


# FORM OF ORDER SHEET

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

Appeal No. 714/2024

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. Badar Jamil refiled today by registered post through Mr. Muhammad Arshad Khan 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 style="text-align: right;">By the order of Chairman  REGISTRAR</p>

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

- 1- Annexures of the appeal are unattested.
- ② Page nos. 20 to 22 of the appeal are illegible be replaced by legible/better one.

No. 944 /S.T,

Dt. 23/4 /2024.

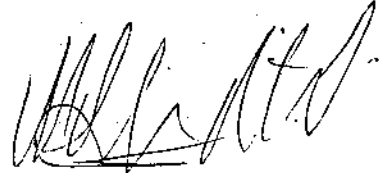


REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

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

Sir,

The appeal has been received in the office on 15/5/24. The objections removed as desired



23/5/24

**BEFORE CHAIRMAN KHYBER PAKHTUNKHWA**  
**SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 714 -/2024

Badr Jamil Sub Inspector District Lower Kohistan.

...APPELLANT

VERSUS

Inspector General of Police, Khyber Pakhtunkhwa, Peshawar & others.

...RESPONDENTS

**SERVICE APPEAL**

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...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. 714 - 1/2024

Badr Jamil Sub Inspector District Lower Kohistan.

...APPELLANT

VERSUS

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Hazara Range Abbottabad.
3. District Police Officer, Lower Kohistan.

....RESPONDENTS

**SERVICE APPEAL UNDER SECTION 4 OF KPK  
SERVICE TRIBUNAL ACT, 1974, FOR  
DECLARATION TO THE EFFECT THAT THE  
APPELLANT WAS INITIALLY RETIRED FROM  
SERVICE COMPULSORILY ON 09/ 09/2014 BY  
RESPONDENT NO. 3 THEREAFTER THE  
APPELLANT FILED DEPARTMENTAL APPEAL  
AGAINST THE IMPUGNED COMPULSORY  
RETIREMENT ORDER WHEREIN RESPONDENT  
DEPARTMENT INSTEAD OF RE-INSTATING THE  
APPELLANT IN SERVICE DISMISSED HIM FROM  
SERVICE VIDE REJECTION OF DEPARTMENTAL  
APPEAL NO. 11381/PA DATED 26/12/2014.  
THEREFORE THE APPELLANT FILED SERVICE**

APPEAL NO. 88-A/2015 WHICH WAS DISPOSED OF BY THIS HONOURABLE TRIBUNAL WITH THE DIRECTION FOR FRESH DECISION. THE RESPONDENTS' DEPARTMENT DID NOT PROCEED THE DIRECTION OF THIS HONOURABLE TRIBUNAL VIDE ORDER DATED 24/07/2018. THEREFORE, THE APPELLANT FILED IMPLEMENTATION PETITION NO. 228-A/2022. AS A RESULT, RESPONDENT NO. 2 RESTORED SERVICES OF THE APPELLANT W.E.F 19/07/2018 VIDE ORDER NO. OB-119 DATED 15/12/2022. THAT THE APPELLANT IS SERVING AS SUB INSPECTOR IN THE RESPONDENTS' DEPARTMENT AND THE, APPELLANT APPLIED FOR ARREARS OF PAY/ALLOWANCES W.E.F 24/07/2018 TO 14/12/2022. BUT RESPONDENT NO. 3 WITHOUT ANY REASON AMENDED THE RE-INSTALEMENT ORDER OF THE APPELLANT DATED 15/12/2022 TO THE EXTENT THAT HIS COMPULSORY RETIREMENT IS CONVERTED INTO CENSURE WHILE INTERVENING/DISCONTINUANCE PERIOD OF THE APPELLANT W.E.F 09/09/2014 TO 14/12/2022 IS CONVERTED INTO EXTRA ORDINARY LEAVE WITHOUT PAY VIDE IMPUGNED ORDER DATED 07/12/2023 WHICH IS

AGAINST LAW DISCRIMINATORY AND THE  
SAME IS LIABLE TO BE SET-ASIDE.

