

23.05.2023

Learned counsel for the appellant present. Mr. Asad Ali Khan, Assistant Advocate General alongwith Mr. Tanveer Khan, DSP (Legal) for the respondents present.

Representative of the respondents submitted copy of office order bearing No. 2518-23/E dated 18.05.2023 whereby the major punishment of removal from service imposed upon the appellant was converted into compulsory retirement w.e.f 02.08.2018 and period of his absence and intervening period during which he remained out of service was treated as leave without pay for the purpose of bridging up his service gap purely on conditional basis. It was further held that his payment of pensionary benefits will be decided subject to the outcome depending before on file and copy of the same handed over to learned counsel for the appellant. Respondents are directed to submit final and conclusive implementation report on the next date. Adjourned. To come up for final implementation report on 24.07.2023 before S.B at camp court

L. Parcha Peshi

GOVERNMENT
18-05-2023
Camp Court Abbottabad

Kamranullah

(Muhammad Akbar Khan)
Member (E)
Camp Court Abbottabad



OFFICE OF THE DISTRICT POLICE
OFFICER ABBOTTABAD

Ph: No: 0992-9310026, Fx: No: 0992-9310025

atdpolice@gmail.com

ORDER

Ex-Constable Shakeel Ahmad No. 1384 of this district while posted at Police Post POF Havelian absented himself without sufficient cause of leave from 01-03-2017 to 05-06-2018 (17 months) without any leave or permission. He was proceeded against departmentally during which, allegations leveled against him were proved, hence he was awarded major punishment of "Dismissal from Service" by the then District Police Officer, Abbottabad vide OB No.220 dated 02-08-2018. He preferred a Departmental Appeal before the then W/RPO Hazara which was filed by the Appellate Authority vide his office Order No. 2293/PA, dated 08-07-2019. He again preferred a Revision Petition before the then W/IGP KPK which was also rejected by the Appellate Board vide Order No. 169-176/20, dated 06-01-2020 and his penalty of dismissal from service was converted into removal from service. Consequently, he instituted a Service Appeal No.822/2020 before Honorable Service Tribunal, Khyber Pakhtunkhwa, Peshawar Camp Court, Abbottabad wherein Honorable Service Tribunal partially allowed his appeal and major punishment of removal from service awarded to him was converted into compulsory retirement from service with effect from 02-08-2018 while his period of absence and intervening period for which he remained out of service was treated as leave without pay for the purpose of bridging up his service gap.

On receipt of Court Order, the case was taken up with competent authority for filing of CPLA before the August Supreme Court of Pakistan against the order dated 20-07-2022 passed by the Honorable Service Tribunal KPK, Peshawar, Camp Court Abbottabad in Service Appeal No.822/2020, vide this office letter No.4819/Legal, dated 07-09-2022. During meeting of Scrutiny Committee of Law Department, Govt: of KPK Peshawar held on 14-09-2022, his case was declared fit for lodging of CPLA and this office was intimated vide Letter No.4532/Legal, dated 15-09-2022 received from the office of SP Courts and Litigation CPO, Peshawar. The competent authority was again addressed vide this office Memo: No.1173, dated 01-03-2023 for seeking guidance regarding implementation of judgement of Honorable Service Tribunal on conditional basis. In response to which, the competent authority vide his office Memo: No. 1328/Legal, dated 11-04-2023 has directed to implement the judgement dated 20-07-2022 of Honorable Service Tribunal conditionally and provisionally subject to outcome of CPLA in order to avoid any botheration before Honorable Tribunal.

In pursuance to the judgement dated 20-07-2022 passed by the Honorable Service Tribunal KP Peshawar in Service Appeal No.822/2020 and in the light of directions received from the competent authority vide above quoted reference, the major punishment of removal from service awarded to the above named Ex-Official is hereby converted into compulsory retirement w.e.f. 02-08-2018 while his period of absence and intervening period for which he remained out of service is hereby treated as leave without pay for the purpose of bridging up his service gap purely on conditional basis. However, his payment of pensionary benefits will be decided subject to the outcome of CPLA which is subjudiced before the August Supreme Court of Pakistan.

