

04.03.2016

Counsel for the petitioner and Mr. Muhammad Shafiullah, Junior Clerk alongwith Addl. A.G for respondents present. Reply submitted. To come up for implementation report subject to the final order of august Supreme Court of Pakistan on 27.5.2016 before S.B.

Chairman

27.05.2016

Petitioner with counsel and Addl. AG alongwith Haroon Computer Operator for the respondents present. Copy of office order dated 15.3.2016 submitted according to which judgment of the Tribunal stood implemented subject to final judgment of the august Supreme Court of Pakistan.

In view of the afore-stated developments learned counsel for the petitioner requested for withdrawal of the petition.

Dismissed as withdrawn. File be consigned to record room.

ANNOUNCED  
27.05.2016

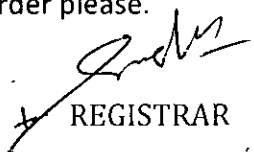


Chairman

27.05.16.

FORM OF ORDER SHEET

Court of \_\_\_\_\_

Execution Petition No. 139 /2015

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	24.11.2015	<p>The Execution Petition submitted by Mr. Muhammad Akhtar through Mr. Inayatullah Khan Advocate may be entered in the relevant Register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This Execution Petition be put up before S. Bench on <u>26.11.15</u></p> <p style="text-align: right;"> CHAIRMAN</p>
2-	26.11.2015	<p>Petitioner in person present. Notice to respondents be issued for 4.3.2016 before S.B.</p> <p style="text-align: right;"> Chairman</p>

**BEFORE THE SERVICE TRIBUNAL KPK, PESHAWAR**

C.Misc Application No. 139 /2015

For Contempt of Court

In Appeal No.676/2013

Muhammad Akhtar .....PETITIONER

**V E R S U S**

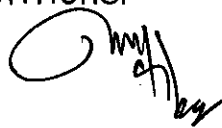
District and Sessions Judge Bannu and another

.....RESPONDENTS

**I N D E X**

S.No	Description of Documents	Annex	Pages
1.	Application for contempt of court		1-4
2.	Affidavit		5
3.	Address of Parties		6
4.	Copy of judgment dated 10/09/2015	"A"	7-10
5.	Copy of Application to implement and enforce the judgment of Service Tribunal Peshawar	"B"	11
6.	Wakalat Nama		

Through  
Petitioner

  
**Inayat Ullah Khan**  
Advocate, High Court  
Peshawar.  
LLM (UK)

Date: 21/11/2015

①

BEFORE THE SERVICE TRIBUNAL KPK, PESHAWAR

C.Misc Application No. 139 /2015

For Contempt of Court

In Appeal No.676/2013

A.W.F. Province  
Service Tribunal

Diary No 1330

Dated 24-11-15

Muhammad Akhtar

.....PETITIONER

**V E R S U S**

1. District and Sessions Judge Bannu
2. Senior Civil Judge Tehsil & District Bannu

.....RESPONDENTS

EXECUTION/CONTEMPT PETITION FOR  
ENFORCING THE JUDGMENT OF THIS  
HONORABLE SERVICE TRIBUNAL PASSED  
IN APPEAL NO.676/2013 WHEREBY THE  
APPELLANT WAS REINSTATED IN SERVICE  
AND THE INTERVENING PERIOD WAS  
TREATED AS LEAVE OF THE KIND DUE.

---

Respectfully Sheweth:

That the petitioner humbly submits as under;

1. That the appellant proffered his service appeal for reinstatement in service which was accordingly accepted and the impugned order/punishment of dismissal was modified from the major penalty and converted into minor penalty of withholding of one annual increment for two years. (Copy of judgment dated 10/09/2015 is attached as Annexure "A").
2. That the petitioner moved an application dated 18/09/2015 to respondents No.2 to implement the judgment dated 10/09/2015 in accordance with the judgment of service tribunal Peshawar referred above in Para No.1. (Copy of Application to implement and enforce the judgment of Service Tribunal Peshawar is attached as Annexure "B").
3. That the petitioner beside making written application before respondent No.4 for his reinstatement in office also made repeated verbal requests and time and again visited the office of respondent No.2 to implement the judgment dated 10/09/2015 but unfortunately, the petitioner was not reinstated since the order referred above, therefore, constrained to file this petition for the enforcement of the judgment in its later and spirit on the following amongst other grounds:

## GROUND S:

- A. That non-compliance of the aforesaid judgment dated 10/09/2015 of the Honourable Service Tribunal by the respondents is malafide, illegal, without lawful authority and without jurisdiction.
- B. That the petitioner approached Respondent No.2 time and again for the implementation/enforcement of the judgment, but unfortunately no positive response has been given to the requests made by the petitioner.
- C. That it seems that respondents are adamant to implement the judgment of this Honorable Tribunal in its later and spirit, therefore, the petitioner is constrained to request for the coercive measures to be adopted by this Honorable Tribunal to compel the respondents to implement its judgment dated 10/09/2015.
- D. That the non compliance by the respondents of the judgment of Honorable Service Tribunal is amounting to contempt of court.


It is, therefore, most humbly prayed that on acceptance of this application/petition, the judgment referred above may kindly be implemented in its later and spirit by directing the respondents to forth with reinstate the petition in service and if adamant contempt

proceedings may kindly be initiated in the best interest of justice to secure the compliance.

Any other relief not specifically ask for may also be granted, keeping in view, facts and circumstances referred above.

