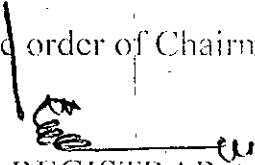


FORM OF ORDER SHEET

Court of _____

Case No.- _____

591/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	20/03/2023	<p>The appeal of Mr. Asmat Ali presented today by Mr. Saad Ullah Khan Marwat Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____. Parcha Peshi is given to appellant and his counsel for the date fixed.</p> <p>By the order of Chairman</p>  <p>REGISTRAR</p>

BEFORE THE HON'BLE CHAIRMAN SERVICE TRIBUNAL,
PESHAWAR

CM No. /2023

IN

S. A. No. /2022

Asmat Ali

versus

DPO & Others

APPLICATION FOR HEARING OF THE SUBJECT APPEAL AT THE
PRINCIPAL SEAT:

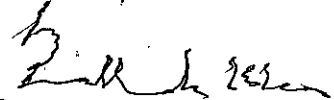
Respectfully Sheweth,

1. That subject appeal is pending disposal before this hon'ble Tribunal and no date of hearing is yet fixed for hearing.
2. That the subject matter pertains to retrospective effect and other similar numerous appeals are also pending for hearing at Principal seat.
3. That in order to avoid complication and difference of opinion, the subject appeal pertaining to Swat jurisdiction is also to be heard at principal seat.

It is, therefore, most humbly requested that the application be accepted as prayed for.

Appellant

Through


Saadullah Khan Marwat
Advocate

Dated. 20-03-2023.

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

S.A No. 591 /2023

Asmat Ali

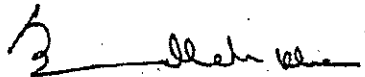
versus

DPO & Others

I N D E X

S. No	Documents	Annex	P. No.
1.	Memo of Appeal		1-3
2.	PTC Clearance Certificate	"A"	4
3.	Discharge order dated 12-11-2007	"B"	5
4.	Representation	"C"	6-7
5.	Reinstatement of other constables	"D"	8-18
6	Judgments in similar cases	"E"	19 46

Through Appellant


Saadullah Khan Marwat
Advocate.
21-A Nasir Mansion,
Shoba Bazaar, Peshawar.
Ph: 0300-5872676

Dated.08-03-2023

BEFORE KPK SERVICE TRIBUNAL PESHAWAR

S.A No. 391 /2023

Asmat Ali S/O Raza Khan,
R/O Kukari Babuzai, Swat.
Ex-Constable No. 1049,
Police Line Swat Appellant

Versus

1. District Police Officer, Swat.
2. Regional Police Officer Malakand
At Saidu Sharif Swat Respondents

APPEAL U/S 4 OF SERVICE TRIBUNAL ACT, 1974
AGAINST OB NO. 182 DATED 12-11-2007 R. NO.
01 WHEREBY APPELLANT WAS DISCHARGED
FROM SERVICE WITH EFFECT FROM 02-11-
2007:

Respectfully Sheweth:

1. That appellant was enlisted in service as Constable on 05-05-2006 and served the department till the date of discharge from service.
2. That appellant was deputed to Police Training Centre Hangu for recruit course and qualified the same and reported back to Police Line Swat in the year 2007. (Copy as annex "A")
3. That at the time, Swat Valley was in clutches of the miscreants and it was well in knowledge of every one that they were ruling the area and the government machinery was totally collapsed. Employees were kidnapping, beheading and killing either through guns or bomb blasts. In such a situation employees of almost all of every department let their services, especially of the police department which was the main target of the miscreants.

4. That on 12-11-2007, R. No. 01 discharged appellant from service along with others with effect from 02-11-2007 retrospectively. (Copy as annex "B")
5. That thereafter appellant submitted representation for reinstatement in service before R. No. 02 which met dead response till date. (Copy as annex "C")
6. That in similar circumstances and by keeping in view the aforesaid situation, orders were passed on 30.11.2010 wherein 253 constables were reinstated in services, 20 constables on 18.02.2011 and 12 on 07.02.2012 by the authorities. (Copies as annex "D")
7. That the same subject matter came up for hearing before this hon'ble Tribunal in numerous cases and after through probe, their appeals were accepted on different dates. (Copies as annex "E")

Hence this appeal, inter alia, on the following grounds:-

GROUND S:

1. That appellant was enlisted in service as Constable and served the department till the date of discharge from service.
2. That at the time, the Swat Valley was in clutches of the miscreants and it is well in knowledge of every one that they were ruling the area and the government machinery was totally collapsed. Employees were kidnapping, beheading and killing either through guns or bomb blasts. In such a situation employees of almost all of every department let their services, especially of the police department.
3. That Darbar was held by the authority and hundreds and thousands employees were reinstated into their services in numerous orders due to the said situation.
4. That appellant was dismissed from service on the score of absence but such absence was not willful but was due to law and order situation in the area.
5. That absence does not constitute any misconduct when the same is not willful and as stated earlier, hundreds and thousands similarly and

equally placed employees have been reinstated into their services not only by the department but also by the hon'ble Tribunal / courts which judgments were upheld by the apex court.

6. That the impugned order is passed with retrospective effect and no limitation runs against such like order
7. That codal formalities enumerated in the Rules were never observed, being mandatory.

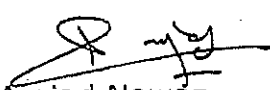
It is, therefore, most humbly prayed that on acceptance of appeal, order dated 02-11-2007 of the respondents be set aside and appellant be reinstated in service with all back benefits, with such other relief as may be deemed proper and just in circumstances of the case.


Appellant

Through


Saadullah Khan Marwat


Arbab Saiful Kamal


Amjad Nawaz
Advocates.

Dated 08-03-2023

AFFIDAVIT

I, Asmat Ali S/O Raza Khan, R/O Kukari Babuzai, Swat. Ex-Constable No. 1049, Police Line Swat (Appellant), do hereby solemnly affirm and declare that contents of **Service Appeal** are true and correct to the best of my knowledge and belief.


DEPONENT

CERTIFICATE:

As per instructions of my client, no such like Service Appeal has earlier been filed by the appellant before this Hon'ble Tribunal.


ADVOCATE

A 4

دستخط

کلیئرٹس سرٹیفکیٹ پوسٹل ٹریڈنگ کالج ہنگو

تاریخ: 1549 ہجری 12 مئی 1932ء

نمبر: 31/51

سلسلہ	نام (تصدیق کنندہ)	تفصیلات	دستخط
1	سرکار ہنگو		
2	ایجنٹ ہنگو		
3	ایجنٹ کراچی		
4	ایجنٹ لاہور		
5	ایجنٹ راولپنڈی		
6	ایجنٹ اسلام آباد		
7	ایجنٹ فیصل آباد		
8	ایجنٹ جالندھر		
9	ایجنٹ گوجرانوگر		
10	ایجنٹ ملتان		

تصدیق سرٹیفکیٹ

سرکار ہنگو

کلیئرٹس

ORDER

B S

The following Lower subordinates who were suspended for absence from duty are still absent and failed to join their legitimate duty despite of high emergency in the district. They seem to be disinterested in their service for cowardness. Being under three, they are hereby discharged from Service under PR 2/21 from the date of absence noted against their names:-

<u>No. Name and No.</u>	<u>D/O Absence</u>
Sher Zaman 1167	27/10/2007
Rahmat Ali 496	23/10/2007
Muhammad Alam 1529	20/05/2007
Rozi Khan 1124	06/11/2007
Farhad Ali 127	06/11/2007
Saifullah 1187	05/08/2007
Mukhtyar 1252	04/10/2007
Naeemullah 1398	26/10/2007
Bakht Amin 730	06/11/2007
Asmat Ali 1049 ✓	02/11/2007
Saadullah 1513	03/11/2007
Gowhar Ali 625	03/11/2007
Rafullah 135 /RR	29/10/2007
Hidar Zaman 12/RR	28/08/2007
Anwar Saddat 31/RR	26/10/2007
Muhammad Rehman 207/RR	26/10/2007
Sardar Ali 45/RR	26/10/2007
Hazratullah 39/RR	24/10/2007
Muhammad Sadiq 178/RR	26/10/2007


District Police Officer, Swat

No. 182
Dated 12-11-2007

حکومت اہل بدیں مزار کہ بروئے OB No. 182 مورخہ 05/05/2006 کو سائل /

طلسمت اہل بلت نمبر 1049 تھانہ لیں کا نجو کو بوجہ غیر حاضری نوکری سے Terminate

کیا گیا ہے۔ سائل کو اپنی پوسٹ پر تعینات کرنے کا حکم صادر فرمایا جائے۔

جناب عالی

اپنا بلت / سائل حسب ذیل عرض ہے۔

میں بطور ریگولر کا نشیل خدمات سرانجام دے رہا تھا

(2) یہ کہ سائل ایلائٹ مورخہ 05/05/2006 کو رپورٹ پو لیس بھرتی کیا گیا اور تب سے مورخہ 07/11/2007 تک سائل اپنی ڈیوٹی ایمانداری اور خلوص نیت سے سرانجام