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**PRAYER;** ON ACCEPTANCE OF INSTANT  
SERVICE APPEAL OF THE APPELLANT, THE  
IMPUGNED ORDER DATED 07/12/2023 MAY  
GRACIOUSLY BE ORDERED TO BE SET-ASIDE  
AND RESTORED THE ORDER OB NO. 119 DATED  
15/12/2022 WITH ALL SERVICE BACK BENEFITS  
IN TERMS OF PAY AND OTHER BENEFITS  
INCIDENTAL THERETO. ANY OTHER RELIEF  
WHICH THIS HONOURABLE TRIBUNAL DEEMS  
APPROPRIATE IN CIRCUMSTANCES OF THE  
CASE MAY ALSO BE GRANTED TO THE  
APPELLANT.

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Respectfully Sheweth:-

That facts forming the backgrounds of the instant service  
appeal are arrayed as under;-

1. That the appellant was serving as Sub Inspector in  
the respondents' department and was initially  
retired from service compulsorily vide order OB  
No. 119 09/09/2014 by respondent No. 3.

2. That the appellant filed departmental appeal to respondent No. 2 wherein, the compulsory retirement order was converted into dismissal from service vide rejection order No. 11381/PA dated 26/12/2014.
3. That the appellant filed Service Appeal No. 88-A/2015 which was remanded back to respondent No.2 for fresh decision. Copy of order dated 24/07/2018 of this Honourable Tribunal is attached as Annexure "A".
4. That respondent No. 2 and 3 did not passed any order on the direction of this Honourable Tribunal within the stipulated period of time, therefore, the appellant as a last resort filed Execution Petition No. 228-A/2022 before this Honourable Court. Copy of Execution Petition No. 228-A/2022 is attached as Annexure "B".
5. That during Execution proceedings before this Honourable Tribunal, respondent No. 3 restored the services of the appellant w.e.f. 24/07/2018 as per order dated 24/07/2018 of this Honourable

Tribunal vide restoration order No. OB 119 dated 15/12/2022. Copy of restoration order dated 15/12/2022 is attached as Annexure "C".

6. That the appellant demanded/requested for arrears of pay and other benefits w.e.f. 24/07/2018 in light of restoration order dated 15/12/2022 but instead of granting the arrears of pay w.e.f. 24/07/2018, the respondent No.2 converted the compulsory retirement order dated 09/09/2014 into censure and converted intervening/discontinuance of service period of the appellant into Extra Ordinary Leave w.e.f. 09/09/2014 to 14/12/2022 vide impugned order dated 07/12/2023. Copy of impugned order dated 07/12/2023 is annexure as Annexure "D".

7. That feeling aggrieved, the appellant filed departmental appeal to respondent No. 1 on 26/12/2023 which is still pending decision before appellate authority. Copy of departmental appeal dated 26/12/2023 is attached as Annexure "E".



**GROUND:** -

- a) That respondents' department was supposed to re-instate the appellant in service w.e.f 09/09/2014 but he was re-instated w.e.f 24/07/2018. As per principle of locus poentioe valuable rights have been accrued to the appellant for back benefits w.e.f 24/07/2018 which cannot be rescind in the subsequent order dated 07/12/2023.
- b) That impugned order dated 07/12/2023 is illegal, void ab-intio as there exist no provision in any law relating to service and withdrawal of benefits once granted. That service of the appellant has been restored w.e.f 24/07/2018 and the same benefits cannot to be modified/amended and valuable rights of arrears of pay/allowances have been accrued to the appellant. Therefore impugned order dated 17/12/2023 is liable to be set-aside.
- c) That as per judgment of Superior Courts that once there exist reasonable expectation and that

was allowed vide order dated 15/12/2022 by the respondents' department and withdrawal thereof subsequently is nullity in the eyes of law and against the fundamental rights of the appellant.

d) That respondents' department has led the appellant to the place which is utterly unknown to the principle of jurisprudence, natural justice and fair play and conversion of intervening period in order dated 15/12/2022 into Extra Ordinary Leave is absolutely against cannon of justice, fair play and without any cogent reason. Hence the impugned order dated 07/12/2023 is liable to set-aside.

e) That the matter related to the terms and condition of service. Hence, this Honourable Tribunal has jurisdiction to entertain the lis. Besides, the instant service appeal is well within the period of limitation.

