

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 92/2019

Date of Institution ... 21.01.2019

Date of Decision ... 19.01.2022

Riaz Ahmad Head Constable No. 1427, Posted at PAL Branch, Mardan.
... (Appellant)

VERSUS

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

Saifullah Mohmand
Advocate ... For Appellant

Muhammad Riaz Khan Paindakhiel,
Assistant Advocate General ... For respondents

AHMAD SULTAN TAREEN ... **CHAIRMAN**
ATIQ-UR-REHMAN WAZIR ... **MEMBER (EXECUTIVE)**

JUDGMENT

ATIQ-UR-REHMAN WAZIR MEMBER (E):- Brief facts of the case are that the appellant was serving as Head Constable in Police Department. Upon no objection of his parent department, the appellant joined Education Department on deputation, maintaining his lien in his parent department. Lien of the appellant was finally extended up to 04-04-2018 vide order dated 04-04-2017. The appellant was allowed to re-join his parent department vide impugned order dated 29-03-2018, but his name was placed at the bottom of the seniority list of C-1 Head Constables. Feeling aggrieved, the appellant filed departmental appeal dated 07-05-2018, which was rejected vide order dated 01-06-2018, communicated to the appellant on 20-12-2018, hence the instant service appeal with prayers that the impugned orders dated 29-03-2018 and 01-06-2018 may be

set aside and the appellant may be ordered to be placed in due place in the seniority list of C-1 Head Constables.

02. Learned counsel for the appellant has contended that the impugned orders are against law, facts and norms of natural justice, therefore, not tenable and liable to be set aside; that the appellant was discriminated as another colleague of the appellant namely Tariq Ali who availed deputation/lien to the Education Department, was repatriated at his own place/position in the seniority list vide order dated 10-08-2017; that the appellant joined Education Department on deputation/lien after fulfilling all the codal formalities and obtaining proper NOC from the respondents, who raised no objection at the time of deputation; that upon re-joining his parent department, placing him at the bottom of seniority list is illegal and unlawful, as the appellant was allowed lien up to 04-04-2018 and the appellant re-joined his parent department well before expiry of lien period.

03. Learned Assistant Advocate General for the respondents has contended that it is correct that the appellant was allowed to retain lien in his parent department and lien period was extended up 04-04-2018; that it is also correct that the appellant was allowed to re-join his parent department subject to the condition to accept bottom seniority; that the appellant accepted the condition and kept mum, hence the principle of acquiescence is attracted.

04. We have heard learned counsel for the parties and have perused the record.

05. Record reveals that the appellant was properly allowed to join department and his lien was maintained in his parent department up to 04-04-2018. Upon return, he was allowed to re-join his parent department subject to the condition of accepting bottom seniority, which was illegal and the appellant as per rule is entitled to hold lien against his post in his parent department and his lien could not be terminated and he was entitled to hold the post upon return within the

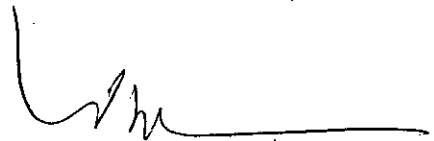
meaning of FR-9 (13) of Fundamental Rules. Reliance is placed on 1994 PLC CS 210. Record reveals that neither lien of the appellant was terminated nor the appellant made any delay in re-joining his parent department upon expiry of the lien period, hence placing him at the bottom of seniority is illegal. The Supreme Court of Pakistan in its judgment reported as 1996 PLC CS 402 has held that lien of permanent civil servant could not be terminated even with his consent and the same could be terminated only when civil servant was confirmed against some other permanent post. Record would also suggest that the appellant was not confirmed in Education Department and re-joined his parent department well before expiry of the lien period, hence the question of putting him at the tail of the seniority list would be unjust. The appellant was also discriminated as similarly placed employee was allowed to re-join his parent department without condition of acceptance of bottom seniority.

06. We are of the considered view that the appellant has not been treated in accordance with law, as there is no valid reason to place him at the bottom of seniority well before expiry of the lien period. In view of the foregoing, the instant appeal is accepted as prayed for. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
19.01.2022



(AHMAD SULTAN TAREEN)
CHAIRMAN



(ATIQ-UR-REHMAN WAZIR)
MEMBER (E)

ORDER

19.01.2022

Learned counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakheil, Assistant Advocate General for respondent present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the instant appeal is accepted as prayed for. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED

19.01.2022



(AHMAD SULTAN TAREEN)
CHAIRMAN



(ATIQU-UR-REHMAN WAZIR)
MEMBER (E)

25.11.2021

Appellant in person present.

Mr. Javed Ullah, Assistant Advocate General alongwith Mr. Khyal Roz Inspector for respondents present.

Learned Member Executive (Mr. Atiq-ur-Rehman Wazir), is on leave, therefore, case is adjourned. To come up for arguments on 19.01.2022 before D.B.



(Rozina Rehman)
Member (J)

04.04.2021

Appellant with counsel present.

Riaz Khan Paindakheil learned Assistant Advocate General alongwith Khyal Roz Inspector for respondents present.

Request for adjournment was made by the learned counsel for appellant; granted. To come up for arguments on 15/07/2021 before D.B.



(Atiq ur Rehman Wazir)
Member (E)




(Rozina Rehman)
Member (J)

15.07.2021

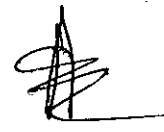
Appellant in person present.

Muhammad Adeel Butt learned Additional Advocate General alongwith Khyal Roz Inspector for respondents present.

Former made a request for adjournment as his counsel is not available today. Request is accorded. To come up for arguments on 25.11.2021 before D.B.



