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BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR.

APPEAL NO. 7887/2021

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 7811

Dated 26/10/2021

Ahmad Nawaz no: 413, Constable
Kohat Region Kohat.

(Appellant)

VERSUS

1. The Inspector General of Police, Khyber Pakhtunkhwa, CPO Peshawar.
2. Regional Police Officer Kohat, Region Kohat.
3. District Police Officer Kohat.

(Respondents)

Filed to-day
Registrar,
26/10/2021

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 14.07.2020, WHEREBY THE APPELLANT WAS EXONERATED AND PERIOD WAS TREATED AS EXTRA ORDINARY LEAVE WITHOUT PAY AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITH IN STATUTORY PERIOD OF 90 DAYS.

Re-submitted to-day
and filed.

Registrar,
28/10/2021

Prayer:

That on the acceptance of this appeal, impugned order dated 14-07-2020 may kindly be modified to the extent of that "period treated as leave without pay" as period spent on duty with all back and consequential benefits. Any other remedy which this august tribunal deems fit and appropriate that, may also, is awarded in favor of appellant.

Respectfully Sheweth:

Facts:

1. That the appellant was the employees of respondent Department and was serving as constable No. 413 quite efficiently & upto the entire satisfaction of his superiors.
2. That the appellant was compulsory retirement vide order dated 13.10.2017 against which appellant filed departmental appeal which was rejected vide order dated 16.12.2017. Then the appellant filed revision petition which was also rejected on 08-05-2018.
3. That the appellant being aggrieved from the said orders filed service appeal no. 750/2018 against the order dated 13.10.2017 and 08.05.2018, in the Hona'ble Service Tribunal Peshawar, the said appeal was accepted and the direction was given to respondent department to hold denovo inquiry within period of 90 days. **Copy of judgment is attached as Annexure-A.**
4. That the denovo inquiry was conducted in which and appellant was exonerated from all the charges to posted without pay. **Copy of the said impugned but intervening period he remained out**

of service was declared as un-authorized leave without pay impugned order is attached as Annexure-B.

5. That appellant filed departmental appeal against the order dated 14.07.2020 which was not responded within statutory period of 90 days. Hence the instant service appeal on the following grounds. **Copy of departmental appeal is attached as Annexure-D.**

Grounds:

- A) That the impugned order dated 14.07.2020 is against the law, rules and material on record, therefore liable to be modified to the extent of period treated as leave without pay.
- B) That denovo inquiry was conducted against the appellant in which no charge was proved against the appellant and appellant was exonerated and reinstated in to service. So the appellant is entitled to all back benefits according to superior court judgment and latest judgments of this Hon'able Tribunal titled as "Muhammad Noman Vs Police Deptt:", "Akhter Ali Police Deptt", Jan Ayaz Vs Prison Deptt.: **Copy of judgments is attached as annexure-E**
- C) That the period appellant remained out of service, it is fault of the department not of the appellant, so the any irregularities committed by the department not held the appellant responsible according to superior courts judgment.
- D) That if the grievance of the appellant is not resolved then the appellant will face huge financial loss even it will affect the pension of the appellant.

- E) That the appellant cannot be held responsible for the lapse/irregularities committed by the department and in such case the Hon'able Supreme Court of Pakistan has held the department responsible not the appellants.
- F) That the appellant is legally entitled for is pay under section 17 of the Civil Servant Act 1973 of Khyber Pakhtunkhwa Peshawar. Being remained on the strength of the department throughout the period and not a again full employee during that period. Hence the impugned order is liable to be modified.
- G) That the relevant authorities restrain the appellant from performance of duty due there improper exercise of official power, therefore, the appellant cannot be deprived from his legal right of salary.
- H) That the appellant was not remained gainful employee during the period of not adjustment so the appellant is fully entitled to salaries for that period.
- I) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

It is, therefore most humbly prayed that the appeal of the appellant may be accepted as prayed for.

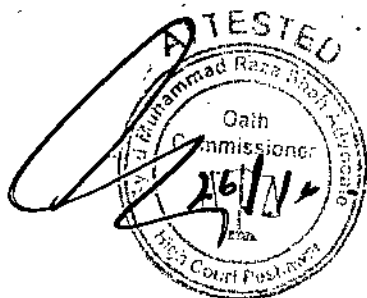
Ajd
Appellant

Ahmad Nawaz

Through:

Uzma Syed
(Uzma Syed)
Advocate, High Court

Affidavit
All contents are true



BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

APPEAL NO. _____/2021

Ahmad Nawaz

V/S

Prison Deptt:

APPLICATION FOR CONDONATION OF DELAY IN THE INSTANT APPEAL

RESPECTFULLY SHEWETH:

1. That the instant appeal is pending before this Honorable Tribunal in which no date has been fixed.
2. That the august Supreme Court of Pakistan has held that decision on merit should be encouraged rather than knocking-out the litigants on technicalities including limitation. Therefore, appeal needs to be decided on merit (2003, PLD (SC) 724.
3. That in the instant appeal financial matter is involved therefore no limitation runs in the instant appeal in the light of judgment cited as 2002 PLC (cs) 1388.
4. That due to spread of the pandemic disease the appellant was unable to submit appeal in time therefore it is requested to treat the limitation under S-30 of KP Epidemic Control and relief Act 2020, otherwise, the appeal of the appellant on merit is good enough to be decided on merits.

It is therefore most humbly prayed that the instant appeal may be decided on merit by condoning the delay under S-30 KP Pandemic diseases Act 2020, to meet the ends of justice.

A J D

Appellant
Ahmad Nawaz

Through

Affidavit
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UZMA SYED
Advocate High Court