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 acceptance of instant service appeal of the appellant, the impugned order dated 07/12/2023 may graciously be ordered to be set-aside and restored the order ob no. 119 dated 15/12/2022 with all service back benefits in terms of pay and other benefits incidental thereto. Any other relief which this Honourable Tribunal deems appropriate in circumstances of the case may also be granted to the appellant.

  
...APPELLANT

Through;

Dated: \_\_\_\_\_/2024

  
(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

Badr Jamil Sub Inspector District Lower Kohistan.

...APPELLANT

VERSUS

Inspector General of Police, Khyber Pakhtunkhwa, Peshawar & others.

....RESPONDENTS

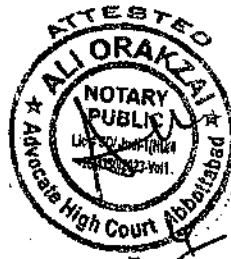
**SERVICE APPEAL**

**AFFIDAVIT**

I, **Badr Jamil Sub Inspector District Lower Kohistan**, 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



20/24

1

e

**BEFORE HONOURABLE SERVICE TRIBUNAL**  
**KHYBER PAKHTUNKHAWA, PESHAWAR**

**Annex-A**

Service Appeal No. \_\_\_\_\_/2015

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Badar Jameel, Ex-S.I / P.C, Lower Kohistan.

...APPELLANT

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Secretary Home & Tribal Affairs KPK, Peshawar.
2. Provincial Police Officer KPK, Peshawar.
3. Regional Police Officer Hazara Range, Abbottabad.
4. District Police Officer, Lower Kohistan.

...RESPONDENTS

**SERVICE APPEAL**

*Admitted*  
*Wt*

**APPEAL** UNDER SECTION 4 OF KPK SERVICE TRIBUNAL ACT 1974 FOR DECLARATION TO THE EFFECT THAT APPELLANT WAS SUFFERING FROM KIDNEY DECEASE AND WAS UNABLE TO SERVE FROM 07/08/2014 TO 09/09/2014, HENCE, RESPONDENT NO. 4 ILLEGALLY AWARDED MAJOR PUNISHMENT OF COMPULSORY

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RETIREMENT FROM SERVICE TO THE APPELLANT VIDE IMPUGNED ORDER NO. 960-61/PA DATED 09/09/2014 PASSED BY RESPONDENT NO. 4. FOLLOWING THIS, THE APPELLANT FILED DEPARTMENTAL APPEAL AGAINST THE IMPUGNED ORDER TO RESPONDENT NO. 3 FOR CONVERTING OF MAJOR PENALTY OF COMPULSORY RETIREMENT TO REINSTATEMENT IN SERVICE, BUT RESPONDENT NO. 3 WHILE REJECTING DEPARTMENTAL APPEAL, DISMISSED THE APPELLANT VIDE IMPUGNED ORDER NO. 11381/PA DATED 26/12/<sup>2014</sup>2004, WHICH IS ILLEGAL, PERVERSE, ARBITRARY, AGAINST THE LAW, WITHOUT LAWFUL JUSTIFICATION AND AS A RESULT OF NON-READING OF RECORD AND SERVICE APPEAL AND THE SAME IS LIABLE TO BE SET ASIDE.

*Handwritten signature*  
*Handwritten signature*

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**PRAYER:** ON ACCEPTANCE OF THE INSTANT APPEAL, IMPUGNED COMPULSORY RETIREMENT ORDER AND IMPUGNED REJECTION LETTER NO. 11381/PA DATED 26/12/2014 BE DECLARED VOID, ILLEGAL AND

RESPONDENTS NO. 2 TO 4 MAY GRACIOUSLY BE DIRECTED TO REINSTATE THE PETITIONER IN SERVICE WITH ALL SERVICE BENEFITS IN TERMS OF PAY ETC.

