FORM OF ORDER SHEET

Court of	<u> </u>	
Anneal No	728/2024	

·	Apr	oeal No. 728/2024
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	
1-	30/05/2024	The appeal of Mr. Irshad Ahmad resubmitted
	·	today by Mr. Kabir Ullah Khattak Advocate. It is fixed for
	•	preliminary hearing before Single Bench at Peshawar
	•	03.06.2024. Parcha Peshi given to the counsel for the
		appellant.
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	•	By the order of Chairman
		REGISTRAR
	•	
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	,	

The appeal of Mr. Irshad Ahmad received today i.e on 27.05.2024 is incomplete on the following score which is returned to the appellant for completion and resubmission within 15 days.

- 1- Page no. 13 of the appeal is illegible be replaced by legible/better one.
- 2- Copy of departmental appeal attached with the appeal is unsigned.
- 3- Annexures attached with the appeal are unattested.

No. 80 /Inst;/2024/KPST,
Dt. 29/05/2024.

REGISTRAR 29 2 SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Kabeerullah Khattak Adv. High Court Peshawar.

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BEFORE THE HON'BLE SERVICE TRIBUNAL PESHAWAR

In Re S.A No. 728 /2024

Irshad Ahamd Khan

VERSUS

Chief Justice Peshawar High Court through Registrar Peshawar High Court Peshawar & other

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Through

Kabirullah Khattak

Advocate, High Court

Peshawar.

Dated:27/05/2024

BEFORE THE HON'BLE SERVICE TRIBUNAL PESHAWAR

In Re S.A No. 728 /2024

Irshad Ahamd Khan S/o Ziarat Gul Posted Junior Clerk Session Judge Peshawar.

Appellant

VERSUS

- 1. Chief Justice Peshawar High Court through Registrar Peshawar High Court Peshawar.
- 2. District and Session Judge, Peshawar.

Respondents

SERVICE APPEAL U/S-4 OF THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL ACT 1974 AGAINST THE IMPUGNED APPELLATE ORDER DATED 13/03/2024 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT FOR GRANTING BACK BENEFITS W.E.F 02.08.2010 FROM THE DATE OF ARRIVAL TO 11.01.2014 WAS REJECTED ON NO GOOD GROUNDS.

PRAYER:-

ON ACCEPTANCE OF THIS APPEAL THE IMPUGNED ORDERS DATED 13.03.2024 & 11.01.2014 TO THE EXTENT OF BACK BENEFITS MAY KINDLY BE SET ASIDE AND HE APPELLANT MAY KINDLY BE

ALLOWED ALL BACK BENEFITS W.E.F 02.08.2010 FROM THE DATE OF ARRIVAL TO 11.01.2014 ALONG WITH ALL BACK BENEFITS.

ANY OTHER RELIEF DEEMED
APPROPRIATE IN THE CIRCUMSTANCES
OF THE CASE NOT SPECIFICALLY ASKED
FOR, MAY ALSO BE GRANTED TO THE
APPELLANT.

Respectfully Sheweth.

- 1. That the appellant was initially appointed as Water Career BPS-I on the recommendation of departmental selection committee on 31.07.2010. (Copy of appointment order is attached as annexure "A").
- 2. That after fulfilling all codal formalities the appellant submitted his arrival report on 02.08.2010 and performing his official duty with full devotion and hard work and no complaint whatsoever has been made against the appellant. (Copy of arrival report is attached as annexure "B").
- 3. That the said appointment order dated 31.07.2010 was withdrawn by the respondent

No.2 on 05.08.2010 on the alleged grounds. (Copy of withdrawn order is attached as annexure "C").

- 4. That the appellant submitted departmental appeal on 09.08.2010 against the withdrawn order dated 05.08.2010 which was decided on 14.12.2013 whereby the appellant was reinstated in service while the intervening period is treated as leave without pay. (Copy of order dated 14.12.2013 is attached as annexure "D").
- 5. That in compliance of the order passed by the Hon'ble Peshawar High Court Peshawar the competent authority was reinstated the appellant on 11.01.2014 with immediate affect instead of 02.08.2010. (Copy of reinstatement order dated 11.01.2014 is attached as annexure "E").
- 6. After that the appellant submitted his arrival report on 11.01.2014 with respondent department. (Copy of arrival report is attached as annexure "F").
- 7. That the appellant submitted departmental appeal and after that submitted service appeal

No.398/18 which was dispose of on 22.01.2024 with the remarks that the appellant would make an application to the District and Session Judge Peshawar for granting back benefits with effect from 02.08.2010 to 11.01.2014. (Copy of court order dated 22.01.2024 is attached as annexure "H").

