



Forensic Science Laboratory

29, Sector B-1, Phase 5, Hayatabad,
Khyber Pakhtunkhwa, Peshawar.

Tel.091-9217394 / Fax.091-9217251

No. 743 /FSL, Dated: 24/06/2024

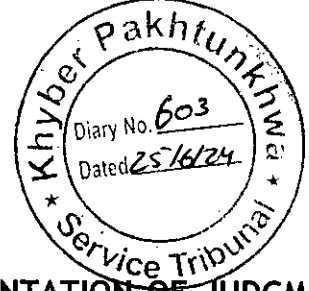
Khyber Pakhtunkhwa
Service Tribunal

Diary No. 13785

Dated 25-06-2024

To:

The Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.



Subject:

EXECUTION PETITION NO.393/2024 - IMPLEMENTATION OF JUDGMENT DATED 11.03.2024 IN SERVICE APPEAL NO.1465/2023 (TITLED "IZHAR ALI VS POLICE DEPARTMENT").

Memo:

Kindly refer to the subject Execution Petition for the implementation of Judgment dated 11.03.2024, it is submitted that:

1. Ex-Sub Inspector Izhar Ali of Firearms Section FSL Peshawar was re-instatement in service with all back benefits vide Judgment dated 11.03.2024 by the Honorable Khyber Pakhtunkhwa Service Tribunal (F/A).
2. Furthermore, a CPLA vide No.432-P/2024 has been filed against the judgment dated 11.03.2024 (F/B).
3. Ex-SI Izhar Ali had submitted an application for re-instatement in service in the light of the above judgment (F/C).
4. Consequence upon his application for re-instatement, a letter vide No.518/FSL, dated 22.04.2024 and No.735/FSL, dated 13.06.2024 were addressed to the Legal Branch for guidance regarding the implementation of judgment dated 11.03.2024 (F/D & E). Reply of this letter is expected to be received shortly.

Therefore, it is submitted that as and when reply of the above letters is received, a conditional order will be issued for his re-instatement subject to the outcome CPLA No.432-P/2024.

Report submitted please.


DIRECTOR

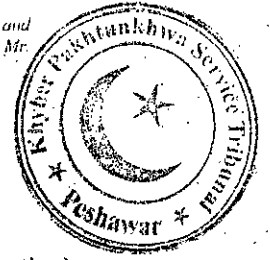
Forensic Science Laboratory,
Khyber Pakhtunkhwa,
Peshawar.

No. _____ /FSL.

Copy of above is forwarded to the Addl. IGP Investigation KP Peshawar for kind information please.


DIRECTOR

Forensic Science Laboratory
Khyber Pakhtunkhwa,
Peshawar.



**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR**

BEFORE: **KALIM ARSHAD KHAN ...CHAIRMAN**
MUHAMMAD AKBAR KHAN ...MEMBER (Executive)

Service Appeal No.1465/2023

Date of presentation of appeal.....09.10.2023

Dates of Hearing.....11.03.2024

Date of Decision.....11.03.2024

Izhar Ali (Ex-Sub Inspector Fire Arms Section FSL Khyber Pakhtunkhwa Peshawar)(Appellant)

Versus

1. **The Provincial Police Officer, Peshawar.**
2. **The Director Forensic Science Laboratory, Khyber Pakhtunkhwa, Peshawar.**
3. **The Addl. Inspector General of Police Investigation, Khyber Pakhtunkhwa, Peshawar.....(Respondents)**

Present:

Mr. Muhammad Asif Yousafzai, Advocate.....For appellant

Mr. Muhammad Jan, District Attorney.....For respondents

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 12.01.2023 WHEREBY, THE APPELLANT WAS COMPULSORY RETIRED FROM SERVICE AND AGAINST THE ORDER DATED 16.06.2023 WHEREBY, THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED FOR NO GOOD GROUNDS.

