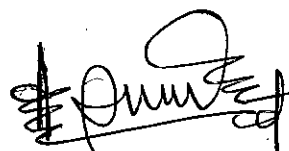


S.No.	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	15.07.2021	<p style="text-align: center;">KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, <u>PESHAWAR.</u></p> <p style="text-align: center;">Service Appeal No. 1504/2019</p> <p>Mr. Ilyas Ahmad, Ex-Warder, District Jail Peshawar R/O Village Toru, Mohallah Kambar, Tehsil and District Mardan. ... (Appellant)</p> <p style="text-align: center;"><u>Versus</u></p> <p>1. Inspector General of Prison KPK, Peshawar and two others. ... (Respondents)</p> <p>Appellant with counsel present. Preliminary arguments heard and record perused.</p> <p>2. The impugned order as available on file at Page-9 (Annexure) was passed on 29.07.2015, where-against the departmental appeal as available on Page-10 (Annexure-C) was filed on 27.12.2018. However, the service appeal was not filed with the prescribed period of 30 days after passing of waiting period of ninety days. Rather this appeal was filed on 07.11.2019 after about twelve months of the filing of departmental appeal. An application for condonation of delay has been filed but the reason enumerated in the said application do not constitute a sufficient cause for condonation of delay particularly when no reason has been furnished in the said application that how and by which reason, the appellant was prevented from approaching this Tribunal with service appeal, within prescribed period of limitation after expiry of waiting period of ninety days. Learned counsel for the</p>

appellant referred to case laws as reported in 1992-PLC(C.S) 571, 1995-PLC(C.S) 646, NLR 1996 Service 36, 1997-SCMR-1471, PLJ 2004-SC-435, 2004-PLC(C.S) 856 and 2008-PLC(C.S) 1055.

3. The precedents laws as referred during the course of arguments is distinguishable as far as particular facts of appeal in hand are concerned. Therefore, the appellant has got no good case for condonation of delay and his application for condonation of delay is dismissed.

4. In view of the above, the present appeal is dismissed in limine. File be consigned to the record room.

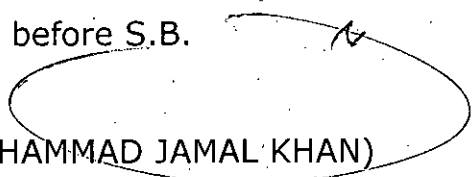


(AHMAD SULTAN TAREEN)
Chairman

ANNOUNCED
15.07.2021


24.11.2020

Learned counsel for appellant is present. He requests for adjournment that he has not prepared the brief of the instant appeal. Adjournment granted. File to come up for preliminary hearing on 12.01.2021 before S.B.


(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

12.01.2021

Mr. Aslam Khan Khattak, Advocate, for appellant is present. He requested for adjournment. Request is allowed. The appeal is adjourned to 07.04.2021 on which date file to come up for preliminary hearing before S.B.


(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

07.04.2021

Due to demise of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 15.07.2021 for the same as before.


READER

11.03.2020

Learned counsel for the appellant and seeks adjournment. Adjourn. To come up for preliminary hearing on 20.04.2020 before S.B.



Member

20.04.2020

Due to public holiday on account of COVID-19, the case is adjourned to 16.07.2020 for the same. To come up for the same as before S.B.



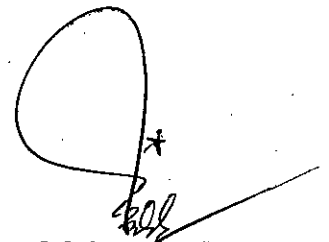
Reader

16.07.2020

Counsel for the appellant present.

Learned counsel for the appellant requests for adjournment to further prepare the brief.

Adjourned to 24.09.2020 before S.B.

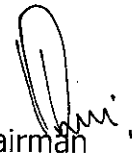


(Mian Muhammad)
Member(E)

24.09.2020

Counsel for the appellant present.

Learned counsel once again requests for adjournment. Adjourned to 24.11.2020 before S.B.







Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 1504/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	07/11/2019	<p>The appeal of Mr. Ilyas Ahmad presented today by Mr. Aslam Khan Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 7/11/19</p>
2-	11/11/19.	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>13/12/19.</u></p> <p style="text-align: right;"> CHAIRMAN</p>
13.12.2019		<p>Due to strike of the bar learned counsel for the appellant is not available today. Adjourned to 27.01.2020 for preliminary hearing before S.B.</p> <p style="text-align: right;"> (MUHAMMAD AMIN KHAN KUNDI) MEMBER</p>
	27.01.2020	<p>Appellant absent. Learned counsel for the appellant absent. Due to general strike of the bar, on call of Khyber Pakhtunkhwa Bar Council, the case is adjourned. To come up for preliminary hearing on 12.03.2020 before S.B. Appellant be put to notice for the date fixed.</p> <p style="text-align: right;"> Member</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal No: 1504/2019

Ilyas Ahmed, Ex Warder, District Jail Peshawar R/o Village Toru,
Mohallah Kambar, Tehsil & District Mardan.

.....Appellant

VERSUS

Inspector General of Prisons, KPK Peshawar & Others

.....Respondents


INDEX

S#	Description of Documents	Annexure	Page No's
1	Memo of Appeal with affidavit	-	1-5
2	Application for condonation of delay(if any) with affidavit	-	6-7
3	Appointment order of Appellant	"A"	8
4	Impugned order dated 29/07/2015	"B"	9
5	Departmental Appeal dated 27/12/2018	"C"	10
6	Final Impugned order dated 03/01/2019	"D"	11
8	Wakalat Nama	-	-

Dated: 7 /11/2019


Appellant

Through


Aslam Khan Khattak
Advocate, Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Appeal No: 1504/2019

Diary No. 1591

Dated 07/11/2019

Ilyas Ahmed, Ex Warder, District Jail Peshawar R/o Village Toru,
Mohallah Kambar, Tehsil & District Mardan.

.....Appellant

Versus

1. Inspector General of Prison KPK Peshawar.
2. Superintendant Headquarters Prison Peshawar.
3. Superintendant Judicial Lock-Up, Swabi.

.....Respondents

APPEAL UNDER SECTION 4 OF KPK
SERVICE TRIBUNAL ACT 1974 AGAINST
THE IMPUGNED ORDER DATED 29/07/2015
VIDE ANNEXURE "B" WHEREBY THE
APPELLANT HAS BEEN REMOVED FROM
SERVICE WITH IMMEDIATE EFFECT AND
ALSO AGAINST THE FINAL IMPUGNED
ORDER DATED 03/01/2019 VIDE
ANNEXURE "D" WHEREBY THE
APPELLANT'S DEPARTMENTAL APPEAL
HAS BEEN FILED.

Filed to-day

Registrar

07/11/19

PRAYER:

ON ACCEPTANCE OF APPEAL, BOTH THE
IMPUGNED ORDERS AT ANNEXURE "B -
D" MAY BE SET ASIDE AND THE
APPELLANT SHALL BE REINSTATED IN
SERVICE WITH ALL BACK BENEFITS.

Respectfully Sheweth:-

Brief facts leading to the instant appeal are as under:-

1. That the Appellant having been inducted in service on 02/05/2009 vide annexure "A".
2. That the appellant throughout his while service has performed his duty with utmost of his capability and to the entire satisfaction of his superiors.
3. That the appellant had proceeded on leave to his home due to some difficulties and after expiry of leave, he was not permitted for duty and has declared him absent.
4. That the appellant has many times reported to resume his duty but he was not allowed and has been removed him from service with immediate effect vide annexure "B". The original impugned order dated 29/07/2015 at annexure "B" has been communicated to the appellant on 02/12/2018.
5. That the appellant has filed his departmental appeal dated 27/12/2018 at annexure "C" against the original impugned order dated 29/07/2015 at annexure "B" which has not been entertained vide impugned order dated 03/01/2019 at annexure "D" communicated to the appellant on 20/10/2019 and hence this appeal inter-alia on the following grounds:-

GROUNDS:

- A. That the appellant has been removed from service due to his absence from duty which was never intentional but he was not permitted by his superiors to resume his duty and so it was not his fault and his removal from service is illegal and to this effect, both the impugned orders at annexure "B +

D” are liable to be set aside and the appellant is liable to be reinstated in service.

