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KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

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27/6/24
Muharrir Compilation


 27/6/24
 Incharge Judicial Branch

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR CAMP COURT ABBOTTABAD.

RESTORATION APPLICATION NO. 755/2023

IN

EP No. 149/2018

IN

SA No. 1276/2007

Muhammad IqbalAppellant

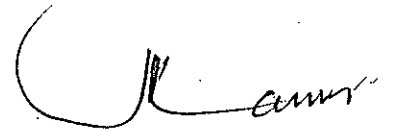
VERSUS

District Education Officer (E&SED) Abbottabad & Others.....Respondents

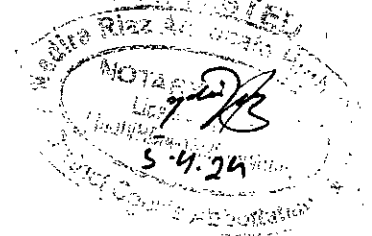
REPLICATION TO RESTORATION APPLICATION ON BEHALF OF THE
RESPONDENTS No. 01, 04 & 05

AFFIDAVIT

I, Muhammad Tanveer, District Education Officer (M) Abbottabad, do hereby affirm and declare on oath that the contents of forgoing comments are correct and true according to the best of my knowledge and belief and nothing has been suppressed from this Honorable Tribunal.



DEPONENT



KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

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

Service Appeal No.932/2017

Date of presentation of Appeal.....24.08.2017
Date of Hearing.....22.05.2024
Date of Decision.....22.05.2024

Muhammad Saeed S/o Muhammad Yousaf R/o House No.R/45,
Mohallah Syed Ahmad Colony, Near Sunehri Masjid
Peshawar.....(*Appellant*)

Versus

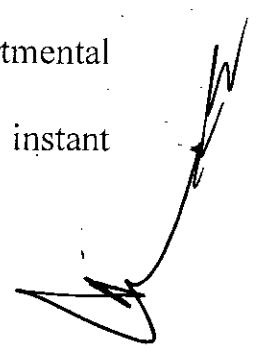
1. **The Inspector General of Prisons, Khyber Pakhtunkhwa, Peshawar**
2. **The Provincial Police Officer Khyber Pakhtunkhwa, Peshawar.**
3. **The Secretary Home & Tribal Affairs Department, Khyber Pakhtunkhwa.....(*Respondents*)**

Present:
Miss. Roeeda Khan, AdvocateFor the appellant
Mr. Muhammad Jan, District AttorneyFor respondents

.....
APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 08.05.1999 WHERE THE APPELLANT HAS BEEN REMOVED FROM SERVICE W.E.F 03.08.1996.

JUDGMENT

KALIM ARSHAD KHAN, CHAIRMAN: Appellant's case in brief is that he was initially appointed as Junior Clerk on 30.06.1981 in the Prisons Department; that due to illness, he was unable to perform duty; that vide impugned order dated 08.05.1999, he was removed from service; that feeling aggrieved, he filed departmental appeal on 28.04.2017, which was not responded, hence the instant service appeal.



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2

Service Appeal No.952/2017 titled "Muhammad Saeed versus The Inspector General of Prison, Khyber Pakhtunkhwa, Peshawar and others", decided on 22.05.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Mr. Muhammad Akbar Khan, Member Executive, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

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

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

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

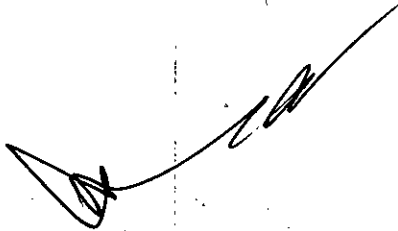
5. This is second round of litigation. The earlier case was filed by the appellant against the same impugned order (impugned herein) in Service Appeal No.284/2008, filed by the appellant, which appeal was dismissed by the Tribunal vide its judgment dated 20.08.2008. The appellant has suppressed the factum of filing of earlier appeal in this appeal as there is no reference of filing of that appeal against the same impugned order made anywhere in the memo and grounds of this appeal.

6. When confronted with the above situation, learned counsel for the appellant tried to explain that the earlier appeal was for reinstatement, while the instant appeal is for compensatory allowance. This contention of the appellant is also not worth consideration. Firstly, because the appellant seeks conversion of his

dismissal order into compulsory retirement and secondly, he wants compensatory allowance. In either way, the impugned order of 08.05.1999 has to be touched, while the provisions of *constructive res-judicata* will also come in the way of the appellant. Besides, Rule-23 of the Khyber Pakhtunkhwa Service Tribunal Rules, 1974 bars second appeal against the earlier appeal which had already been decided.

7. In view of the above instant service appeal is dismissed. Costs shall follow the event. Consign.

8. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 22nd day of May, 2024.*



KALIM ARSHAD KHAN
Chairman



MUHAMMAD AKBAR KHAN
Member (Executive)

Mutazem Shah

4

S.A #.932/2017

ORDER

22nd May, 2024 1. Learned counsel for the appellant present. Mr. Muhammad Jan, District Attorney for the respondents present.

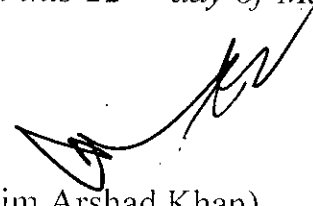
2. (Vide our detailed judgment of today placed on file, instant service appeal is dismissed. Costs shall follow the event. Consign.

3. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 22nd day of May, 2024.*

RECORDED
IN
COURT
BOOK



(Muhammad Akbar Khan)
Member (E)



(Kalim Arshad Khan)
Chairman

Muazem Shah

04th April, 2024 1. Learned counsel for the appellant present. Mr. Ghulam Mustafa, Law Officer alongwith Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

2. Being not prepared for arguments, learned counsel for the appellant seeks adjournment. Adjourned by way of last chance. To come up for arguments on 30.04.2024 before the D.B. Parcha Peshi given to the parties.



(Rashida Bano)
Member (Judicial)




(Kalim Arshad Khan)
Chairman

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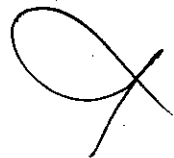
Naeem Amin

30th April, 2024 1. Learned counsel for the appellants present. Mr. Muhammad Jan, District Attorney for the respondents present.

2. Learned counsel for the appellant seeks further time for preparation of brief. Absolute last chance is given for arguments. To come up for arguments on 22.05.2024 before the D.B. Parcha Peshi given to the parties.



(Muhammad Akbar Khan)
~~(Fareeha Paul)~~
Member (Executive)



(Kalim Arshad Khan)
Chairman

SCANNED
KPST
Peshawar

Naeem Amin

6

09.01.2024

Clerk of learned counsel for the appellant present. Mr. Suleman, Senior Instructor alongwith Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Clerk of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is unable to appear before the Tribunal today due to strike of lawyers. Adjourned. To come up for arguments on 16.02.2024 before the D.B. Parcha Peshi given to the parties.

ANNED
KPST
Peshawar

(Fareeha Paul)
Member (E)

(Salah-ud-Din)
Member (J)

Naeem Amin

16.02.2024 1. Clerk of counsel for the appellant present. Mr. Asif Masood Ali Shah learned Deputy District Attorney alongwith Suleman, Law Officer for the respondents present.

2. Clerk of counsel for the appellant requested for adjournment on the ground that senior counsel for the appellant is busy before Hon'ble Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 04.04.2024 before D.B. P.P given to the parties.

SC
K.P.
Peshawar

(Fareeha Paul)
Member (E)

(Rashida Bano)
Member (J)

kaleemullah


7


22.11.2023

Clerk of learned counsel for the appellant present.
Mr. Muhammad Jan, District Attorney for the respondents
present.

Clerk of learned counsel for the appellant requested for
adjournment on the ground that learned counsel for the
appellant is not available today due to strike of lawyers.
Adjourned. To come up for arguments on 06.12.2023 before
the D.B. Parcha Peshi given to the parties.

SCANNED
KPPT
Reshawar


(Fareeha Paul)
Member (E)


(Salah-ud-Din)
Member (J)


Naeem Amin


6th Dec, 2023

1. Learned counsel for the appellant present. Mr. Asif
Masood Ali Shah, Deputy District Attorney alongwith Mr.
Ghulam Mustafa, Law Officer for the respondents present.

2. Learned counsel for the appellant seeks adjournment on
the ground that he has not prepared the case. Adjourned. To come
up for arguments on 09.01.2024 before D.B. P.P given to the
parties.

SCANNED
KPPT
Reshawar


(Salah Ud Din)
Member(J)


(Kalim Arshad Khan)
Chairman

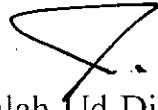
*Adnan Shah *

8

26.06.2023

Learned counsel for the appellant present. Mr. Suleman, Senior Instructor alongwith Mr. Muhammad Jan, District Attorney for the respondents present.

Learned Member (Executive) Mr. Muhammad Akbar Khan is on leave, therefore, bench is incomplete. To come up for arguments on 31.07.2023 before D.B. Parcha Peshi given to the parties.





(Salah-Ud-Din)
Member (J)


SCANNED
K. ST
Peshawar

Kawramullah

31st July, 2023

1.  Appellant present in person. Mr. Muhammad Jan learned District Attorney for the respondents present.
2. Appellant requested for adjournment on the ground that his counsel is busy before Hon'ble Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 22.11.2023 before D.B. P.P given to parties.


