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REGISTERED  
No. C.A. 121/2023 - SCJ  
**SUPREME COURT OF PAKISTAN.**

Islamabad, dated 09-03-2023, 2023.

From

The Registrar,  
Supreme Court of Pakistan,  
**Islamabad.**

Khyber Pakhtunkhwa  
Service Tribunal

To

The Registrar,  
K.P.K., Service Tribunal,  
**Peshawar.**

Disary No. 4764

Dated 6/4/2023

**Subject: CIVIL APPEAL NO. 121 OF 2023.**

**OUT OF**

**CIVIL PETITION NO. 469-P OF 2019.**

Mst. Rabia Shehzadi.

Versus

The Inspector General of Prisons Khyber Pakhtunkhwa,  
Peshawar and another.

On appeal from the Judgment/Order of the KPK., Service  
Tribunal, Peshawar dated 29.04.2019, in Appeal No.547/2018.

Dear Sir,

I am directed to forward herewith a certified copy of the Order  
of this Court dated **21.02.2023**, converting into appeal the above cited civil  
petition and allowing the same, in the terms stated therein, for information  
and necessary action.

I am also to invite your attention to the directions of the Court  
contained in the enclosed Order for immediate compliance.

Please acknowledge receipt of this letter along with its  
enclosure immediately.

**Encl: Order:**

Yours faithfully

(MUHAMMAD MUJAHID MEHMOOD)  
ASSISTANT REGISTRAR (IMP)  
FOR REGISTRAR

Submitted for perusal, Please.

22/3/2023

Humble Chairman

Do the needful.  
fawaz

22/3/23

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**Bench-V:**

Mr. Justice Syed Mansoor Ali Shah  
Mr. Justice Jamal Khan Mandokhail  
Mr. Justice Shahid Waheed

**Civil Petition No.469-P of 2019**

(Against the order dated 29.04.2019 passed by the Khyber Pakhtunkhwa Service Tribunal, Peshawar in Appeal No.547 of 2018)

Mst. Rabia Shehzadi

.....**Petitioner(s)**

**Versus**

The Inspector General of Prisons KP Peshawar and others

....**Respondent(s)**

For the Petitioner(s): In person  
(Through video link from Peshawar)

For the Respondent(s): Mian Shafaqat Jan, Addl. A.G.  
a/w Sulman, Law Officer

Date of Hearing: 21.02.2023

**ORDER**

**Syed Mansoor Ali Shah, J.-** The brief facts of the case are that the petitioner was dismissed from service w.e.f. 05.10.2014 on the charges of misconduct, which penalty was set aside by the Khyber Pakhtunkhwa Service Tribunal, Peshawar ("Tribunal") vide order dated 03.11.2017, and it was ordered that a *de novo* inquiry be conducted against the petitioner. Pursuant to said order of the Tribunal the petitioner was reinstated in service and a *de novo* inquiry was conducted. Vide order dated 02.1.2018, major penalty of lowest stage in present time scale for three years was imposed on the petitioner in the *de novo* proceedings by the department and the period from 15.10.2014 to 28.11.2017 during which the petitioner remained out of service due to earlier dismissal was treated as leave without pay. The said penalty of reduction to lowest stage in present time scale for three years was set aside by the Tribunal vide impugned order dated 29.04.2019. However, the period during which the petitioner remained out of service was treated as leave of the kind due by the Tribunal. Through the instant petition, the petitioner only seeks back

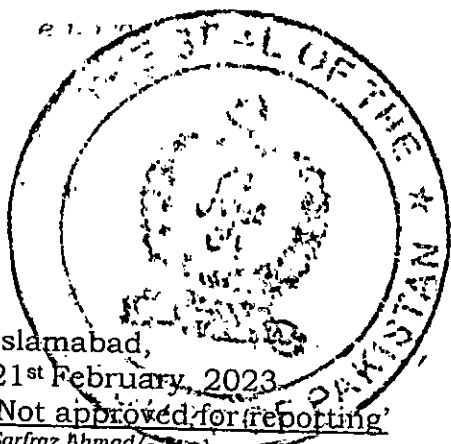
WITNESSED



Court Associate  
Supreme Court of Pakistan,  
Islamabad

benefits for the period during which she remained out of service post her dismissal order.

2. This Court has already settled that a civil servant on unconditional reinstatement in service is to be given all back benefits and the only exception justifying part withholding of back benefits could be that he accepted gainful employment/engaged in profitable business during the intervening period. See: Inspector General of Police, Punjab vs. Tariq Mahmood (2015 SCMR 77) and Muhammad Sharif and others vs. Inspector General of Police, Punjab, Lahore and others (2021 SCMR 962). The petitioner is entitled to the salary for the said period in the light of the law settled by this Court. Therefore, in the light of the aforesaid judgments, the impugned judgment dated 29.04.2019, is set aside to the extent of the back benefits which shall be granted to the petitioner, strictly in terms of the case law cited above. This petition is converted into an appeal and allowed.



Sarfraz Ahmad  
21/02/23

Sd/-  
Sd/-  
Sd/-

Certified to be True Copy

Court Associate  
Supreme Court of Pakistan  
Islamabad