


FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 611/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	05.09.2023	<p>The implementation petition of Mr. Zeeshan Ahmad submitted today by Mr. Muhammad Arshad Tanoli Advocate. It is fixed for implementation report before touring Single Bench at A.Abad on _____ . Original file be requisitioned. AAG has noted the next date.</p> <p>By the order of Chairman  REGISTRAR</p>

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**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL CAMP COURT, ABBOTTABAD**

Execution petition no. 611/2023

CM No. _____ -A/2023

Zeeshan Ahmad Junior Clerk Sub Jail Dassu Kohistan.

...PETITIONER

VERSUS

Inspector General of Prison, Khyber Pakhtunkhwa, Peshawar and another.

...RESPONDENTS

APPLICATION

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Zeeshan Ahmad
...APPLICANT /PETITIONER

Dated: _____/2023

Through

Muhammad Arshad Khan T.
Advocate High Court,
Office No. 33 Adjacent
Distt Bar Abbottabad
(Muhammad Arshad Khan Tanoli)
Advocate High Court, Abbottabad
&

Muhammad Ibrahim Khan
(Muhammad Ibrahim Khan)
Advocate High Court, Abbottabad

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL CAMP COURT, ABBOTTABAD**

Execution petition No. 611/2023

CM No. _____ -A/2023

Zeeshan Ahmad Junior Clerk Sub Jail Dassu Kohistan.

...PETITIONER

Khyber Pakhtunkhwa
Service Tribunal

VERSUS

Diary No. 7361

1. Inspector General of Prison, Khyber Pakhtunkhwa, Peshawar.
2. Superintendent Sub Jail, Dassu, Kohistan.

Dated 5/9/23

...RESPONDENTS

SERVICE APPEAL

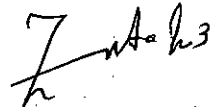
APPLICATION FOR IMPLEMENTATION OF JUDGMENT DATED 16/11/2022 IN SERVICE APPEAL NO. 864/2019. RESPONDENT VIDE ORDER DATED 10/02/2023, THE PUNISHMENT OF REDUCTION TO LOWER STAGE IN TIME SCALE FOR PERIOD OF 5 YEARS WAS SET-ASIDE BUT SENIORITY AS WELL AS PROMOTION IS NOT BEING GRANTED TO THE APPLICANT/APPELLANT WHICH IS THE VIOLATION OF THE JUDGMENT DATED 16/11/2022 OF THIS HONOURABLE TRIBUNAL.

Respectfully Sheweth:-

1. That the applicant/appellant filed service appeal No. 864/2019 regarding illegal reduction to the Lower Stage in time scale for a period of 05 years. Copy of Service Appeal No. 864/2019 is attached as Annexure "A".
2. That, this Honourable tribunal accepted service appeal of the appellant/applicant vide judgment dated 16/11/2022 and set-aside the impugned order dated 04/11/2022. Copy of judgment dated 16/11/2022 of this Honourable Tribunal is attached as Annexure "B".
3. That after passing of judgment dated 16/11/2022 by this Honourable Tribunal, respondent did not bother to implement judgment dated 16/11/2022 in its true spirit. As a result, the applicant/appellant filed implementation petition before this Honourable Tribunal. Following this, respondent No. 1 implemented the judgment vide order dated 10/02/2023 and the punishment of reduction to Lower stage in the time scale for a period of 05 years was set-aside. Copy of order dated 10/02/2023 is attached as Annexure "C".

4. That once, the punishment of reduction to Lower Stage in a time scale for a period of 05 years is set-aside then promotion as well as restoration of seniority as a matter of right is to be allowed to the applicant/appellant but the respondents' department are neither rectifying the seniority list nor promoting the petitioner which is clear violation of judgment dated 16/11/2022 of this Honourable tribunal which amounts to contempt of court.

In view of the above, it is prayed that respondent may be directed to allow the seniority of the petitioner and place him on the right place and thereafter promote the appellant/applicant to the next higher rank designation failing which contempt of court proceedings may be initiated to punish the respondent.