District Police Officer
Abbottabad.

No. 2518-23/E dated 18 / 05 / 2023.

Copy for information and necessary action to the:-

1. District Accounts Officer, Abbottabad.
2. DSP Legal, Abbottabad.
3. Pay Officer & Pension Clerk, DPO Office Abbottabad.
4. OASI & OB Clerk, DPO Office Abbottabad


District Police Officer
Abbottabad

29.03.2023

Learned counsel for the petitioner present. Mr. Asif Masood Ali Shah, Deputy District Attorney alongwith Mr. Tanveer, DSP for the respondents present.

Implementation report not submitted. Representative of the respondents requested for time to submit implementation report. Adjourned. To come up for implementation report on 23.05.2023 before S.B at camp court, Abbottabad. Parcha Peshi given to the parties.

**SCANNED
KPST
Peshawar**

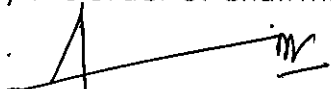


(Muhammad Akbar Khan)
Member (E)
Camp Court Abbottabad

Form- A

FORM OF ORDER SHEET

Court of _____

Execution Petition No. 36/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	17.01.2023	<p>The execution petition of Mr. Shakeel Ahmad submitted today by Mr. Muhammad Arshad Khan Tanoli Advocate. It is fixed for implementation report before touring Single Bench at A.Abad on <u>21-02-2023</u>. Original file be requisitioned. AAG has noted the next date. The respondents be issued notices to submit compliance/implementation report on the date fixed.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>
	21 st Feb, 2023	<p>None for the petitioner present. Mr. Muhammad Adeel Butt, Addl: AG alongwith Mr. Shamriaz Khan, ASI for respondents present.</p> <p>Representative of the respondents is directed to submit proper implementation report on the next date positively. To come up for implementation report on 29.03.2023 before S.B at camp court Abbottabad.</p> <p> (Kalim Arshad Khan) Chairman Camp Court Abbottabad</p>

SCANNED
KPST
Peshawar

SCANNED
KPST
Peshawar

BEFORE THE SERVICE TRIBUNAL,
KHYBER PAKHTUNKHWA, PESHAWAR

Execution Petition No. 36/2023

C.M No. _____-A/2023

In

Service Appeal No. 220/2018

Shakeel Ahmed, Ex-constable No. 509, Village Langra, Post Office Havelian, District, Abbottabad.

...APPELLANT

VERSUS

Inspector General of Police & others.

...RESPONDENTS

APPLICATION

INDEX

S.#	Description	Page No.	Annexure
1.	Application alongwith affidavit	1 to 3	
2.	Copy of dismissal and removal from service order	4- 10	"A"
3.	Copy of service appeal No. 822/20	5-13	"B"
4.	Copy of judgment dated 20.07.2022 of this Honourable Tribunal	14-19	"C"
5.	Copy of application of applicant/petitioner	20-	"D"
6.	Copy of notes of filing of CPLA before Apex Court	21	"E"

Shakeel

...APPELLANT

Through;

Dated: _____/2023

(Muhammad Arshad Khan Tanoli)
Advocate Supreme Court of Pakistan

0346.9588583

BEFORE THE SERVICE TRIBUNAL,
KHYBER PAKHTUNKHWA, PESHAWAR

Execution Petition No. 36/2023

C.M No. _____ -A/2023

In

Service Appeal No. 220/2018

Shakeel Ahmed, Ex-constable No. 509, Village Langra, Post Office
Havelian, District, Abbottabad.

...APPELLANT

VERSUS

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. RPO Hazara Region, Abbottabad.
3. District Police Officer, Abbottabad.