  
Petitioner

Through

  
**Inayat Ullah Khan**  
Advocate, High Court  
Peshawar.  
LLM (UK)

Date: 21/11/2015

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BEFORE THE SERVICE TRIBUNAL KPK, PESHAWAR

C.Misc Application No. \_\_\_\_\_/2015

For Contempt of Court

In Appeal No.676/2013

Muhammad Akhtar .....PETITIONER

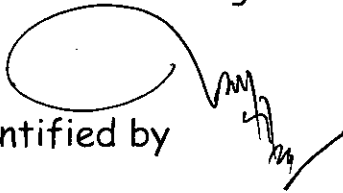
**V E R S U S**

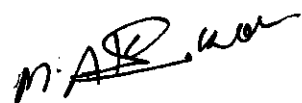
District and Sessions Judge Bannu and another

.....RESPONDENTS

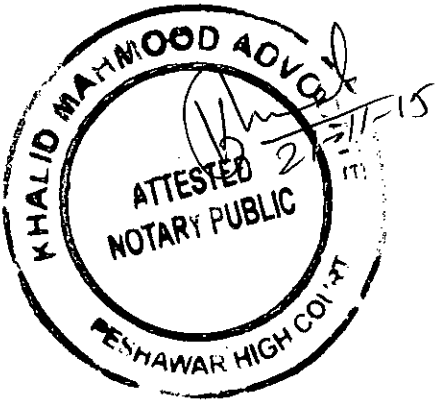
**AFFIDAVIT**

I, Muhammad Akhtar , do hereby solemnly affirm and declare on oath that the contents of this accompanying **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

Identified by 

  
Deponent

**Inayat Ullah Khan**  
Advocate, High Court  
Peshawar.  
LLM (UK)





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BEFORE THE SERVICE TRIBUNAL KPK, PESHAWAR

C.Misc Application No. \_\_\_\_\_/2015

For Contempt of Court

In Appeal No.676/2013

Muhammad Akhtar .....PETITIONER

**V E R S U S**

District and Sessions Judge Bannu and another

.....RESPONDENTS


ADDRESSES OF PARTIES

PETITIONER:

Muhammad Akhtar S/o Muhammad Khel  
R/o Kot Bally, Tehsil and District Bannu.

RESPONDENTS:

1. District and Sessions Judge Bannu
2. Senior Civil Judge District Bannu

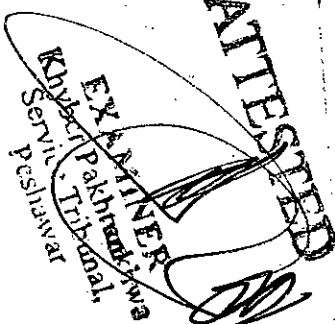
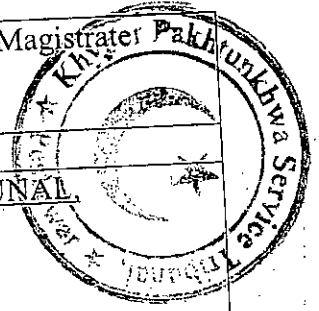
  
Petitioner

Through

Date: 21/11/2015

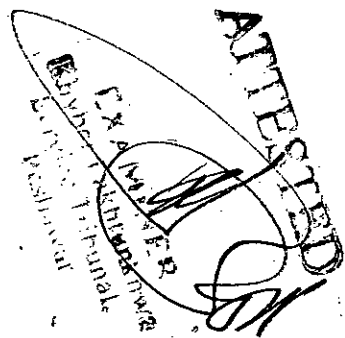
**Inayat Ullah Khan**  
Advocate, High Court  
Peshawar.  
LLM (UK)

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2 10.09.2015	<p style="text-align: center;">3 <u>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u> <u>PESHAWAR.</u></p> <p style="text-align: center;">APPEAL NO.676/2013</p> <p>(Muhammad Akhtar-vs- District and Sessions Judge, Bannu and others).</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>ABDUL LATIF, MEMBER:</u></p> <p>Appellant with counsel and Mr. Ziaullah.GP for respondents present.</p> <p>2. The instant appeal has been filed by the appellant under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act-1974 against the impugned order dated 18.12.2012, whereby the learned Senior Civil Judge, being the competent authority imposed the major penalty of dismissal from service under-4(1)(B)(iv) of Khyber Pakhtunkhwa Government. Servant (E&amp;D) Rules, 2011, on charges of willful absence from duty against which departmental appeal dated 21.12.2012 has not been responded, hence the instant appeal on 17.04.2013.</p> <p>3. Brief facts giving rise to the instant appeal are that the appellant was appointed as Process Server in BPS-3 in the year 2004. That the appellant had more or less 8 years service at his credit at the time of imposition of major penalty of dismissal from service. That the appellant alongwith 14 others were reported by Civil Nazir/Naib Nazir of Senior Civil Judge, Bannu to the effect that all of them were absent from their</p>



duties on different dates and this report was submitted to the court of Senior Civil Judge, Bannu for further necessary action in the matter. That the Civil Judge/Judicial Magistrate-I, Bannu being the inquiry Officer conducted a separate inquiry with regard to the same allegation on which another inquiry with regard to 14 others similarly placed subordinate staff was sent to the court of Civil Judge-VI, Bannu. That the Civil Judge/Judicial Magistrate-I, Bannu being the inquiry Officer conducted an inquiry into the charges/allegations of willful absence from duty and found the appellant liable to the major penalty of dismissal from service. That it is pertinent to mention here that Senior Civil Judge, Bannu being the Competent Authority in both cases agreed to the findings of the respective Inquiry Officers as in one case the Competent Authority agreed to impose minor penalty of censure on 13 subordinate staff while on the basis of the same/identical allegations, a major penalty of dismissal was imposed on the appellant. That the appellant preferred departmental appeal dated 21.12.2012 which was not responded .

