### BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUAL, PESHAWAR

### Appeal No. 648/2019

Date of Institution ...

23.04.2019

Date of Decision

26.09.2019

Mr. Ayaz UI Haq, Ex-Constable No. 197 of Traffic Police Peshawar.

... (Appellant).

### **VERSUS**

Inspector General of Police, Khyber Pakhtunkhwa Peshawar and two others. ... (Respondents)

Present.

Ms. Roeeda Khan, Advocate.

For appellant

MR. HAMID FAROOQ DURRANI,

CHAIRMAN

#### JUDGMENT

#### HAMID FAROOO DURRANI, CHAIRMAN:-

1. The appeal in hand contains the following prayer:-

"On acceptance of this Service Appeal the impugned order dated 04.12.2018 may either be converted in to that of compulsory retirement w.e.f. the date of dismissal from service which is 07.03.2006 with all back benefits or he may allow Compensate Allowance which is equal to 2/3 of his Pension from the date of dismissal from service which is 07.03.2006 with all back benefits."

2. Learned counsel for the appellant heard and available record perused.

Learned counsel relied on admitting note dated 05.09.2017, recorded in Appeal No. 932/2017, as well as judgment in Appeal No. 111/2015 handed down on 25.01.2017 and contended that in the former case the service appeal was admitted in the circumstances identical to case in hand while, in the later case the

penalty of dismissal from service of the appellant was converted into that of compulsory retirement from service.

3. The record of referred cases was consulted and it was found that the facts involved in the instant appeal were altogether different from the referred cases. In both the cases, service appeals were preferred before this Tribunal against the order passed during departmental proceedings. On the other hand, in the instant appeal an order by respondent No. 1 declining the request for conversion of punishment of dismissal from service into that of compulsory retirement dated 04.12.2018, has been questioned. Prior to that the appellant had submitted Service Appeal No. 82/2007 before this Tribunal which was dismissed on merits on 07.06.2008. Instant appeal is, therefore, squarely barred under Rule 23 of the Khyber Pakhtunkhwa Service Tribunal Rules, 1974.

The second part of the prayer in the appeal pertaining to grant of Compassionate Allowance, is also not maintainable owing to the fact that the appellant had not made any departmental representation/appeal to that effect.

4. In view of the above noted facts, the appeal in hand is dismissed in limine being not maintainable. The dismissal of appeal shall, however, not preclude the appellant from applying to the competent authority for sanction of Compassionate Allowance in accordance with law.

File be consigned to the record room.

(HAMID FAROOQ DURRANI) CHAIRMAN

ANNOUNCED

(J. 2

09.08.2019

Counsel for the appellant present.

Learned counsel for the appellant requests for adjournment being ill today. Adjourned to 26.09.2019 for preliminary hearing before S.B.

Chairman

# Form- A FORM OF ORDER SHEET

Court of					
Case No	•	•	648	/2019	

S.No.	Date of order proceedings	Order or other proceedings with signature of judge			
_ 1	2,	3			
1-	17/05/2019	The appeal of Mr. Ayaz-ul-Haq resubmitted today by Roeeda Khar Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.			
2-	20/05/19	This case is entrusted to S. Bench for preliminary hearing to be put up there on 26/08/19  CHAIRMAN			
;	26.06.2019	Learned counsel for the appellant present and seeks adjournment. Adjourn. To come up for preliminary hearing on 09.08.2019 before S.B.			
		Member			

The appeal of Mr. Ayaz-ul-Haq Ex-Constable no. 197 of Traffic Police Peshawar received today i.e. on 23.04.2019 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

1- Annexure-A and B of the appeal are illegible which may be replaced by legible/better

No. 803 /S.T,

Dt. <u>24 - 4 -</u> /2019.

**SERVICE TRIBUNAL KHYBER PAKHTUNKHWA** PESHAWAR.

Roeeda Khan Adv. Pesh.

I have been Removed and the incompletion & sefectioned

# BEFORE THE HON'BLE SERVICE TRIBUNAL PESHAWAR

In Re S.A No. 648 /2019

### Mr Ayaz Ul Haq

### **VERSUS**

Inspector General of Police Khyber Pakhtunkhwa Peshawar and Others

**INDEX** 

S#	Description of Documents	Annexure	Pages
1.	Grounds of Petition.	:	1-5
2.	Affidavit.		6
3.	Addresses of parties		758
4.	Copy of suspension order	"A"	(9)
5.	Copy of dismissal order	"B"	10
6.	Copy of judgment	"C"	11-10 1
7.	Copy of Departmental appeal	"D"	18
8.	Copy of rejection order	"E"	16
9.	Wakalatnama		

APPELLANT

Through

Dated: 22/04/2019

Roeeda Khan

Advocate, High Court

Peshawar.