....RESPONDENTS

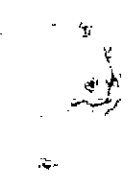
SERVICE APPEAL

APPLICATION FOR IMPLEMENTATION OF
JUDGMENT DATED 20.07.2022 OF THIS
HONOURABLE TRIBUNAL, WHEREIN, THE
MAJOR PENALTY OF REMOVAL FROM SERVICE
OF APPELLANT/ APPLICANT HAS BEEN
CONVERTED INTO COMPULSORY RETIREMENT
W.E.F 02.08.2022 BUT THE JUDGMENT OF THIS
HONOURABLE TRIBUNAL HAS NOT SO FAR
BEEN IMPLEMENTED BY THE RESPONDENTS,
WHICH AMOUNTS TO THE CONTEMPT OF THE
HONOURABLE TRIBUNAL.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 3035

Dated 17-1-2023



Respectfully Sheweth;-

1. That the applicant/ appellant was removed from service w.e.f 02.08.2018. Copy of dismissal and removal from service order is annexed as Annexure "A".
2. That the applicant/ appellant challenged impugned removal from service order before this Honourable Tribunal vide service Appeal No. 822/20. Copy of service appeal No. 822/20 is annexed as Annexure "B".
3. That, this Honourable Tribunal has converted removal from service order of the applicant/ appellant into compulsory retirement with effect from 08.02.2018 vide judgment dated 20.07.2022. Copy of judgment dated 20.07.2022 of this Honourable Tribunal is annexed as Annexure "C".
4. That the applicant/ appellant produced the judgment of this Honourable Tribunal before the respondents for issuance of compulsory retirement order as well as grant of pension and commutation alongwith all the fringe benefits. Copy of application of applicant/ petitioner is annexed as Annexure "D".
5. That the respondent with malafide intentions has not so far implemented judgment of this Honourable Tribunal in letter and spirit which amounts to the contempt of the Honourable Tribunal.

6. That, respondents instead of issuance of compulsory retirement order and grant of pension to the applicant/ appellant, filed CPLA before the Apex Court but they could not get suspension order of the judgment of this Honourable Tribunal. Copy of notes of filing of CPLA before Apex Court is annexed as Annexure "E".

In view of the above, it is prayed that respondents may be directed to issue compulsory retirement order of the applicant/ appellant and thereafter grant pension and commutation forthwith, failing which, contempt of court proceedings may be initiated against the respondents to punish them.

Shakil

...APPLICANT/ APPELLANT

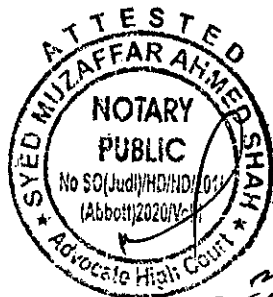
Dated; _____/2023

Through;

(Muhammad Arshad Khan Tanoli)
Advocate Supreme Court of Pakistan
at Abbottabad

AFFIDAVIT:

I, *Shakeel Ahmed, Ex-constable No. 509, Village Langra, Post Office Havelian, District, Abbottabad* do hereby solemnly affirm and declare that the contents of foregoing application are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Tribunal.



16/11/23

Shakil

DEPONENT

Annex-A

509 P-4

ORDER

This office order will dispose of the departmental enquiry against Constable Shakeel No.509. He while posted at Police Post POF Havelian absented himself vide Daily Dairy No. 08 dated 01-03-2017 to till date (17 months) without any leave or permission.

He was issued Charge Sheet along with statement of allegations Mr. Muhammad Ishtaiq DSP Cantt., Abbottabad was appointed as Enquiry Officer He conducted proper departmental enquiry against the delinquent officer and recorder statements of all concerned. After conducting proper departmental enquiry, the Enquiry Officer submitted his findings, wherein allegations have been proved and recommended for major punishment.

Therefore, in exercise of the powers vested in the undersigned Police Disciplinary Rules-1975,(amended 2014), I, Abbas Majced Khan Marwat PSP, Distric Police Officer, Abbottabad as a competent authority, am constrained to award him the punishment of Dismissal from service with immediate effect.

