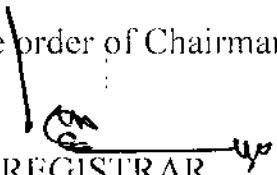


FORM OF ORDER SHEET

Court of _____

Case No. - 86/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	6/1/2023	<p>The appeal of Mr. Wazir Khan presented today by Mr. Ashraf Ali Khattak Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____, Parcha Peshi is given to appellant/counsel.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 86 /202..Wazir Khan, Ex Cook,
Police Training Centre, Hangu.....Appellant.

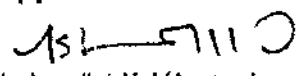
Versus

The Provincial Police Officer,
Peshawar & others.....Respondents.INDEX

S.No.	Description of Documents	Date	Annexure	Pages
1.	Memo of Service Appeal with Affidavit.			1-7
2.	Application for Condonation of Delay.			8-9
3.	Copy of application for leave along with correspondence and rejection order		A	10-13
4.	Copy of removal order.	19-10-2009	B	14
5.	Copy of the judgment of this Hon'ble Tribunal.	12-05-2016	C	15-17
6.	Copy of the order of the Hon'ble Supreme Court of Pakistan.	30-09-2021	D	18-19
7.	Copy of application/ departmental appeal		E	20-21
8.	Copies of correspondence and impugned letter/order No.SOSR-II/FD/1-14/2022/Wazir Khan dated 21-10-2022		F	22-30
9.	Wakalat Nama.			31-33

Appellant

Through


 Ashraf Ali Khattak,
 Advocate,
 Supreme Court of Pakistan

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 86 /2021

Wazir Khan, Ex Cook,
Police Training Centre, Hangu.....Appellant.

Versus

1. The Provincial Police Officer, Peshawar.
2. The Commandant, Police Training College/Centre, Hangu.
3. The Secretary to Government of Khyber Pakhtunkhwa. Home
& Tribal Affairs Department.
Civil Secretariat, Peshawar.
4. The Secretary Finance, Government of Khyber Pakhtunkhwa.
Civil Secretariat, Peshawar.
5. The Accountant General.
Pakistan Revenue (SO), Peshawar.
6. The District Account Officer.
District, Hangu.....Respondents.

SERVICE APPEAL UNDER SECTION 4 OF THE
KHYBER PAKHTUNKHWA SERVICE TRIBUNALS
ACT, 1974 AGAINST THE IMPUGNED ORDER DATED
21-10-2022.

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:-

1. That appellant was enlisted as Cook in the year, 1991.
He has got about 18 years service at his credit.
2. That in April, 2008 appellant submitted application
for Ex Pakistan leave, the same was duly forwarded
with recommendation remarks, but the same was
regretted vide order dated 24-06-2008. Copy of

application for leave along with correspondence and rejection order are attached as Annexure-A.

3. That disciplinary action taken and resultantly he was removed from service vide order dated 19-10-2009 on account of absence from duty. Copy of removal order is attached as Annexure-B.
4. That appellant being aggrieved from the removal order *ibid*; preferred Service Appeal No. 816 of 2012 before the Honorable Khyber Pakhtunkhwa Service Tribunal, which was dismissed vide judgment/order dated 12-05-2016. Copy of the judgment of this Hon'ble Tribunal dated 12-05-2016 is attached as Annexure-C.
5. That appellant filed CP No.432-P/2016 before the Hon'ble Supreme Court of Pakistan, which was disposed of vide order dated 30-09-2021 in the following terms:-

"After arguing the matter at some length, learned counsel for the petitioner contents that if an observation is made in the order that the petitioner will make an application to the department for granting him compassionate allowance in term of section 19 (3) of the Khyber Pakhtunkhwa Civil Servant Act, 1973, the petitioner will be satisfied and the petition in such terms may be disposed of.

The petition is disposed of. The petitioner, however, may make application to the department in terms of the provision noted

above and we expect that the department will consider the same sympathetically and decide the same expeditiously."

Copy of the order of the Hon'ble Supreme Court of Pakistan dated 30-09-2021 is attached as Annexure-D.

6. That section 19(3) of the Khyber Pakhtunkhwa Civil Servant Act, 1973 provide that if a civil servant is removed or dismissed from service, he will not be entitle for pension, but Govt: may sanction compassionate allowance to such civil servant, not exceeding two third of the pension, which would have been admissible to him had he been invalidated from service on the date of such dismissal or removal. Section 19 (3) is reproduced for kind consideration and perusal.

19. Pension and gratuity.-- (1) On retirement from service, a civil servant shall be entitled to receive such pension or gratuity as may be prescribed. Pension and gratuity.

(2) In the event of the death of a civil servant, whether before or after retirement, his family shall be entitled to receive such pension or gravity, as may be prescribed—.

(3). No pension shall be admissible to a civil servant who is dismissed or removed from service for reasons of discipline, but Government may sanction compassionate allowance to such a civil servant, not exceeding two-third of the pension or gravity which would have been admissible to him had he been invalidated from service on the date of such dismissal or removal.

7. That in the light of the judgment of the Hon'ble Supreme Court of Pakistan; appellant submitted application/departmental appeal for compassionate allowance (Pension) before the respondent No.2.

Copy of application/departmental appeal is attached as Annexure-E.

