

**SCANNED
KPST
Peshawar**

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

IMPLEMENTATION PETITION NO. _____/2023

IN

APPEAL NO 5804/2020

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. **3555**

Dated **14/2/2023**

SYED ANWAR

VS

GOVT OF KPK & OTHERS

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Petitioner

Through:


NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

**IMPLEMENTATION PETITION NO. _____/2023
IN
APPEAL NO 5804/2020**

Mr. Syed Anwar, Assistant (BPS-16), Directorate General Information and Public Relations, Department, Khyber Pakhtunkhwa, Peshawar.

.....**PETITIONER**

VERSUS

- 1- The Chief Secretary Government of Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Information and Public Relations Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Director General Information and Public Relations Department, Khyber Pakhtunkhwa, Peshawar.

..... **RESPONDENTS**

**IMPLEMENTATION PETITION FOR DIRECTING THE
RESPONDENTS TO OBEY THE JUDGMENT DATED 07-11-
2022 IN LETTER AND SPIRIT.**

R/SHEWETH:

- 1- That the petitioner filed service appeal bearing No. 5804/2020 before this august Service Tribunal for his re-instatement into service with all back benefits.
- 2- That the appeal of the petitioner was heard and the appellate authority is directed as follows "***In view of the above, the appeal in hand is allowed as prayed for, Parties are left to bear their own costs. Consign.***" Copy of the judgment dated 31.05.2018 is attached as annexure **A.**
- 3- That after obtaining copy of the judgment dated 07-11-2022 the petitioner submitted the judgment mentioned above for its implementation to the Department concerned to obey the judgment dated 07-11-2022 in letter and spirit. Copy of application is attached as Annexure..... **B**

- 4- That the respondent department reinstated the appellant vide order dated 07-02-2023 but the back benefit w.e.f removal to that reinstatement has not been granted to him. Copy of office order dated 07-02-2023 is attached is annexure.....C.
- 5- That the petitioner has no any other remedy but to file the instant Implementation petition.

It is therefore, most humbly prayed that the respondents may kindly be directed to implement the order/Judgment dated 07-11-2022 in letter and spirit. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the petitioner.

Dated: 14/2/23

S. Sube
Petitioner

Through:

[Signature]
NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT

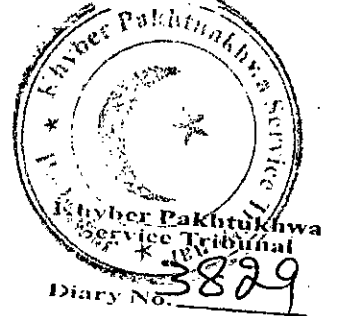
AFFIDAVIT

I, Syed Anwar, Assistant (BPS-16), Directorate General Information and Public Relations, Khyber Pakhtunkhwa, Peshawar, do hereby solemnly affirm on oath that the contents of the above **Implementation Petition** re true and correct to the best of my knowledge and believe and nothing has been concealed from this Honorable Tribunal.



[Signature]
DEPONENT

① "A"-3-



BEFORE THE HONBLE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR

Appeal No. 5804/2020

Diary No. 3829
Dated 18-5-20

Syed Anwar Ex - Assistant. (BPS-16) Directorate General Information & PRs, Khyber Pakhtunkhwa, Peshawar.

-----**(Appellant)**

VERSUS

1. Chief Secretary Govt; of KPK Peshawar.
2. Secretary Information and PRS Govt; of KP Peshawar.
3. Director General Information and Public Relations Khyber Pakhtunkhwa.

-----**(Respondents).**

APPEAL U/S 4 OF KHYBER PAKHTUNKHWA SERVICES TRIBUNAL ACT -1974 AGAINST THE IMPUGNED ORDER DATED 07/01/2020 WHEREBY THE APPELLANT HAS BEEN REMOVED FROM SERVICE AND NON DISPOSAL OF THE DEPARTMENTAL APPEAL OF THE APPELLANT AFTER EXPIRY OF THE STATUTORY PERIOD OF 90 DAYS.

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Filed to-day

Registrar
18/5/2020

PRAYER IN APPEAL:-

E-submitted to-day
and filed.

Registrar
18/6/2020

ON ACCEPTANCE OF THIS SERVICE APPEAL THE IMPUGNED ORDER DATED 07/01/2020 MAY KINDLY BE SET ASIDE AND

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REINSTATED INTO SERVICE WITH
ALL BACK BENEFITS.