- B. That the charges of absence from duty if even proved would not justify the removal of appellant from service because his absence from duty is petty misconduct and major penalty shall not be imposed upon him. So both the impugned order at annexure B & D are illegal and are liable to be set aside.
- C. That for mere absence, major penalty of removal from service has been imposed upon the appellant is an extreme harsh one and not commensurate with the petty misconduct born out of absence from duty and so it may be set aside.
- D. That the appellant has been inducted in service on 02/05/2009 and he has ten years of service and in view of his long service, a very harsh punishment has been given to him which is not permissible under the law.
- E. That no show cause notice has been served upon him and nor any regular inquiry has been conducted and so the charges of absence has not been proved against him and so both the impugned orders at annexure B & D are liable to be set aside.
- F. That the last opportunity of personal hearing which was necessary under the law has not been given to the appellant and he was condemned unheard, so appellant is liable to be reinstated into service with all back benefits.

G. That both the impugned orders at annexure "B & D" are illegal, malafide, without jurisdiction and without lawful authority and are liable to be set aside.


H. That the appellant seeks leave of this Hon'ble Tribunal to rely on additional grounds at the time of arguments.

It is, therefore, most respectfully prayed that on acceptance of appeal, the impugned orders at Annexure "B & D" may be set aside and the appellant may be reinstated in service with all back benefits.

Dated: 7/11/2019


Appellant

Through


Aslam Khan Khattak
Advocate, Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal No. ____/2019

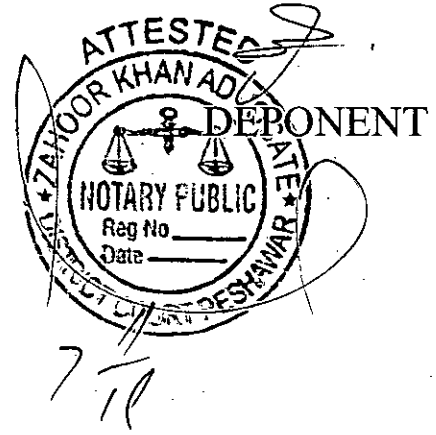
Ilyas Ahmed

VERSUS

Inspector General of Prisons, KPK Peshawar & Other

AFFIDAVIT

I, Ilyas Ahmed, Ex Warder, do hereby solemnly affirm and state on oath that the original impugned order dated 29/07/2015 was communicated to me on 02/12/2018 and final impugned order dated 03/01/2019 on 20/10/2019. My above statement is true and correct to the best of my knowledge and belief and nothing wrong has been stated by me in the matter.



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal No.____/2019

Ilyas Ahmed

VERSUS

Inspector General of Prisons, KPK Peshawar & Other

APPLICATION FOR CONDONATION
OF DELAY IF ANY ON THE
FOLLOWING GROUNDS.

GROUND:

- A. That the departmental appeal has been rejected by the authority as time barred. Such appeal would lie before this Hon'ble Tribunal on merit and not on condonation of delay (if any) in the matter.
- B. That it is settled law of Supreme Court of Pakistan that the cases be decided on merits and not on technicalities such as limitation.
- C. That the petitioner has not committed any misconduct and if the delay, if any, is not condoned, the petitioner's whole life shall be destroyed.


It is, therefore, prayed that on acceptance of this application, the delay if any shall be condoned to meet the ends of justice.

Dated: 7 /11/2019



Petitioner

Through


Aslam Khan Khattak
Advocate, Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal No. ____/2019

Ilyas Ahmed

VERSUS


Inspector General of Prisons, KPK Peshawar & Other

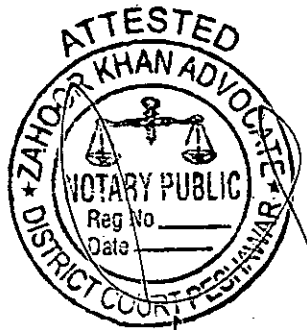
AFFIDAVIT

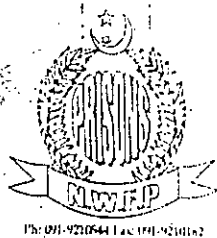
I, Ilyas Ahmed, Ex Warder, do hereby solemnly affirm and state on oath that all contents of the application or condonation of delay if any are true and correct to the best of my knowledge and belief and nothing wrong has been stated by me in the matter.