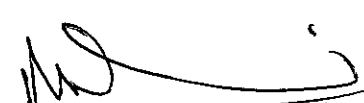
...APPLICANT /PETITIONER

Through

Dated: _____/2023



(Muhammad Arshad Khan Tanoli)
Advocate High Court, Abbottabad
&



(Muhammad Ibrahim Khan)
Advocate High Court, Abbottabad

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL CAMP COURT, ABBOTTABAD**

CM No. _____ -A/2023

Zeeshan Ahmad Junior Clerk Sub Jail Dassu Kohistan.

...PETITIONER

VERSUS

Inspector General of Prison, Khyber Pakhtunkhwa, Peshawar and another.

...RESPONDENTS

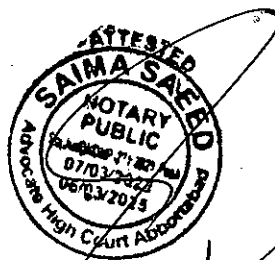
APPLICATION

AFFIDAVIT

I, *Zeeshan Ahmad Junior Clerk Sub Jail Dassu Kohistan*, 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 Court.

Zeeshan Ahmad

DEPONENT



30/08/23

Annex-A

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

P-5

Appeal No: ___/2019

Zeeshan Ahmed, Junior Clerk, Sub Jail, Dassu, Kohistan
.....Appellant

Versus

1. The Secretary Home & Tribal Affairs Department, Khyber Pakhtunkhwa, Peshawar.
 2. Inspector General of Prisons, KPK, Peshawar.
 3. The Superintendant Sub Jail, Dassu, Kohistan.
-Respondents

APPEAL UNDER SECTION 4 OF KPK SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ORDER DATED 04-11-2015 VIDE ANNEXURE 'A' WHEREBY, THE MAJOR PENALTY OF REDUCTION TO A LOWER STAGE IN A TIME SCALE FOR A PERIOD OF FIVE YEARS HAS BEEN IMPOSED UPON THE APPELLANT AND THE PERIOD OF HIS ABSENCE FROM 1-2-2015 TO 15-3-2015 (43 DAYS) HAS BEEN TREATED AS LEAVE WITHOUT PAY.

Attested

محمد آرزاد خان، ترمول
ایگسٹو ہائی کورٹ
دفتر نمبر 33 ایجنٹ
ڈسٹریکٹ ایبٹ آباد

PRAYER:

ON ACCEPTANCE OF APPEAL, THE ABOVE REFERRED IMPUGNED ORDER DATED 04-11-2015 VIDE ANNEXURE "A" MAY BE SET ASIDE, SO THAT THE APPELLANT'S ORIGINAL PAY SCALE IS RESTORED INCLUDING ALL BACK BENEFITS.

Respectfully Sheweth:-

Brief facts leading to the instant appeal are as under:-

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1. That the appellant is a regular civil servant in BPS-11 in the cadre of Junior Clerk in Prison Department and is presently serving in Sub Jail Dassu, Kohistan.
2. That the appellant has married with Sadaf Jehan D/o Ghulam Nabi R/o House No. 488, Street No.2, Janat Nigar Garh, Mughal Pura, Lahore. (Copy is at Annexure "B") and an affidavit by Sadaf Jehan is at Annexure "C") that she has married with the appellant with her wish and free will and the statement of Nikah Registrar is also at Annexure "D".
3. That Ghulam Nabi S/o Qasim Ali (father of Sadaf Jehan) has lodged FIR No: 905 dated 05/11/2014 U/S 365/376 PPC, P.S Mughal Pura, Lahore vide Annexure "E" that the appellant has snatched his daughter Sadaf Jehan from him and has illegally married with her.
4. That the appellant due to involvement in a bogus case has remained absent from duty for 43 days and on its basis, the major penalty of "Reduction to a Lower stage in time scale for a period of five years" has been awarded to the appellant attached to Sub-Jail Dassu, Kohistan for his absence from duty. The period from 01/02/2015 to 15/03/2015 (43 days) is hereby treated as leave without pay vide impugned order dated 04/11/2015 vide annexure "A".
5. That the appellant has been acquitted from charge by Additional Session Judge Lahore on 19/02/2019 vide Annexure "F".
6. That the appellant has filed departmental appeal to respondent No.2 vide Annexure "G" and 90 days have been elapsed and no response has been received so far and hence this appeal inter-alia on the following grounds:-