Respectfully Sheweth;

Appellant submits as under

1. That the appellant was serving as Assistant
(BPS-16) in the respondents department and
since his appointment the appellant served the
department with great zest, zeal and
enthusiasm.

2. That while serving in the same capacity, the
appellant was served with show cause notice,
containing some baseless allegations, which
was replied by the appellant negating the
same. (Copy of show-cause notice and reply
are attached as annexure "A" & "B").

3. That a concocted and false FIR was also
registered against the appellant and when the
appellant came to know about the same the
appellant got bail from the court of competent
jurisdiction. (Copy of the FIR and court order
are attached as annexure "C" & "D")


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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 5804/2020

BEFORE: MRS. ROZINA REHMAN ... MEMBER(J)
MISS FAREEHA PAUL ... MEMBER(E)

Syed Anwar, Ex-Assistant (BPS-16), Directorate General
Information and Public Relations, Khyber Pakhtunkhwa,
Peshawar. (Appellant)

Versus

1. Chief Secretary Government of Khyber Pakhtunkhwa, Peshawar.\
 2. Secretary Information and Public Relations, Government of Khyber
Pakhtunkhwa, Peshawar.
 3. Director General Information and Public Relations, Khyber
Pakhtunkhwa, Peshawar.
- (Respondents)

Miss Naila Jan,
Advocate ... For appellant

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

Date of Institution.....18.05.2020
Date of Hearing.....07.11.2022
Date of Decision..... 07.11.2022

JUDGEMENT

FAREEHA PAUL, MEMBER (E): The service appeal in hand has
been instituted under Section 4 of the Khyber Pakhtunkhwa Service

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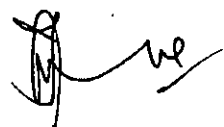
Tribunal Act, 1974 against the order dated 07.01.2020 whereby the appellant was removed from service, against which his departmental appeal was not decided within the statutory period of ninety days.

2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was serving as Assistant (BPS-16) in the respondent department. He was served with a show cause notice containing some allegations which were replied by the appellant by negating the same. An FIR was also registered against him and when he came to know about the same, he got bail from the court of competent jurisdiction. To his utter surprise, the appellant was removed from service without issuing any charge sheet and conducting regular inquiry or affording an opportunity to defend himself. Feeling aggrieved from the impugned order of removal from service dated 07.01.2020, the appellant filed a departmental appeal before the Secretary Information Department, Khyber Pakhtunkhwa (respondent No. 2) but despite the expiry of statutory period of ninety days, the appeal was not decided; hence the instant service appeal.

3. Respondents were put on notice who submitted written replies/comments on the appeal. We have heard the learned counsel for the appellant as well as the learned Additional Advocate General for the respondents and perused the case file with connected documents in detail.

4. Learned counsel for the appellant contended that the impugned order was against the law, rules and principle of natural justice. She further contended that a fact finding inquiry had been shown to be conducted

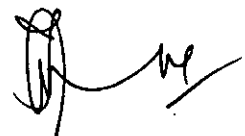
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against the appellant but in fact no such inquiry had been conducted. She stated that no charge sheet/statement of allegations was issued to the appellant and no opportunity of defence was provided to him. She further stated that no statement of any witness was recorded nor any opportunity of cross examination was provided to him. She further contended that the competent authority, without waiting for outcome of the trial, issued the impugned order. Learned counsel further provided the judgment dated 20.02.2021 of Judicial Magistrate-VIII Peshawar through which the appellant had been acquitted of the charges framed against him in case FIR No. 412 dated 05.12.2018 u/s 419-420-468-471-109 PPC P.S Gulberg, Peshawar.

5. The learned Additional Advocate General, on the other hand, contended that since his appointment, the appellant never performed his official obligations with honesty and dedication. He stated that entire service of the appellant was full of his unruly conduct which include absence from duty, misbehavior, use of abusive language with media persons and office colleagues. He remained involved in impersonation as well as anti-state activities. The learned AAG presented the entire record of conduct of the appellant before the Bench which had also been annexed with the reply. As far as departmental appeal of the appellant was concerned, the learned AAG invited attention of the Tribunal to an order dated 03.07.2020 of appellate authority through which major penalty of removal from service had been confirmed upon the accused official.