# BEFORE THE HON'BLE SERVICE TRIBUNAL PESHAWAR

In Re S.A No. 648 /2019

Service Tribunal
Diary No. 651
Dated 23/4/2019

Mr. Ayaz Ul Haq, Ex-Constable No. 197 of Traffic Police Peshawar.

Appellant

### **VERSUS**

- 1. Inspector General of police Khyber Pakhtunkhwa Peshawar.
- 2. The D.I.G of Police, Peshawar
- 3. The Superintendant of Police (HQS) Peshawar.

Respondents

Filed to-day

Re-submitted to day

and filed.

Praver

 ${f APPEAL}$ U/S-4 OF THE PAKHTUNKHWA SERVICES TRIBUNAL 1974 AGAINST THE APPELLATE ORDER DATED 12/04/2018 COMMUNICATED TO THE APPELLANT ON 15/04/2019 WHEREBY DEPARTMENTAL APPEAL DATED FOR COMPULSORY RETIREMENT <u>APPELLANT HAS BEEN REJECTED/FILED ON</u> <u>NO GOOD GROUNDS.</u>

ON ACCEPTANCE OF THIS SERVICE APPEAL THE IMPUGNED ORDER DATED 04/12/2018 MAY EITHER BE CONVERTED IN TO THAT OF



COMPULSORY RETIREMENT w.e.f THE DATE OF DISMISSAL FROM SERVICE WHICH IS 07/03/2006 WITH OR HEMAY BENEFITS COMPENSATE ALLOWANCE WHICH EQUAL TO 2/3 OF HIS PENSION FROM DATE  $\mathbf{OF}$ DISMISSAL SERVICE WHICH IS 07/03/2006 ALL BACK BENEFITS.

### Respectfully Sheweth,

- 1. That the appellant has been appointed as Constable with the Respondent department and performed his duty with full devotion.
- 2. That the appellant performed his duty with hard work and no complaint what so ever has been made against the appellant.
- 3. That on 08./08/2004 a false and fabricated criminal case has been made against the appellant i.e. case FIR No.341. 08/08/2004 U/S 400/401 and Illat No. 343 datd 08/08/2004 U/S 13 A.O and appellant has been suspended by the Respondent department. (Copy of suspension order is attached as annexure "A")
- 4. That due to the said false criminal case against the appellant was unable to performed his duty with Respondent department.

- 5. That the Respondent department dismissed the appellant on 07/03/2006 on the ground of involvement of criminal case as well as on the ground of absentee (Copy of dismissal order is annexed as annexure "B")
- 6. That the appellant filed a Service appeal No. 82/2007 in this Hon'ble Service Tribunal for reinstatement of appellant which has been dismissed on 07/06/2008. (Copy of judgment is annexed as annexure "C")
- 7. That after rejection of the said Service Appeal the appellant submitted a Departmental appeal on 29/11/2018 for compulsory retirement of appellant from the date of dismissal dated 07/03/2006.

  (Copy of Departmental appeal is annexed as annexure "D")
- Respondent 8. That the department rejected/filed the said departmental Appeal 04/12/2018 which has on been communicated the appellant to 15/04/2019. (Copy of rejection order is annexed as annexure "E")

9. That feeling aggrieved the Appellant prefers the instant service appeal before this Hon'ble Tribunal on the following grounds inter alia:-

### GROUNDS:-

- A. That the appellant has not been treated in accordance with law and hence his rights secured and guaranteed under the Constitution of 1973 were badly violated.
- B. That the Respondent department should be waited for the decision of the criminal case.
- C. That the appellant has been acquitted on the said false criminal case made against the appellant.
- D. That no charge sheet and statement of allegation has been issued by the Respondent department.
- E. That no final show cause notice has been issued to the appellant by the Respondent department.
- F. That no opportunity of defense and cross examination has been provided to the appellant.