4. Learned counsel for the appellant argued that impugned orders were violative of the Articles 2-A,4 and 25 of the constitution of Pakistan 1973 which shun/avoid discrimination in its all forms. It was clear from the proceedings against the appellant that inspite of same nature allegation of absence, appellant 's case was enquired from a separate Enquiry Officer who recommended different penalty in case of the appellant (Major Penalty) as against the penalties recommended by the other Enquiry Officer in respect of the other 13 Officials (minor penalty) of censure which was not sustainable in the eyes of law. He further contended that referring the enquiry of subordinate staff proceeded for the same allegation to different Inquiry Officers and then imposition of two different penalties on the same charge was clear malafide on the part of Competent Authority



and Enquiry Officer and was not maintainable under the law. That the impugned order was violation of Section 24-A of the General Clauses Act as the Competent Authority failed to pass a speaking order. He further argued that punishment awarded to the appellant was not commensurate to the offense but penalty was excessive and harsh. That no opportunity of personal hearing was given to the appellant before imposition of major penalty of dismissal which was violative of the principle of natural justice. He prayed that the impugned orders may be set aside and the appellant may be reinstated in service with all back benefits. He relied upon 2000 PLC (C.) 817, 2001 SCMR 256, 2000 SCMR 669, 2008 SCMR 871, 2008 SCMR 214 and 2008 SCMR 1369.

5. The learned Government Pleader argued that no discrimination was done against the appellant for the reason that facts of the case of the appellant were different from other officials. That appellant never challenged the enquiry and he accepted his willful absence during the proceedings and that full opportunity of defense was provided to the appellant throughout the proceedings. He prayed that the appeal being devoid of merits may be dismissed.

6. Arguments of the learned counsels for the parties heard at length and record perused with their assistance.

7. From perusal of the record it transpired that the appellant was proceeded against for the charge of absence of 7 days amongst other 13 similarly placed Subordinate Officials. Inquiry against the appellant was however conducted through a separate Enquiry Officer as against the rest of 13 Officials whose case was enquired by a different Inquiry Officer. Imposition of major penalty of dismissal against the appellant vis-a-vis minor penalty of censure on the rest of the similarly placed officials was

ATTESTED  
 EXAMINER  
 Kinber Pakhtunkhwa  
 Service Tribunal,  
 Peshawar

attributed to penal actions taken against the appellant for his lapses in the past, which do not seem fair and tantamount to discriminatory treatment. The Impugned orders of punishment are therefore not maintainable on this score alone. The Tribunal therefore is of the considered view that penalty being harsh and discriminatory as well, the case warrants interference of this Tribunal. The impugned orders are therefore modified, the major penalty of the appellant is converted into minor penalty of withholding of one annual increment for two years. The appellant is reinstated in service and the intervening period shall be treated as leave of the kind due. Parties are left to bear their own costs. File be consigned to the record.

*[Signature]*

ANNOUNCED  
10-09-2015

*Sd/- Abdul Latif*  
Member  
*Sd/- Pir Bahadur Shah,*  
Member

Certified to be true copy  
K. A. B. M. E. P. W.  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Date of Presentation of Application 17-09-2015  
 Number of Words 1600  
 Copying Fee 10  
 Urgent 0  
 Total 10  
 Name of Cop. Inst [Signature]  
 Date of Completion of Copy 17-09-2015  
 Date of Delivery of Copy 17-09-2015

خدمت صائب سینیئر سول جج صاحب ہون

عنوان کالی ملازمت

صائب عالی ا۔ سائل ذیل عرض کرتا ہے

۱۔ یہ کہ سائل Process Survey لفتیات تھا۔ جو کہ ملازمت سے برکاست کیا گیا۔

۲۔ یہ کہ اب سرسین ٹریبونل نے سائل کو Reinstate

کر لیا ہے۔ (صفحہ ۵۱۵-۶۰-۱۰) نقل ضمیمہ لف ہے

کیذا استدعا ہے کہ سائل کو اپنے پوسٹ پر

کال کرنے کے احکامات صادر فرما جاوے۔

M. A. Khan  
سائل محمد اقصی ولد محمد ضیاء کاندھ کوٹ ہیلی

صفحہ ۵۱۵/۰۹

Attested  
by  
Advocate

No. 367 /

Dated: 19 / 02 / 2016.

To

The Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

A.W.F. Previous  
Service Tribunal  
Diary No. 153  
dated 29-8-16

From

The District & Sessions Judge,  
Bannu.

Subject: **E.P.139/15 in Appeal 676 of 2013**  
**Muhammad Akhtar**  
**Versus**  
**District & Sessions Judge, Bannu etc**

Dear Sir,

With reference your good-self notice No. nil, dated 15/01/2016, on the subject noted above, I have the honour to submit/forwarded the reply (four sets) of the learned Senior Civil Judge, Bannu (respondent No. **II**) being appointing authority, as directed & desired, please.

Yours faithfully,



(RAJAB ALI KHAN)  
District & Sessions Judge,  
Bannu.

## AUTHORITY LETTER

No. 137 /SCJ Dated Bannu the 03 / 03 /2016

Mr. Mohammad Shafiullah Khan, Junior Clerk/Naib Nazir (BPS-11) of the court of undersigned is authorized to attend the Hon'ble court of Khyber Pakhtunkhwa Service Tribunal, Peshawar in respect of case titled "Muhammad Akhtar Vs District and Sessions Judge, Bannu etc" fixed on 04.03.2016.

  
SENIOR CIVIL JUDGE  
BANNU



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

Exe/C.Misc Application No. 139 of 2015

Muhammad Akhtar

.....Petitioner

**V E R S U S**

1. District & Sessions Judge Bannu & Others
2. Senior Civil Judge, Bannu

.....Respondents

Through: PROPER CHANNEL

**Reply on Behalf of Respondent No.2**

**Respectfully Sheweth:**

**Preliminary Objections:**

1. That the petitioner has got no cause of action to file the instant application.
2. That the application is not maintainable and the petitioner has filed the instant application to harras the Respondent.
3. That the present Respondent has not violated any order of the Honourable court.
4. That the Respondent has filed CPLA No.622-P of 2015 before the august Supreme Court of Pakistan.