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BY
JUDICIAL MAGISTRATE
PESHAWAR
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6. After hearing the arguments and going through the record available before us, it is clear that the appellant while appointed as Assistant in the Information Department indulged himself in activities that were not acceptable to his higher authorities. Record presented before us indicates various posts uploaded by him on social media on his account which was a breach of code of conduct for a civil servant. Record further provides reports of his higher authorities on his absence from duty on numerous days, explanations on account of low performance, rude behavior and abusive language and also an advice issued to him on his frequent absence from duty as well as treatment of his willful absence as leave without pay. Three inquiries conducted against him are available on record produced before us. One of the inquiries was on use of abusive language against some reporters, rude behavior with his incharge officer and frequent absence from duty on completion of which he was issued a censure. Another inquiry was conducted on the charges of aggrandizement as he was found claiming to be the PRO to Chief Minister Khyber Pakhtunkhwa, on social media. Record indicates that he was issued a show cause notice on indulging himself in political activities and delivering provoking public statements and posts against the state institutions on social media, for which he submitted an affidavit (Bayan-e-Halfi) that he would be respectful to the state institutions and would not indulge in political activities or anti-state activities in future. Third inquiry was conducted on charges of impersonation during competitive examination for the post of Tehsildar/Naib Tehsildar in Board of Revenue. It was as a result of the last

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inquiry that the appellant was removed from service. Perusal of show cause notice dated 06.12.2019 reveals that competent authority of the appellant was satisfied that he had committed the acts/omissions which resulted in issuing of that specific show cause notice. It stated as follows:-

"I am satisfied that you have committed the following acts/omission specified in Rule 3 of the specified rules:-

That as per inquiry conducted by the Khyber Pakhtunkhwa Public Commission, you have rendered yourself guilty of misconduct by committing the illegal act of impersonation during the competitive examination conducted by the KPPSC for the post of Tehsildar/Naib Tehsildar from December 4-8, 2018 wherein you were found present in the Examination Centre at Government Higher Secondary School No. 3 Peshawar Cantt on the first day of the exam during the English paper appearing in place of Hazrat Noor S/O Jannat Noor Roll No. 1700 (the candidate) and an FIR No. 412 dated 04.12.2018 was registered against you and the co-accused by the Police Station Gulberg Peshawar."

7. Removal order dated 07.01.2020 mentions about the charge sheet, evidence on record, reply of the accused official as well as previous record, which resulted in his removal from service. Although the appellant has submitted in his service appeal that his departmental appeal dated 23.01.2020 has not been responded but an appellate order dated 03.07.2020 is available with the reply which states as follows:-

"3. AND WHEREAS, the appellate authority heard the ex-official in person and also perused the record on file. During the hearing, he did not put before any new defence rather requested to withhold the

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proceedings on the plea that the case is subjudice in the court of law. He further requested for yet another chance to mend his ways and would restrain from such illegal acts in future.

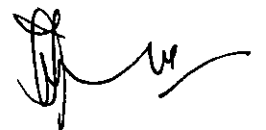
4. *AND WHEREAS, the representative of Directorate General Information and PRs further produced fresh posts of the ex-official on the same lines which testifies that he is not mending his ways rather finding lame excuses.*

5. *AND WHEREAS, the stance of the ex-official that the matter is subjudice, is not tenable as the court is looking after the criminal aspect of the matter, whereas, the instant case is of disciplinary nature under Khyber Pakhtunkhwa Civil Servants (Efficiency & Discipline) Rules, 2011.*

8. After going through the above mentioned process, the appellate authority confirmed the major penalty of removal from service on the appellant. An important point to be considered here is that there is difference in the show cause notice and the removal order. If the show cause notice is taken into consideration, one must look into the order of the judicial Magistrate-VIII Peshawar dated 20.02.2021 which has acquitted the appellant from charges in case FIR No. 412 dated 05.12.2018 u/s 419-420-468-471-109 PPC of P.S Gulberg Peshawar based on insufficient and trembling evidence. If the show cause notice is silent on the participation of the appellant in political activities and posting provocative statements on his social media account, how can the appellate authority awarded him any punishment on that account? It seems there is disjoint in the show cause notice and the appellate order. The charges on

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which show cause notice was issued have been set aside vide judgment dated 20.02.2021 of Judicial Magistrate-VIII Peshawar.