ORDER NO. 5023-35/SEI DATED 11/09/2014 MAY BE DECLARED ILLEGAL, WITHOUT LAWFUL JUSTIFICATION DEVOID OF CODAL FORMALITIES. WITHOUT ORDERING OF PROPER BOARD OF INQUIRY TO ENQUIRE AS TO WHETHER, THE APPELLANT DID NOT conduct PROPER INVESTIGATED THE CASE TITLED "STATE V/S BANARAS etc." Or not AND IMPIGNED Reversion ORDER DATED 11/09/2014 OF THE APPELLANT FROM DSP TO INSPECTOR MAY BE SET ASIDE AND RESPONDENT NO. 2 MAY GRACIOUSLY BE DIRECTED TO RESTORE RANK OF DSP OF THE APPELLANT W.E.F THE DATE OF REVERSION I.E. 11/09/2014 WITH ALL BACK BENEFITS IN TERMS OF PAY, ALLOWANCES AND SENIORITY ETC.

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*Alleslel*  
*[Signature]*

Respectfully Sheweth: -

It may please your lordship.

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1. That the appellant served in the Police Department for 29 years and served the department with complete devotion and dedication.
2. That, the appellant was suffering from multifarious kidney deceases and remain under treatment w.e.f 07/08/2014 to 09/09/2014. (Copy of O.P.D tickets are attached as annexure "A").
3. That, following this, respondent No. 4 without issuing charge sheet, show cause notice and conducting enquiry regarding absence period of the appellant and illegally awarded major punishment i.e. compulsory retirement from service vide impugned order No. 960-61/PA dated 09/09/2014. (Copy of impugned compulsory retirement is annexed as Annexure "B").
4. That, following this, the appellant filed departmental appeal to the next higher authority i.e. respondent No. 3 for converting of compulsory retirement of the appellant into his reinstatement vide departmental appeal dated 11/09/2014. (Copy

Amended  
MHA



of departmental appeal is annexed as Annexure "C").

5. That, respondent No. 3 without reading appeal of the appellant rejected departmental appeal of the appellant and also hold "After thorough probe into the enquiry report and the comments of DPO Lower Kohistan, it came to light that the punishment given to him by the DPO Lower Kohistan i.e dismissal from service is genuine. Therefore, appeal is dismissed and filed" vide impugned order No. 11381/PA dated 26/12/2014. (Copy of impugned rejection letter is attached as Annexure "D").

6. That, the act of respondent No. 3 is illegal and as a result of non-reading of record and departmental appeal of the appellant. Hence, impugned rejection letter is liable to be set-aside.

7. That, feeling aggrieved, the instant departmental appeal is filed, inter-alia, on the following amongst many others grounds:-

GRUNDS:-

*Allesed  
Allu*

P-1015

- a. That, as per Revised Leave Rules, 1981, once medical documents regarding illness of an employee is submitted, the competent authorities are bound to consider and grant medical leave to the ailing employee.
- b. That, in case, it appears to the competent authority that the medical documents of an employee are fake, the same are to be submitted to the next medical authority as per KPK Revised leave Rules, 1981. But, respondents did not comply with the rules and leave impugned orders of compulsory retirement and rejection letter of departmental appeal are liable to be set-aside.
- c. That, no charge sheet, show cause notice and enquiry conducted in the case of the appellant. Therefore, the appellant is entitled to be reinstated in service.
- d. That, the appellant was on the posted strength of District Police Officer, Upper

Alleged  
MLU

P-16

Kohistan, whereas order of compulsory retirement has been passed by District Police Officer, Lower Kohistan which is not maintainable at law.

e. That, respondent No. 3 did not considered appeal of the appellant at appropriate remedy even he did not go through the appeal and dismissed departmental appeal holding "After thorough probe into the enquiry report and the comments of DPO Lower Kohistan, it came to light that the punishment given to him by the DPO Lower Kohistan i.e dismissal from service is genuine. Therefore, appeal is dismissed and filed" which is arbitrary and against the law. Hence, the same is liable to be dismissed.

