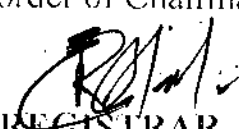


FORM OF ORDER SHEET

Court of _____

Appeal No. 710/2024


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	27/05/2024	<p>The appeal of Mr. Zeeshan Ahmad re-filed today by registered post through M.Arshad Tanoli Advocate. It is fixed for preliminary hearing before touring Single Bench at A.Abad on 26.06.2024. Counsel for the appellant has been informed telephonically .</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

The appeal of Mr. Zeeshan Ahmad received today i.e on 22.04.2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- ①- Departmental appeal attached with the appeal on page no.20 is unsigned.
- 2- According to para-6&7 of the memo of appeal, appellant made departmental appeal on 26.12.2023, on which advice were sought from Home department vide letter dated.04.04.2023, it is observed that how can it possible that departmental appeal was made on 26.12.2023 and advice were sought on 04.04.2023 much before preferring the departmental appeal the same be rectified.
- 3- Annexure-A of the appeal is illegible.

No. 947 /S.T.

Dt. 23/4 /2024.


25/4/24

REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

M. Arshad Khan Tanoli Adv.
High Court A.Abad.

81 v,

The service appeal received by this office on 15/5/24. The case of the appellant was decided by this Honorable court vide Judgement dt 16.11.22. Hence, the matter of the appellant remained under discussion prior to the departmental appeal on 26.12.23.



23/5/24

BEFORE CHAIRMAN KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 710 -A/2024

Zeeshan Ahmed Junior Clerk sub Jail Dassu Kohistan.

...APPELLANT

VERSUS

Inspector General of Prison, Department Khyber Pakhtunkhwa Peshawar & another.

...RESPONDENTS

SERVICE APPEAL

INDEX

S.#	Description	Page No.	Annexure
1.	Service Appeal along with affidavit	1 to 8	
2.	Copy of order	9	"A"
3.	Copy of judgment dated 16/11/2022 of this Honourable Tribunal	10-13	"B"
4.	Copy of Execution Petition No.611/2023	14-17	"C"
5.	Copy of order dated 04/10/2023	18	"D"
6.	Copy of order dated 10/03/2023	19	"E"
7.	Copy of departmental appeal dated 26/12/2023	20	"F"
8.	Copy of letter dated 04/04/2023	21	"G"
9.	Copy of order dated 13/07/2023	22	"H"
10.	Copy of departmental appeal dated 26/12/2023	23	"I"
8.	Wakalatnama	24	

...APPELLANT

Through;

Dated: _____/2024


(Muhammad Arshad Khan Tanoli)
Advocate Supreme Court of Pakistan


(Muhammad Ibrahim Khan)
Advocate High Court Abbottabad

BEFORE CHAIRMAN KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 710 -A/2024

Zeeshan Ahmed Junior Clerk sub Jail Dassu Kohistan.

...APPELLANT

VERSUS

1. Inspector General of Prison, Department Khyber Pakhtunkhwa Peshawar.
2. Superintend Sub Jail Dassu Kohistan

...RESPONDENTS

**SERVICE APPEAL UNDER SECTION 4 OF KPK
SERVICE TRIBUNAL ACT, 1974, FOR
DECLARATION TO THE EFFECT THAT THE
APPELLANT WAS AWARDED MAJOR PENALTY
OF REDUCTION TO LOWER STAGE IN A TIME
SCALE FOR A PERIOD OF 05 YEARS ON 04/11/2015
WHICH WAS CHALLENGED BEFORE THIS
HONOURABLE TRIBUNAL VIDE SERVICE
APPEAL NO. 864-A/2019 THIS HONOURABLE
TRIBUNAL ALLOWED SERVICE APPEAL OF
APPELLANT AND IMPUGNED PENALTY OF
REDUCTION TO LOWER STAGE IN TIME SCALE
FOR A PERIOD OF 05 YEARS DECLARED ILLEGAL**

AND IMPUGNED ORDER DATED 14/11/2015 WAS SET-ASIDE VIDE JUDGMENT OF THIS TRIBUNAL DATED 16/11/2022, BUT RESPONDENTS' DEPARTMENT IS NOT FILING AND ISSUING REVISED SENIORITY OF THE APPELLANT. THE ACT OF RESPONDENT IS AGAINST THE LAW AND RESPONDENTS ARE BOUND TO FILE SENIORITY OF APPELLANT THEREAFTER ISSUE REVISED SENIORITY LIST.