9. In view of the above, the appeal in hand is allowed as prayed for. Parties are left to bear their own costs. Consign.

10. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 07th day of November, 2022.

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal
Peshawar


(ROZINA REHMAN)
Member (J)

(FAREEHA PAUL)
Member (E)

Time of Presentation of Application 13/2/23
Number of Page 8
Copying Fee 40/-
Urgent 5/-
Total 45/-
Date of Copy 13/2/23
Date of Delivery of Copy 13/2/23

"B"

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Date 25/11/2022

To
The Director General
Information and Public Relations
Government of Khyber Pakhtunkhwa

~~NOV~~
25/11/22

Subject, "Application for Restoration on my
position in the light/according to
the decision/order of KP Service Tribunal
as prayed for (Restoration with all back benefits)"

Dear Sir, It is submitted in your honour that
my appeal to the Khyber Pakhtunkhwa Service Tribunal
was instituted on 18.05.2020 and on 7/11/2022
the cas. hearing was conducted and the decision/
order was pronounced in open court in Peshawar on the
same date 7/11/2022. Yesterday on 24/11/2022
the attested copy under their hands and
seal of the tribunal was issued in office time
and which is attached along with this application.

Therefore you are requested to kindly
issue my restoration order according to the
above mentioned decision of Khyber Pakhtunkhwa
Service Tribunal Peshawar. I assure you that
I will not disappoint you and will perform my
duty in the best way.

Thank you Sir,

Yours Obediently

~~SYED ANWAR~~
25/11/22
SYED ANWAR (Assistant)
BPS-16

ATTACHED

"C" -13-



DIRECTORATE GENERAL INFORMATION & PRs
KHYBER PAKHTUNKHWA
No.INF/Estt/1-28/_____
Dated Peshawar the ____/____/2023

OFFICE ORDER

In compliance with judgement of the Khyber Pakhtunkhwa Service Tribunal Peshawar announced on 07-11-2022 in Appeal No. 5804/2020, the competent authority, Director General, Information & PRs, Khyber Pakhtunkhwa is pleased to re-instate Syed Anwar, Assistant (BS-16), Directorate General Information & PRs, Khyber Pakhtunkhwa in service.

The employee shall be treated as without pay from the date of Removal from Service on 07th January 2020 till his restoration by the Service Tribunal on 07th November 2022.

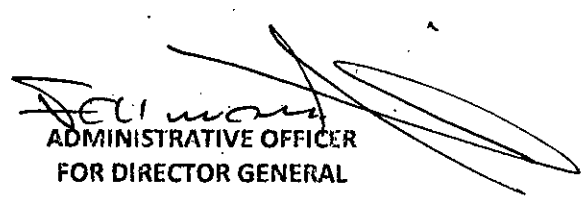
He will be under strict vigilance for a period of one (1) year, w.e.f 03-02-2023.

ADMINISTRATIVE OFFICER
FOR DIRECTOR GENERAL
Dated Peshawar, the 7/2/2023

Endst: No.INF/Estt:/ 601-07

Copy forwarded to:-

1. Accountant General, Khyber Pakhtunkhwa
2. P.S to Director General, Information & PRs, Khyber Pakhtunkhwa
3. Budget & Accounts Officer, DGIPR, Khyber Pakhtunkhwa
4. Concerned Official
5. Bill Clerk
6. Personal file
7. Office Order file


ADMINISTRATIVE OFFICER
FOR DIRECTOR GENERAL

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VAKALATNAMA
BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

APPEAL NO: _____ OF 2023

Syed Anwar

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Govt of KPK & others

(RESPONDENT)
(DEFENDANT)

I/We Appellant

Do hereby appoint and constitute **Noor Mohammad Khattak Advocate Supreme Court** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. ____/____/2022

S. J. Anwar
CLIENT

ACCEPTED

**NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT**

(BC-10-0853)
(15401-0705985-5)

UMAR FAROOQ MOHMAND

WALEED ADNAN

&

**MUHAMMAD AYUB
ADVOCATES**

OFFICE:

Flat No. (TF) 291-292 3rd Floor,
Deans Trade Centre, Peshawar Cantt.
(0311-9314232)

Q. Kamran Khan