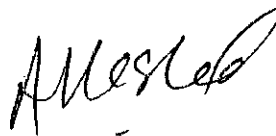
Order announced:


District Police Officer
Abbottabad

No.3203-4/PA-3-8-2018

Copy to:

1. The Establishment Assistant.
2. The Pay Officer, DPO Office Abbottabad.
3. The OASI DPO Office alongwith complete Enquiry File containing 21 pages for completion of record



Muhammad Arshad Khan Tanoli
Advocate Supreme Court of Pakistan
Office No. 107, Minerva Plaza Adjacent to
District Bar, Abbottabad

OB 110-290

2. 8.18

Annex - B

BEFORE THE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA PESHAWAR

P-5

Service Appeal No. _____/2020

Shakeel Ahmed Ex-Constable No.509, Village Langra, P.O Havelian,
Tehsil Havelian, District Abbottabad.

...APPELLANT

VERSUS

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. District Police Officer, Abbottabad.

....RESPONDENTS

Attested

Muhammad Arshad Khan Tanoli
Advocate Supreme Court of Pakistan
Office # 33 Jinnah Plaza Adjacent to
Distt Bar, Abbottabad

SERVICE APPEAL UNDER SECTION 4 OF
SERVICE TRIBUNAL ACT, 1974, FOR
DECLARATION TO THE EFFECT THAT
MOTHER OF THE APPELLANT IS
SUFFERING FROM MULTIFARIOUS
DISEASES AND THE APPELLANT APPLIED
FOR LEAVE BUT THE RESPONDENTS DID
NOT ALLOW THE LEAVE, THE
CIRCUMSTANCES WERE BEYOND THE
CONTROL OF THE APPELLANT AS A

HUMAN BEING. THEREFORE, THE APPELLANT COULD NOT SERVE THE DEPARTMENT W.E.F 01/03/2017 TO 08/02/2018, HENCE, RESPONDENT NO.4 DISMISSED THE APPELLANT FROM SERVICE ON 02/08/2018 WHICH WAS RECEIVED BY THE APPELLANT ON 17/10/2018. THE IMPUGNED DISMISSAL ORDER DATED 02/08/2018 AND IMPUGNED ORDER DATED 08/07/2019 AND ORDER NO. S/169/20 DATED 06/01/2020 ARE ILLEGAL, WITHOUT FOLLOWING THE PRESCRIBED PROCEDURE AND THE SAME ARE LIABLE TO BE SET-ASIDE.

Attested

Muhammad Arshad Khan Jan
Advocate Supreme Court of Pakistan
Office # 33 Jinnah Plaza Adjacent to
Distt. Bar Abbottabad

PRAYER: ON ACCEPTANCE OF THE INSTANT SERVICE APPEAL, THE IMPUGNED DISMISSAL ORDER DATED 02/08/2018 AND REJECTION LETTER OF RESPONDENT NO.2 & 1 DATED 08/07/2019 AND 06/01/2020 ARE LIABLE TO BE SET-ASIDE. ANY OTHER RELIEF WHICH THIS HONOURABLE TRIBUNAL DEEM APPROPRIATE IN THE CIRCUMSTANCES OF

P-7

THE CASE MAY ALSO BE GRANTED TO THE
APPELLANT.

Respectfully Sheweth:-

The facts forming the background of service appeal are
arrayed as under:-

1. That the appellant got appointment as Constable on 24/01/1995 and served the department for 23 years.
2. That mother of the appellant is suffering from multifarious diseases. Besides, the mother of the appellant met a serious accident which resulted into imputation of her right leg. Therefore, the appellant was to look after his ailing mother. As a result, he applied for leave to the respondent No.3 but the application of the appellant was not entertained which is available in the record of respondent No.3. Copy of medical documents of the mother of the appellant are attached as Annexure "A".

Attested

Muhammad Waseem Khan Tanoli
Advocate Supreme Court of Pakistan
Office # 33 Jinnah Plaza Adjacent to
District Bar Abbottabad

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3. That respondent No. 3 without proper inquiry and considering the genuine plea of the appellant dismissed him from service vide order dated 02/08/2018 which was received by the appellant on 17/10/2018. Copy of dismissal order dated 02/08/2018 is attached as Annexure "B".
4. That the appellant filed departmental appeal against the impugned dismissal order on 31/10/2018 which was rejected by respondent No.3 on 08/07/2019. Copy of departmental appeal and rejection order dated 08/07/2019 are attached as Annexure "C" & "D".
5. That the respondent No.1 after partially accepting the review petition of the appellant converted the dismissal order into removal from service vide order dated 06/01/2020. Copy of order dated 06/01/2020 is attached as Annexure "E".
6. That the appellant applied to respondent No.3 for provision of attested copies of service documents/ records for the purposes of filing of service appeal before this Honourable tribunal vide application dated 29/01/2020 but the respondent No.3 only