(3) یہ کہ مورخہ 07/11/2007 کو کانجو میں دھماکہ ہوا۔ سائل نے اپنی ڈیوٹی سرانجام دینے کے بعد (ک) کے تقریباً ایک بجے اپنے گھر گیا۔ دوسرے دن سوات میں کریو کی وجہ سے سائل اپنے گھر میں مقید رہا اور تقریباً تیارہ تک کریو کی وجہ سے گھر سے نہیں نکلا۔ یہ کہ سائل اب اپنی خواہ لینے گیا تو سائل کو بتایا گیا کہ اسے بوجہ غیر حاضری نوکری سے برخواست کیا گیا ہے۔

(5) یہ کہ سائل کے خلاف آج تک اہلیان محلہ یا کسی دوسرے شخص نے کوئی شکایت نہیں کی ہے اور اس دوران بھی سائل کی کارکردگی اور ایمانداری سے خوش تھے۔

(6) یہ سائل کے چار چھوٹے چھوٹے بچے ہیں اور سائل اپنے اہل خانہ کا واحد کفیل ہے۔ سائل کو یہ سائل کو یاد دلائی کہ اپنے اہل خانہ کا پیٹ پالتا تھا۔

۴) یہ کہ سائل نے جس طرح اپنی ڈیولٹی ایمانداری سے ادا کرتا رہا ہے اسلئے اسلئے بھی اپنی ڈیولٹی ایمانداری سے ادا کر دینا اور آپ صاحبان کو شکایت کا کوئی موقع نہیں دوں گا۔

لہذا استدعا ہے کہ منظور فرمائی جائے
حکم 07/11/2007 کو منسوخ کرنے کا حکم
صادر فرمایا جا کر سائل کو اپنی نوکری پر دوبارہ تعینات
کرنے کا حکم صادر فرمایا جائے۔

عصمت علی / ایپلانٹ

تصدیق

تصدیق کی جاتی ہے کہ اجماعاً مراتب اپیل ہذا
ناحد علم و یقین میرے درست اور صحیح ہے
اور کوئی اعتراض حضور سے نہیں رکھتا

عصمت علی / ایپلانٹ

D
18

ORDER

WHEREAS as per the approval of the Provincial Police Officer, Khyber Pakhtunkhwa a Committee had been constituted vide this office No: 9871-77/E dated 16/11/2010, headed by DPO Swat to record order under the cases of the personnel dismissed during militancy.

AND WHEREAS the Committee has, after thorough deliberations and scrutiny of the relevant record, submitted its findings vide No: 14732/E dated 29/11/2010 wherein 253 personnel have been recommended for reinstatement in service.

NOW THEREFORE as per the approval of the Provincial Police Officer, the following personnel recommended by the Committee are hereby reinstated in service with effect from the date of their dismissal. The period during which they remained out of service after dismissal and the period of their absence will be treated as leave without pay.

S. No.	Name and No.
1.	Ex-Constable Bahadur Khan No. 1322
2.	Ex-FC Miran Said Rehman No. 582
3.	Ex-Constable Muhammad Saheed No. 1543
4.	Ex-Constable Fida Hussain No. 751
5.	Ex-Constable Zia-U-din No. 1581
6.	Ex-Constable Sami Ullah No. 103
7.	Ex-Constable Sadia Akbar No. 310
8.	Ex-Constable Ayaz Ali No. 1482
9.	Ex-PASI Ijaz Ali No. J. 9 (Shahid Son)
10.	Ex-Constable Farman Ali No. 757
11.	Ex-Constable Shafiqullah No. 298
12.	Ex-Constable Shor Ali Khan No. 443
13.	Ex-Constable Samir Hussain No. 1021
14.	Ex-Constable Sharif Khan No. 776
15.	Ex-Constable Fuzal Anwar No. 1001
16.	Ex-Constable Asmat Ali No. 1304
17.	Ex-Constable Niaz Mohd. No. 822
18.	Ex-Constable Abdul Wadood No. 151
19.	Ex-Constable Muhammad Shoaib No. 112/RR
20.	Ex-Constable Sijah Hussain No. 1257
21.	Ex-FC Abdul Wali Khan No. 370
22.	Ex-Constable Naseer Un-din No. 1415
23.	Ex-Constable Ajmal Khan No. 1524

24.	Ex-Constable Gul Farzi Khan No. 1512
25.	Ex-Constable Fazaal Wadood No. 1234
26.	Ex-Constable Sultanat Khan No. 556
27.	Ex-Constable Dinkht Nawab No. 141/RR
28.	Ex-Constable Saeed Ullah No. 1043
29.	Ex-Constable Nasir Ali No. 1074
30.	Ex-Constable Zahoor Ahmad No. 1038
31.	Ex-Constable Said Akbar No. 1118
32.	Ex-Constable Muhammad Ali No. 1850
33.	Ex-Constable Falak Zeb No. 887
34.	Ex-Constable Adalat Khan No. 1254
35.	Ex-Constable Majak Zada No. 953
36.	Ex-Constable Zahoor Ahmad No. 165/RR
37.	Ex-Constable Akhtar Ali No. 49
38.	Ex-Constable Shakir Hussain No. 290
39.	Ex-Constable Akbar Ali No. 1306
40.	Ex-Constable Akbar Ali No. 1520
41.	Ex-Constable Zoor Muhammad Khan No. 549
42.	Ex-Constable Muhammad Alam No. 512
43.	Ex-Constable Amir Khacam No. 30
44.	Ex-Constable Naseer-Ullah Khan No. 1428
45.	Ex-Constable Muhammad Zeb Khan No. 371
46.	Ex-Constable Hayat Muhammad Khan No. 143
47.	Ex-Constable Subhan Ullah No. 106/RR
48.	Ex-Constable Asad-Ullah Jan No. 1226
49.	Ex-Constable Rashid Khan No. 33/RR
50.	Ex-Constable Habib-ur-Rehman No. 205/RR
51.	Ex-Constable Abdullah No. 005
52.	Ex-Constable Niaz Ali Shah No. 130/RR
53.	Ex-Constable Sher Alam Khan No. 144/RR
54.	Ex-Constable Saib Mahmood Jan No. 615
55.	Ex-Constable Muhammad Shoaib No. 645
56.	Ex-Constable Ajab Khan No. 172
57.	Ex-Constable Tariq No. 1534
58.	Ex-Constable Karim Ullah Khan No. 608
59.	Ex-Constable Shafi Ullah No. 1500
60.	Ex-Constable Bashir Ahmad No. 1457
61.	Ex-Constable Izzat Mond No. 1244
62.	Ex-Constable Shehzada No. 364
63.	Ex-Constable Umar Zaib No. 1440
64.	Ex-Constable Majed Khan No. 81

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65.	Ex-Constable Shamshey Khan No. 508
66.	Ex-Constable Sabz All Khan No. 1447
67.	Ex-Constable Baktawar Khan No. 1251
68.	Ex-Constable Gacha Wali No. 1434
69.	Ex-Constable Rasheed Ahmad No. 1791
70.	Ex-Constable Muhd Sher All Khan No. 463
71.	Ex-Constable Adalat Khan No. 275
72.	Ex-Constable Mian Sald Parvez No. 752
73.	Ex-Constable Jahan Parvez No. 295
74.	Ex-Constable Rehmat Ali No. 927
75.	Ex-Constable Abdul Haywood No. 206
76.	Ex-Constable Bakht Ullah No. 92
77.	Ex-Constable Shokat Ali No. 1371
78.	Ex-Constable Zikriya No. 421
79.	Ex-Constable Zahir Ahmad No. 1450
80.	Ex-Constable Sald Ahmad Khan No. 917
81.	Ex-Constable Bakht Zayin No. 1694
82.	Ex-Constable Riaz Muhammad No. 1467
83.	Ex-Constable Zahid Ullah No. 1394
84.	Ex-Constable Bakht Namroz No. 667
85.	Ex-Constable Mian Sald Gul No. 344
86.	Ex-Constable Hidayat Ullah Khan No. 335
87.	Ex-Constable Umor Rehman No. 728
88.	Ex-Constable Gohar Ali No. 675
89.	Ex-Constable Sald Azem No. 47/RN
90.	Ex-Constable Aman Khan
91.	Ex-Constable Najib Ullah No. 1481
92.	Ex-Constable Atee Ullah No. 1511
93.	Ex-Constable Feroz Khan No. 961
94.	Ex-Constable Ubaid Ullah No. 190
95.	Ex-Constable Akbar Bach No. 852
96.	Ex-Constable Shar Alam No. 996
97.	Ex-Constable Muhammad Ayaz No. 488
98.	Ex-Constable Ahwar-ul-Haq No. 572
99.	Ex-Constable Muhammad Iqbal No. 369
100.	Ex-Constable Gohar Ali No. 642
101.	Ex-Constable Riaz Ullah No. 1454
102.	Ex-Constable Yousaf Khan No. 350
103.	Ex-Constable Feroz No. 13
104.	Ex-Constable Muhammad Shoaib No. 1528
105.	Ex-Constable Ali Muhammad No. 1456