*Allesed*  
*llh*

f. That, this Honourable Court should not fold up its hand while granting relief to the aggrieved appellant as per law.

g. That, this fact may not be left to fade in obedient that respondent No. 3 decided

P-17

departmental appeal of the appellant at his own whims and wishes without resorting to his judicious mind.

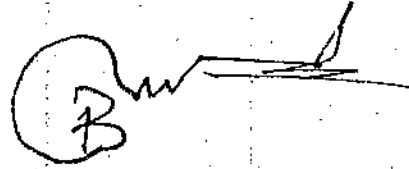
- h. That, the respondents have led the appellant to placed which is utterly unknown to the principal of juris-prudence and good administration of justice. Justice demand that when law on the subject prescribed something which is to be done in a particularly manner that must be done in that manner and not otherwise.
- i. That, the appeal of the appellant is within time and this Honourable Tribunal has jurisdiction to entertain the same.
- j. That, other points would be agitated at the time of arguments.

Alleged  
M.H.

It is, therefore, humbly prayed that on acceptance of the instant appeal, impugned compulsory retirement order and impugned rejection letter No. 11381/PA dated 26/12/2014 be declared void, illegal and respondents No.

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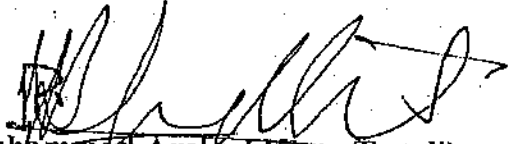
2 to 4 may graciously be directed to reinstate the petitioner in service with all service benefits in terms of pay etc.



...APPELLANT

Through;

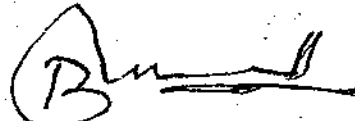
Dated: \_\_\_\_\_/2015



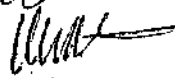
(Muhammad Arslan Khan Fanoli)  
Advocate High Court, Abbottabad

VERIFICATION: -

Verified on oath that the contents of forgoing appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court



...APPELLANT

*Attested*  


Annex - B

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



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Service Appeal No. 88 /2015

Badar Jameel, Ex-S.I/P.C., Lower Kohistan.

...APPELLANT

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Secretary Home & Tribal Affairs KPK, Peshawar.
2. Provincial Police Officer KPK, Peshawar.
3. Regional Police Officer Hazara Range, Abbottabad.
4. District Police Officer, Lower Kohistan.

...RESPONDENTS

**SERVICE APPEAL**

APPEAL UNDER SECTION 4 OF KPK SERVICE TRIBUNAL ACT 1974 FOR DECLARATION TO THE EFFECT THAT APPELLANT WAS SUFFERING FROM KIDNEY DECEASE AND WAS UNABLE TO SERVE FROM 07/08/2014 TO 09/09/2014, HENCE, RESPONDENT NO. 4 ILLEGALLY AWARDED

MAJOR PUNISHMENT OF COMPULSORY

26/11/15

9/2/15

ATTESTED

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
CAMP COURT, ABBOTTABAD.



Service appeal No. 88/2015

Date of institution ... 26.01.2015  
Date of decision .... 19.07.2018

Badar Jameel, Ex-S.I/P.C, Lower Kohistan.

(Appellant)

Versus

1. Government of Khyber Pakhtunkhwa through Secretary, Home & Tribal Affairs KPK, Peshawar and 3 others. ... (Respondents)

Present

Mr. Muhammad Arshad Khan Tanoli,  
Advocate

For appellant.

Mr. Usman Ghani,  
District Attorney

For respondents.

MR. SUBHAN SHER,  
MR. MUHAMMAD AMIN KHAN KUNDI,

CHAIRMAN  
MEMBER.

JUDGMENT

SUBHAN SHER, CHAIRMAN:-

Relevant facts of the present appeal, stated in brief are that the appellant was appointed as Constable and during his long service for 29 years, he reached to the rank of S.I. That from 07.08.2014 to 09.09.2014, he remained absent for which his explanation was called, followed by issuance of charge sheet and statement of allegations, conducting enquiry and final show cause notice by the competent authority i.e respondent No 1. In short, he was held responsible for his wilful absence from duty and was imposed major penalty of compulsory retirement from service vide order dated 09.09.2014. Appellant preferred a departmental appeal before respondent No 1 on 11.09.2014, which was decided on 26.12.2014. Feeling

800  
19.7.2018  
[Signature]

ATTESTED

EXAMINED  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

aggrieved of both the orders, the appellant impugned the same through the instant appeal before this Tribunal.