- 8. That in compliance of the order dated 22.01.2024 of this Hon'ble tribunal the appellant submitted a departmental appeal on 14.02.2024 for granting back benefit which was rejected on 13.03.2024. But the said rejection order has been communicated/handed over to the appellant on 20.05.2024. (Copy of departmental appeal and rejection order are attached as annexure "I & J").
- 9. That feeling aggrieved the Appellant prefers the instant service appeal before this Hon'ble Tribunal on the following grounds inter alia:-

GROUNDS:-

A. That the impugned orders dated 13.03.2024, & 11.01.2014 to extent of back benefits are come under the definition of void order because has

been passed without fulfilling the codal formalities.

- B. That the alleged charges against the appellant was false and fabricated which was evident from the reinstatement order dated 11.01.2014.
- C. That there was no fault on part of the appellant and according to judgment law and judgment of superior courts no one can be punished for the fault of others.
- D. That the appellant was appointed after fulfilling all the legal and codal formalities for that very post.
- E. That the reinstatement of the appellant is enough for declaring the appellant is innocent.
- F. It is a well settled maxim no one can be condemned unheard because it is against the natural justice of law in this respect the appellant relied upon a judgment reported on 2008 SCMR page 678.
- G. That any other ground not raised here may graciously be allowed to be raised at the time of arguments on the instant service appeal.

It is therefore, most humbly prayed that on acceptance of this appeal the impugned orders dated 13.03.2024 & 11.01.2014 to the extent of back benefits may kindly be set aside and he appellant may kindly be allowed all back benefits w.e.f 02.08.2010 from the date of arrival to 11.01.2014 along with all back benefits.

Any other relief not specifically asked for may also graciously be extended in favour of the Appellant in the circumstances of the case.

APPELLANT

Through

Kabir Ullah Khattak

&

Roeeda Khan

Advocates, High Court

Peshawar.

Dated: 27/05/2024

<u>NOTE</u>:-

As per information furnished by my client, no such like appeal for the same petitioner, upon the same subject matter has earlier been filed, prior to the instant one, before this Hon'ble Tribunal.

Advocate:



BEFORE THE HON'BLE SERVICE TRIBUNAL PESHAWAR

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Irshad Ahamd Khan

VERSUS

Chief Justice Peshawar High Court through Registrar Peshawar High Court Peshawar & other

AFFIDAVIT

I, Irshad Ahamd Khan S/o Ziarat Gul Posted Junior Clerk Session Judge Peshawar, do hereby solemnly affirm and declare that all the contents of the instant appeal are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Hon'ble Court.

DEPONENT

Identified by

Roeeda Khan

Advocate High Court

Peshawar.

(3)

BEFORE THE HONBLE SERVICE TRIBUNAL PESHAWAR

In Re S.A No.	/2024

Irshad Ahamd Khan

VERSUS

Chief Justice Peshawar High Court through Registrar Peshawar High Court Peshawar & other

ADDRESSES OF PARTIES

PETITIONER.

Irshad Ahamd Khan S/o Ziarat Gul Posted Junior Clerk Session Judge Peshawar.

ADDRESSES OF RESPONDENTS

Chief Justice Peshawar High Court through Registrar
 Peshawar High Court Peshawar.

2. District and Session Judge, Peshawar

APPELLANT

Through

Dated: 27/05/2024

Roeeda Khan Advocate, High Court

Peshawar.

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BEFORE THE HON'BLE SERVICE TRIBUNAL PESHAWAR

	Ιn	Re	S.A	No.		<u> </u>	٠.	/2024
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Irshad Ahamd Khan

VERSUS

Chief Justice Peshawar High Court through Registrar Peshawar High Court Peshawar & other

APPLICATION FOR CONDONATION OF DELAY (if any)

Respectfully Sheweth,

Petitioner submits as under:

- 1. That the above mentioned appeal is filing before this Hon'ble Tribunal in which no date is fixed for hearing so far.
- 2. That in compliance of the order dated 22.01.2024 of this Hon'ble tribunal the appellant submitted a departmental appeal on 14.02.2024 for granting back benefit which was rejected on 13.03.2024. But the said rejection order has been communicated/handed over to the appellant on 20.05.2024.