- G. That no departmental inquiry has been conducted by the Respondent department.
- H. That being a Civil Servant compensate allowances and pensionary benefits it's a constitutional right of the appellant.
- I. That the appellant is jobless and belongs to a poor family.
- J. That any other ground not raised here may graciously be allowed to be raised at the time full of arguments on the instant service appeal.

It is therefore, most humbly prayed that on acceptance of this service appeal the impugned order dated 04/12/2018 may either be converted in to that of compulsory retirement with effect from the date of dismissal from service which is 07/03/2006 with all back benefits or he may allow compensate allowance which is equal to 2/3 of his pension from the date of dismissal from service which is 07/03/2006 with all back benefits.



Any other relief not specifically asked for may also graciously be extended in favour of the Appellant in the circumstances of the case.

APPELLANT

Through

Roeeda Khan Advocate, High Court Peshawar.

Dated: 22/04/2019

<u>Dateu 22/04/2017</u>

### NOTE:-

As per information furnished by my client, no such like appeal for the same appellant, upon the same subject matter has earlier been filed, prior to the instant one, before this Hon'ble Tribunal.

Advocate.



# BEFORE THE HON'BLE SERVICE TRIBUNAL PESHAWAR

In Re S.A No. \_\_\_\_\_/2019

### Mr Ayaz Ul Haq

### **VERSUS**

Inspector General of Police Khyber Pakhtunkhwa Peshawar and Others

### **ADDRESSES OF PARTIES**

### PETITIONER.

Mr. Ayaz Ul Haq, Ex-Constable No. 197 of Traffic Police Peshawar.

### ADDRESSES OF RESPONDENTS

- 1. Inspector General of police Khyber Pakhtunkhwa Peshawar.
- 2. The D.I.G of Police, Peshawar

3. The Superintendant of Police (HQS) Peshawar.

APPELLANT

Through

Roeeda Khan

Advocate, High Court

Peshawar.

Dated: 22/04/2019

# BEFORE THE HON'BLE SERVICE TRIBUNAL PESHAWAR

In Re S.A No. \_\_\_\_\_/2019

### Mr Ayaz Ul Haq

### **VERSUS**

Inspector General of Police Khyber Pakhtunkhwa Peshawar and Others

### **AFFIDAVIT**

I, Mr. Ayaz Ul Haq, Ex-Constable No. 197 of Traffic Police Peshawar, do hereby solemnly affirm and declare that all the contents of the instant appeal are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Hon'ble Court.

DEPONENT

Identified by:

Roeeda Khan

Advocate High Court

Peshawar.

2 2 AFR 2019

ORDER

OR

Being involved in case yide FIR No. 43 dated 08.08 2004 U/S 15AO and case FIR No.341 dated 08.08.2004 U/S 400-401 02/34PPC Police Station Nowshern Kalan as reported by the Superintendent of Police T affic Peshawar, Constable Ayaz-ui-Haq of Traffic Police is hereby suspended with immediate effect.

(SYED IMTIAZ ALTAF)
Assistant Inspector General of Police
Traffic NWFP, Peshawar.

No 2491-94 IPA, dated Peshawar the 25 / 2004.

Copy forwarded for information and necessary action to:-

Merco: No.350 SP/Traffic dated 11.08:2004. He is directed to initiate departmental (Special Power) ordinance 2000.

- 2. The Deputy Superintendent of Perice HQr Traffle Peshawar.
- 3. RI Traffic Police Line Peshawar.
- 4. EC Traffie HQr Peshawar.

Solly

Jeffic For enquit and Echost

10

### Better Copy No

#### Order:

Being involved in case vide FIR No.343 Dated 08/08/2004 U/ S13 AO and Case FIR No. 341 dated 08/08/2004 U.S 400-101 /34 PPC Police station Nowshera Kalan as report by the superintendant of police Traffic Peshawar Constable Ayaz Ul Haq Traffic Police is hereby suspended with immediate effect.

Syed Imtiaz Altaf Assistant Inspector General of Police. Traffic NWFP, Peshawar.

### NO. 3461-94/PA dated Peshawar the 25/08/2004

Copy forwarded for information and necessary action to-

- 1. The superintendant of police Traffic Peshawar with reference to his morso NO.350 SP/Traffic Dated 11/08/2004. He is directed to initiate departmental proceedings against the constable under Government Servant removal from service (Special Power Ordinance 2000.
- 2. the Deputy Superintendant of Police HQr Traffic Peshawar.
- 3. RJ Traffic Police Line Peshawar.
- 4. EC Traffic HQr Peshawar.