=====

PRAYER: ON ACCEPTANCE OF INSTANT SERVICE APPEAL, THE RESPONDENTS MAY GRACIOUSLY BE DIRECTED TO FIX SENIORITY OF THE APPELLANT AND ISSUE REVISED SENIORITY LIST AND THEREAFTER THE APPELLANT MAY BE PROMOTED TO NEXT HIGHER GRADE. ANY OTHER RELIEF WHICH THIS HONOURABLE TRIBUNAL DEEMS APPROPRIATE IN THE CIRCUMSTANCES OF THE CASE MAY ALSO BE GRANTED TO THE APPELLANT.

=====

Respectfully Sheweth;

1. That the appellant was serving as Junior Clerk and he was awarded major penalty of reduction in to lower stage in time scale for 05 years. Copy of order of awarding of major penalty of reduction to lower stage in time scale for 05 years is attached as Annexure "A".
2. That the appellant filed Service Appeal No.864-A/2019 before this Honourable Tribunal, which was allowed vide judgment dated 16/11/2022 by this Honourable Tribunal. Copy of judgment dated 16/11/2022 of this Honourable Tribunal is attached as Annexure "B".
3. That the appellant filed Execution Petition No.611/2023 before this Honourable Tribunal for implementation of the judgment dated 16/11/2022. Copy of Execution Petition No.611/2023 is attached as Annexure "C".
4. That, thereafter Execution Petition No.611/2023 was disposed off by this Honourable Tribunal vide order dated 04/10/2023. Copy of order dated 04/10/2023 is attached as Annexure "D".

5. That in compliance of judgment dated 16/11/2022 of this Honourable Tribunal, the respondents' department restored the period of reduction in lower stage in time scale for 05 years of the appellant vide order dated 10/03/2023 subject the final outcome of CPLA pending decision before August Supreme Court of Pakistan. Copy of order dated 10/03/2023 is attached as Annexure "E".

6. That after setting aside the reduction in time scale for 05 years, the respondents' department did not fix seniority of the appellant. Therefore, the appellant filed departmental appeal on 26/12/2023 but of no avail. Copy of departmental appeal dated 26/12/2023 is annexed as Annexure "F".

7. That the respondents' department sought advice from Home Department KP vide letter dated 04/04/2023. Copy of letter dated 04/04/2023 is attached as Annexure "G". Resultantly Government of KP Establishment and Admin Department (Regulation Wing) letter dated 13/07/2023 wherein it was clarified that as per Para-IV (i) of promotion policy is quite clear which stipulates that subjudice seniority would

not debar the competent forum to make recommendation, however such promotion will be conditional and subject to out come of court decision but even then the respondents' department is not restoring the seniority of the appellant. Copy of order dated 13/07/2023 is attached as Annexure "H".

8. That in the meantime respondents' department did not restore seniority of the appellant for promotion. In this regard the appellant preferred departmental appeal on 26/12/2023. Copy of departmental appeal dated 26/12/2023 is attached as Annexure "I". Therefore the instant service appeal is being filed on the following grounds;

GROUND: -

- a) That the conduct of respondents' department towards the appellant is discriminatory and not insertion of name of the appellant after restoring his seniority in the seniority list is illegal and against inalienable right of the appellant.

b) That respondents' department is willfully not restoring seniority of the appellant just to damage his service carrier as well as to make monetary loss to him. It is further submitted that when law allow a thing to an employee that must be given to him in letter and spirit at the earliest.

c) That the appellant is eligible to be promoted after restoring his seniority in the revised seniority list. Because the penalty of reduction to lower stage in time scale for a period of 05 years was set-aside by this Honourable Tribunal vide judgment dated 16/11/2022.

d) That the appellant is entitled for promotion once, his 05 years seniority is restored with all service back benefits.

e) That the instant service appeal is well within the period of limitation this Honourable Tribunal has jurisdiction to entertain the lis under Article 212 of the constitution of Islamic Republic of Pakistan.

f) That the valuable rights of the appellant are involved.

g) That other points shall be urged at the time of arguments.

It is therefore, most humbly prayed that on the acceptance of instant service appeal the respondents may graciously be directed to fix seniority of the appellant and issue revised seniority list and thereafter the appellant may be promoted to next higher grade. Any other relief which this Honourable tribunal deems appropriate in the circumstances of the case may also be granted to the appellant.