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: According to the memorandum and grounds of appeal, the appellant was serving as Sub Inspector in the Police Department; that an inquiry was initiated against the appellant and show cause notice was issued to him on 29.09.2022. Resultantly, he, vide order dated 12.01.2023, was compulsorily retired from service. Feeling aggrieved, the appellant filed departmental appeal, on acceptance of which, he was reinstated into service for the purpose of de-novo inquiry; that the

ATTESTED

**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR**

comprising of Mr. Muhammad Irshad Khan, SSP Investigation and Mr. Janan Habib DSP Admin Investigation Unit CPO, Peshawar, wherein the appellant was exonerated from the charges but the Additional Inspector General of Police, Investigation wrote a letter to the DIG Investigation for comments regarding the role of the appellant. The DIG Investigation instead

of conducting inquiry and in Para-d of

appellant he was again served with charge sheet/statement of allegations and de-novo inquiry was conducted, wherein, the Inquiry Officer exonerated the appellant from the charges leveled against him, however, the authority disagreed with the recommendations of Inquiry Officer and vide order dated 02.03.2023, the penalty of compulsory retirement from service was maintained, hence, this appeal.

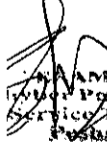
2. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents put appearance and contested the appeal by filing written reply raising therein numerous legal and factual objections. The defense setup was a total denial of the claim of the appellant.

3. We have heard learned counsel for the appellant and learned District Attorney for the respondents.

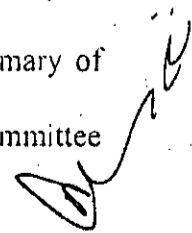
4. The learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned District Attorney controverted the same by supporting the impugned order(s).

5. Vide order dated 12.01.2023, punishments were awarded to Inspector Muhammad Ayaz and the appellant S.J Izhar Ali. The appellant was compulsorily retired from service. He filed departmental appeal before the Additional Inspector General of Police, Investigation, who, on appeal,

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

reinstated the appellant in service for the purpose of de-novo proceedings and treated the intervening period as leave without pay, vide order dated 02.03.2023, where-after, the Director Forensic Science Laboratory Khyber Pakhtunkhwa issued charge sheet on 06.03.2023 followed by summary of allegations and de-novo inquiry was conducted by an Inquiry Committee



be some internally used document and never used or made public, wherein, some cutting/overwriting, though made, but that has been explained by the appellant to be correction regarding the bullet allegedly recovered from the dead body of the deceased, whose murder was reported vide case FIR No.220 dated 17.06.2022 U/S 302/324-34-PC, PS Zaida District Swabi. The overwriting shows that initially, the word was written as "unfired" but that was cut and replaced with the word "deformed". The learned District Attorney was confronted as to whether the Inquiry Officer or DIG Investigation, to whom the matter was sent for comments, had perused or referred to or discussed the application of the concerned SHO sent to the Forensic Science Laboratory alongwith the sealed parcels containing the said bullet to ascertain the fact whether it was an "unfired" bullet or a "deformed" bullet to further enquire the matter whether the appellant could be held liable for any misconduct or not but the District Attorney could not utter a single word in this regard. Besides, there is no application of SHO P.S Zaida, District Swabi, placed on record nor is there any reference/discussion in the inquiry report or for that in the report of DIG Investigation to whom the matter was sent for comments. Be that as it may, copy of the FSL report has been produced during the course of arguments, which shows that sealed parcel No.5 sent by the SHO Police Station Zaida, District Swabi was containing the "deformed" bullet. This document further establishes that disputed cutting was for making correction and that could not affect any proceeding nor used for any gains. Last but not the least, when the document or paper, apparently shows to be for internal usage or some type of rough work to make analysis and to prepare a report, and was

Page 4

ATTESTED

EXC. JUDGE
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

never used anywhere nor any benefit was taken by anybody. So much so, it is not approved or found anywhere that the bullet was actually an "unfired" bullet and not a "deformed" bullet while the other documents were containing the mention of "unfired" bullet in order to benefit either of the parties of the criminal case registered vide above FIR or at least it could be said that the alleged tampering, which actually seems to be correction, held the appellant guilty of some misconduct.

6. This being so, we do not think that disagreement of the appellate authority with the inquiry report was justified nor is that sustainable. Therefore, on allowing this appeal, we set aside the original as well as appellate order by reinstating the appellant with all back benefits. Costs shall follow the events. Consign.

7. Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 11th day of March, 2024.