8. That application/departmental appeal of the appellant was duly forwarded by the respondent No.2 to respondent No.1. The same was forwarded to respondent No.3 and 4, but resultantly the same was regretted by respondent No.4 vide impugned letter/order No.SOSR-II/FD/1-14/2022/Wazir Khan dated 21-10-2022. Copies of correspondence and impugned letter/order No.SOSR-II/FD/1-14/2022/Wazir Khan dated 21-10-2022 is attached as Annexure-F.
9. That applicant was a low paid employee with 18 years' service at his credit and also with no previous history of misconduct and now disabled with both legs. He has lost all means of labour to meet the expenses of his dependants. He is an old man now.
10. That the Hon'ble Supreme Court of Pakistan has asked for sympathetic consideration of the agonies of the applicant.
11. That appellant now being aggrieved of the impugned letter/order No.SOSR-II/FD/1-14/2022/Wazir Khan dated 21-10-2022 and having no other adequate remedy assails the same through the instant service appeal inter alias on the following grounds.

G R O U N D S

- A. That appellant has not been treated by the respondents in accordance with law, rules and policy on the subject and acted in violation of the provision

and spirits of Article 3.4 and 10 of the Constitution of Pakistan, 1973. The Hon'ble Supreme Court of Pakistan had directed the respondents to consider the appellant under the provision of 19 (3) of the Khyber Pakhtunkhwa Civil Servant Act, 1973 and allow him the Compassionate allowance on the strength of his long standing service, but the authorities failed to consider him as per directions of the Apex Court.

- B. That the impugned letter/order No.SOSR-II/FD/1-14/2022/Wazir Khan dated 21-10-2022 is not a speaking order within the meaning of section 24A of the General Clauses Act, 1897, whereby the authority making any order or directions under any enactment has been bound to exercise power reasonably, fairly, justly and for the advancement of the purposes of the enactment and to give reason for the same, but the impugned order has been passed without touching the spirit of the section of law.
- C. That appellant was a low paid employee with 18 years' service at his credit and also with no previous history of misconduct and now disabled with both legs. He has lost all means of labour to meet the expenses of his dependants. He is an old man now.
- D. That this Hon'ble Tribunal has allowed number of identical service appeals by converting removal from service into compulsory retirement keeping in view the length of service of the appellants.
- E. That the well-known principle of law "Audi altram Partem" has been violated. This principle of law was always deemed to have embedded in every statute even

though there was no express specific or express provision in this regard.

....An adverse order passed against a person without affording him an opportunity of personal hearing was to be treated as void order. Reliance is placed on 2006 PLC(CS) 1140. As no proper personal hearing has been afforded to the appellant before the issuing of the impugned order, therefore, on this ground as well the impugned order is liable to be set aside.

- F. That this Honourable Tribunal has in case of Zubia Khatoon has held that though absence from duty comes within the ambit of mis conduct but such mis conduct does not afford the authority to dismissed the appellant and deprived him from the service benefits, which he has rendered before such absence. Appellant has eighteen year service at his credit and option was there with respondent to have the appellant compulsory retired. Appellant on this score is liable for lenient view.
- G. That appellant is a very low paid employee and on humanitarian ground and being jobless is liable to be symphically considered. Appellant has no means to earn his livelihood and to afford the expenditure of his ailing parents and school going children.
- H. That appellant would like to seek the permission of this Hon'ble Tribunal to advance more grounds at the time of hearing.

It is, therefore, humbly requested that on acceptance of this appeal, this Hon'ble Tribunal may graciously be pleased to:


- (i). Set aside the impugned letter/order No.SOSR-II/FD/1-14/2022/Wazir Khan dated 21-10-2022.


- (ii). Direct the respondent to grant compassionate allowance (Pension) to the appellant under the provision of section 19 (3) of the Khyber Pakhtunkhwa Civil Servant Act, 1973 in the light of the Judgment of the Hon'ble Supreme Court of Pakistan in CP No.432-P/2016 decided on 30-09-2021.
- (iii). Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to appellant.

Appellant

Through


Ashraf Ali Khattak,
Advocate,
Supreme Court of Pakistan


Ali Bakht Mughal
Advocate,
District Courts, Peshawar

- &

Sadia Umar
Advocate,
District Courts, Peshawar

Dated: _____ / 12/ 2022

AFFIDAVIT

I, Wazir Khan Ex Cook Police Training Centre, Hangu, do hereby solemnly affirm and declare on oath that the contents of this service appeal are true and correct to the best of my knowledge, and nothing has been concealed from this Hon'ble Tribunal.


DEPONENT

Service Appeal No. _____/2022

Wazir Khan, Ex Cook,
Police Training Centre, Hangu.....Appellant.

Versus

The Provincial Police Officer,
Peshawar & others.....Respondents.

**APPLICATION FOR CONDONATION OF DELAY
(IF ANY).**


Respectfully Sheweth,

1. That appellant has filed the titled appeal before this Hon'ble Tribunal in which no date has been fixed.
2. That the impugned dated 21-10-2022 has not been communicated to the appellant within stipulated time due to which delay occurred in filing of accompanying appeal.
3. That no limitation runs in case of pay, promotion and pension as the same are continuous cause of action.
4. That the delay is not intentional but because of the aforementioned reasons.


It is, therefore, humbly prayed that the delay if any in filing of the appeal may graciously be condoned in the best interest of justice and the appeal may graciously be accepted as prayed for.

Appellant


Through


Ashraf Ali Khattak,
Advocate,
Supreme Court of Pakistan

&


Ali Bakht Mughal
Advocate,
District Courts, Peshawar

&

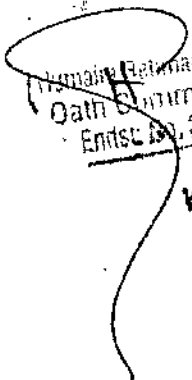

Sadia Umar
Advocate,
District Courts, Peshawar

Date: _____ 10/11/2022

AFFIDAVIT

I, Wazir Khan Ex Cook Police Training Centre, Hangu, do hereby solemnly affirm and declare on oath that the contents of this application are true and correct to the best of my knowledge, and nothing has been concealed from this Hon'ble Tribunal.