Dated: _____/2024

Through;


...APPELLANT


(Muhammad Arshad Khan Tanoli)
Advocate Supreme Court of Pakistan

&


(Muhammad Ibrahim Khan)
Advocate High Court Abbottabad

VERIFICATION: -

Verified that the contents of foregoing service appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein.


...APPELLANT

BEFORE CHAIRMAN KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Service Appeal No. _____ -A/2024

Zeeshan Ahmed Junior Clerk sub Jail Dassu Kohistan.

...APPELLANT

VERSUS

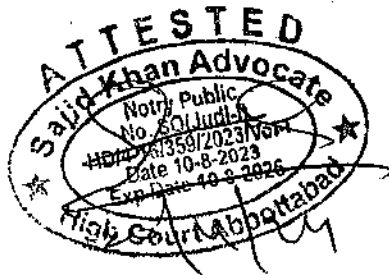
Inspector General of Prison, Department Khyber Pakhtunkhwa Peshawar &
another.

...RESPONDENTS

SERVICE APPEAL

AFFIDAVIT

I, *Qazi Muhammad Naseem LHC (No. 271), District Police, Mansehra*, do
hereby solemnly affirm and declare that the contents of forgoing service appeal are
true and correct to the best of my knowledge and belief and nothing has been
concealed therein from this Honourable Court.




DEPONENT

ASSISTANT DIRECTOR (ADMN)
FOR INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR

District Jail, Peshawar
District Jail, Peshawar
District Jail, Peshawar

[Handwritten signature]

The District Accounts Officers, Mansehra & Dassi for information. Necessary action may be made in his Service Book under proper provision under information to this office. The Superintendent, District Jail Dassi for information and necessary action. Necessary entry may be made in his letter No. 19, dated 03-7-2015. The Superintendent, District Jail Dassi for information and necessary action. Necessary entry may be made in his letter No. 19, dated 03-7-2015. The Superintendent, District Jail Dassi for information and necessary action. Necessary entry may be made in his letter No. 19, dated 03-7-2015.

INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR

The period from 01-2-2015 to 15-3-2015 (43 days) is hereby treated as leave without pay. The period of five years to Mr. Zeeshan Ahmad, Junior Clerk, presently attached to Sub-Jail Dassi, is hereby treated as leave without pay.

Reduction to a lower stage in a time. The period of five years to Mr. Zeeshan Ahmad, Junior Clerk, presently attached to Sub-Jail Dassi, is hereby treated as leave without pay. The period of five years to Mr. Zeeshan Ahmad, Junior Clerk, presently attached to Sub-Jail Dassi, is hereby treated as leave without pay.

AND WHEREAS, the accused official explained his case thoroughly but failed to defend himself against the charges mentioned in the charge sheet/show Cause. AND WHEREAS, the accused official was granted opportunity of personal hearing on the date provided for under rules laid down in the rules.

AND WHEREAS, the accused official was granted opportunity of personal hearing on the date provided for under rules laid down in the rules. AND WHEREAS, the accused official was granted opportunity of personal hearing on the date provided for under rules laid down in the rules.

Dated 11-11-2015

INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR

Annex-A

P-9

[Handwritten mark]

Annex - B P-10

Service Appeal No.864/2019 titled "Zeeshan Ahmad vs. The Secretary Home & Tribal Affairs Department, Khyber Pakhtunkhwa, Peshawar and other", decided on 16.11.2022, by Division Bench comprising Kalim Arshad Khan, Chairman, and Salah Ud Din, Member, Judicial, Khyber Pakhtunkhwa Service Tribunal, Camp Court Abbottabad.

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR CAMP COURT ABBOTTABAD.**

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**
SALAH UD DIN ... MEMBER (Executive)

Service Appeal No.864/2019

Zeeshan Ahmed, Junior Clerk, Sub Jail, Dassu, Kohistan.
.....(Appellant)

Versus

1. **The Secretary Home & Tribal Affairs Department, Khyber Pakhtunkhwa, Peshawar.**
 2. **Inspector General of Prisons, Khyber Pakhtunkhwa, Peshawar.**
 3. **The Superintendent Sub Jail, Dassu Kohistan.**
-(Respondents)

Present:

Mr. Arshad Khan Tanoli,
Advocate.....For appellant.

Muhammad Adeel Butt,
Additional Advocate General.....For respondents.

