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REGISTERED
No. C.P.463-P/2016 - SCJ
SUPREME COURT OF PAKISTAN

Islamabad, dated 28/8 2023

(S)
From The Registrar,
Supreme Court of Pakistan,
Islamabad.

Khyber Pakhtunkhwa
Service Tribunal

To The Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Diary No. _____

Date _____

Subject: **CIVIL PETITION NO. 463 - P OF 2016**

Govt. Of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and
another
Versus
Umar Hayat,

**On appeal from the Judgment/Order of the Khyber Pakhtunkhwa
Service Tribunal, Peshawar dated 03/06/2016 in Appeal.352/2013.**

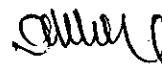
Dear Sir,

I am directed to enclose herewith a certified copy of the Order/Judgment
of this Court dated 22/09/2022 dismissing the above cited case in the terms stated
therein for information and further necessary action.

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

Encl: Order/Judgment:

Yours faithfully,



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

76/23

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

MR. JUSTICE UMAR ATA BANDIAL, CJ
MRS. JUSTICE AYESHA A. MALIK

C.P.463-P/2016

(Against the judgment dated 03.06.2016 passed
by KP Service Tribunal Peshawar in Service
Appeal No.352/2013)

Govt. Of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and another ...Petitioner(s)

Versus

Umar Hayat ...Respondent(s)

For the Petitioner(s) : Mr. Atif Ali Khan, Addl. AG KPK

For the Respondent(s) : Mr. Zulfikar Khalid Maluka, ASC

Date of Hearing : 22.09.2022

ORDER


UMAR ATA BANDIAL, CJ: The penalty order dated 19.07.2012 awards the punishment of "Removal from Service" on the respondent for wilful absence from duty with immediate effect.

Thereafter it observes as follows:

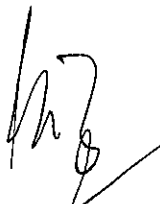
"The unauthorized absence from 01.05.2012 is treated as extraordinary leave (EOL) without pay and allowances."

2. The impugned order by the KPK Service Tribunal, Peshawar ("**Tribunal**") has considered that the penalty order condones the respondent's period of absence. Keeping the circumstances of the case in view, the Tribunal has converted the penalty to compulsory retirement. That relieves the respondent from being deprived of financial benefit on the termination of his service. Learned Addl. AG has argued that such relief is not

ATTESTED



Court Associate
Supreme Court of Pakistan
Islamabad

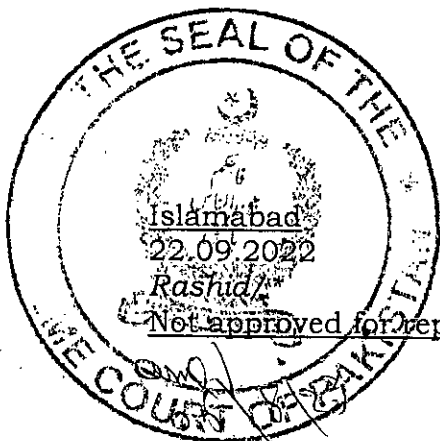


available where the punishment of removal from service as in the present case.

3. Heard. The impugned order of the Tribunal has made a correction in the penalty order by addressing an ambiguity in its terms. We do not find any grounds to interfere with the impugned judgment of the Tribunal.

4. For the foregoing reasons, this petition is dismissed and leave to appeal is refused.

Scd - - - - - HCJ
Scd - - - - - J



Not approved for reporting

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Court Associate
Supreme Court of Pakistan
Islamabad