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106.	Ex-Constable Mumtaz Ali No. 62
107.	Ex-Constable Shah Wali Khan No. 1502
108.	Ex-Constable Mian Khaliq Jan No. 303
109.	Ex-Constable Luqman Ali No. 95
110.	Ex-Constable Jehan Ali No. 195
111.	Ex-Constable Murchrat Khan No. 1113
112.	Ex-Constable Amir Muhammad No. 176/RR
113.	Ex-Constable Alam Khan No. 1070
114.	Ex-Constable Shor Shah No. 162
115.	Ex-Constable Arjhd Ali No. 1044
116.	Ex-Constable Sher Ali Khan No. 1353
117.	Ex-Constable Iftikhar No. 564
118.	Ex-Constable Bakht Akbar No. 1288
119.	Ex-Constable Taj Muhd. No. 1111
120.	Ex-Constable Alam Dadshah No. 196
121.	Ex-Constable Liaqat Ali No. 225
122.	Ex-Constable Aliqul Ali No. 923
123.	Ex-Constable Azam Khan No. 1427
124.	Ex-Constable Habib Ullah No. 1440
125.	Ex-Constable Yar Dadshah No. 933
126.	Ex-Constable Nadar Shah No. 468
127.	Ex-Constable Nazir Muhd No. 1379
128.	Ex-Constable Aghar Khan No. 32
129.	Ex-Constable Ali Rasheed No. 1400
130.	Ex-Constable Frazal Rehman No. 784
131.	Ex-Constable Bakhtaj No. 1329
132.	Ex-Constable Ibrar Hussain No. 420
133.	Ex-Constable Zafar Alam No. 653
134.	Ex-Constable Muhd Rafiq No. 1633
135.	Ex-Constable Sajjad Khan No. 1510
136.	Ex-Constable Umar Khan No. 1100
137.	Ex-Constable Ahmad Ali No. 1318
138.	Ex-Constable Rehmat Ali No. 175
139.	Ex-Constable Iqbal Hussain No. 1486
140.	Ex-Constable Rehman Ullah No. 1466
141.	Ex-Constable Ayaz Ahmad No. 320
142.	Ex-Constable Sadia No. 1470
143.	Ex-Constable Shafiq-Ur-Rehman No. 851
144.	Ex-Constable Bashir Ahmad No. 1377
145.	Ex-Constable Liaqat Ali No. 1345
146.	Ex-Constable Aziz-ul-Hussain No. 1170

147.	Ex-Constable Zakir Hussain No. 308
148.	Ex-Constable Midrarullah No. 533
149.	Ex-Constable Munim Khan No. 171/RR
150.	Ex-Constable Zafar Ali Khatt No. 71
151.	Ex-Constable Najib Ullah Khan No. 1439
152.	Ex-Constable Rahim Khan No. 571
153.	Ex-Constable Azam Khan No. 45
154.	Ex-Constable Mian Said Bacha No. 1362
155.	Ex-Constable Hazrat Alam No. 1570
156.	Ex-Constable Iffan Ud Din No. 1549
157.	Ex-Constable Sher Hussain Khan No. 685
158.	Ex-Constable Muht Raza No. 131/RR
159.	Ex-Constable Mian Said Farooq No. 333
160.	Ex-Constable Muhammad Tahir No. 1703
161.	Ex-Constable Bahadur Nawab Khan No. 1635
162.	Ex-Constable Amiruddin No. 1604
163.	Ex-Constable Sami Ullah No. 5111
164.	Ex-Constable Muhammad Qasim No. 1611
165.	Ex-Constable Muht. Arif Khan No. 1393
166.	Ex-Constable Asmat Ali No. 1723
167.	Ex-Constable Farhad Ali No. 1761
168.	Ex-Constable Mian Said Ghani No. 1689
169.	Ex-Constable Inam Ullah No. 1145
170.	Ex-Constable Umar Farooq No. 1677
171.	Ex-Constable Israr Ahmad No. 1622
172.	Ex-Constable Amal Khan No. 1569
173.	Ex-Constable Rehmat Ali No. 496
174.	Ex-Constable Zara Wali No. 134
175.	Ex-Constable Anwar Ullah No. 1666
176.	Ex-Constable Bakht Kayam No. 1800
177.	Ex-Constable Anwar Ali No. 1574
178.	Ex-Constable Aziz Ullah Khan No. 1591
179.	Ex-Constable Hazrat Bilal No. 1776
180.	Ex-Constable Farman Ali No. 217/RR
181.	Ex-Constable Muht. Alam Khan No. 1770
182.	Ex-Constable Agghor Khan No. 1720
183.	Ex-Constable Abdullah No. 1661
184.	Ex-Constable Mohammad Azim No. 971
185.	Ex-Constable Said Sor Ullah No. 1600
186.	Ex-Constable Samin Khan No. 1721
187.	Ex-Constable Samin Khan No. 1575

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188.	Ex-Constable Hayat Ali No. 1614
189.	Ex-Constable Liaquat Ali Khan No. 1414
190.	Ex-Constable Yaqub Khan No. 1601
191.	Ex-Constable Farman Ali No. 1069
192.	Ex-Constable Rehmat Toib No. 1679
193.	Ex-Constable Payaz Ali No. 914
194.	Ex-Constable Wali Ahmad No. 811
195.	Ex-Constable Barakat Ali Khan No. 190/RR
196.	Ex-Constable Nazir Mahmood No. 1771
197.	Ex-Constable Mohim Bacha No. 1608
198.	Ex-Constable Muhd. Kashif No. 1579
199.	Ex-Constable Nisar Ahmad No. 1585
200.	Ex-Constable Fozal Haq No. 1589
201.	Ex-Constable Ajab Khan No. 1553
202.	Ex-Constable Shuja Ali Yar Khan No. 1645
203.	Ex-Constable Hazrat Ali No. 1797
204.	Ex-Constable Zin Ullah No. 164/RR
205.	Ex-Constable Nadeem Iqbal No. 1715
206.	Ex-Constable Amjid Ali No. 1624
207.	Ex-Constable Farhad Ali No. 127
208.	Ex-Constable Hazrat Usman No. 1691
209.	Ex-Constable Umar Zaman No. 160/RR
210.	Ex-Constable Zafar Ali No. 159
211.	Ex-Constable Saeed Ullah No. 1513
212.	Ex-Constable Sher Bahadar Shah No. 211/RR
213.	Ex-Constable Arif Ali Shah No. 828
214.	Ex-Constable Fazal Ali No. 1647
215.	Ex-Constable Abdur Rahman No. 1607
216.	Ex-Constable Muhammad Iqbal No. 240
217.	Ex-Constable Inayat Ullah No. 1665
218.	Ex-Constable Sajid Ullah No. 1672
219.	Ex-Constable Karim Ullah No. 1788
220.	Ex-Constable Umar Muhammad No. 1361
221.	Ex-Constable Nawab Rahman No. 1664
222.	Ex-Constable Zai Ullah Khan No. 9/RR
223.	Ex-Constable Qayum Khan No. 1586
224.	Ex-Constable Imran Ali No. 531
225.	Ex-Constable Nasir Ali No. 1623
226.	Ex-Constable Rizq Ali No. 1559
227.	Ex-Constable Halder Ali No. 1667
228.	Ex-Constable Ebadat Muhammad No. 142/RR

14

229.	Ex-Constable Sher Zaman No. 1167
230.	Ex-Constable Muhammad Jan No. 1708
231.	Ex-Constable Mian Gul Ducha No. 1696
232.	Ex-Constable Saif Ullah No. 1769
233.	Ex-Constable Zahir Ullah No. 1644
234.	Ex-Constable Parvez Khan No. 65/RR
235.	Ex-Constable Muhammad Nazeem No. 1746
236.	Ex-Constable Fazal Bacha No. 605
237.	Ex-Constable Barkat Ali No. 1312
238.	Ex-Constable Amir Zeb No. 1787
239.	Ex-Constable Kalim Ullah Jan No. 1656
240.	Ex-Constable Zai-ur-Rehman No. 1694
241.	Ex-Constable Muhammad Alam No. 1730
242.	Ex-Constable Fazal Hayat No. 1658
243.	Ex-Constable Hazrat Nawaz Khan No. 721
244.	Ex-Constable Ikram Ullah No. 1606
245.	Ex-Constable Tariq Rahim No. 1782
246.	Ex-Constable Wali Khan No. 212/RR
247.	Ex-Constable Abdull Khan No. 188/RR
248.	Ex-Constable Muhammad Parvez No. 63/RR
249.	Ex-Constable Muhammad Zahid No. 71/RR
250.	Ex-Constable Sardar Ali No. 45/RR
251.	Ex-Constable Luqman No. 95
252.	Ex-Constable Bahad Ali No. 4688/FRP
253.	Ex-Constable Sher Aziz No. 4300/FRP

Order announced.

(WAZI JAMIL-UR-REHMAN)
Deputy Inspector General of Police,
Malakand Region, Saidu Sharif, Swat.
S.A.P.

No. 102/14-16/E,
Dated 30/11/2010.