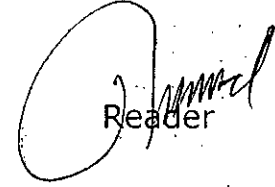
(Rozina Rehman)
Member (J)



Chairman

24.06.2020

Due to public holiday on account of COVID-19, the case is adjourned for the same on 26.08.2020 before D.B.


Reader

26.08.2020

Due to summer vacation case to come up for the same on 02.11.2020 before D.B.

Reader

02.11.2020

Junior to counsel for the appellant and District Attorney alongwith Zaheer Muhammad, PSI for the respondents present.

The Bar is observing general strike, therefore, the matter is adjourned to 11.01.2021 for hearing before the D.B.


(Mian Muhammad)
Member


Chairman

12.01.2021

Junior to counsel for the appellant and Mr. Kabirullah Khattak learned Addl. AG for respondents present.

Due to COVID-19, the case is adjourned for the same on 02.04.2021 before D.B.


READER

16.12.2019

Junior to counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney present. Junior to counsel for the appellant seeks adjournment as senior counsel is not available. Adjourn. To come up for arguments on 17.01.2020 before D.B.


Member


Member

17.01.2020

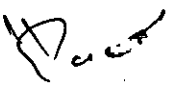
Appellant in person present. Mr. Muhammad Jan learned Deputy District Attorney alongwith Attaurrehman Inspector presert. Lawyars community is on strike on the call of Khyber Pakhtunkhwa Bar Council. Learned Member (Executive) is not available. Adjourned for 26.02.2020 before D.B.


Member

26.02.2020

Learned counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General present. Adjournment requested. Adjourn. To come up for arguments on 01.04.2020 before D.B.


Member


Member

01.04.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 24.06.2020 before D.B.


Reader

24.06.2019 Counsel for the appellant and Addl: AG alongwith Mr. Atta Ur Rehman, SI (Legal) and Mr. Gul Zad, ASI (CTD) for respondents present. Written reply/comments on behalf of respondents not submitted. Requested for adjournment. Adjourned. Case to come up for written reply/comments on 08.08.2019 before S.B.


(Ahmad Hassan)
Member

08.08.2019 Appellant in person and Mr. Muhammad Jan, DDA alongwith Attaur Rahman, S.I (Legal) and Gulzad, ASI for the respondents present.

The representative of respondents states that the requisite reply has though been prepared is yet to be vetted and signed by the respondents. He, therefore, requests for more time for the needful.

Adjourned to 30.09.2019 on which date the requisite reply shall positively be furnished.


Chairman

30.09.2019 Nemo for appellant. Addl. AG alongwith Attaur Rahman, Inspector (Legal) for the respondents present.

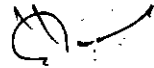
Reply on behalf of respondents is submitted which is placed on file. The appeal is assigned to D.B for arguments on 16.12.2019. The appellant may submit rejoinder, within a fortnight, if so advised.


Chairman

04.03.2019 Appellant with counsel present. Preliminary arguments heard.


The appellant (Head Constable) has filed the present service appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974 being aggrieved against the order dated 29.03.2018 whereby the appellant appointed as PST Teacher in Education Department and was allowed to rejoin Police Department on his own request however his name was ordered to be placed at the bottom of C-I Head Constables list of seniority. The appellant has also challenged the order dated 01.06.2018 through which his departmental appeal/application was filed.

Points raised nee consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to the respondents for written reply/comments. To come up for written reply/comments on 22.04.2019 before S.B



Member

22.04.2019 Clerk to counsel for the appellant present. Security and process fee not deposited. Clerk to counsel for the appellant submitted an application for permission to submit security and process fee. He is directed to deposit the same within one week, thereafter notices be issued to the respondents for submission of written reply/comments on 24.06.2019 before S.B.

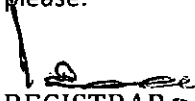


Appellant Deposited
Security & Process Fee


(Ahmad Hassan)
Member

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 92/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	21/1/2019	<p>The appeal of Mr. Riaz Ahmad presented today by Mr. Saif Ullah Mohmand Advocate, may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 21/1/19</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>4-3-19</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

2019/01/21
2019/01/21

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,
PESHAWAR

Service Appeal No. 92/2019

Riaz Ahmad Head Constable

.....Appellant

Versus

Inspector General of Police, K.P.K Peshawar & others

....Respondents

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6.	Copy of Office Order No.4075 dated 15.04.2016	"B"	12
7.	Copy of Office Order No.6003 dated 20.07.2016	"C"	13
8.	Copy of office Order No.3670-71/EC dated 06.04.2017	"D"	14
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Appellant

Riaz Ahmad

Through

Saif Ullah Mohmand

Advocate, Peshawar.

Dated: - 19.01.2019

Office: - 5-A, first Floor, Mumtaz Plaza, Near Ashtnagri Pul, G.T Road, Peshawar.

Cell # 0321-9117280

①

BEFORE THE SERVICE TRIBUNAL, K.P.K, PESHAWAR

Service Appeal No. 92 /2019

Riaz Ahmad Head Constable No.1427, Posted at PAL Branch, Mardan

.....Appellant

VERSUS

Khyber Pakhtunkhwa
Service Tribunal

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar
2. District Police Officer, Mardan.
3. Regional Police Officer, Mardan.
4. Deputy Inspector General of Police, CTD, K.P.K, Peshawar.
5. A.I. General of Police/Establishment, K.P.K, Peshawar.

Diary No. 81
Dated 21-1-2019

..... Respondents

=====

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNAL ACT, 1974, AGAINST THE ORDER DATED 29.03.2018, WHEREBY THE NAME OF APPELLANT WAS ORDERED TO BE PLACED AT THE BOTTOM OF SENIORITY LIST, ON REPATRIATION TO PARENT DEPARTMENT AND ORDER DATED 01.06.2018 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT WAS FILED.