Grounds:

- A. That the impugned orders are void order and no limitation run against the void orders.
- B. That there are number of precedents of the Supreme Court of Pakistan which provides that the cases shall be decided on merits rather than technicalities.
- c. That the dispute of the appellant is come under the definition of recurrence cause of action against which no limitation run.

It is, therefore, requested that the limitation period (if any) may kindly be condone in the interest of justice.

Appellant

Through

Date: 27.05.2024

Kabir Ullah Khattak

&

Roeeda Khan

Advocates, High Court

Peshawar

OFFICE OF THE DISTRICT AND SESSIONS JUDGE, PESHAWAR

With Med ris parci

संबद्ध**ा**उटाइडठ.

307 July 2010, Act. Lishiid Ahimad Chan son of Zianat Cul is appointed as Water Carrier (BPS-Donne gameramad, noused femeramment of Departmental Selection Computer dured

01) against the vacant post, in the intent to Public Service, with unmediate effects

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Act, 1973 rend with Peshawat High Court (Subordinate Courts Stuff) Beermingent Meles, His service shill be governed by the Covernment of Myber Pakhmukhwa Civil Servicus

Una generation should be dispensed with at any time without notice and assigning of two years and shall be confirmed on the availability of the posit. He shall be an probacen initially for a period of two years, extendable for a further period

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He shall produce medical finess certificate before assuming the charge. His testimonials and sneecedents are to be duly venified from the quarter concerned.

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Peshawat High Court, Peshawat.

The Senior Civil Indige, Peshawan

The ACC, Sessions Court, Perhaman The COC, office of the Senior Chal Judge, Perhaman The Accounting Sessions Court, Peshawan

ัรเมล กฎผู้ผู้สู่ อังเศรรเบิรจุ คลิ้มขยาย

Taglict & Sessions Judge,

Tevralleoff.

The Honorable, District & Sessions Judge.

Subject: ARRIVAL REPORT

Respected Sir.

In compliance with your kind office order bearing endorsement No. 84(FA) 45-5-12-dated 31/07/2010, I have the honor to submit any arrival report, loday on 1925

Thanks.

12-shad Ahmad Khe Water Caroling

erone Judge,

OFFICE OF THE DISTRICT AND SESSION JUDGE PESHAWAR

Dated 31 July 2010

ORDER

Consequent upon the recommendations of Departmental Selection Committee dated 30th July 2010, Mr. Irshad Ahmad Khan Son of Ziarat Gul is appointed as Water Carriet (BPS-01) against the vacant post, in the interest of Public Service, with immediate effect.

His appointment to the service shall be subject to the following terms and conditions:

- 1. His service shall be governed by the Government of Khyber Pakhtunkhwa Civil Secretaries Act, 1973, read with Peshawar High Court (subordinate Courts Staff)

 Recruitment Rules 2003.
- 2. He shall be on probation initially for a period of two years extendable for a further period of two years and shall be confirmed on the availability of the post.
- 3. His service shall be liable to be dispensed with at any time without notice and assigning any reason before the expiry of the period of their probation/extended period of probation if his work or conduct during this period is not found satisfactory.
- 4. His testimonials and antecedence are to be duly verified from the quarter concerned.
- 5. He shall produce medical fitness certificate before assuming charge.

If the above terms and conditions of appointment are acceptable to him, he should report for duty to the undersigned immediately. The offer of appointment shall be deemed to have been cancelled if he fails to report for duty to the undersigned within seven days from date of issue to this order.

(ZIAUDDIN KHATTAK)
District & Session Judge
Peshawar.

No. S-I(FA)4525-12, dated Peshawar the 31/07/2010.