Copy for information and necessary action to the:-

1. Provincial Police Officer, Khyber Pakhtoonkhwa, Peshawar.
2. District Police Officer, Swat.
3. Superintendent of Police, FRP, Swat.

[Signature]

15
OFFICE ORDER

Whereas as per the approval of the Provincial Police Officer, FR, Pukhtunkhwa a Committee had been constituted vide this office No. 9871 dated 16-11-2010, headed by DPO Swat to reconsider the cases of the persons absented during militancy.

And whereas the Committee has after thorough deliberation scrutiny of the relevant record, submitted its findings vide No. 89 / OASI, 04-01-2012 wherein 12 personnel recommended for reinstatement service.

Now therefore as per the approval of the Provincial Police Officer, following personnel recommended by the Committee are hereby reinstated service with effect from the date of their dismissal and the period of their absence will be treated as leave without pay.

S. No.	Name and No.
1.	Ex- Constable Minhaj-ud-Din No. 139.
2.	Ex- Constable Zahoor Hussain No. 1738.
3.	Ex- Constable Ali Baz No. 501.
4.	Ex- Constable Muhammad Israr No. 118.
5.	Ex- Constable Attaullah No. 924.
6.	Ex- Constable Muhammad Ali No. 1563.
7.	Ex- Constable Fazal Hanan No. 1504.
8.	Ex- Constable Ikram No. 1189.
9.	Ex- Constable Qasir Ali Shah No. 675.
10.	Ex- Constable Bashir Ahmad No. 270.
11.	Ex- Constable Parwanat Khan No. 30.
12.	Ex- Constable Fazal Rabbil No. 579.

Order announced.

(Signature)
(AKHTAR HAYAT KHAN)
Deputy Inspector General of Police
Malakand Region, Saidu Sharif, Swat

No. _____ / E,

Dated 07-02-2012

Copy for information and necessary action to the:-

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. District Police Officer, Swat.

16

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR

No.S/1656/17, dated Peshawar the 15/3/2017

ORDER

This order is hereby passed to dispose of departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rules-1975 submitted by Ex-Constable Noor Khan No. 462. The appellant was dismissed from service by DPO, Dir Lower vide OB No. 361, dated 16.03.2009 of the charge of absence from duty for 02 months and 04 days.

Meeting of Appellate Board was held on 02.03.2017 wherein appellant was heard in person. During hearing petitioner contended that he was posted at Malakand Region as DFC. He could not bring Summon and Warrants to the area because of terrorism, Terrorists and Taliban threatened him time and again on his cell phone.

The Board examined his service record which revealed that appellant has no bad entry during his service. Moreover, he was qualified Recruit Course A- examination.

Keeping in view 07 years, 11 months and 12 days service at the credit of petitioner and threats from Terrorists and Taliban, the Board decided that the petitioner is hereby re-instated in service, however, the intervening period including period of absence from duty is considered as period in service but not on duty and he will not be entitled for salary of the intervening period. He will remain under special watch for one year.

This order is issued with the approval by the Competent Authority.

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

No.S/1657-64/17,

Copy of the above is forwarded to the:

1. Regional Police Officer, Malakand at Swat.
2. District Police Officer, Dir Lower.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. PA to Addl. IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-IV CPO Peshawar.
8. Central Registry Cell, CPO.

ORDER

17

This order shall dispose of departmental appeal under rule 11 of Khyber Pakhtunkhwa Police Rules, 1975, submitted by Ex-Constable Sadiq-ur-Rehman No. 4881 of FRP Malakand Range, against the order of SP FRP Malakand Range, Swat, wherein he was removed from service.

Brief facts of the case are that Ex-Constable Sadiq-ur-Rehman No. 4881 of FRP Malakand Range was enlisted as constable on 26-07-2007. Later on during the course of duty he was absented himself from duty with effect from 20-07-2008, till the date of his removal from service.

In this regard he was issued charge sheet and statement of allegation, but neither he report/arrival for duty, nor replied to charge sheet within stipulated period. Thereafter on 08-11-2008 he was issued Urdu Parwan, but he failed to do so, therefore, the Enquiry Committee recommended him for major punishment of removal from service. Later on he was issued final show cause notice but his reply was not received within stipulated period.

In the light of recommendation of Enquiry Committee and other material available on record he was removed from service by the SP FRP Malakand Range, Swat, vide office OB No. 151, dated 14-11-2009.

After going through the available record it has pointed out that the appellant has neither participated with enquiry proceedings, nor provided opportunity of personal hearing.

The applicant has heard in person in orderly room held on 03-08-2017, during the course of hearing he contended that at those days the Swat Valley was under control of miscreants/Taliban and were kidnapping, killing the Government employees, especially of Police department. He further stated that being a member of this Force (Police Department) he was received threat from Taliban, then he along with his family members were compulsively shifted to other safe place i.e. Punjab Province. He further added that his removal from service order was not communicated to him. His plea was found plausible and satisfactory.

Keeping in view the above, vis-à-vis his unblemished service record also a trained soldier he (Ex-constable Sadiq-ur-Rehman No. 4881 of FRP Malakand Range) is hereby reinstated in service and the punishment of his removal from service is hereby modified and converted into major punishment of his removal from service is hereby modified and converted into major punishment of deduction in pay as timescale constable. The period of his absence from duty and the intervening period are considered as period in service but not on duty and he will not be entitled for salary of this absence and intervening period.

Order announced.

38/-
Commandant

Frontier Reserve Police
Khyber Pakhtunkhwa, Peshawar

No. 5914 / EC, dated Peshawar the 09 / 08 / 2017
Copy of above is forwarded to the SP FRP Malakand
Range Swat for information and necessary action.
His service record sent herewith.

This order shall dispose of departmental appeal under rule 11 of Khyber Pakhtunkhwa Police Rules, 1975, submitted by Ex-Constable Taj Bhadar No. 4899 of FRP Malakand Range, against the order of SP FRP Malakand Range, Swat, wherein he was removed from service.

Brief facts of the case are that Constable Taj Bhadar No. 4899 of FRP Malakand Range was enlisted as constable on 26-07-2007. He was absented himself from duty with effect from 01-04-2009, till the date of his removal from service.

In this regard he was issued charge sheet and statement of allegations, but neither he report/arrival for duty, nor replied to charge sheet within stipulated period. Thereafter on 28-04-2009 he was issued Urdu Parwan, but he failed to do so, therefore, the Enquiry Committee recommended him for major punishment of removal from service. Later on he was issued final show cause notice but his reply was not received within stipulated period.

In the light of recommendation of Enquiry Committee and other material available on record he was removed from service by the SP FRP Malakand Range, Swat, vide office OB No. 294, dated 21-02-2009.

After going through the available record it has pointed out that during the course of enquiry the applicant has neither participated with enquiry proceedings, nor provided opportunity of personal hearing.

The applicant has heard in person in orderly room held on 03-08-2017, during the course of hearing he contended that at those days the Swat Valley was under control of miscreants/Taliban and were kidnapping, killing the Government employees, especially of Police department. He further stated that being a member of the Force (Police Department) he was received threat from Taliban, then he along with his family members were compulsively shifted to other safe place, i.e. Punjab Province. He further added that his removal from service order was not communicated to him. His plea was found plausible and satisfactory.

Keeping in view the above, vis-à-vis his unblemished service record also a trained soldier he (Ex-constable Taj Bhadar No. 4899 of FRP Malakand Range) is hereby reinstated in service and the punishment of his removal from service is hereby modified and converted into major punishment of his removal from service is hereby modified and converted into major punishment of deduction in pay as timescale constable. The period of his absence from duty and the intervening period are considered as period in service but not on duty and he will not be entitled for salary of this absence and intervening period.

Order announced:

sd/
Commandant
Frontier Reserve Police
Khyber Pakhtunkhwa, Peshawar

No. 5913 / EC, dated Peshawar the 09 / 08 / 2017.
Copy of above is forwarded to the SP FRP Malakand Range Swat for information and necessary action.
His service record sent herewith.

E 19

BEFORE KPK SERVICE TRIBUNAL PESHAWAR

S.A No. 588 /2012

Handwritten notes: 588, 23/05/12

Mura / All S/o Muhammad Mashal Khan,
R/o Char Bagh, Ex-C. No. 4708, FRP,
Police Station Matta, Swat



Appellant

Versus

1. Commandant, FRP, KPK, Peshawar.
2. Superintendent of Police, FRP, Malakand Region, Swat.
3. Provincial Police Officer, KPK Peshawar.

Respondents

APPEAL AGAINST OFFICE ORDER
NO.1964-65/EC, DATED 09.04.2012 OF
R.NO.1 (APPELLATE AUTHORITY)
WHEREBY REPRESENTATION OF
APPELLANT WAS REJECTED AGAINST OR
NO.138 DATED 10.10.2008 OF R.NO.7
(ORIGNIONAL AUTHORITY) WHO
DISMISSED APPELLANT FROM SERVICE
FOR NO LEGAL REASON.

Handwritten notes: 23/5/12

Official stamp: AMINEL

Respect fully Sheweth,

re-submitted to-day and filed.

