

7

FORM OF ORDER SHEET

Court No. _____

Appeal No. 309/2024

Case No. _____ Date of the proceedings with signature of judge _____

3

22/02/2024

The appeal of Mr. Sajid Khan resubmitted today by Shahzada Irfan Zia Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 23.02.2024. Parcha Peshi is given to counsel for the appellant.

By the order of Chairman



REGISTRAR

The appeal of Mr. Sajid Khan received today i.e on 13.02.2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- According to sub-rule-4 of rule-6 of Khyber Pakhtunkhwa Service Tribunal rules 1974 respondents no. 1 & 3 are un-necessary/improper parties, in light of the rules ibid and on the written direction of the Worthy Chairman the above mentioned respondent number be deleted/struck out from the list of respondents.
- 2- Appeal has not been flagged /marked with annexures marks.

No. 312 /S.T.

DL 14/2 /2024.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Shahzada Irfan Zia Adv.
High Court Peshawar.

1. The objection is misconceived even against the rule mentioned in KPK Service Tribunal rules, 1974, even against the judgments of august Supreme Court of Pakistan. All the respondents impleaded are necessary as well as Proper Parties, so, deletion of any one will cause serious consequences in the case of the appellant.
2. Appeal filed again after being flagged /marked with annexures.
Re-submitted and requested to Place the case before the Court.



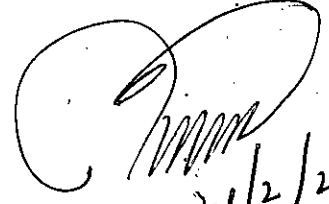
15/2/2024.

Advocate.

3

The objection still stand. The appeal is return to the counsel for the appellant for removing complete resubmission within 7 days.

392
21/2/24


21/2/24
Re-submitted after doing the needful.



22/2/2024 (Advocate)

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

Appeal No. 309 of 2024

Sajid Khan S/o Jurabaz Khan, presently ASI Bannu
Police Line Bannu.

..... Appellant

VERSUS

~~.....~~
1. The Regional Police Officer Bannu Region
Bannu.

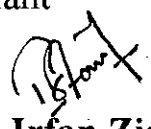
..... Respondents

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Appellant

Through


Shahzada Irfan Zia
Advocate, Peshawar
Cell No. 0300-9345297

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

Appeal No. 309 of 2024

Sajid Khan S/o Jurabaz Khan, presently ASI Bannu
Police Line Bannu.

..... Appellant

VERSUS

~~.....~~
1. The Regional Police Officer Bannu Region
Bannu.

..... Respondents

**APPEAL UNDER SECTION 4 READ WITH
SECTION 7 OF THE KPK SERVICE
TRIBUNAL ACT, 1974, AGAINST THE
IMPUGNED ORDER DATED 11/08/2023
WHERE BY THE APPELLANT WAS
REINSTATED INTO SERVICE AGAINST
THE POST OF ASI INSTEAD OF SI. THE
APPELLANT IS ENTITLED FOR
REINSTATEMENT/RESTORATION INTO
SERVICE AGAINST THE POST OF SI
THEREFORE UNDER SECTION 7 IBID
THE ORDER DATED 11.08.2023 IS NEED
TO BE MODIFIED.**

Respectfully Sheweth:

FACTS OF THE CASE

The appellant respectfully submits as under:

- 1) That while the appellant was holding the post of SI, in consequence of certain allegations/charges the respondent No. 3 imposed the major penalty

2/

of reversion from the substantive rank of Sub Inspector to the rank of Assistant Sub Inspector upon the appellant vide the order dated 17.11.2022 (Annexure-A).

- 2) That feeling aggrieved from the order dated 17.11.2022 the appellant filed his departmental appeal before the respondent No 2 and the Appellate Authority (Respondent No. 2) modified the order of Respondent No 3 and enhanced the penalty from reversion to removal from service vide the order dated 15.02.2023 (Annexure-B).
- 3) That the appellant questioned the orders ibid of the respondents before the KPK Service Tribunal Peshawar in Service appeal bearing No. 363/2023 and the KPK Service Tribunal Peshawar accepted the appeal of the appellant and set aside the impugned order, vide the judgment dated 11.7.2023 (Annexure-C).
- 4) That after the decision of the KPK Service Tribunal Peshawar the Respondents passed the reinstatement order of the appellant against the post of ASI instead of SI. The penalty of reversion from SI to ASI was modified by the Appellate Authority and converted the same into removal from service which was subsequently set aside by the KPK Service Tribunal Peshawar vide the Judgment ibid, thus the punishment of reversion and subsequent punishment qua removal from

service both were washed away and not in the field, therefore the respondents are under legal obligation to reinstate/restore the appellant to his original post i.e Sub Inspector (Annexure-D).