KALIM ARSHAD KHAN
Chairman

MUHAMMAD AKBAR KHAN
Member (Executive)

ATTESTED


Attestor
Khyber Pakhtunkhwa
Service Tribunal
Peshawar
Attozain Shah


Date of Presentation of Application 19-3-2024
Number of Words 57
Copying Fee 25/-
Urgent -
Total 25/-
Name of Copy -
Date of Completion of Copy 05-4-2024
Date of Delivery of Copy 16-5-2024

14.12.2023 1. Clerk to counsel for the appellant present. Mr. Muhammad Jan
learned District Attorney for the respondent present.

2. Lawyers are on strike, therefore, the case is adjourned. To come
up for arguments on 11.03.2024 before D.B. P.P given to the parties.

SCANNED
KINET
Peshawar


Muhammad Akbar Khan
Member (E)

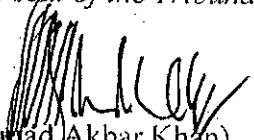

Rashida Bano
Member (J)

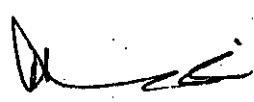
ORDER

11th Mar. 2024 1. Learned counsel for the appellant and Mr. Muhammad Jan,
District Attorney for the respondents present.

2. Vide our detailed judgment of today placed on file, on
allowing this appeal, we set aside the original as well as appellate
order by reinstating the appellant with all back benefits. Costs shall
follow the events. Consign.

3. *Pronounced in open Court at Peshawar and given under our
hands and the seal of the Tribunal on this 11th day of March, 2024.*


(Muhammad Akbar Khan)
Member (E)


(Kalim Arshad Khan)
Chairman

Mutuzem Shadi

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

CPLA No. 432-P /2024

Provincial Police Officer, Khyber Pakhtunkhwa,
Peshawar & others

-----PETITIONERS

VERSUS

Izhar Ali

-----RESPONDENT

<i>Appeal from</i>	:	Learned Khyber Pakhtunkhwa Service Tribunal, Peshawar
<i>Counsel for Petitioner</i>	:	<i>Advocate General, Khyber Pakhtunkhwa, Peshawar</i>
<i>Instituted by</i>	:	Muhammad Ajmal Khan, AOR

POWER OF ATTORNEY
IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

CP. No. 432 of 2024

Provincial Police Officer, Khyber Pakhtunkhwa,
Peshawar and others

APPELLANT(S)

VERSUS

Izhar Ali

RESPONDENT(S)

I (we) Petitioner/Govt. of KPK in the above suit/Appeal/Petition/Reference, do hereby appoint and constitute **Muhammad Ajmal Khan**, Advocate-on-Record, Supreme Court, for Govt. of Khyber Pakhtunkhwa the Attorney for the aforesaid appellant [or plaintiff(s) or Petitioner(s) or Respondent (s) or defendant (s) or opposite party] to commence and prosecute (or to appear and defend this action/appeal/suit/petition/reference on my/our behalf and all proceeding that may be taken in respect on any application connected with the same including proceeding in taxation and application for review, to draw and deposit money, to file and take back documents, to accept the process of the Court, to appoint and instruct counsel, to represent the aforesaid appellant [or plaintiff (s) or petitioner(s) or respondent (s) or defendant (s) or opposite party] in the above matter and to do all things incidental to such acting for the aforesaid appellant [or plaintiff (s) or petitioner(s) or respondent (s) or defendant (s) or opposite party]. The aforesaid appellant [or plaintiff (s) or petitioner(s) or respondent (s) or defendant (s) or opposite party] agree (s) to ratify all acts done by the aforesaid Advocate-on-Record in pursuance of this authority

In witness whereof I/we do hereunto set my/our hand (s) this day of

Signed with Official seal stamp

Accepted

(Mian Saadullah Jandoli)
Advocate-on-Record
Supreme Court of Pakistan
(for KPK) Advocate-General's
Office KPK; High Court Building, Peshawar.
Office Tel. # 091-9210312, 9210119

1- Provincial Police Officer, Khyber Pakhtunkhwa,
Peshawar.

Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar

2- Director Forensic Science
Laboratory, Khyber Pakhtunkhwa,
Peshawar

Director
Forensic Science Laboratory
Khyber Pakhtunkhwa, Peshawar

3- The Additional Inspector General of Police,
Investigation, Khyber Pakhtunkhwa, Peshawar

Addl: Inspector General of Police
Investigation Khyber Pakhtunkhwa
Peshawar

Forensic Science Laboratory

L. No. 248 / FSL

Date 19.03.2024

INVESTIGATION WING

Khyber Pakhtunkhwa, Peshawar

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19.3.2024

Main body of handwritten notes in Urdu, containing dates like 1465, 1465, and 2023, and various technical or case-related details.

Handwritten notes at the bottom, possibly a signature or a concluding statement.



Forensic Science Laboratory

29, Sector B-1, Phase 5, Hayatabad,
Khyber Pakhtunkhwa, Peshawar.

Tel.091-9217394 / Fax.091-9217251

No. 518 /FSL, Dated: 22/04/2024

10

To: The Addl. Inspector General of Police,
Investigation, Khyber Pakhtunkhwa,
Peshawar.

Subject: APPLICATION BY EX-SI IZHAR ALI OF FSL FOR RE-INSTATEMENT IN SERVICE WITH ALL BACK BENEFITS IN THE LIGHT OF JUDGMENT IN SERVICE APPEAL NO.1465/2023 (TITLED "IZHAR ALI VS. POLICE DEPARTMENT").


Memo:

Kindly refer to the enclosed application submitted by Ex-Sub Inspector Izhar Ali of Firearms Section FSL Peshawar for re-instatement in service with all back benefits in the light of Judgment dated 11.03.2024 passed by the Khyber Pakhtunkhwa Service Tribunal (F/A).

The matter is related to filling of CPLA against the subject judgment. In this regard, letter vide No.1572/Legal/Inv, dated 25.03.2024 (F/B) was addressed to this office to constitute a committee in the light of CPO guidelines letter No.371/Legal, dated 25.01.2024 (F/C). Subsequently, a committee was constituted and report thereof was communicated to the quarter concerned for filling CPLA against the subject judgment (F/D).

Meanwhile, an application for re-instatement in service with all back benefits in the light of KP Service Tribunal Judgment dated 11.03.2024 has been submitted by Izhar Ali (F/A).

Therefore, this office may kindly be guided through Legal Branch whether he may be re-instated in service with all back benefits and the judgment dated 11.03.2024 be implemented or alternatively wait for the outcome of CPLA which is in process and the Legal Branch Investigation has forwarded the instant CPLA to the Home & T.As Department KP.


DIRECTOR
Forensic Science Laboratory,
Khyber Pakhtunkhwa,
Peshawar.



Forensic Science Laboratory

29, Sector B-1, Phase 5, Hayatabad,

Khyber Pakhtunkhwa, Peshawar.

Tel.091-9217394 / Fax.091-9217251

No. 735 /FSL, Dated: 13/06/2024

To: The Addl. Inspector General of Police,
Investigation, Khyber Pakhtunkhwa,
Peshawar.

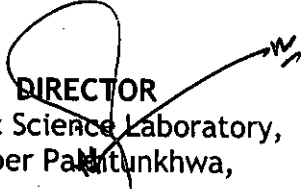
Subject: APPLICATION BY EX-SI IZHAR ALI OF FSL FOR RE-INSTATEMENT IN SERVICE WITH ALL BACK BENEFITS IN THE LIGHT OF JUDGMENT IN SERVICE APPEAL NO.1465/2023 (TITLED "IZHAR ALI VS POLICE DEPARTMENT").

Memo:

In continuation of this office letter No. 518/FSL, dated 22.04.2024 on the subject cited above (F/A) regarding the legal opinion from the Legal Branch which is still pending.

It is also submitted that a CPLA has been filed in the Honorable Supreme Court of Pakistan against the subject judgment vide No.432/2024 (F/B).

Therefore, with reference to the above letter (F/A), this office may kindly be guided through Legal Branch whether the applicant may be re-instated in service with all back benefits and the judgment dated 11.03.2024 be implemented or alternatively wait for the outcome of CPLA.


DIRECTOR
Forensic Science Laboratory,
Khyber Pakhtunkhwa,
Peshawar.