Filed to-day
Registrar
21/1/19

=====

PRAYER-IN-APPEAL:-

On acceptance of instant appeal the impugned orders dated 29.03.2018 and 01.06.2018 may kindly be set aside and the name of appellant may graciously be ordered to be placed in the due place/position of seniority list of C-I Head Constables.

=====

Respectfully Sheweth:-

1. That the appellant is performing his duties in the police department Mardan, as Head Constable, initially he was allotted belt No.1949.
2. That appellant throughout his career performed his duties with zeal and devotion and his performance was upto the entire satisfaction

of his superior officers and there is not even a single complaint or adverse remarks available on his service record.

3. That the appellant submitted an application to Respondent No. 5 for his deputation/ lien to the education department, which was allowed by the said respondent, vide his Office Order No.10843/E-IV dated 04.09.2015, subject to fulfillment of codal formalities and NOC from the Concerned District. (Copy of the Office Order No.10843 dated 04.09.2015 is attached herewith as *Annex "A"*)
4. That consequently respondent No.4 vide his office order No.4075 dated 15.04.2016 issued No Objection Certificate in favor of the appellant and some of his other colleagues. (Copy of Office Order No.4075 dated 15.04.2016 is attached herewith as *Annex "B"*).
5. That on dated 20.07.2016 respondent No.5 issued an office Order No.6003 dated 20.07.2016, whereby the deputation/ lien of respondent No.3 was retained/ extended for the first one year in the education Department. (Copy of Office Order No.6003 dated 20.07.2016 is attached herewith as *Annex "C"*).
6. That vide Office Order No.3670-71/EC dated 06.04.2017 the deputation / Lien of the appellant was further extended for second and final year by Respondent No.2. (Copy of office Order No.3670-71/EC dated 06.04.2017 is attached herewith as *Annex "D"*).
7. That on expiry of his 2nd and final year of his lien, the appellant applied for repatriation to his parent department, which was sent to respondent No.1 for opinion who opined vide his Office Order No.2068/E-IV dated 01.03.2018, "that as police rules is silent about Lien, anyhow lien was allowed to Riaz Ahmad , HC, therefore, police will accept his repatriation, however, he will accept bottom seniority.(Copy of the office Order No.2068 /E-IV dated 01.03.2018 is attached herewith as *Annex "E"*).
8. That consequent upon the above-mentioned opinion of Respondent No.1, the respondent No.2 issued the impugned Order No.3202-36/EC dated 29.03.2018, whereby appellant was allowed to join his parent department; however his name was placed at the bottom of seniority list of the C-I Head constables. (Copy of the impugned Order No.3202-6/EC dated 29.03.2018 is attached herewith as *Annex "F"*).

9. That against the above-mentioned impugned order; the appellant submitted his departmental appeal before the respondent No.2 on dated 07.05.2018, which was forwarded to competent authority i.e. Respondent No.3, who rejected the departmental appeal of the appellant vide order Oder No.3618/ES dated 01.06.2018., which was communicated to appellant on dated 20/12/2018. (Copy of department appeal is and impugned Order No.3618/ES dated 01.06.2018 are attached herewith as Annex "G" & "H" respectively).
10. That being aggrieved from the above-mentioned orders dated 29.03.2018 and dated 01.06.2018, the appellant having no other efficacious remedy available to him but to approach this Honorable Tribunal for placing his name on his due place/position of seniority list on the following grounds inter-alia.

GROUND:-


- A. That the above-mentioned impugned orders dated 29.03.2018 and dated 01.06.2018 are illegal, unlawful and based on discrimination, hence untenable and liable to be set aside.
- B. That the respondents have treated the appellant with discrimination as another colleague of the appellant namely Tariq Ali who availed deputation / lien to the education department, was repatriated at his own place / position in the seniority list vide Office Order bearing OB No. 746 dated 10.08.2017. (Copy of the office Order bearing OB No.746 dated 10.08.2017 is attached herewith as *Annex "I"*).
- C. That the appellant joined the education department on deputation / lien after fulfilling all the codal formalities and obtaining proper NOC from the respondents who raised no objection at the time of his deputation / lien.
- D. That in respect of same subject matter the respondents have issued two contradictory orders which shows discrimination and favoritism on their behalf.

E. That placing appellants name in the bottom of seniority list without any fault on his part, amounts to convicting him without commission of any crime on his part.

For the above-mentioned reasons, the appeal of the appellant may graciously be allowed as prayed for in the heading of the appeal.

Any other relief, deem fit and proper by this Hon'ble Tribunal, may also be granted in favor of the appellant.


Appellant


Riaz Ahmad

Saif Ullah Mohmand
Advocate, Peshawar.

Through

Dated: - 19.01.2019

CIRITIFICATE:-

Certified as per instruction of my client that no such like Service appeal has earlier been filed except the instant one.


Advocate

5

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,
PESHAWAR

Service Appeal No. _____/2019

Riaz Ahmad Head ConstableAppellant

Versus

Inspector General of Police, K.P.K, Peshawar & others ...Respondents

AFFIDAVITE

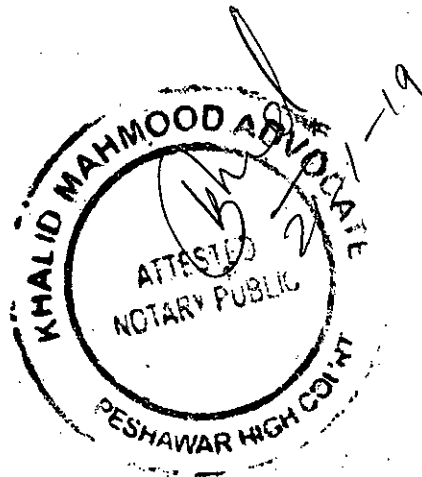
I, Riaz Ahmad Head Constable No.1427, Posted at PAL Branch, Mardan, do hereby solemnly affirm and declare on oath that the contents of accompanying appeal are true and correct and true to the best of my belief and nothing has been concealed from this Hon'ble Tribunal.