Handwritten notes: 23/5/12

1. That on 25.07.2007, appellant was enlisted as FRP constable in Malakand Range by R.No.1.
2. That it was an admitted fact that the whole Swat valley was under the control of miscreants/Taliban. Normal life was absolutely neffective. Miscreants/Taliban were kidnapping, killing and beheading Government employees, especially of

20

No. of
ceeding

Date of
Order or
proceedings:

Order or other proceedings with signature of Judge or Magistrate
and that of parties where necessary.



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
CAMP COURT SWAT**

APPEAL NO-588/2012

(Murad Ali Vs. Commandant FRP, KPIC Peshawar & 2 others.)

JUDGMENT

02.05.2012

MUHAMMAD AZIM KHAN CHAIRMAN

Appellant with counsel and Mr. Muhammad Zubair Senior
Government Pleader along with Mushtaq Ahmad, Inspector (Legal)
for the respondents present.

Murad Ali son of Muhammad Mashul Khan hereinafter
referred to as the appellant has preferred the instant appeal against
order dated 09.4.2012 communicated to the appellant on 02.5.2012
vide which his departmental appeal against original order dated
10.10.2008 of removal from service was rejected.

Brief facts giving rise to the present appeal are that the
appellant was appointed as Constable in FRP Malakand Range
vide appointment order dated 25.07.2007. While serving he was
found absent from duty for a period of 3 months and 8 days and
after conducting enquiry removed from service vide order dated
10.10.2008 where-against departmental appeal of the appellant
was rejected on 09.4.2012 and hence the instant service appeal on
23.05.2012.

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

Perusal of the record would suggest that charge sheet dated 09.08.2008 was communicated to the appellant on the allegations of wilful absence, however, according to findings/report of the enquiry committee appellant had not turned up in response to notice issued to the appellant for resuming duty and facing an enquiry. It is evident from the record that enquiry procedure was not followed by the enquiry committee as the appellant was neither associated with the enquiry proceedings nor any opportunity of hearing afforded to him and, furthermore, in case of absence, publication of any notice in prescribed manners was not made in the newspapers. Furthermore the alleged period of absence was during the days of militancy and, according to the stance of the appellant, similarly placed employees were reinstated in service and that appellant was also entitled to same treatment.

Since the appellant was subjected to enquiry wherein neither prescribed procedure was followed nor appellant associated with the same as such we deem it more appropriate to set aside the impugned original order dated 10.10.2008 as well as final order dated 09.4.2012 and as consequence thereof reinstate the appellant in service, placing the respondents at liberty to departmentally proceed against the appellant afresh, if need be, and that the plea of the appellant in respect of reinstatement of similarly placed persons in service shall also be taken into account during the enquiry which shall be concluded within the period of 2 month from the date of receipt of this judgment. In case the

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enquiry is not conducted then the period of absence (ill reinstatement be treated as leave of the kind due. The appeal is disposed of accordingly. Parties are however left to bear their own costs. File be consigned to the record room.

Announced -
02-05-2016

Edl - M. Azim Khan Afridi,
Chairman

Edl - Abdul Latif,
Member



Date of	10-05-2016
Mr.	1600
Copy	10
Urgent	10
Total	10
Remarks	12-05-2016
Date of	12-05-2016
Signature	

23

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
CAMP COURT SWAT

Service Appeal No. 957/2016

Date of Institution... 04.08.2016

Date of decision... 07.12.2017



Shoukat Ali son of Muhammad Shafiq, R/O Kokori Mingora Swat Ex-Constable
No. 4741, FRP Platoon No. 83, P.S. Mingora Swat. ... (Appellant)

Versus

1. Superintendent of Police, FRP Malakand Region, Malakand and two others. ... (Respondents)

ARBAB SAIFUL KAMAL,
Advocate

For appellant.

MR. KABIRULLAH KHAT'AK,
Addl Advocate General

For respondents.

MR. NIAZ MUHAMMAD KHAN,
MR. MUHAMMAD HAMID MUJHAL,

CHAIRMAN
MEMBER

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: - This judgment shall also
disposed of other connected appeals No. 697/2016 Muhammad Said, No.
958/2016 Fazal Yaseen, No. 959/2016 Afzal Khan and No. 961/2016 Umar Ali
as in all the appeals common questions of law and facts are involved.

2. Arguments of the learned counsel for the parties heard and record perused.

FACTS

3. The appellant Shoukat Ali, Umar Ali and Afzal Khan were removed
from service on 28.08.2016, the appellant Fazal Yaseen was removed from

ATTESTED

service on 02.02.2009 and the appellant Muhammad Saeed was removed from service on 21.09.2009. The appellants then filed departmental appeals belatedly which were rejected then the appellant also approached this Tribunal belatedly not within the stipulated time.

ARGUMENTS

4. The learned counsel for the appellants argued that the very orders of removal from service are void because all these orders have been given retrospective effect. That in view of judgment reported as 1985-SCMR-1178 no limitation shall run against void order.

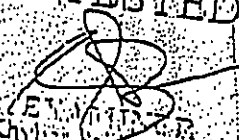
5. On the other hand the learned Addl. Advocate General argued that the departmental appeals are hopelessly time barred. That the revision within the meaning of Rule 11-A of Khyber Pakhtunkhwa Police Rules, 1975 could not enlarge the period of limitation. That all the codal formalities were fulfilled by the department.

CONCLUSION

6. Regardless of other merits of the case it is an admitted position that all these orders have been given retrospective effect and in view of so many judgments delivered by this Tribunal on the basis of judgment reported in 1985-SCMR-1178 the retrospective order is a void order and no limitation shall run against void order.

7. Since no limitation runs against a void order, any successive appeals or revision would not curtail the rights of the appellants qua the limitation or in other

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal

respect. Presuming that all other elements of due processes have been complied with, the void order cannot be sustained on this score alone.

8. As a sequel to the above discussion, the present appeals are accepted and the appellants are reinstated in service. The department is however, at liberty to hold denovo proceedings in accordance with law within a period of ninety days. The intervening period shall be subject to the final outcome of the denovo proceedings. Parties are left to bear their own costs. File be consigned to the record room.

Announced self - Niaz Muhammad Khan,
07-12-2017 Chairman
Camp court Swat

self - M. Hamid Nughal,
Member

COA
07/12/2017
Khairpur
Service Tribunal
Peshawar
Extra copy

Date of Presentation: 13-12-17
Number of Pages: 1760
Copying Fee: 8
Urge: 8
Total: 8
Name of Officer: [Signature]
Date of Case: 15-12-17
Date of Delivery of Case: 15-12-17



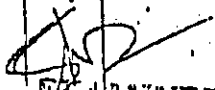
Sr. No	Date of order/ proceeding	Order or other proceedings with signature of Judge or Magistrate
1	2	3
		<p align="center">BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL At Camp Court Swat</p> <p align="center">Appeal No. 562/2016</p> <p>Date of Institution ... 16.05.2016 Date of Decision ... 05.07.2018</p> <p>Rahim Ud Din son of Syed Rehman, Resident of Ajo Talash, Tehsil Timregara, district Dir Lower.</p> <p align="right">Appellant</p> <p>1. Inspector General fo Police, Khyber Pakhtunkhwa. 2. D.I.G, Malakand Region Saidu Sharif Swat. 3. D.P.O, Lower Dir. 4. D.S.P headquarter, Timergara Lower dir.</p> <p align="right">Respondents</p> <p>Mr. Sajjad Ahmad Jan Advocate ----- For Appellant</p> <p>Mr. Usman Ghani District Attorney ----- For Respondents</p> <p>Mr. Subhan Sher Mr. Muhammad Hamid Mughal Chairman Member</p> <p>05.07.2018</p> <p align="center">JUDGMENT</p> <p><u>MUHAMMAD HAMID MUGHAL, MEMBER:</u> Appellant</p> <p>with counsel present. Mr. Usman Ghani learned District Attorney for the respondents present.</p> <p>2. Learned counsel for the appellant stated that the appellant has filed the present service appeal against the order dated 20.08.2009 whereby he was dismissed form service on the ground of absence from duty and against the order dated 31.10.2012 vide which the</p>

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

departmental appeal of the appellant was rejected; that the appellant has also challenged the order dated 13.04.2016 of the Review Board whereby departmental appeal/revision filed by the appellant was rejected. Learned counsel for the appellant argued that the appellant could not attend to his duties for a few months due to circumstances beyond his control as the mother of the appellant was severely ill. Learned counsel for the appellant argued that the appellant was met with discriminatory treatment as some of the colleagues of the appellant who were also dismissed under similar circumstance were reinstated either by the Appellate Authority or by the Review Board. Further argued that original impugned order of punishment of dismissal was also awarded to the appellant with retrospective effect hence being a retrospective punishment the original impugned order is a void order and no limitation runs against the same. Learned counsel for the appellant in support of his contention regarding discriminatory treatment submitted copies of reinstatement order of F.C Muhammad Yar No.2118, Constable Noor Khan No.462, Constable Jawad Hassan No.2111, Constable Atta Ullah No. 2240, Constable Waheed Khan No.4886 of FRP, Constable Muhammad Shahid 4890 of FRP etc.

