

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

Misc: Application No. _____/2023

in

Service Appeal No. 733 /2023

Ameer Nawaz,
Ex-FC No.12
Police Force Kohat.....Appellant.

Versus

The Inspector General of Police & others.....Respondents.

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Through

Appellant

Ashraf Ali Khattak

Advocate,

Supreme Court of Pakistan

Dated:04/10/2023

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

Misc: Application No. _____/2023

in

Service Appeal No. 733 /2023

Khyber Pakhtunkhwa
Service Tribunal

D. 8082

D. 04/10/23

Ameer Nawaz,

Ex-FC No.12

Police Force Kohat.....Appellant.

Versus

1. The Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.
2. The Deputy Inspector General,
Kohat Region, Kohat.
3. The District Police Officer,
Kohat Region, Kohat.....Respondents.

Application for amendment in the pray portion of the appeal in the light of the order No. S/2116-22/23 dated Peshawar, the 28-08-2023 received on 04-09-2023, wherein appellant has been re-instated in service with immediate effect and the intervening period has been treated as leave without pay.

Amended pray:-

On acceptance of the service appeal, this Hon'ble Court may graciously be pleased to re-instate the appellant with effect from the date of dismissal i.e 22-12-2022 with all back benefits.

Respectfully Sheweth,

The facts given rise to the present service appeal are as under;

1. That appellant has submitted Revision Petition before the respondent No.1, who vide order dated 28-08-2023 re-instated the appellant with immediate effect and treated in the intervening period in between the

dismissal and re-instatement as leave without pay. Appellant has taken his charge on the same date i.e 04-09-2023. Copy of re-instatement order dated 28-08-2023 and charge assumption certificate are attached as **Annexure-A**.

2. That as per law laid down by Hon'ble Supreme Court of Pakistan as well by this Hon'ble Tribunal; a civil servant who has been deprived from performance of his legal duty due to an illegal dismissal of the authorities and re-instated by the Tribunal or Appellate authority is entitle for all back benefit including salaries in between his dismissal order and re-instatement order.
3. That the fact and grounds taken in the main service appeal may kindly be taken as an integral part of the instant application.
4. That accused is stated to be a favorite child of law and he is presumed to be innocent unless proved otherwise and the benefit of doubt always goes to the accused and not to the prosecution as it is for the prosecution to stand on its own legs by proving all allegations to the hilt against the accused. Mere conjectures and presumption, however strong, could not be made a ground for removal from service of civil servant [1999 PLC (CS) 1332 (FST)].... Unless and until prosecution proves accused guilty beyond any shadow of doubt, he would be considered innocent [1983 PLC (CS) 152 (FST)].
 - A. That Re-instated employee would be entitled to back benefits as a matter of course unless employer is able to establish by cogent evidence that concerned employee had been gainfully employed elsewhere. In this respect, initial burden would lie upon the employer and not upon the employee to prove that such employee was gainfully employed during period of termination from his service. 2010 TD (Labour) 41.
 - B. That Civil servant who was dismissed from service through arbitrary and whimsical action of the government functionaries and re instated through judicial order of Service Tribunal would have every right to recover arrears of salaries by way of back benefits due to them during the period of their dismissal and re instatement. It would be very

unjust and harsh to deprive them of back benefits for the period for which they remained out of job without any fault on their part and were not gainfully employed during that period.....Supreme Court allowing their appeal and directing payment of back benefits to the appellant. 2006 T D (SERVICE) 551 (a).

Prayer:

In view of the above explained positions, it is humbly prayed that the impugned order dated 28-08-2023 of respondent No.1 may be modified to the extent that the re-instatement order may be read as "re-instated with effect from the date of dismissal and the intervening period in between the dismissal and re-instatement may kindly be treated as on active duty and allowed all back benefits including salaries for the intervening period.

Any other relief as deemed appropriate in the circumstances of the case and not specifically asked for, may also be granted to the appellant.