Attested

Muhammad Arshad
Advocate High Court
Office No 33 Adjacent to
Distt Bar Abbottabad

15

por

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GROUND:

- A. That Sadaf Jehan D/o Ghulam Nabi, Caste Gujjar R/o House No. 488, Street No.1, Kachi Abadi, Mughal Pura, Lahore has married with the appellant by her free will as revealed from Nikah Nama and her affidavit vide Annexure "B. & C" respectively, but her father on malafide contention has lodged an FIR vide annexure "E" against the appellant that he has illegally married with his daughter Sadaf Jehan and the trial was conducted and the appellant has been acquitted as revealed from annexure "F". So the impugned order dated 24/11/2015 vide annexure "A" is illegal and is liable to be set aside because all acquittals are honourable and there can be no acquittal which may be treated as dishonourable.
- B. That the appellant has illegally been kept away from duty for 43 days for attending the Court in Lahore and so he is entitled to all back benefits.
- C. That the appellant's absence period has been treated as leave without pay and so he cannot be punished under the law.
- D. That the impugned order dated 04/11/2015 vide annexure "A" is illegal, malafide, without jurisdiction and without lawful authority and is liable to be set aside.
- E. That the appellant seeks leave to rely on additional grounds at the time of arguments.

It is, therefore, prayed that on acceptance of appeal, the impugned order dated 04/11/2015 at annexure "A" may be set aside and the appellant's original pay scale may be restored and the pay for the period from 01/02/2015 to 15/03/2015 may also be paid to him.

Dated: 01/07/2019

Z. A. 3
Appellant

Through

ash
Aslam Khan Khattak
Advocate, Peshawar.

Attested

W. W.
Office No. 33 Adjacent to
Distt Bar Abbottabad

Annex-B

Service Appeal No.864/2019 titled "Zeeshan Ahmad-vs-The Secretary Home & Tribal Affairs Department Khyber Pakhtunkhwa, Peshawar and other" decided on 16.11.2022 by Division Bench comprising Kalim Arshad Khan, Chairman, and Salah Ud Din, Member, Judicial, Khyber Pakhtunkhwa Service Tribunal, Camp Court Abbottabad.



**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR CAMP COURT ABBOTTABAD.**

BEFORE: KALIM ARSHAD KHAN ... CHAIRMAN
SALAH UD DIN ... MEMBER (Executive)

Service Appeal No.864/2019

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Zeeshan Ahmed, Junior Clerk, Sub Jail, Dassu Kohistan.
.....(Appellant)

Versus

1. The Secretary Home & Tribal Affairs Department, Khyber Pakhtunkhwa, Peshawar.
 2. Inspector General of Prisons, Khyber Pakhtunkhwa, Peshawar.
 3. The Superintendent Sub Jail, Dassu Kohistan
-(Respondents)

Present:

Mr. Arshad Khan Tanoli,
Advocate.....For appellant.

Muhammad Adeel Butt,
Additional Advocate General.....For respondents.

Date of Institution.....01.07.2019
Dates of Hearing.....16.11.2022
Date of Decision.....16.11.2022

APPEAL UNDER SECTION-4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 04.11.2015 VIDE ANNEXURE 'A' WHEREBY, THE MAJOR PENALTY OF REDUCTION TO A LOWER STAGE IN A TIME SCALE FOR A PERIOD OF FIVE YEARS HAS BEEN IMPOSED UPON THE APPELLANT AND THE PERIOD OF HIS ABSENCE FROM 01.02.2015 TO 15.03.2015 (43 DAYS) HAS BEEN TREATED AS LEAVE WITHOUT PAY.

ATTESTED

EXAMINED
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Page 1

Service Appeal Nos64/2019 titled "Zeeshan Ahmad-vs-The Secretary Home & Tribal Affairs Department, Khyber Pakhtunkhwa, Peshawar and other", decided on 16.11.2022, by Division Bench comprising Kalim Arshad Khan, Chairman, and Saïah Ud Din Member, Judicial, Khyber Pakhtunkhwa Service Tribunal, Camp Court Abbottabad.

