

BEFORE THE HONOURABLE CHAIRMAN SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA PESHAWAR.

Service Appeal No. 9603/2020

Ikram Khan

APPELLANT

VERSUS

Government of Khyber Pakhtunkhwa etc.

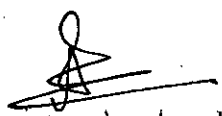
RESPONDENTS

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Appellant

Through


Barrister Asad ur Rehman

(Barrister of Lincoln's Inn)

Advocate High Court

Arshad Khan Shaheed Law Associates.

Makambah Chowk, Mingora Swat.

Cell # 03334646814

1

BEFORE THE HONOURABLE CHAIRMAN SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA PESHAWAR.

Service Appeal No.....**9603**...../2020

1. Ikram Khan S/o Parwanat Khan, R/o Daulatkhel Village Qambar, Tehsil Babozai, District Swat.

APPELLANT

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Home and Tribal Affairs Department, Peshawar.
2. Inspector General of Prisons Khyber Pakhtunkhwa, Peshawar.
3. Director (Admin) for Inspector General of Prisons Khyber Pakhtunkhwa, Peshawar.

RESPONDENTS

Service Appeal under Section 4 of the KPK Service Tribunals Act, 1974

Respectfully Submitted:

1. That the Appellant filed a Writ Petition No.99-M of 2019 against the Respondents, and requested there to direct the Respondents to promote the Appellant to the post of Assistant Superintendent Jail after considering him in accordance with the relevant rules.

(Copy of the Writ Petition is attached as Annexure A)

2. That the Honourable Peshawar High Court, Mingora Bench Swat, vide order/judgment dated 26/02/2019, allowed the Writ Petition of the Appellant by directing the Respondents to re-consider the case of the Appellant, in accordance with the relevant rules, and to put his case before the Departmental Selection/Promotion Committee. It is pertinent to set out here that the ambiguity, if there was any at all, regarding the relevant rules applicable to the Appellant was removed by the Honorable Court which is evident from the judgment itself.

(Copy of the Judgment/Order dated 26/02/2019 is attached as Annexure B)

3. That the Appellant approached the office of the Respondents to implement the order of this Honourable Court, on number of occasions, but they were not paying any heed to the requests of the Appellant.
4. That the Appellant, finally, wrote to Respondent No.1 on the 9th of March 2019 and requested there once again for honouring/implementing the judgment of this Honourable Court. However, to the utter surprise of the Appellant, the Respondent No.3 replied, through a letter addressed to the learned Additional Registrar of this Honourable Court, on the 27th of May 2019 and set out there that the Appellant could not be considered at this stage. It is pertinent to set out here that the whole reasoning of the Respondent in the said letter is based on irrelevant rules and baseless grounds.
(Copies of the letters dated 09/03/2019 and 27/05/2019 are attached as Annexure C)
5. That it is crystal clear from the earlier writ petition of the Appellant, annexed here as Annexure A, and Judgment of the Honourable Peshawar High Court, dated 26-02-2019, annexed here as Annexure B, that the relevant rules applicable to the case of the Appellant are "*The Khyber Pakhtunkhwa Prisons Department Manual for Service Recruitment Rules, 1980*". Hence, the amended rules, which came quite late, having no retrospective effect, are not applicable to the Appellant.
(The Khyber Pakhtunkhwa Prisons Department Manual for Service Recruitment Rules, 1980 and amended rules notified vide Home Department Notification No. SO (P&R)/HD/1-33/2017/Vol-VI dated 05/11/2018 are attached as Annexure D)
6. That the act of Respondents in refusing to implement the Judgment/Order of this Honourable Court, in its true letter and spirit, is unbelievable and very unfortunate.
7. That the Appellant again approached the Honourable Peshawar High Court, Mingora Bench for the redress of his grievance, in a Writ Petition No.99-M of 2019, as set out above. However, this time the Honourable Court sent the case before this Honourable Court, due to the issue of jurisdiction, for decision. It was precisely set out there that the Writ Petition No.960-M/2019 may be converted into a Service Appeal and the same may be sent to Khyber Pakhtunkhwa Service Tribunal for adjudication.
(Copy of the Writ Petition No. 960-M/2019 and Judgment/Order dated 10/03/2020 is attached as Annexure E)
8. That the Appellant does not have any other remedy now, and wants to approach this Honourable Court on the basis of the following grounds.