DEPONENT


Oath Commissioner
Endst. No. 3370-75
4-1-23

Annexure - A

تاریخ 19.9.1981ء سے لے کر 31.12.1981ء تک کے حساب کتاب کے بارے میں جو اس کی طرف سے پیش کیا گیا ہے اس کی تصدیق کی جا رہی ہے۔

اس کی تمام تفصیلات اس کے ساتھ منسلک ہیں۔ اس کے ساتھ ساتھ اس کی کاپی بھی اس کے پاس رکھی جا رہی ہے۔

بین المذاہب کمیٹی
16/05/2008

مستحق
سید عزیز گل صاحب (ممبر) (پتہ مندرجہ ذیل)

Attested
Forwarded Please

31/8
Forwarded

Secretary
19/5/08

19/5/08
17/5/08

Attested
To be true copy
Advocate

19/5/08

Forwarded P.

Attested
To be true
Advocate

Butler copy
10

پندرہ ماہی

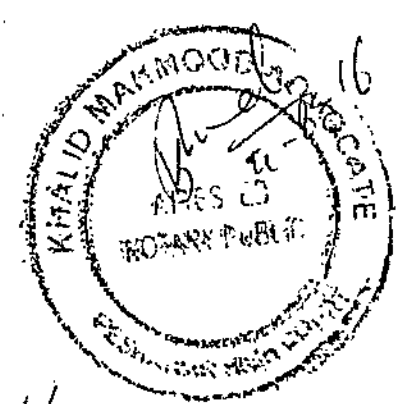
گزارش حضور اقدس صلی اللہ علیہ وسلم سے
فور میں 1991ء میں لکھی ہوئی ہے۔
اس کے ساتھ ساتھ اس میں اس کے
رہنما کی ضرورت ہے۔

یہاں پر حضور اقدس صلی اللہ علیہ وسلم سے
162 قریب 162 قریب
رضت و رضا کے ناموں سے
Full Pay / کوئی توجیہ یا

عقوبت علی

16/05/2008

اللہ



سید عزیز علی شاہ نورانی - P.T.C. سٹی

From: The Commandant,
Police Training College,
Hanga.

To: The Provincial Police Officer,
HWRP/Pouhagar.

No. 2358 /EC, Dated Hanga, the 18-9-67/008.

Subject: APPLICANTS

Memorandum.

Enclosed herewith find here an application preferred by Cook Aziz Khan of this College requesting therefor the grant of Two Years Earned Leave required by him for proceeding to Dubai for favour of further necessary action.

He has not availed of leave previously and the leave applied for is due to him as under:-

- Leave on Full Pay. 120 days.
- Leave on Half Pay. 1360 Days.

Encl: (application)

COMMANDANT
Police Training College
Hanga.

Attested
[Signature]
To be true copy.
Advocate

Attested
[Signature]
To be true copy
Advocate

Attested
[Signature]
Mulla Ahmad Raman
Police Inspector
P. to Hanga on 14/9/67

Better Copy

From:

The Commandant,
Police Training College,
Hangu.

Better Copy

To

The Provincial Police Officer,
NWFP/Peshawar

No.2358/EC, dated Hangu, the 18-06-2008.

Subject: APPLICATION

Enclosed kindly find herewith an application preferred by Gook Wazir Khan of this College requesting therein for the grant of Two Years Earned Leave required by him for proceeding to Dubai for favour of further necessary action.

He has not availed ^E /Leave ^{reusly} provincially and the leave applied for is due to him as under:-

Leave on Full Pay.	120 days.
Leave on Half Pat.	1360 days.

Endst: (Application)

COMMANDANT
Police Training College
Hangu.

Attested
[Signature]
To be true copy
Advocate

Attested
[Signature]
To be true copy
Advocate

Attested
[Signature]
Police Inspector,
P.T.C. Hangu, Dt. 18/7/08

Better Copy 12

From: The Commandant,
Police Training College,
Hangu.

To, The Provincial Police Officer,
NWFP, Peshawar.

No.2358/EC, dated Hangu, the 08.06.2008

Subject: APPLICATION

Memorandum;

Enclosed kindly find herewith an application preferred by Cook Wazir Khan of this College requesting therein for the grant of Two Years Earned Leave required by him for proceeding to Dubai for favour of further necessary action.

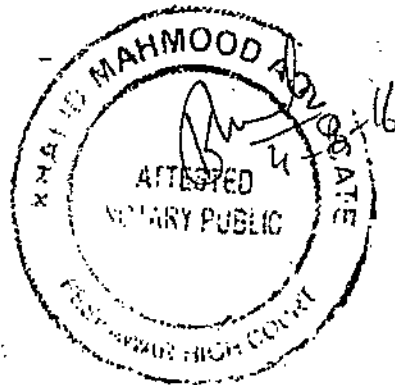
He has not availed E/Leave previously and the leave applied for is due to him as under:-

Leave on full pay. 120 days

Leave on half pay. 1360 days

Encl: (Application)

Sd/-
Commandant
Police Training College
Hangu



From: The Provincial Police Officer,
NWFP Peshawar.

To: The Commandant,
PTC/Hangu.

Re: 17406/E-III dated Peshawar the

13/

24/6/2008

Subject: APPLICATION

Reference:

Please refer to your Memo: No: 2558/E

Dated 18/6/2008.

The Cook Wazir Khan has requested for
a grant of Two years Earned Leave for proceeding and
under revised leave Rules 1981, there is no provision
for Two years earned leave at a time.