**Grounds:**

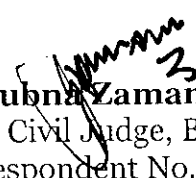
- a). Para "a" is incorrect. The Respondent has filed CPLA before the August Supreme Court of Pakistan (Copy is annexed).
- b). Para "b" is incorrect. The petitioner is well in the knowledge regarding CPLA of the Respondents.
- c). Para "c" is incorrect. The Respondent as Judicial Officers are aware regarding the honour of judicial orders, however the law provides the right of appeal which was filed and pending adjudication before the august Supreme Court of Pakistan.
- d). Para "d" is incorrect.

It is, therefore, humbly requested that the petition be dismissed with cost.

Yours Obediently,

*No. 107/SCJ, Bannu*

Dated: 18-02-2016

  
(Lubna Zaman)  
Senior Civil Judge, Bannu  
Respondent No.2

IN THE SUPREME COURT OF PAKISTAN  
(Appellate Jurisdiction)

CPLA NO. 622-P /2015

District and Sessions Judge, Bannu & Others

-----PETITIONERS

VERSUS

Muhammad Akhtar

-----RESPONDENT

*Appeal from  
Counsel for Petitioner  
Instituted by*

*KPK Service Tribunal, Peshawar.  
Advocate General, KPK, Peshawar  
Mian Saadullah Jandoli, AOR*

IN THE SUPREME COURT OF PAKISTAN  
(Appellate Jurisdiction)

CPLA NO. \_\_\_\_\_/2015

District and Sessions Judge, Bannu & Others

-----PETITIONERS

VERSUS

Muhammad Akhtar

-----RESPONDENT

Appeal from : KPK Service Tribunal, Peshawar.  
Counsel for Petitioner : Advocate General, KPK, Peshawar  
Instituted by : Mian Saadullah Jandoli, AOR.

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CERTIFIED that the paper book has been prepared in accordance with the rules of the Court and all the documents necessary for due appreciation of the court have been included in it. Index is complete in all respect.

(Mian Saadullah Jandoli)  
Advocate on Record  
Supreme Court of Pakistan  
For Govt. of KPK/petitioners

A  
IN THE SUPREME COURT OF PAKISTAN  
 (Appellate Jurisdiction)

CPLA NO. \_\_\_\_\_/2015

District and Sessions Judge, Bannu & Others  
 ----- PETITIONERS

VERSUS

Muhammad Akhtar  
 ----- RESPONDENT

CONCISE STATEMENT

- 1- Subject matter and the law Claim for reinstatement in Service  
 2- Which side has filed this petition Government / petitioners

Court / Forum	Date of a) Institution b) Decision	Who filed it and with what result
KPK Service Tribunal Peshawar	a) 17-04-2013 b) 10/9/2015	Respondent filed service appeal which has been accepted
Points noted in the impugned Judgment	Treatment of points in the impugned judgment	
<p>Learned counsel for the respondent argued that impugned orders were violative of the Articles 2-A, 4 and 25 of the Constitution of Pakistan 1973 which shun/avoid discrimination in its all forms. It was clear from the proceedings against the respondent that in-spite of same nature allegation of absence, respondents case was enquired from a separate enquiry officer who recommended different penalty in case of the respondent (Major penalty) as against the penalties recommended by the other enquiry Officer in respect of the other 13 officials (minor penalty) of censure which was not sustainable in the eyes of law. He further contended that referring the enquiry of subordinate staff proceeded</p>	<p>From perusal of the record it transpired that the respondent was proceeded against for the charge of absence of 17 days amongst other 13 similarly placed subordinate officials. Inquiry against the respondent was however conducted through a separate enquiry officer as against the rest of 13 officials whose case was enquired by a different inquiry officer. Imposition of major penalty of dismissal against the respondent vis-a-vis minor penalty of censure on the rest of the similarly placed officials was attributed to penal actions taken against the respondent for his lapses in the past, which do not seem fair and tantamount to discriminatory treatment. The impugned orders of punishment are</p>	

for the same allegation to different inquiry officers and then imposition of two different penalties on the same charge was clear malafide on the part of Competent Authority and enquiry Officer and was not maintainable under the law. That the impugned order was violation of section 24-A of the General Clauses Act as the Competent Authority failed to pass a speaking order. He further argued that punishment awarded to the respondent was not commensurate to the offense but penalty was excessive and harsh. That no opportunity of personal hearing was given to the respondent before imposition of major penalty of dismissal which was violative of the principle of natural justice.

The learned government Pleader argued that no discrimination was done against the respondent for the reason that facts of the case of the respondent were different from other officials. That respondent never challenged the enquiry and he accepted his willful absence during the proceedings and that full opportunity of defense was provided to the respondent throughout the proceedings.

therefore not maintainable on this score alone. The tribunal therefore is of the considered view that penalty being harsh and discriminatory as well, the case warrants interference of this tribunal. The impugned orders are therefore modified the major penalty of the respondent is converted into minor penalty of withholding of one annual increment for two years. The respondent is reinstated in service and the intervening period shall be treated as leave of the kind due.

LAW/RULING ON THE SUBJECT

FOR

- 1- CONSTITUTION OF PAKISTAN, 1973
- 2- CIVIL SERVANT ACT, 1973.
- 3- KHYBER PAKHTUNKHWA E&D RULE, 2011

CERTIFICATE:

CERTIFICATE that I myself prepared the above concise statement which is correct.