- 5) That the appellant on 28.08.2023 filed his Departmental appeal against the order dated 11.08.2023 for modification of the order ibid and requested for his restoration to his original post i.e Sub Inspector but his request went unheeded. (Annexure-E).
- 6) That the appellant filed a Writ Petition bearing No. 19-B/2024 before the Peshawar High Court, Bannu Bench, which was dismissed vide the Judgment dated 23.01.2024 and the Honourable Court advised the appellant to approach the proper forum for redressal of his grievance. Hence the present appeal is being filed on the following grounds. (Annexure-F).

Grounds:

A. That since the penalty of reversion from substantive rank of SI to ASI was converted into removal from service by the Appellate Authority and the said order qua removal from service was set aside by the KPK Service Tribunal, therefore both the orders are not in the field and washed away therefore the respondents were legally

bound to restore the appellant to his original post i.e Sub Inspector.

B. That as per FR-29 in penalty of reversion/reduction the Authority is bound to state the period that how long the accused will remain under reduction and no one shall be reduced in rank permanent basis as per law.

C. That under section 7 of KPK Service Tribunal Act 1974 the Tribunal can modify the impugned order appealed against.

D. That the order dated 11.08.2023 is need to be modified U/S 7 of the KPK Service Tribunal Act 1974 and the appellant is require to be reinstated /restored to his original post of SI as he is due for promotion of Inspector on the basis of seniority cum-fitness.

H). That any other grounds not raised here may graciously be allowed to be raised at the time of arguments.

In view of the aforesaid facts and circumstances of the case it is humbly prayed that the impugned order dated 11.08.2023 may graciously be modified to the extent that the appellant be reinstated into service against the post of Sub Inspector instead of Assistant Sub Inspector from the

date of removal i.e 15.02.2023 with all consequential benefits.

Any other remedy which this august tribunal deems fit that may also onward granted in favor of appellant.

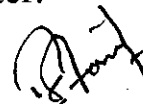
Appellant
Through



Shahzada Irfan Zia
Advocate, Peshawar
Cell No. 0300-9345297

Certificate

Certified that no such service appeal earlier been filed on behalf of appellant before this Tribunal on the subject matter.



Advocate

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.

Appeal No. _____ of 2024

Sajid Khan S/o Jurabaz Khan, presently ASI Bannu
Police Line Bannu.

..... Appellant

VERSUS

~~.....~~

1. The Regional Police Officer Bannu Region
Bannu.

~~.....~~

..... Respondents

AFFIDAVIT

I, Sajid Khan S/o Jurabaz Khan, presently ASI Bannu Police
Line Bannu do hereby solemnly affirm and declare on oath
that the content of the above appeal are true and correct to the
best of my knowledge and belief and nothing has been kept
secret and concealed from this Hon'ble Tribunal.

DEPONENT

7

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

Appeal No. _____ of 2024

Sajid Khan S/o Jurabaz Khan, presently ASI Bannu
Police Line Bannu.

..... Appellant

VERSUS

~~..... Respondent~~

1. The Regional Police Officer Bannu Region
Bannu.

~~..... Respondent~~

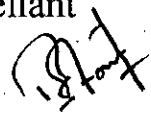
..... Respondent;

**APPLICATION FOR CONDONATION OF DELAY
UNDER RULE 6 (5) READ WITH RULE 8 OF KPK
SERVICE TRIBUNAL RULES 1974.**

Respectfully Sheweth:

- 1) That the applicant has filed an appeal before this Hon'ble Court, in which no date of hearing is fixed as yet.
- 2) That the applicant after filing his Departmental appeal dated 18.08.2023 approached the Peshawar High Court, Bannu Bench, which was dismissed and he was advised to approach the proper forum. Hence the present appeal is being filed on the direction of august Peshawar High Court Bannu Bench.
- 3) That the delay in filing this appeal is not intentional or deliberate but due to pendency of the case before the august Peshawar High Court Bannu Bench.