Attested

Muhammad Arshad Khan Tanoli
Advocate Supreme Court of Pakistan
Office # 33 Jinnah Plaza Adjacent to
Distt Bar, Abbottabad

provided only copy of charge sheet and statement of allegation. Copies of charge sheet, statement of allegations and application of the appellant dated 29/01/2020 are attached as Annexure "F".

7. That the instant service appeal is filed inter-alia on the following grounds:-

GROUND:-

- a) That the impugned removal from service order dated 02/08/2018 and its impugned rejection orders dated 08/07/2019 and 06/01/2020 are liable to be set-aside because no prescribed procedure as per law has been adopted by the competent authorities.
- b) That total service of the appellant in police Department is near about 23 years and the absence of the appellant was not willful but beyond his control as a human being. Respondents' department was supposed to grant leave for the purposes of looking after of his ailing mother. It is further submitted that respondents' department did not

Attested

Muhammad Arshad Khan Tanoli
Advocate Supreme Court of Pakistan
Office # 33 Jinnah Plaza Adjacent to
Distt Bar Abbottabad

conduct proper inquiry and in a cursory manner dismissed the appellant from service which was converted into removal from service by respondent vide order dated 06/01/2020.

c) That it is also submitted that though the appellant was called by the authority for personal hearing but no opportunity of personal hearing was provided by any authority. Therefore, dismissal from service order dated 02/08/2018 and conversion of dismissal order into removal from service order dated 06/01/2020 are liable to be set-aside.

Attested

Muhammad Arshad Khan Tanoli
Advocate Supreme Court of Pakistan
Office # 33 Jinnah Plaza Adjacent to
Distt. Bar Abbottabad

d) That the appellant has been dismissed from service without following the prescribed procedure. Therefore, dismissal of the appellant is liable to be set-aside.

e) That the appellant caused no loss to the public exchequer and did not receive salary for the period of absence. Hence, department was suppose to either reinstate the appellant

P- 11

in service are convert the punishment into compulsory retirement keeping in view 23 years service of the appellant.

- f) That the appellant has no source of income and he is unable to arrange bread and butter for his ailing mother and dependent family members.
- g) That this tribunal should not fold up of its hands while granting relief to the aggrieved appellant as the appellant committed no offence or misconduct because the circumstances were beyond the control of the appellant as a human being.
- h) That there is no other prompt, efficacious remedy, available to the appellant except the instant appeal.

Musied

Musied
Muhammad Arshad Khan Tanoli
Advocate Supreme Court of Pakistan
Office # 33 Jinnah Plaza Adjacent to
Distt. Bar, Abbottabad

It is, therefore, humbly prayed that on acceptance of the instant service appeal, the impugned dismissal order dated 02/08/2018 and rejection letter of respondent

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No.2 & 1 dated 08/07/2019 and 06/01/2020 are liable to be set-aside. Any other relief which this Honourable tribunal deem appropriate in the circumstances of the case may also be granted to the appellant.

stakel

...APPELLANT

Dated: 2/2 /2020

Through

(Signature)
(Muhammad Arshad Khan Tanoli)
Advocate High Court, Abbottabad
Distt. Bar Abbottabad

VERIFICATION:-

Verified on oath that the contents of foregoing service appeal are true and correct to the best of our knowledge and belief and nothing has been concealed therein from this Honourable tribunal.

stakel

...APPELLANT

Arshad

Muhammad Arshad Khan Tanoli
Advocate Supreme Court of Pakistan
Office # 33 Jinnah Plaza Adjacent to
Distt. Bar Abbottabad

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

Service Appeal No. _____/2020

Shakeel Ahmed Ex-Constable No.509, Village Langra, P.O Havelian, Tehsil Havelian, District Abbottabad.