Date of Institution.....01.07.2019
 Dates of Hearing.....16.11.2022
 Date of Decision.....16.11.2022

APPEAL UNDER SECTION-4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 04.11.2015 VIDE ANNEXURE 'A' WHEREBY, THE MAJOR PENALTY OF REDUCTION TO A LOWER STAGE IN A TIME SCALE FOR A PERIOD OF FIVE YEARS HAS BEEN IMPOSED UPON THE APPELLANT AND THE PERIOD OF HIS ABSENCE FROM 01.02.2015 TO 15.03.2015 (43 DAYS) HAS BEEN TREATED AS LEAVE WITHOUT PAY.

[Signature]
Office of the Chairman, Camp Court to
Khyber Pakhtunkhwa Service Tribunal,
Peshawar

[Signature]

P-11

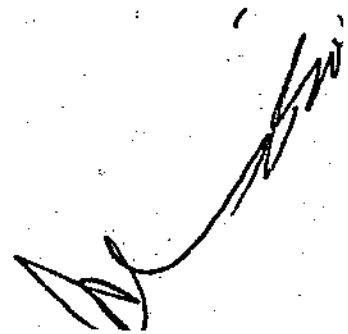
JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN.: The appellant is aggrieved of order dated 04.11.2015, whereby major penalty of reduction to a lower stage in a time scale for a period of five years was imposed upon him and the period of his absence from 01.02.2015 to 15.03.2015 (43 days) had been treated as leave without pay.

2. According to the appeal, the appellant was serving as Junior Clerk in the Prison Department and was in Sub-Jail Dassu, Kohistan; that because of his involvement in a criminal case, he remained absent from duty for 43 days, because of which he was awarded major penalty of reduction to a lower stage in a time scale for a period of five years and his absence period was treated as leave without pay vide impugned order dated 04.11.2015; that the appellant was acquitted from the charge by the learned Additional & Sessions Judge, Lahore on 19.02.2019 and he filed departmental appeal which was not responded within the statutory period, hence this appeal.

3. On receipt of the appeal and its admission to full hearing, the respondents were summoned, who, on putting appearance, contested the appeal by filing written reply raising therein numerous legal and factual objections. The defence setup was a total denial of the claim of the appellant.


Chairman, Judicial, Khyber Pakhtunkhwa Service Tribunal, Camp Court Abbottabad



4. We have heard learned counsel for the appellant and learned Additional Advocate General for the respondents.

5. The learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned Additional Advocate General controverted the same by supporting the impugned order.

6. The first moot point for determination before us was question of limitation but that had already been settled vide the admitting note dated 13.07.2021 in the following manner:-

"However, in the impugned order, the competent authority deviated from his own tentative decision and imposed major penalty of reduction to a lower stage in a time scale for a period of five years. Apart from the said major penalty, the period of absence of 43 days was also treated as leave without pay. The impugned order on its face, for the reasons of absence of formal charge sheet at the time of commencement of enquiry proceedings, and on account of deviation of the competent authority from its tentative decision of imposition of minor penalty indicated in the show cause notice, is likely to suffer from voidness, if not rebutted by sufficient material and justification by the respondents. Thus, there is uncertainty as to whether the question of limitation will have any bearing or not".


7. The only question remained before this Tribunal for determination is whether the impugned order of reduction to a lower stage in a time scale for a period of five years. It is in this respect observed that the very and only charge against the appellant in the statement of allegation was that he remained absent from duty w.e.f

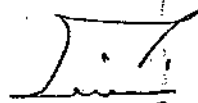
P-13


Service Appeal No864/2019 titled "Zeeshan Ahmad-vs-The Secretary Home & Tribal Affairs Department, Khyber Pakhtunkhwa, Peshawar and other", decided on 16.11.2022 by Division Bench comprising Kalim Arshad Khan, Chairman, and Salah Ud Din, Member, Judicial, Khyber Pakhtunkhwa Service Tribunal, Camp Court Abbottabad.

01.02.2015 to 15.03.2015 that is 43 days and period of absence of 43 days was treated as leave without pay. The competent authority had thus itself regularized the absence of the appellant by treating the same as leave without pay, therefore, there existed no legal justification for awarding the impugned penalty to the appellant. We, therefore, allow this appeal and set aside the impugned order dated 04.11.2015. Costs shall follow the event. Consign.