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN.: The appellant is aggrieved of order dated 04.11.2015, whereby major penalty of reduction to a lower stage in a time scale for a period of five years was imposed upon him and the period of his absence from 01.02.2015 to 15.03.2015 (43 days) had been treated as leave without pay.

2. According to the appeal, the appellant was serving as Junior Clerk in the Prison Department and was in Sub-Jail Dassu, Kohistan; that because of his involvement in a criminal case, he remained absent from duty for 43 days, because of which he was awarded major penalty of reduction to a lower stage in a time scale for a period of five years and his absence period was treated as leave without pay vide impugned order dated 04.11.2015; that the appellant was acquitted from the charge by the learned Additional & Sessions Judge, Lahore on 19.02.2019 and he filed departmental appeal which was not responded within the statutory period, hence this appeal.

3. On receipt of the appeal and its admission to full hearing, the respondents were summoned, who, on putting appearance, contested the appeal by filing written reply raising therein numerous legal and factual objections. The defence setup was a total denial of the claim of the appellant.

ATTESTED

[Signature]
KALIM ARSHAD KHAN
CHAIRMAN
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
Abbottabad

[Signature]

4. We have heard learned counsel for the appellant and learned Additional Advocate General for the respondents.

5. The learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned Additional Advocate General controverted the same by supporting the impugned order.

6. The first moot point for determination before us was question of limitation but that had already been settled vide the admitting note dated 13.07.2021 in the following manner:-

"However, in the impugned order, the competent authority deviated from his own tentative decision and imposed major penalty of reduction to a lower stage in a time scale for a period of five years. Apart from the said major penalty, the period of absence of 43 days was also treated as leave without pay. The impugned order on its face, for the reasons of absence of formal charge sheet at the time of commencement of enquiry proceedings, and on account of deviation of the competent authority from its tentative decision of imposition of minor penalty indicated in the show cause notice, is likely to suffer from voidness, if not rebutted by sufficient material and justification by the respondents. Thus, there is uncertainty as to whether the question of limitation will have any bearing or not".

7. The only question remained before this Tribunal for determination is whether the impugned order of reduction to a lower stage in a time scale for a period of five years. It is in this respect observed that the very and only charge against the appellant in the statement of allegation was that he remained absent from duty w.e.f



ATTESTED

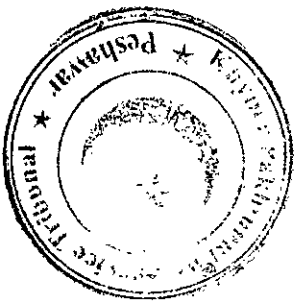

 KALIM ARSHAD KHAN
 CHAIRMAN
 KHYBER PAKHTUNKHWA
 SERVICE TRIBUNAL
 PESHAWAR

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Service Appeal No864/2019 titled "Zeeshan Ahmad-vs-The Secretary Home & Tribal Affairs Department, Khyber Pakhtunkhwa, Peshawar and other", decided on 16.11.2022 by Division Bench comprising Kalim Arshad Khan, Chairman, and Salah Ud Din, Member, Judicial, Khyber Pakhtunkhwa Service Tribunal, Camp Court Abbottabad

01.02.2015 to 15.03.2015 that is 43 days and period of absence of 43 days was treated as leave without pay. The competent authority had thus itself regularized the absence of the appellant by treating the same as leave without pay, therefore, there existed no legal justification for awarding the impugned penalty to the appellant. We, therefore, allow this appeal and set aside the impugned order dated 04.11.2015. Costs shall follow the event. Consign.

8. Pronounced in open Court at Abbottabad and given under our hands and the seal of the Tribunal on this 16th day of November, 2022.