DEPONENT

Identified by


SAIF ULIAH MOHMAND

Advocate, Peshawar



6

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,
PESHAWAR

Service Appeal No. _____/2019

Riaz Ahmad Head Constable

.....Appellant

Versus

Inspector General of Police, K.P.K Peshawar & others

....Respondents

=====

**APPLICATION FOR CONDONATION OF DELAY IN FILING THE
INSTANT APPEAL.**

=====

Respectfully Sheweth:-

1. That the above-mentioned appeal is being filed before this Hon'ble Tribunal, in which no date has yet been fixed:
2. That there is delay in filing the instant appeal before this Hon'ble Court on the part of appellant, hence the instant application on the following grounds inter-alia.


GROUNDS:-

- A. That the respondent issued impugned order on 01/06/2018 which was communicated to the appellant/ applicant on 21/12/2018, hence straight away the main appeal is well within time.
- B. That the main appeal carries great value and importance for appellant/ applicant and if the period of limitation is not condoned, he will suffer irreparable loss.
- C. That appellant has good prime effice case in his favor and the respondents have treated him with discrimination.
- D. That balance of convenience also lies in favour of the appellant and he his highly hopefully about the success of his appeal.

It is, therefore, most humbly prayed that on acceptance of instant application delay in the filing of main appeal may kindly be condoned in the best interest of justice.

Dated:-19.01.2019

Through


Applicant / Appellant
Riaz Ahmad


SAIF ULLAH MOHMAND
Advocate, Peshawar

7

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,
PESHAWAR

C.M. No. _____/2019

In

Service Appeal No. _____/2019

Riaz Ahmad Head Constable

.....Appellant

Versus

Inspector General of Police, K.P.K, Peshawar & others

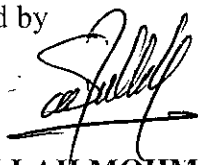
...Respondents

AFFIDAVITE

I, Riaz Ahmad Head Constable No.1427, Posted at PAL Branch, Mardan, do hereby solemnly affirm and declare on oath that the contents of accompanying Application are true and correct and true to the best of my belief and nothing has been concealed from this Hon'ble Tribunal.

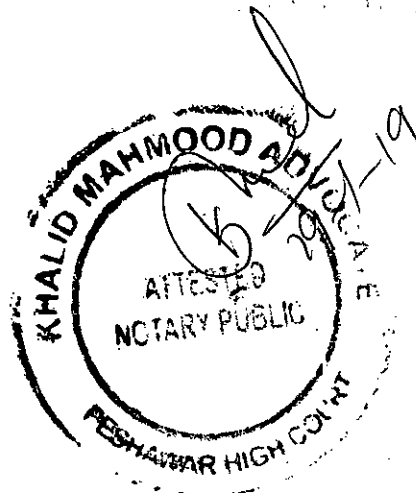

DEPONENT

Identified by



SAIF ULLAH MOHMAND

Advocate, Peshawar



3

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,
PESHAWAR

Service Appeal No. _____/2019

Riaz Ahmad Head Constable

.....Appellant

Versus

Inspector General of Police, K.P.K, Peshawar & others

...Respondents

=====

APPLICATION FOR INTERIM RELIEF TO THE EFFECT THAT THE
APPELLANT KINDLY BE PERMITTED TO JOIN INTERMEDIATE
COURSE, WHICH IS TO BE HELD IN THE MONTH OF MARCH, 2019.


=====

Respectfully Sheweth:-

1. That the above-mentioned appeal has been submitted by the appellant before this Hon'ble Tribunal, in which no date has yet been fixed.
2. That grounds of the main appeal may be considered as part and parcel of the instant application.
3. That other colleagues of the appellant are likely to join Intermediate Course Training which is going to be held in the month of March, 2019, for which appellant is also eligible and entitled.
4. That the appellant has a prime effice a good case in his favor and he is highly hopeful about the success of his appeal and balance of convenience also lies in his favor.

It is, therefore, most humbly prayed that on acceptance of instant application, the respondents may kindly be directed to allow the appellant to join the Intermediate Training Course, which is going to be held in the month of March, 2019, during the pendency of the main appeal.

Appellant



Riaz Ahmad

Dated:-19.01.2019

Through



SAIF ULLAH MOHMAND

Advocate, Peshawar

9

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,
PESHAWAR

C.M. No. _____/2019

In

Service Appeal No. _____/2019

Riaz Ahmad Head Constable

.....Appellant

Versus

Inspector General of Police, K.P.K, Peshawar & others

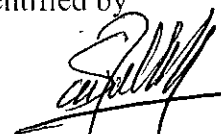
...Respondents

AFFIDAVITE

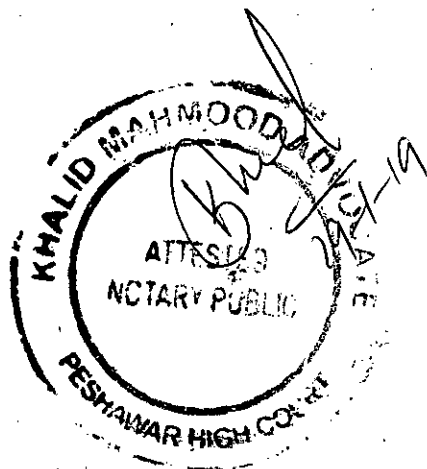
I, Riaz Ahmad Head Constable No.1427, Posted at PAL Branch, Mardan, do hereby solemnly affirm and declare on oath that the contents of accompanying Application are true and correct and true to the best of my belief and nothing has been concealed from this Hon'ble Tribunal.