(Signature)
ABDUL HALIK (Sd/-)
REGISTRAR
FOR PROVINCIAL POLICE OFFICES
NWFP PESH: #

Seen, EC

(Signature)
Commandt. PTC

(Signature)
Muhammad zaman
Police Inspector,
PTC Hangu: 14/9/13

17406/E-III



12.4.2012

From: The Provincial Police Officer,
NWFP Peshawar

To, The Commandant,
PTC/Hangu

13

No:172406/E-III dated Peshawar the 24/6/2001

Subject: APPLICATION

Memo:

Please refer to your Memo: No.2358/EC dated 18.06.2008.

The Cook Wazir Khan has requested for the grant of Two years Earned Leave for proceeding. As per revised leave Rules 1981, there is no provisions grant Two Years Earned leave at a time.

Sd/-
(Abdul Malik Khan)
Registrar
For Provincial Police Officer
NWFP, Peshawar

ANX B 14

ORDER

By this order and to dispose off the departmental enquiry against Cook Wazir Muhammad of PTC Hangu. He while posted as Cook in PTC Hangu Mess, deliberately absented himself from official duty vide Daily Diary No. 52 dated 30.06.2008 and is still absent without any leave or prior permission from the competent authority. Moreover, he is habitual absentee and not taking interest in his official duty for which he was reprimanded time and again to amend his attitude but he failed to do so. Charge sheet and statement of allegation was issued to him and Mr. Altaf Hussain Inspector Legal PTC Hangu was appointed as Enquiry Officer for initiating proper departmental proceeding against him, but he did not appear. The Enquiry Officer submitted his finding that the said Cook remained absent from duty and no hope to come back for official duty. The Enquiry Officer also submitted that the act of Cook is misconduct and is held responsible for absence. He was issued final show cause notice but reply of the defaulter Cook is not received. Thus proceeded ex parte.

The Charge sheet and Statement of allegation was sent on his home address and through local Police but with no response in any manner. A notice of absence was also got published/advertised in daily newspaper (Aj Peshawar) dated 22-6-2009 but in vain. The charge against him is proved beyond any doubt.

I, Syed Abdul Wadood Shah, DIG/Commandant Police Training College Hangu in exercise of the power conferred upon me under Removal from Service (Special Power) Ordinance 2000, (Amendment Act-2005) he is hereby removed from service from the date of his absence. 30.06.2008

Order announced

08.10.2009

O.B No. 515
Dated 19/10/2009

Legal order
Attested
AW

Attested

To be in copy
Advocate

[Signature]
(Syed Abdul Wadood Shah)
DIG/Commandant
Police Training College Hangu

ORDER

My this order and to dispose off the departmental enquiry against Cook Wazir Muhammad of PTC Hangu. He while posted as Cook in PTC Hangu Mess, deliberately absented himself from official duty vide Daily Diary No.52 dated 30.06.2008 and is still absent without any leave or prior permission on from the competent authority. Moreover, he is habitual absentee and not taking interest in his attitude but he failed to do so. Charge sheet and statement of allegation was issued to him and Mr. Altaf Hussain Inspector Legal PTC Hangu was appointed as Enquiry officer for initiating proper departmental proceeding against him, but he did not appear. The Enquiry Officer submitted his finding that the said Cook remained absent from duty and no hope to come back for official duty, the Enquiry Officer also submitted that the act of Cook is misconduct and is held responsible for absence. He was issued final show cause notice, but reply of the defaulter Cook is not received, thus proceeded exparte.

The charge sheet and statement of allegation was sent on his home address and through local police but with no response in any manner. A notice of absence was also got published/advertised in daily newspaper "Aaj Peshawar" dated 22.06.2009, but in vain. The charge against him is proved beyond any doubt.

I, Syed Abdul Wadood Shah, DIG/Commandant Police Training College Hangu in exercise of the power conferred upon me under Removal from Service (Special Power) Ordinance, 2000, (Amendment Act-2005), he is hereby removed from service from the date of his absence i.e. 30.06.2008.

Order announced
08.10.2009

O.B. No.515
Dated: 19.10.2009

Sd/-
(Syed Abdul Wadood Shah)
DIG/Commandant
Police Training College Hangu

ANX-C
15

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

SERVICE APPEAL NO. 816/2012

Date of institution ... 17.07.2012

Date of judgment ... 12.05.2016



Wazir Khan,
Ex-Cook Police Training Center, Hangu.

... (Appellant)

VERSUS

1. The Provincial Police Officer, Peshawar.
2. The Commandant Police Training College/Centre, Hangu.

... (Respondents)

APPEAL UNDER SECTION-4 OF KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT, 1974.

Ms. Uzma Syed, Advocate.

Mr. Muhammad Jan, Government Pleader

.. For appellant.

.. For respondents.

MR. MUHAMMAD AAMIR NAZIR

MR. PIR BAKHSH SHAH

.. MEMBER (JUDICIAL)

.. MEMBER (JUDICIAL)

JUDGMENT

MUHAMMAD AAMIR NAZIR, MEMBER: Wazir Khan, ex-cook Police Training Center, Hangu, through the instant appeal under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 has impugned the order dated 19.10.2009 vide which the appellant was removed from service by the respondent No.2. Appellant has also impugned order dated 16.04.2012 vide which his departmental appeal was rejected. Feeling aggrieved from the impugned orders referred above, the appellant filed the instant appeal.

ATTESTED

Brief facts of the case giving rise to the instant appeal are that the appellant was appointed as Cook in the year 1991 and had eighteen (18) years of service as his credit. That in April, 2008 the appellant submitted an application for ex-Pakistan leave and thereafter he left for Dubai. During his leave period he was proceeded against and finally he was removed from

service vide impugned order dated 19.10.2009. The appellant submitted a departmental appeal against the impugned removal order which was not disposed of within the statutory period therefore, appellant approached the hon'able Peshawar High Court, Peshawar by way of writ petition. While disposing the writ petition, the hon'able Court directed the respondents to decide the departmental appeal of the appellant in accordance with rules and law. The departmental authority after going through the record, rejected the departmental appeal of the appellant, hence the present service appeal.