...APPELLANT

VERSUS

Inspector General of Police, Khyber Pakhtunkhwa, Peshawar & others.

....RESPONDENTS

SERVICE APPEAL

AFFIDAVIT

Attested
Muhammad Arshad Khan Tanoli
Advocate Supreme Court of Pakistan
Office #37 Durrani Plaza Adjacent to
Distt. Bar Abbottabad

Shakeel Ahmed Ex-Constable No.509, Village Langra, P.O Havelian, Tehsil Havelian, District Abbottabad, do hereby solemnly affirm and declare that the contents of foregoing service appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.



Shakeel

DEPONENT

03/2/2020

Annex C

P-14

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

Khyber Pakhtunkhwa
Service Tribunal

983

Case No.

Dated 04-02-2020

Service Appeal No. 822 /2020



Shakeel Ahmed Ex-Constable No.509, Village Langra, P.O Havelian,
Tehsil Havelian, District Abbottabad.

...APPELLANT

VERSUS

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. District Police Officer, Abbottabad.

....RESPONDENTS

SERVICE APPEAL UNDER SECTION 4 OF
SERVICE TRIBUNAL ACT, 1974, FOR
DECLARATION TO THE EFFECT THAT
MOTHER OF THE APPELLANT IS
SUFFERING FROM MULTIFARIOUS
DISEASES AND THE APPELLANT APPLIED
FOR LEAVE BUT THE RESPONDENTS DID
NOT ALLOW THE LEAVE. THE
CIRCUMSTANCES WERE BEYOND THE
CONTROL OF THE APPELLANT AS A

Filed to-day

Registrar


04/02/2020

ATTESTED

Khyber Pakhtunkhwa
Service Tribunal
Peshawar

HUMAN BEING. THEREFORE, THE APPELLANT COULD NOT SERVE THE DEPARTMENT W.E.F 01/03/2017 TO 08/02/2018, HENCE, RESPONDENT NO.4 DISMISSED THE APPELLANT FROM SERVICE ON 02/08/2018 WHICH WAS RECEIVED BY THE APPELLANT ON 17/10/2018. THE IMPUGNED DISMISSAL ORDER DATED 02/08/2018 AND IMPUGNED ORDER DATED 08/07/2019 AND ORDER NO. S/169/20 DATED 06/01/2020 ARE ILLEGAL, WITHOUT FOLLOWING THE PRESCRIBED PROCEDURE AND THE SAME ARE LIABLE TO BE SET-ASIDE.

PRAYER: ON ACCEPTANCE OF THE INSTANT SERVICE APPEAL, THE IMPUGNED DISMISSAL ORDER DATED 02/08/2018 AND REJECTION LETTER OF RESPONDENT NO.2 & 1 DATED 08/07/2019 AND 06/01/2020 ARE LIABLE TO BE SET-ASIDE. ANY OTHER RELIEF WHICH THIS HONOURABLE TRIBUNAL DEEM APPROPRIATE IN THE CIRCUMSTANCES OF

ATTESTED

 EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal

P-16

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR
AT CAMP COURT ABBOTTABAD

Service Appeal No. 822/2020

Date of Institution ... 04.02.2020

Date of Decision ... 20.07.2022



Shakeel Ahmed Ex-Constable No. 509, Village Langra, P.O Havelian,
Tehsil & Havelian, District Abbottabad.

... (Appellant)

VERSUS

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

... (Respondents)

MR. MUHAMMAD ARSHAD KHAN TANOLI,
Advocate

--- For appellant.

MR. NOOR ZAMAN KHATTAK,
District Attorney

--- For respondents.

MR. KALIM ARSHAD KHAN
MR. SALAH-UD-DIN

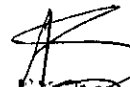
--- CHAIRMAN
--- MEMBER (JUDICIAL)

JUDGMENT:

SALAH-UD-DIN, MEMBER:- Brief facts giving rise to filing of instant service appeal are that, disciplinary action was taken against the appellant on the ground of his absence from duty. On conclusion of the inquiry, the appellant was dismissed from service vide O.B No. 220 dated 02.08.2018. The departmental appeal of the appellant was declined vide order dated 08.07.2019. The appellant then preferred revision petition before Inspector General of Police Khyber Pakhtunkhwa Peshawar. Vide order dated 06.01.2020 issued from the office of Inspector General of Police Khyber Pakhtunkhwa Peshawar, the penalty of dismissal from

J. I.

ATTESTED


Khyber Pakhtunkhwa
Service Tribunal
Peshawar


service was converted into removal from service, hence the instant service appeal.