DEPONENT

Identified by


SAIF ULLAH MOHMAND

Advocate, Peshawar



FAX NO. :

(B)

09 Sep. 2015 12:58PM P2

Annex A



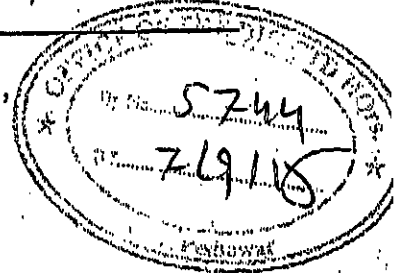
OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
CENTRAL POLICE OFFICE, PESHAWAR

No. 10843 /E-IV dated: 4/9 /2015

To : The Deputy Inspector General of Police,
CTD KPK, Peshawar.

Subject: NO OBJECTION CERTIFICATE

Memo:



Please refer to your office memo No. 8215/EC/CTD, dated 31.08.2015 on the subject cited above.

Head Constable Riaz Ahmad No. 552 of his unit is allowed to apply for the post of PST (BPS-12) in Education Department.

(TASIF IQBAL MOHMAND)
AIG/Establishment
For Inspector General of Police,
Khyber Pakhtunkhwa
Peshawar.

EC

DIG/CTD
7.9.15

ATTESTED

ATTESTED



11
2

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

No. 3763 /E-IV dated Peshawar the 07 10 /2016

To : The Deputy Inspector General of Police,
CTD KPK, Peshawar.

Subject: APPLICATION

Memo. Please refer to your Memo No. 3569 EC/CTD dated. 05.04.2016 on the subject noted above.

The competent authority has recorded the following remarks on it:-

"Subject to fulfillment of codal formalities. NOC from the concerned District".

(PERVEZ ILLAHI)

Registrar

For Inspector General of Police
Khyber Pakhtunkhwa Peshawar

07/10/16

ATTESTED



12
8

Annex B

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

No. 4075 /E-IV dated Peshawar the 15/04/2016

To : The Addl: IGP / CTD,
Khyber Pakhtunkhwa Peshawar.

Subject: NO OBJECTION CERTIFICATE

3687
Memo
15-4-16

Please refer to your letter No. 1292/EC dated: 14.04.2016 on the subject cited above.

The following lower subordinates of District Police Mardan on deputation to your unit are allowed to join Education Department:-

- 1. HC Zewar Khan No. 1327 Elite Force Peshawar (now CTD KPK)
- 2. HC Riaz Ahmad No. 552 CTD Peshawar.
- 3. FC Waheed Gul No. 264 CTD Peshawar.

Najeeb

(NAJEEB-UR-REHMAN BUGVI)PSP
AIG/Establishment
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

No. _____ /E-IV dated Peshawar the _____ /2016

Copy of above is forwarded for information and necessary action to the District Police Officer, Mardan w/r to his Memo No. 1202/EC dated: 14.04.2016.

[Signature]
SP/Hq/ISI
EC

(NAJEEB-UR-REHMAN BUGVI)PSP
AIG/Establishment
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

Addl: IGP/CTD
15-4-16

[Signature]
ATTESTED

REPORT

Handwritten mark

The lien of Head Constable Riaz Ahmad No. 552 is hereby
again for one year in his own request as per I.R who has recently
appointed as P.S.F in Education Department vide EDO letter No
170/19/14/10 dated 15.03.2016.

At Mardan
dated 20/7/2016



District Police Officer,
Mardan

RECEIVED BY THE DISTRICT POLICE OFFICER, MARDAN.

on 20/7/EC, dated Mardan the, 20 7 - 2016.
Copy to OSI for necessary action.

Handwritten mark



OFFICE OF THE
DISTRICT POLICE OFFICER
MARDAN

Tel: 0917-9210109
Fax: 0917-9210111
Email: dpo_mardan@yahoo.com
Facebook: District Police Mardan
Twitter: @dpo_mardan

ORDER.

The Ten of Head Constable Riaz Ahmad No. 522 already appointed as PST Teacher in Education Department, vide EDO office Lett No. 2145-G/Pry: Branch, dated 25.03.2016 is hereby extended for further final one year on his own request as per F.R with immediate effect.

OB No. 878
Dated 4/4 2017.


District Police Officer,
Mardan

No 3670-71/EC, dated Mardan the 6-4-2017.

Copy to the :

1. Inspector Legal for information.
2. OSI for information and necessary action.

- 1



(15)

Amnest (E)

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

No. 2068 /E-IV dated Peshawar the 01/03/2018

The Regional Police Officer,
Mardan

REJOINING OF PARENT DEPARTMENT

592
5-3-18

Re: -

Please refer to your Memo No 488/ES dated: 19/01/2018 on the subject noted above

AIG/Lega CPO, Peshawar has opined that Police Rules is silent about it and anyhow he was allowed to Riaz Ahmad, HC, therefore, police will accept his repatriation, however, he will accept bottom seniority

EC
PPS M.Y.

10/3/2018

Sis
PPS Attached
A/EC

P. Zia Ali Shah
(SYED ZIA ALI SHAH)
Registrar
For Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.
28/02/18

No. 1388/ES DT: 05-03-18
EC/DPo Mardan

In reaction w.r to his
Memo no. 550/EC dt 16-1-2018

[Signature]

[Signature]
Regional Police Officer,
Mardan

16

Annet F



Phone: 0937-9230111
Fax: 0937-9230111
Email: dpo_mardan@yahoo.com
Facebook: District Police Mardan
Twitter: @dpomardan

ORDER.