3. We have heard arguments of learned counsel for the appellant and learned Government Pleader for the respondents and have gone through the record with their valuable assistance.

4. Perusal of the case file reveals that admittedly the appellant was appointed as Cook in the respondent-department in the year 1991. In April, 2008 appellant submitted an application seeking ex-Pakistan leave which was duly forwarded to the authority concerned. However, the appellant without waiting for outcome of the application, proceeded on ex-Pakistan leave and left for Dubai. In the meanwhile, the application for ex-Pakistan leave filed by the appellant was rejected by Provincial Police Officer, Khyber Pakhtunkhwa vide office order dated 24.06.2008. Since, the appellant was absent from duty, therefore, he was proceeded against. All the legal formalities were duly fulfilled, i.e issuing of charge sheet and statement of allegations were dispatched to his known home address, similarly an advertisement was also made in the local News Paper directing the appellant to report his duty within ten (10) days but of no avail. Hence, keeping in view the willful absence of the appellant from duty, the Enquiry Officer suggested major penalty under Khyber Pakhtunkhwa Removal from Service (Special Power) Ordinance 2000, (Amendment Act, 2005). The Authorize Officer while keeping into consideration the enquiry report, imposed major penalty of removal from service of the appellant under Khyber Pakhtunkhwa Removal from Service (Special Power) Ordinance 2000, (Amendment Act, 2005) vide impugned order dated 08.10.2009 bearing ends: No. 515 dated 19.10.2009.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa

17

5. Since the appellant has willfully absented himself from duty and proceeded without proper permission and sanction of ex-Pakistan leave, therefore he is at misconduct. The respondents had adopted the legal course, a proper enquiry was charge sheet alongwith relevant documents were dispatched on his known home. Similarly, absence notice was also issued to the appellant in the local news paper, appellant did not turned up, hence appellant was rightly proceeded against by the Officer. In light of the inquiry report, the respondent No.2 has rightly imposed major penalty removal from service on the appellant. The departmental appeal of the appellant considered by the appellate authority and has appropriately come up to the conclusion that departmental appeal is not worth consideration as the appellant failed to put forward cogent reason regarding his absence from duty. In the above stated circumstances, we see merits in the instant appeal which is hereby dismissed. Parties are, however, left to bear own costs. File be consigned to the record room.

Sd/- Muhammad Anqur Nazki,
Member

Sd/- Pir Bakht Shah,
Member

ANNOUNCED
10.05.2016

[Signature]
(PIR)

0
ZII

Certified to be true copy
EXCISE
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 19-05-2016
 Number of Words 1200
 Copying Fee 8-00
 Urgent 2-00
 Total 10-00
 Name of Copyist [Signature]
 Date of Completion of Copy 19-05-2016
 Date of Delivery of Copy 19-05-2016

9214461
Fax: 9220406

Case No. 432-16/12
Date: 11-10-2021

25975/LG ANT-D
REGISTERED
No. C.P.432-P/2016 - SCJ
SUPREME COURT OF PAKISTAN
18

Islamabad, dated 07-10-2021

From The Registrar,
Supreme Court of Pakistan,
Islamabad.

To The Registrar,
K.P.K. Service Tribunal,
Peshawar.

Subject: CIVIL PETITION NO. 432-P OF 2016

Wazir Khan

Versus

The Provincial Police Officer Khyber Pakhtunkhwa, Peshawar and
another

**On appeal from the Judgment/Order of the K.P.K. Service
Tribunal, Peshawar dated 12/05/2016 in Appeal.816/2012.**

Dear Sir,

I am directed to enclose herewith a certified copy of the Order of
this Court dated 30/09/2021 disposing of the above cited case in the terms
stated therein for information and further necessary action.

The Operative part of the Order is reproduced as hereunder:-

**"2....The petitioner, however, may make an application to the
department in terms of the provisions noted above and we
expect that the department will consider the same
sympathetically and decide the same expeditiously."**

Please acknowledge receipt of this letter along with its enclosure
immediately.

Encl: Order:

Yours faithfully,

SM

(MUHAMMAD MUJAHID MEHMOOD)
ASSISTANT REGISTRAR (IMP)
FOR REGISTRAR

✓ Copy of this letter alongwith certified copy of the Order of this Court dated
30.09.2021 is forwarded to the Provincial Police Officer, Khyber Pakhtunkhwa,
Peshawar for information and compliance.

Encl: Order:

SM
ASSISTANT REGISTRAR(IMP)

19

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

MR. JUSTICE GULZAR AHMED, HCJ
MR. JUSTICE MAZHAR ALAM KHAN MIANKHEL
MR. JUSTICE MUHAMMAD ALI MAZHAR

Civil Petition No.432-P/2016

(Against the judgment dated 12.05.2016 of the Khyber Pakhtunkhwa Service Tribunal, Peshawar passed in Service Appeal No. 816/2012)

Wazir Khan

...Petitioner

Versus

The Provincial Police Officer Khyber Pakhtunkhwa, Peshawar and another

..Respondents

For the petitioner: Mr. Ashraf Ali, ASC.
(Through video-link from Peshawar)
Haji M. Zahir Shah, AOR (absent)

For the respondents: Not represented.

Date of hearing: 30.9.2021

ORDER

GULZAR AHMED, C.J.- After arguing the matter at some length, learned counsel for the petitioner contends that if an observation is made in the order that the petitioner will make an application to the department for granting him compassionate allowance in terms of section 19(3) of the Khyber Pakhtunkhwa Civil Servants Act, 1973, the petitioner will be satisfied and the petition in such terms may be disposed of.