ATTESTED


 EXAMINER
 Kyber Pakhtunkhwa
 Service Tribunal,
 Peshawar

3. As against learned District Attorney resisted the present service appeal and defended the impugned orders on the ground mentioned therein.
4. Arguments heard. File perused.
5. Admittedly the impugned punishment of dismissal from

service was imposed upon the appellant with retrospective effect hence the original order of dismissal from service is void and no limitation would run against the same.

6. On the other hand, the Departmental Appellate Authority simply filed/regretted the departmental appeal of the appellant on the ground of limitation, which did not exist anymore as observed in the preceding para.

7. Learned District Attorney remained unable to rebut the contention of the learned counsel for the appellant that many other colleagues of the appellant who were also dismissed from service on the ground of absence from duty were reinstated either by the Appellate Authority or by the Review Board.

8. In the stated circumstances of the case, the order dated 31.10.2012 of the Appellate Authority and the order dated 13.04.2016 of the Review Board are hereby set aside. Resultantly the departmental appeal of the appellant shall be deemed pending. Appellate Authority/respondent No.2 is directed to decide the same afresh with speaking order within a period of three (03) months of the receipt of this judgment. The present service appeal is disposed off accordingly. Parties are left to bear their own costs. File be consigned to the record room.

Announced
05-07-2018

Self M. Hamid Mughal
Member
conf court Swat
Self Subhan Sher
Chairman

Certified to be true copy
JUDGE
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 496/2018

Date of Institution ... 10.04.2018

Date of Decision ... 24.01.2022



Rashid Ahmad S/o Sher Zada, R/o Village Kokarai, Swat, Ex-Constable No. 1834, District Police Swat. (Appellant)

VERSUS

District Police Officer, Swat and others. (Respondents)

Arbab Saiful Kamal, Advocate For Appellant

Asif Masood Ali Shah, Deputy District Attorney For respondents

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

relevant
Para 6

JUDGMENT

ATIQ-UR-REHMAN WAZIR MEMBER (E):- This single judgment shall dispose of the instant service appeal as well as the connected Service Appeal bearing Nb. 571/2018 titled "Aamir Shah Versus District Police Officer, Kohat and two others", as common question of law and facts are involved therein.

02. Brief facts of the case are that the appellant while serving as constable in police department, was proceeded against on the charges of absence and was ultimately dismissed from service vide order dated 21-02-2009. Feeling aggrieved, the appellant filed departmental appeal dated 20-03-2009, which was not responded. Subsequent appeal was submitted to respondent No 2, which was rejected vide order dated 12-03-2018, hence the instant service appeal with

ATTESTED

Signature
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

prayers that the Impugned orders dated 21-02-2009 and 12-03-2018 may be set aside and the appellant may be re-instated in service with all back benefits.

03. Learned counsel for the appellant has contended that the appellant was dismissed from service on the charges of absence but absence of the appellant was not willful but was due to compelling reason of terrorism; that a large number of police personnel had deserted their jobs due to threats of Taliban, who were again re-instated in service vide orders dated 30-11-2010, 15-03-2017 and 09-08-2017, but case of the appellant was not considered positively; that this Tribunal in numerous cases has already granted relief to the similarly placed employees and the appellant is also requesting for the same treatment under the principle of consistency; that absence of the appellant was not willful, which does not constitute gross misconduct and the penalty so awarded is harsh, which does not commensurate with gravity of the guilt; that the Impugned order was issued with retrospective effect, which is void ab initio; that no codal formalities were fulfilled and the appellant has not been treated in accordance with law, hence his rights secured under the Constitution has badly been violated.

04. Learned Deputy District Attorney for the respondents has contended that the appellant was proceeded against on the charges of willful absence from duty, therefore proper departmental proceedings were initiated against him, which culminated into his removal from service under RSO 2000; that the appellant file departmental appeal with a considerable delay, which was rejected being barred by time; that numerous other officials were re-instated into service but every case has its own merits, whereas the appellant was awarded punishment for his own conduct; that final show cause notice was also served at his home address, but the appellant did not turn up, hence he was proceeded in absentia.

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

ATTESTED

K. S. SINGH
Secretary
Punjab

06. Placed before us is case of a police constable, who alongwith many other police personnel had deserted their jobs in the wake of insurgency. Police department had constituted a committee for cases of desertion and keeping in view humanitarian aspect, re-instated such personnel into service in large number. Placed on record is a notification dated 30-11-2010, where 253 similarly placed employees had been re-instated on the recommendation of the committee constituted for the purpose. Vide another order dated 07-02-2012, batch of another 12 employees had been re-instated in service. Yet another order dated 15-03-2017 would show that similarly placed employee had been re-instated upon his revision petition on the ground of length of his service and cause of terrorism. Other cases of similar nature are available on record, which would suggest that the provincial government had taken a lenient view keeping in view the peculiar circumstances in the area at that particular time. Even this tribunal has already granted relief in similar nature cases under the principle of consistency. Appellant is also one among those, who had deserted his job due to threats from terrorists. Situation at that particular time was so perturb, as how to proceed such large number of cases of desertion, for which publications were made in newspapers, hence the proceedings so conducted in such like cases were not in accordance with law. In the instant case no regular inquiry was conducted, nor any charge sheet/statement of allegation was served upon the appellant and the appellant was condemned unheard and which shows that the appellant was summarily proceeded without adhering to the method prescribed in law.


07. We are also mindful of the question of limitation, but since the impugned order was passed without proper legal process and when an adverse order is passed without fulfilling the legal formalities, such order is void and no limitation runs against void order. Still another reason exists for condonation of delay that the impugned order was issued with retrospective effect being void ab initio.


ATTESTED


 J. K. MINER
 Member, Peshawar
 Service Tribunal
 Peshawar

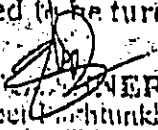
In view of the situation mentioned above and keeping in view the principle of consistency, we are inclined to partially accept the instant appeal as well as the connected service appeal by converting the major penalty of dismissal from service into minor penalty of stoppage of increments for two years. The intervening period is treated as leave without pay. Respondents however are at liberty to conduct de-novo inquiry as per mandate of law, if they so desire. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
24.01.2022


(AHMAD SUETAN TAREEN)
CHAIRMAN


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

Certified true copy


CLERK
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 20-4-22
Number of Words 1600
Copying Fee 20/-
Urgent 1
Total 18/-
Name of Applicant ---
Date of Completion of Copy 21-4-22
Date of Delivery of Copy 21-4-22

33

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No: 508/2018

Date of Institution ... 11.04.2018

Date of Decision ... 24.01.2022



Muhammad Ayub S/o Sher Ali Khan R/o Navay Kalay Mingora Swat, Ex-Constable
No 1460, PS, Imam Dhery, Swat (Appellant)

VERSUS

District Police Officer, Swat and others.

(Respondents)

Arbab Saiful Kamal,
Advocates

For Appellant

Asif Masood Ali Shah,
Deputy District Attorney

For respondents

*Para 5
New report
Page 9*

AMMAD SULTAN TAREEN
ATTIQ-UR-REHMAN WAZIR

CHAIRMAN
MEMBER (EXECUTIVE)

JUDGMENT

ATTIQ-UR-REHMAN WAZIR MEMBER (E): Brief facts of the case are that the appellant while serving as Constable in Police Department was proceeded against on the charges of absence from duty and was ultimately dismissed from service vide order dated 21-02-2009. Feeling aggrieved, the appellant filed departmental appeal dated 20-03-2009, which was rejected vide order dated 18-09-2017. The appellant filed revision petition dated 27-09-2017, which was also rejected vide order dated 03-10-2017 communicated to appellant on 20-03-2018, hence the instant service appeal with prayers that the impugned orders dated 21-02-2009, 18-09-2017 and 03-10-2017 may be set aside and the appellant may be re-instated in service with all back benefits.

*R.S. I
- 10/1*


ATTESTED
[Signature]
SECRETARY
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

02. Learned counsel for the appellants has contended that the appellant has not been treated in accordance with law, hence his rights secured under the Constitution has badly been violated; that the impugned order is against law, facts and norms of natural justice, therefore not tenable and liable to be set aside; that absence of the appellant was not willful, but was due to compelling reason of terrorism in the area and which does not constitute gross misconduct entailing major penalty of dismissal, that the penalty so awarded is harsh, which does not commensurate with gravity of the guilt; that the appellant has been discriminated as similarly placed employees were re-instated but case of the appellant was not considered.

Learned Deputy District Attorney for the respondents has contended that the appellant willfully absented himself from lawful duty and did not turn up despite repeated summons; that the appellant while posted at Imam Dheri check post Police Station Kanjo absented himself without permission of the competent authority vide daily diary No. 11 dated 17-10-2008; that the appellant was issued charge sheet/statement of allegation and proper inquiry was conducted; that the appellant was summoned repeatedly but he did not turn up, hence he was proceeded ex-parte; that after fulfillment of all codal formalities, the appellant was awarded with major punishment of dismissal from service vide order dated 2-02-2009; that the appellant filed departmental appeal with delay of more than seven year, which was considered but was rejected vide order dated 11-09-2017 being barred by time.