(Mian Saadullah Jaidoli)  
Advocate-on-Record  
Supreme Court of Pakistan  
For Government

1

IN THE SUPREME COURT OF PAKISTAN  
(Appellate Jurisdiction)

CPLA NO. \_\_\_\_\_/2015

1. District and Sessions Judge, Bannu
2. Senior Civil Judge, Bannu

-----PETITIONERS

VERSUS

Muhammad Akhtar S/o Muhammad Khel Ex-process Servicer  
Senior Civil Judge, Bannu R/o Kot Beli, Tehsil & District Bannu  
-----RESPONDENT

CIVIL PETITION FOR LEAVE TO APPEAL  
UNDER ARTICLES 212(3) OF THE  
CONSTITUTION OF ISLAMIC REPUBLIC OF  
PAKISTAN, 1973 AGAINST THE IMPUGNED  
JUDGMENT/ ORDER OF LEARNED KHYBER  
PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR DATED 10/9/2015 IN SERVICE  
APPEAL NO.676/2013

RESPECTFULLY SHEWETH

The substantial questions of law of public importance and grounds, inter alia, which falls for determination of this august Court are as under:-

1. Whether the impugned judgment and order of the Honble Khyber Pakhtunkhwa Service Tribunal, Peshawar does not suffer from material illegality and factually incorrect and require interference by this august Court?

2. Whether the Honble Khyber Pakhtunkhwa Service Tribunal, Peshawar has not legally and properly exercised its jurisdiction?
3. Whether the Honble Khyber Pakhtunkhwa Service Tribunal, Peshawar has not exceeded in exercise of its jurisdiction in the matter in hand?
4. Whether the respondent has not committed misconduct during service?
5. Whether willful absence from duty without prior permission does not constitute misconduct?
6. Whether the normal penalty of misconduct is not dismissal from service on the ground of misconduct?
7. Whether the respondent is habitual of misconduct by willfully absenting himself from duty and remained absent from duty for seventeen days and also having bad reputation?
8. Whether proper Show Cause Notice and statement of allegation was not issued to respondent and after holding proper enquiry the allegation of misconduct was proved against the respondent?
9. Whether respondent has not admitted his misconduct before the enquiry Officer and the respondent could not disapprove the allegation of misconduct before the enquiry Officer and Competent Authority?
10. Whether the punishment awarded to the respondent is not commensurate with the allegation of misconduct leveled against the respondent?
11. Whether the respondent has not been treated discriminately as alleged by the respondent because the case of respondent is different from the other employees who were awarded minor penalty?

12. Whether the Honble Khyber Pakhtunkhwa Service Tribunal, Peshawar has properly and legally dealt with element of alleged discrimination as asserted by the respondent?
13. Whether the Honble Khyber Pakhtunkhwa Service Tribunal, Peshawar has not pointed out any legal defect or violation of law and rules when reducing the major penalty into minor penalty?

FACTS

II- Facts relevant to the above points of law, inter alia, are as under:-

1. That the respondent was serving as Process Server in the Court of Senior Civil Judge, Bannu who absented himself from duty and remained absent for seventeen days which was reported by the Nazir of the Court to the Competent Authority, therefore the Competent Authority called for explanation of the respondent on 1/9/2012.
2. That the Competent Authority appointed enquiry Officer in the matter who started enquiry under E&D rules 2011 against the respondent in the matter by recording of evidence and providing opportunity to the respondent of defence and the enquiry Officer recommended the respondent for major punishment.
3. That after enquiry the Competent Authority issued final show Cause Notice which was replied but the reply of the respondent was not found satisfactory therefore the major penalty of dismissal was imposed on the respondent on 18/12/2012.
4. That the respondent filed departmental appeal which was dismissed by the Appellant Authority.



5. That the respondent filed service appeal No.676/2013 before the Honble Khyber Pakhtunkhwa Service Tribunal, Peshawar wherein comments were called from the petitioners which were filed accordingly.
6. That the Honble Khyber Pakhtunkhwa Service Tribunal, Peshawar accepted the appeal of the respondent by converting the penalty of dismissal to minor penalty of withholding of one annual increment for two years vide order dated 10/9/2015.
7. That the petitioners mortally aggrieved from the impugned judgment/order of the Honble Khyber Pakhtunkhwa Service Tribunal, Peshawar dated 10/9/2015 in Service Appeal No.676/2013 prefer this CPLA before this august Court.
8. That the petitioners seek leave to appeal against the judgment and order of the Honble Khyber Pakhtunkhwa Service Tribunal, Peshawar dated 10/9/2015 in Service Appeal No.676/2013.

It is, therefore, prayed that on acceptance of this petition, leave to appeal against the impugned judgment and order of the Honble Khyber Pakhtunkhwa Service Tribunal, Peshawar dated 10/9/2015 in Service Appeal No.676/2013 may graciously be granted.

(Mian Saadullah Jandoli)  
 Advocate-on-Record  
 Supreme Court of Pakistan  
 For Government

**NOTE:**

Learned Advocate General, KPK/ Addl. AG /State Counsel shall appear at the time of hearing of this petition.

**ADDRESS**

Office of the Advocate General, KPK, High Court Building, Peshawar. (Telephone No.091-9210119, Fax No.091-9210270)

**CERTIFICATE**

Certified that no such petition has earlier been filed by Petitioners/ Government against the impugned judgment mentioned above.