2. The petition is disposed of. The petitioner, however, may make an application to the department in terms of the provisions noted above and we expect that the department will consider the same sympathetically and decide the same expeditiously.

Islamabad,
30th September, 2021
Sarfraz /

Wazir Khan
01/10/21

Authenticated True Copy

[Signature]

01/10/21

Through Proper Channel

ANN-E

20
/

To

The
Hon'ble,
Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.

Application under section 19 (3) of the Khyber Pakhtunkhwa Civil Servant Act, 1973 in the light of the Honorable Supreme Court directions dated 30-09-2021.

Respected Sir:-

With due respect; applicant humbly submit as under.

1. That applicant was serving as Cook under the jurisdiction of Commandant Police Training College, Hangu and removed from service vide order dated 19-10-2009 on account of absence from duty.
2. That applicant being aggrieved from the removal order ibid; preferred Service Appeal No. 816 of 2012 before the Honorable Khyber Pakhtunkhwa Service Tribunal, which was dismissed vide judgment/order dated 12-05-2016.
3. That applicant filed CP No.432-P/2016 before the Hon'ble Supreme Court of Pakistan, which was disposed of in the following terms:-

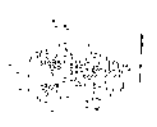
"After arguing the matter at some length, learned counsel for the petitioner contents that if an observation is made in the order that the petitioner will make an application to the department for granting him compassionate allowance in term of section 19 (3) of the Khyber Pakhtunkhwa Civil Servant Act, 1973, the petitioner will be satisfied and the petition in such terms may be disposed of.

The petition is disposed of. The petitioner, however, may make application to the department in terms of the provision noted above and we expect that the department

will consider the same sympathetically and decide the same expeditiously."

4. That section 19(3) of the Khyber Pakhtunkhwa Civil Servant Act, 1973 provide that if a civil servant is removed or dismissed from service, he will not be entitle for pension, but Govt: may sanction compassionate allowance to such civil servant, not exceeding two third of the pension, which would have been admissible to him had he been invalidated from service on the date of such dismissal or removal.
5. That applicant was a low paid employee with 18 years service at his credit and also with no previous history of misconduct and now disabled with both legs. He has lost all means of labour to meet the expanses of his dependants. He is an old man now.
6. That the Hon'ble Supreme Court of Pakistan has asked for sympathetic consideration of the agonies of the applicant.

In view of the above explained position, Your Honour may graciously be pleased to exercise the worthy competency in the light of Order of the Hon'ble Supreme Court of Pakistan dated 30-09-2021 and ward/grant the applicant Compassionate allowance in terms of section 19 (3) of the Khyber Pakhtunkhwa Civil Servant Act, 1973.


Wazir Khan
Ex-Cook,
Police Training College,
Hangu.

Dated: /10/2021



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
Central Police Office, Peshawar.

ANX-F
22

No. 10085 / Legal dated the 18/10/2021.

To: The Commandant,
Police Training College,
Hangu.

1587
26-10-2021

Subject: CIVIL PETITION NO. 432-P of 2016
WAZIR KHAN VS THE PROVINCIAL POLICE OFFICER,
KHYBER PAKHTUNKHWA PESHAWAR AND ANOTHER.

Memo:- Enclosed find copy of Letter No. C.P.432-P/ 2016-SCJ, dated 07.10.2021, received from the Assistant Registrar (IMP), Supreme Court of Pakistan, Islamabad is sent herewith for information and further course of action, please.

AIG/ LEGAL
For Inspector General of Police.
Khyber Pakhtunkhwa, Peshawar.
15.10.2021

C.C

- Assistant Registrar (IMP) for Registrar, Supreme Court of Pakistan, Islamabad w/r to his office Letter quoted above.

Submitted please

W/capt
at

16
08

insp. legal
m-a
referred in the
H O

23
/

To

The
Hon'ble,
Commandant,
Police Training Collrge,
Hangu.

Application under section 19 (3) of the Khyber Pakhtunkhwa Civil Servant Act, 1973 in the light of the Honorable Supreme Court directions dated 30-09-2021.

Respected Sir:-

With due respect; applicant humbly submit as under.

1. That applicant was serving as Cook under the jurisdiction of Commandant Police Training College, Hangu and removed from service vide order dated 19-10-2009 on account of absence from duty.
2. That applicant being aggrieved from the removal order ibid; preferred Serive Appeal No 816 of 2012 before the Honorable Khyber Pakhtunkhwa Service Tribunal, which was dismissed vide judgment/order dated 12-05-2016.
3. That applicant filed CP No.432-P/2016 before the Hon'ble Supreme Court of Pakistan, which was disposed of in the following terms:-

"After arguing the matter at some length, learned counsel for the petitioner contents that if an observation is made in the order that the petitioner will make an application to the department for granting him compassionate allowance in term of section 19 (3) of the Khyber Pakhtunkhwa Civil Servant Act, 1973, the petitioner will be satisfied and the petition in such terms may be disposed of.

The petition is disposed of. The petitioner, however, may make application to the department in terms of the provision noted above and we expect that the department

24
—

will consider the same sympathetically and decide the same expeditiously."

4. That section 19(3) of the Khyber Pakhtunkhwa Civil Servant Act, 1973 provide that if a civil servant is removed or dismissed from service, he will not be entitle for pension, but Govt. may sanction compassionate allowance to such civil servant, not exceeding two third of the pension, which would have been admissible to him had he been invalidated from service on the date of such dismissal or removal
5. That applicant was a low paid employee with 18 years service at his credit and also with no previous history of misconduct and now disabled with both legs. He has lost all means of labour to meet the expanses of his dependants. He is an old man now
6. That the Hon'ble Supreme Court of Pakistan has asked for sympathetic consideration of the agonies of the applicant

JU
31
ON
his
of

In view of the above explained position, Your Honour may graciously be pleased to exercise the worthy competency in the light of Order of the Hon'ble Supreme Court of Pakistan dated 30-09-2021 and ward/grant the applicant Compassionate allowance in terms of section 19 (3) of the Khyber Pakhtunkhwa Civil Servant Act, 1973.