Copy of the above is forwarded to:-

1. The Registrar Peshawar High Court, Peshawar.

2. The Account General, Khyber Pakhtunkhwa, Peshawar.

3. Syed Anees Badshah Bukhari Addl: Member Inspector Team-II, Peshawar High Court, Peshawar

4. The Senior Civil Judge, Peshawar.

5. The Accountant, Sessions Court Peshawar.

6. The AAC, Sessions Court, Peshawar.

7. The COC, Office of the Senior Civil Judge, Peshawar.

8. The official concerned by name:

I, _

for information and compliance

District & Session Judge Peshawar. 'C"







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Office of the District & Sessions Judge, Peshovar,

No. Daled

Office order.

Whereas, Mr. Irshad Ahmad Khan son of Ziorat Gul was appointed as water camer in this Sessions Division, vide or her bearing. It 84 (EA) 4505-12 Dajed 31,7,2010 subject to his medical librors.

And whereas, he was examined medically by Medical Superintendent Police & Services Hospital, Peshawar on 1, 5,2010 who reported his age as fourly one (41) years while the maximum aga for water carrier was fourly years.

Now therefore, on the recommendation of the Eupartmental Selection Committee dated \$8,2010, being over age. The appointment order of Mr. Irshadi Ahmad Khan , referred above, is hereby withdrawn with immediate effect and his evides are dispensed with accordingly.

No. 4593_97 Dated 05.08.201

Disvict & Sessions Judy A

Copy forwarded for information to:

- 1. The Registrar, Peshawar High Court, Peshawar,
- 2 The Accountant General Khyber Pakhlankhwa. Hashayar
- 3. Irshad Ahmad Khan son of Ziaral Cut ifo Islan Calony Post Office: Technical College Kohal Road moult & District Peshawar.
- 4. The accountant of this Courf for information 8. Compliance.
- 5. Information Klosk

District & Sessions Judge.

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JUDGMENT SHEETER PESHAWAR HIGH COURT, PESH JUDICIAL DEPARTI D.A. No. 19

JUDGMENT

Date of hearing 14 - 12 - 2013

Irshad Ahmad

Respondent D. S. S. T. Pechaway

MIAN FASIB-UL-MULK, J.- This departmental appeal is directed against the order dated 05.08.2010 passed by the learned Sessions Judge, Peshawar, whereby appointment order of appellant, Irshad Ahmad Khan, Water Carrier, was withdrawn on the ground of maximum age limit

Brief facts of the case are that appellant in response to an advertisement applied for appointment as Water Carrier (BPS.1) in the District Judiciary. The Departmental Selection Committee recommended the name of appellant: for the said post and accordingly he was issued appointment order dated 31.07.2010. Subsequently, the said.

order was withdrawn vide impugned order as the appellant

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EXAMINE

2 2 JAN 2014

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was found to have been over-age by one year against the maximum age limit of 40 years.

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- 3... Arguments heard and record perused.
- It is well settled that before appointment of a person. in Government service, his antecedents are carefully examined by the competent Authority or for that matter the Departmental Selection Board. The petitioner peing matriculate had annexed his certificate with his application alongwith N.I.C and in both the documents his date of buth was mentioned. It was for the dopartment to have raised the objection before appointment of appellant that he was overage. Once the appellant was duly interviewed and selected followed by issuance of appointment order and submission of arrival report by the official for duty, his services could not have been dispensed with on the basis of his medical report at a subsequent stage, where he was referred for the purpose of his physical fitness. The fault in this case lies on the department and not on the appellant hence the impugned order is against the principles of natural justice

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for taking away a vested right accrued in favour of appellant without any fault on his part.

Accordingly, this appeal is accepted and the impugned order of District and Sessions Judge, Peshawar is hereby set aside. The appellant is re-instated in service and the period intervening shall be considered as leave without Selt Mian Pasitul mulle

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OFFICE OF THE DISTRICT & SESSIONS JUDGE PESHAWAR

Dated: 11th January, 2014

OFFICE ORDER

In compliance with the Order passed by august Peshawar High Court, Peshawar in D.A.No. 19 of 2010. Mr. Irshad Ahmad Khan is hereby re-instated in service as Water Carrier (BPS-01) in this establishment, with immediate effect.

(SHAIBER KHAN)
District & Sessions Judge,
Peshawar

No:106 (00-V-4) 294-287 Dated Peshawar 11 / 01 /2014.