After seeking guidance/permission from CPO, Peshawar & in compliance of worthy PPO, KPK Peshawar office letter No. 2068/E-IV, dated 01.03.2018, HC Riaz Ahmad appointed as PST Teacher in Education department vide EDO office Letter 7522-G/Pry: Branch dated 29.09.2016 is hereby allowed to rejoin Police department on his own request & expiry of his 2nd year of lien retention with immediate effect. However his name will be place at the bottom of C-I Head constables list of seniority.

OB No. 693

Dated 28-03 2018.


District Police Officer,
Mardan

No. 3702-36/EC, dated Mardan the 27/3 2018.

Copy to the:-

1. Deputy Inspector General of Police, Mardan Region-I, Mardan for information.
- 2/ District Education Officer (Male), Mardan w/r to his office letter No. 389/ dated 12.01.2018 with the request to relieve him for joining his parent department.
3. Pay officer.
4. OSI
5. Official concerned for reporting back.

Attested


17

Ahmed G

The District Police Officer,
Mardan

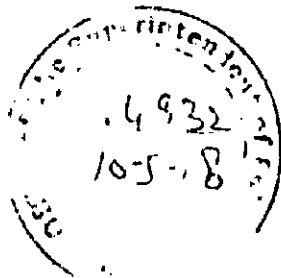
Subject:

Seniority

It is submitted that the applicant was enlisted in Police department (Mardan) on 24th November 2007. The applicant qualified Lower College course in 2014. In 2016, the applicant joined education department after getting NOC & Lien from your good office. The applicant rejoined parent department before the expiry of the Lien. In adjustment order, the applicant was placed at the bottom of C-1 Head-constables list of seniority. The applicant rejoined Parent department through proper channel. The applicant is well-educated and requests that my seniority to be restored.

It is therefore requested that my seniority may kindly be restored and oblige.

Yours obediently, Mirza
Riaz Ahmad 1427/H.C.
Police Lines Mardan
Dated 07-05-2018



Forwarded PL

6000

RI / Line / Mardan

08-05-18

Sir,

E.C
For intaction

Forwarded

[Signature]

[Signature]
DSP/H.C.
8/5/18

[Signature]
DPO Mardan

(18)

Annex H

Government of Khyber Pakhtunkhwa
Office of the Regional Police Officer,
Mardan

C. R.

Phone No. 0937-9230113, Fax No. 0937-9230115

To The District Police Officer,
Mardan

No. 3618 /ES.

of June
May, 2018.


Subject: APPLICATION.

Memo:

Please refer to your office Memo: No. 4874-EC dated 11.05 2018 on the subject note above

In this connection instructions of Worthy Inspector General of Police, Khyber Pakhtunkhwa, Peshawar are quite clear vide CPO, Peshawar Memo: No. 2008/45-IV dated 01.03.2018 (photocopy enclosed).

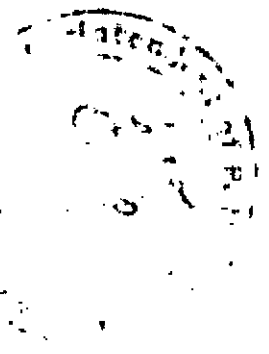
The applicant may be informed accordingly


Regional Police Officer,
Mardan. *A.*

✓ EC
for further action

DPO Mardan
5/6/18


ATTESTED



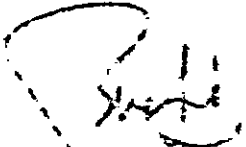
19

Annex I

ORDER.

Consequent upon acceptance of resignation and relieving of Mr. Tariq Ali (PST) by the Education Department Swabi vide DBS Order Endst. No. 6043-49.F.No.1/2017 Resignation dated 02.08.2017 and approval of his repatriation to his parent department as his lien against the post of Head Constable was retained in this office for two years vide OB No. 253 dated 07.03.2016, therefore Mr. Tariq Ali is repatriated as Head Constable

OB No. 746
Dated 10/08 2017


District Police Officer
Swabi

OFFICE OF THE DISTRICT POLICE OFFICER, SWABI.

No. _____ EC dated Swabi, the _____ 2017.

Copies to all concerned.


ATTESTED

1758	  
ایڈوکیٹ: <u>S. Sull</u>	پشاور بار ایسوسی ایشن، خیبر پختونخواہ
بار کونسل ایسوسی ایشن نمبر: <u>Bc-10 8072</u>	
رابطہ نمبر: <u>0333-9077177</u>	

Service Tribunal K.P.K.

بعدالت جناب:

مخائب:	دعویٰ:
Appellar to	
Riaz Ahmad	علت نمبر:
بنام	مورخہ:
inputs General office	جرم:
	تھانہ:

باعت تحریر آنگہ

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

آن مقام Peshawar کیلئے Saifullah Mohmand کو وکیل مقرر

کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کمال اختیار ہوگا، نیز وکیل صاحب کو

راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق

ذریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یا طرفہ یا اپیل کی برآمدگی اور منسوخی، نیز

دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ 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 وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داخست منظور و قبول ہوگا

دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سبب سے ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے

باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: 21/1/19

بند الع واد بند الع

مقام Peshawar کے لیے منظور ہے۔

Before The chairman Service Tribunal, KPK

Riaz Ahmed
~~Mahamud Riaz~~

Vs IBP, KPK, Peshawar


Application for permission to submit
Security

Respectfully Sheweth:-

- 1) that the captioned appeal has^{is} pending adjudication before this Honble Court, which is fixed for today i.e 22/04/2019
- 2) That the appellant had not yet submitted the security in the instant appeal as appellant is ill and had underwent a throat surgery.

It is, therefore, most humbly prayed that appellant may kindly be allowed to submit security fees within 3 days.

Dated 22/04/19

Appellant
through 
Saifullah Mahmood
Advocate Peshawar.