2. Respondents contested the appeal by way of submitting para-wise comments, wherein they refuted the assertions raised by the appellant in his appeal.

3. Learned counsel for the appellant has argued that as the mother of the appellant was seriously ill, therefore, the appellant remained busy in her look after and was thus unable to attend his duty; that the absence of the appellant from duty could not be termed as willful because he was busy in look after of his ailing mother; that the appellant had submitted an application for leave, however the same was not entertained; that neither any show-cause notice nor any charge sheet or statement of allegations was issued to the appellant and whole of the proceedings were conducted at his back; that the appellant has not been provided any opportunity of self defense or personal hearing and he was condemned unheard; that no regular inquiry was conducted in the matter and the appellant was awarded major penalty of removal from service; that the appellant has served the department for almost 23 years and in the given circumstances, the punishment awarded to the appellant is very harsh.

4. On the other hand, learned District Attorney for the respondents has contended that the appellant was in habit of remaining absence from duty without any sanctioned leave or permission of the competent Authority and previously too, he was dismissed from service on the allegations of absence from duty; that the appellant was issued show-cause notice as well as charge sheet and statement of allegations, however he did not even bother to appear before the inquiry officer; that in his departmental appeal, the appellant had not raised the plea of illness of his mother, therefore, the appellant could not legally raise such plea before this Tribunal; that the impugned orders were

ATTESTED


SECRETARY
SERVICE TRIBUNAL


passed after observing all legal and codal formalities, therefore the same may be kept maintained and the appellant in hand may be dismissed with cost.

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

6. The appellant was proceeded against departmentally on the allegations of his absence from duty with effect from 01.03.2017, who did not turn up for duty and was thus dismissed from service vide order dated 02.08.2018. Charge sheet as well as statement of allegations was personally served upon the appellant, however he did not bother to attend the inquiry proceedings. When the appellant was deliberately avoiding to join inquiry proceedings, the only option with the inquiry officer was to proceed against him ex-parte. The only justification raised by the appellant regarding his absence from duty was the illness of his mother, which plea was not at all taken by him in his departmental appeal. The appellant being a member of a disciplined force was required to had at least apply for availing leave but he opted to remain absent from duty without any sanctioned leave or permission of the competent Authority. Previously too, the appellant had been dismissed from service on the ground of absence from duty. The appellant has remained absent from duty for considerable long period without any sanctioned leave or permission of the competent Authority, which amounts to misconduct

7. While going through the record, we have observed that the appellant was enlisted as Constable on 24.01.1995 and was having a service of almost of 23 years at his credit at the time of his dismissal from service, which was later on later on converted into removal from service. Keeping in view the length of service rendered by the appellant, we are of the view that the penalty so awarded to him is quite harsh and safe administration of justice would justify the

ATTESTED


K. KARNER
Member (Karnar)
Service Tribunal
Karnar

modification of his penalty of removal from service into compulsory retirement from service.

8. Consequent upon the above discussion, the appeal in hand is partially allowed and the major penalty of removal from service so awarded to the appellant is converted into compulsory retirement with effect from 02.08.2018. The intervening period of his absence from duty may be treated as leave without pay for the purpose of bridging up the service gap of the appellant. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
20.07.2022

(SALAH-UD-DIN)
MEMBER (JUDICIAL)
CAMP COURT ABBOTTABAD

(KALIM ARSHAD KHAN)
CHAIRMAN
CAMP COURT ABBOTTABAD

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 13-9-22
 Number of Words 2450
 Copying Fee 20/-
 Urgent 4/-
 Total 30/-
 Name of Complainant _____
 Date of Completion of Copy 13-9-22
 Date of Delivery of Copy 13-9-22

