

ORDER


02nd July, 2024

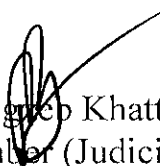
None present on behalf of the appellant. Mr. Muhammad Jan,
District Attorney for the respondents present.

On previous date i.e 15.05.2024, last opportunity was granted for arguments but today nobody put appearance on behalf of the appellant despite repeated calls at different intervals till rising of the court, therefore, the instant appeal is dismissed in default. File be consigned to the record room.

ANNOUNCED

02nd July, 2024


(Muhammad Akbar Khan)
Member (Executive)
Camp Court, Swat


(Aurangzeb Khattak)
Member (Judicial)
Camp Court, Swat

Naeem Amin


SCANNED
KPST
Peshawar

SA 15293/2020

15.05.2024 01. Mr. Umar Farooq, Advocate for the appellant present and submitted memo. of appearance and requested for time to submit Wakalatnama. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

02. The newly engaged counsel for the appellant requested for adjournment in order to prepare the brief. Last opportunity is granted. To come up for and arguments on 02.07.2024 before the D.B at camp court, Swat. PP given to the parties.


(Fareeha Paul)
Member(I)


(Rashida Bano)
Member(J)

Fazle Subhan, P.S

SCANNED
KPST
Peshawar

28th Feb. 2024


01. Counsel for the petitioner present. Mr. Muhammad Jan, District Attorney for the respondents present. Arguments on application heard.

02. Instant application submitted on 19.01.2024 is for restoration of service appeal No. 15293/2020 which was dismissed in default on 02.01.2024. The application is within time, therefore, in the interest of justice, the appeal is restored to its original number on payment of cost of Rs. 2000/-. To come up for arguments on 15.05.2024 before the D.B. Cost of Rs. 2000/- be deposited by the appellant before the date fixed. Original file be requisitioned.

03. *Pronounced in open court at Peshawar and given under my hand and seal of the Tribunal on this 28th day of February, 2024.*

SCANNED
KUST
Peshawar


(Farzha Paul)
Member(E)



(Rashida Bano)
Member(J)

Fazle subhan P.S

Form-A
FORM OF ORDER SHEET

Court of _____

Restoration Application No. 91/2024

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	19.01.2024	<p>The application for restoration of Service Appeal no. 15293/2020 submitted today by Mr. Kamran Khan Advocate. It is fixed for hearing before Division Bench at Peshawar on <u>28-02-24</u>. Original file be requisitioned. Parcha Peshi is given to counsel for the applicant.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

SCANNED
KPST
Peshawar

ORDER
02.01.2024

Nemo for the appellant. Mr. Muhammad Jan, District Attorney for the respondents present.


The appeal in hand was called on for hearing after various intervals, however nobody put appearance on behalf of the appellant till rising of the court, therefore, the appeal in hand stand dismissed in default. Parties are left to bear their own costs.


File be consigned to the record room

ANNOUNCED

02.01.2024

SCANNED
KPST
Peshawar


(Rashida Bano)
Member (Judicial)
Camp Court Swat


(Salah-ud-Din)
Member (Judicial)
Camp Court Swat


SA 15293/2020


20th Oct., 2022

Appellant present in person. Mr. Muhammad Jan,
District Attorney for the respondent present.

Appellant requested for adjournment on the ground that
his counsel is busy before the Hon'ble Peshawar High Court
today. Adjourned. The appeal pertains to Malakand Division,
therefore, to come up for arguments on 21.1.2024 before the
D.B at camp court, Swat. PP given to the parties.

SCANNED
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Peshawar


(Fareeha Paul)
Member (E)



(Rashida Bano)
Member(J)

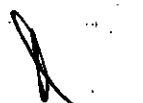
Fazle Subhan


FORM OF ORDER SHEET

Court of _____

Restoration Application No. 492/2023

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	14.07.2023	<p>The application for restoration of appeal no. 15293/2020 submitted today by Mr. Kamran Khan Advocate. It is fixed for hearing before Division Bench at Peshawar on <u>19-07-2023</u>. Original file be requisitioned.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>
19.07.2023	1.	<p>Learned counsel for the petitioner present. Mr. Fazal Shah Mohmand learned Assistant Advocate General for respondents present.</p> <p>2. Arguments heard. Record perused.</p> <p>3. Application in hand was submitted on 14.07.2023 for restoration of main service appeal which was dismissed in default vide order dated 03.07.2023.</p> <p>4. It was submitted by the learned counsel for petitioner that on the date of hearing he was busy in the Hon'ble Peshawar High Court, Peshawar and that case was called but none appeared on behalf of petitioner due to the reason mentioned above, therefore, he requested for restoration of the instant service appeal</p> <p>5. Learned AAG shows no objection on acceptance of the instant application seeking restoration of main appeal.</p> <p>6. In view of the above, instant application filed within time, is accepted and the main service appeal stands restored to its original number. It be properly registered. To come up for arguments on 20.10.2023 before D.B. P.P given to the parties.</p>


(Fareeha Paul)
Member (E)


(Rasheeda Bano)
Member (J)

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Peshawar

SCANNED
KPST
Peshawar

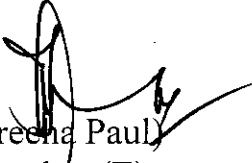
ORDER
03.07.2023


Nemo for the appellant. Mr. Muhammad Jan, District Attorney for the respondents present.

The appeal in hand was called on for hearing after various intervals, however nobody put appearance on behalf of the appellant till rising of the court, therefore, the appeal in hand stand dismissed in default. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
03.07.2023

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Peshawar


(Fareeha Paul)
Member (E)
Camp Court Swat


(Salah-ud-Din)
Member (J)
Camp Court Swat

Naeem Amin

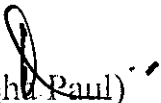
02.05.2023 Appellant in person present.


Muhammad Jan, learned District Attorney for respondents present.

Former made a request for adjournment as his counsel is busy before the Hon'ble Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 05.06.2023 before D.B at Camp Court, Swat. Parcha Peshi given to the parties.

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KPST
Peshawar

Mutazem Shah


(Fareeha Paul)
Member (E)
Camp Court, Swat



(Rozina Rehman)
Member (J)
Camp Court, Swat

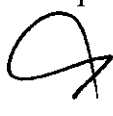
05th June, 2023 1. Learned counsel for the appellant present. Mr. Fazal Shah Mohmand, Additional Advocate General alongwith for respondents present.

2. Learned counsel for the appellant requested for adjournment in order to assist the Tribunal on the point of jurisdiction. Adjourned. To come up for arguments on 03.07.2023 before D.B at Camp Court, Swat. P.P given to the parties.

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KPST
Peshawar

Mutazem Shah


(Muhammad Akbar Khan)
Member (E)
Camp Court, Swat


(Kalim Arshad Khan)
Chairman
Camp Court, Swat

07th March, 2023

Nemo for the appellant. Mr. Naseer-ud-Din Shah,
Assistant Advocate General for the respondents present.

On previous date, the matter was adjourned because of
strike of lawyers, therefore, it is deemed appropriate that let a
notice be issued to appellant and his counsel for 03.04.2023 and
as the matter pertains to Camp Court Swat, therefore, to come
up for arguments before the D.B at Camp Court Swat. Parcha
Peshi given to the parties.

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Peshawar

(Salah-ud-Din)
Member (J)

(Kalim Arshad Khan)
Chairman

03rd April, 2023

Appellant in person present. Mr. Muhammad Jan, District
Attorney for the respondents present.

Appellant seeks adjournment on the ground that his counsel
is not available today. To come up for arguments on 02.05.2023
before the D.B at Camp Court Swat. Parcha Peshi given to the
parties.

(Salah-ud-Din)
Member (J)
Camp Court Swat

(Kalim Arshad Khan)
Chairman
Camp Court Swat

SCANNED
KPST
Peshawar

02.11.2022

Junior to counsel for appellant present.

Kabir Ullah Khattak, learned Additional Advocate General present. Nemo for respondents.

Despite notices, reply on behalf of respondents was not submitted, therefore, right of respondents for submission of reply is hereby struck off. To come up for rejoinder, if any, and arguments on 15.12.2022 before D.B.



(Rozina Rehman)
Member (J)

15.12.2022

Due to general strike of the Bar, case is adjourned to 07.03.2023 before D.B. Office is directed to notify the next date on notice board as well as the website of the Tribunal.

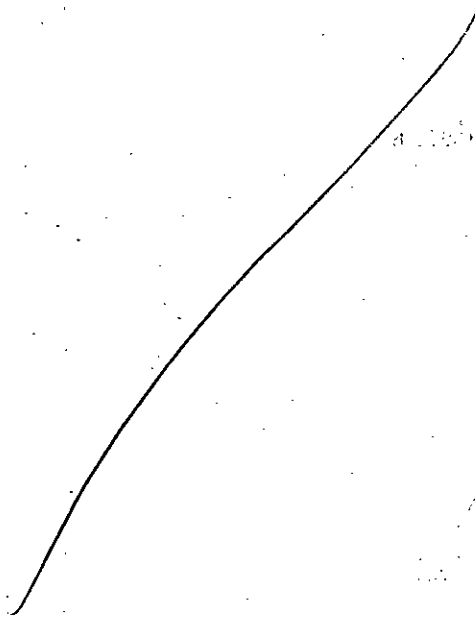
SCANNED
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Peshawar



(Fareeha Paul)
Member (E)



(Rozina Rehman)
Member (J)




27.06.2022

Clerk of learned counsel for the appellant present. Perver Khan, Assistant for the respondents present.

Learned Member (Executive), is on leave. Therefore, the case is adjourned to 08.08.2022 for the same as before.


READER

8.8.2022 Due to the Public Holiday the Case is Adjourned to 20-9-2022


Reader


SCANNED
KPST
Peshawar

20.09.2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Previous date was changed on Reader Note, therefore, notice be issued to respondents through registered A.D with the direction to submit written reply/comments on the next date positively, failing which their right for submission of written reply/comments shall be deemed as struck off. Adjourned. To come up for submission of written reply/comments on 02.11.2022 before the S.B.

The appellant shall submit registered A.D within 02 days.


(Salah-Ud-Din)
Member (J)

14.12.2021

None for the appellant present. Mr. Noor Zaman Khattak,
District Attorney for respondents present.

Written reply/comments not submitted. Learned District
Attorney seeks time to contact the respondents for submission of
written reply/comments. Adjourned. To come up for written
reply/comments on 23.02.2022 before S.B.


(MIAN MUHAMMAD)
MEMBER (E)

23.02.2022

Due to retirement of the Hon'able Chairman, the case is
adjourned to 9.05.2022 for the same before D.B.


Reader

09.05.2022

Counsel for appellant present.

Kabir Ullah Khattak learned Additional Advocate
General for respondents present.

Reply on behalf of respondents was not submitted.
Notice be issued to respondents for submission of written
reply/comments. To come up for reply/comments on
27.06.2022 before S.B.


(Rozina Rehman)
Member (J)

15.04.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 04.08.2021 for the same as before.



Reader

04.08.2021

Counsel for the appellant present. Preliminary arguments heard.

The impugned order was previously challenged before the Honourable Peshawar High Court, Mingora Bench through Writ Petition No. 1005-M/2019 and after withdrawal of the said Writ Petition vide order dated 30.09.2020, the appellant has approached this Tribunal. Obviously the question of limitation is involved but learned counsel for the appellant contends that the impugned order is void and coram-non-judice against which no limitation runs. In view of the arguable points raised at the bar, this appeal is admitted for full hearing subject to all legal objections including that of limitation to be determined during full hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, or extension of time is not sought through written application with sufficient cause, the office shall submit the file with a report of non-compliance. File to come up for arguments on 14.12.2021 before the D.B.

Appellant Deposited
Security & Process Fee


06/08/21


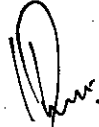
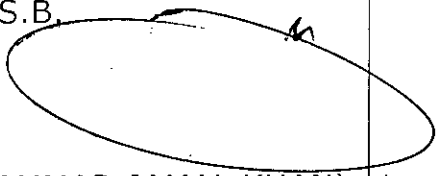


Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. - 15293 /2020


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	01/12/2020	<p>The appeal of Mr. Mushtaq resubmitted today by Mr. Shahzaullah Yousafzai Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>2-</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>15/01/2021</u></p> <p style="text-align: right;"> CHAIRMAN</p>
15.01.2021		<p>Junior to the senior counsel for appellant is present. He is seeking adjournment on the ground that his senior counsel is not available today. Adjourned to 15.04.2021 on which date file to come up for preliminary hearing before S.B.</p> <p style="text-align: right;"> (MUHAMMAD JAMAL KHAN) MEMBER (JUDICIAL)</p> <p style="text-align: right;"></p>

The appeal of Mr. Mushtaq Ex- Sepoy No. 1905 Dir Levies received today i.e. on 28.10.2020 is incomplete on the following score which is returned to the counsel for the appellants for completion and resubmission within 15 days.

- 1- Annexure-B of the appeal is illegible which may be replaced by legible/better one.
- 2- Annexures of the appeal may be attested.

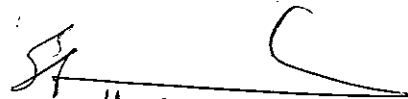
No. 3095 /S.T,

Dt. 29/10 /2020.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Shahzaullah Yousafzai Adv. Pesh.

Ⓡ The instant appeal was returned to the Council with objection on 29/10/2020 but the Council was not informed regarding return of the instant appeal. Today i.e. on 30/11/2020 ~~was~~ I was informed that the instant appeal is returned. I removed all objections accordingly and re-submitted for institution.


Shahzaullah Yousafzai
Advocate

30/11/2020

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

APPEAL NO. _____/2020

SCANNED
KPST
Peshawar

MUSHTAQ VS SECRETAY & OTHERS

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Memo of appeal	1-3
2.	Appointment order	A	4
3.	Impugned order	B	5
4.	Departmental appeal	C	6
5.	Letter dated 12/02/2019	D	7
6.	Writ petition	E	8-12
7.	Order sheet	F	13
6.	Vakalat nama	14

APPELLANT

THROUGH:

**SHAHZULLAB YOUSAFZAI
ADVOCATE**

Flat no 4, Upper Floor,
Juma khan plaza near FATA secretariat,
Warsak road, Peshawar
0302-8578851

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

APPEAL NO. 15293 /2020

Khyber Pakhtunkhwa
Service Tribunal
Diary No. 13629
Dated 28/10/2020

Mr. Mushtaq Ex: Sepoy No.1905 Dir Levies
R/O Village Tango Kandaw Toormang-1, Tehsil khall Dir Lower.

..... **APPELLANT**

VERSUS

- 1- The Secretary Home & Tribal Affairs Department Khyber Pakhtunkhwa, Civil Secretariat Peshawar.
- 2- The Commandant Dir Lower Levies At Timergara Dir Lower.
- 3- The Subedar Major Dir Lower Levies At Timergara Dir Lower.

..... **RESPONDENTS**

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ORDER DATED 25/02/2012 WHEREBY THE APPELLANT WAS REMOVED FROM SERVICE W.E.F 31/10/2020, AND AGAINST NOT TAKING ACTION ON DEPARTMENTAL APPEAL OF APPELLANT WITHIN STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

That on acceptance of this appeal the impugned order dated 25/02/2012 may kindly be set aside and the respondents may kindly be directed to reinstate appellant into service with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:
ON FACTS:

Brief facts giving rise to the present appeal are as under:

That appellant was initially appointed as sepoy in dir lower levies vide order dated 07/01/2010. Copy of appointment order is attached as annexure.....**A.**

That later on the appellant was removed from service vide impugned order dated 25/02/2012 w.e.f 31/10/2012 on the ground of absentia. Copy of impugned order is attached as annexure**B.**

- 3- That it is pertinent to mention here that appellant remained absent from duty for few days and he approached the respondents for joining duty several times prior to

Filed to-day

Registrar
28/10/2020

Re-submitted to Day
and filed.

Registrar
1/12/2020

31/10/2012 but he was verbally told that he has been removed from service but they were not providing copy of impugned removal order to appellant.

- 4- That finally appellant was provided copy of impugned removal order dated 25/02/2012 on 20/01/2019 whereby he was removed from service with effect from 31/10/2012.
- 5- That feeling aggrieved from the impugned order dated 25/02/2012, the appellant filed departmental appeal on 03/02/2019 before respondent no.1. that the respondent no.1 called comments from respondent no.2 vide letter dated 12/02/2019 but did not decide the departmental appeal of appellant within statutory period of ninety days. Copy of departmental appeal and letter dated 12/02/2019 are attached as annexure.....**C&D.**
- 6- That feeling aggrieved the appellant filed writ petition no.1005-M/2019 before Peshawar high court mingora bench which was noticed to the respondents but was later on transferred along with other thirty cases to principle seat Peshawar on question of jurisdiction. That it is pertinent to mention here that after 25th amendment in the 1973 constitution ministry of SAFRON was abolished and the services of federal levies force in erstwhile PATA was devolved to provincial government. Therefore the appellant being civil servant of provincial government withdraw the above mentioned writ petition with the permission to approach proper forum vide order sheet dated 30/09/2020. Copy of writ petition no.1005-M/2019 and order sheet dated 30/09/2020 are attached as annexure.....**E&F.**
- 7- That feeling aggrieved and having no other remedy the appellant filed the instant appeal on following grounds inter alia.

GROUND:

- A- That the impugned order dated 25/02/2012, whereby the appellant was removed from service with effect from 31/10/2012, is against the law facts and norms of natural justice hence not tenable in the eye of law and is liable to be set aside.
- B- That the appellant has not been treated in accordance with law and rules by the respondent Department on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.

- C- That the penalty of removal from service is imposed on appellant with perspective effect which show the malafide on the part of respondents hence the impugned order is void ab initio and is liable to be set aside.
- D- That the respondents acted in arbitrary and malafide manner by issuing the impugned order dated 25/02/2019.
- E- That the impugned removal order is issued by commandant levies force dir which is not competent authority hence the impugned order is having no force in the eye of law and is void ab initio.
- F- That the appellant has been discriminated on the subject noted above and as such the respondents violated the principle of natural justice.
- G- That no show cause notice, statement of allegations has been served on appellant before issuing the impugned removal order.
- H- That no regular inquiry has been conducted by the respondents before issuing the impugned removal order which is mandatory under the rules.
- I- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore most humbly prayed that the appeal of the appellant may be accepted as prayed for.

Dated: 24.10.2020

APPELLANT

Mushtaq

Mushtaq

THROUGH:

Sh *C*
SHAHZULLAH YOUSAFZA

J *&*
KAMRAN KHAN
ADVOCATES

Annexure "A" - 4



OFFICE OF THE
DISTRICT COORDINATOR AIR LOWER

No. _____ / 2/10(LHC),

Dated Timergara the 07/01/2011

NOTICE

The following persons are hereby appointed as
deputy in air service against the vacant posts with immediate effect
in the time pay scale No.1 (1970-90-5570) plus usual allowances
as possible under the rules subject to the production of Health and
age certificate from the Civil Hospital Timergara.

- 1) Alamgir Khan r/o Tahir Khan r/o Tingo Kandow Tormang
Gara Kandi Khali Air Lower.
- 2) Wali Khan r/o Muzfar Khan r/o Tingo Kandow Tormang Gara
Tehsil Khali Distt: Air Lower.
- ✓ 3) Mushtaq Ali Khan r/o Tingo Kandow Tormang Gara
Tehsil Khali Distt: Air Lower.
- 4) Raja Ali Khan r/o Tingo Kandow Tormang Gara
Tehsil Khali Distt: Air Lower.
- 5) Lal Saib r/o Muzfar Khan r/o Tingo Kandow Tormang Gara
Tehsil Khali Distt: Air Lower.

Handwritten signature

District Coordination Office
Air Lower, at Timergara.

No. 2608-10

For information of the

- 1) District Account Officer Air Lower Timergara.
- 2) Sub-Division Officer Air Lower at Chakdara.
- ✓ 3) Civilian Personnel
for information or necessary action.

Handwritten signature
District Coordinator

Better Copy - 4

OFFICE OF THIS DISTRICT CO-
ORDINATION OFFICER DIR
LOWER

No. _____ / A/10)LHC)

Dated 07-01-2010

OFFICER ORDER

The following persons are hereby appointed as Sepoin in Dir Levies against the vacant post with immediate effect in the time pay scale No.1 (2970-90-5670) plus usual allowances admissible under the rules subject to the production of health and age certificate from the MS Dir Hospital Thaimargara.

- 1) Alamgir Khan S/o Talimand Khan R/o Tango Kandaw Tormang dara Tehsil Kall dir Lower.
- 2) Wali Khan S/o Muazaffar Khan R/o Tango Kandaw Tormang dara Tehsil Kall dir Lower.
- 3) Mushtaq S/o Kotal Khan R/o Tango Kandaw Tormang dara Tehsil Kall dir Lower.
- 4) Syed Alim Khan S/o Bahramand Khan R/o Tango Kandaw Tormang dara Tehsil Kall dir Lower.
- 5) Lal Zaib S/o Bahramand Khan R/o Tango Kandaw Tormang dara Tehsil Kall dir Lower.



District Co-ordination officer
Dir Lower, at Thaimargara

No. 2608-10/DHQ


Copy forwarded to the:-

- 1) District Accounts Officers Dir Lower thaimargarar.
- 2) Subedar Major Dir Levies at Chakoara
- 3) Official concerned.

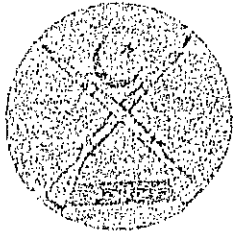
For information and necessary action.

**District Co-ordination Officer
Dir Lower, at Thaimargara**

Sir,

Annexure "B-5" 

47



OFFICE OF THE
DISTRICT COORDINATION OFFICER,
DIR LOWER.

No. 1869 /A/10(LHC)


Dated Timergara the 25/02/2012

OFFICE ORDER

As reported by the Circle Incharge Subedar Timergara sepoy Mushtaq No. 1905 of Dir Levies constantly remains absent from his duty and inspite of repeated directions. issuance of show cause notice, he did not join his duty. This attitude of the sepoy is quite against the discipline of the Force and transpires that he is not interested in service.

Therefore being competent authority as commandant of the Force, sepoy Mushtaq of Dir Levies is hereby removed from service with effect from 31.10.2012 A.N.

c/c




(Commandant Dir Levies),
District Coordination Officer,
Dir Lower.

No. 1870-73 /A/10(LHC)

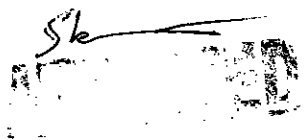
Copy forwarded to the:-

1. District Accounts Officer Dir Lower.
 2. Subedar Major Dir Levies at Chakdara.
 3. Incharge Subedar Timergara Circle
 4. Official Concerned.
- For information and necessary action.


*Ceram un
Indira*

c/c

(Commandant Dir Levies)
District Coordination Officer,
Dir Lower.

vord.
prospectue postant

Sk


Annexure Cⁿ - 6

The Secretary 
Home & Tribal Affairs
Govt. of Khyber Pakhtunkhwa

Subject: - Reinstatement of Service

~~ctg~~
Sir,

P-5/c

It is humbly submitted

(i) That the undersigned belongs to a poor & militants war affected area.

(ii) That the undersigned was appointed as Spsepoy in Dir Lavis ~~in~~ in 2010.

(iii) That I was removed from Service without giving me show cause notice & personal hearing opportunity.

In view of the above I humbly submit to be reinstated in the prevailing circumstances of unemployment & poverty.

Regards
Mustaq S/O Katikha
R/O Tormang Dist.
Dist (L)



Date: 03-02-2019

**GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT**

No. SO (Police-II)/HD/6-236/019
Dated Peshawar the 12.02.2019

Amrcase - D - 7



To,

The Deputy Commissioner (Commandant Dir Levies,
Dir Lower,

REINSTATEMENT OF SERVICE

Subject: -
Dear Sir,

I am directed to enclose herewith a copy of an application of Mr. Mushtaq s/o Koti Khan r/o Tormang District Dir Lower along with Office Order forwarded herewith for views/comments, please.

Yours Faithfully,

Section Officer (Police-II)
Ph No. 091-9210503 Fax No. 9210201

Endst: No & date of even
Copy forwarded to:-

Encls as Above

1). PS to Secretary Home & TA's Department.

[Handwritten signature]

LHC
DC DIVISION
4/3

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(D)

Annexure-E-8

BEFORE THE PESHAWAR HIGH COURT MINGORA BENCH /
(DARUL QAZA) AT SWAT

Writ Petition No. .../o.p.5-M/2019 of 2019

Mushtaq S/o Kotay Khan R/o Tormang District Dir Lower

.....Petitioner

VERSUS

- 1) Governmnet of Khyber pakhtunkhwa through chief secretary at civil secretariat Peshawar
- 2) Secretary Home and tribal appear Department at civil secretariat peshawar
- 3) Deputy Commiss Dir lower at thaimergara commandant Dir levy Dir lower

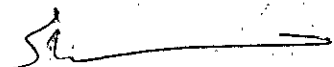
.....Respondents

Writ Petition under Article 199 of the
constitution of Islamic Republic of Pakistan
1973.

Respectfully Sheweth:

The petitioner submits as under.

- 1) That the petitioner was appointed as Sepoi in Dir Levies against the vacant post in time pay scale No. 1 vide order dated 07-01-2010 endorsement No. 2608-10 by the district co-ordination officer at Dir





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Lower Dir Thaimargara now succeeded by the office and name of deputy commissioner Dir Lower (copy of the appointment order as attached herewith annexure "A")

- 2) That on account of some un-avoidable circumstances the petitioner remained absent from duty and the respondent No.3 vide his order No.1870-73/A10(LHC) Dated 25-02-2012 dispense with the services of the petitioner and the petitioner was dismissed from service vide impugned order of the respondent No.3 dated 25-02-2018 with effect from 31-10-2012 (copy of the impugned order herewith as annexure "B")
- 3) That the petitioner was kept under the hope by respondent No.3 that the petitioner shall be re-instated and right up to 2019 the petitioner was expecting re-instatement in service and consequently the petitioner filed an application to respondent No.2 for re-instatement in service (copy of the application as attached as annexure "C")

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4) That even then the respondent No.2 also assured the petitioner that he would be re-instated but the petitioner was not re-instated so while couple of years of the petitioner spent in the one or other pretexts of the respondents.

5) That the petitioner having no other efficacious and alternate remedy is constrained to file the instant writ petition *inter-alia* on the following ground among others.

` GROUND S

I) That the petitioner has not been treated according to law

II) That the petitioner belongs to district Dir from a poor family solely dependent upon the service of the petitioner being a single bread winner of an his huge family having no other source of income and also belonging to an *alia* which is militancy effected one thus, a required special relaxation and concession an all field of life.





(11)

III) That no proper procedure was adopted regarding the termination of service of the petitioner no opportunity of being heard and no show cause notice or explanation was ever been given to the petitioner.

IV) That the ends of justice so requires that the petitioner should be re-instated in service with all back benefits.

V) That the circumstances under which the petitioner remained absent was beyond the control of the petitioner and thus, the termination of service of the petitioner was not justified.

VI) That any other ground not specifically mentioned shall be argued at the time of arguments with the leave of the court.

VII) That if instead of this writ petition any other remedy is available to the petitioner then this petitioner may kindly be converted into that kind of remedy

Se →

It is therefore humbly prayed that on acceptance of this writ petition the respondents may be directed and ordered to re-instate the petitioner in his service with all back benefits any other relief to which the petitioner is entitled and not specifically prayed for may also graciously be granted in favour of petitioner against the respondents.

PETITIONER

Through



Muhammad Saeed Khan Shangla

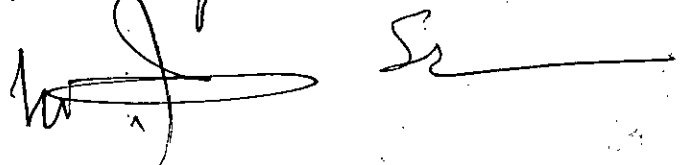
Advocate Supreme court of

Pakistan

C6 Azeem Khan Plaza Makan bagh

Mingora Swat

Incrimi Relief: by way of interim relief the impugned order be suspended till the decision of writ petition



Annexure - F - 13

PESHAWAR HIGH COURT, PESHAWAR.

FORM OF ORDER SHEET



Date of Order or Proceeding	Order or other proceedings with Signature of
2	3
30.09.2020	<p><u>W.P No.1005-M/2019 with IR</u></p> <p><u>Present:</u> - Mr. Kamran Khan, Advocate for the petitioner.</p> <p>Mr. Atif Ali Khan, AAG on behalf of Provincial Government.</p> <p style="text-align: center;">****</p> <p><u>ROOH-UL-AMIN KHAN, J.-</u> Learned counsel for the petitioner states that the instant petition pertains to the terms and conditions of service for which the petitioner will approach the proper forum hence, requested for its withdrawal. The request is accorded. Accordingly, this petition stands dismissed as withdrawn.</p> <p>Announced 30.09.2020</p> <p style="text-align: right;"><i>[Signature]</i> JUDGE</p> <p style="text-align: right;"><i>[Signature]</i> JUDGE</p> <p style="text-align: right;">VERIFIED TO BE TRUE COPY Examiner Peshawar High Court Peshawa Authorized Order No. 137 of the General Sessions Order 1971 08 OCT 2020</p>

No. 81509

Date of Presentation of Application 06/10/2020

No of Pages 2

Copying fee 2000/-

Total 2000/-

Date of Preparation of Copy 06/10/2020

Date of Delivery of copy 06/10/2020

Received By [Signature]

(M.Fiaz)

D.B

Hon'ble Mr. Justice Rooh-ul-Amin Khan, J
Hon'ble Mr. Justice Ikramullah Khan, J

بعدالت

Kp service Tribunal petition

2 petition 2 منجانب

بنام Mushtaq

Secretary home & other

مورخہ

مقدمہ

دعویٰ

جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی کے کارروائی متعلقہ

آن مقام Kp service Tribunal کیلئے شاہ زوال الدین سو فیڈریشن

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز

وکیل صاحب کو راضی نامہ کرنے و تقریر ثالث و فیصلہ پر حلف دیئے جواب دی اور اقبال دعویٰ اور

بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق

زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی

اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت

مقدمہ مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے

تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے

اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے

سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں

گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

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24 ماہ اکتوبر

الرقوم

کے لئے منظور ہے۔

غیند خان خواجہ

Accepted

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Before the Service Tribunal Khyber Pakhtunkhwa Peshawar
C/M/M App No - 15293/2020
Mushtaq vs Home Department

Application in respect of Memo of Appliance

R/strength:-

- ① That the above titled Appellate is pending adjudication before the Honorable Service Tribunal and is final for today. Appellate
- ② That the Appellant engaged the Counsel in the present Appellate recently.
- ③ That, the Appellant is unable to come before the honorable Tribunal for today.
- ④ That on next date of hearing the Counsel submit the power of Attorney and also argue the case.

It is requested that the issue of
appliance may kindly be
accorded.

Dated - 15/9/2024

Applicant / Appellant
Mushtaq
Counsel
Muhammad Faraz Malik
AHC