It is, therefore, humbly prayed that on acceptance of this application the delay if any in filing of appeal may kindly be condoned.

Appellant
Through 

Shahzada Irfan Zia
Advocate, Peshawar
Cell No. 0300-9345297

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. _____ of 2024

Sajid Khan S/o Jurabaz Khan, presently ASI Bannu Police Line Bannu.

..... Appellant

VERSUS

~~.....~~

1. The Regional Police Officer Bannu Region Bannu.

~~.....~~

..... Respondent

AFFIDAVIT

I, Sajid Khan S/o Jurabaz Khan, presently ASI Bannu Police Line Bannu do hereby solemnly affirm and declare on oath that the content of the above application are true and correct to the best of my knowledge and belief and nothing has been kept secret and concealed from this Hon'ble Tribunal.

DEPONENT

(Annex A)

ORDER

This order of the undersigned will dispose of the Charge Sheet against accused SI Sajid Khan under general proceeding of Police Rule 1975 (As amended vide Khyber Pakhtunkhwa gazette Notification, No.27th of August 2014) by issuing Charge Sheet to them for committing the following commissions/omissions.

On 17.09.2022 during Chehluin Jatoos, you on account of previous grudges with SDPO Rural-I came to him, used abusive language with aggressive behavior and also bolted and aimed your pistol on SDPO Rural-I during. This was witnessed by all the police officials on duty and private individuals. This whole incident brought bad name to the police department.

Proper Charge Sheet was issued to the official. The Charge Sheet was properly served upon him. The accused official submitted implausible reply, placed on file. Addl: SP (EO) has been proved the allegation against him vide letter No.251/Addl: SP dated 05.10.2022

He was called in orderly room on 16.11.2022 to explain his position but he could not satisfy the undersigned.

Therefore, I, Dr. MUHAMMAD IQBAL, District Police Officer Bannu, in exercise of the power vested in me under Police Rule 1975 (As amended vide Khyber Pakhtunkhwa gazette Notification, No.27th of August 2014), hence, he is reinstated into service and awarded punishment of reversion from the substantive rank of SI to the Substantive rank of ASI with immediate effect.

OB No. 1296

Dated: 17/11/2022.

(Dr. MUHAMMAD IQBAL) PSP
District Police Officer,
Bannu

No. 4936 / SRC dated Bannu, the 21/11/2022.

Copy of above is submitted to Regional Police Officer, Bannu Region, Bannu for favour of information please.

(Dr. MUHAMMAD IQBAL) PSP
District Police Officer,
Bannu

(Annex: B) 11

~~(Annex: B)~~

ORDER:

This order will dispose of departmental appeal, preferred by ASI Sajid Khan No.B/60 of District Police Bannu, wherein he has prayed for setting aside the order of major punishment of "reversion from the substantive rank of SI to the substantive rank of ASI", imposed upon him by DPO Bannu vide OB No.1296 dated 17.11.2022 on the following allegations:-

- > That on 17.09.2022 during Chehlum procession (jaloos) the appellant used abusive language and aggressive behaviors with SDPO Rural-I Bannu on his previous grudges. The appellant loaded and aimed his pistol on SDPO Rural-I. This act of the appellant was witnessed by all police officials on duty and private persons. This whole incident brought a bad name to the police department.

Comments, service record and departmental inquiry file were received from DPO Bannu vide his office letter No.5303/SRC, dated 28.12.2022. As per the enquiry file the appellant was charge sheeted based upon statement of allegations and Addl. SP Bannu was appointed as Enquiry Officer. The E.O conducted inquiry into the allegations and submitted his findings, where, the E.O concluded that the allegations leveled against the appellant have been proved and recommended him for award of major punishment. Therefore, the appellant was awarded major punishment of "reversion from the substantive rank of SI to the substantive rank of ASI". On 09.02.2023, the appellant was also heard in person in orderly room held in RPO Office Bannu. His plea was not found convincing.

He committed a serious violation of the discipline by abusing an uniformed DSP on duty. He aimed his pistol at him and threatened to kill him. He also wrote a report in daily diary of Police Lines leveling frivolous allegations against his command. His conduct was highly unbecoming of an officer and brought a bad name for the department.