DEPONENT

Identified by


Aslam Khan Khattak
Advocate, Peshawar.





Masud-ur-Rahman

(8)

**OFFICE OF THE
SUPERINTENDENT
HEADQUARTERS PRISON PESHAWAR**
NO. 631 /PB-dt: 21.5 /2009

To

Mr. Ilyas Ahmad S/O Lal Bahadur
Mohallah Kumbur, Village & P.O Toroo, Tehsil & Distt Mardan.

Subject:
Memo:

APPOINTMENT AS WARDER (BPS-05).

Reference your test/ interview for the subject post:

You are hereby offered the post of temporary Warder in BPS-05 (2780-135-68) and other usual allowances as admissible under the rules subject to the following conditions: -

- 1- You are liable to serve anywhere in the Jails of NWFP.
- 2- Your appointment is purely temporary and your services can be terminated at any time without assigning any reasons during probationary period.
- 3- For all other purposes such as pay, T.A & Medical attendance etc you will be governed by the rules applicable to the Government Servants of your category.
- 4- The terms and conditions of your appointment as Warder will be those as laid down in the Warders Service Rules 1960 NWFP, Prisons Department (Recruitment, Promotion and Transfer) rules 1980 and all other rules and regulations prescribed in this respect in the Prisons Act/Pakistan Prison Rules and any other rules which may be applicable to Government Servants or the rules which may be promulgated by the Government from time to time in this behalf.
- 5- Your appointment will be subject to your Medical fitness and passing of Warders Basic Training Course.
- 6- No TA/ DA will be admissible to you on joining your first appointment.
- 7- You cannot resign from the service immediately but will have to put in writing at least one month prior notice or in lieu thereof, one month pay shall be forfeited from you.
- 8- Your appointment is subject to fulfillment of all the conditions laid down in the service rules.
- 9- You will be on probation for a period of two years extendable to one more year.
- 10- Your services shall be liable to termination without any notice if your work and conduct is found unsatisfactory during probationary period or if you fail to qualify Warders Basic Training Course.
- 11- If you accept the appointment on the above terms and conditions then you may report to the Superintendent Central Prison Haripur on 13-05-2009 to undergo Warders Basic Training Course at Warders Training School Haripur.
- 12- On your report for training, it will be taken for granted that you have accepted all the above terms and conditions and if you fail to report on 13-05-2009 for training at Central Prison Haripur, it will be presumed that you have declined to accept the offer, hence this offer of appointment shall stand cancelled.
- 13- You are directed to attend this office immediately for your Medical Examination at Police & Services Hospital Peshawar.

File No: 632-341

Copy forwarded to: -

- 1- The Superintendent Central Prison Haripur. He is requested to send arrival report of the Trainee to the concerned Superintendent Jail along with his Service Book duly completed in all respects under intimation to this Headquarters.
- 2- The Superintendent District Jail Abbottabad. The above named Warder is attached with his jail for the purpose of pay and allowances during training period.
- 3- The District Accounts Officer Abbottabad.

Masud-ur-Rahman

(MASUD-UR-RAHMAN)
SUPERINTENDENT
HEADQUARTERS PRISON PESHAWAR

Masud-ur-Rahman

(MASUD-UR-RAHMAN)
SUPERINTENDENT
HEADQUARTERS PRISON PESHAWAR
Ph: No.091-9210544 Fax: No. 091-9210182

<Musawer/>



OFFICE OF THE
SUPERINTENDENT
HEADQUARTERS PRISON PESHAWAR
No. 2537 /P.B/ Dt: 29-07-2015

OFFICE ORDER

B

Upon completion of proceedings under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011 initiated vide this Headquarters endorsement No. 1277-79 dated 29-07-2015, due to long desertion from duty i.e. w.e.f 16-07-2014 and non submission of reply to show-cause notice after a lapse of 05 months, Warder Ilyas Ahmad under transfer from Central Prison Peshawar to Judicial Lockup Swabi is hereby awarded the major penalty "Removal from Service" with immediate effect.