(Muhammad Akbar Khan)
Member (E)


(Rashida Bano)
Member (J)

KaleemUllah

9

21.03.2023

Counsel for the appellant present.

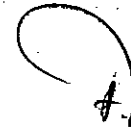
Fazal Shah Mohmand, Additional Advocate General
alongwith Atta Muhammad, Focal Person for the respondents
present.

Being not prepared the brief, learned counsel for the
appellant requested for adjournment. Adjourned. To come up
for arguments on 26.05.2023 before D.B. Parcha Peshi given to
the parties.

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Peshawar



(Muhammad Akbar Khan)
Member (E)




(Rozina Rehman)
Member (J)


26th May, 2023

1. Junior to counsel for appellant present. Mr. Muhammad Jan,
District Attorney for respondents present.
2. Junior counsel for appellant requested for adjournment as senior
counsel for appellant is busy before the Hon'ble Peshawar High Court,
Peshawar. Adjourned. To come up for arguments on 26.06.2023 before
D.B. P.P given to the parties.

SCANNED
KF3T
Peshawar



(Fareeha Paul)
Member (E)



(Kalim Arshad Khan)
Chairman

Mutazem Shah

(10)

16.11.2022

Counsel for the appellant present.

Muhammad Jan learned District Attorney for respondents present.

SCANNED
KPST
Peshawar

Former requested for adjournment on the ground that he has not prepared the brief. Adjourned. To come up for arguments on 22.12.2022 before D.B.



(Fareeha Paul)
Member (E)



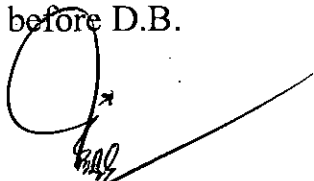
(Rozina Rehman)
Member (J)

22.12.2022

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

Learned counsel for the appellant sought time for preparation of arguments. Adjourned. To come up for arguments on 21.03.2023 before D.B.

SCANNED
KPST
Peshawar



(Mian Muhammad)
Member (E)



(Salah-ud-Din)
Member (J)

04.04.2022

Junior to counsel for the appellant present. Mr. Kabirullah Khattak, Addl. AG alongwith Suleman, Sr. Instructor for the respondents present.

Former seeks adjournment due to non-availability of learned senior counsel for the appellant. Adjourned. Last opportunity is granted. To come up for arguments on 01.07.2022 before the D.B.

(Mian Muhammad)
Member(E)

Chairman

01.07.2022

Learned counsel for legal heirs of the deceased appellants present. Mr. Riaz Ahmed Paindakhel, Assistant Advocate General for the respondents present.

Learned counsel for legal heirs of the deceased appellant requested for adjournment on the ground that he has not made preparation for arguments. Adjourned. To come up for arguments on 14.09.2022 before the D.B.

(Rozina Rehman)
Member (J)

(Salah-ud-Din)
Member (J)

14.09.2022

Learned counsel for legal heirs of the deceased appellants present. Mr. Fayyaz, H.C alongwith Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Learned counsel for legal heirs of the deceased appellant requested for adjournment on the ground that she has not made preparation for arguments. Last opportunity given. Adjourned. To come up for arguments on 16.11.2022 before D.B.

(Mian Muhammad)
Member (E)

(Salah-Ud-Din)
Member (J)


SA 932/17

20.12.2021

Counsel for the deceased appellant and Mr. Asif Masood Ali Shah, DDA alongwith Muhammad Suleman, Senior Instructor for the respondents present. Representative of the respondents has submitted reply to application for impleadment of legal heirs of the deceased appellant. Arguments on application heard.

R

Now it has been well-settled by the judicial pronouncement of August Supreme Court of Pakistan reported as 2021-SCMR-702 that the reputation of the civil servant is not sullied or discredited through wrongful dismissal, termination or reversion etc. and fundamental right to fair trial and due process, inter-alia, safeguards and protects the survivable interest and ensures continuity of the legal proceedings even after the death of the civil servant, equipping the legal heirs to pursue the claim. It further commands that other than pecuniary and pensionary benefits that inure to the benefit of the legal heirs, the right to restore one's reputation is also a survivable right and flows down to the legal heirs to pursue and take to its logical conclusion. Thus, Legal heirs of the deceased appellant mentioned in the application are impleaded in the appeal. Office is directed to make necessary entry in the heading of appeal and relevant register with red ink. To come up for arguments on main appeal on 04.04.2022 before the D.B.



(Atiqur Rehman)
Member(E)




Chairman

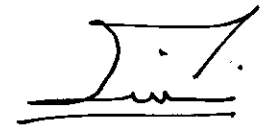
13

31.08.2021

Miss Roeeda Khan, Advocate for the appellant present. Mr. Suleman Senior Instructor alongwith Mr. Muhammad Rasheed, Deputy District Attorney for the respondents present.

Learned counsel for the appellant stated that the appellant has died, therefore, time may be granted to her to submit list of legal heirs of the appellant alongwith Wakalat Nama on behalf of them. Adjourned. To come up for submission of list of legal heirs of the appellant on 03.11.2021 before D.B.


(ATIQ UR REHMAN WAZIR)
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

03.11.2021

Counsel for appellant present.

Muhammad Rasheed learned Deputy District Attorney alongwith Suleman Instructor for respondents present.

Former submitted application for impleadment of legal heirs of the deceased appellant and copy of the same was handed over to the representative of respondents. To come up for reply and arguments on 20.12.2021 before D.B.


(Rozina Rehman)
Member (J)


Chairman

19

28.12.2020

Due to summer vacation, case is adjourned to 15.3.2021 for the same as before.

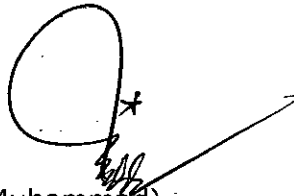

Reader

15.03.2021

Counsel for the appellant and Mr. Muhammad Rashid, DDA for the respondents present.

Former requests for adjournment as he has not prepared the brief.

Adjourned to 29.04.2021 before D.B.



(Mian Muhammad)
Member(E)



Chairman

29.4.2021

Due to COVID-19, the case is adjourned to 31-8-2021 for the same.


Reader

15

27.10.2020

Proper D.B is on Tour, therefore, the case is
adjourned for the same on 28.12.2020 before D.B.


Reader

A 39

(16)

12.02.2020

Appellant in person present. Mr. Usman Ghani learned District Attorney alongwith Mr. Suleman Senior Instructor for the respondent present. Appellant requested for adjournment on the ground that his counsel is out of station today. Adjourned. To come up for arguments on 30.03.2020 before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

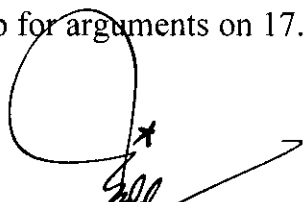
30.03.2020

Due to public holiday on account of COVID-19, the case is adjourned to 08.06.2020 for the same as before.


Reader

08.06.2020

Clerk to counsel for the appellant present. Addl: AG alongwith Mr. Suleman Shah, Law Officer for respondents present. Due to general strike of the Khyber Pakhtunkhwa Bar Council, the case is adjourned. To come up for arguments on 17.08.2020 before D.B.


MEMBER


MEMBER

17.08.2020

Due to summer vacations, the case is adjourned to 27.10.2020 for the same.


Reader

08.10.2019

Appellant in person present. Mr. Kabirullah Khattak, Addl: AG for respondents present. Appellant seeks adjournment as his counsel is not available today. Adjourned but as a last chance. To come up for arguments on 08.11.2019 before D.B.



Member


Member

08.11.2019

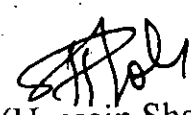
Learned counsel for the appellant and Mr. Riaz Paindakheil learned Assistant Advocate General alongwith Sulaiman Law Officer present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 30.12.2019 before D.B.



Member


Member

30.12.2019

None present on behalf of the appellant. Mr. Riaz Paindakheil learned Assistant Advocate General alongwith Mr. Suleman Law Officer for the respondents present. Notice be issued to the appellant and his counsel for attendance. Adjourned. To come up for arguments on 12.02.2020 before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member


02.05.2019

Counsel for the appellant and Addl: AG for respondents present. Arguments could not be heard due to Learned Member (Executive) is on leave. Adjourned to 27.06.2019 before D.B.


(M. Amin Khan Kundi)
Member

27.06.2019


Learned counsel for the appellant present. Mr. Riaz Khan Paindakhel learned Assistant Advocate General for the respondents present. On previous numerous occasions on the request of learned counsel for the appellant the case ^{was} ~~is~~ adjourned. Today again she made a request for adjournment on the ground to get fresh instructions from the client. Last opportunity is granted. Adjourned. Case to come up for arguments on 20.08.2019 before D.B.


(Hussain Shah)
Member


(M. Ahmad Hassan)
Member

20.08.2019

Counsel for the appellant and Mr. Ziaullah, Deputy District Attorney for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 08.10.2019 for arguments before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

3.12.2018

Counsel for the appellant present. Mr. Muhammad Jan, DDA for respondents present. Counsel for the appellant seeks adjournment. Adjourned. Case to come up for arguments on 18.01.2019 before D.B.


Member

Member

18.01.2019

Counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG for respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 13.03.2019 before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

13.03.2019

Learned counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 22-5-2019 before D.B


Member


Member

14.05.2018

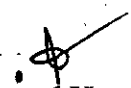
The Tribunal is defunct due to retirement of Hon'ble Chairman. Therefore, the case is adjourned. To come up on 30.07.2018.





READER

30.07.2018

Appellant with counsel and Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for rejoinder and arguments on 20.09.2018 before D.B.



(Ahmad Hassan)
Member (E)


(Muhammad Hamid Mughal)
Member (J)

20.09.2018

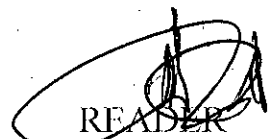
Since ~~20~~ September 2018 has been declared as public holiday on account of Muharam Ul Haram. Therefore, the case is adjourned. To come up for the same on

~~17-11-2018~~


Reader

12.11.2018

Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 13.12.2018.


READER

26.12.2017

Counsel for the appellant present and Addl: AG for respondents present. Written reply already submitted on behalf of respondents No.1 & 3. Requested for adjournment. Adjourned. To come up for written reply/comments as well as arguments on application under order I Rule 10 CPC on 08.01.2018 before S.B.


(Gul Zeb Khan)
Member (E)


08.01.2018


Counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Sohrab Khan, Junior Clerk for the respondents also present. Learned counsel for the appellant submitted reply of application order 1 Rule 10 CPC and submitted that respondent No. 2 has erroneously impleaded in the service appeal. The same is placed on record. Written reply on behalf of respondents NO. 1 & 3 already submitted. Adjourned. To come up for rejoinder and arguments on 12.03.2018 before D.B.


(Muhammad Amin Khan Kundi)
Member

12.03.2018

Appellant in person and Mr. Usman Ghani, District Attorney for the respondents present. Appellant seeks adjournment on the ground that his counsel is not available today. Adjourned. To come up for rejoinder and arguments on 14.05.2018 before D.B.


(Muhammad Amin Khan Kundi)
Member


(Muhammad Hamid Mughal)
Member

22

16/10/2017

Counsel for the appellant and Mr. Kabirullah Khattak, AAG for respondents present. Written reply not submitted and AAG requested for further time. To come up for written reply/comments of on 9/11/2017 before SB.


(GUL ZEB KHAN)
MEMBER


09.11.2017

Counsel for the appellant and Mr. Ziaullah, DDA alongwith Mr. Salman, H.C for respondents present. Representative of the respondents has already submitted an application under order I Rule 10 CPC. Written reply not submitted. Requested for adjournment. Adjourned. To come up for written reply/comments as well as arguments on application on 06.12.2017 before S.B.


(AHMAD HASSAN)
MEMBER

06.12.2017

Counsel for the appellant present. Mr Riaz Painsa Khel, Assistant Advocate General for the respondents present. Written reply on behalf of respondents No. 1 & 3 submitted. Requested for adjournment. Adjourned. To come up for written reply/ comments and arguments on application under order I Rule 10 CPC on 26.12.2017 before S.B.


(Gul Zeb Khan)
Member (E)

SCANNED
KPST
Peshawar

Counsel for the appellant present and argued that the appellant was initially appointed as Junior Clerk on 30/6/1981. That on 12/3/1997 the appellant was severely ill and was unable to perform his duty, so he submitted leave application through his wife on 24/8/1997. Due to severe illness, he has been removed from service vide order dated 8/5/1999 against which he submitted departmental appeal on 28/4/2017 but with no response till. He argued that appellant was dismissed from service due to absence from duty which was not intentional as he was ill and remained under treatment in Ibadat Hospital Peshawar. Furthermore, the impugned order dated 8/5/1999 is void ab-initio and against the fundamental rights granted to the appellant by Constitution of Islamic Republic of Pakistan. In this respect the learned counsel for the appellant relied on the judgment contained in PLJ 2004 SC 435 titled "Muhammad Hanif Bukhari and others versus President, National Bank of Pakistan Head Officer, Karachi and others" and similar nature appeal bearing No. 111/2015 titled "Zafar Khan versus Government of Khyber Pakhtunkhwa through Health Department and 2 others" which are placed on record. Learned counsel for appellant further argued that before awarding major penalty of dismissal from service to appellant, no proper inquiry was conducted.

Points urged at bar need consideration. The appeal is admitted to regular hearing subject to all legal objections including limitation. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for written reply/comments on 16/10/2017 before SB.

Appellant Deposited
Security & Process Fee

(GUL ZEB KHAN)
MEMBER



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Form-A

FORM OF ORDERSHEET

Court of _____

Case No. 932/2017

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	24/08/2017	<p>The appeal of Mr. Muhammad Saeed presented today by Roeda Khan 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>
2-	29-8-17	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>5-9-17</u></p> <p style="text-align: right;"> CHAIRMAN</p>

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BEFORE THE HON'BLE SERVICES TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR

In Re S.A.No ⁹³⁹ /2017

SCANNED
KPST
Peshawar

Muhammad Saeed
V/S
Police Prison Department

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6.	Leave Application	C	11
7.	Copy of impugned order dated 08/05/1999.	D	12
8.	Copies of departmental appeal dated 28/04/2017	E	13
9	Other documents COPY OF NOTIFICATION: 20.9.2012	F	14-15
10.	Wakalat Nama		

Dated 23-08-2017

M. Saeed
Appellant

Through *R*

ROEEDA KHAN

&
AFSHA MANZOOR

Advocate High Court, Peshawar

**BEFORE THE HON'BLE SERVICES TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR**

Khyber Pakhtukhwa
Service Tribunal

In Re S.A No 932/2017

Diary No. 942

Dated 24-8-2017

*impleaded
vide order
dated
20/12/21*

Muhammad Saeed S/o Muhammad Yousaf R/O House No.R/45,
Mohallah Syed Ahmad Colony, Near Sunehri Masjid Peshawar.

- Legal Heirs*
- 1- Mst Nadia Saboohi (widow)
 - 2- Mst Maha Saeed (Daughters)
 - 3 Maa2 Bin Saeed VERSUS (Son)

.....Appellant

- 1. The Inspector General of Prison KPK, Peshawar
- 2. The Provincial Police Officer KPK, Peshawar.
- 3. The secretary home of tribal affair Department KPK.

.....Respondents

SERVICE APPEAL U/S 04 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974
AGAINST THE IMPUGNED ORDER, DATED : 08-
05-1999 WHERE THE APPELLANT HAS BEEN
REMOVE FROM SERVICE W.E.F 03/08/1996

PRAYER:

*Filed to-day
Registrar
24/2/17*

ON ACCEPTANCE OF APPEAL THE IMPUGNED
ORDER DATED 08-05-1999 MAY EITHER BE
CONVERTED TO THAT OF COMPULSORY
RETIREMENT W.E.F THE DATE OF DISMISSAL
FROM SERVICE WHICH IS 03-08-1996 WITH
ALL BACK BENEFITS OR HE MAY ALLOW
COMPENSATE ALLOWANCE WHICH IS EQUAL
TO 2/3 OF HIS PENSION FROM THE DATE OF
Removal
FROM SERVICE WHICH IS 03-08-
1996 WITH ALL BACK BENEFITS.

Respectfully Sheweth;

1. That the appellant is initially appointed as junior clerk in Police prison Department on 30-06-1981. (Copy of appointment letter is attached as Annexure-"A").
2. That appellant though out his whole service performed his duty with full devotion and with entire satisfaction of his superior.
3. That on 12-03-1997 the appellant was severally ill and was unable to perform his duty and he also submitted leave application through his wife on 24-08-1997. (Copy of illness certificate and leave application is attached as Annexure-"B & C")
4. That due to his severe illness the appellant has remove from service on dated 08-05-1999. (Copy of impugned order is attached as Annexure-"D").
5. That the appellant also submitted his departmental appeal on 28-04-2017 but no reply has been received so far. (Copy of departmental appeal attached as Annexure-"E").
6. That feeling aggrieved the appellant prefers the instant appeal for site aside the impugned order upon the following grounds, inter alia:-

GROUNDS:-

- A. That the appellant has been dismissed from service due to absence from duty which was not intentional but he was ill and was under treatment in IBADAT HOSPITAL in Peshawar and he also has sent his leave application to his office. It is further submitted that the charges of absence from duty if even to a petty misconduct and dismissal from service on such charge is extremely a very harsh punishment and so the impugned order dated 08-05-1999 is liable to be converted into compulsory retirement from service and pensioner benefits may be allowed to the appellant from 03-08-1996 with all back benefits.
- B. That the no show cause notice has been served upon the appellant and also no regular inquiry in the matter has been conducted which was necessary under the law so the impugned order dated 08-05-1999 is liable to be converted into compulsory retirement from 03-08-1996 or compensatory allowances may be allowed to the appellant which is equal to 2/3 pension from 03-08-1996. (Notification is attach as Annex ' F ').
- C. That the last opportunity of personnel has not been given to the appellant and he has been condemned unheard so the impugned order 08-05-1999 may either be converted to compulsory retirement from 03-08-1996 with all back benefits or the appellant may be

granted compensate allowance which is equal to 2/3 pension of appellant service of 16 years in Police Prison Department.

D. That as per judgment of August Supreme Court of Pakistan the decision of the cases merits shall always to be encouraged instead of non suiting of litigants for technical reason including limitation, so to this effect the appellant is entitled to the relief as prayed for.

E. That the impugned order dated 08-05-1999 is illegal, malafidely, without jurisdiction, without lawful authority and may either be converted in to compulsory retirement from 03-08-1996 including back benefits or compensate allowance which is equal to 2/3 of pension of appellant service including arrears.

F. That the appellant seeks leave of this Hon'ble Tribunal to relay on additional ground at the time of arguments.

It in, therefore, most humbly prayed that on acceptance of the instant appeal the impugned order dated 08-05-1999 may either be converted into compulsory retirement of the appellant from service from 03-08-1996 with pensioner benefits including arrears or he may be allowed compensate allowance of 16 years of his service for which is entitled to 2/3 of his pension from 03-08-1996 including arrears to meet the end of justice any other relief as deemed proper may also be granted to the appellant.

Dated: 23-08-2017

Through

M. Saeed
Appellant

D
ROEEDA KHAN

&

A. Shaz
AFSHA MANZOOR

Advocate High Court,
Peshawar.

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BEFORE THE HON'BLE SERVICES TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR

In Re S.A No _____/2017

Muhammad Saeed
V/S

Police Prison Department

APPLICATION FOR CONDONATION OF
DELAY IN FILING THE ABOVE NOTED
APPEAL

RESPECTFULLY SHEWETH,

1. That the appellant has filed an appeal along with this application in which no date has been fixed so far.
2. That the appellant prays for the condonation of delay in filing the above noted appeal inter alia on the following grounds:

GROUND OF APPLICATION:

- A. That valuable rights of the appellant are involved in the case hence the appeal deserve to decide on merit.
- B. That it has been the consistent view of the Superior Courts that cases should be decided on merit rather on technicalities including the limitation. The same is reported in 2004 OKC (CS) 1014 and 2003 PLC (CS) 76.

It is, therefore, prayed that on acceptance of this application the delay in filing the above noted appeal may please be condoned.

M. Saeed
Appellant

Through

D
ROEEDA KHAN
&
AFSHA MANZOOR
Advocate High Court,
Peshawar
A. Khan

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BEFORE THE HON'BLE SERVICES TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR

In Re S.A No -----/2017

Muhammad Saeed
V/S
Police Prison Department

AFFIDAVIT

I, Muhammad Saeed S/o Muhammad Yousaf R/O House No.R/45, Mohallah Syed Ahmad Colony near Sunehri Masjid Peshawar do hereby solemnly affirm and declare on oath that as per information furnished by my client, all the contents of the Instant appeal are true and correct to the best my knowledge and belief and nothing has been concealed from this honorable Tribunal.

M. Saeed

Deponent



(32) 7

BEFORE THE HON'BLE SERVICES TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR

In Re S.A No -----/2017

Muhammad Saeed
V/S
Police Prison Department

ADDRESSES OF PARTIES

ADDRESS OF APPELLANT

Muhammad Saeed S/o Muhammad Yousaf R/O House
No.R/45, Mohallah Syed Ahmad Colony near Sunehri Masjid
Peshawar

ADDRESSES OF RESPONDENTS

1. The Inspector General of Prison KPK, Peshawar
2. The Provincial Police Officer KPK, Peshawar.
3. The secretary home of tribal affair Department KPK.

Dated 23-08-2017

M. Saeed

Appellant

Through

R

ROEEDA KHAN

&

AFSHA MANZOOR

Advocate High Court, Peshawar

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Ann 'A' 8

Phone No. 76048/73171.

No. 8388, Dated Peshawar the 30/6/81

From The Inspector General of Prisons,
N.W.F.P., Peshawar.

To Mr. Mohammad Saeed S/O Mohammad Yousaf

House No. 5 Sunehri Masjid Colony, Sunehri Masjid Colony Road,
Peshawar cantt.

SUBJECT:- APPOINTMENT AS JUNIOR CLERK/~~DISPENSER/XXXXXXXXXX~~

Memo: Reference your interview/test dated 27/5/81.
The undersigned pleased to offer you a temporary pos of
Junior Clerk/~~XXXXXXXXXXXX~~ in this Department on pay Rs. 290/- P.M.
in the National Pay Scale No. (5) viz 290-10-350/12-470

Your appointment is subject to the following conditions:-

- 1):- Your appointment will take effect from the date you join duty at the office of your posting.
- 2):- Your appointment is purely temporary and your services are liable to be terminated at any time on 15 days notice without assigning any reason.
- 3):- No.T.A. will be admissible to you for joining your first appointment.
- 4):- In case you wish to resign at any time you will give a ~~XXXXXX~~ one month notice OR in lieu thereof one month's pay will be forfeited from you subject to the decision of the competent authority in the Public Interest.
- 5):- Your appointment is subject to your Medical Fitness for Government Service.
- 6):- You will be eligible for continuance on the post if your work and conduct remained satisfactory during the period of your this temporary appointment provided the vacancy against which you have been appointed continues.
- 7):- Your services will be terminated if your work and conduct is not found satisfactory OR the vacancy ceases to exist.
- 8):- The terms and conditions of your service will be those as laid down in the West Pakistan Government Temporary Employment Rules, and Prisons Department ~~XXXXXXXXXXXX~~ services Rules, ~~1963~~. 1980.
- 9):- You will be liable to serve any where in the Jails/Lockups/ Inspectorate of Prisons, NWFP., Peshawar.
- 10):- For all other purposes such as pay T.A and Medical Attendance etc., you will be governed by such Rules as may be issued by the Govt. for the category of Govt. servants of the Prisons Deptt. to which you will belong.
- 11):- You will be governed by the West Pakistan Government Servants (CONDUCT Rules, 1966, the NWFP., Govt. Servants (Efficiency and Discipline) Rules, 1973, Punjab Jail Manual (1932 Edition) and other Rules/Regulations framed by the Government or to be framed from time to time.

Received by A. Saeed

If you accept the appointment on the above cited terms and Pesh. conditions you should report to the Administrative Officer, Prisons Inspectorate 10 days from the date of issue of this letter at your own expense. In case you failed to join duty within 10 days, the offer of appointment will be treated as CANCELLED/WITHDRAWN.

[Signature]
Lt. Col (Rtd) MOSAM KHAN WAZIR S.Bt. TI (M)
INSPECTOR GENERAL OF PRISONS,

(39)

Annex A

9

Endst:No.

8389-90

, Dated Peshawar the

30-6-81

Copy forwarded to the:-

1. Office Superintendent-II Prisons Inspectorate for information. On arrival of the above named official an undertaking should be taken from him to the effect that he has accepted all terms and conditions as contained in the offer of his appointment. The Nominal Roll form should also please be get completed from him, which is enclosed herewith. **His appointment is vice Mr. Abdul Jalil Junior Clerk promoted.**
2. Accountant General NWFP., Peshawar. for information.

Sd/-

Lt. Col (Rtd) MOSAM KHAN WAZIR S. Bt. TI (M)
INSPECTOR GENERAL OF PRISONS,
N.W.F.P., PESHAWAR.

SH/BIK/

Attended by
Dhan



35

Annex B

10

IBADAT HOSPITAL

(PVT Ltd) Reg No S/m/IH/3/97-168/97

Dr. Khalid Ali Mufti

FRC Psych.

Chief Executive

Consultant Psychiatrist

TO WHOM IT MAY CONCERN

It is certified that Muhammad Saeed, S/O Muhammad Yousaf, and D.O.B 02/02/1960, bearing ID card No: 17301-8799022-3 is under my treatment since 12/03/1997 till continuing. During this period he suffered from moderate mental illness with periodic acute disturbed behavior.

Khalid

PROF. DR. KHALID MUFTI
FRC PSYCH (UK)
Consultant Psychiatrist
IBADAT HOSPITAL (PVT) LTD
EE-32 Nishtarabad Peshawar

Accepted by Khan

To

(36)

Annex C 11

The Inspector General of Prison,
KPR Peshawar,

Subject: GRANT OF LEAVE.

Sir,

With due respect I beg to state
that due to severe illness I (M. Saied)
is not able to come to prison department
for 5 years due to severe illness.

It is therefore, requested that
the leave ask above may please be
sanction in my favour as my doctor
prescribe for complete bed rest
Thanking you.

M. Saied
Yours obediently
M. Saied.

24-8-97

Attested by
A. Khan

99
283



OFFICE OF THE
INSPECTOR-GENERAL OF PRISONS,
N.-W.F.P., PESHAWAR.

Tele. No. 9210937/9210334

No. 3/2-J-81/6459.

Dated 8-5-99.

ORDER

In exercise of powers conferred under rule 5(4) of NWFP Government Servants (Efficiency and Discipline) Rules 1973, Junior Clerk Mr. Muhammad Saeed attached to the office of the I.G. Prisons is hereby awarded the punishment of Removal from service with effect from 3-8-1998, for his wilful absence from duty.

INSPECTION GENERAL OF PRISONS
N.W.F.P., PESHAWAR.

Order No. 6460-62 / ..

Copy of the above is forwarded to :-

- 1- The Accountant General N.W.F.P., Peshawar, for information.
- 2- Mr. Abdul Latif Arshed, Superintendent Central Prison Haripur, for information with reference to his memo No. 543 dated 4-3-99.
- 3- Mr. Muhammad Saeed, C/o Mst. Nadia Saeed, Reporter/Correspondent, Daily Jang Peshawar Bureau, 2-56 Sadar Road Peshawar Cantt.; for information.

8-27-99
3-

ADMINISTRATIVE OFFICER,
OFFICE OF THE INSPECTOR GENERAL OF
PRISONS, N.W.F.P., PESHAWAR.

Attended
by A. Khan

8/5/99

38 Annex E 13.

To,
The secretary,
Government of the Khyber Pakhtunkhwa,
Home and Tribal Affairs Department.

Subject:- DEPARTMENTAL APPEAL

Dear sir,

Respectfully, it is stated that I have been appointed as Junior Clerk (BPS-5) in prison department through prison Department's order dated: 30-06-1981.

However, on a charge of my absence from duty. I had been removed from service by prison department through its order No. 3/2-J-81/6459-62, dated 08-02-1999. (Annex 'I') /61.

It is very humbly submitted that I have rendered approximately 16 years service to the provincial Government and these days, I alongwith my family is passing through very miserable condition, I did solid and strong efforts to search out any source of income. But now at the age of 55 years, when I has already spent 16 years service in the Government Department and more then Sixteen (16) years have been passed of my removal from service, I remained successfully to get opportunity for my family.

Sub-Section (3) of section 16 of the Khyber Pakhtunkhwa Civil servant Act, 1973 provides that in case of dismissal from service for reason of discipline, the government may sanction compassionate allowance to such civil servant, not exceeding two-third of the pension or gratuity, which would have been admissible to him had he been admissible to him. (Annex: "II").

It the light of all above, I would be at fault for my mistake, but due to repercussion of the punishment given to me my family is harshly affecting therefore, it is very humbly requested that at this stage, keeping in view of my family miserable condition, I may kindly be compulsory retired with all back benefits or granted compassionate allowance with all back benefits from the date of my removal from service, on humanitarian grounds for my family assistance.

I alongwith my family, cross my fingers and pray for you and your family.

Thakns in anticipation!

*Attended by
Dharm*

Date 28.4.2017.

Yours Faithfully, *S. M. Saeed*
(Muhammad Saeed) S/o
Muhammad Yousaf R/o
House No. R/45, Mohallah
Syed Ahmad Colony, near
Sunerhri Masjid, Peshawar
0333-9242438

EXTRAORDINARY

GOVERNMENT



Annex F 14

REGISTERED NO. P.III

G A Z E T T E

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, THURSDAY, 20TH SEPTEMBER, 2012.

PROVINCIAL ASSEMBLY SECRETARIAT,
KHYBER PAKHTUNKHWA

NOTIFICATION

Dated Peshawar, the 20th September, 2012.

No. PA/Khyber Pakhtunkhwa/Bills/2012/6077.—The Khyber Pakhtunkhwa Sacked Employees (Appointment) Bill, 2012 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 10th September, 2012 and assented to by the Governor of the Khyber Pakhtunkhwa on 17th September, 2012 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

THE KHYBER PAKHTUNKHWA SACKED EMPLOYEES (APPOINTMENT) ACT, 2012

(KHYBER PAKHTUNKHWA ACT NO. XVII OF 2012)

(first published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa (Extraordinary), dated the 20th September, 2012).

AN
ACT

*to provide relief to those sacked employees in the Government service,
who were dismissed, removed or terminated from service,
by appointing them into the Government service*

WHEREAS it is expedient to provide relief to those sacked employees who were appointed on regular basis to a civil post in the Province of the Khyber Pakhtunkhwa and who possessed the prescribed qualification and experience required for the said post, during the period from 1st day of November, 1993 to the 30th day of November, 1996 (both days inclusive) and were dismissed, removed, or terminated from service during the period from 1st day of November, 1996 to 31st day of December, 1998 on various grounds;

WHEREAS the Federal Government has also given relief to the sacked employees by enactment;

Assented by AS/12/12

AND WHEREAS the Government of the Khyber Pakhtunkhwa has also decided to appoint these sacked employees on regular basis in the public interest;

It is hereby enacted as follows:

1. Short title, extent and commencement.—(1) This Act may be called the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012.

(2) It shall apply to all those sacked employees, who were holding various civil posts during the period from 1st day of November, 1993 to 30th day of November, 1996 (both days inclusive).

(3) It shall come into force at once.

2. Definitions.— In this Act, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them that is to say,—

(a) "civil post" means a post created by the Finance Department of Government for the members of civil service of the Province;

(b) "Department" means the Department and the Attached Department as defined in the Khyber Pakhtunkhwa Government Rules of Business, 1985, including the Divisional and District offices working thereunder;

(c) "Government" means the Government of the Khyber Pakhtunkhwa;

(d) "Prescribed" means prescribed by rules;

(e) "Province" means the Province of the Khyber Pakhtunkhwa;

(f) "rules" means the rules made under this Act; and

(g) "sacked employee" means a person who was appointed on regular basis to a civil post in the Province and who possessed the prescribed qualification and experience for the said post at that time, during the period from 1st day of November, 1993 to the 30th day of November, 1996 (both days inclusive) and was dismissed, removed, or terminated from service during the period from 1st day of November, 1996 to 31st day of December, 1998 on the ground of irregular appointments.

3. Appointment of sacked employees.—Notwithstanding anything contained in any law or rule for the time being in force, on the commencement of this Act, all sacked employees subject to section 7, may be appointed in their respective cadre of their concerned Department, in which they occupied civil posts before their dismissal, removal and termination from service:

Provided that the sacked employees shall be appointed against thirty percent of the available vacancies in the said Department:

Provided further that the appointment of sacked employees shall be subject to the medical fitness and verification of their character antecedents to the satisfaction of the concerned competent authority.

4. Age relaxation.---The period during which a sacked employee remained dismissed, removed or terminated from service, till the date of their appointment shall be deemed to have been automatically relaxed and there shall be no further relaxation under any rules for the time being in force.
5. Sacked employees shall not be entitled to claim seniority and other back benefits.--- A sacked employee appointed under section 3, shall not be entitled to any claim of seniority, promotion or other back benefits and his appointment shall be considered as fresh appointment.
6. Preference on the basis of age.--- On the occurrence of a vacancy in the respective cadre of the concerned Department of the sacked employee against the thirty percent available share, preference shall be given to the sacked employee who is older in age.
7. Procedure for appointment.---(1) A sacked employee, may file an application, to the concerned Department within a period of thirty days from the date of commencement of this Act, for his appointment in the said Department:

Provided that no application for appointment received after the due date shall be entertained.

(2) The concerned Department shall maintain a list of all such sacked employees whose applications are received under sub-section (1) in the respective cadres in chronological order.

(3) If any vacancy occurs against the thirty percent available share of the sacked employee in any Department, the senior in age from such sacked employee shall be considered by the concerned Departmental Selection Committee or the District Selection Committee, as the case may be, to be constituted in the prescribed manner, for appointment:

Provided that no willingness or response is received within a period of thirty days, the next senior sacked employee shall be considered for appointment.

(4) The concerned Departmental Selection Committee or District Selection Committee, as the case may be, will determine the suitability or eligibility of the sacked employee.

(5) If no sacked employee is available against thirty percent vacancy reserved in respective cadre in a Department, then the post shall be filled through initial recruitment.

8. Removal of difficulties.--- If any difficulty arises in giving effect to any of the provisions of this Act, the Chief Minister Khyber Pakhtunkhwa may issue such order not inconsistent with the provision of this Act, as may appear to him to be necessary for the purpose of removing the difficulty:

Provided that no such power shall be exercised after the expiry of one year from coming into force of this Act.

Attested by
A Khan

9. Act to override other laws.— Notwithstanding anything to the contrary contained in any other law or rules for the time being in force, the provisions of this Act shall have overriding effect and the provisions of any other law or rules to the extent of inconsistency to this Act, shall cease to have effect.
10. Power to make rules.— Government may make rules for carrying out the purpose of this Act.

BY ORDER OF MR. SPEAKER

PROVINCIAL ASSEMBLY OF KHYBER
PAKHTUNKHWA

(AMANULLAH)

Secretary

Provincial Assembly of Khyber Pakhtunkhwa

Printed and published by the Manager,
Staty. & Ptg. Deptt., Khyber Pakhtunkhwa, Peshawar.

*Shed sahib
press*

10

P. Khan

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

ایڈریس: ایسوسی ایشن نمبر: _____

رابطہ نمبر: _____

96864

SCANNED KPST Peshawar

PESHAWAR BAR ASSOCIATION PBA

Before the Court of Service Tribunal

بعد از کتاب

مخانب: سائل -

دعویٰ: _____

علت نمبر: _____

مورخہ: _____

جرم: _____

تھانہ: _____

محمد سعید بنام

Police Prison Department

بامث تحریر آگہ

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

مقام کے اصرار پر روٹیل کے ایجنٹ ان کے کوٹیشن 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 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 کی طرف یا اپیل کی برآمدگی اور منسوخی، نیز

دائر کرنے اپیل نگرانی و نظرتانی 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 ہوگا اور صاحب

مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داخستہ منظور و قبول ہوگا

دوران مقدمہ میں جو خرچہ ہر جانبہ 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 دستخط

المرقوم:

گواہ شد

مقام

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

(42)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

In the matter of
Service Appeal No.932/2017
Muhammad Saeed, Ex-Junior Clerk,
Attached to office of the I.G. Prisons KP Peshawar.....**Appellant.**

VERSUS

- 1- Inspector General of Prisons
Khyber Pakhtunkhwa, Peshawar.
- 2- Provincial Police officer.
Khyber Pakhtunkhwa, Peshawar.
- 3- Secretary to Govt. of Khyber Pakhtunkhwa
Home and T.As Department Peshawar.....**Respondents**

SCANNED
KFST
Peshawar

Preliminary Objections.


- i. That the appellant has got no cause of action.
- ii. That the appeal is incompetent and is not maintainable in its present form, as per Judgment of Provincial Service Tribunal dated; 20-08-2008 whereby it has been added that keeping in view the time barred nature of the present appeal, we dismiss the same with costs.
- iii. That the appellant is estopped by his own conduct to bring the present appeal.
- iv. That the appellant has no locus standi.
- v. That the appeal is bad for mis joinder and non-joinder of necessary parties.
- vi. That the appeal is **hopelessly time barred.**


FACTS

Para-1 to 6 read with grounds Para-A to F.

Here it is pertinent to mention that the appellant concealed the facts of his earlier Service appeal case from the Khyber Pakhtunkhwa Learned Service Tribunal as per record, the appellant filed a Service Appeal bearing No. 284/2008 wherein raised the said question of law which was accordingly considered by the Learned Provincial Service Tribunal and announced its Judgment dated; 20-08-2008 **(Annex A)** whereby the said Service Appeal was dismissed on the grounds that the appeal is time barred, hence, dismissed the same with costs.

In view of the above, the appeal of Muhammad Saeed Ex-Junior Clerk may be dismissed with costs please.


SECRETARY TO GOVERNMENT.
Of Khyber Pakhtunkhwa
Home & T.As Department Peshawar.
(Respondent No.3)


INSPECTOR GENERAL OF PRISONS
Khyber Pakhtunkhwa Peshawar
(Respondent No.1)

24/8/17

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2

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

In the matter of
Service Appeal No.932/2017
Muhammad Saeed, Ex-Junior Clerk,
Attached to office of the I.G. Prisons KP Peshawar.....**Appellant.**

VERSUS

- 4- Inspector General of Prisons
Khyber Pakhtunkhwa, Peshawar.
- 5- Provincial Police officer
Khyber Pakhtunkhwa, Peshawar.
- 6- Secretary to Govt. of Khyber Pakhtunkhwa
Home and T.As Department Peshawar.....**Respondents**

COUNTER AFFIDAVIT ON BEHALF OF RESPONDENTS NO. 1 TO 2.

We the undersigned respondents do hereby the solemnly affirm and declare that the contents of the parawise comments on the above cited appeal are true and correct to the best of our knowledge and belief and that no material facts has been kept secret from this Honourable Tribunal.

SECRETARY TO GOVERNMENT.
Of Khyber Pakhtunkhwa
Home & T.As Department Peshawar.
(Respondent No.3)

INSPECTOR GENERAL OF PRISONS
Khyber Pakhtunkhwa Peshawar
(Respondent No.1)

24/11/17

(44)

Annex-A

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BEFORE SERVICE TRIBUNAL N.W.F.P PESHAWAR

Service Appeal No. 284/2008

Date of Institution ... 01/02/2008
Date of Decision ... 20/08/2008



Muhammad Saeed,
S/O Muhammad Yousaf,
R/O H. No. 5,
Sunehri Masjid Colony,
Peshawar Cantt.....Appellant

VERSUS

1. Inspector General of Police,
N.W.F.P, Peshawar.
2. Secretary,
Government of N.W.F.P,
Home Department,
Peshawar.
3. Inspector General Prisons,
N.W.F.P. Peshawar.....Respondents

APPEAL AGAINST OFFICE ORDER NO. 3/2-J-81/6459, DATED 08.05.1999 OF RESPONDENT NO. 1 WHEREBY APPELLANT WAS REMOVED FROM SERVICE RETROSPECTIVELY OR OFFICE ORDER NO.KC-2/15-SOL (PRS) HD/2004 DATED 26.02.2007 OF RESPONDENT NO.2, WHEREBY REPRESENTATION OF APPELLANT WAS REJECTED FOR NO LEGAL REASON.

Mr. Saadullah Khan Marwat, Advocate.....For Appellant
Mr. Tahir Iqbal, A.G.P.....For Respondents

MR. JUSTICE (R) SALIM KHANCHAIRMAN
DR. ABDUR RAUF.....MEMBER

JUDGMENT:

DR. ADBUR RAUF- MEMBER: The appellant contended that he was appointed as Junior Clerk on 30.06.1981. He remained on five years' extraordinary Ex-Pakistan leave with effect from 04.08.1991. He appeared for duty on 05.05.1996 with the request that his remaining leave be cancelled. He, however, submitted another application for grant of further five years' leave, which was sanctioned in record and the appellant left for abroad. He was then served with show cause notice to which he submitted his reply. The Enquiry

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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Officer reported that the appellant did not absent himself deliberately, rather he was ignorant and negligent. The Enquiry Officer recommended that two annual increments of the appellant be stopped and his period of absence from duty be declared as leave without pay. The appellant was removed from service on 08.05.1999 w.e.f 03.08.1996. The appellant submitted appeal immediately which was not replied. He again submitted another application on 26.05.2004 which was rejected on 26.02.2007. The appellant submitted application for copy of the rejection order on 29.01.2008 which was received by the office on 06.01.2008. The present appeal was filed on 01.02.2008.

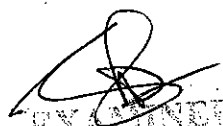
2. It appears that intentionally or unintentionally, the dates mentioned above have wrongly been recorded.

3. The respondents contested the appeal on various grounds, including the ground that the appellant was served with a charge sheet bearing no. 231 dated 12.02.1997 to which his father asked for correct address. The charge sheet was again sent alongwith covering letter no. 1289-90 dated 02.06.1997. The appellant did not resume the duty inspite of the fact that the leave was not sanctioned, and that the appellant was required to approach the Tribunal within 30 days from the date of rejection of the 1st appeal.

4. We heard the arguments and perused the record.

5. The original order of removal of the appellant from service was passed on 08.05.1999. He did not file any service appeal during those days. The present appeal has become miserably time-barred. The appellant could not show that any leave was sanctioned in his favour and was so notified. It appears that the appellant tried to arrange fresh leave for him, and did not resume duty inspite of the fact that he was not allowed any further leave. The order dated 8.5.1999, made effective retrospectively from 3.8.1996, is illegal to that extent. The period from 3.8.1996 to 7.5.1999 had to be declared as unauthorised absence of the appellant from duty without pay, and the order dated 8.5.1999 was to become effective with immediate effect. We direct the respondents to issue correction order accordingly. Such correction shall not provide fresh cause of action to the appellant, as being correction order in favour of the appellant.

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar.

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6. With the above observation, keeping in view the time-barred nature of the present appeal, we dismiss the same with costs.

ANNOUNCED
20.08.2008.

SD/-
(JUSTICE (R) SALIM KHAN
CHAIRMAN

SD/-
(DR. ABDUR RAUF)
MEMBER.

Certified to be true copy
Khatun Gulistan
Service Tribunal,
Peshawar

Date of Presentation of Application: 19-10-17

Number of Witnesses: 12-00

Copying Fee: 8-

Urgent: 2-

Total: 10-

Name of Copy: [Signature]

Date of Completion: 19-10-17

Date of Delivery of Copy: 19-10-17

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BEFORE THE COURT OF SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No. 932/17

Muhammad SaeedAppellant

VERSUS

IGP Prison of KPK Peshawar and othersRespondents

REPLY OF APPLICATION ORDER 1 RULE 10 CPC

Respectfully Sheweth,

It is submitted as under;

1. Admitted
2. Admitted
3. Admitted
4. Correct but the provincial police officer was erroneously impleaded in the service appeal
5. Admitted
6. Admitted

It is, therefore, prayed that provincial police officer KPK may kindly be struck out from the list of respondents.

M. Saeed
Appellant
N

Through

&
Roeda Khan
Afsha Mazoor
Advocates Peshawar
Afsha

Date: 8.4.18.

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BEFORE THE COURT OF SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No. 932/17

Muhammad SaeedAppellant

VERSUS

IGP Prison of KPK Peshawar and othersRespondents

REPLY OF APPLICATION ORDER 1 RULE 10 CPC

Respectfully Sheweth,

It is submitted as under;

1. Admitted
2. Admitted
3. Admitted
4. Correct but the provincial police officer was erroneously impleaded in the service appeal
5. Admitted
6. Admitted

It is, therefore, prayed that provincial police officer KPK may kindly be struck out from the list of respondents.

M. Saeed

Appellant

Through

R

Roeeda Khan

&

Afsha Mazoor
Advocates Peshawar

Afsha Mazoor

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BEFORE THE HON'BLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL

In C.M. _____/2021

IN S.A # _____/_____

Muhammad Saeed

VERSUS

Police Department

APPLICATION FOR IMPLEADMENT OF LEGAL
HEIRS OF DECEASED NAMELY MUHAMMAD
SAEED, (1) NADIA SABOOHI (WIDOW), (2) MAHA
SAEED (DAUGHTER/ MINOR), (3) MAAZ BIN
SAEED (SON/ MINOR), (MINORS THROUGH
MOTHER) ON THE PANEL OF APPELLANTS
BEING NECESSARY AND IMPORTANT PARTY.

Respectfully Sheweth,

1. That the captioned Service Appeal is pending adjudication before this August Tribunal and is fixed for 03/11/2021.
2. That the Appellant namely Muhammad Saeed has died on dated: 30/12/2020. (Copy of Death Certificate is annexed)
3. That the deceased has left behind legal heirs including widow namely Nadia Saboohi, a daughter Mst. Maha Saeed and a son namely

Maaz Bin Saeed. (Copy of list of Family Members is annexed)

4. That now the legal heirs of the deceased want to carry out the case of the deceased Appellant.
5. That there is no legal bar on the impleadment of the above mentioned legal heirs on the panel of Respondents.

It is, therefore, most humbly prayed that on the above mentioned legal heirs may kindly be impleaded as mentioned in the heading of application.

Dated: 03-11-2021

Through

Applicant/Appellant



Roeeda Khan
Advocate, High Court,
Peshawar.




KHYBER TEACHING HOSPITAL, PESHAWAR

No. 621 KTH/MMR Dated: 27/01/2021

DEATH CERTIFICATE

Name of Deceased : Sheikh Muhammad Saeed
Age : 61 Years
Sex : Male
Disease : IHD/DM/HTN/Shock
CNIC No. : 17301-8799022-3
MR. No. : 3031317
Unit : Medical C Ward
Place of Death : Medical C Ward
Cause of Death : Cardio Pulmonary Arrest
Date of Arrival : 30-12-2020
Date of Death : 30-12-2020
Time of Death : 01:45:00 PM


27/01/2021
Manager Medical Record,
(MTI) Khyber Teaching Hospital,
Peshawar.

January 27, 2021

حکومت پاکستان

CRC No: 100100-07-0001599-02

نیشنل ڈسٹریس لیزنڈر جسٹریشن اتھارٹی (وزارت داخلہ)
اٹھارہ سال سے کم عمر بچوں کا سرٹیفکیٹ

17301-3101287-4

درخواست دہندہ کا شناختی کارڈ نمبر

نادیہ صبوحی

درخواست دہندہ کا نام

بچے کا نام / رجسٹریشن نمبر	ولد کا نام / شناختی کارڈ نمبر	داندہ کا نام / شناختی کارڈ نمبر	جنس / لڑکا / لڑکی	پیدائش کا متعلق یا تکمیل / تاریخ پیدائش
سماذ بن سعید 17301-9612479-7	شیخ محمد سعید 17301-8799022-3	نادیہ صبوحی 17301-3101287-4	لڑکا	پشاور 27/04/2000
ہما سعید 17301-3113860-8	شیخ محمد سعید 17301-8799022-3	نادیہ صبوحی 17301-3101287-4	لڑکی	پشاور 18/05/2006

اس فیملی کے مندرجہ بالا اٹھارہ سال سے کم عمر 2 بچوں کا اندراج ہمارے ریکارڈ میں موجود ہے۔
 درج شدہ بچے کی عمر اٹھارہ سال ہوتے ہی شناختی کارڈ کے حصول کیلئے درخواست جمع کروائیں۔
 اس سرٹیفکیٹ کو منسباًل کر رکھیں کیونکہ بچوں کے کارڈ اٹھارہ سال کی عمر کو پہنچنے پر انہی نمبروں کے حوالے سے جاری کئے جائیں گے۔
 درج آئیدہ بچے کا فوری طور پر اندراج کروائیں اور نیا رجسٹریشن سرٹیفکیٹ حاصل کریں۔
 وقت کی تبدیلی کی صورت میں نیا رجسٹریشن سرٹیفکیٹ حاصل کریں۔

سلیم حسین

دستور رجسٹر جنرل

تاریخ اجراء 08/05/2007

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Muhammad Saeed

VERSUS

Police Prison Department Peshawar

LIST OF LEGAL HEIRS

The list of legal heirs of deceased Muhammad Saeed
is as under:-

1. Mst. Nadia Saboohi (Widow)
2. Mst. Maha Saeed (Daughter)
3. Maaz Bin Saeed (Son)

Dated: 30-08-2021

Applicants

Through



Roeda Khan
Advocate, High Court,
Peshawar.

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

Service Appeal No. 932/2017
Muhammad Saeed (Ex-Junior Clerk).....

SCANNED
KPST
Peshawar
Appellate

VERSUS

Inspector General of Prisons
Khyber Pakhtunkhwa, Peshawar and others.....**Respondents**

**Subject:- REPLY ON BEHALF OF RESPONDENT ON APPLICATION FOR
IMPLEADMENT OF LEGAL HEIRS OF DECEASED MUHAMMAD
SAEED**

INDEX

S.NO.	DESCRIPTION OF DOCUMENTS	Annex	Page No.
1.	Para-wise Comments	-	1-3
2.	I.G Prisons Office Order dated 08-05-1999	A	4
3.	Copy of Judgment dated 20-08-2008 passed in Service Appeal No. 284/2008	B	5-7


Deponent

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

Service Appeal No. 932/2017

Muhammad Saeed (Ex-Junior Clerk).....Appellant

VERSUS

Inspector General of Prisons

Khyber Pakhtunkhwa, Peshawar and others.....Respondents

**Subject:REPLY ON BEHALF OF RESPONDENTS ON APPLICATION FOR
IMPLEMENTATION OF LEGAL HEIRS OF DECEASED NAMEDLY MUHAMMAD
SAEED.**

Preliminary Objections

- i. That the appellant has got no cause of action.
- ii. That the present application/appeal is not maintainable in its present form.
- iii. That the appellant is estopped by his own conduct to bring the present appeal/application.
- iv. That the appellant has got no *locus standi*.
- v. That the present appeal/application is bad for mis joinder and non-joinder of necessary parties.
- vi. That the appeal of the appellant is badly time barred.
- vii. That the present appeal/application is not tenable in the eyes of law.
- viii. That the present appeal is not competent on this score alone that this Honorable Tribunal already decided the cited case on the same cause of action vide Judgment Dated 20/08/2008.

Objections on Facts

1. No comments.
2. Subject to proof.
3. Subject to proof.
4. In response of Para No. 04 of application the facts of the case are given as under:
 - i. That Muhammad Saeed (appellant) was appointed as Junior Clerk in the Prisons Department w.e.f.30-06-1981. On 19-06-1991, he applied for grant of Extraordinary Leave Ex-Pakistan for five years vide his application dated 19-06-1991. As his request was covered under Rule (12) of the NWFP Civil Servants Revised Leave Rules-1981, therefore he was granted Extraordinary Leave Ex-Pakistan for 1823 days with effect from 04-08-1991. He was due to resume his duty on 03-08-1996. However, on 05-05-1996, he reported back for duty and requested that the remaining period of his leave may be cancelled on 07-05-1996. He submitted another application for the grant of leave for further five years w.e.f 08-05-1996. Not waiting for decision on his application, he proceeded on leave on his own accord. He was informed vide Inspector General of Prisons office memo No.9899 dated 13-06-1996 that the un-expired period of his leave was cancelled and he should report for duty on the expiry of 1823 days leave immediately.
 - ii. He was also informed that his request for the grant of leave without pay for a further period of five years is not covered under Rule-12 of the NWFP Civil Servants Revised Leave Rules-1981 and as such it cannot be acceded to. Later on, the remaining portion of his leave was cancelled vide Inspector General of Prisons office memo no. 11817 dated 11-07-1996 and he was directed to report for duty in this office within one week failing which his

service would be terminated. However, inspite of these orders, the said official failed to resume his duties.

- iii. Mr. Abdul Latif Arshad, the then Superintendent Central Prison Haripur was appointed as authorized officer in the above cited case and was directed to proceed against him under the NWFP Government Servants Efficiency & Disciplinary Rule-1973. He submitted his findings/ recommendations after completing all procedural formalities.
- iv. The authorized officer recommended that the period of absence from duty of the official concerned may be treated as leave without pay and he may be awarded the punishment of stoppage of annual increments for two years without future effect.
- v. As the appellant remained absent from duty even on the expiry of his 1823 days Extraordinary Leave, and no more leave was admissible to him under Rule(12) of the NWFP Civil Servants Revised Leave Rules-1981, therefore, the recommendations of the authorized officer were not agreed to, and a Show Cause Notice for "**Removal from Service**" was served upon him. He was also afforded the opportunity of personal hearing. As the charge of absence from duty which amounts to grave misconduct, therefore, he was awarded the punishment of "**Removal from Service**" vide Inspector General of Prisons office order dated 08-05-1999 (**copy enclosed**).
- vi. The appellant was required to file service appeal within the stipulated period against that very order i.e **Removal From Service** order dated 08-05-1999 of the competent authority but the appellant instituted service appeal in the year of 2008 bearing No. 284/2008 after a lapse of nine years of his removal from service which was dismissed on 20.08.2008 (**copy of judgment is enclosed**).
- vii. It is pertinent to mention that Honourable Service Tribunal vide its judgment *ibid*, dismissed the service appeal of the appellant, keeping in view the Time-barred nature of the appeal.
- viii. It is worth mentioning here that the appellant in his first appeal No. 284/2008 challenged the order dated 08-05-1999, (**Removal from Service order**) which was dismissed by the Honourable Service Tribunal Peshawar being badly time barred.
- ix. Now the appellant concealed the facts from the Honourable Service Tribunal and against the same cause of the action which was raised on first

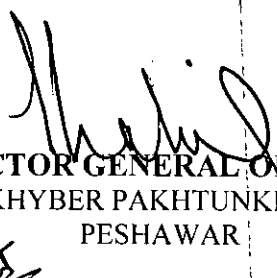
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appeal No.284/2008, filed instant service appeal No. 932/2017 in which the respondent Department has already submitted reply/ comments, wherein the appellant raised the same question of Law which was accordingly considered and dismissed by the Learned Provincial Service Tribunal Peshawar vide its judgment dated 20-08-2008. The plea of the appellant taken in the instant appeal comes with in the ambit of Res-Judicata. Hence liable to be dismissed as was previously dismissed.