8. *Pronounced in open Court at Abbottabad and given under our hands and the seal of the Tribunal on this 16th day of November, 2022.*


KALIM ARSHAD KHAN
Chairman
Camp court Abbottabad


SALAH UD DIN
Member (Judicial)
Camp court Abbottabad


Deputy Clerk Adjunct to
Camp Court Abbottabad

Annex - E

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL CAMP COURT, ABBOTTABAD**

P-14

CM No. _____ -A/2023

Zeeshan Ahmiad Junior Clerk Sub Jail Dassu Kohistan.

...PETITIONER


VERSUS

1. Inspector General of Prison, Khyber Pakhtunkhwa, Peshawar.
2. Superintendent Sub Jail, Dassu, Kohistan.

...RESPONDENTS

SERVICE APPEAL


APPLICATION FOR IMPLEMENTATION OF JUDGMENT DATED 16/11/2022 IN SERVICE APPEAL NO. 864/2019. RESPONDENT VIDE ORDER DATED 10/02/2023, THE PUNISHMENT OF REDUCTION TO LOWER STAGE IN TIME SCALE FOR PERIOD OF 5 YEARS WAS SET-ASIDE BUT SENIORITY AS WELL AS PROMOTION IS NOT BEING GRANTED TO THE APPLICANT/APPELLANT WHICH IS THE VIOLATION OF THE JUDGMENT DATED 16/11/2022 OF THIS HONOURABLE TRIBUNAL.


Zeeshan Ahmiad Junior Clerk
Sub Jail Dassu Kohistan
District Court Abbottabad

Respectfully Sheweth:-

P-15

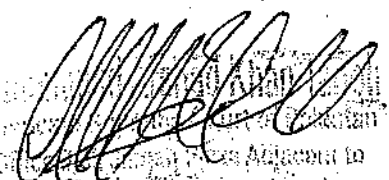
1. That the applicant/appellant filed service appeal No. 864/2019 regarding illegal reduction to the Lower Stage in time scale for a period of 05 years. Copy of Service Appeal No. 864/2019 is attached as Annexure "A".
2. That, this Honourable tribunal accepted service appeal of the appellant/applicant vide judgment dated 16/11/2022 and set-aside the impugned order dated 04/11/2022. Copy of judgment dated 16/11/2022 of this Honourable Tribunal is attached as Annexure "B".
3. That after passing of judgment dated 16/11/2022 by this Honourable Tribunal, respondent did not bother to implement judgment dated 16/11/2022 in its true spirit. As a result, the applicant/appellant filed implementation petition before this Honourable Tribunal. Following this, respondent No. 1 implemented the judgment vide order dated 10/02/2023 and the punishment of reduction to Lower stage in the time scale for a period of 05 years was set-aside. Copy of order dated 10/02/2023 is attached as Annexure "C".

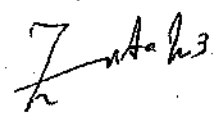

 Officer in Charge, Police Adjuvant to
 District Bar Abbottabad



4. That once, the punishment of reduction to Lower Stage in a time scale for a period of 05 years is set-aside then promotion as well as restoration of seniority as a matter of right is to be allowed to the applicant/appellant but the respondents' department are neither rectifying the seniority list nor promoting the petitioner which is clear violation of judgment dated 16/11/2022 of this Honourable tribunal which amounts to contempt of court.

In view of the above, it is prayed that respondent may be directed to allow the seniority of the petitioner and place him on the right place and thereafter promote the appellant/applicant to the next higher rank designation failing which contempt of court proceedings may be initiated to punish the respondent.



 District Bar Abbottabad

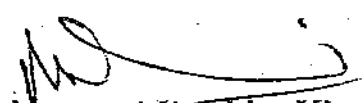


...APPLICANT /PETITIONER

Through

Dated: _____/2023


 (Muhammad Arshad Khan Tanoli)
 Advocate High Court, Abbottabad
 &


 (Muhammad Ibrahim Khan)
 Advocate High Court, Abbottabad

4

P-17

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL CAMP COURT, ABBOTTABAD**

CM No. _____ -A/2023

Zeeshan Ahmad Junior Clerk Sub Jail Dassu Kohistan.

...PETITIONER

VERSUS


Inspector General of Prison, Khyber Pakhtunkhwa, Peshawar and another.