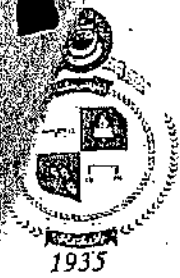
ing.

Wazir Khan
Ex-Cook,
Police Training College,
Hangu.

Dated: /10/2021

25

Ph # 0925-621886
Fax # 0925-620886



Office Of The Commandant Police Training College Hangu.

To The Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

No. 561 /PC, Dated Hangu the, 08/10/2022.

Subject: - CIVIL PETITION NO. 432-P/2016 WAZIR KHAN VS THE
PROVINCIAL POLICE OFFICER, KPK AND ANOTHERS

Memo:-

It is submitted that Mr. Wazir Khan of PTC Hangu was enlisted on 24.08.1991 as Cook Class-IV (BPS-01). He was gone abroad in the year 2008 without any leave or permission from the competent authority. He was proceeded departmentally and subsequently removed from service vide OB No. 505 dated 19.10.2009.

The applicant filed Service Appeal No. 816/2012 which was decided on 10.05.2016 in favour of the department. After that, the applicant approached to the Supreme Court of Pakistan through Civil Petition cited above, which was disposed off vide Judgment dated 30.09.2021 with the following remarks:

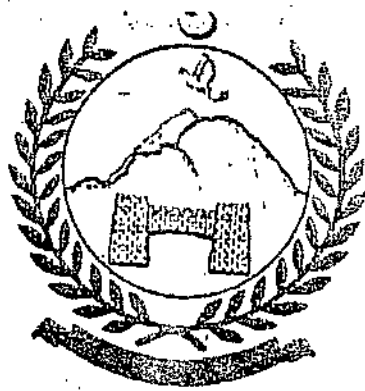
"After arguing the matter at some length, learned counsel for the petitioner contends that if an observation is made to the department for granting him compassionate allowance in terms of section 19 (3) of Khyber Pakhtunkhwa Civil Servants Acts, 1973, the petitioner will be satisfied and the petition in such term may be disposed off".

The petition is disposed off. The petitioner, however, may make an application to the department in terms of the provisions noted above and we expect that the department will consider the same sympathetically and decide the same expeditiously.

In the light of above judgment, proper case in favour of the petitioner in accordance to section 19(3) of Civil Servants Acts, 1973 of Khyber Pakhtunkhwa has been prepared and is enclosed herewith for granting sanction of compassionate allowance from Finance Deptt:

It is, therefore, requested that Finance Department may be approached through Home Deptt: for obtaining proper sanction in favour of the petitioner, please.

Fazimullah
Commandant
Police Training College, Hangu.



26
1

PENSION PAPERS

Name HAZIR KHAN
 Father/Husband Name Imroz BELL
 CNIC No 14101-7209224-5
 Designation Class-IV (KPS-01)
 Department Police Department KPR
 Personal No 212073
 Date of Retirement/Death 30/06/2008

Return with the remarks that
 ① In light of Supreme Court of Pakistan
 it is instructed to the head of their
 department to reconsider the case
 sympathetically and ~~get the amount~~
~~of retirement~~ and issued an order
 accordingly and also get sanction
 of compassionate allowance from Finance
 Department according to KP Pension
 rule para 90

(Signature)
 A
 11/5/08
 SDAO
 Huzar



INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA,
CENTRAL POLICE OFFICE, PESHAWAR

No. 5277-78/B-1, dated Peshawar the 22/06/2021

28-00

To: The Secretary,
Government of Khyber Pakhtunkhwa,
Home & TA's Department, Peshawar.

27

Subject: CIVIL PETITION NO.432-P/2016 WAZIR KHAN VS THE
PROVINCIAL POLICE OFFICER, KPK AND ANOTHER

Memo: I am directed to refer the subject cited above that Wazir Khan of PTC Hangu was enlisted on 24.08.1991 as Cook Class-IV (BPS-01). He was gone abroad in the year 2008 without any leave or permission from the competent authority. He was proceeded departmentally and subsequently removed from service vide OB No. 505 dated 19.10.2009.

The applicant filed Service Appeal No. 816/2012 which was decided on 10.05.2016 in favour of the department. After that, the applicant approached to the Supreme Court of Pakistan through Civil Petition cited above, which was disposed off vide Judgment dated 30.09.2021 with the following remarks:

After arguing the matter at some length, learned counsel for the petitioner contends that if an observation is made to the department for granting him compassionate allowance in terms of section 19 (3) of Khyber Pakhtunkhwa Civil Servants Acts, 1973, the petitioner will be satisfied and the petition in such term may be disposed off".

The petition is disposed off. The petitioner, however, may make an application to the department in terms of the provisions noted above and we expect that the department will consider the same sympathetically and decide the same expeditiously:

In the light of above judgment, proper case in favour of the petitioner in accordance to section 19(3) of Civil Servants Acts, 1973 of Khyber Pakhtunkhwa has been prepared and is enclosed herewith for granting sanction of compassionate allowance from Finance Deptt: It is therefore, requested that Finance Department may be approached through Home department for obtaining proper sanction in favour of the petitioner please.