خدمت جناب اعلیٰ - آئی - جی صاحب حضورہ ڈوشن اس آباد

Annex - D

P-20

درخواست عیاد دیے جانے پشن سال

جناب عالی :- درخواست کے زیل میں ہے

جی کہ سال کے زیر مدغم تھا جسکو
قیمہ عیاد کے $\frac{92}{18}$ کو عیادوں سے
Dismissed کر دیا گیا

یہ پشن نے ادر کے طرف سے پشن کا میں نے
عدا نے فارغ کر دیا اس کے بعد پشن کے سوال
سرنوئل میں اس دور کی جوہ پشن کے حق میں
سنبھرتا نظر نہیں ہے
یہ پشن کو ریموٹ پشن سیر رہی

سنبھارت پشن سال کو پشن
مناہت فرما کا وارڈ

۱۱ نوم 2019
22

شیخ الحدیث پشن عمر 509 - 509
نہیں وہاں ملے اس کے
لکھنؤ

Annex- E

P-21

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

CPLA NO. _____/2022

Provincial Police Officer, Khyber Pakhtunkhwa,
Peshawar & others

-----PETITIONERS

VERSUS

Shakeel Ahmed

-----RESPONDENT

NOTICE

To

Advocate-on-Record
Supreme Court of Pakistan
Office No. 33, Wazir Plaza
District Bar, Abbottabad

Shakeel Ahmed Ex-Constable No.509, Village Langra P.O
Havelian, Tehsil Havelian, District Abbottabad

Please take notice Registered A/D post to the effect that I am filing
CPLA with stay application in the above titled case against the judgment of
the Learned Khyber Pakhtunkhwa Service Tribunal, Camp Court
Abbottabad dated 20/07/2022 in Service Appeal No.822/2020 before the
Supreme Court of Pakistan in its Branch Registry at Peshawar.

Alleged

Farid Ullah Kundi
Advocate-on-Record
Supreme Court of Pakistan
Office No. 33, Wazir Plaza Adjacent to
District Bar, Abbottabad

(Farid Ullah Kundi)
Advocate-on-Record
Supreme Court of Pakistan
For Government

کورٹ فیس

وکالت نامہ

Service Tribunal KPK. Peshawar

Shakeel Ahmed Inspection General

Appellant

Application

نوعیت مقدمہ:

باعث تحریر آئندہ

مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی و جواب دی کل کاروائی متعلقہ آن مقام

Adv. M. Arshad Khan Tanoli Asst of Parliament

کو وکیل مقرر کر کے اقرار کرتا ہوں کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا نیز وکیل

صاحب موصوف کو کرنے راضی رہا ہے۔

کرنے اجراء وصولی چیک روپیہ وغیرہ کی ذمہ داری اپنے سر لے کر لے گا اور بصورت

ضرورت مقدمہ مذکور کی کل یا کسی جزوی کاروائی کے لئے کسی اور وکیل یا مختار صاحب قانونی کو اپنے ہمراہ اپنی

بجائے تقرر کا اختیار بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا

ساختہ پرداختہ مجھ کو منظور قبول ہوگا۔ دوران مقدمہ جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب ہوگا اس کے

مستحق وکیل صاحب ہوں گے۔ نیز بقایا رقم وصول کرنے کا بھی اختیار ہوگا۔ اگر کوئی پیشی مقام دورہ پر ہوا

حد سے باہر ہو تو وکیل صاحب موصوف پابند ہوں گے کہ پیروی مقدمہ مذکورہ کریں اور اگر مختار مقرر کردہ میں

کوئی جزو بقایا ہو تو وکیل صاحب موصوف مقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواست بمراد

استجارت نالاش بیضہ مفلسی کے دائرہ کرنے اور اس کی پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔

لہذا وکالت نامہ تحریر کیا تاکہ سند رہے۔

المقوم:

بمقام:

Accepted

M. Arshad Khan Tanoli

Advocate Supreme Court Pakistan
Office # 33 Jinnah Plaza Adjacent to
Distt. Bar, Abbottabad