...RESPONDENTS

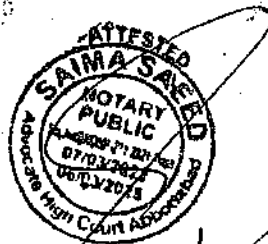
APPLICATION

AFFIDAVIT

I, *Zeeshan Ahmad Junior Clerk Sub Jail Dassu Kohistan*, do hereby solemnly affirm and declare that the contents of foregoing application are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.


Zeeshan Ahmad Junior Clerk Sub Jail Dassu Kohistan
Office of the Registrar, Camp Court, Abbottabad


DEPONENT



Annex-D (23)

D
P-18



Execution Petition No.611/2023 titled "Zeeshan Ahmad Vs. Inspector General of Prisons, Khyber Pakhtunkhwa, Peshawar, and others"

ORDER

4th Oct. 2023

1. Learned counsel for the petitioner and Mr. Asif Masood Ali Shah learned Deputy District Attorney alongwith Mr. Suleman, Senior Instructor for the respondents present.

2. Although, the substantial compliance of the order was made by production of order dated 10.03.2023 but the consequential benefits were not stated to have been actually granted and the learned counsel for the petitioner has stated that the process which ought to have been completed before submission of compliance report, was started after submission of the order dated 10.03.2023.

Be that as it may, since the office of respondents has initiated the process of the redressal of the desired grievances which were not through the part of appeal and the judgment of the Tribunal, therefore, this petition is filed. Consign.

3. Pronounced in open Court at Abbottabad and given under my hand and seal of the Tribunal on this 24th day of October, 2023.

Certified to be true copy

(Kalim Arshad Khan)
Chairman

EX-11111
Khyber Pakhtunkhwa
Service Tribunal
Peshawar
8/10/23

Date of Presentation of Application 30/10/23

Number of Words Page = 1

Copying Fee 5/-

Urgent 5/-

Total 10/-

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Date of Completion

Date of Delivery of Copy

30/10/23
30/10/23

Chairman



Annex - E
P-19

INSPECTORATE GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR
001-0210334
0210400
001-0213440
No. 11285-911
Date 15-03-2023

ORDER

In pursuance of Khyber Pakhtunkhwa Service Tribunal Peshawar Camp Court Abbottabad judgment dated 10-11-2022 in styled appeal No. 1034/2019 as well as order sheet dated 22-02-2023 issued by Chairman Khyber Pakhtunkhwa Service Tribunal Peshawar Camp Court Abbottabad in execution petition No. 27/2023, the penalty of "Reduction to lower stage in a time scale for a period of five years" awarded to Mr. Zeeshan Ahmad, the then Junior Clerk presently posted at District Jail Manshera as a Senior Clerk vide this office order No. 40/20-2004/31778 dated 04-11-2016 is hereby set aside conditionally, subject to final outcome of CPLA from the August Supreme Court of Pakistan.

INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR

Endsl No. 11285-911

Copy of the above is forwarded to the:

1. Registrar Service Tribunal Khyber Pakhtunkhwa Peshawar for information.
2. Superintendent District Jail Manshera for information and necessary action.
3. Superintendent Sub Jail Dasu Kohistan for information.
4. District Accounts Officer concerned for information.
5. Official concerned C/O Superintendent District Jail Manshera for information.
6. Confidential Clerk for placing a copy of this order in C.R of the official concerned for record
7. Personal file of the official concerned for record.

DEPUTY DIRECTOR (E)
INSPECTORATE GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR

District Jail Officer
District Jail Abbottabad

INSPECTORATE GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR

091-9210334, 9210406 091-9213445
No. 940/VE-2023-13276-1/VE
Dated 26-03-2023

To.

The Secretary to the Government of Khyber Pakhtunkhwa,
Home & TAs Department Peshawar

Subject: APPLICATION/ADVICE

Dear Sir,

I am directed to refer to the subject and state that Mr. Zeeshan Ahmad, Senior Clerk (BPS-14) presently posted at District Jail Mansehra was awarded major penalty of reduction to a lower stage in a time scale for a period of five years in a departmental proceedings vide this office order dated 04-11-2015 (F/A). Against the said major penalty, he preferred a departmental appeal before the Appellate Authority through proper channel but the same was rejected vide Home Department letter (F/B). Thereafter, he preferred service appeal No. 864/2019 before Khyber Pakhtunkhwa Service Tribunal Peshawar which has been disposed off vide judgment dated 16-11-2022 (F/C) and the impugned penalty was set-aside. Against the learned Khyber Pakhtunkhwa Service Tribunal Judgment dated 16-11-2022, the department filed CPLA in the August Supreme Court of Pakistan, which is still pending. On the other hand, the appellant filed execution petition No. 27/2023 before the Learned Service Tribunal for implementation of Judgment dated 16-11-2022. Resultantly, the Chairman Khyber Pakhtunkhwa Service Tribunal issued order sheet dated 22-02-2023 (F/D). Accordingly, the judgment dated 16-11-2022 referred to above, was implemented conditionally, subject to final outcome of CPLA from the August Supreme Court of Pakistan vide this office order dated 10-03-2023 (F/E).