Constable Avazul Haq No. 197while posted .: Traffice Staff . Capital Clyc Police Peshawar involved in a criminal case vide 343 dated \$18,2004 6/8 13 AO and case FIR No.341 dated \$18,2004 6/8 figurant (1027), PPC Police Station Nowshern Kalan, He at a absented yourself from his lawfulfduly with fleet from 05:02.05 till todate. He is not taking interest in his legitimate duty Being a member of police force his this act amount to gross misconduct and against the "iscipline of the force;

In this connection proper departmental proceeding was initiated under NWEP Removal From Service (Special Power) Ordinance 2 00, against the above pamed defaulter lierals, and Mr. Shoukat Raza DSP/Frattic was appointed as enquiry officer who submitted in finding that the allegation against the accused Constable Ayaz ul Haq has been proyed retige recommended for autable punishment. Similarly SP/Iraffic has also given his remarks also recommended to award him major punishment of Dismissal From Service under the sting Rules due to long absence and involvement of a iminal cases.

Final Show Cause Notice was also issued by the SP/Fraffic to the above named used official and also received by him on 02.03.05 but no reply to Show Clause Notice has it all antifed in the Traffic authority as well as to the andersigned till todate.

From the perioal of recommendation of Enquiry Officer as well as SP/Traffic planter material on record, it is proved beyond any coubt, that the allegations leveled against ensed official Ayaz, al Haq No. 197 has been proved that the accused official involved in the ye mentioned 02 priminal cases and lawful absence from duty with effect from \$2.05 till time, the is not taking interest in his legitimate daty, stigma on the face of police force. reflire. I award him major punishment of "Dismissat From Service" with impediate effect. NWIP. Removal From Service (Special Power) Ordinance 2000, His apsence period is as leave without pay.

5.663 Dated

PA dated Peshawar the

py of above is ferwarded to:-

The Capital City Police Officer, Peshawar for kind information

The Sr. Superintendent of Police, Operation Pessawar

The Superintendent of Police, Traffic Peshawar.

DSP/HOrs:

by Officer, RIPTO, Police Lines Peshawar,

OSI, CRC & FMC alongwith complete departmental enquiry life.

### Better Copy No

### Order:-

Constable Ayaz Ul Haq No. 197 Posted as traffic Staff, Capital Police Peshawar involved in a Criminal Case vide FIR No.343 Dated 08/08/2004 U/S 13AO and Case FIR No. 341 dated 08/08/2004 U/S 400/401 Police Nowshera Kalan. He also absented yourself from lawful duty with effect from 05/02/2005 till date. He is not taking interest legitimate Duty. Being member of police force his this act amount to gross misconduct and against the discipline of the force.

In this connection proceeding was initial under NWFP removal from service (Special Power) ordinance 2000, against the above name defaulter officials and Mr. Shoukat raza DSP/Traffic was appointed as enquiry officer who submitted in his finding that the allegation against the accused Constable Ayaz Ul Haq Has been proved therefore recommended for suitable punishment similarly SP/Traffic has also given his remarks that also recommended to award him major punishment of dismissal from service under the existence rules due to long absence and involvement of criminal case.

Final show cause notice was also issued by the SP/traffic to the above named accused official and also received by him 0n02/03/05 but no reply in show cause notice has been submitted in the Traffic authority as well as in the undersigned till indate.

From the perusal of recommendation of enquiry officer as well as Sp/Traffic and other material on record. It is proved beyond any doubt that the allegations leveled against accused official Ayaz Ul Haq No. 197 has been prayed that the accused official involved in the above mentioned 02 criminal case and lawful absence from duty with effect from 05/02/05 till date. He is not taking interest in his legitimate duty, stigma on the face of police force therefore I award him major punishment of dismissed from service with immediate effect under NWFP, Removal from service Special power Ordinance 2000. His absence period is treated as leave without pay.

Sohail Habib Tajik Sp/HQRs Capital City Police Peshawar

#### NO. 566 dated Peshawar the 07/03/2006

Copy of above is forwarded to:-

- 1. The Capital City Police Officer Peshawar for kind information
- 2. The Sr. Superintendant of Police Operation Peshawar.
- 3. The superintendant of pOlice trffic Peshawar.
- 4. DSP/HQrs.
- 5. Pay Officer PO Police lines Peshawar.
- 6. OSI CPO alongwith departmental inquiry file official concern.

