SUPERINTENDENT
CENTRAL PRISON BANNU

Endst: No. 3697-701/

Copy of the above is forwarded to:-

- ✓ The Worthy Inspector General of prisons Khyber Pakhtunkhwa Peshawar for information, with reference to above, please.
- The Registrar Hon'ble Provincial service Tribunal Khyber Pakhtunkhwa, Peshawar, judgment dated 08.04.2022, please.
- The Superintendent Central Prison, DI Khan for information, please.
- The Mr. Mir Anbas (Sweeper) S/o Mir Inayat Masih present resident of Khyber Road, Judicial Complex care of Aslam Khan Sessions Court, Bannu with the direction to report arrival for duty at this jail immediately.
- The Mst: Aashi Bibi (Sweeper) W/O Mir Anbas present resident of Khyber Road, Judicial Complex care of Aslam Khan Sessions Court, Bannu with the direction to report arrival for duty at this jail immediately.



Sd/-
SUPERINTENDENT
CENTRAL PRISON BANNU

Sd/-
15/7/22