Therefore, I, Syed Ashfaq Anwar, PSP, Regional Police Officer, Bannu Region Bannu, in exercise of the powers vested in me under Khyber Pakhtunkhwa Police Rules, 1975 (amended in 2014) am constrained to disagree with the order of DPO Bannu vide OB No.1296 dated 17.11.2022 for his reversion to a lower rank. He is hereby removed from service with immediate effect.

ORDER ANNOUNCED

OB No. 25
Dated: 15/02/2023.

Regional Police Officer,
Bannu Region,
Bannu

No. 471 /BC, dated Bannu the 15/02/2023

Cc: DPO-Bannu for information and necessary action w/r to his office letter No. cited above along with Service Roll and other relevant documents of ASI Sajid Khan No.B/60 of District Police Bannu for record in your office which may be acknowledged, please.

Regional Police Officer,
Bannu Region,
Bannu

Service Appeal No. 363/2023 titled "Sajid Khan versus Government of Khyber Pakhtunkhwa through Inspector General of Police (R/O) Central Police Office, Peshawar and others" decided on 11.07.2023 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Fareeha Paul, Member Executive, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

(Annex: C)

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**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.**



**BEFORE: KALIM ARSHAD KHAN ... CHAIRMAN
FAREEHA PAUL ... MEMBER (Executive)**

Service Appeal No.363/2023

Date of presentation of Appeal.....23.02.2023
Date of Hearing.....11.07.2023
Date of Decision.....11.07.2023

Sajid Khan S/O Jurabaz Khan, Ex, Sub-Inspector, Police Lines,
Bannu. R/O Village Mira Mast Khail, District Bannu.....*Appellant*

Versus

1. Province of Khyber Pakhtunkhwa Peshawar through Inspector General of Police/Provincial Police Officer, Central Police Office, Peshawar.
2. Regional Police Officer, Bannu region, Bannu.
3. Additional Superintendent of Police, Bannu, (Inquiry Officer).....*(Respondents)*

Present:

Mr. Shahzada Irfan Zia, Advocate.....For the appellant
Mr. Muhammad Jan, District Attorney.....For respondents.

.....
APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974
AGAINST THE IMPUGNED ORDER DATED 17.11.2022
PASSED BY RESPONDENT NO.3 WHEREBY THE
APPELLANT HAS BEEN AWARDED THE MAJOR
PENALTY OF REVERSION FROM THE SUBSTANTIVE
RANK OF SUB-INSPECTOR TO THE SUBSTANTIVE
RANK OF ASSISTANT SUB-INSPECTOR WITH
IMMEDIATE EFFECT AND ON HIS DEPARTMENTAL
APPEAL AGAINST THE IMPUGNED ORDER IBID THE
RESPONDENT NO.2 (APPELLATE AUTHORITY)
ENHANCED THE PENALTY FROM REVERSION TO
REMOVAL FROM SERVICE WITH IMMEDIATE
EFFECT VIDE IMPUGNED FINAL ORDER DATED
15.02.2023, DISREGARD OF THE RULES AND
PRINCIPLES OF NATURAL JUSTICE, THUS BOTH
THE IMPUGNED ORDERS ARE LIABLE TO BE SET
ASIDE BEING VOID AND ILLEGAL.

ATTESTED

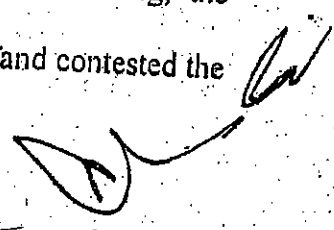
KALIM ARSHAD KHAN
Chairman
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Brief facts of the case are that appellant, while holding the post of Sub-Inspector, on certain charges was placed under suspension by respondent No.3 vide order dated 19.09.2022 and a charge sheet alongwith statement of allegations dated 20.09.2022 was served upon him; that the appellant submitted reply to the charge sheet; that respondent No.4 was appointed as Enquiry Officer to probe into the allegations alleged in the charge sheet; that no independent officer was appointed to conduct the enquiry as the respondent No.4 was present on the day of incident as alleged in the charge sheet and his enquiry could not be called an impartial enquiry; that respondent No.4 submitted his enquiry report to respondent No.3 and held the appellant guilty and proposed major punishment against the appellant; that respondent No.3 passed the impugned order dated 17.11.2022 and imposed the major penalty of reversion from the substantive rank of Sub-Inspector to the substantive rank of Assistant Sub-Inspector with immediate effect; that feeling aggrieved from the order, the appellant preferred departmental appeal to respondent No.2 on 29.11.2022 but the appellate authority (respondent No.2) modified the order of respondent No.3 and enhanced the punishment from reversion to removal from service vide order dated 15.02.2023, hence, the present service appeal.

02. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents put appearance and contested the

ATTACHED
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

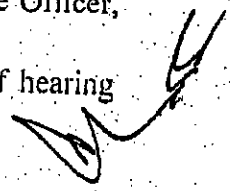


appeal by filing written reply raising therein numerous legal and factual objections. The defense setup was a total denial of the claims of the appellant.

03. We have heard learned counsel for the appellants and learned District Attorney for the respondents.

04. The Learned counsel for the appellant argued that the appellant had not been treated in accordance with law and rules. Learned counsel for the appellant contended that the inquiry conducted by respondent No.4 was not impartial but from the findings and proceedings it seemed that the inquiry officer acted as a supporter of the complainant and he was himself present on the day of incident as alleged in the charge sheet. The inquiry proceedings were not conducted according to law and procedure and during inquiry no opportunity of cross-examination was given to the appellant. He further contended that respondent No.2 (appellate authority) modified the order of respondent No.3 and enhanced the penalty from reversion to removal from service, but no show cause notice was served upon the appellant before the impugned final order, which was mandatory under the law, hence the order of respondent No.2 was illegal, void and unsustainable under the law. He prayed that the appeal might be accepted.

05. Vide order dated 17.11.2022, the appellant was awarded punishment of reversion from the substantive rank of S.I to the substantive rank of ASI with immediate effect. The appellant filed appeal against the said order before the Regional Police Officer, Bannu Range, who vide order dated 15.02.2023, while disagreeing with the order of the District Police Officer, Bannu, removed the appellant from service without any notice of hearing



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issued to him in respect of the enhancement of the punishment which is in utter disregard of the proviso to clause (d) of Sub-Rule (4) of Rule-11 of the Police Rules, 1975, which reads as under:-

"Provided that where the Appellate Authority or Review Authority, as the case may be, proposes to enhance the penalty, it shall by an order in writing-
(a) Inform the accused of the action proposed to be taken against him and the grounds of such action; and
(b) give him a reasonable opportunity to show cause against the action and afford him an opportunity of personal hearing"

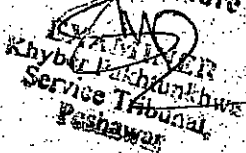
06. Therefore, the appellate order is not sustainable. Resultantly, while accepting this appeal, the order of the Appellate Authority dated 15.02.2023 is set aside and the case is sent back to the Appellate Authority, where the appeal will be deemed pending, to decide it in accordance with law and rules and in case the authority intends to enhance the punishment, it shall give notice to the appellant with an opportunity of hearing, within one month after receipt of copy of this judgment. Cost shall follow the event. Consign.

07. Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 11th day of July, 2023.


KALIM ARSHAD KHAN
Chairman


FAREEHA PAUL
Member (Executive)

Shah, P.A.*

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 07/07/23
Number of Pages 4
Copying Fee 28
Urgent def
Total 28
Name of Copyist ---
Date of Completion 07/07/23
Date of Delivery of Copy 07/07/23

(Annex: D) 16

ADDENDUM/CORRIGENDUM

The following addendum/corrigendum is hereby made in the re-instatement order of ASI Sajid Khan of Bannu District Police, issued vide this office Endst: No. 2538/EC dated 04.08.23:-

“ He is re-instated from the date of removal (15.02.2023) instead of re-instatement with immediate effect in light of the court judgment/decision dated 11.07.2023 of Service Tribunal Khyber Pakhtunkhwa Peshawar ”

Regional Police Officer,
Bannu Region,
Bannu

10/8/23

No. 2629 /EC; dated Bannu the 11 / 10/8/2023

Copy of above is forwarded to;

1. The District Police Officer, Bannu w/r to this office Order Endst: No. referred above.

Regional Police Officer,
Bannu Region,
Bannu

10/8/23

(Annex E)