### ORE THE NWFP SERVICE TE BUNAL, PES

Appeal No. 82/2007

18.01.2007 Date of Institution. -07.06.2008 Date of Decision

MF. Ayazul Haq, Ex-Constable No. 197 of Traffic Police, · (Appellant)

### **VERSUS**

- 1. Inspector General of Police, NW Peshawar.
- 2. The D.I.G of Police, Peshawar.
- 3. The Superintendent of Police(H. s) Peshawar.....(Respondents).

APPEAL UNDER SECTION 4 OF THE NWFP SERVICE TRIBUNALS ACT, 1974 READ WITH SECTION 10 OF NWFP REMOVALS FROM SERVICE (SPECIAL POWERS) ROTNANCE, 2000 AGAINST THE ORDER DATEL 06.03.2006 \ HEREBY THE APPELLANT WAS DISMISSED FROM SERVICE AND AGAINST THE FINAL REJECTION ORDER DATED 19.12.2006 WHITREBY THE APPEALS OF APPELLANT WAS REJECTED FOR NO GOOD GROUNDS.

MR. SHAN ASGHAR, Advocate

For appellant

MR. TAHIR IQBAL, Addl. Government Pleader,

MR. JUSTICE (R) SALIM KHAN, DR. ABDUR RAUF,

CHAIRMAN:

### <u> JUDGMENT</u>

JUSTICE (R) SALTM KHAN CHAIRMAN - The appellant was constable Traffic Police, Peshawar. He was involved in case FIR No. 34: dated 08.08.2004 under sections 400,401 and case FIR No. 343 of the same date under section 13 A.O of olice Station Nowshera

remained absent from duty for one year and one month. Vide order dated 13.7.2006, he was acquitted the charge in case FIR No. 341. The appellant contends that no charge sheet and show cause notice were served on him, and no departmental codal formalities were observed in his case. But he was dish ssed from service vide order dated 6.3.2006. His departmental appeal wis dismissed on 19.12.2006. Hence the present appeal was filed on 18.1. 307.

2. The respondents submit ed their detailed reply. It was contended that the appellant was summoned time and again to associate himself with the enquiry proceedings. But he willfully did not attend the enquiry proceedings. He was, therefore, proceeded against exparte by the enquiry officer, and was recommended for major punishment.

We heard the arguments and perused the record.

The order dated 19.12.20(5) shows that the appeal was time-barred hence rejected/filed. The kirned counsel for the appellant contended that the appellant was a quitted in the criminal case, and therefore, his services could not be dimissed. The record does not show that he was directly charged for the criminal case. In fact, he was charged for absenting himself from is lawful duty w.e.f. 5.2.2005 and the show cause notice was received / him on 2.3.2005. But he did not reply to the show cause notice. Dur, go the arguments / the appellant, through his counsel, admitted that he was released on ball, but stood suspended from duty. He was not stood whether he was performing his duties in the meanwhile and had mailed his attendance or not, but it is clear that he was out of jail and could make himself available for enquiry proceedings. But he did not do the saile.

5. The appellant was susper ied by the A.I.G (Traffic), but his

20.6.2005. There is nothing on read to show that the appellant reported for duty in the office of C. P Peshawar. The enquiry report shows that the appellant was heard and he repeatedly confessed in his reply to the charge sheet that he was present with the accused party. when police raided, but he was let : se and was, lateron, arrested in case under section 13-AO. The de artmental appeal of the present appellant is undated which was disc ssed on 19.12.2006. The present appeal is within time from the data of rejection of the appeal. The undated departmental appeal appear to be time-barred, and has been so declared by the competent authorit .

3. was unable to attend his duty after he was released on bail, or he attended the duty but was not arked present consciously with malaifide intentions. It appears that he appellant regained the courage to claim his service, when he was ac uitted in the criminal case. It had become too late for a departmental ableal.

On merits, the appellant build not be able to show that he

vide the impugned orders, the ser ces of the appellant have been cismissed but his absence period wa treated as leave without pay. He was of the view that the services annot be dismissed when leave without pay was granted to the apr llant, and his absence from duty was regularized by granting him leave without pay.