Copy forwarded for information necessary action to:

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar

Z. The Accountant, Sessions Court, Peshawar

3. The A.C.C. Sessions Courfy Peshawar

4. The Official concerned by name.

District & Sessians Judge, Peshawar

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lo be had

Subject Respected Sir,

The Hon'ble, District &: Sessions Judge, Peshawar.

ARRIVAL REPORT

In compliance with your kind order bearing Endst No. 85 (PS-V-2) 294-297 dated 11/01/2014, I, Irshad Ahmad khan do hereby assume the charge of the post of Water Carrier (BPS-01) today on 11/01/2014 (S.N).

Yours Obediently

Dated 11/01/2014

(Irshad Ahmad Khan) -Water Carrier (a#s-01)

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Service Appeal No.398/2018 titled "Irshad Ahmad Khan V District & Sessions Judge, Peshawar and others"

ORDER

20nd Jan. 2024

Kalim Arshad Khan, Chairman. Appellant along with his counsel present. Mr. Muhammad J.m. District Autorney for the respondents present.

- Learned counsel for the appellant submitted that during the pendency of the appeal, the appellant has been promoted. Now, the only grievance of the appellant is that he seeks counting of period, for which he was out of service from the date of initial appointment to the date of his reinstatement, towards pensionary benefits and for the purpose, he would make an application to the District & Sessions Judge, Peshawar. As regards this appeal, he does not press in Dismissed accordingly. Consign.
- Pronounced in open Court at Peshawar under our hands and seal of the Tribunal on this 22nd day of January, 2024.

(Salah Ud Din)

Member (J)

(Kalim Arshad Khan)

Chairman

Mikazem Shah*

Certified to be three co ce Tribunal

Date of Presentative Number of Work Convergible L. . 3)

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Name of C

Date Cife

Date of

14" (20)

Before the Office of District & Session Judge-Peshawar

To,

The Respected,

District & Session Judge Peshawar.

Subject: Application for Consideration of Pensionary and Back Benefits of

Service:

Very Respected Sir, I am writing to bring to your attention my service history and the matter concerning my pensionary and back benefits of service. I humbly request your honorable consideration and intervention in this regard.

I, Irshad Ahmad Khan S/o Zyarat Gul, was initially appointed in the District Judiciary as a Water-Carrier. During my service, unfortunately, I was removed from my position due to age restrictions. However, I appealed against this order in the Hon'ble Peshawar High Court Peshawar, whereupon the Hon'ble Peshawar High Court Peshawar, ruled in my favor and reinstated me to my former position (Water-Career).

Following the reinstatement, I proceeded to file an appeal before the Service Tribunal, seeking entitlement to service benefits, pensionary benefits, and back-pay from the date of my initial appointment. The Service Tribunal, in its wisdom, Dismissed my Appeal and directed me to submit an application before your esteemed court for consideration of pensionary benefits from my initial appointment, effective from the date of my reinstatement.

I wish to express my sincere gratitude for the guidance provided by the Service Tribunal and humbly request your honorable self to consider my case for pensionary benefits from my initial appointment, in accordance with the directives of the Tribunal. The back benefits of service, including any pensionary entitlements, are crucial for my financial security and well-being especially considering my dedicated service to the judiciary.

I have enclosed all relevant documents and court orders pertaining to my case for your perusal and consideration. Your favorable decision in this matter would not only provide me with the necessary financial support but also serve as a testament to the fairness and justice upheld by our esteemed judiciary.

Thank you for considering my application. I eagerly await your decision on this matter.

Yours sincerely,

Irshad Ahmad Khan S/o Zyarat Gul

Junior Clerk attached to the Court of AD&SJ-XVII-Peshawar.

Mobile No.0345-92207470

Date: 14-02-2024

13/03/2024

Perusal of record reveals that the appellant official has withdrawn his departmental appeal before the Khyber Pakhtunkhwa Service Tribunal. His earlier appeal as well as review petition regarding the same matter has been turned down by the august Peshawar High Court. A similar request was also rejected by the Departmental Promotion Committee (DPC) in its meeting dated 11/03/2017: Moreover, no fresh ground has been provided by the appellant official in the instant application which country warrant reconsidering his position, thus, the same is hereby dismissed.

[ASHFAQUE 1

District & Sessions Judge,

Peshawar.