Through

Appellant


Ashraf Ali Khattak

Advocate,

Supreme Court of Pakistan

&

Ali Bakht Mughal

Advocate, Peshawar

Dated: 04/10/2023

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Ameer Nawaz,
Ex-FC No.12
Police Force Kohat.....**Appellant.**

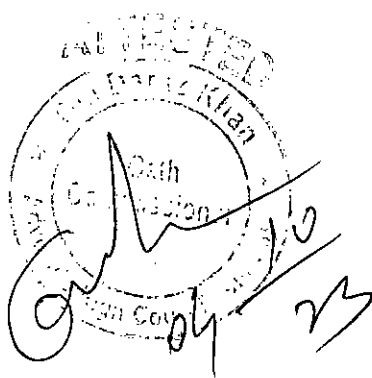
Versus

The Inspector General of Police & others.....Respondents.

AFFIDAVIT

I, Ameer Nawaz FC No.12, Police Force Kohat, do hereby solemnly affirm and declare on oath that the contents of this Application are true and correct to the best of my knowledge and belief and nothing has been concealed from the notice of this Hon'ble Tribunal.


DEPONENT





OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

Annix. A
G

ORDER

This order is hereby passed to dispose of Revision Petition under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 (amended 2014) submitted Ex-FC Ameer Nawaz No. 12. The petitioner was dismissed by DPO Kohat, Vide OB No. 780, dated 22.12.2022 on the allegations that he along with others were deputed for Challan duty to produce hardened criminal including accused Najeeb Ullah s/o Taj Ali Khan r/p Civil Line district Tank involved in case FIR No. 35, dated 30.03.2022 u/s 302, 324, 353, 120-B, 45 FSA, 15-AA, 7-A1A PS CTD, DI Khan at ATC Kohat. During custody, the said accused made good his escape from Police custody due to negligence & carelessness of Police & a proper case vide FIR No. 729, dated 23.11.2022 u/s 223, 224 PPC PS Cantt, Kohat was registered. His appeal was rejected by RPO Kohat vide order Endst: No. 2221/EC, dated 20.02.2023.

Meeting of Appellate Board was held on 17.08.2023 wherein petitioner was heard in person. Petitioner contended that he had no hand in escape of the accused.

The petitioner has served for 14 years, 06 months & 26 days. In view of the long service of the petitioner & the fact that the accused has already been acquitted by ATC, Kohat Division, Kohat vide judgment dated 28.02.2023. The Board accepted the revision petition of the petitioner. He is hereby reinstated with immediate effect. The out of service period is treated as leave without pay.


Sd/-
AWAL KHAN, PSP
Additional Inspector General of Police.
HQrs: Khyber Pakhtunkhwa, Peshawar.

No. S/ 2116-22 /23, dated Peshawar, the 28-08 /2023.

Copy of the above is forwarded to the:

1. Regional Police Officer Kohat. Service Record, One Service Roll, One Fauji Missal of the above named Ex-FC received vide your office Memo: No. 4283/EC, dated 11.04.2023 is returned herewith for your office record.
2. District Police Officer, Kohat.
3. AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
4. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. Office Supdt: F-IV CPO Peshawar.

ATTESTED


(DR. ZAHID ULLAH) PSP
AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

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ضلع کراچی

پولیس کانسٹبل - کنٹرول - روزنامہ 04/09/23

سر - آفیسر محضری 4.0 فورڈ 04/09/23 وقت 16:30 بجے اس وقت رضامت
شده کیٹیبل اچھ لٹوار 12 بحوالہ آرڈر ڈیٹ 22/23-21/16 جاریہ جناب
AIG پشاور دوجان سروس یہ بحالی سوک محضری
پولیس آڈین اگر حکمی محضری دوج روز نامہ 04/09/23 سوک کنٹرول پشوری
انفارمیشن ہفڈان بالاجا صاحبانی کو ارسال کیا گیا ہے۔

صاحبان
انفارمیشن
کنٹرول
191110-poline
04-09-23

ATTESTED