Advocate-On-Record

IN THE SUPREME COURT OF PAKISTAN  
(Appellate Jurisdiction)

CPLA NO. \_\_\_\_\_/2015

District and Sessions Judge, Bannu & Others

-----PETITIONERS

VERSUS

Muhammad Akhtar

-----RESPONDENT

APPLICATION FOR CONDONATION OF DELAY IN FILING OF CPLA

RESPECTFULLY SHEWETH

- 1- That the titled appeal is being filed with delay.
- 2- That judgment of the learned KPK, Service Tribunal, Peshawar is violative of provisions of law and grounds of CPLA may be consider as part of this application.
- 3- That the judgment of the learned KPK Service Tribunal Peshawar is illegal, void ab-initio, ultra-virus, without jurisdiction (with respect) and limitation does not run against void judgment/order.
- 4- That the subject case was delayed due to late supply of documents and the process of completion of attested copies of the judgments of Learned KPK Service Tribunal Peshawar and lengthy correspondence between various tires of Department and the process of decision taken by Constituted Law Committee for fitness of the case for filing CPLA.
- 5- That the delay in filing the CPLA is not intentional but on account above reasons.

It is, therefore, respectfully prayed that by condoning the delay the petition may graciously be decided on merits to meet the ends of justice.

(Mian Saadullah Jandoli)  
Advocate-on-Record  
Supreme Court of Pakistan

IN THE SUPREME COURT OF PAKISTAN  
(Appellate Jurisdiction)

C.M.A. No. \_\_\_\_\_/2015

IN

CPLA NO. \_\_\_\_\_/2015

District and Sessions Judge, Bannu & Others

-----PETITIONERS

VERSUS

Muhammad Akhtar

-----RESPONDENT

-----  
APPLICATION FOR SUSPENSION OF OPERATION  
OF THE IMPUGNED JUDGMENT/ ORDER OF THE  
LD. SERVICE TRIBUNAL, PESHAWAR PASSED IN  
SERVICE APPEAL NO.676/2013 DATED 10/9/2015 AND  
TO MAINTAIN THE STATUS QUO TILL THE FINAL  
DECISION OF THE CASE.

-----  
RESPECTFULLY SHEWETH:-

1. That the respondent was serving as Process Server in the Court of Senior Civil Judge, Bannu who absented himself from duty and remained absent for seventeen days which was reported by the Nazar of the Court to the Competent Authority, therefore the Competent Authority called for explanation of the respondent on 1/9/2012.
2. That the Competent Authority appointed enquiry Officer in the matter who started enquiry under E&D rules 2011 against the

respondent in the matter by recording of evidence and providing opportunity to the respondent of defence and the enquiry Officer recommended the respondent for major punishment.

3. That after enquiry the Competent Authority issued final show Cause Notice which was replied but the reply of the respondent was not found satisfactory therefore the major penalty of dismissal was imposed on the respondent on 18/12/2012.
4. That the respondent filed departmental appeal which was dismissed by the Appellant Authority.
5. That the respondent filed service appeal No.676/2013 before the Honble Khyber Pakhtunkhwa Service Tribunal, Peshawar wherein comments were called from the petitioners which were filed accordingly.
6. That the Honble Khyber Pakhtunkhwa Service Tribunal, Peshawar accepted the appeal of the respondent by converting the penalty of dismissal to minor penalty of withholding of one annual increment for two years vide order dated 10/9/2015.
7. That the petitioners mortally aggrieved from the impugned judgment/order of the Honble Khyber Pakhtunkhwa Service Tribunal, Peshawar dated 10/9/2015 in Service Appeal No.676/2013 prefer this CPLA before this august Court.
8. That the impugned judgment of the Honble High Court is totally illegal against justice and having no backing of law.

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9. That the petitioner has a good prima facie case and balance of convenience also lies in maintaining status-quo.

10. That if the impugned judgment and order is not suspended and status-quo is not granted the very purpose of this petition would be lost.

It is, therefore, humbly prayed that the operation of the impugned judgment/order of the learned Service Tribunal Peshawar in service appeal No.676/2013 Dated 10/9/2015 may graciously be suspended and to maintain status quo till the final decision of the case.

(Mian Saadullah Jandohi)  
Advocate-on-Record  
Supreme Court of Pakistan  
For Government

IN THE SUPREME COURT OF PAKISTAN  
(Appellate Jurisdiction)

CPLA NO. \_\_\_\_\_/2015

District and Sessions Judge, Bannu & Others

-----PETITIONERS

VERSUS

Muhammad Akhtar

-----RESPONDENT

AFFIDAVIT OF FACTS

I, Mian Saadullah Janadoli, Advocate-On-Record for the Government/petitioners do hereby solemnly affirm and declare as under:-

- 1- That the contents of the accompany application for condonation of delay of appeal is true and correct to the best of my knowledge and belief.
- 2- That the facts have been obtained by perusal of the case and information furnished by the petitioners.

SWORN  
Dated this the day

AT  
23-Nov-15'

PESHAWAR

(Mian Saadullah Jandoli)  
Advocate-on-Record  
Supreme Court of Pakistan  
For Government

**OFFICE OF THE SENIOR CIVIL JUDGE, BANNU**

No: 158

Dated: 15 / 03 / 2016

**OFFICE ORDER:-**

In pursuance of Khyber Pakhtunkhwa, Service Tribunal, Peshawar, judgment dated: 10-09-2015 & order dated 04.03.2016, Mr. Muhammad Akhtar, Process Server of the court of undersigned is hereby reinstated into service from the date of dismissal from service i.e. 18.12.2012 and major penalty is converted into minor penalty of withholding of one annual increment for two years subject to the final decision of august Supreme Court of Pakistan. The intervening period shall be treated as leave of the kind due. Entry be also made in his service book, accordingly.

*o/c*  
(Lubna Zaman)  
Senior Civil Judge  
Bannu

No 159-63 / SCJ Bannu dated the 15 / 03 / 2016

**Copies for information to:**

1. The Registrar, Khyber Pakhtunkhwa, Service Tribunal, Peshawar, with reference to appeal No. 676/2013, decided on 10-09-2015.
2. The learned District & Sessions Judge, Bannu.
3. The District Accounts Office, Bannu.
4. The Civil Nazir, SCJ, Bannu.
5. The official concerned.

