


FORM OF ORDER SHEET

Court of _____

12(2) CPC Petition No. 1152/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	09/10/2024	<p>The Petition U/S 12(2) CPC in service appeal no. 1099/2019 submitted today Mr. Gul Tiaz Khan Marwat Advocate. It is fixed for hearing before Division Bench at Peshawar on 23.10.2024. Original file be requisitioned. Parcha Peshi given to the counsel for the petitioner.</p> <p>By order of the Chairman</p> <p> REGISTRAR</p>

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

CMA No. _____/2024

12(2) cpc petition no. 1152/2024

Muhammad Ismail

.....

Petitioner

VERSUS

Govt: of KPK through Secretary Home Civil Secretariat
Peshawar and others.**Respondents**

INDEX

S.No	Description	Annexure	Page No
1	Grounds of CMA		1-9
2	Copy of order dated 23.08.2011	A	10
3	Copy of Judgment / order dated 26.09.2016	B	11-13
4	Copies of Order of reinstatement dated 17.01.2017 & 30.07.2017	C&D	14-15
5	Copies of order dated 15.02.2017 and 27.03.2019	E&F	16-18
6	Copy of order dated 30.05.2019	G	19
7	Copies of Appeal No. 1099/2019 and impugned order dated 01.10.2021	H&J	20-29
8	Copy of judgment 2015 SCMR-77	K	30-38
9	Copy of application for copies	L	39
10	Vakalatnama	-	40

Dated: 30/09/2024

**Your Humble Petitioner
Through Counsel**


**GUL TIAZ KHAN MARWAT
Advocate High Court Dikhan**

I

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

12(2) CPC Petition No. 1152/2024

Muhammad Ismail Constable No. 7902 FRP D.I.Khan

.....

Petitioner

Khyber Pakhtunkhwa
Service Tribunal

Duty No. 16511

Dated 09-10-2024

VERSUS

1. Govt: of KPK through Secretary Home Civil Secretariat Peshawar.
2. The Inspector General of Police KPK Peshawar.
3. Commandant FRP/ Additional Inspector General of Police KPK Peshawar.
4. The Superintendent of Police FRP D.I.Khan

.....**Respondents**

PETITION U/S 12(2)/151 CPC AGAINST THE ORDER/JUDGMENT DATED 01.10.2021 PASSED BY THIS LEARNED TRIBUNAL VIDE WHICH APPEAL NO 1099/2019 CONTAINING THE REQUEST / PRAYER FOR GRANTING BACK BENEFITS / FINANCIAL BENEFITS FOR THE INTERVENING PERIOD OF LITIGATION FROM 23.08.2011 TO 25.01.2017 HAS BEEN DISMISSED.

Respected Sir,

1. That the Petitioner was appointed as Constable in FRP D.I.Khan.
2. That the Petitioner was removed from service vide order dated 23.08.2011 passed by Respondent No. 4 on the basis of absent from duty for 77 days i.e. w.e.f 06.06.2011 to 10.08.2011. Copy of order is enclosed as

Annexure - A.

Shamir

2

3. That against the imposition of major penalty of removal from service, the Petitioner filed service appeal before this learned tribunal which came up for hearing on 26.09.2016 and this learned tribunal was pleased accept the appeal of Petitioner and set aside the impugned order of removal from service dated 23.08.2011 and remanded the case back to the department for conducting de-novo inquiry however, the issue of salary and back benefits to the Petitioner were ordered subject to de-novo inquiry. Copy of judgment is enclosed as **Annexure-B**.
4. That after the decision of appeal, the Petitioner was reinstated into service vide office orders No. 503 dated 17.01.2017 and No. 181-83/FRP dated 30.01.2017 and the Petitioner took the charge on 26.01.2017. Copies of Order is enclosed as **Annexure C&D** respectively.
5. That the Petitioner was served with charge sheet and statement of allegations to which the Petitioner filed reply explaining his position and also prayed for payment of back benefits of the period for which the Petitioner remained out of service due to issuance of order of removal from service dated 23.08.2011.
6. That after submission of reply to the charge sheet and statement of allegations by the Petitioner neither any final show cause notice has been issued to the Petitioner nor an opportunity of personal hearing has been

Just

provided to the Petitioner and nor any final order has so far been communicated to the Petitioner and the Petitioner anxiously waited for the result of the inquiry conducted de-novo but no order whatsoever has been communicated to the petitioner.

7. That facing with these circumstances and having no other remedy, the petitioner filed CMA/Execution Petition No. 494/2018 which came for hearing before a single Bench comprising honourable Chairman of Tribunal on 27.03.2019 and the respondents there and then produced a copy of impugned order dated 15.02.2017 and the learned Chairman of the Tribunal was pleased to treat the execution petition as departmental appeal to be decided by the Appellate Authority/ Respondent No. 3 in accordance with law. Copies of order dated 15.02.2017 and order of Tribunal dated 27.03.2019 are enclosed as **Annexure E&F.**

8. That after the decision dated 27.03.2019, the petitioner was summoned by the respondent No. 3 and after providing personal hearing, the impugned order dated 30.05.2019 has been passed by the Respondent No. 3, copy supplied to the Petitioner on 22.07.2019 after submission of application for provision of copy to the Petitioner in respect of rejection of departmental appeal

Prasad

of the petitioner has been rejected. Copy of order dated 30.05.2019 is enclosed as **Annexure G**.