GROUND

- A. The decision of the Departmental Selection/Promotion Committee, by ignoring the Appellant, is arbitrary and illegal.
- B. The Khyber Pakhtunkhwa Prisons Department Manual for Service Recruitment Rules, 1980 are the relevant rules applicable to the case of the Appellant.
- C. The amended Service Rules issued by Home Department Notification, dated 05-11-2018, which are made basis for refusing promotion to the Appellant, are not applicable to him.
- D. The act of the Respondents is against the spirit of Article 24 of the Constitution of Pakistan.
- E. There is no justification in denying the right of Promotion to the Appellant.
- F. The decision of Respondents is unprecedented.
- G. The Appellant fulfills all the conditions for promotion in accordance with the relevant rules as set out above.
- H. Other grounds will be raised at the time of arguments.

PRAYER

In view of the above, it is respectfully prayed that the decision of the Respondents, by refusing/declining the right of Promotion to Appellant to the post of Assistant Superintendent, at the stage of fitness after the written examination, be declared as illegal and arbitrary. Accordingly, the Respondents may be directed to promote the Appellant to the post of Assistant Superintendent.

It is further prayed that it may be held that the amended rules, as attached to the instant Writ Petition as Annexure L, are not applicable to the extent of the Appellant.


It is also prayed that the Respondents may be directed to consider the promotion of the Appellant from the date of his eligibility, and he may also be given the back benefits as per the law.

Any other relief which this Honourable Court deems fit may also be granted.

APPELLANT

Through

Counsel



Barrister Asad ur Rehman
(Barrister of Lincoln's Inn)
Advocate High Court

INTERIM RELIEF

By way of interim relief, the Respondents may be directed not to fill the remaining posts for Assistant Superintendent Jail, which are still vacant, till the final decision of the instant Appeal.

Counsel



Barrister Asad ur Rehman
(Barrister of Lincoln's Inn)
Advocate High Court

LIST OF BOOKS

1. The Constitution of the Islamic Republic of Pakistan, 1973.
2. Khyber Pakhtunkhwa Prisons Department Manual for Service Recruitment Rules, 1980.

Certificate

It is certified that as per the instructions of the client/Appellant, no such like Appeal is pending before this Honourable Court or any other Court.



Barrister Asad ur Rehman
(Barrister of Lincoln's Inn)
Advocate High Court

List of Books

- a. Service Laws
- b. Constitution of the Islamic Republic of Pakistan, 1973



Barrister Asad ur Rehman
(Barrister of Lincoln's Inn)
Advocate High Court

BEFORE THE HONOURABLE CHAIRMAN SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA PESHAWAR.

Service Appeal No. 9603 /2020

Ikram Khan

APPELLANT

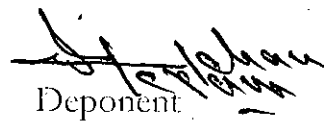
VERSUS

Government of Khyber Pakhtunkhwa etc.

RESPONDENTS

AFFIDAVIT

2. I Ikram Khan S/o Parwanat Khan, R/o Daulatkhel Village Qambar, Tehsil Babozai, District Swat. do hereby solemnly affirm and declares on oath that the contents of the accompanying Appeal are correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.


Deponent

BEFORE THE HONOURABLE CHAIRMAN SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA PESHAWAR.

Service Appeal No. 9603/2020

Ikram Khan

APPELLANT

VERSUS

Government of Khyber Pakhtunkhwa etc.

RESPONDENTS

Addresses of the Parties

- 1. Ikram Khan S/o Parwanat Khan, R/o Daulatkhel Village Qambar, Tehsil Babozai, District Swat.