ALLEY THE LINE OF STREET OF THE STREET

The learned counsel for :e appellant also contended that,

granted to him and has never pleader that he has been asking for leave, but the same was not granted to him. The case of the appellant was not a case for grant or refusal of leave. is case was a case of intentional absence from duty when he was alle edly arrested as a member of the azna of decoire

In this case, the appellant had never applied for leave to be

dacoits, and he was arrested on the spot with a pistol. But he was acquitted on the ground that no evide ce was produced against him.

this case. While dismissing the appearant, the stress of the competent authorit, was on the words "without ay" and not on the word "leave". The circumstances of the case do not how that the competent authority wanted to grant leave to the appella: in order to give him any service benefits. It appears that the competer authority wanted to mention that no salary and allowances etc. will be aid to the appellant for his period of absence from duty, and, for that purposes, he declared the period of absence of the appellant as leave vithout pay. It appears that he wanted to declare it as unauthorized absence from duty without pay,.. but did not mention the proper words or his clear intention.

The intention of the complicent authority had to be seen in

. 10. grounds is in the interest of justice. the appellant, and mere technicalitie against the respondent department, and persons of dubious conduct; wh. the garg of dacoits, are not required

In the circumstances of this case, no leniency on technical ne merits of the case are against should not, and cannot be used nich is a disciplined organization could be charged as member of ir service in that organization.

In the light of the above, costs.

a dismiss the present appeal with

<u>ANNOUNCED</u>

MEMBER

(JUSTICE (R) SALIM KHAN) CHAIRMAN



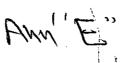
Sie Jahnen Limit by his Julivie En 105 Entranchia de l'anne Willasturdan 191 4 12 en shifty in ( themsones is to be shaper ) 29/11/18 ل عود ا در اوسد بعد الله معامد الواس en sole in like iles some mose les dissertes un melicol es reoles. (6) soin 3 8 le succioirer 5 ils soi है। हिन्दा के कि त्या है है। है कि कि कि कि कि कि कि of in of the main the way of in offe ling on exus so in whose Is l'adich. The con With the resolution in Seed cased light on on own the Male El MARI Up i Due : Will the (E) 10 IA 4501 - Smith le 16 comma in of sect and to make of sect in 56 bicold was of 1 3 contractions of the said

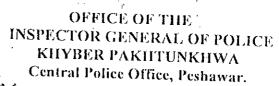
when de when so got when inter is to yet and the sound wild- (interpretation) ( ale substituted Easts in Seco हिमात आपरं के के भी भी COMPOSITE SPORTED INFORMATION (2) الروس الربيدو المرب مرب الروس الدال والرائي Epi men) Elipeil incil instruction l'ille Tille new Mure Labor (d) into the with the deputies I (Compading Relical) is to see at the state of Wilmirste with Willastin A 35- 935-8893

我一直想一直想用一次强致的自己战器的连续更强强的 研究的 (40%)

. ij







No. S/ 4826

/18, dated Peshawar the 04/1/2 /2018.

Ίο:

The

Capital City Police Officer,

Peshawar.

Subject:

APPLICATION FOR COMPULSORY RETIREMENT.

Memo:

The Competent Authority has examined and filed the application submitted by Ex-Constable Ayazul Haq No. 197 of CCP Peshawar against the punishment of dismissal from service awarded by SP/HQrs: Peshawar vide OB No. 566, dated 06.03.2006 as his service appeal No. 82/2007 has already been dismissed by Khyber Pakhtunkhwa Service Tribunal, Peshawar vide judgment dated 07.06.2008. He should submit appeal in the Apex Court.

The applicant may please be informed accordingly.

O( (SYED ANIS-UL-HASSAN)

Registrar,

For Inspector General of Police, Khyber Pakhtunkhwa,

... Peshawar.

9

no st

بعدالت مناماح سوس لجاشونل كوء

مورخه 2019 منجانب دعويل 7. باعث تحريراً نكه مقدمه مندرجه عنوان بالاميں اپنی طرف سے واسطے پیروی وجواب دہی وکل کاروائی متعلقہ Turaly Lee Le Len love interior مقرر کرے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کومقد مہ فی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کوراضی نامه کرنے وتقر رثالث وفیصله برحلف دیئے جواب دہی اورا قبال دعویٰ اور بصورت ڈگری کرنے اجراءاوروصولی چیک وروپیدارعرضی دعویٰ اور درخواست ہرشم کی تصدیق زرایں پر دستخط کرانے کا ختیار ہوگا۔ نیزصورت عدم پیروی یاڈ گری کیطرفہ یا پیل کی برامد گی اورمنسوخی نیز دائر کرنے اپیل نگرانی ونظر ثانی دپیروی کرنے کا مختار ہوگا۔از بصورت ضرورت مقدمهٔ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کواپیز ہمراہ یا اپنے بجائے تقر رکا ختیار ہوگا۔اورصا حب مقرر شدہ کو بھی وہی جملہ مذکورہ بااختیارات حاصل ہوں گے اوراس کاساختہ برداختہ منظور وقبول ہوگا دوران مقدمہ میں جوخرچہ ہرجانہ التوائے مقدمہ کے سبب سے وہوگا۔کوئی تاریخ بیشی مقام دورہ پر ہو یا حدسے باہر ہوتو وکیل صاحب پابند ہوں گے۔ کہ پیروی ندکورکریں۔لہذاوکالت نامہ کھدیا کہ سندرہے۔ المرقوم ۶ رووء کے لئے منظور ہے۔

## BEFORE THE HON'BLE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

Khyber Pakhtukhwa Service Tribundi

In Re S.A No -132/2017#

2/1-8-2017

Muhammad Saeed S/o Muhammad Yousaf R/O House No.R/45, Mohallah Syed Ahmad Colony, Near Sunehri Masjid Peshawar.

.....Appellant

### **VERSUS**

- 1. The Inspector General of Prison KPK, Peshawar
- 2. The Provincial Police Officer KPK, Peshawar.
- 3. The secretary home of tribal affair Department KPK.

.....Respondents

SERVICE APPEAL U/S 04 OF THE KHYBER

PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974

AGAINST THE IMPUGNED ORDER, DATED: 0805-1999 WHERE THE APPELLANT HAS BEEN

REMOVE FROM SERVICE W.E.F 03/08/1996

### PRAYER:

ON ACCEPTANCE OF APPEAL THE IMPUGNED
ORDER DATED 08-05-1999 MAY EITHER BE
CONVERTED TO THAT OF COMPULSORY
RETIREMENT W.E.F THE DATE OF DISMISSAL
FROM SERVICE WHICH IS 03-08-1996 WITH
ALL BACK BENEFITS OR HE MAY ALLOW
COMPENSATE ALLOWANCE WHICH IS EQUAL
TO 2/3 OF HIS PENSION FROM THE DATE OF
Removal
FROM SERVICE WHICH IS 03-08-

ESESTER NO.

Certified to be tare copy

NER

Khyler skintinking

Service Tribunal.

Peshawar

1996 WITH ALL BACK BENEFITS.

A. No. 932/17 M. Saced VS Gort

Counsel for the appellant present and argued that the

akhtunkhu,

**3-** 5/9/2017

Appolisht Caposited

appellant was initially appointed as Junior Clerk 30/6/1981. That on 12/3/1997 the appellant was severely ill and was unable to perform his duty, so he submitted leave application through his wife on 24/8/1997. Due to severe illness/he has been removed from service vide order dated 8/5/1999 against which he submitted departmental appeal on 28/4/2017 but with no response till. He argued that appellant was dismissed from service due to absence from duty which was not intentional as he was ill and remained under treatment in Ibadat Hospital Peshawar. Furthermore, the impugned order dated 8/5/1999 is void ab-initio and against the fundamental rights granted to the appellant by Constitution of Islamic Républic of Pakistan. In this respect the learned counsel for the appellant relied on the judgment contained in PLJ 2004 SC 435 titled "Muhammad Hanif Bukhari and others versus President, National Bank of Pakistan Head Officer, Karachi and others" and similar nature appeal bearing No. 111/2015 titled " Zafar Khan versus Government of Khyber Pakhtunkhwa through Health Department and 2 others" which are placed on record. Learned counsel for appellant further argued that before awarding major penalty of dismissal from service to appellant, no proper inquiry was conducted.

Points urged at bar need consideration. The appeal is admitted to regular hearing subject to all legal objections including limitation. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices to be issued to the respondents for written reply/comments on 16/10/2017 before SB.

Certified to be ture copy

Khyper Khtunkhwa

Service Tribunal.

Peshawar

(GUL ZEB KHAN) MEMBER

*		
· .		
	Number of Words 800  Copying See 10-00  Urgani 4-00  Total 4-00  Date of Copying of Copy 25-9-18  Date of Delivery of Copy 25-9-16	