۱۷ حضور جناب ایگلز جنرل آف پولیس، چیمبرز، لہور

بذریعہ DPo بنوں پولیس۔ بنوں۔

اپیل برؤ آف آرڈر مورفم ۱۱-۸-۲۰۲۳ سے مزید یہ کہ سائل کی
اپیل لہجہ ارجحی بطور SI بنوں پولیس بنوں

جناب عالی

یہ کہ مورفم ۱۱-۷-۲۰۲۳ کو سرسبز ٹریبیونل نے اپنے فیصلے کے مطابق سائل
کی رفاقتی کا آرڈر منسوخ/ set aside کر دیا ہے اور سائل کو نوٹری پر بحال فرمایا ہے
فیصلہ مورفم ۱۱-۸-۲۰۲۳ کے آرڈر کے تحت جناب DPo صاحب نے سائل کی
بطور ASI بحال فرمایا ہے جو کہ سائل کے ساتھ ناالعماضی و زیادتی ہے
یہ کہ سائل میں ترین SI ہے اور ایگلز کی پروموشن کا مقدار ہے لیکن
سائل کے ساتھ ناالعماضی جاری ہے اور جوینر SI پروموشن ہو کر ایگلز
بنائے جارہے ہیں۔

لہذا استدعا ہے کہ سائل کو ای کی پوسٹ پر بحال کرنے
کے احکامات صادر فرمائیں تاکہ دارر کی فرمائشیں

مشق

سابقہ خان ای، پولیس لائٹز بنوں۔

۲۸/۵/۲۰۲۳

(Annex: F) B/

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

Writ Petition No. /2023

Sajid Khan S/O Jurabaz Khan, Assistant Sub-Inspector, Police Lines Bannu, R/O Village Mira Mast Khail, Bannu.

..... PETITIONER

V E R S U S

1. Province of KPK through Inspector General of Police/ Provincial Police Officer, Central Police Office, Peshawar.
2. Regional Police Officer, Bannu Region, Bannu.
3. District Police Officer, Bannu.

..... RESPONDENTS

**WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF ISLAMIC
REPUBLIC OF PAKISTAN 1973.**

Respectfully Sheweth:

FACTS OF THE CASE

1. That while the Petitioner was holding the post of Sub-Inspector, in consequence of certain allegations/charges the respondent No-3 imposed the major penalty of reversion from the substantive rank of Sub-Inspector to the rank of Assistant Sub-Inspector under Police E&D Rules, 1975, upon the Petitioner vide order dated 17-11-2022. (ANNEX A)
2. That feeling aggrieved from the order dated 17-11-2022 the Petitioner preferred his departmental appeal before the respondent No-2 and the Appellate Authority (respondent No-2) modified the order of respondent No-3 and enhanced the penalty/ punishment from reversion to removal from service vide order dated 15-02-2023. (ANNEX.B)
3. That the Petitioner questioned the order dated 15-02-2023, passed by respondent No-2, before the learned KPK Service Tribunal, Peshawar in Service Appeal bearing NO. 363 of 2023 and the KPK Service Tribunal, Peshawar, accepted the appeal of the Petitioner and set aside the order dated 15-02-2023 vide judgment dated 11-07-2023. (ANNEX.C)
4. That after acceptance of the case of the Petitioner by KPK Service Tribunal,

**JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT,
BANNU BENCH
(Judicial Department)
WP No. 19-B/2024**

**Sajid Khan
Vs
Inspector General of Police
Khyber Pakhtunkhwa and others**

JUDGMENT

Date of hearing: 23.01.2024
For petitioner(s): Mr. Shahzad Irfan Zia Advocate,
For respondent(s): Mr. Umer Qayyum Khan, A.A.G.

Dr. Khurshid Iqbal, J.-

W/11/23

1. The petitioner worked as a Sub-Inspector (S.I) in the Police Department at District Bannu. He was charged with misconduct and consequently, reverted from the substantive rank of S.I. to Assistant Sub-Inspector (ASI) by the District Police Officer (DPO), Bannu under the Police Rules, 1975, as per the order dated 17.11.2022. Aggrieved by this, the petitioner challenged the order by filing a departmental appeal before the Regional Police Officer (RPO), Bannu / Appellate Authority, where the punishment was enhanced from reversion to a lower rank to removal from service through the order dated 15.02.2023.