SUPERINTENDENT
HEADQUARTERS PRISON PESHAWAR

Endorsement No: 2538-401-

Copy of the above is forwarded to the: -

- 1- Superintendent Judicial Lockup Swabi with reference to his memo No. 1910 dated 18-09-2014.
- 2- District Accounts Officer, Swabi.
- 3- Official concerned.

SUPERINTENDENT
HEADQUARTERS PRISON PESHAWAR

Attested
287

کی حد تک صحت مند رہنے کی خاطر
پشاور ہسپتال کو

Ammed
10

درخواست برائے دوبارہ طبی

حصہ عالی اور گزارشی کی قاتی ہے کہ زبردستی طبی اہلیس احمد ولد

دعا سے در آئی ہے زبردستی طور وارڈر مورف 13-4-2009

کو تصدیق ہوئی ہے۔ لیکن کچھ کفریوں کی صورتوں کی

دیکھنے سے کچھ وقت بعد ڈیوٹی سے چھٹی پر وقت جلد

مجلس نے مجھے غنیمت حالہ پھر کر کے مجھے پھر جائے

درخواست گزار مجھے کے چکر چاہتا رہا لیکن نہیں ہے

مشورتی نہ ہوئی اور دوسری طرف درخواست گزار

مجلس اور دوسری سرورس رولر سے ناواقف تھا

سہرا مورفودہ مورفی میں آپ صاحبان سے اس کا

تصدیق ہے کہ مجھے دوبارہ ایسے غنیمت پر فخر کیا جائے

میں آئی کی نہیں داتا ہوں کہ آئندہ کبھی مجلس کے رولر

سے خود کو ناواقف نہیں رہوں گا اور اپنی ڈیوٹی اہلیس

سے ادا کرونگا

گواہی ہوئی

الکھارہا

آریقا گنہ گار

الکھارہا احمد ولد لعل آباد

سابقہ جیل وارڈر

Attested
as

27-12-2018 مورف



OFFICE OF THE
INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR

091-9210334, 9210406

091-9213445

www.facebook.com/kpkprisons/

Email prisonsig@gmail.com

No. 619

Dated 03-01-2019

To,

Mr. Illyas Ahmad S/O Lal Bahadur,
C/O Superintendent,
Central Prison Peshawar .

Subject:- DEPARTMENTAL APPEAL FOR REINSTATEMENT IN SERVICE.

Memo;

I am directed to refer to your appeal dated 31-12-2018 on the subject and to convey that you have removed from service on 29-07-2015 and according to rules you were required to prefer your departmental appeal within 30 days after the decision of the competent authority but you filed appeal on 31-12-2018 which is badly time barred due to which the appellate authority did not entertain your appeal.

03/01/19
ASSISTANT DIRECTOR (ADMN:)
FOR INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR

Attested
as

قیمت
50 روپے

31357



ایڈویکٹ: اسلم خان صدیقی

بار کونسل ایسوسی ایشن نمبر:

رابطہ نمبر: 0314-9558325

پشاور بار ایسوسی ایشن، خیبر پختونخوا

بعدالت جناب: خیبر پختونخواہ سروس ٹریڈنگ کمپنی

منجانب: الیاس احمد ب لہجہ صلہ وار اور

دعویٰ: سروس ٹریڈنگ

علت نمبر:

الیاس احمد بنام انسپیکٹر قبیلہ آف

مورخہ:

جرم:

جیل خانہ جات اور غور

تھانہ:

باعت تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ

آن مقام لیساور کیلئے اسلم خان صدیقی کو وکیل مقرر

کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کمال اختیار ہوگا، نیز وکیل صاحب کو

راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق

زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری کی طرف سے یا اپیل کی برآمدگی اور منسوخی، نیز

دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی

کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب

مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داخست منظور و قبول ہوگا

دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سبب سے ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے

باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم:

PESHAWAR BAR ASSOCIATION
KHYBER PAKHTUNKHWA
2019

مقام لیساور کے لیے منظور ہے۔

Attested & accepted.

aslm