*a/c*  
(Lubna Zaman)  
Senior Civil Judge  
Bannu

001 : 07-015  
5954 Adj Adhoc R/T 1,862.00

RET PAY  
553,493.00 01.04.2016 30.04.2016  
Acct.No: PLS 3937-7

PAYMENTS  
Branch Code: 23055/  
561,215.00  
BANKU CAHTI

DEDUCTIONS  
National Bank of Pakistan  
772.00-  
BANKU CAHTI

00174921 JALAL  
P A Y M E N T :  
AMOUNT 12,705.00

CHIC: 15579571391  
Desig: JUNIOR CLERK  
Grade: 11 NTH  
LEARN/FUND  
AMOUNT 1,000.00

Buckle No.:  
PRINCIPAL  
Gazetted/Non-Gazetted: N  
REPAID  
40,000.00 32,000.00  
BALANCE  
52,827.00  
8,000.00

0001 Basic Pay 12,705.00  
1000 House Rent Allowance 1,234.00  
1210 Convey Allowance 2,856.00  
1300 Medical Allowance 1,500.00  
1584 Judicial Allowance 4,260.00  
1874 Utility Allowance 2,800.00  
1948 Adhoc Allowance 2,145.00  
2148 15% Adhoc Relief All 1,464.00  
2174 Adhoc Relief All 755.00  
2199 Adhoc Relief All 2,270.00

DEDUCTIONS  
3011 EPF Subscription - Rs 873.00-  
4200 Professional Tax 100.00-  
4505 EPF Loan Principal In 2,000.00-  
3501 Benevolent Fund 180.00-  
3511 Adh Group Insurance 15.00-  
3604 Group Insurance 115.00-

EPF: 40,000.00  
0368

PAYMENTS  
Branch Code: 0701/  
31,050.00  
ALFALAH BENSUSLA BANKU

DEDUCTIONS  
Others  
5,294.00-  
ALFALAH BENSUSLA BANKU

RET PAY  
27,759.00 01.04.2016 30.04.2016  
Acct.No: 1003975115

00174922 BALHTA  
P A Y M E N T :  
AMOUNT 11,858.00

CHIC: 1110134337461  
Desig: NATH BAKSI  
Grade: 04 NTH  
LEARN/FUND  
AMOUNT 1,500.00

Buckle No.:  
PRINCIPAL  
Gazetted/Non-Gazetted: N  
REPAID  
35,000.00 10,100.00  
BALANCE  
28,823.00  
28,500.00

0001 Basic Pay 11,858.00  
1000 House Rent Allowance 972.00  
1210 Convey Allowance 1,795.00  
1300 Medical Allowance 1,500.00  
1584 Judicial Allowance 2,800.00  
1833 Integrated Allowance 300.00  
1874 Utility Allowance 2,180.00  
1948 Adhoc Allowance 2,267.00  
2148 15% Adhoc Relief All 1,270.00  
2174 Adhoc Relief All 847.00  
2199 Adhoc Relief All 1,183.00

DEDUCTIONS  
3004 EPF Subscription - Rs 562.00-  
4505 EPF Loan Principal In 1,500.00-  
3501 Benevolent Fund 120.00-  
3511 Adh Group Insurance 2.00-  
3604 Group Insurance 58.00-

EPF: 35,000.00  
0368

PAYMENTS  
Branch Code: 23055/  
26,354.00  
BANKU CAHTI

DEDUCTIONS  
National Bank of Pakistan  
2,293.00-  
BANKU CAHTI

RET PAY  
24,611.00 01.04.2016 30.04.2016  
Acct.No: PLS 2402-6

00175001 USMAN  
P A Y M E N T :  
AMOUNT 15,870.00

CHIC: 15579587893  
Desig: SENIOR CLERK  
Grade: 14 NTH  
LEARN/FUND  
AMOUNT 1,775.00

Buckle No.:  
PRINCIPAL  
Gazetted/Non-Gazetted: N  
REPAID  
AJBU 000175  
INCOME TAX 404.52  
361.00  
BALANCE  
91,666.00  
43.78

0001 Basic Pay 15,870.00  
1000 House Rent Allowance 1,426.00  
1210 Convey Allowance 2,856.00  
1300 Medical Allowance 1,500.00  
1584 Judicial Allowance 4,260.00  
1874 Utility Allowance 2,800.00  
1948 Adhoc Allowance 2,430.00  
2148 15% Adhoc Relief All 1,749.00  
2174 Adhoc Relief All 1,166.00  
2199 Adhoc Relief All 1,587.00

DEDUCTIONS  
3014 EPF Subscription - Rs 1,775.00-  
4200 Professional Tax 200.00-  
3501 Benevolent Fund 180.00-  
3511 Adh Group Insurance 13.00-  
3604 Group Insurance 115.00-  
3607 Income Tax 44.00-

EPF: 1,775.00  
INCOME TAX 404.52

PAYMENTS  
Branch Code: 2314/  
35,614.00  
BANKU CAHTI

DEDUCTIONS  
National Bank of Pakistan  
2,327.00-  
K.NAHNAR FATIMA RHEL BANKU

RET PAY  
33,307.00 01.04.2016 30.04.2016  
Acct.No: PLS A/C-3948-0



DDO BUAD13 SENIOR CIVIL JUDGE BANNU  
PAYMENTS

Payroll Section : 001, Payroll-1  
A-N-G-H-T

Page No:  
Date:

AMOUNT	DEDUCTIONS
0001 Basic Pay	
1000 House Rent Allowance	
1210 Convey Allowance 20	
1300 Medical Allowance	
1504 Judicial Allowance	
1674 Utility Allowance 20	
1548 Adhoc Allowance 2010	
2148 15% Adhoc Relief All	
2174 Adhoc Relief Allow-2	
2199 Adhoc Relief Allow 6	
3014 GPF Subscription - Rs	
4200 Professional Tax	
3505 GPF Loan Principal Pa	
3501 Benevolent Fund	
3511 Adh Group Insurance	
3504 Group Insurance	
3809 Income Tax	