**BEFORE THE HONOURABLE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,
PESHAWAR**

Service Appeal No. 92/2019

Riaz Ahmad Head Constable No. 1427, posted at PAL Branch, Mardan. Police

.....Appellant

V E R S U S

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. District Police Officer, Mardan.
3. Regional Police Officer, Mardan.
4. Deputy Inspector General of Police, CTD, Khyber Pakhtunkhwa, Peshawra.
5. Assistant Inspector General of Police/Establishment, Khyber Pakhtunkhwa, Peshawra.

.....Respondents

REPLY ON BEHALF OF RESPONDENTS No. 1,2,3,4&5

Respectfully Sheweth: -

PRELIMINARY OBJECTIONS

1. That the appellant has got no cause of action.
2. That the appeal is badly time-barred.
3. That the appellant has been estopped by his own conduct to file the appeal.
4. That the appeal is not maintainable in its present form.
5. That the appellant has not come to the Honourable Tribunal with clean hands.
6. That the appeal is bad due to non-joinder and mis-joinder of unnecessary parties.

ON FACTS

1. Para No. 1, pertains to record.
2. Para No.2 is subject to record.
3. Para No.3 incorrect and misleading one. In fact appellant applied for the post of PST (BPS-12) in Education Department. In this respect, appellant was allowed to apply for the post of PST in Education Department vide CPO order No.10843/E-IV dated 04.09.2015, which is annexed as "A".
4. Para pertains to record hence, no comments.


5. Correct to the extent that lien of applicant was retained on his own request for one year vide order No. 6003/EC, dated 20-07-2016 by respondent No. 02 and not by respondent No. 05 as alleged by the appellant.
6. Correct to the extent that vide office order No. 3670-71/EC, dated 06-04-2017, the lien period was further extended for further final one year on the request of appellant. However, plea regarding deputation of appellant in education department is totally incorrect rather ill founded. Copy of order No.3670-71/EC dated 06.04.2017 is annexed as "B"
7. Correct to the extent that the appellant was allowed to rejoin Police Department with the condition of accepting bottom seniority. Hence, on accepting the condition, the appellant rejoined Police Department.
8. Correct to the extent that respondent No. 02 issued order vide No. 3202-6/EC, dated 29-03-2018, whereby the appellant was allowed to rejoin Police Department on his own request. Copy of order No. 3202-6/EC, dated 29-03-2018 is annexed as "C"
9. Correct to the extent that Departmental Appeal of the appellant was rejected because the appellant himself agreed to the condition of according bottom seniority whereupon he was allowed to rejoin Police Department while para to the extent of communicating the order copy of appellate authority No. 3618/ES, dated 01-06-2018 to the appellant on 20-12-2018, is incorrect hence, denied.
10. That appeal of the appellant is liable to be dismissed on the following grounds amongst the others.

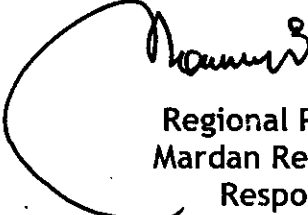
GROUNDS

- A. Incorrect. The orders passed by the competent as well as appellate authority is legal, lawful and based on facts, hence, tenable in the eye of law.
- B. Incorrect. The bald reading of order attached by the appellant as annexure "I" does not give the impression that the said Head Constable has been accorded his due seniority.
- C. Plea taken by the appellant is not tenable because on his request he was allowed to rejoin Police Department and if the appellant had any grievances, he was supposed to remain performing his duties in education department.


- D. Incorrect. The respondent department has no grudges against the appellant, therefore, stance of the appellant is devoid of legal footing.
- E. Incorrect. As discussed earlier, at the time of allowing appellant to rejoin Police department, things had been made clear at the time of issuing rejoining order of appellant and the appellant kept mum and accepted the order hence, the principle of acquiescence is attracted .


It is, therefore, most humbly prayed that on acceptance of above submissions the appeal of the appellant may very kindly be dismissed with cost through out.


Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.
Respondent No.1


Regional Police Officer,
Mardan Region-I, Mardan
Respondent No. 2


District Police Officer,
Mardan
Respondent No.3


Deputy Inspector General of Police, CTD,
Khyber Pakhtunkhwa, Peshawra.
Respondent No.4


Assistant Inspector General of Police
Establishment, Khyber Pakhtunkhwa,
Peshawra.
Respondent No.5

**BEFORE THE HONOURABLE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,
PESHAWAR**

Service Appeal No. 92/2019

Riaz Ahmad Head Constable No. 1427, posted at PAL Branch, Mardan Police
.....Appellant

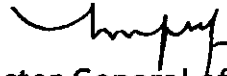
V E R S U S

Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.

& others.....Respondents

COUNTER AFFIDAVIT.

We, the respondents do hereby declare and solemnly affirm on oath that the contents of the Para-wise comments in the service appeal cited as subject are true and correct to the best of our knowledge and belief and nothing has been concealed from this Honourable Tribunal.



Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.
Respondent No.1



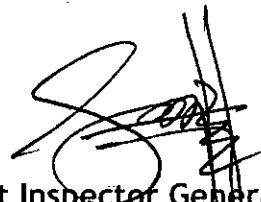
Regional Police Officer,
Mardan Region-I, Mardan
Respondent No. 2



District Police Officer,
Mardan
Respondent No.3



Deputy Inspector General of Police, CTD,
Khyber Pakhtunkhwa, Peshawra.
Respondent No.4



Assistant Inspector General of Police
Establishment, Khyber Pakhtunkhwa,
Peshawra.
Respondent No.5

FAX NO. :

(B)

09 Sep. 2015 12:58PM P2

Annex A

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



No. 10843 /E-IV dated: 4/9 /2015

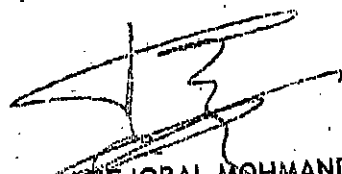
To : The Deputy Inspector General of Police,
CTD KPK, Peshawar.

