

BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER
PAKHUNKHWA PESHAWAR

S.A No.1611/2023

Abid Ali

VERSUS

Govt of KPK & Others



APPLICATION FOR HERRING THE INSTANT
SERVICE APPEAL BEFORE THE HON'BLE
SERVICE TRIBUNAL BENCH PESHAWAR
INSTEAD OF CAME COURT SWAT.

Respectfully Sheweth:

1. That the titled Service Appeal is pending adjudication before this Honorable Tribunal and which no date of hearing has been fixed so for.
2. That similar nature service appeal No.1289/23 has already been fixed before the Hon'ble Bench Peshawar which has been admitted on 09.06.2023. (Copy of order sheet is attached)
4. That there is no legal bar for acceptance for the instant application.

It is, therefore, respectfully prayed that the application of the applicant may kindly accepted as prayed for.

Dated 23.08.2023

Through

Abid Ali
Appellant/Applicant

Kabir Ullah Khattak
&

Rozda Khan
Advocates High Court

Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

APPEAL NO. 1289 /2023

Saeed khan s/o Amir Azam khan r/o Mubari Kheil Totakkan Tehsil Batkheil
District Malakand

..... APPELLANT

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Home and Tribal Affairs Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The District police Officer, District Malakand
- 4- The Deputy Commissioner/Commandant Malakand Levies, District Malakand

..... RESPONDENTS

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ISSUANCE OF THE IMPUGNED NOTIFICATION DATED 22-03-2022 WHEREBY THE APPELLANT BEING A CIVIL SERVANT IS BEING PRE MATURELY RETIRED FROM SERVICE ON REACHING 33 YEARS OF SERVICE AND AGAINST THE INACTION OF THE RESPONDENTS BY NOT DECIDING THE DEPARTMENTAL APPEAL WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

08/06/23
PRAYER:

That on acceptance of this service appeal the impugned notification dated 22-03-2022, be declared as unconstitutional, void ab-initio and ineffective upon the rights of the appellant. That the respondents may very kindly be directed not to retire the appellant pre maturely on reaching 33 years of service. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

12/6/23





Learned counsel for the appellant present.
Preliminary arguments heard.

Learned counsel for the appellant argued that the appellant was serving as Naib Subedar (BPS-11) in Levies Force, Malakand and as per schedule IV of Federal Levies Force (Amended) Service Rules, 2013, the prescribed length of service for retirement was 32 years service or 03 years service as Naib Subedar or 54 years of age whichever is earlier. He next argued that after the 25th Constitutional Amendment, through Act namely Khyber Pakhtunkhwa Levies Force Act, 2019, the levies personnel were absorbed in the Khyber Pakhtunkhwa Police Department and vide Notification dated 29.05.2020 rank of the appellant was re-designated as Assistant Sub-Inspector (BPS-11). He further argued that vide impugned Notification dated 22.03.2022 in Schedule III, length of service/age for retirement has been prescribed as 30 years service or seven years service as Naib Subedar or sixty years age whichever is earlier; that the appellant has now attained the status of Civil Servant and under Section 3 of the Khyber Pakhtunkhwa Civil Servants Act, 1973, the prescribed age for retirement of a civil servant is sixty years, while as per pay roll the date of birth of the appellant is 09.12.1970 and is entitled to serve till 08.12.2030. The appellant filed departmental appeal on 04.03.2023, which was not responded, therefore, the appellant filed Writ Petition No. 1375-M/2022 before the

Certified to be true copy

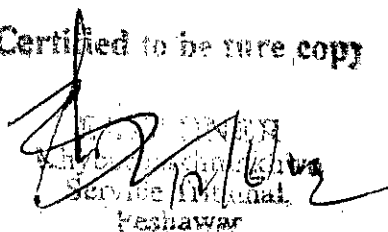
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Honble Peshawar High Court, in which the Hon'ble High Court granted status-quo order on 07.12.2022, however the said writ petition was dismissed as withdrawn vide order dated 07.06.2023.

Points raised need consideration, hence the appeal in hand is admitted to regular hearing subject to all legal and valid objections. The appellant is directed to deposit security fee within 10 days. Respondents be summoned through TCS, the expenses of which shall be deposited by the appellant within three days. To come up for submission of written reply/comments on 17.07.2023 before the S.B. Parcha Peshi given to learned counsel for the appellant.

Alongwith memorandum of appeal, the appellant has also filed an application for suspension of the impugned Notification dated 22.03.2022 and restraining the respondents from retiring the appellant from his service, till the final decision of the instant appeal. Notice of the said application also be issued to the respondents for the date fixed. In the meanwhile, operation of impugned order dated 22.03.2022 shall remain suspended to the extent of appellant till the date fixed, if not already acted upon.

Certified to be true copy (Salah-Ud-Din)
Member (J)


Service Manual
Peshawar

Naeem Amin

Date of Presentation of Application 12/6/23
Number of Words 27
Copying Fee 10/-
Urgent SP
Total 13/-
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Date of Copying 12/6/23
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