Appellant

Respondnets

- 1. Government of Khyber Pakhtunkhwa through Secretray Home and Tribal Affairs Department, Peshawar.
- 2. Inspector General of Prisons Khyber Pakhtunkhwa, Peshawar.
- 3. Director (Admin) for Inspector General of Prisons Khyber Pakhtunkhwa, Peshawar.

Appellant

Through

Barrister Asad ur Rehman

(Barrister of Lincoln's Inn)

Advocate High Court

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

In Re C.M # _____/2020

IN

Appeal No.9603-2020

Ikram Khan

Versus

Government of KPK etc.


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1	Early Hearing Application		
2	Affidavit		

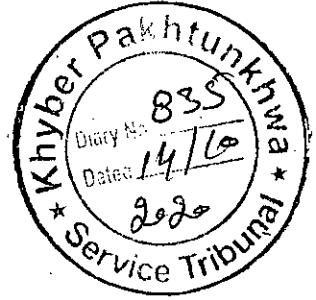
Dated: 05-10-2020

Petitioner

Through

Asad Ur Rehman
& 
Amir Nawaz Shinwari

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR



In Re C.M # _____/2020

IN

Appeal No.9603-2020

Ikram Khan

Versus

Government of KPK etc.

*Already fixed on
4/11/2020 before turning
bench at Mingora,
Govt. Application
declined.*

APPLICATION FOR EARLY HEARING OF THE ABOVE
TITLE CASE

Respectfully Sheweth,

1. That the instant appeal is pending before the Hon'ble Tribunal and next date of hearing is not fixed yet.
2. That the instant case has been remanded / marked to this Hon'ble Court and sent on dated: 24-08-2020.
3. That early fixation of the instant appeal is indispensable because the respondents are going to fill up the vacant post.

Read

*Pet of B M
and charged & signed*

Asle
Govt
14/6/2020

22/9/20

4. That if the instant appeal is not fixed earlier the appellant will suffer irreparable loss.

It is, therefore, most humbly prayed that the application, the appeal may kindly fixed for early hearing with main appeal for appropriate orders.

Applicant /Petitioner

Asad Ur Rehman

&

Amir Nawaz Shinwari

Dated: 05-10-2020

IN THE HON'BLE PESHAWAR HIGH COURT, PESHAWAR

In Re C.M # _____/2020

IN

Appeal No.9603-2020

Ikram Khan

VERSUS

Government of KPK etc.

AFFIDAVIT

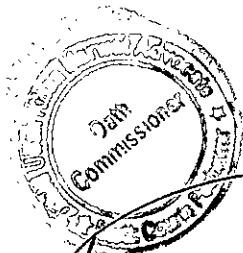
I, Ikram Khan S/o Parwanat Khan, do hereby solemnly affirm and declare on oath that all the contents of the **Early Hearing Application** are true and correct to the best of my knowledge and belief and nothing has been concealed or misstated.

Dated: 05-10-2020


DEPONENT

CNIC No: 15602-0532889-3

Cell No: 0345-8108212




05/10/2020



**IMMEDIATE
BY FAX OUT
TODAY**

**INSPECTORATE GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR**

091-9210394, 9210406 09 091-9210345

<https://www.facebook.com/kpkprisons>
prisons1@gmail.com

No. 6/15-J-2012 32092-09
Dated. 09-09-2020

FAX

To,

- The Superintendents,
1. Central Prison Peshawar and Mardan,
2. District Jail Swat and Abbotabad.
3. Office Accountant.

Subject:- **PROMOTION COURSE FROM CHIEF HEAD WARDERS/SENIOR CLERKS TO ASSISTANT SUPERINTENDENT W.E.F 15-09-2020 TO 14-10-2020 (30 DAYS).**

Memo;

I am directed to refer to the subject and to convey that the course under discussion will commence from 15-09-2020 at Central Jail/Training Academy Haripur, therefore, the following Senior Clerks presently posted with your jail/office are hereby nominated for the subject cited course:-

- i. Mr. Syed Sadat Ali Shah attached to Central Prison Mardan
- ii. Mr. Shaida Muhammad attached to District Jail Swat
- iii. ✓ Mr. Muhammad Ibrar Khan attached to Central Prison Peshawar
- iv. Mr. Bilal attached to Inspectorate of Prisons Peshawar
- v. Mr. Aamir Hayat attached to District Jail Abbotabad

Please relieve the above named Senior Clerks on 12-09-2020 with the directions to report to Superintendent CP/Commandant Training Academy Haripur on 15-09-2020 positively for attending the subject training course.