KALIM ARSHAD KHAN
Chairman
Camp court Abbottabad

SALAH UD DIN
Member (Judicial)
Camp court Abbottabad

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 05/12/22

Number of Sheets 1000

Copying Fee 48/-

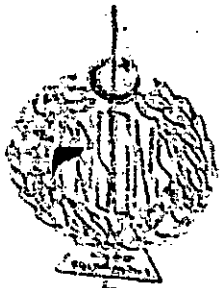
Urgent 48/-

Total 227/-

Name of Case _____

Date of Completion of Copy 05/12/22

Date of Delivery of Copy 05/12/22



ORDER

Annex-C

INSPECTORATE GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR
001-0210554
0210400

No. 11285-91
Date 10-11-2023

P-12

In pursuance of Khyber Pakhtunkhwa Service Tribunal Peshawar Camp Court
Abbottabad judgment dated 10-11-2023 in service appeal No. 004/2019 as well as order
sheet dated 22-02-2023 issued by chairman Khyber Pakhtunkhwa Service Tribunal
Peshawar Camp Court Abbottabad in execution petition No. 27/2023, the penalty of
"Reduction to lower stage in a time scale for a period of five years" awarded to
Mr. Zeeshan Ahmad, the then Junior Clerk presently posted at District Jail Mansohra as a
Senior Clerk vide this office order No. 44/20/2004/31778 dated 04-11-2018 is hereby set
aside conditionally, subject to final outcome of CPLA from the August Supreme Court of
Pakistan.

INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR

Endsl No. 11285-91

Copy of the above is forwarded to the:

1. Registrar Service Tribunal Khyber Pakhtunkhwa Peshawar for information.
2. Superintendent District Jail Mansohra for information and necessary action.
3. Superintendent Sub Jail Dattu Kohistan for information.
4. District Accounts Officer concerned for information.
5. Official concerned C/O Superintendent District Jail Mansohra for information.
6. Confidential Clerk for placing a copy of this order in C.R of the official concerned for record.
7. Personal file of the official concerned for record.

Attested

[Signature]
DEPUTY DIRECTOR (E)
INSPECTORATE GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR

Muhammad Arshad Khan
Advocate High Court
Office No 33 Adjacent to
Dist Bar Abbottabad

Better Copy Annexure "C"

INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR

091-9210534,
9210406

091-9213446

No. 11284

Dated: 10-09-2022

ORDER

In pursuance of Khyber Pakhtunkhwa Service Tribunal Peshawar Camp Court Abbottabad judgment dated 10-11-2022 in Service Appeal No.864/2016 as well as order sheet dated 22-02-2023 issued by Chairman Khyber Pakhtunkhwa Service Tribunal Peshawar Camp Court Abbottabad in execution petition No.27/2023, the penalty of **"Reduction To Lower Stage In A Time Scale For A Period Of Five Years"** awarded to Mr. Zeeshan Ahmad the then Junior Clerk presently posted at District Jail Mansehra as a Senior Clerk vide this office order No. 44/2/J-2004/31775 dated 04-11-2015 **is hereby set-aside conditionally**, subject to final outcome of CPLA from the August Supreme Court of Pakistan.

INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR

Endst: No.11285-91

Copy of the above is forwarded to the:

1. Registrar Service Tribunal Khyber Pakhtunkhwa Peshawar for information.
2. Superintendent District Jail Mansehra for information and necessary action.
3. Superintendent Sub Jail Dasso Kohistan for information.
4. District Accounts Officer concerned for information.
5. Official concerned C/O Superintendent District Jail Mansehra for information.
6. Confidential Clerk for placing a copy of this order in C.R of the official concerned for record.
7. Personal file of the official concerned for record.

-Sd-

DEPUTY DIRECTOR (E)
INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR

وکالت نامہ

کورٹ فیس

بعدالت Service Tribunal KPk Peshawar

عنوان: Inspector General نام Zeeshan Ahmad

مخانب: Petitioner

نوعیت مقدمہ: Application

باعث تحریر آنکہ

مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی و جواب دہی کل کاروائی متعلقہ آل مقام

Atel. Mahal Arshad Ulhan Tanoli Asc of Peshawar

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 نامہ و تقرر ثالث و فیصلہ برحلف و دینے اقبال دعویٰ اور بصورت دیگر ڈگری

کرانے اجراء وصولی چیک روپیہ و عرضی دعویٰ کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا 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 پر داختمہ مجھ کو منظور و 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 ہو یا

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 برآمد

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

لہذا وکالت نامہ تحریر کیا گیا تاکہ مندرجہ ہے۔

المقوم:

