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## KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

EXECUTION NO \_\_\_\_\_

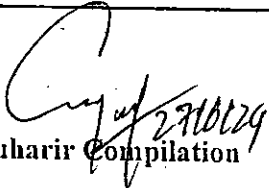
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NADEEM SHAH

VS POLICE DEPARTMENT.

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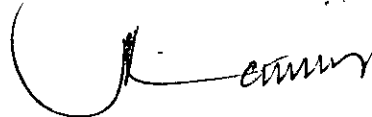
  
Incharge Judicial Branch

relevant time. Hence, present petitioners cannot claim such benefits as they were not petitioners in that very writ petitions.

**Factual objections:-**

1. In reply to Para No. 1, of the instant restoration application & execution petition pertains to record.
2. That the Para No. 2, of instant the restoration application & execution petition is correct.
3. That the Para No. 3, of the instant restoration application & execution petition as composed incorrect hence, denied. As per order dated 21-10-2020 of this Honorable Tribunal passed in EP No. 149/2018 petitioner cannot re-open the matter till the decision of the August Supreme Court of Pakistan and petitioner is relying on the judgment dated 14-06-2023 of Honorable PHC Peshawar which is judgment in personam. (Copy of the judgment dated 14-06-2023 is already annexed with instant restoration application as Annexure "B")

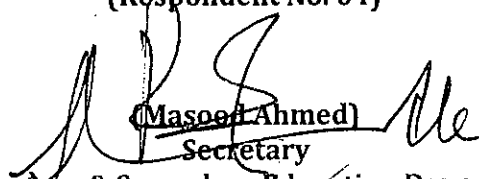
Therefore, in view of the above submission it is humbly requested that this Honorable Tribunal may kindly be pleased to dismissed the titled application in favor of the Respondents in the interest of justice please being premature.



(Muhammad Tanveer)  
District Education Officer (M)  
Abbottabad  
(Respondent No. 01)



(Samina Altaf)  
Director  
Elementary & Secondary Education  
Khyber Pakhtunkhwa  
Peshawar  
(Respondent No. 04)



(Masood Ahmed)  
Secretary  
Elementary & Secondary Education Department  
Khyber Pakhtunkhwa  
Peshawar  
(Respondent No. 05)

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

Service Appeal No. 366/2017

BEFORE: **MRS. RASHIDA BANO** ... **MEMBER (J)**  
**MISS FAREEHA PAUL** ... **MEMBER (E)**

Nadeem Shah, Constable No. 618, CTD, Kohat Region.

... (Appellant)

**VERSUS**

1. The Provincial Police Officer, Khyber Pakhtunkhwa Peshawar.
2. The Additional Inspector General of Police, CTD, Khyber Pakhtunkhwa, Peshawar.
3. The District Police Officer, Kohat.

... (Respondents)

Mr. Noman Ali Bukharai  
Advocate ... For appellant

Mr. Asif Masood Ali Shah  
Deputy District Attorney ... For respondents

Date of Institution.....10.04.2017  
Date of Hearing.....21.03.2024  
Date of Decision.....21.03.2024

SCANNED  
KPS  
Peshawar

**JUDGMENT**

**RASHIDA BANO, MEMBER (J):** The instant service appeal has been instituted under section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as below:

“On acceptance of this appeal, the order dated 08.12.2016 may be set aside and the respondents may further please be directed to restore the appellant to the post of Head Constable with all back benefits. Any other remedy which this August

Tribunal deems fit that may also be awarded in favor of appellant."

2. Brief facts of the case, as given in the memorandum of appeal, are that appellant was enlisted as Constable in Police Department in the year 2007. Appellant alongwith other were granted accelerated promotion due to their excellent performance vide order dated 13.07.2009 w.e.f. 29.06.2009. On 08.12.2016 promotion order of the appellant was withdrawn/cancelled. The appellant feeling aggrieved, filed departmental appeal, which was not responded, hence the instant service appeal.

3. Respondents were put on notice, who submitted written replies/comments on the appeal. We have heard the learned counsel for the appellant as well as the learned Deputy District Attorney and perused the case file with connected documents in detail.

4. Learned counsel for appellant argued that he has not been treated in accordance with law and rules. He further argued that the impugned order is against the law facts, norms of justice, hence not tenable and liable to be set aside; that no proper procedure has been adopted before passing the impugned order as no charge sheet and statement of allegation has been issued which is violation of law and rules; that no chance of personal hearing was afforded to him and he was condemned unheard which is against the norms of natural justice.

5. Conversely learned Deputy District Attorney contended that the appellant was given accelerated promotion from the rank of Constable to the rank of Head Constable. The august Supreme Court of Pakistan vide its judgment in CRI Original Petition No.89/2011 has held out of turn promotions as illegal, violation of article 189 of the constitutional law and rules. Therefore,



in compliance to the judgment of august Supreme Court of Pakistan, all out of turn promotions/accelerated promotions were withdrawn and the officers/officials were brought to their original/substantive rank including the appellant.

6. Perusal of record reveals that the appellant joined Police Department as Constable in year 2007, who due to his commendable services was given commendation certificates by his high ups. PPO recommended accelerated promotion to different police officers due to their excellent performance vide letter dated 26/09/2009, as a result of which many police officials including appellant was promoted as head constable vide order of DPO Kohat dated 13/07/2009 w.e.f 26/06/2009. Appellant said accelerated promotion order from constable to head constable was withdrawn by respondent vide impugned order dated 08/12/2016.

7. Appellant challenged order of withdrawal of his promotion on the ground that no inquiry was conducted and no chance of defense was provided to him which was violation of law and rules and order of promotion was issued by the competent authority and was acted upon for long seven years. Therefore appellant alleged on the basis of principle of locus penitentiae that the same cannot be withdrawn. Respondent in reply mentioned that appellant was given out of turn/accelerated promotion from constable to head constable, which as per verdict of Supreme Court of Pakistan in CRL original petition no.89/2011 was declared illegal, violation of constitutional law and rules; therefore in compliance of said judgment of apex court all out of turn promotion orders were withdrawn and officers/officials were brought to their original ranks.

8. It is worth mentioning here that apex court of country declared out of turn promotion illegal therefore all promotion orders issued out of turn by not

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following due process and not going through proper trainings were withdrawn by the respondent. Perusal of promotion order dated 13/7/2009 reveals that appellant was given accelerated promotion to the rank of head constable from constable in pursuance of PPO dated 29/6/2009, which was issued on the basis of standing order No.6/2008 accelerated promotion means out of turn promotion.

9. Moreover, rules/laws are always superior than standing orders. In accordance with Police Rules 1975, there are some requirements for promotion to the rank of Head Constable from Constable i.e. passing of A1, B1 exam by the concerned constable, but in the instant case no such exam was passed by the appellant before his accelerated promotion. It is also important to note here that out of turn promotion was withdrawn as consequence of implementation of Supreme Court's judgment, therefore, there was no need to conduct any inquiry and provide chance of defense because from promotion order of the appellant, it is clear that it was out of turn promotion, when there was a judgment of Supreme Court of Pakistan on the same issue specifically in field, than the principle of *locus poenitentiae* is not attracted to the facts and circumstances of the case of appellant.

10. For what has been discussed above, the appeal in hand is dismissed having no force in it. Costs shall follow the event. Consign.

11. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 21<sup>th</sup> day of March, 2024.*

(Faraha Paul)  
Member (E)

(Rashida Bano)  
Member (J)

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SA 366/17

28.02.2024


Appellant present in person. Mr. Muhammad Jan, District Attorney alongwith Wajid Khan ASI (Legal) for the respondents present.


Former requested for adjournment due to illness of one of the members of family of his learned counsel. Absolute last/final opportunity is granted, failing which no further

adjournment will be granted and the case will be decided on the basis of available record. To come up for arguments on

21.03.2024 before the D.B. PP given to the parties.

SCANNED  
KPSI  
Peshawar

  
(Fareeha Paul)  
Member(E)

  
(Rashida Bano)  
Member (J)


\*Fazle Subhan, P.S\*

ORDER

21.03.2024 1. Learned counsel for the appellant present. Mr. Asif Masood Ali Shah learned Deputy District Attorney alongwith Wajid Khan, ASI (Legal) for the respondents present.

2. Vide our detailed judgment of today placed on file, the appeal in hand is dismissed having no force in it. Costs shall follow the event. Consign.

3. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 21<sup>th</sup> day of March, 2024.

  
(Fareeha Paul)  
Member (E)

  
(Rashida Bano)  
Member (J)

\*M.Khan

SCANNED  
KPST  
Peshawar


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17.11.2023

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

Petitioner sought adjournment on the ground that his  
counsel is indisposed today. Adjourned. To come up for  
hearing on 15.12.2023 before the D.B. Parcha Peshi given to  
the parties.

SCANNED  
KFST  
Peshawar

  
(Fareeha Paul)  
Member (E)

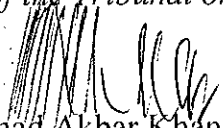
  
(Salah-ud-Din)  
Member (J)


\*Nacem Amin\*

15.12.2023 1. Learned counsel for the applicant present. Mr. Asad Ali  
Khan learned Assistant Advocate General for respondents present.

2. Instant application is for restoration of appeal which was dismissed  
in default on 03.07.2023 while this application has been moved on  
27.07.2023. Learned Assistant Advocate General raised no objection on  
acceptance of the instant application seeking restoration of main appeal.  
Considering contention of learned counsel for the applicant and in the  
interest of justice, instant service appeal is restored to its original  
number on payment of cost of Rs.2000/-. To come up for arguments on  
28.02.2024 before D.B. P.P given to the parties.

3. *Pronounced in open court at Peshawar and given under our  
hands and seal of the Tribunal on this 15<sup>th</sup> day of December, 2023.*

  
(Muhammad Akbar Khan)  
Member (E)

  
(Rashida Bano)  
Member (J)

Kalceemullah

SCANNED  
KFST  
Peshawar



## FORM OF ORDER SHEET

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Court of

SCANNED  
KPST  
Peshawar

Restoration Application No. 562/2023

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	08.08.2023	The application for restoration of Appeal no. 366/2017 resubmitted today by Syed Mudasir Pirzada Advocate. It is fixed for hearing before Division Bench at Peshawar on 10-8-23. Original file be requisitioned.

By the order of Chairman

  
 REGISTRAR
10<sup>th</sup> August, 2023

01. Petitioner present in person. Mr. Fazal Shah Mohmand, Addl. Advocate General for the respondents present.

02. Petitioner informed that his learned counsel was indisposed today and requested for adjournment. Granted. To come up for hearing on 17.11.2023 before the D.B. Parcha Peshi given to the parties.

SCANNED  
KPST  
Peshawar
  
 (FAREEHA PAUL)  
 Member(E)

  
 (RASHIDA BANO)  
 Member (J)

\*Fazle Subhan, P.S\*

8.

The application for restoration of appeal no. 366/2017 received today i.e. on 27.7.2023 is incomplete on the following scores which is returned to the counsel for the applicant for completion and resubmission within 15 days.

Application is not in proper format.

No. 2056 /S.T,

DL 31/7 /2023.



REGISTRAR  
KHYBER PAKHTUNKWA  
SERVICE TRIBUNAL  
PESHAWAR

Syed Mudassir Pirzada Adv.  
High Court Kohat.

*Note*  
*Not submitted after compliance*

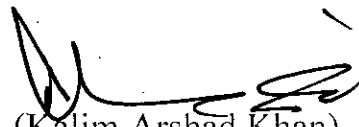
3<sup>rd</sup> July, 2023

1. Nobody present on behalf of the appellant. Mr. Asif Masood Ali Shah, Deputy District Attorney alongwith Mr. Amir Abbas, DSP (Legal) for the respondents present.
2. The case was called time and again but neither the appellant nor his counsel put appearance, therefore, the appeal in hand is dismissed in default. Consign.
3. *Pronounced in open Court in Peshawar given under our hands and seal of the Tribunal on this 3<sup>rd</sup> day of July, 2023.*

SCANNED  
KPST  
Peshawar



(Rashida Bano)  
Member(J)



(Kalim Arshad Khan)  
Chairman

\*Adnan Shah\*

28<sup>th</sup> March, 2023

Learned counsel for the appellant present.

Mr. Muhammad Jan, District Attorney alongwith Mr. Wajid Khan, ASI for the respondents present.

Learned counsel for the appellant requested for adjournment being not prepared for arguments today. Adjourned. To come up for arguments on 29.05.2023 before the D.B. Parcha Peshi given to the parties.

SCANNED  
Peshawar

(Salah-ud-Din)  
Member (J)

(Kalim Arshad Khan)  
Chairman

29<sup>th</sup> May, 2023

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

2. Appellant requested for adjournment as his counsel is not available today. Adjourned. To come up for arguments on 03.07.2023 before D.B. P.P given to the parties.

SCANNED  
KPST  
Peshawar

(Muhammad Akbar Khan)  
Member (E)

(Kalim Arshad Khan)  
Chairman

\*Mutazem Shah \*

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366/2017

15<sup>th</sup> Nov. 2022 Counsel for the appellant present.

Mr. Kabirullah Khattak, Addl. Advocate General for the respondents present.

Former requested for adjournment in order to further prepare the brief. Adjourned. Being old case of 2017, last chance is given. To come up for arguments on 26.12.2022 before the D.B.

SCANNED  
KPST  
Peshawar

(FAREEHA PAUL)  
Member(E)

(ROZINA REHMAN)  
Member (J)

26-12-2022


Due to winter vacation, the case is adjourned to 28/3/23 Before the same.


  
Reader

10.10.2022

Counsel for the appellant present. Mr. Kabir Ullah  
Khattak, Additional Advocate General for respondents  
present.

Learned counsel for the appellant requests for  
adjournment in order to further prepare the brief. To come  
up for arguments on 15.12.2022 before D.B.

  
(Farecha Paul)  
Member (E)


  
(Kalim Arshad Khan)  
Chairman


Late Diary  
10<sup>th</sup> Oct, 2022

Despite direction for fixation of the cases for the  
shortest possible dates, the office has fixed this case for a  
longer date. The Reader of the court is warned to be careful  
in future. The date fixed in this case is accelerated to  
15 / 11 /2022. Notices be issued to the parties and their  
counsel for the date fixed.

*Note*  
*2/11/22*  
*14/11/22*

15<sup>th</sup> Nov. 2022

 Counsel for the appellant present.  
(Farecha Paul)  
Mr. Kabir Ullah Khattak, Addl. Advocate General for the  
respondents present.

  
(Kalim Arshad Khan)  
Chairman

Former requested for adjournment in order to further prepare  
the brief. Adjourned. Being old case of 2017, last chance is given.  
To come up for arguments on 26.12.2022 before the D.B.

(FAREEHA PAUL)  
Member(E)

(ROZINA REHMAN)  
Member (J)

13

24.11.2021

Proper D.B is not available, therefore, case is adjourned to

28 / 2 / 2022 for the same as before.

Reader

28-2-22

Due to Retirement of the Hon.ble Chairman  
The case is adjourned on 14-6-22

*Yaqub*  
Reader -

14.06.2022

Clerk of counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for respondents present.

Clerk of counsel for the appellant stated that learned counsel for the appellant is unable to attend the Tribunal today due to strike of Lawyers. Adjourned. To come up for arguments before the D.B on 15.08.2022.

(MIAN MUHAMMAD)  
MEMBER (EXECUTIVE)

(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

15.8.22

Due to Summer vacation, the case is  
adjourned to 10-10-22 for the same.

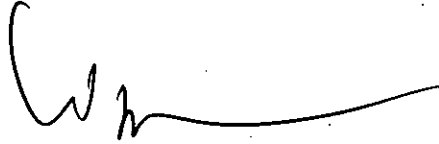
  
Reader

06.08.2021

Appellant in person present.

Javid Ullah learned Assistant Advocate General for respondents present.

Lawyers are on general strike, therefore, case is adjourned. To come up for arguments on 24.11.2021 before D.B.



(Atiq-Ur-Rehman Wazir)  
Member (E)

(Rozina Rehman)  
Member (J)



10.03.2021

Due to Covid-19 case is adjourned to 10.03.2021 for the same as before.

Reader

10.03.2021

Appellant present in person.

Kabir Ullah Khattak learned Additional Advocate General alongwith Wajid A.S.I for respondents present.

Former submitted Wakalat Nama of Syed Mudassir Pirzada Advocate and requested for adjournment as his counsel is not available today; granted. To come up for arguments on 02 / 06 / 2021 before D.B.

(Atiq ur Rehman Wazir)  
Member (E)

(Rozina Rehman)  
Member (J)

02.06.2021

Appellant in person present. Mr. Wajid Khan, ASI alongwith Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Appellant requested for adjournment on the ground that his counsel is unable to appear before the bench today due to illness of his father, who is suffering from COVID. Adjourned. To come up for arguments before the D.B on 06.08.2021.

(ATIQU-UR-REHMAN WAZIR)  
MEMBER (EXECUTIVE)

(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

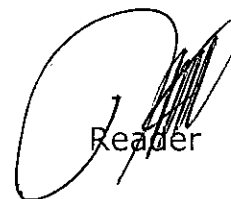
01.04.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 25.06.2020 before D.B.

  
Reader

25.06.2020

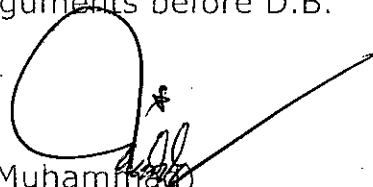
Due to public holiday on account of COVID-19 the case is adjourned for the same on 23.09.2020 before D.B.

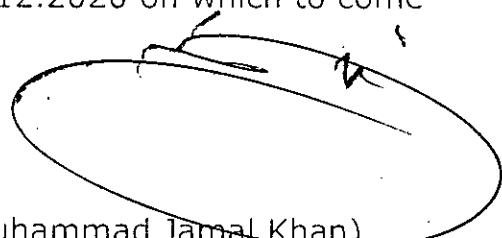
  
Reader

23.09.2020

Appellant is present in person. Mr. Kabirullah Khattak, Additional Advocate General alongwith representative of the department Mr. Wajid, ASI are also present.

Appellant requested for adjournment on the ground that his counsel is busy in the Hon'ble Supreme Court of Pakistan and cannot attend the Tribunal today. Adjourned to 15.12.2020 on which to come up for arguments before D.B.

  
(Mian Muhammad)  
Member (Executive)

  
(Muhammad Jamal Khan)  
Member (Judicial)

23.10.2019

- Appellant in person present. Mr. Kabirullah Khattak learned Addl. AG alongwith Mr. Wajid Head Constable On for the respondents present.

On the last date of hearing notice was required to be issued to the appellant for today. The record shows that such notice has not been issued. The office is directed to send notice to the appellant for the next date positively.

Adjourned to 26.12.2019 for arguments before D.B.

  
Member

  
Chairman

26.12.2019

Counsel for the appellant present. Mr. Ziaullah, DDA for respondents present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 27.02.2020 before D.B.

  
Member

  
Member

27.02.2020

Junior to counsel for the appellant present. Mr. Riaz Paindakhel learned Assistant Advocate General for the respondents present. Junior to counsel for the appellant requested for adjournment on the ground that senior counsel for the appellant is not available today. Adjourned. To come up for further proceedings/arguments on 01.04.2020 before D.B.


  
Member

  
Member

08.04.2019

Counsel for the appellant present. Mr. Ziaullah, DDA alongwith Mr. Zia Ur Rehman, Supdt for respondents present. Counsel for the appellant seeks adjournment. Adjourned. Case to come up for arguments on 10.06.2019 before D.B.

  
(Ahmad Hassan)  
Member

  
(M. Amin Khan Kundi)  
Member

10.06.2019

Counsel for the appellant and Mr. Ziaullah, DDA alongwith Wajid ASI for the respondents present.

Learned counsel for the appellant requests for adjournment due to over-occupation in many cases today. Adjourned to 29.07.2019 before the D.B.

  
Member

  
Chairman

29.07.2019

Learned counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney alongwith Gulzar ASI present. Learned counsel for the appellant stated that he has no contact with his client/appellant. Notice be issued to the appellant for 23.10.2019. Adjourn. To come up for further proceedings/arguments on the date fixed before D.B.

  
Member

  
Member

12.09.2018

Since 12 September 2018 has been declared as public holiday on account of Muharam Ul Haram. Therefore, the case is adjourned. To come up for the same on

~~8-11-18~~

  
Reader

08.11.2018


Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 31.12.2018.

  
READER

31.12.2018

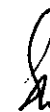
Learned counsel for the appellant and Mr. Usman Ghani learned District Attorney present. Learned counsel for the appellant stated that identical nature case is fixed on 25.02.2019 therefore the present case may also be fixed on 25.02.2019. Adjourn .To come up for arguments on the date fixed as 25.02.2019 before D.B.

  
Member

  
Member

25-2-2019

The Bench is incomplete  
therefor case is adjourned  
to 8-4-2019

  
Reader

08.01.2018.

Learned counsel for the Appellant present. Addl. AG along with Mr. for respondents present. Learned AG requested that similar nature of appeal No.49/17 entitled "Ziarat Gul and others" have been fixed on 03.03.2018 before D.B. therefore, the same may also be clubbed with the said appeal. Request accepted. To come up for arguments on 01.3.2018 along with connected appeals before D.B.

(Ahmad Hassan)  
Member (E)  
*[Signature]*  
(Ahmad Hassan)  
Member (E)

(M. Hamid Mughal)  
Member (J)  
*[Signature]*  
(M. Hamid Mughal)  
Member (J)

01.03.2018

Learned counsel for the appellant and Mr. Muhammad Jan, Learned Deputy District Attorney for the respondents present. Learned counsel for the appellant submitted rejoinder which is placed on file and seeks adjournment. Adjourn. To come up for arguments on 04.05.2018 before D.B.

(Gul Zeb Khan)  
Member  
*[Signature]*

(Muhammad Hamid Mughal)  
Member  
*[Signature]*

04.05.2018

The Tribunal is defunct due to retirement of Hon'ble Chairman. Therefore, the case is adjourned. To come on 20.07.2018

*[Signature]*  
READER

20.07.2018

Due to engagement of the undersigned in judicial proceeding before S.B, further proceeding in the case in hand could not be conducted. To come on 12.09.2018 <sup>before</sup> D.B.

*[Signature]*  
Member (J)

13.07.2017

Counsel for the appellant present. Syed Aamir Abbas, Inspector (legal) and Mr. Arif Saleem, ASI alongwith Mr. Kabirullah Khattak, Assistant AG for the respondents also present. Written reply by respondents not submitted. Learned Assistant AG requested for further adjournment. Adjourned. To come up for written reply/comments on 07.09.2017 before S.B.

(Muhammad Amin Khan Kundi)  
Member

07.09.2017

Appellant absent. Learned Additional Advocate General for respondent present. Written reply not submitted. Requested for adjournment. Adjourned. To come up for written reply/comments on 17.10.2017 before S.B.

(Muhammad Hamid Mughal)  
Member (J)

17/10/2017

Clerk of counsel for the appellant and Mr. Kabirullah Khattak, AAG alongwith Mr. Gulzar, ASI for the respondents present. Representative of the respondents submitted written reply on behalf of respondents No. 1 & 3. Learned AAG stated that respondent No. 2 also relies on reply of respondent 1 & 3. To come up for rejoinder and arguments on 8/1/2018 before DB.

(GUL ZEB KHAN)  
MEMBER


24.04.2017

Counsel for the appellant present. Preliminary arguments heard and case file perused. The appellant join in 2007 the Police Department. He was granted accelerated/ out of turn promotion by the PPO vide order dated 13.07.2009 and was promoted as Head Constable w.e.f. 29.06.2009. The aforementioned order was withdrawn on 08.12.2016 more than seven years after the promotion. The appellant preferred departmental appeal on 13.12.2016, which was not responded within the statutory period hence, the instant service appeal on 10.04.2017. Proper procedure has not been followed by the respondents while issuing demotion order of the appellant, which is not sustainable in the eyes of law.

SCANNED  
KPST  
Peshawar

Appellant Deposited  
Security & Process Fee

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 25.05.2017 before S.B.



(Ahmad Hassan)

Member

25.05.2017

Counsel for the appellant, Mr. Fazli Dayan, SI and Arif Salim, ASI alongwith Addl. AG for the respondents present. Written reply not submitted. Requested for adjournment. Request accepted. To come up for written reply/comments on 13.07.2017 before S.B.



(AHMAD HASSAN)

MEMBER





23

Form- A  
FORM OF ORDER SHEET

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

Case No. 366/2017

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	18/04/2017	<p>The appeal of Mr. Nadeem Shah resubmitted today by Mr. Muhammad Asif Yousafzai Advocate, may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	18-04-2017	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>24-04-2017</u></p> <p style="text-align: right;"> MEMBER</p>


24

The appeal of Mr. Nadeem Shah Constable No. 618 CTD Kkohat Region received today i.e. on 10.04.2017 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copy of departmental appeal mentioned in the memo of appeal is not attached with the appeal which may be placed on it.
- 2- Annexures of the appeal may be attested.
- 3- Annexures of the appeal may be flagged.
- 4- Five more copies/sets of the appeal along with annexures i.e. complete in all respects may also be submitted with the appeal.

No. 716 /S.T.

Dt. 10/04/2017

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. M.Asif Yousafzai Adv. Pesh.

*Respected Sir*

- 1- Departmental appeal is attached at page 11
- 2- Removed
- 3- Removed
- 4- Removed

*Re-submitted after compliance.*



25

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. 366 /2017

SCANNED  
KPST  
Peshawar

Nadeem Shah

V/S

Police Deptt:

**INDEX**

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Memo of Appeal	-----	1-3
2.	Copy of commendation certificate	A	4-6
2.	Copy of letter dt: 29.6.2009	B	7
3.	Copy of order dt: 13.7.2009	C	8
4.	Copy of order dt: 8.12.2016	D	9-10
5.	Copy of departmental appeal	E	11
6.	Vakalat nama	-----	12

APPELLANT

THROUGH:

*M. Asif Yousefzai*  
M.ASIF YOUSAEZAI  
(ADVOCATESUPREME COURT),

*Taimur Ali Khan*  
TAIMUR ALI KHAN  
(ADVOCATE HIGH CORT),

&

S. NOMAN ALI BUKHRI  
ADVOCTE PESHAWAR.

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**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. 366 /2017

Nadeem Shah, Constable No.618,  
CTD Kohat Region.

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 357

Dated 10-4-2017

(Appellant)

**VERSUS**

1. The Provincial Police Officer, KPK Peshawar.
2. The Additional Inspector General of Police, CTD, KPK, Peshawar.
3. The District Police Officer Kohat.

(Respondents)

-----

**APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 08.12.2016, WHEREBY THE PROMOTION OF THE APPELLANT FROM CONSTABLE TO HEAD CONSTABLE WAS CANCELLED/WITHDRAWN AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.**

**PRAYER:**

**THAT THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 08.12.2016 MAY BE SET ASIDE AND THE RESPONDENTS MAY FURTHER PLEASE BE DIRECTED TO RESTORE THE APPELLANT TO THE POST OF HEAD CONSTABLE WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.**

Filed to-day

Registrar

10/4/17

Re-submitted to-day  
and filed.

Registrar

**RESPECTFULLY SHEWETH:****FACTS:**

1. That the appellant joined the police force in 2007 as Constable and completed his due training etc and also has good service record throughout and gave many commendation certificate due to his excellent performance. (Copy of certificate is attached as annexure A)
2. That the PPO wrote a letter vide dated 29.6.2009 to concerned authorities to grant accelerated promotion to different Police officials due to their excellent performance in which the name of appellant was also present, on the basis of which the appellant was promoted from Constable to Head Constable by the DPO Kohat vide order dated 13.7.2009 w.e.from 29.6.2009. Since the appellant was performing his duties in the said capacity. (Copies of letter dated 29.6.2009 and order dated 13.7.2009 are attached as Annexure-B&C)
3. That serving in the said capacity, to the great surprise of the appellant, without serving any notice, charge sheet or show cause notice after about more than 7 years, the promotion order of the appellant from Constable to Head Constable was withdrawn/cancelled vide order dated 8.12.2016. (Copy of order dated 8.12.2016 is attached as Annexure-D)
4. That against the impugned order, the appellant filed departmental appeal on 13.12.2016 which was not responded within the statutory period of ninety days. (copy of departmental appeal is attached as Annexure-E)
5. That now the appellant come to this august Tribunal on the following grounds amongst others.

**GROUND:**

- A) That the impugned order dated 8.12.2016 and not taking action on the departmental appeal of the appellant are against the law, facts, norms of justice and material on record, therefore not tenable and liable to be set aside.
- B) That no proper procedure has been filed before reverting the appellant down to the rank of Constable, the appellant has not been served without any notice or charge sheet, nor he has been served any show cause notice to the appellant before the issuance of impugned order, which is the violation of law and rules.

- C) That the promotion order from Constable to Head Constable in 2009 was passed by the then competent authority which was fully acted upon and remained in field for more than 7 years which has created valuable rights in respect of the appellant, therefore, the promotion order of the appellant from Constable to Head Constable cannot be withdrawn/cancelled so easily under the principles of Locus Poenitentiae.
- D) That the appellant remained Head Constable for about more than 7 years, therefore under the provision of 13-18 of Police Rules the appellant having not reverted in the initial 2 years period of his promotion, has matured his rights to be allowed to regular promotion instead of revision.
- E) That the issuance of demotion order not cover under section-21 of General Clauses Acts as the authority is empowered to rescind, modify, vary, cancel and amend administrative orders but not decisive order, therefore the same authority was not competent to cancel the promotion order issued by the competent authority.
- F) That the appellant has been condemned unheard and has not been treated according to law and rules.
- G) That the appellant seeks permission to advance others 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.

*Nadeem Shah*

**APPELLANT**  
Nadeem Shah

**THROUGH:**

*M. Asif Yousofzai*

**M.ASIF YOUSAEZAI**  
(ADVOCATE SUPREME COURT),

*Taimur Ali Khan*

**TAIMUR ALI KHAN**  
(ADVOCATE HIGH COURT)

&

**S. NOMAN ALI BUKHRI**  
ADVOCATE PESHAWAR.

29

AG



N.W.F.P POLICE

# COMMENDATION CERTIFICATE

## CLASS II

Granted By

MR. ABDULLAH KHAN.

*Deputy Inspector General of Police, Kohat Region*

To CONSTABLE NADEEM KHAN NO. 1368

Son of \_\_\_\_\_

Resident of Mohalla / Village \_\_\_\_\_

Police Station J.U. BAA District KOHA

In recognition of

HIS GOOD PERFORMANCE IN DUTY.

CASH REWARD RS. 1000/-

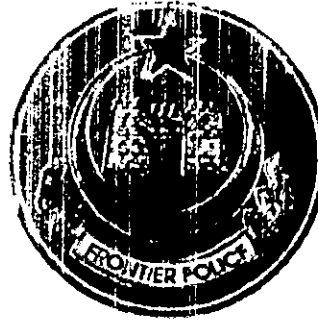
No. 334/cc

ATTESTED

*Deputy Inspector General of Police*  
*Inspector of Police*  
*Kohat Region, Kohat*

Dated 07/7/2009

*By*  
By. Superintendent of Police  
CFU / CTD



*Frontier Police Certificate*

CLASS I

Granted by

MAJOR GENERAL PHAN

Inspector General of Police, N.W.F.P.

13 BROADWAY KINCHING, K.C.

To

Son of

District

K.C.M.

In Recognition of

FOR HIS GOOD PERFORMANCE OF DUTY.

( CASH R. 100) @ RS. 10.00/-).

TESTED

Dated

1 / 12 /

( MAJOR GENERAL PHAN )  
Inspector General of Police



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5

# DISTRICT KOHAT POLICE



*Commendation Certificate III*  
*is awarded to*

CONSTABLE NADEEM SHAH NO. 1365.

*in recognition of*

CASE FIR NO. 690 DATED 4.6.2009 U/Ss 365, 324, 353, 148/149, 411

PPE & Exp: Sub Act: 13AO, 7ATA PS Saddar. (CASH REWARD RS. 6000/-)

Dated \_\_\_\_\_

O.B. No. \_\_\_\_\_

**ATTESTED**

*[Signature]*  
Dy. Superintendent of Police  
DFU / CTD  
Kohat

*[Signature]*  
District Police Officer  
Kohat

From : The Provincial Police Officer,  
NWFP Peshawar.

To : The Capital City Police Officer,  
Peshawar.

The Deputy Inspector General of Police,  
Mardan Region.

The Deputy Inspector General of Police,  
Hazara Region.

The Deputy Inspector General of Police,  
Kohat Region.

The Deputy Inspector General of Police,  
Malakand Region.

The District Police Officer, Bunir, Kohistan, Haripur, Mardan,  
Batagram, Charsadda & Kohat.

No. 15989-16000 /E-II, dated Peshawar the 29/6 /2009.

Subject: ACCELERATED PROMOTION

Memo

The following officers have been granted Accelerated Promotion under Standing Order No. 06/2008 on adhoc basis.

The worthy PPO NWFP Peshawar has desired to give them their new ranks personally.

Please direct them to come to CPO Peshawar on 30.06.2009 (Tuesday) at 1200 hrs for decorating them with their new ranks by the PPO NWFP, Peshawar.

1. SI Mir Hakam Shah of Bunir District promoted to the rank of Offg: Inspector on adhoc basis.
2. ASI Aqibat Shah of Kohistan District promoted to the rank of Offg: SI on adhoc basis.
3. ASI Muhammad Javed of Kohistan District promoted to the rank of Offg: SI on adhoc basis.
4. Head Constable Khurshid Ahmad of Haripur District promoted as Offg: ASI on adhoc basis.
5. Head Constable Gafar Ullah of Mardan Region promoted as Offg: ASI on adhoc basis.
6. HC Mutahir Shah No. 402 of Charsadda District promoted as Offg: ASI on adhoc basis.
7. HC Muhammad Yousaf No. 25 of Battagram District promoted as Offg: ASI on adhoc basis.
8. Constable Insar Mehmood No. 188 of Haripur District promoted to the rank of Offg: Head Constable on adhoc basis.
9. Constable Akram Khan No. 867 & Nadeem Khan of Kohat District Promoted to the rank of Offg: Head Constable on adhoc basis.
10. Constable Muhammad Hanif of Bunir District for promotion to the rank of Head Constable on adhoc basis.
11. Constable Qasim Mehmood No. 456 of Kohat District recommended for adhoc promotion as Offg: Head Constable.

SRE The subject letter  
for n/a has been received  
to-day on 1-7-09.

(ABDUL MAJEED KHAN MARWAT)  
PSP

Add: IGP/HQrs

For Provincial Police Officer,  
NWFP, Peshawar.

ATTESTED

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C 8

POLICE DEPTT:


O R D E R.

KOHAT DISTRICT:

In pursuance of Provincial Police Officer, NWFP, Peshawar vide Memo: No. 15989-16000/E-II dated 29.6.2009, Constable Nadeem Khan <sup>No. 1368</sup> of this District Police is hereby given accelerated promotion to the Rank of Head Constable (BPS-7) on adhoc basis with effect from 29.6.2009.

OB: NO. 702 / SRC

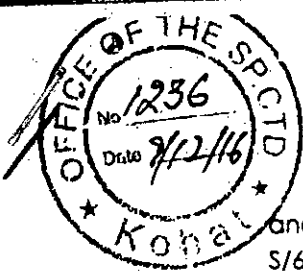
Dated 13-7-2009.

  
DISTRICT POLICE OFFICER,  
KOHAT.

**ATTESTED**



U



ORDER

D 9

In compliance with the direction of Honorable Supreme Court, and Worthy Inspector General of Police, Khyber Pakhtunkhwa Peshawar vide Memo No S/6601-02/16 dated 10.10.2016. One Step out of turn promotions to the following Officers / Officials of CTD Khyber Pakhtunkhwa from their substantive ranks are also hereby withdrawn / cancelled and brought to their original / substantive ranks with immediate effect.

S.No	Name Rank & No	District	S No	Name Rank & No	District
1.	SI Yasir Khan	Nowshera	49	HC Muhammad Zubair No 245	Tank FRP
2.	ASI Riaz Ali Khan	Mardan	50	HC Bakhtiar Khan No 346	Bannu
3.	ASI Hakim Khan	Charsadda	51	HC Syed Mudassir Shah No 84	Bannu
4.	ASI Ridad Gul	Mardan	52	HC Abdullah Akbar No 344	Bannu
5.	HC Ahmed Jan No 06	Peshawar	53	HC Shada Ullah No 365	Bannu
6.	HC Gul Mal Khan No 18	Peshawar	54	HC Nawaz No 368	Bannu
7.	HC Nafees Ud Din No 24	Peshawar	55	HC Arif Ullah No 446	Bannu
8.	HC Abdul Malik No 28	Peshawar	56	HC Sad Ullah No 477	Bannu
9.	HC Khyal Mir No 96	Peshawar	57	HC Muhammad Arif No 153	Swabi
10.	HC Naimat Khan No 72	Peshawar	58	HC Gul Shed No 142	Nowshera
11.	HC Siyal No 113	Peshawar	59	HC Misri Khan No 643	Abbottabad
12.	HC Nasir Ud Din No 156	Peshawar	60	HC Aziz Ur Rehman No 07	Mansehra
13.	HC Kaleem Ullah No 167	Peshawar	61	HC Siraj Ud Din No 301	Kohistan
14.	HC Muhammad Ibrahim No 319	Peshawar	62	HC Sana Ullah No 425	Kohat
15.	HC Mohammad Siyal No 384	Peshawar	63	HC Zabid Ullah No 482	Kohat
16.	HC Sajid Ali No 572	Peshawar	64	HC Gul Saeed No 582	Kohat
17.	HC Asim Ullah No 747	Peshawar	65	HC Shahbaz No 345	Tank
18.	HC Shezad Gul No 406	Special Case	66	HC Muhammad Ayaz No 175	Lakki Marwat
19.	HC Hameesh Khan No 04	Mardan	67	HC Amir Ullah No 336	Lakki Marwat
20.	HC Amjad Khan No 82	Mardan	68	HC Noor Ul Amin No 473	Lakki Marwat FRP
21.	HC Aurangzeb No 87	Mardan	69	HC Sajjad Hussain Shah No 48	DI Khan
22.	HC Bakht Zada Khan No 97	Mardan	70	HC Ghazi Gul No 68	DI Khan
23.	HC Gul Umer No 119	Mardan	71	HC Muhammad Tahir No 137	Tank FRP
24.	HC Lal Zada No 134	Mardan	72	HC Ikram Ullah No 181	Tank FRP
25.	HC Mazid Khan No 57	Mardan	73	HC Waheed Ullah No 186	Nowshera
26.	HC Kajeer Dad Shah No 152	Mardan	74	HC Abbas Khan No 114	Charsadda
27.	HC Fayaz Ali No 699	Mardan	75	HC Munib Shah NO 149	Charsadda
28.	HC Nadeem Hassan No 787	Mardan	76	HC Javed No 161	Charsadda
29.	HC Hashmat Ali No 104	Swabi	77	HC Masood Khan No 189	Charsadda
30.	HC Gul Shed No 142	Nowshera	78	HC Sajid Ullah No 180	Charsadda
31.	HC Javeed Ahmad No 1370	Chitral	79	HC Sheda Muhammad No 120	Charsadda
32.	HC Nadeem Shah No 618	Kohat	80	HC Sadid Ullah No 148	Swat
33.	HC Ikram Shah No 499	Abbottabad FRP	81	HC Amir Zada No 791	Swat
34.	HC Darwish Khan No 1110	Kohat	82	HC Abdullah No 769	Swat

ATTESTED

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35.	HC Lais Khan No 151	Karak	83	HC Tasneem Ul Haq No 1526	Buner
36.	HC Noor Rahim No 171	Karak	84	HC Bakht Munir No 501	Dir Lower
37.	HC Taj Malook No 641	Hangu	85	HC Khadim Ullah No 827	Dir Upper
38.	HC Muhammad Zaman No 174	Lakki Marwat	86	HC Muhammad Latif No 1304	Dir Upper
39.	HC Ali Ahmad No 1440	Chitral	87	HC Zakir Hussain No 1317	Chitral
40.	DHC Muhammad Yousaf No 264	Peshawar	88	DHC Aman Ullah No 64	Peshawar
41.	DHC Habib Khan No 92	Peshawar	89	DHC Gul Wahab No 123	Peshawar
42.	DHC Asad Zia No 599	Mardan	90	DHC Abdul Ghayas No 202	Swabi
43.	DHC Altaf Hussain No 172	Nowshera	91	DHC Waris Khan No 164	Nowshera
44.	DHC Tilawat Khan No 165	Charsadda	92	DHC Rehman Said No 837	Swat
45.	DHC Abdur Rashid No 838	Swat	93	DHC Muhammad Hassan No 872	Chitral
46.	DHC Rehmat Nabi No 880	Chitral	94	DHC Abdul Wadod No 1003	Bannu
47.	DHC Akhtar Faraz No 1060	Lakki Marwat	95	DHC Abdul Latif No 470	DI Khan
48.	DHC Asmat Ullah No 391	Lakki Marwat			

Due to non availability of the vacancies of Constables in this Unit, there pay will be drawn against the vacant post of Head Constables till further orders.

*[Signature]*  
 Additional Inspector General of Police,  
 CTD, Khyber Pakhtunkhwa,  
 Peshawar.

No 13722-1/EC/CTD

Dated Peshawar the

08/12/2016

Copy of above is forwarded for information and necessary action to the:-

- i. Worthy Inspector General of Police, Khyber Pakhtunkhwa w/r to his office Memo No S/6601-02/16 dated 10.10.2016.
- ii. All Regional SSsP, CTD Khyber Pakhtunkhwa.
- iii. Superintendent of Police, CTD HQrs; Peshawar.
- iv. SRC, CTD HQrs; Peshawar to check & make necessary entries in the service records of all those Police Officers / Officials of this Unit who have been promoted as out of turn.
- v. PA / PSO to Worthy Addl: IGP, CTD Khyber Pakhtunkhwa.
- vi. Acctt: CTD HQrs; Peshawar.
- vii. OASI, CTD HQrs; Peshawar.
- viii. MTO / MHC CTD HQrs; Peshawar.

*Reader*

*Circulate to all concerned*

**ATTESTED**

*[Signature]*  
 SUPERINTENDENT OF POLICE

بخدمت جناب انسپکٹر جنرل آف پولیس خیبر پختونخوا پشاور

بواسطت افسران بالا

جناب عالی!

سائل حسب ذیل عرض رساں ہے۔

1. یہ کے سائل سال 2007 میں بحیثیت کانسٹیبل پولیس فورس میں بھرتی ہوا۔ اور ٹریننگ کے بعد اپنی ڈیوٹی خوش اسلوبی اور ایمانداری سے ادا کرتا رہا جس پر مختلف اوقات میں افسران بالا کی طرف سے نقد انعامات اور تعریفی اسناد نوازا گیا
  2. یہ کہ مقدمہ علت 138 مورخہ 06.2008 . 06.2009 . 07.2009 مورخہ 324-353-341-400-34PPC/13AO تھانہ گمبٹ اور مقدمہ علت 690 مورخہ 04.06.2009 . 06.2009 . 07.2009 مورخہ 353-365-324PPC-17(3)-Explosive:Subs:Act تھانہ صدر نے بہترین کارکردگی پر آپ جناب نے بحوالہ آرڈر نمبر 15989-16000/E-2 مورخہ 26.09.2009 میں بحیثیت ہیڈ کانسٹیبل پروموٹ کیا۔
  3. یہ کہ عرصہ 7 سال بعد بحوالہ حکم نمبر 13222-30/EC/CTD مورخہ 08.12.2016 کو جناب ایڈیشنل انسپکٹر جنرل آف پولیس CTD خیبر پختونخوا پشاور نے تنزلی کا حکم جاری کیا۔ (نقل لف ہذا ہے) جو کہ سائل کیساتھ نہایت ظلم اور نا انصافی پر مبنی ہے۔
  4. یہ کہ جناب ایڈیشنل انسپکٹر جنرل آف پولیس CTD خیبر پختونخوا پشاور کا حکم غیر قانونی اور بے انصافی پر مبنی ہے اور اس سے فورس کا مورال گرانے کا مترادف ہے۔
- لہذا استدعا ہے کہ سائل کو اپنے ہیڈ کانسٹیبل کے عہدے پر برقرار رکھا جائے کیونکہ سائل اس کی وجہ سے لوئر کورس میں بھی شامل نہیں ہو سکا ہے۔

عین نوازش ہوگی

تحریر۔ 13.12.2016

العارض



HC ندیم شاہ 618 متعینہ CTD کوہاٹ ریجن

ATTESTED

37

قیمت  
10 روپے



80315

*Handwritten signature*

ایڈووکیٹ/دستخط:

بار کونسل ابار ایسوسی ایشن نمبر:

رابطہ نمبر:

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

SCANNED

بعدالت جناب:

منجانب: <b>مندیم شاہ (ایبٹلہ)</b>	دعویٰ: <b>ایبٹل</b>
<b>مندیم شاہ بنام محکم پولیس</b>	علت نمبر:
	موردہ:
	جرم:
	تھانہ:

**بامث تحریروانکہ**

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ  
 آن مقام **لینا اور بھینے محمد اصف پوسٹمنٹ اور جھومر علی خان** کو وکیل مقرر  
 کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو  
 راضی نامہ کرنے و تقرر ثالث و فیصلہ برصن دینے جواب دعویٰ اقبال دعویٰ اور درخواست ازہر قسم کی تصدیق  
 زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا ایبٹل کی برآمدگی اور منسوخی، نیز  
 دائر کرنے ایبٹل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی  
 کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہو گا اور صاحب  
 مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات 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 وہ وکیل موصوف وصول کرنے کا حقدار ہوگا کوئی تاریخ پیشی مقام  
 دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ مندر ہے۔

المرقوم:

\_\_\_\_\_ گواہ شد \_\_\_\_\_  
 مقام **Nawab Shah** کے لئے منظور ہے۔

*Attested & Accepted*  
*Handwritten signature*

نوٹ: اس وکالت نامہ کی ذمہ داری قابل قبول ہوگی۔

80318



(41)  
BEFORE THE HONORABLE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 366/2017

Nadeem Shah, Const. No. 618, CTD Kohat

SCANNED  
Appellant  
RPST  
Peshawar

**VERSUS**

Provincial Police Officer,  
Khyber Pakhtunkhwa, Peshawar & others ..... Respondents

**PARAWISE COMMENTS BY ON BEHALF OF RESPONDENTS**

Parawise comments by on behalf of Respondents are submitted as under:-

**Respectively Sheweth:-**

**PRELIMINARY OBJECTIONS:-**

1. That the appellant has got no cause of action.
2. That the appellant has no locus-standi.
3. That appellant is estopped by his own acts to file the instant appeal.
4. That the appeal is not maintainable in its present form.
5. That the appellant has not come to this Hon: Tribunal with clean hands.
6. That the appeal is bad for mis-joinder and non-joinder of necessary parties.

**FACTS:-**

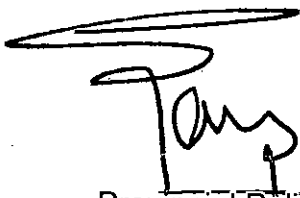
1. Pertains to record. Hence no comments.
2. Pertains to record.
3. The appellant was given accelerated / out of turn promotion from the rank of constable to the rank of Head constable. The august Supreme Court of Pakistan vide its judgment in CRL Original petition No. 89/2011 etc has held out of turn promotion as illegal, violative of Article of the constitution, law & rules. Therefore, in compliance to the judgment of august Supreme Court, all out of turn / accelerated promotions were withdrawn and the officers / officials are brought to their original / substantive ranks.
4. Pertains to record.
5. The appellant has got no cause of action to file instant appeal.

**Grounds:-**

- A. Incorrect. The orders were passed in pursuance of judgment / orders of august Supreme Court of Pakistan.
- B. Incorrect. The appellant was given out of turn promotion. Hence, there was no need to serve upon show cause notice.

- C. Pertains to record, however, the judgment / orders of the Supreme Court followed by the orders of competent authority was implemented.
- D. Incorrect. The appellant was given accelerated promotion, hence does not cover the provision of Police Rules to his regular promotion.
- E. Incorrect. The accelerated / out of turn promotion granted to the appellant alongwith others has been withdrawn / cancelled.
- F. Incorrect. As stated earlier, in pursuance of the orders of august Supreme Court, the impugned orders were passed, hence needed no hearing of the appellant.
- G. That the respondents seek permission to raise additional grounds during arguments.

In view of the above mentioned grounds, it is therefore prayed that the appeal may kindly be dismissed.



Provincial Police Officer,  
Khyber Pakhtunkhwa, Peshawar  
(Respondent No. 1)



District Police Officer,  
Kohat  
(Respondent No. 3)

*Note:- (Presently there is no post of Additional IGP CTD, Khyber Pakhtunkhwa, therefore, his signature is not taken as respondent).*

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BEFORE THE HONORABLE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR

---

Service Appeal No. 366/2017

Nadeem Shah, Const: No. 618, CTD Kohat ..... Appellant.

**VERSUS**

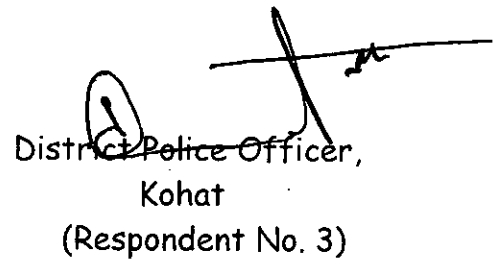
Provincial Police Officer,  
Khyber Pakhtunkhwa, Peshawar & others ..... Respondents

**COUNTER AFFIDAVIT**

We, the below mentioned respondents, do hereby solemnly affirm and declare on oath that contents of parawise comments are correct and true to the best of our knowledge and belief. Nothing has been concealed from this Hon: Tribunal.



Provincial Police Officer,  
Khyber Pakhtunkhwa, Peshawar  
(Respondent No. 1)



District Police Officer,  
Kohat  
(Respondent No. 3)

94

**BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR.**

Service Appeal No. 366/2017

Nadeem Shah

VS

Police Deptt:

SCANNED  
KPST  
Peshawar

**REJOINDER ON BEHALF OF APPELLANT**

**RESPECTFULLY SHEWETH:**

**Preliminary Objections:**

- (1-6) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

**FACTS:**

1. Admitted correct by the respondents as the service record of the appellant is present with the department.
2. Admitted correct by the respondents as the service record of the appellant is present with the department.
3. Incorrect. While para 3 of the appeal is correct.
4. Admitted correct by the respondents as the service record of the appellant is present with the department.
5. Incorrect. The appellant has god cause of action to file this instant appeal in this Honourable Tribunal which is liable to be accepted.

**GROUND:**



- A) Incorrect. While para A of the appeal is correct.
- B) Incorrect. That the promotion order from Constable to Head Constable in 2009 was passed by the then competent authority which was fully acted upon and remained in field for more than 7 years which has created valuable rights in respect of the appellant, therefore, the promotion order of the appellant from Constable to

- C) Incorrect. While para C of the appeal is correct.
- D) Incorrect. While para D of the appeal is correct.
- E) Incorrect. While para E of the appeal is correct.
- F) Incorrect. While para F of the appeal is correct.
- G) Legal.

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

APPELLANT

Through:

  
 (M. ASIF YOUSAF ZAI)  
 ADVOCATE SUPREME COURT  
 &  
  
 (TAIMUR ALI KHAN)  
 ADVOCATE HIGH COURT.

**AFFIDAVIT**

It is affirmed and declared that the contents of rejoinder are true and correct to the best of my knowledge and belief.

  
 DEPONENT

ATTESTED  
 Oath Commissioner  
*Zahoor Khan Advocate*  
 Distt: Court Peshawar

*March*  
 = 1 FEB 2018

46

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR.

SCANNED  
KPST  
Peshawar

Service Appeal No. 366/2017

Nadeem Shah

VS

Police Deptt:

.....

REJOINDER ON BEHALF OF APPELLANT

.....

RESPECTFULLY SHEWETH:

Preliminary Objections:

- (1-6) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

1. Admitted correct by the respondents as the service record of the appellants is present with the department.
2. Admitted correct by the respondents as the service record of the appellants is present with the department.
3. Incorrect. While para 3 of the appeal is correct.
4. Admitted correct by the respondents as the service record of the appellants is present with the department.
5. Incorrect. The appellants have a good cause of action to file this instant appeal in this Honourable Tribunal which is liable to be accepted.

GROUND:

- A) Incorrect. While para A of the appeal is correct.
- B) Incorrect. That the promotion order from Constable to Head Constable in 2009 was passed by the then competent authority which was fully acted upon and remained in field for more than 7 years which has created valuable rights in respect of the appellants, therefore, the promotion order of the appellants from Constable to

- C) Incorrect. While para C of the appeal is correct.
- D) Incorrect. While para D of the appeal is correct.
- E) Incorrect. While para E of the appeal is correct.
- F) Incorrect. While para F of the appeal is correct.
- G) Legal.

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

APPELLANT

Through:



(M. ASIF YOUSAF ZAI)  
 ADVOCATE SUPREME COURT  
 &



(TAIMUR ALI KHAN)  
 ADVOCATE HIGH COURT.

**AFFIDAVIT**

It is affirmed and declared that the contents of rejoinder are true and correct to the best of my knowledge and belief.



DEPONENT

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**VAKALAT NAMA**

NO. 1894 /2011

IN THE COURT OF Service Tribunal Peshawar

Farman ullah (NS) Irrigation Deptt. (Appellant)  
(Petitioner)  
(Plaintiff)

VERSUS

Jehanzeb Khan Mr. (Respondent)  
(Defendant)

I/We, Jehanzeb Khan SDO Mr, Deptt, Peshawar (R#14)

Do hereby appoint and constitute **M. Asif Yousafzai, Advocate Supreme Court Peshawar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/We authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated 11/04/2018

Jehanzeb Khan  
(CLIENT)

ACCEPTED

M. ASIF YOUSAFZAI  
Advocate Supreme Court  
Peshawar.

Taimur Ali Khan  
Advocate High Court

Syed Nauman Ali Bukhari  
Advocate

**OFFICE:**

Room # FR-8, 4<sup>th</sup> Floor,  
Bilour Plaza, Peshawar,  
Cantt: Peshawar  
Cell: (0333-9103240)

Asad Mahmood  
Advocate High Court



49

**VAKALAT NAMA**

Appral NO. 1894 /2011

IN THE COURT OF Service Tribunal peshawar

Fazmanullah (vs) qori (Appellant)  
(Petitioner)  
(Plaintiff)

VERSUS

wiqar Shah sdo qori (Respondent) NO(12)  
(Defendant)

I/We, wiqar Shah sdo qori (Respd. 12)

Do hereby appoint and constitute **M. Asif Yousafzai, Advocate Supreme Court Peshawar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/We authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated 11/04 /2018

Qaushab  
(CLIENT)

ACCEPTED

M. Asif Yousafzai  
**M. ASIF YOUSAFZAI**  
Advocate Supreme Court  
Peshawar.

Taimur Ali Khan  
**Taimur Ali Khan**  
Advocate High Court

Syed Nauman Ali Bukhari  
**Syed Nauman Ali Bukhari**  
Advocate

**OFFICE:**  
Room # FR-8, 4<sup>th</sup> Floor,  
Bilour Plaza, Peshawar,  
Cantt: Peshawar  
Cell: (0333-9103240)

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**VAKALAT NAMA**

Apel NO. 1894 /2011

IN THE COURT OF Service Tribunal KPK Peshawar

Fazmanullah Sub engineer qori: (Appellant)  
(Petitioner)  
(Plaintiff)

VERSUS

Hajrat Hassan SDO qori: (Respondent)  
(Defendant)

I/We, Hajrat Hassan SDO qori (Respondent. 8)

Do hereby appoint and constitute **M. Asif Yousafzai, Advocate Supreme Court Peshawar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/We authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated 13/04/2018

Hassan  
(CLIENT)

ACCEPTED

M. Asif Yousafzai  
**M. ASIF YOUSAFZAI**  
Advocate Supreme Court  
Peshawar.

Taimur Ali Khan  
Advocate High Court

Syed Nauman Ali Bukhari  
Advocate


**OFFICE:**

Room # FR-8, 4<sup>th</sup> Floor,  
Bilour Plaza, Peshawar,  
Cantt: Peshawar  
Cell: (0333-9103240)

Asad Mahmood  
Advocate High Court

51

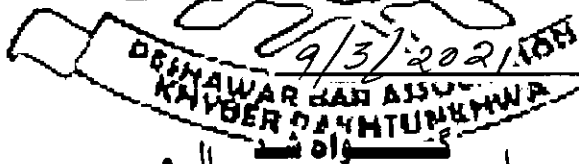
50 روپے	66899	  
ایڈریس:		پشاور بار ایسوسی ایشن، خیبر پختونخواہ بعدالت جناب: WPIE سروس سٹریٹ سٹیٹیاور
بار کونسل ایسوسی ایشن نمبر:		
رابطہ نمبر: 0345-9645854		

مہنجان: <i>Appellant</i> 	دعویٰ: <i>Service Appeal</i> علت نمبر: <i>CA 366/2017</i> مورخہ: جرم: تھانہ:
--	--

### باعت تحریر آگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ

آن مقام ~~سٹیٹیاور~~ کیلئے ~~سروس سٹریٹ سٹیٹیاور~~ کے ذریعہ ~~رہنما~~ کو وکیل 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 تقررات ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت 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 اور بصورت ضرورت مقدمہ مذکورہ 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 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 یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المقام: *9/3/2021*  


مقام *سٹیٹیاور / سروس سٹریٹ سٹیٹیاور* کے لیے منظور ہے۔

ندم شاہ ولد قدیم شاہ سہنہ ایسوسی ایشن  
 مہنجان، تحصیل و ضلع لوہاڑہ *Appellant*

نوٹ: اس وکالت نامہ کی فونو کاپی ناقابل قبول ہوگی۔

59

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

*Restoration Application No. 52/2023*

C.M No. \_\_\_\_\_/2023  
In Service Appeal No.366/2017

Nadeem Shah, Constable No.618. . . . . **APPLICANT/APPELLANT**

**VERSUS**

The Provincial Police Officer & others. . . . . **RESPONDENTS**

**I N D E X**

<b>S.#</b>	<b>Description of Documents</b>	<b>Annex</b>	<b>Pages</b>
1.	Restoration Application alongwith Affidavit		1-2
2.	Attested Copy of Order dated 03.07.2023		3-4

*N. Shah*

Applicant/Appellant

Through

*[Signature]*  
**Syed Mudassir Pirzada**  
Advocate High Court  
Cell: 0345-9645854

Dated: 27.07.2023

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

*Restoration*

C.M No. \_\_\_\_\_/2023  
In Service Appeal No.366/2017

Khyber Pakhtunkhwa  
Service Tribunal  
Diary No. 6737  
Dated 27/07/23

Nadeem Shah, Constable No.618. . . . . **APPLICANT/APPELLANT**

**VERSUS**

The Provincial Police Officer & others. . . . . **RESPONDENTS**

**APPLICATION FOR RESTORATION**  
**OF THE TITLED CASE WHICH WAS**  
**DISMISSED-IN-DEFAULT BY THIS**  
**HON'ABLE TRIBUNAL, VIDE ORDER**  
**DATED 03.07.2023.**

**Respectfully Sheweth:**

1. That the titled appeal was pending adjudication before this Hon'ble Tribunal, which was dismissed-in-default, vide order dated 03.07.2023. (Attested copy of Order is attached).
2. That, unfortunately, on the date fixed, the applicant's son was admitted in hospital and he has to look-after his son, while the counsel for the applicant/appellant was busy before the Federal Service Tribunal and was' unable to put his appearance before this Hon'ble Tribunal on the date fixed, hence this application.

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1

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

C.M No. \_\_\_\_\_/2023  
In Service Appeal No.366/2017

Nadeem Shah, Constable No.618,  
CTD Kohat Region. . . . . **APPLICANT/APPELLANT**

**VERSUS**

1. The Provincial Police Officer, KPK Peshawar.
2. The Additional Inspector General of Police, CTD, KPK Peshawar.
3. The District Police Officer, Kohat. . . . . **RESPONDENTS**

**APPLICATION FOR RESTORATION**  
**OF THE TITLED CASE WHICH WAS**  
**DISMISSED-IN-DEFAULT BY THIS**  
**HON'ABLE TRIBUNAL, VIDE ORDER**  
**DATED 03.07.2023.**

**Respectfully Sheweth:**

1. That the titled appeal was pending adjudication before this Hon'ble Tribunal, which was dismissed-in-default, vide order dated 03.07.2023. (Attested copy of Order is attached).
2. That, unfortunately, on the date fixed, the applicant's son was admitted in hospital and he has to look-after his son, while the counsel for the applicant/appellant was busy before the Federal Service Tribunal and was unable to put his appearance before this Hon'ble Tribunal on the date fixed, hence this application.

- 3. That the absence of the applicant/appellant or his counsel was neither deliberate nor willful, but due to aforesaid reasons.
- 4. That since valuable rights of applicant/appellant are involved, therefore, the same needs to be decided on its own merit.
- 5. That the spirit of law is decision on merits rather dismissal on technicalities.

It is, therefore, prayed that on acceptance of this application, the application for restoration of the titled appeal may please be restored to its original number and thereafter the same may please be decided in its own merits.

*M. Shah*

Applicant/Appellant

Through

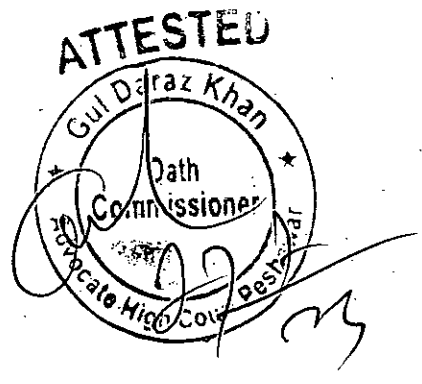
*M. Shah*

**Syed Mudassir Pirzada**  
Advocate High Court

Dated: 27.07.2023

**AFFIDAVIT**

I, Nadeem Shah, Constable No.618, , do hereby solemnly affirm and declare that the contents of the accompanying **Restoration Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



*Nadeem Shah*

DEPONENT

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3

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**



APPEAL NO. 366 /2017

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 357

Dated 10-4-2017

Nadeem Shah, Constable No.618,

CTD Kohat Region.

(Appellant)

**VERSUS**

1. The Provincial Police Officer, KPK Peshawar.
2. The Additional Inspector General of Police, CTD, KPK, Peshawar.
3. The District Police Officer Kohat.

(Respondents)

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 08.12.2016, WHEREBY THE PROMOTION OF THE APPELLANT FROM CONSTABLE TO HEAD CONSTABLE WAS CANCELLED/WITHDRAWN AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

**PRAYER:**

THAT THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 08.12.2016 MAY BE SET ASIDE AND THE RESPONDENTS MAY FURTHER PLEASE BE DIRECTED TO RESTORE THE APPELLANT TO THE POST OF HEAD CONSTABLE WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE, THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

Filed to-day  
Registrar  
10/4/17

EXAMINED  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar  
10/4/17



59

Appeal No. 366/2017  
Nadeem Shah vs Govt



3<sup>rd</sup> July, 2023

1. Nobody present on behalf of the appellant. Mr. Asif Masood Ali Shah, Deputy District Attorney alongwith Mr. Amir Abbas DSP (Legal) for the respondents present.
2. The case was called time and again but neither the appellant nor his counsel put appearance, therefore, the appeal in hand is dismissed in default. Consign.
3. Pronounced in open Court in Peshawar given under our hands and seal of the Tribunal on this 3<sup>rd</sup> day of July, 2023.

(Rashida Bano)  
Member(J)

(Kalim Arshad Khan)  
Chairman

\*Adnan Shah\*

**Certified to be true copy**

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar  
11/7/23

Date of Presentation of Application 11/7/23  
 Number of ~~Words~~ page 2  
 Copying Fee 10/-  
 Urgent 5/-  
 Total 15/-  
 Name of Copy/ist Shahzad  
 Date of Completion of Copy 11/7/23  
 Date of Delivery of Copy 11/7/23