SRC
m/a

Commandant
Police Training College
Hangu

(NAVEED ALI KHALIL)
Budget Officer,
For Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar

No & date of even:-

Copy of above is forwarded for information to the Commandant PTC Hangu



GOVERNMENT OF KHYBER PAKHTUNKHWA FINANCE DEPARTMENT

Finance Department Civil Secretariat Peshawar

<http://www.finance.gkp.pk>

[facebook.com/GoKPPD](https://www.facebook.com/GoKPPD)

twitter.com/GoKPPD

Dated Peshawar the 21.10.2022

NO.SOSR-II/FD/1-14/2022/Wazir Khan

29

To
The Secretary to Govt. of Khyber Pakhtunkhwa,
Home & Tribal Affairs Department.

Subject:- REQUEST FOR SPECIAL COMPENSATION.

Dear Sir,
I am directed to refer to your letter No.SO(Budget)/HD/1-1/2023/Vol-I dated 15.08.2022 on the subject noted above and to state that the instant case does not qualify to accord sanction of Compassionate Allowance in respect of Mr. Wazir Khan, hence regretted.

Yours faithfully,

OFFICE OF THE PROVINCIAL POLICE OFFICER K.P.K PESHAWAR.

No. 8938 /B-1, dated Peshawar, the 15/11/2022

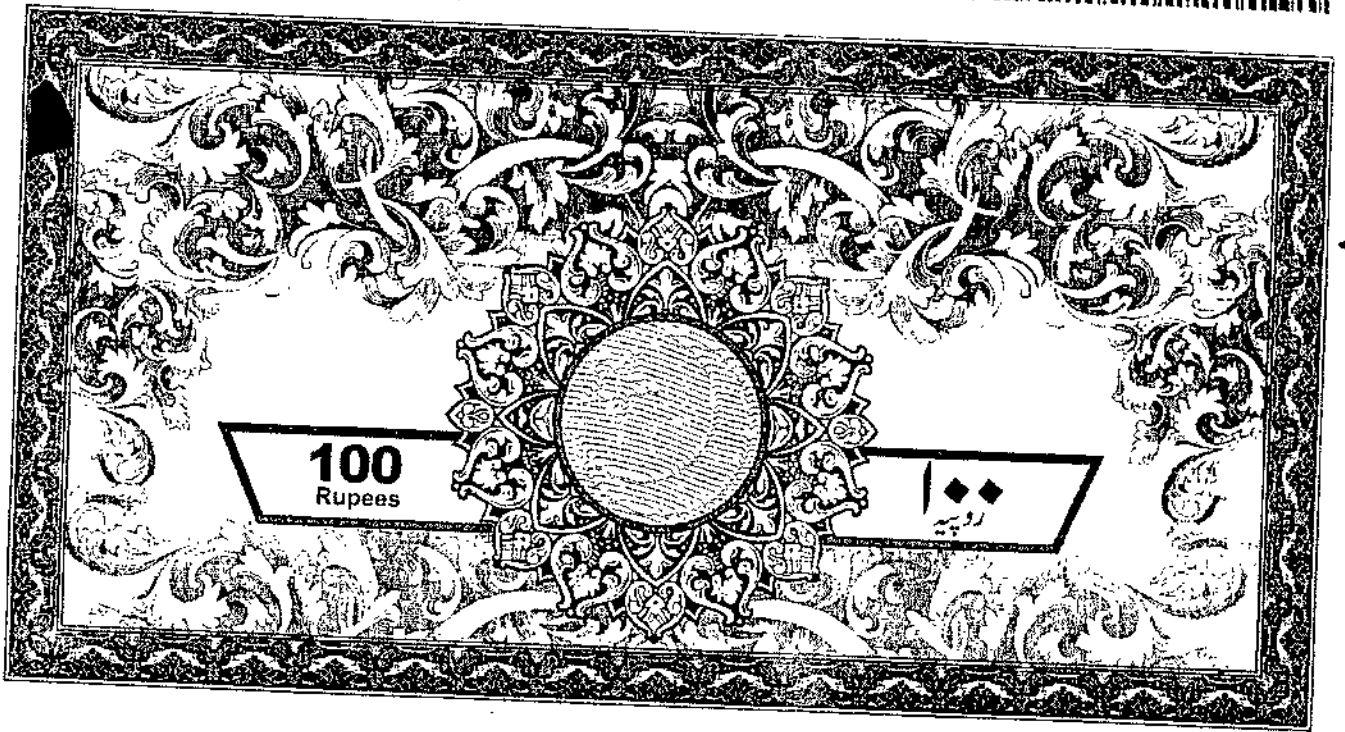
Copy of above is forwarded for information & necessary action to the SECTION OFFICER (SR.II) Commandant PTC Hangu w/r to his letter No.561/PC, dated 08.06.2022 & No.963/EC, dated 01.11.2022.

(NAVEED ALI KHALIL)
Budget Officer,
For Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.

20725 25/10/22

(Dev)

7-11-22



30

بیان حلفی

میں مسمیٰ وزیر خان ولد اشجیر خان سکندر ہنگو سابق لائٹری PTC ٹریننگ سکول ہنگو اقرار کر کے لکھ دیتا ہوں کہ میں سپریم کورٹ آف پاکستان کے فیصلہ مورخہ 30-09-2021 کے روشنی اور ہدایات کے مطابق اپنی درخواست گزار کی تھیج۔ جس کا فیصلہ مورخہ 21-10-22 کو ہوا ہے۔ حلفاً بیانی ہوں کہ مجھے مقررہ وقت پر فیصلہ کی کاپی نہیں دی گئی۔ مورخہ 19-12-2022 سپریم کورٹ عالم PTC نے مجھے بلایا اور میرے زبانی درخواست پرائیون مجھے آرڈر کی فوٹو کاپی بمع دوسرے کاغذات اسی دن دے دیے۔ اپنا بیان حلفاً لکھنے کے لکھو دیا تاکہ سندریس العارہیں