LOAN/FUND

PRINCIPAL	REPAID	BALANCE
31,473.00	399.00	104,510.00
496.40	4,000.00	47.70
58,000.00		54,000.00

PAYMENTS  
Branch Code: 230307

DEDUCTIONS  
National Bank of Pakistan  
BANNU

NET PAY  
BANNU

31,473.00 01.04.2016 30.04.2016  
Acct.No: PLS 11762-7

00174798 REHMAJ ULLAH  
PAYMENTS

AMOUNT	DEDUCTIONS
0001 Basic Pay	
1000 House Rent Allowance	
1210 Convey Allowance 20	
1300 Medical Allowance	
1504 Judicial Allowance	
1674 Utility Allowance 20	
1548 Adhoc Allowance 2010	
2148 15% Adhoc Relief All	
2174 Adhoc Relief Allow-2	
2199 Adhoc Relief Allow 6	
3014 GPF Subscription - Rs	
4200 Professional Tax	
3505 GPF Loan Principal Pa	
3501 Benevolent Fund	
3511 Adh Group Insurance	
3504 Group Insurance	
3809 Income Tax	

Grade: 14 NTH  
LOAN/FUND

PRINCIPAL	REPAID	Gazetted/Non-Gazetted: N	BALANCE
31,473.00	314.00		98,213.00
351.36	37,200.00		37.68
42,000.00			4,800.00

PAYMENTS  
Branch Code: 030075

DEDUCTIONS  
University Shopping Plaza Road Dera G...  
UNIVERSITY

NET PAY  
UNIVERSITY

32,113.00 01.04.2016 30.04.2016  
Acct.No: 111-00-1

00174819 HULAMAT ALI  
PAYMENTS

AMOUNT	DEDUCTIONS
0001 Basic Pay	
1000 House Rent Allowance	
1210 Convey Allowance 20	
1300 Medical Allowance	
1504 Judicial Allowance	
1674 Utility Allowance 20	
1548 Adhoc Allowance 2010	
2148 15% Adhoc Relief All	
2174 Adhoc Relief Allow-2	
2199 Adhoc Relief Allow 6	
5002 Adjustment Hostel Rent	
5011 Adj Conveyance Allow	
5012 Adjustment Medical A	
5007 Adj Judicial Allowan	
5009 Adj 15% Adhoc Allow	
5001 Adj Basic Pay	
5025 Adj Leave Salary	
5055 Adj Utility Allowance	
5090 Adj Adhoc Allowance	
5011 Adj Adhoc Relief 20	
5030 Adj Adhoc Relief All	
5050 Adj Adhoc Relief All	
3005 GPF S. Accr. - Rs	
4200 Professional Tax	
3501 Benevolent Fund	
3511 Adh Group Insurance	
3504 Group Insurance	
3809 Income Tax	


Grade: 05 NTH  
LOAN/FUND

PRINCIPAL	REPAID	Gazetted/Non-Gazetted: N	BALANCE
32,113.00	1,834.00		604.00
3,646.24			1,833.12

## AUTHORITY LETTER

No. 363/SCJ Dated Bannu the 26 / 05 /2016

Mr. Haroon Khan, Computer Operator (BPS-14) of the court of undersigned is authorized to attend the Hon'ble court of Khyber Pakhtunkhwa Service Tribunal, Peshawar in respect of case titled "Muhammad Akhtar Vs District and Sessions Judge, Bannu etc" fixed on 27.05.2016.

  
(LUBNA ZAMAN)  
SENIOR CIVIL JUDGE  
BANNU

# WAKALATNAMA

(Power of Attorney)

BEFORE THE SERVICES TRIBUNAL KPK, PESHAWAR.

Mohammad Akhtar

(Petitioner) ✓  
(Plaintiff)  
(Applicant)  
(Appellant)  
(Complainant)  
(Decree Holder)

District & Sessions Judge  
and another.

(Respondent)s ✓  
(Defendant)  
(Accused)  
(Judgment Debtor)

I/ We, Mohammad Akhtar s/o

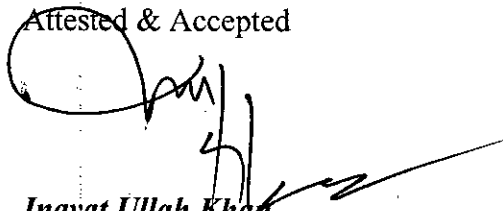
Muhammad Iqbal

in the above

noted \_\_\_\_\_, do hereby appoint and constitute **Inayat Ullah**

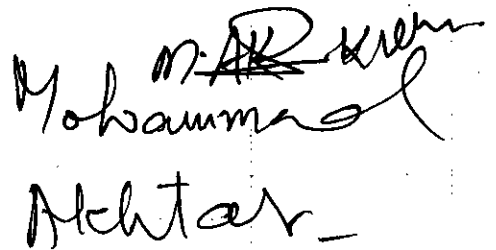
**Khan** Advocate Peshawar to appear, plead, act, compromise, withdraw or refer to arbitration for me/ us as my/ our Counsel in the above noted matter, without any liability for that default and with the authority to engage/ appoint any other Advocate/ Counsel at my/ our matter.

Attested & Accepted



**Inayat Ullah Khan**  
Advocate High Court, Peshawar.  
LL.M (UK)  
House No.460 Street No.12,  
E/4, Phase-VII, Hayatabad Peshawar.  
Cell: 0333-9227736

CLIENT



Mohammad  
Akhtar