3. Arguments heard and file perused.

4. Mr. Muhammad Arshad Khan Tanoli, Advocate at the very outset of the arguments assailed the impugned orders; particularly of the appellate authority by contending that the said authority did not bother to go through the impugned order passed by the competent authority i.e. respondent No. 4 but dismissed the appeal by mentioning that the dismissal from service of the appellant was rightly passed by the D.P.O whereas in fact, the appellant was compulsorily retired from service. He also challenged the enquiry proceedings and at the end, he requested to accept the appeal and set aside the impugned orders and reinstate the appellant with all back benefits.

5. Mr. Usman Ghani, District Attorney vehemently opposed the contentions of the learned counsel for the appellant and stated that after completion of all the procedural formalities of enquiry, the appellant was found guilty and the punishment was rightly passed. That being a member of disciplined force, he should not have absented himself from duty without permission. Further contended that the findings of the appellate authority, in fact is nothing but a clerical mistake and the same could be corrected by this Tribunal. Lastly, he requested this Tribunal to dismiss the appeal of the appellant.

6. After going through the record and particularly the impugned order passed by the appellate authority dated 26.12.2014, this Tribunal is of the view that it will not be advisable to deeply discuss the merits of the case or pass any remarks on the pro & contra versions of the learned counsel for the parties lest, it may prejudice the interest of either party but would confine our finding to the omission committed

Su 19.7.2018

[Signature]

ATTESTED

Secretary  
Cyber Tribunal  
Services  
Peshawar



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by the appellate authority i.e. respondent No. 3. The appellant had challenged his compulsory retirement from service but the appellate authority in clear words stated in the impugned order that "the punishment given to him by the DPO Lower Kohistan i.e. dismissal from service is genuine", is totally against the record as stated above he was compulsory retired from service. In short, this glaring omission alone is sufficient to invoke the interference of this Tribunal under its appellate jurisdiction.

7. As such, this appeal is partially allowed to the extent that the impugned order passed by the appellate authority dated 26.12.2014 is set aside and the case is remanded back to the said authority for decision afresh, with the direction to take into consideration facts and circumstances of the case and give full opportunity of hearing to the appellant. So, for this purpose the departmental appeal before the appellate authority is deemed to be pending. The appellate authority is further directed to dispose of the appeal within a period of three months, from the date of receipt of this judgment. In the circumstances, parties are left to bear their own costs. File be consigned to the record room.

Announced  
19.07.2018

Self Subhan Sheer,  
Chairman  
Camp Court A/Abad

Self M. Amin Khan Kundi,  
Member

Certified to be true copy  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of Presentation of Appeal 24-07-2018  
Number of Words 16.00  
Copying Fee 10.00  
Urgent 2.00  
Total 12.00  
Name of Applicant  
Date of Disposition of Case 24-07-18  
Date of delivery of Copy 24-07-18

*Annex - B*

*P-23*

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

C.M No. 228 /2022  
IN  
Service Appeal No. 88/2015

Badar Jamil Ex-SI/PC, Lower Kohistan.

...APPELLANT

VERSUS

1. Regional Police Officer, Hazara Range, Abbottabad.
2. District Police Officer, Lower Kohistan.

...RESPONDENTS

**APPLICATION** FOR IMPLEMENTATION OF  
JUDGMENT DATED 19.07.2018 PASSED BY THIS  
HONOURABLE TRIBUNAL IN APPEAL NO. 88/2015  
TITLED. "BADAR JAMIL VS. GOVT. OF KPK" &  
OTHERS.