Subject: NO OBJECTION CERTIFICATE

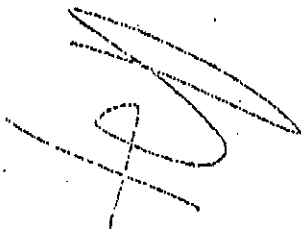
Memo:

Please refer to your office memo No. 8215/EC/CTD, dated 31.08.2015 on the subject cited above.

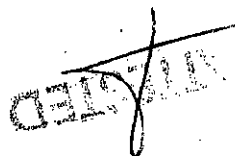
Head Constable Riaz Ahmad No. 552 of his unit is allowed to apply for the post of PST (BPS-12) in Education Department.

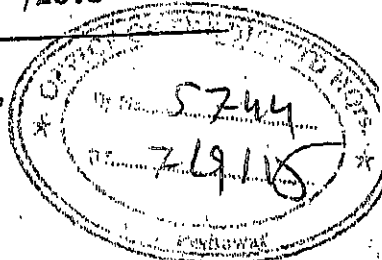

(ASIF IQBAL MOHMAND)
AIG/Establishment
For Inspector General of Police,
Khyber Pakhtunkhwa
Peshawar.

EC



DKG/CTD
7.9.15





The then old Head Constable Riaz Ahmad No. 552 is hereby retained for one year in his own request as per LTR who has recently appointed as P.S. Train Education Department vide EDO letter No. 15-G/Pry. Branch dated 25.03.2016.

SOB No. _____
Dated: 20-7-2016



District Police Officer,
Mardan

OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN

No. 693/EC, dated Mardan the 20 7 2016
Copy to OSI for necessary action.



OFFICE OF THE
DISTRICT POLICE OFFICER
MARDAN



Phone: 092752210109
092752210111
Email: dpo_mardan@yahoo.com
District Police Mardan
@dpo_mardan

ORDER

The Hon. of Head Constable Riaz Ahmad No: 522 already appointed as PST Teacher in Education Department vide EDO office Lett No: 2145-G/Prv. Branch, dated 25/03/2016 is hereby extended for further final one year on his own request as per F.R with immediate effect.

OB No: 878
Dated: 4/4 2017

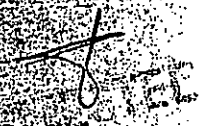

District Police Officer,
Mardan

414

No 36 Fc 21/EC dated Mardan the 6-4-2017.

Copy to the:

1. Inspector Legal for information.
2. OSI for information and necessary action.



OFFICE OF THE
DISTRICT POLICE OFFICER
MARDAN

Tel: 0937-9230109
Fax: 0937-9230111
Email: dpo_mardan@yahoo.com
Facebook: District Police Mardan
Twitter: @dpomardan

ORDER.

After seeking guidance/permission from CPO, Peshawar & in compliance of worthy PPO, KPK Peshawar office letter No. 2068/E-IV, dated 01.03.2018, HC Riaz Ahmad appointed as PST Teacher in Education department vide EDO office Letter 7522-G/Pry: Branch dated 29.09.2016 is hereby allowed to rejoin Police department on his own request & expiry of his 2nd year of lien retention with immediate effect. **However his name will be place at the bottom of C-I Head constables list of seniority.**

OB No. 699

Dated 28-03 2018.


District Police Officer,
Mardan

No 3902-36/EC, dated Mardan the, 29/3 2018.

Copy to the:-

1. Deputy Inspector General of Police, Mardan Region-I, Mardan for information.
2. District Education Officer (Male), Mardan w/r to his office letter No. 389/ dated 12.01.2018 with the request to relieve him for joining his parent department.
3. Pay officer.
4. OSI
5. Official concerned for reporting back.

**BEFORE THE HONOURABLE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,
PESHAWAR**

Service Appeal No. 92/2019

Riaz Ahmad Head Constable No. 1427, posted at PAL Branch, Mardan Police
.....Appellant

V E R S U S

Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.

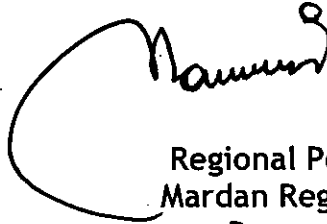
& others.....Respondents

AUTHORITY LETTER.

Mr. Atta-ur-Rahman Inspector Legal, (Police) Mardan is hereby authorized to appear before the Honourable Service Tribunal, Khyber Pakhtunkhwa, Peshawar in the above captioned service appeal on behalf of the respondents. He is also authorized to submit all required documents and replies etc. as representative of the respondents through the Addl: Advocate General/Govt. Pleader, Khyber Pakhtunkhwa Service Tribunal, Peshawar.



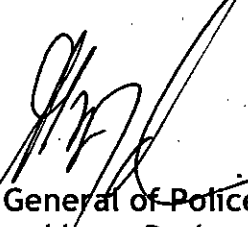
Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.
Respondent No.1



Regional Police Officer,
Mardan Region-I, Mardan
Respondent No. 2



District Police Officer,
Mardan
Respondent No.3



Deputy Inspector General of Police, CTD,
Khyber Pakhtunkhwa, Peshawra.
Respondent No.4



Assistant Inspector General of Police
Establishment, Khyber Pakhtunkhwa,
Peshawra.
Respondent No.5



**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No. 1131 /ST

Dated: 24/5 /2022

All communications should be
addressed to the Registrar KPK Service
Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262


To

The District Police Officer,
Government of Khyber Pakhtunkhwa,
Mardan.

Subject: JUDGMENT IN APPEAL NO: 92/2019 MR. RIAZ AHMAD.

I am directed to forward herewith a certified copy of Judgement dated
19.01.2022 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR