

BEFORE THE HON'BLE Khyber Pakhtunkhwa
SERVICE TRIBUNAL PESHAWAR

CM No-639/2024

In Re S.A No. 1679/2022

Inspector General of Police
Khyber Pakhtunkhwa & Others Respondents

VERSUS

Watan Badsha

Ex. Const No.391, District Kohat Appellant

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Shakeen
Deponent

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BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 1679/2022

CM No 639/2024

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Kohat
3. District Police Officer, Kohat

..... Respondents

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 13828

Dated 27-06-2024

VERSUS

Watan Badshah Ex-Constable No. 391
District Police Kohat

..... Appellant

**APPLICATION FOR SETTING ASIDE EX-PARTE DATED 14.12.2023 AND
RESTORING RIGHT OF FILING PARAWISE COMMENTS**

Respectfully Sheweth:-


1. That above captioned Service Appeal led by the appellant namely Ex-Constable Watan Badshah for reinstatement in service which is fixed for 03.07.2024.
2. That this Hon'ble Tribunal issued ex-parte order dated 14.12.2023 without taking into consideration the stance of Police department, which is not in accordance with natural justice.
3. That from ex-parte order the answering respondents are deprived of their right of defence.
4. That the para-wise comments accordingly prepared and are ready for submission.
5. That respondent department always complied with the directions of Hon'ble Courts in letter and spirit.
6. That feeling aggrieved the respondents seek right for restoration to file Para-wise comments on the following Grounds.

GROUND:

- A) That the valuable rights of the department/ respondents are involved with the instant service appeal.
- B) That the application is within time and there is no disobedience on the part of respondents.
- C) That there is no legal bar in acceptance of the application in hand.
- D) That the delay was not intentional but due to the above justifiable reasons, the respondents will show punctuality in future.

E) That according to the rules of natural justice, Audi-alterem-partam, no one should be condemned unheard.

It is therefore, most respectfully prayed that on acceptance of this application the ex-parte proceedings against the respondent may be set aside and right to file para-wise comments may kindly be restored, please.


(MUHAMMAD OMER KHAN) PSP
District Police Officer,
Kohat
(Respondent No. 3)

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 1679/2022

Watan Badshah

Ex-Const No. 391, District Kohat

..... Appellant

VERSUS

Inspector General of Police,
Khyber Pakhtunkhwa & others

..... Respondents

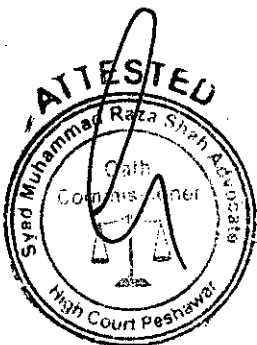
AFFIDAVIT

I, Muhammad Omer Khan, District Police Officer, Kohat Respondent No. 3 do hereby solemnly affirm and declare on oath that the contents of reply to the appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from the Honorable Tribunal.

Muhammad Omer Khan

District Police Officer,
Kohat

(Respondent No. 3)
(MUHAMMAD OMER KHAN) PSP



27 JUN 2024

BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

APPEAL NO _____/2022

Watan Badsha (Ex Constable No 391 District Kohat) :.....Appellant

Vs

1. Inspector General of Police Khyber Pukhtunkhwa Peshawar
2. Regional Police Officer (RPO) District Kohat.
3. District Police Officer (DPO) Kohat.....Respondents



Appeal under section 4 of the Khyber Pukhtunkhwa Service Tribunal Act 1974 against the impugned order OB No. 1088 dated 22-12-2017 of respondent No 03 whereby the appellant was imposed major penalty of **Compulsory Retirement** and order dated 10-06-2022 whereby Respondent No 02 Rejected departmental Appeal of the appellant and order dated 05-09-2022 of Respondent No. 01 (Communicated on 07-11-2022) whereby Mercy Petition of the appellant was rejected for no good Grounds which is utter violation of law, Rules and Principles of Natural justice hence, not sustainable in the eye of law.

PRAYERS:

On Acceptance of the instant appeal both the impugned orders dated 22-12-2017, 10-06-2022 and 05-09-2022 may kindly be declared illegal void ab initio, set aside the impugned orders and the appellant may kindly be reinstated into service with all back benefits.

Respectfully sheweth;

1. That the appellant was enlisted in the respondent department and since his appointment the appellant performed his duties with full devotion, enthusiasm and to the entire satisfaction of the respondents.
2. That the appellant has 02 disable girl children at home who fell ill on 02-12-2017 and there was no other male who could care of them therefore, on the verbal permission of his high ups the appellant went home for look after of their children.
3. That the appellant was proceeded departmentally at his back and without conducting regular inquiry the appellant was compulsory retired from service on the allegation of 20 days absence vide order dated 22-12-2017 however the same was never communicated to the appellant. (Copy of the order dated 22-12-2017 is annexure A)
4. That the appellant filed a departmental appeal on dated 11-02-2022 however, the same was rejected vide order dated 10-06-2022 through a non-speaking order however the same was never communicated to the appellant. (Copy of the order dated 10-06-2022 and departmental appeal are annexure-B & C)

ATTESTED

[Handwritten signature and date]
23

S.A No 1679/022
Watan Badshah



30th Nov.2023

01. Counsel for the appellant present. Mr. Habib Anwar, Addl. Advocate General alongwith Usman Khan, DSP (Legal) for the respondents present.

02. Departmental representative informed that reply was ready and signed but due to change in the pattern in the light of the direction of the learned Chairman of this Tribunal, the office directed them to amend the signature part of the reply accordingly. He requested for some time for doing the needful. Granted. To come up for written reply/comments on 14.12.2023 before the S.B with further direction to provide a copy of the reply to the appellant also. Parcha Peshi given to the parties.

SCANNED
KPBT
Peshawar

(Fareeha Paul)
Member(E)

14th Dec. 2023

1. Learned counsel for the appellant and Mr. Asad Ali Khan, *Fazle Subhan, P.S*

Assistant Advocate General present.

2. Nobody is present on behalf of the respondents. Therefore, they are placed ex-parte. The appeal is admitted to full hearing subject to all just and legal objections. Appellant is directed to deposit security fee within 10 days. To come up for arguments on 29.01.2024 before D.B. P.P given to the parties.

(Kalim Arshad Khan)
Chairman

ATTESTED
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Mutazem Shah

Date of Presentation of Application 29/12/23
Number of Words Page 2
Copying Fee 10/-
Urgent 5/-
Total 15/-
Name of Copyist Shadiazul
Date of Completion of Copy 29/12/23
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