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

05. Placed before us is case of a police constable, who alongwith many other police personnel had deserted their jobs in the wake of insurgency in Malakand division and particularly in District Swat. Police department had constituted a committee for cases of desertion and taking humanitarian view, re-instated such

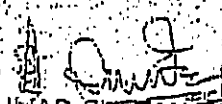
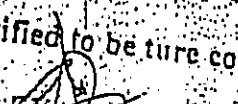
ATTESTED

Deputy District Attorney

personnel into service in large number. Placed on record is a notification dated 30-11-2010, where 253 similarly placed employees had been re-instated on the recommendation of the committee constituted for the purpose. Vide another order dated 07-02-2012, batch of another 12 employees had been re-instated in service. Yet another order dated 15-03-2017 would show that similarly placed employee had been re-instated upon his revision petition on the ground of length of his service and threats from Taliban. Other cases of similar nature are available on record, which would suggest that the provincial government had taken a lenient view keeping in view the peculiar circumstances in the area at that particular time. Even this tribunal has already granted relief in similar nature cases on the principle of consistency. Appellant is also one among those, who had deserted his job due to threats from terrorists. Coupled with this are defects in the departmental proceedings, which has not been conducted as per mandate of law, as the appellant in case of willful absence was required to be proceeded under general law i.e. Rule-9 of E&D Rules, 2011. Regular inquiry is also must before imposition of major punishment of dismissal from service, which also was not conducted.

06. In view of the situation mentioned above and keeping in view the principle of consistency, we are inclined to partially accept the instant appeal by converting the major penalty of removal from service into minor penalty of stoppage of increments for two years. The intervening period is treated as leave without pay. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
24.01.2022

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 (AHMAD SULTAN TAREEN) CHAIRMAN	 (ATIQU-UR-REHMAN WAZIR) MEMBER (E)
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Khyber Pakhtunkhwa
Service Tribunal
Peshawar

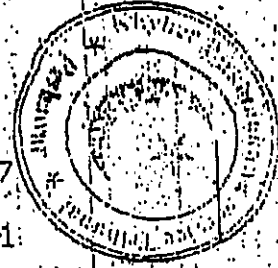
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BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR.

Service Appeal No: 1420/2017

Date of Institution: 13.12.2017

Date of Decision: 07.12.2021



Asrnat Ullah S/O. Zarwall Khan, R/O Zahid Abad Township, Bannu,
Ex-Constable No. 1381, Police Station, Township, Bannu.

... (Appellant)

VERSUS

District Police Officer, Bannu and two others.

(Respondents)

MR. ARBAB SAIF-UL-KAMAL,
Advocate

For appellant.

MR. NOOR ZAMAN KHATTAK,
District Attorney

For respondents.

MR. AHMAD SULTAN TAREEN
MR. SALAH-UD-DIN

CHAIRMAN
MEMBER (JUDICIAL)

JUDGMENT:

SALAH-UD-DIN, MEMBER:-

Precise facts forming the background of the instant service appeal are that the appellant while serving as Constable in Police Station Township District Bannu, was proceeded against departmentally on the allegations of his absence from duty and was dismissed from service vide order dated 30.12.2009. The departmental appeal of the appellant was disposed by the Regional Police Officer vide order dated 18.10.2017 with the remarks as seen and filed. The appellant then submitted revision petition to the Inspector General of Police Khyber Pakhtunkhwa Peshawar, which was rejected on

ATTESTED


Salah-ud-Din
Member (Judicial)


03.11.2017 and intimation was conveyed to the appellant through cell phone on 14.11.2017, hence the instant service appeal.

2. Notices were issued to the respondents, who submitted their comments, wherein they refuted the assertions made by the appellant in his appeal.

3. Learned counsel for the appellant has contended that the absence of the appellant from duty was not willful rather he was unable to attend his duty due to severe illness; that the prescriptions regarding illness of the appellant were handed over to the departmental Authority, however the appellate Authority did not consider the plea of the appellant and decided the departmental appeal in a cursory manner; that no charge sheet or statement of allegations as well as final show-cause notice was issued to the appellant and whole of the proceedings were conducted at the back of the appellant without affording him any opportunity of self defense or personal hearing; that the appellant was dismissed from service vide order dated 30.12.2009 with retrospective effect from 24.10.2008, therefore, the impugned order is void ab-initio, hence no limitation would run against the same; that the charge sheet as well as statement of allegations and final show-cause notice was not at all served upon the appellant and even no publication regarding the alleged absence of the appellant was made in the newspaper; that the impugned order being wrong and illegal may be set-aside and the appellant may be reinstated into service with all back benefits. Reliance was placed on 2019 SCMR 648 and 2000 SCMR 75 as well as judgment dated 07.12.2017 passed by this Tribunal in Service Appeal No. 967/2016.

4. On the other hand, learned District Attorney for the respondents has contended that the appellant remained absent from duty without leave or seeking permission of the competent Authority, therefore, disciplinary action was taken against him; that charge sheet as well as statement of allegations were issued to the appellant, however he did not

ATTESTED


Secretary
Tribunal

bother to attend the inquiry proceedings; that on completion of the inquiry, final show-cause notice was issued to the appellant, however he failed to submit the reply of the same, therefore, he has rightly been awarded the punishment of dismissal from service; that the departmental appeal of the appellant was time barred, therefore, his service appeal is not maintainable; that the inquiry proceedings were conducted by complying all legal and codal formalities, therefore, the impugned orders may be kept intact and the appeal in hand may be dismissed with costs.

5. We have heard the arguments of learned counsel for the appellant as well as learned District Attorney for the respondents and have perused the record.

6. A perusal of the record would show that disciplinary action was taken against the appellant on the allegations that he absented himself from duty with effect from 24/10/2008 without any leave or permission from the competent Authority. Charge sheet as well as statement of allegations were issued to the appellant and DSP Headquarter Bannu was appointed as inquiry officer for conducting inquiry against the appellant under Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000. Nothing is available on the record which could show that the charge sheet, statement of allegations as well as final show-cause notice were served upon the appellant. The respondents did not comply the relevant codal formalities for serving of charge sheet, statement of allegations as well as final show-cause notice upon the appellant, therefore, the ex-parte action taken against the appellant by depriving him of self defense and personal hearing is void ab-initio and nullity in the eye of law.

7. Moreover, the appellant agitated in his departmental appeal that he has not been treated in accordance with law and that his absence was not willful, rather he was unable to attend his duty being suffering from severe illness of jaundice. The appellate Authority, however, dismissed the appeal in a cursory manner without considering the point agitated by the

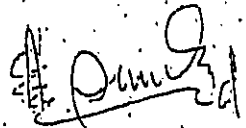
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M. ANJUM
 District Attorney
 Bannu

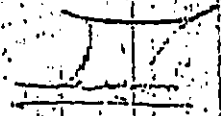
appellant in his appeal. In these circumstances, in order to meet the ends of justice, conducting of de-novo inquiry into the matter is necessary.

8. In light of the above discussion, the appeal in hand is allowed by setting aside the impugned orders and the appellant is reinstated in service with the directions to the respondents to conduct de-novo inquiry in accordance with relevant law/rules within a period of 60 days of receipt of copy of this judgment. The issue of back benefits shall be subject to final outcome of de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
07.12.2021

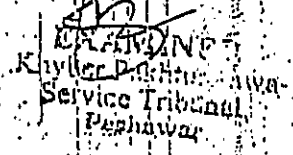


(AHMAD SULTAN TAREEN)
CHAIRMAN



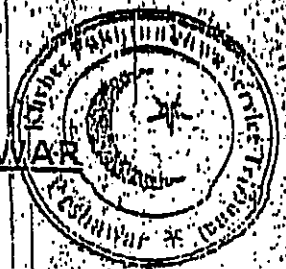
(SALAH-UD-DIN)
MEMBER (JUDICIAL)

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Khayal D. Khan, JWA
Service Tribunal
Peshawar

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BEFORE KPK SERVICE TRIBUNAL PESHAWAR

S.A No. 571 / 2018

Aamir Shah S/O. Sufi Ali Shah,
R/o Shelkhan Kohat,
Ex-Constable. No. 388,
Police Line: Kohat

Case No. 548
Date: 12-4-2018

Appellant

VERSUS

1. District Police Officer, Kohat.
2. Regional Police Office,
Kohat Region Kohat
3. Provincial Police Officer,
KP, Peshawar.

Respondents

⇐=>⇐=>⇐=>⇐=>⇐=>

APPEAL U/S 4 OF SERVICE TRIBUNAL ACT, 1974
AGAINST O.B NO. 885 DATED 01-12-2011 OF R. NO.
01 WHEREBY APPELLANT WAS DISMISSED FROM
SERVICE RETROSPECTIVELY OR OFFICE ORDER NO.
2400 / EC DATED 07-03-2018 OF R. NO. 02
WHEREBY REPRESENTATION OF APPELLANT WAS
FILED OR OFFICE ORDER NO. S / 1265 DATED 03-04-
2018 OF R. NO. 03 WHEREBY REPRESENTATION OF
APPELLANT WAS FILED.