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Respectfully Sheweth:-

1. That applicant/ appellant filed above mentioned service appeal No. 88/2015 against impugned act of respondents by awarding major penalty of dismissal from service despite of fact that the

applicant suffering from kidney disease and was unable to serve from 07.08.2014 to 09.09.2014. Detailed of which fully mentioned in the head-note of appeal. Copy of service appeal is annexed as Annexure "A".

2. That on 19.07.2018 after hearing of arguments, this Honourable Tribunal partially allowed the appeal of the applicant/ appellant to the extent that the impugned order passed by the appellate authority dated 26.12.2014 is set-aside and the case is remanded back to the said authority for decision afresh with the direction to take into consideration facts and circumstances of the case and give full opportunity of hearing to the appellant. This Honourable Court is further directed to the concerned authority to dispose off the departmental appeal of the appellant within a period of three months from the date of receipt of this judgment. Copy of judgment dated 19.07.2018 is annexed as Annexure "B"
3. That thereafter, the appellant appeared before respondents for implementation of judgment dated 19.07.2017 of this Honourable Tribunal, but the respondents straight away refused to implement the same.
4. That more than 04 years have been elapsed of passing of judgment dated 19.07.2018 of this Honourable Tribunal, but the respondents have failed to implement the same.

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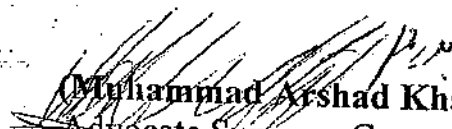
5. That the respondents instead of complying with the direction of this Honourable Tribunal, straightaway refused to comply with the direction of this Honourable Tribunal.
6. That other point would be raised at the time of arguments with kind permission of this Honourable Tribunal.

It is therefore, humbly prayed that on acceptance of instant application respondents be kindly be directed implement the Judgment dated 19.07.2018 of this Honourable Tribunal in its true letter and spirit, failing which contents of court proceedings may be initiated against the respondents.

...APPLICANT/ APPELLANT

Through

Dated: \_\_\_\_\_/2022

  
(Muhammad Arshad Khan Tanoli)  
Advocate Supreme Court of Pakistan  
at Abbottabad

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

C.M No. \_\_\_\_\_/2022  
IN  
Service Appeal No. 88/2015

Badar Jamil Ex-SI/PC, Lower Kohistan.

...APPELLANT

VERSUS

Regional Police Officer, Hazara Range, Abbottabad & others..

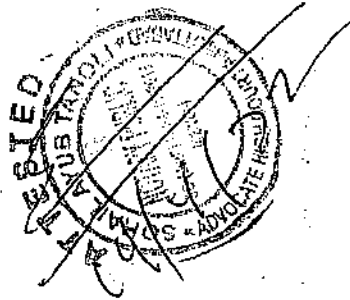
...RESPONDENTS

**APPLICATION FOR IMPLEMENTATION**

**AFFIDAVIT**

I, *Badar Jamil Ex-SI/PC, Lower 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 Tribunal.

  
DEPONENT



Annex - C P-27

ORDER:

In compliance with the Service Tribunal Judgment order on dated 24-07-2018, received today on 15-12-2022, by this office regarding Badar Jamil SI who had been compulsory retired from the service since 09-09-2014, keeping unaware this department during the whole case by service tribunal, now has been restored to this department and considered to be restored since 24-07-2018 as per Service Tribunal Judgment, with immediate effect.

  
District Police Officer,  
Lower Kohistan


OB No. 119

Dated 15 / 12 / 2022

No. 549.50/SRC dated Lower Kohistan the, 15 / 12 / 2022

Copy of the above is forwarded for information to:

1. Registrar Service Tribunal, Peshawar
2. Regional Police officer, Hazara Region Abbottabad.

  
District Police Officer,  
Lower Kohistan



OFFICE OF THE REGIONAL POLICE OFFICER  
HAZARA REGION, ABBOTTABAD

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NO: 9987 /PA DATED: 07/12/2023

Annex<sup>F</sup> D

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### ORDER

This order will dispose of request submitted by SI/PC Badar Jamil of district Lower Kohistan regarding provision of his out service benefits.