5. No comments.

Prayer:

It is therefore humbly prayed that on the acceptance of reply on application for implement of legal heirs of the deceased Muhammad Saeed, and keeping in view the facts as mentioned above the service appeal of the appellant may kindly be dismissed with cost being devoid of merit and Law.


INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA,
PESHAWAR


25.11.2021



original (58) Annex "A"

OFFICE OF THE
INSPECTOR-GENERAL OF PRISONS,
N.-W.F.P., PESHAWAR.

2582
Tele. No. 9210937/9210334

No. 3/2-J-81/6459.

Dated 8-5-99.

ORDER

In exercise of powers conferred under Rule 5(4) of Government Servants (Efficiency and Discipline) Rules 1973, Junior Clerk Mr. Muhammad Saeed attached to the office of the I.G. Prisons is hereby awarded the punishment of Removal from service with effect from 2-4-1996, for his wilful absence from duty.

INSPECTOR GENERAL OF PRISONS
NWFP, PESHAWAR.

Order No. 6460-62 / .

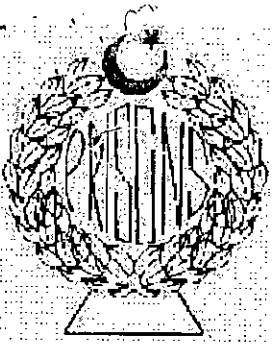
Copy of the above is forwarded to :-

- 1- The Accountant General NWFP, Peshawar, for information.
- 2- Mr. Abdul Latif Arshad, Superintendent Central Prison Haripur, for information with reference to his memo; No. 543 dated 4-3-99.
- 3- Mr. Muhammad Saeed, C/O Mr. Nadia Saeed, Reporter/ Correspondent, Daily Jang Peshawar Bureau, F-86 Saddar Road Peshawar Cantt.; for information.

275/99

275/99
ADMINISTRATIVE OFFICER,
OFFICE OF THE INSPECTOR GENERAL OF
PRISONS, NWFP, PESHAWAR.

O.C.



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Better Copy

OFFICE OF THE
INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR
☎ 9210937 / 9210334

No. _____ /

Dated _____ /

Order

In exercise of power conferred under Rule 5(4) of Khyberpakhtunkhwa Government Servant(Efficiency and Discipline) Rules 1973, Junior Clerk Mr. Muhammad Saeed attached to the office of the I.G.Prisons is hereby awarded the punishment of Removal from service with effect from 3-8-1996, for his willful absence from duty.

Endst: No. _____

INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR

Copy of the above is forwarded to the:-

1. The Accountant General Khyber Pakhtunkhwa Peshawar, for information.
2. Mr. Abdul Latif Arshad, Superintendent Central Prison Haripur, for information with reference to his memo; No.548 dated 4-3-99.
3. Mr. Muhammad Saeed, o/o Mst.Nadia Saeed, Reporter/Correspondent, Daily jeng Peshawar Bureau. F-86 Sadder Road Peshawar Cantt., for information.

ADMINISTRATIVE OFFICER
OFFICE OF THE INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR

(60)

"B"

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BEFORE SERVICE TRIBUNAL N.W.F.P PESHAWAR

Service Appeal No. 284/2008

Date of Institution ... 01/02/2008

Date of Decision ... 20/08/2008



Muhammad Saeed,
S/O Muhammad Yousaf,
R/O H. No. 5,
Sunehri Masjid Colony,
Peshawar Cantt.....Appellant

VERSUS

1. Inspector General of Police,
N.W.F.P, Peshawar.
2. Secretary,
Government of N.W.F.P,
Home Department,
Peshawar.
3. Inspector General Prisons,
N.W.F.P. Peshawar.....Respondents

APPEAL AGAINST OFFICE ORDER NO. 3/2-J-81/6459, DATED 08.05.1999 OF RESPONDENT NO. 1 WHEREBY APPELLANT WAS REMOVED FROM SERVICE RETROSPECTIVELY OR OFFICE ORDER NO.KC-2/15-SOL (PRS) DD/2004 DATED 26.02.2007 OF RESPONDENT NO.2, WHEREBY REPRESENTATION OF APPELLANT WAS REJECTED FOR NO LEGAL REASON.

Mr. Saadullah Khan Marwat, Advocate.....For Appellant
Mr. Tahir Iqbal, A.G.P.....For Respondents

MR. JUSTICE (R) SALIM KHANCHAIRMAN
DR. ABDUR RAUF.....MEMBER

JUDGMENT:

DR. ADBUR RAUF- MEMBER: The appellant contended that he was appointed as Junior Clerk, on 30.06.1981. He remained on five years' extraordinary Ex-Pakistan leave with effect from 04.08.1991. He appeared for duty on 05.05.1996 with the request that his remaining leave be cancelled. He, however, submitted another application for grant of further five years' leave, which was sanctioned in record and the appellant left for abroad. He was then served with show cause notice to which he submitted his reply. The Enquiry

ATTESTED

EXAMINED
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Officer reported that the appellant did not absent himself deliberately, rather he was ignorant and negligent. The Enquiry Officer recommended that two annual increments of the appellant be stopped and his period of absence from duty be declared as leave without pay. The appellant was removed from service on 08.05.1999 w.e.f 03.08.1996. The appellant submitted appeal immediately which was not replied. He again submitted another application on 26.05.2004 which was rejected on 26.02.2007. The appellant submitted application for copy of the rejection order on 29.01.2008 which was received by the office on 06.01.2008. The present appeal was filed on 01.02.2008.


2. It appears that intentionally or unintentionally, the dates mentioned above have wrongly been recorded.

3. The respondents contested the appeal on various grounds, including the ground that the appellant was served with a charge sheet bearing no. 231 dated 12.02.1997 to which his father asked for correct address. The charge sheet was again sent alongwith covering letter no. 1289-90 dated 02.06.1997. The appellant did not resume the duty inspite of the fact that the leave was not sanctioned, and that the appellant was required to approach the Tribunal within 30 days from the date of rejection of the 1st appeal.

4. We heard the arguments and perused the record.

5. The original order of removal of the appellant from service was passed on 08.05.1999. He did not file any service appeal during those days. The present appeal has become miserably time-barred. The appellant could not show that any leave was sanctioned in his favour and was so notified. It appears that the appellant tried to arrange fresh leave for him, and did not resume duty inspite of the fact that he was not allowed any further leave. The order dated 8.5.1999, made effective retrospectively from 3.8.1996, is illegal to that extent. The period from 3.8.1996 to 7.5.1999 had to be declared as unauthorised absence of the appellant from duty without pay, and the order dated 8.5.1999 was to become effective with immediate effect. We direct the respondents to issue correction order accordingly. Such correction shall not provide fresh cause of action to the appellant, as being correction order in favour of the appellant.

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal.

6. With the above observation, keeping in view the time-barred nature of the present appeal, we dismiss the same with costs.

ANNOUNCED
20.08.2008

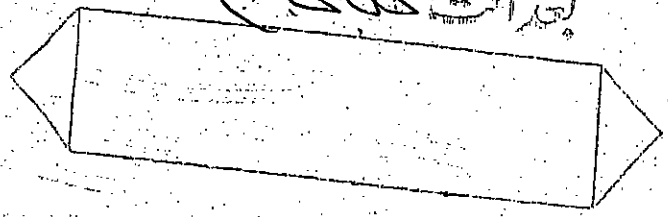
SD/-
(JUSTICE (R) SALIM KHAN
CHAIRMAN

SD/-
(DR. ABDUR RAUF)
MEMBER

Certified to be true copy
Khan
Service Tribunal,
Peshawar

Date of Presentation of Application 19-10-12
 Number of Words 1200
 Copying Charges 8-
 Urgent 2-
 Total 10-
 Name of Copyist [Signature]
 Date of Completion 19-10-12
 Date of Delivery of Copy 19-10-12

بعد ازاں صاحب محترم سے



اسلام آباد
لوگس

2021 پنجاب

پیام

محمد سعید

موردہ
مقدمہ
دعوی
جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
 آن مقام کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
 وکیل صاحب کو راشی نامہ کرنے و تقرر ثالث و فیصلہ پر خلاف دیئے جواب دہی اور اقبال دعوی اور
 بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ اور عرضی دعوی اور درخواست ہر قسم کی تصدیق
 زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یا طرہ یا ایبل کی بڑادگی
 اور منسوخی نیز دائر کرنے ایبل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت
 مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے
 تقرر کا اختیار ہوگا۔ اور صاحب متبر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے
 اور اس کا ساختہ پر داخہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے
 سب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں
 گے۔ کہ پیروی مذکور کریں۔ البتہ اذکالت نامہ لکھنا یا کہ سنڈر ہے۔

2021ء

لوگس

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الرقوم

راہ العیالہ کے لئے منظور ہے۔

Accepted By

لوگس

مقام