NOTE. The trainees must bring P.T Kits, etc. for the purpose of drill.

[Signature]
ASSISTANT DIRECTOR

FOR INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR

[Signature] 9/9/2020

Encls No. 1-

Copy of the above is forwarded to the:-

1. The Secretary to the Government of Khyber Pakhtunkhwa Peshawar Home and I TA Department for information please.
2. Superintendent Central Prison Training Academy Haripur for information with reference to this office letter No. 31751 dated 08-09-2020. He is requested that arrival/non-arrival report of all the trainees nominated for the subject cited course may be intimated to this office as well as Superintendents jail concerned.
3. PA to Inspector General of Prisons Khyber Pakhtunkhwa Peshawar for information please.

[Handwritten signatures and initials]



BEFORE THE LEARNED SERVICE TRIBUNAL, PESHAWAR

CM _____/2020

IN

Service Appeal No. 9603 /2020

Ikram Khan

VS


Government of KPK etc.

APPLICATION FOR GRANTING STAY REGARDING THE POSTS OF ASSISTANT SUPERINTENDENT JAIL

Respectfully Submitted:

1. That the titled appeal is pending adjudication before this Honourable Court, and no date of hearing has been fixed in it yet.
2. That the Appellant's promotion to the post of Assistant Superintendent Jail is the bone of contention in the instant matter.
3. That the Respondents are planning to fill the posts of Assistant Superintendent Jail. In fact, they have started the process to do the same. Consequently, it will render the instant matter infructuous, and the Appellant will suffer irreparable loss.
4. That the Appellant has *prima facie* got a very strong case, and balance of convenience also lies in his favour.
5. That the Posts Assistant Superintendent Jail may not be filled till the decision of the instant matter. Otherwise, the instant matter will become infructuous as set out above.

In view of the above submissions, a direction may be issued for not filling the posts of Assistant Superintendent Jail till the final decision of the instant matter.


APPELLANT

BEFORE THE LEARNED SERVICE TRIBUNAL, PESHAWAR

Ikram Khan

VERSUS

Government of KPK and others

AFFIDAVIT

I Ikramullah son of Parwanat Khan, resident of DaulatKhail Village Qambar , Tehsil Babozai District Swat, do hereby state on oath that the contents of the instant Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this August Court.



Deponent

A handwritten signature in black ink, appearing to read "Ikram Khan".

Ikram Khan

ATTESTED

5-10-2020

URGENT FORM

BEFORE THE LEARNED SERVICE TRIBUNAL, PESHAWAR

Ikram Khan

PETITIONER

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Home and Tribal Affairs
Department and others

RESPONDENTS

May this Honourable Court treat this Application as Urgent for early hearing on the grounds respectfully submitted herein below;--

- (A) That the instant Appeal is filed for addressing the injustice caused by the act of Respondents.
- (B) That the vacant post which has been impugned in the instant matter can be filled any time. Therefore, the instant Appeal will become infructuous if it is not fixed at the earliest.
- (C) That the principles of natural justice also demands that the Appellant may be heard as early as practicable.


Appellant

بعد الترتیب

روک مرہنوں کا

2 منجانب
بنام

مورثہ
مقدمہ
دعوی
جرم

الکسٹریکٹ

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

بانٹت تحریر آئنگہ

آن مقام 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 پر حلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق کر راس پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری کی طرف یا اپیل کی برآمدگی پر منظور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار 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 بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا دولت نامہ لکھد یا کہ سندر ہے۔

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

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المرقوم

دعا

کے لئے منظور ہے۔

مقام