Now vide (F/F), the appellant has submitted an application, wherein he requested for due seniority / promotion and back benefits with effect from 04-11-2015, as during subsistence period of penalty, some junior colleagues were promoted and the applicant was superseded for the above major penalty in his service record.

In view of the above, it is requested that the case of the above named official may kindly be referred to Establishment Department for necessary advice on the following points:

- Whether the request for granting due seniority/promotion & back benefits of the above named appellant can be considered while CPLA is pending in the August Supreme Court of Pakistan against the judgment ibid dated 16-11-2022 or otherwise? And
- If the August Supreme Court of Pakistan decided the case in favor of the appellant, then he will be granted promotion / seniority from the due date, when his junior colleagues were promoted during subsistence period of penalty or otherwise?

An early action is requested being court matter please.

Yours Faithfully,


Deputy Director (E)
Inspectorate General of Prisons
Khyber Pakhtunkhwa Peshawar


DEPUTY DIRECTOR(E)
INSPECTORATE GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR

Endst: No. _____

Copy of the above is forwarded to the Superintendent District Jail Mansehra for information with reference to his letter No. 940/VE dated 20-03-2023, please.

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT & ADMN. DEPARTMENT
(REGULATION WING)

No. SOR-III (E&AD)/4-2/2022
Dated Peshawar the 13th July, 2023

Annex - H

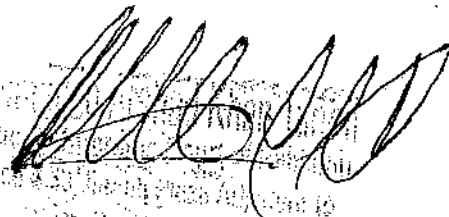
The Secretary to Govt. of Khyber Pakhtunkhwa,
Home & T.As Department.

Subject: - APPLICATION/ADVICE

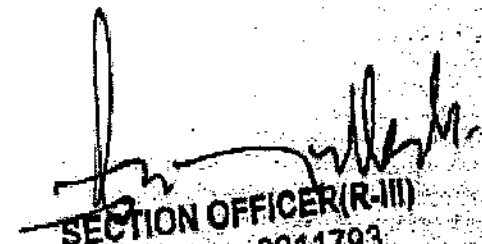
P-22

Dear Sir,

I am directed to refer to your letter No. SO(Prison)HD/8-3/KC/2022 dated 07.05.2023 on the subject noted above and to state that order of the Service Tribunal has already been implemented conditionally subject to final outcome in the CPLA filed by the Administrative Department. Moreover, the official would retain his inter-se-seniority as on 04.11.2015. As far as consideration of promotion is concerned, Para-IV(i) of the Promotion Policy is quite clear which stipulates that "subjudice seniority will not debar the competent forum to make recommendations. However, such promotion will be conditional and subject to final outcome of Court case (copy enclosed).