Filed on 12/4/18

⇐=>⇐=>⇐=>⇐=>⇐=>

Respectfully Sheweth;

ATTESTED

[Signature]
CHIEF CLERK
KPK SERVICE TRIBUNAL
PESHAWAR

Filed on 12/4/18

1. That appellant was enlisted in service in the year 2008 as Constable and served the department till the date of removal from service.
2. That appellant was deputed to PTC, Hangu for training in the year 2008 and qualified the same.

FILED

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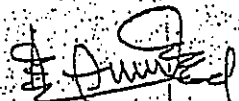
ORDER
24.01.2022


Learned counsel for the appellant present: Mr. Asif Masood Ali
Shah, Deputy District Attorney for respondents present: Arguments heard
and record perused.




Vide our detailed judgment of today, placed on file of Service Appeal bearing No. 498/2018 titled "Rashid Ahmad Versus District Police Officer, Swat and one another", we are inclined to partially accept the instant service appeal by converting the major penalty of dismissal from service into minor penalty of stoppage of increments for two years. The intervening period is treated as leave without pay. Respondents however are at liberty to conduct de-novo inquiry as per mandate of law, if they so desire. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
24.01.2022


(AHMAD SULTAN TAREEN)
CHAIRMAN


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

Date of Presentation of Application 20/4/22
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Service Tribunal
Peshawar

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BEFORE KPK SERVICE TRIBUNAL PESHAWAR

S.A No. 499 / 2018

Rashid Ahmad S/O Sher Zada,
R/o Village Kokaral, Swat,
Ex-Constable No-1834,
District Police Swat.

Chief Officer Peshawar
Service Tribunal

Case No. 524

Date 10-4-2018

Appellant

VERSUS

1. District Police Officer, Swat.
2. Regional Police Officer,
Malakand, at Sajdu Sharif
Swat.

Respondents

◁=>◁=>◁=>◁=>

APPEAL U/S 4 OF SERVICE TRIBUNAL ACT, 1974
AGAINST O.B. NO. 28, DATED 21-02-2009 OF R. NO.
01 WHEREBY APPELLANT WAS DISMISSED FROM
SERVICE FROM 29-10-2008 OR OFFICE ORDER NO.
2503/E DATED 21-03-2018 OF R. NO. 02, WHEREBY
REPRESENTATION OF APPELLANT WAS FILED:

Directly day
Registrar

◁=>◁=>◁=>◁=>

10/4/18 Respectfully Sheweth:

1. That appellant was enlisted in service in the year 2008 as Constable and served the department till the date of dismissal from service.
2. That appellant was deputed to PTC Hangu for training in the year 2008 which was qualified by him.
3. That on 29-10-2008, appellant was posted at PTC Hangu, but absented from duty vide message dated 27-11-2008.

ATTESTED

Registrar
Khyber Pakhtunkhwa
Service Tribunal

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR



Service Appeal No. 498/2018

Date of Institution ... 10.04.2018

Date of Decision ... 24.01.2022

Rashid Ahmad S/o Sher Zada, R/o Village Kokarai, Swat, Ex-Constable No. 1834,
District Police Swat. (Appellant)

VERSUS

District Police Officer, Swat and others. (Respondents)

Arbab Salful Kamal,
Advocate

For Appellant

Asif Masood Ali Shah,
Deputy District Attorney

For respondents

AHMAD SULTAN TAREEN ...
ATIQU-UR-REHMAN WAZIR ...

CHAIRMAN
MEMBER (EXECUTIVE)


JUDGMENT

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

This single judgment shall dispose of the instant service appeal as well as the connected Service Appeal bearing No. 571/2018 titled "Aamir Shah Versus District Police Officer, Kohat and two others", as common question of law and facts are involved therein.

02. Brief facts of the case are that the appellant while serving as constable in police department, was proceeded against on the charges of absence and was ultimately dismissed from service vide order dated 21-02-2009. Feeling aggrieved, the appellant filed departmental appeal dated 20-03-2009, which was not responded. Subsequent appeal was submitted to respondent No 2, which was rejected vide order dated 12-03-2018, hence the instant service appeal with

ATTESTED


CHAIRMAN
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

prayers that the impugned orders dated 21-02-2009 and 12-03-2018 may be set aside and the appellant may be re-instated in service with all back benefits.

03. Learned counsel for the appellant has contended that the appellant was dismissed from service on the charges of absence but absence of the appellant was not willful but was due to compelling reason of terrorism; that a large number of police personnel had deserted their jobs due to threats of Taliban, who were again re-instated in service vide orders dated 30-11-2010, 15-03-2017 and 09-08-2017, but case of the appellant was not considered positively; that this Tribunal in numerous cases has already granted relief to the similarly placed employees and the appellant is also requesting for the same treatment under the principle of consistency; that absence of the appellant was not willful, which does not constitute gross misconduct and the penalty so awarded is harsh, which does not commensurate with gravity of the guilt; that the impugned order was issued with retrospective effect, which is void ab initio; that no codal formalities were fulfilled and the appellant has not been treated in accordance with law, hence his rights secured under the Constitution has badly been violated.

04. Learned Deputy District Attorney for the respondents has contended that the appellant was proceeded against on the charges of willful absence from duty, therefore proper departmental proceedings were initiated against him, which culminated into his removal from service under RSO 2000; that the appellant file departmental appeal with a considerable delay, which was rejected being barred by time; that numerous other officials were re-instated into service but every case has its own merits, whereas the appellant was awarded punishment for his own conduct; that final show cause notice was also served at his home address, but the appellant did not turn up, hence he was proceeded in absentia.

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

ATTESTED


Secretary
Public Relations
Government of Punjab
Lahore

45

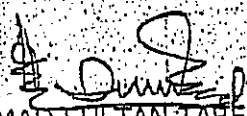
06. Placed before us is case of a police constable, who alongwith many other police personnel had deserted their jobs in the wake of insurgency. Police department had constituted a committee for cases of desertion and keeping in view humanitarian aspect, re-instated such personnel into service in large number. Placed on record is a notification dated 30-11-2010, where 253 similarly placed employees had been re-instated on the recommendation of the committee constituted for the purpose. Vide another order dated 07-02-2012, batch of another 12 employees had been re-instated in service. Yet another order dated 15-03-2017 would show that similarly placed employee had been re-instated upon his revision petition on the ground of length of his service and cause of terrorism. Other cases of similar nature are available on record, which would suggest that the provincial government had taken a lenient view keeping in view the peculiar circumstances in the area at that particular time. Even this tribunal has already granted relief in similar nature cases under the principle of consistency. Appellant is also one among those, who had deserted his job due to threats from terrorists. Situation at that particular time was so perturb, as how to proceed such large number of cases of desertion, for which publications were made in newspapers, hence the proceedings so conducted in such like cases were not in accordance with law. In the instant case no regular inquiry was conducted, nor any charge sheet/statement of allegation was served upon the appellant and the appellant was condemned unheard and which shows that the appellant was summarily proceeded without adhering to the method prescribed in law.


07. We are also mindful of the question of limitation, but since the impugned order was passed without proper legal process and when an adverse order is passed without fulfilling the legal formalities, such order is void and no limitation runs against void order. Still another reason exists for condonation of delay that the impugned order was issued with retrospective effect being void ab initio.

ATTESTED
 [Signature]
 JUDGE

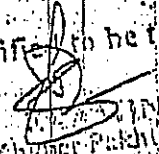
08. In view of the situation mentioned above and keeping in view the principle of consistency, we are inclined to partially accept the instant appeal as well as the connected service appeal by converting the major penalty of dismissal from service into minor penalty of stoppage of increments for two years. The intervening period is treated as leave without pay. Respondents however are at liberty to conduct de-novo inquiry as per mandate of law, if they so desire. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
24.01.2022


(AHMAD SULTAN TARJEEN)
CHAIRMAN


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

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Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

S.A No. _____/2023

Asmat Ali.

Versus

DPO & Another

**APPLICATION FOR CONDONATION OF
DELAY, IF ANY.**


Respectfully Sheweth:

1. That the subject appeal is filed in this hon'able Tribunal.
2. That the delay was made due to Insurgency in Swat Valley was in clutches of the miscreants and it was well in the knowledge of everyone that they were ruling the area and the Government Machinery was totally collapsed and a part from the same, the orders were not served upon.
3. That the apex Supreme Court held time and again in its judgments that vested rights shall not be killed on the score of limitation and cases be decided on merit.

It is, therefore, most humbly requested that delay, if any, be condoned in the best interest of justice.

Applicant.

Through


Saadullah Khan Marwat
Advocate

Dated: 08-03-2023

AFFIDAVIT

I, Asmat Ali S/O Raza Khan, R/O Kukari Babuzai, Swat. Ex-Constable No. 1049, Police Line Swat (Appellant), do hereby solemnly affirm and declare that contents of **Service Appeal** are true and correct to the best of my knowledge and belief.


DEPONENT