2. This order was appealed against before the Khyber Pakhtunkhwa Service Tribunal, which accepted the appeal vide judgment, dated 11.07.2023, rendered in Service Appeal No.363/2023. The impugned order was set aside, and the case was remanded to the RPO / Appellate Authority. The departmental appeal was held to be pending and was directed to be decided according to the law, within one month. The

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Service Tribunal also observed that if the Appellate Authority deemed it appropriate to enhance the awarded punishment, then, proper notice and an opportunity of hearing were to be provided to the petitioner.

3. In compliance, the petitioner was reinstated in his service in the rank of ASI with effect from the date of his removal from service by the RPO, as per orders dated 04.08.2023 and subsequent corrigendum dated 11.08.2023. The grievance voiced by the petitioner is that since the order dated 17.11.2023, passed by the DPO, was set aside by the RPO, and the order dated 15.02.2023 of the RPO, was also set aside by the Service Tribunal, therefore, both these orders remained no longer in the field. Hence, he contends that he should have been reinstated to his earlier rank of S.I., and not ASI. He accordingly seeks the issuance of an appropriate writ to the respondents for his reinstatement as an S.I.

4. After hearing the matter at some length, it was found that the grievance of the petitioner pertains to a disciplinary action, which forms part of terms and conditions of his service under the Khyber Pakhtunkhwa Civil Servants Act, 1973. Hence, it exclusively falls within the domain of the Service Tribunal, established for the purpose, and due to the jurisdictional limitation under Article 212 of the Constitution, this Court lacks the authority to entertain and decide such matters. Consequently, this petition is dismissed. However, the petitioner is granted the liberty to approach the proper forum for the redress.

Announced
23.01.2024
(Ghafoor Zaman)

27 JAN 2024
Handwritten signature and date

(D.B)
Hon'ble Mr. Justice Fazal Subhan
Hon'ble Mr. Justice Dr. Khurshid Iqbal

TO BE TRUE COPY

Handwritten signature and date 27/01/2024

وکالت نامہ

سروس پشاور
بعدالت پشاور ہائی کورٹ پشاور

12-2-2024

Sajid Khan

Service Appeal

موردہ

مقدمہ

دعویٰ

جرم

Sajid Khan

منجانب (Appellant)

بنام

Province of KPK etc

باعث تحرے آئندہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطہ پیروی و جواب دہی وکل کاروائی، متعلقہ

Shahzada Irfan Zia کے

Peshawar

Advocate Peshawar

آن مقام

مقرر کر کے اقرار کیا جاتا ہے۔ کہ وکیل موصوف کو مقدمہ کی کل کاروائی کا مکمل اختیار حاصل ہوگا

نیز وکیل صاحب کو عرضی دعویٰ داخل کرنے، جواب دعویٰ، اپیل، نظر ثانی کا بھی اختیار حاصل ہو

گا نیز وکیل صاحب بصورت ڈگری برخلاف من اختیار دہندہ اپیل، نگرانی، نظر ثانی از عدالت ابتداء

تا عدالت انتہا یعنی سپریم کورٹ آف پاکستان دائر کر سکتا ہے وکیل موصوف بصورت عدم پیروی

کاروائی یکطرفہ یا ڈگری یکطرفہ کیخلاف درخواست دائر کر سکتا ہے اور وکیل موصوف میری جانب

سے مقدمہ میں بصورت ڈگری چیک یا نقد روپیہ کی شکل میں وصول کر سکے گا اور مزید یہ کہ وکیل

موصوف مقدمہ متذکرہ کی کل یا جزوی کاروائی کیلئے اپنی بجائے دیگر وکیل بھی اپنے ساتھ مقرر کر سکتا

ہے جس کو بھی وہ جملہ اختیار حاصل ہونے جو کہ وکیل موصوف کو حاصل ہیں مجھے اس صورت میں

تمام ساختہ پر داختم منظور و قبول ہوگا لہذا میں نے وکالت نامہ ہذا تحریر کر کے اس پر دستخط نشان

Attested

Accepted.

انگشت ثبت کر دیا ہے تاکہ سند رہے۔

Sajid Khan

Cell: 0300-9345897

Bc No: 10-7608

20/24

Feb

12th

المرقوم

وہا کے لئے منظور ہے۔

Sajid Khan

Peshawar
بمقام