“Brief facts leading of the instant request are that SI/PC Badar Jamil absented himself from lawful duties for 145 days without any leave or permission and produced fake/bogus medical certificates to justify his absence. Resultantly, he was awarded with major punishment of Compulsory Retirement from service vide OB No. 48 dated 09-09-2014 by DPO Lower Kohistan. He preferred departmental appeal before RPO Hazara (the appellate authority) which was rejected/filed vide Order No. 11381/PA dated 26-12-2014. Consequently, he instituted Service Appeal No. 88/2015 before Service Tribunal Khyber Pakhtunkawa. Honorable Service Tribunal vide judgment dated 19-07-2018 set aside the order of appellate authority remanded back for afresh decision. However, neither judgment of the court was received Region or DPO Office nor the official followed the case and brought in the notice of the department and willfully concealed the facts. After considerable time he filed C.M 228/2022 for implementation/compliance of the judgment. Consequently, in compliance of the judgment his service was restored vide OB No. 119 dated 15-12-2022.”

After receiving his request, report of DPO Lower Kohistan was sought and relevant record has been examined/perused. The undersigned called the appellant in OR and heard him in person however, he failed to justify his negligence and willful/un-authorized absence during the intervening period and it seems that he deliberately kept the department unaware about the judgment of the honorable court and did not pursue his case w.e.f. 19-07-2018 till year 2022. He neither approached honorable Service Tribunal nor the department during the aforementioned intervening period. The unauthorized absence of a civil servant is an act which is prejudicial to ‘good order’ and ‘service discipline’. The rule of “no-work-no-pay” is a fundamental axiom and its philosophy is very simple when a person is employed, he is expected

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to do his work/render his services in an efficient manner and get pay as his reward. Meanwhile, the honorable Service Tribunal, Khyber Pakhtunkawa and the department already has granted relief to the official with reference to E.P No. 228/2022. It is therefore, concluded that the official remained out of service on account of his undue absence and deceitful/lethargic attitude, therefore he is not entitled for any back benefits for the intervening period. He consciously remained absent or out of service and never approached Region or District Police Office to get information about his service.

Therefore, keeping in view the above and available record, the request of official for back benefits is not genuine and justified; hence his request is rejected with immediate effect. Order of his reinstatement issued by DPO Lower Kohistan vide OB No. 119 dated 15-12-2022 is hereby modified/amended to the extent that his compulsory retirement is converted into "censure" while intervening/dis-continuation of service period of the official w.e.f. 09-09-2014 to 14-12-2022 be treated as extra ordinary leave without pay as he is not entitled for any back benefits/perks and privileges.


  
MUHAMMAD IJAZ KHAN (PSP)  
Regional Police Officer  
Hazara Region, Abbottabad

No. 9988 /PA, dated Abbottabad the 07-12 /2023.

Cc.:

DPO Lower Kohistan for information and necessary action with reference to his office Memo No 37/R dated 02-11-2023. Service Roll and Fuji Missal containing enquiry file of the appellant is returned herewith for record.



  
 Director General  
 Punjab  
 Lahore

26/12/23  
 Subject: ...  
 Reference: ...  
 ...

1- ...

Leave without pay ...  
 7/12/23 ...

2- ...  
 24/7/2018 ...

1- ...  
 24/7/2018 ...  
 15/12/22 ...

07/12/23 ...  
 D.P.O. ...

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I ...

کورٹ فیس

وکالت نامہ

Service Tribunal K.P. Peshawar

Badar Sami: عنوان

Applicant: منجانب

S:A

نوعیت مقدمہ:

باعث تحریر آنکہ

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

Muhammad Arshad Khan Janoli

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

صاحب موصوف کو کرنے راضی نامہ و تقریر 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

جگہ 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

استجارت نالاش بصیغہ مفلسی کے دائر کرنے اور اس کی پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔

لہذا وکالت نامہ تحریر کیا تاکہ سند رہے۔

M. Ibrahim Khan

Adv

المترجم:

Muhammad Arshad Khan Janoli  
Advocate Supreme Court of Pakistan  
Office # 33 Jinnah Plaza Adjacent to  
Distt. Bar Abbottabad