Yours faithfully,



SECTION OFFICER(R-III)
Phone No. 9211793

بخدمت جناب انسپکٹر جنرل آف جیل خانہ جات صوبہ KPK پشاور

بوساطت ڈپٹی انسپکٹر جنرل آف جیل خانہ جات ہزارہ ڈیویژن ہریپور

درخواست بمراد مناسب احکامات

جناب عالی:- درخواست ذیل عرض ہے۔

- ۱۔ یہ کہ سائل محکمہ جیل خانہ جات میں بطور سینئر کلرک گزشتہ 19 سال سے اپنی خدمات سرانجام دے رہا ہے۔
- ۲۔ یہ کہ سائل کو مورخہ 04.11.2015 بابت غیر حاضری 43 دن حکمانہ سزا دی گئی تھی، جو کہ 2016ء میں سائل کی پرموشن Under Process تھی، مگر متذکرہ سزا کی بناء پر عملدرآمد نہیں ہو رہا تھا، جس پر سائل نے حسب ضابطہ متذکرہ سزا کی نسبت متعلقہ احکامات کی منسوخی کے لیے سروس لائبریریوں میں KPK پشاور میں اپیل دائر کی، اور سائل کی اپیل باقاعدہ ایبٹ آباد بیج میں زیر تجویز رہنے کے بعد بحکم صدرہ 16.11.2022 کو اپیل منظور ہوئی۔ (حکم ایبٹ آباد بیج صدرہ 16.11.2022 لف ہے)۔
- ۳۔ یہ کہ سروس لائبریریوں کے فیصلہ کے بعد سائل نے اپنی سناری کی بحالی کی نسبت سائل نے ایک درخواست دفتر ہذا میں گزاری، جو کہ سائل کی درخواست باقاعدہ Advice کے لیے متعلقہ اسٹیشنمنٹ اینڈ ایڈمنسٹریشن ڈیپارٹمنٹ KPK کو بھیجی گئی، جس پر باقاعدہ کارروائی ہو کر سیکشن آفیسر ریگولیشن-III نے بحوالہ نمبر SOR-III(E&AD)/4-2/2022 مورخہ 13.07.2023 اپنی تجویز دفتر ہذا کو ارسال کر دی۔ (متعلقہ نقولات لف درخواست ہذا ہیں)۔
- ۴۔ یہ کہ سیکشن آفیسر ریگولیشن-III اسٹیشنمنٹ اینڈ ایڈمنسٹریشن ڈیپارٹمنٹ KPK کی تجویز کے مطابق اب سائل کو حسب ضابطہ سناری کے مطابق پرموشن کی نسبت متعلقہ دفتری کے لیے آپ جناب کے مناسب احکامات درکار ہیں۔ تاکہ حسب ضابطہ کارروائی عمل میں لائی جا کر سائل کی سناری کی مطابق پرموشن عملدرآمد فوری ممکن ہو سکے۔

لہذا استدعا ہے کہ حسب عنوان درخواست حسب ضابطہ سائل کی داری کے لیے مناسب

المرقوم 26.12.2023

احکامات بخشے جائیں۔

ذیشان احمد سینئر کلرک ڈپٹی انسپکٹر جنرل جیل خانہ جات ہزارہ ہریپور

کورٹ فیس

وکالت نامہ

Service Tribunal KP Pesh

بعدالت

Zeeslam

نام Contd

عنوان:

Applicant

منجانب:

Service App

نوعیت مقدمہ:

باعث تحریر آنکہ

مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی و جواب دہی کل کاروائی متعلقہ آن مقام

Muhammad Arshad Khan Tanoli

Advocate Supreme Court of Pakistan

کو وکیل مقرر کر کے اقرار کرتا ہوں کہ صاحب موصوف کو مقدمہ کی کاروائی کا کامل اختیار ہوگا نیز وکیل

Distt. Bar Abbottabad

صاحب موصوف کو کرنے راضی نامہ و تقرر ثالث و فیصلہ بر حلف و دینے اقبال دعویٰ اور بصورت دیگر ڈگری

کرانے اجراء وصولی چیک روپیہ و عرضی دعویٰ کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا اور بصورت

ضرورت مقدمہ مذکور کی کل یا کسی جزوی کاروائی کے لئے کسی اور وکیل یا مختار صاحب قانونی کو اپنے ہمراہ اپنی

بجائے تقرر کا اختیار بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا

ساختہ پر داختمہ مجھ کو منظور و قبول ہوگا۔ دوران مقدمہ جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب ہوگا اس کے

مستحق وکیل صاحب ہوں گے۔ نیز بقایا رقم وصول کرنے کا بھی اختیار ہوگا۔ اگر کوئی پیشی مقام دورہ پر ہو یا

حد سے باہر ہو تو وکیل صاحب موصوف پابند ہوں گے کہ پیروی مقدمہ مذکورہ کریں اور اگر مختار مقرر کردہ میں

کوئی جزو بقایا ہو تو وکیل صاحب موصوف مقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواست براد

استخارج مالش بصرفہ مفلسی کے دائرہ کرنے اور اس کی پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔

Ibrahim Khan
Adv. H.C.

Muhammad Arshad Khan Tanoli
Advocate Supreme Court of Pakistan

Office # 33 Jinnah Plaza Adjacent to

Distt. Bar Abbottabad

الرقوم: