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REGISTERED
No. C.A. 501/2023 - SCJ
SUPREME COURT OF PAKISTAN.

Islamabad, dated 31-8, 2023.

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From

The Registrar,
Supreme Court of Pakistan,
Islamabad.

To

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

Subject: CIVIL APPEAL NO. 501 OF 2023.

OUT OF

CIVIL PETITION NO. 318-P OF 2021.

Inspector General of Prisons Khyber Pakhtunkhwa,
Peshawar & others.

Versus

Sahib Nawaz.

On appeal from the Judgment/Order of the K.P.K., Service
Tribunal, Peshawar dated 22.03.2021, in S.A. No. 5681/2020.

Dear Sir,

I am directed to forward herewith a certified copy of the
Order/Judgment of this Court dated 12.05.2023, converting into appeal
the above cited civil petition, allowing and remanding the same, in the
terms stated therein, for information and necessary action.

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

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

Encl: Order:

Yours faithfully



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

84/23

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Mr. Justice Umar Ata Bandial, C.J.
Mr. Justice Athar Minallah

Civil Petition No.318-P of 2021
(Against the judgment dated
22.03.2021 of the K.P. Service Tribunal
Peshawar passed in Service Appeal
No.5681 of 2020)

Inspector General of Prisons Khyber Pakhtunkhwa,
Peshawar and others ... Petitioner(s)
Versus
Sahib Nawaz ... Respondent(s)
For the petitioner(s): Sultan Mazhar Sher, Addl. A.G. K.P.
For the respondent(s): In person.
Date of hearing: 12.05.2023

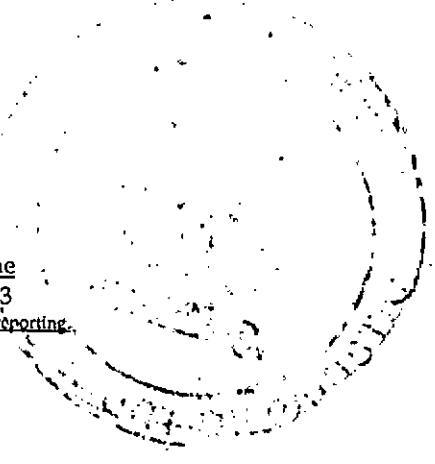
ORDER

Umar Ata Bandial, C.J.- The learned Additional Advocate General, K.P. has pointed out that in the impugned judgment the Tribunal has misread the record in assuming that the absence of the respondent from duty for a period of 33 days is justified because of his admission to the Police Hospital. He has adverted to the statement of the respondent dated 26.09.2019 recorded by the Inquiry Officer which indicates that the respondent had been advised bed-rest for only two days and not 33 days. The remaining period of his absence was not substantiated properly by the respondent before the Inquiry Officer. The second ground in the impugned order is that no punishment was awarded to the 14 Warders who were identically placed regarding their absence from duty. The documents on record, however, reflect that the said Warders had been subjected to withholding of their annual increment for one year. Consequently, the impugned judgment which sets aside the penalty imposed on the respondent is contrary to the record.

3. The submissions made by the learned Addl. A.G. have some merit. However, we consider it appropriate that the factual pleas taken before us ought to be examined by the K.P. Service Tribunal for the reason that we only consider a substantial question of law of public importance while hearing petitions under Article 212(3) of the Constitution. Resultantly, the impugned judgment is set aside. This petition is converted into appeal, allowed and remanded to the K. P. Service Tribunal for decision afresh after hearing the parties, in accordance with law.

Islamabad, the
12th May, 2023
Not approved for reporting.
M. Athar Minallah

23/5/23



S Athar Minallah HCT
S Athar Minallah
Court Associate
Supreme Court of Pakistan
Islamabad