9. That the Petitioner filed Service Appeal No. 1099/2019 before this learned Tribunal which came up for hearing and the same has been dismissed vide impugned judgment dated 01.10.2021. Copies of appeal and judgment are enclosed as **Annexure H&J** respectively.
10. That the impugned judgment dated 10.01.2021 is without jurisdiction being against the law as laid down by a full Court/larger Bench comprising of five judges of the august Supreme Court of Pakistan in a case reported as 2015 SCMR-77 titled as "IGP Punjab V/S Tariq Mehmood". Copy of judgment is enclosed as **Annexure-K**
11. That the impugned order was passed on 01.10.2021 and the petitioner applied for provision of copies vide application dated 27.10.2021 but the copies were not supplied to the petitioner up to 14.05.2024 and the petitioner then submitted another application dated 15.05.2024 for provision of copies which were provided to the petitioner on 17.05.2024, hence the instant petition u/s 12(2) CPC which is well within time. Copy of application dated 27.10.2021 is enclosed as **Annexure-L**
12. That feeling aggrieved from ~~as~~ the impugned judgment of this learned Tribunal and having no other remedy, the petitioner seeks the indulgence of this learned tribunal

Jan

5

under its inherent jurisdiction inter alia on the following grounds.

GROUND:-

- A. That the impugned action /inaction of non-payment of arrears of pay/ salary to the Petitioner on the eve of reinstatement into service is against the fundamental rights guaranteed under the constitution and as law laid down by the Apex Court of the country reported as 2015 SCMR-77 wherein it had been held that grant of service back benefits to an employee who had been illegally kept away from employment was the rule and denial of such benefits to such a reinstated employee was an exception on the proof of such a person having remained gainfully employed during such a period but in the case of the petitioner, this settled proposition of law has not been followed by this learned Tribunal while recording the impugned judgment.
- B. That it is an admitted fact proved from perusal of record of the case that there is nothing available on record that the petitioner was gainfully employed anywhere during the relevant interviewing period but this fact was also not considered by this learned Tribunal while recording and passing the impugned judgment dated 01.10.2021, therefore, it was held by the Apex Court such judgment is very unjust and harsh to deprive a person of back

June

benefits the period for which he remained out of job without any fault of him and it is settled law that back benefits in such situation cannot be withheld by the respondents or by the Service Tribunal.

- C. That the impugned actions / inactions of Respondents of non-payment of arrears of pay/ salaries with effect from 23.08.211 to 25.01.2017, the period vide which the petitioner was kept out of service due to issuance of order of removal of service is against law, arbitrary, Malafide void abinitio, without lawful authority, without Jurisdiction and of no legal effect qua the rights of petitioner.
- D. That the impugned action /inaction of non-payment of arrears of pay/salary to the petitioner on the eve of reinstatement into service is also against the provisions of fundamental rights guaranteed under Constitution of Islamic Republic of Pakistan as not only the petitioner has been deprived of his vested rights of property and life but his entire family members who are the dependents upon the petitioner have been deprived of last piece of morsel.
- E. That the instant petition u/s 12(2) CPC is competent and maintainable on the basis of mis-representation and concealment of facts regarding want of jurisdiction as the earlier Bench of this learned Tribunal has not followed

Amir

7

the law as laid down by the august Supreme Court of Pakistan which is binding under Article-189 and 190 of the constitution, therefore, this learned Tribunal has not only violated the judgment of the Apex Court referred to above but failed to exercise the jurisdiction properly vested in it.

- F. That it is settled principle of law that all the laws of the land must wear in the sleeves of the judge and it is also settled principle of law that Court had to decide the controversy between the parties after judicial application of mind but in the instant case both these principles had not been followed, thus the impugned judgment is outcome of non-application of judicial mind which is liable to be recalled and set aside.
- G. That it is also a settled proposition of law that nobody should be penalized for act of public functionaries and Court but here the Petitioner has been met out discriminatory treatment and he has not been treated under the law as required under the provisions of fundamental rights guaranteed the Constitution of Islamic Republic of Pakistan.
- H. That this Honorable Tribunal is creation of Constitution under which fundamental rights of the citizens of the Country are protected and having vast Constitutional Power, this Honorable Tribunal is competent and

Jan 2

8

authorized to correct the failure, faults, dereliction of duty, laches, defects in jurisdiction denial of justice, bias or disability and to set aside/struck down illegal and order without lawful authority of the Departmental Authorities of Government Offices/Departments including the Respondents.

- I. That the Petitioner remained jobless during the period vide which the petitioner was kept out of service due to issuance of wrong and illegal order of major penalty passed by respondents i.e. from the date of removal from service with effect from 23.08.2011 to 25.01.2017 and he has never been gainfully employed elsewhere.
- J. That all the actions/inactions and orders passed by the respondents are void and illegal and no limitation runs against the void orders and it is also a settled principle of law that when the initial order is void then the superstructure built thereon shall have to fall on the grounds automatically.
- K. That counsel for the Petitioner may please be allowed to raise additional ground during the course of arguments.

It is, therefore, humbly prayed on acceptance this Appeal this Honorable Tribunal may very graciously be pleased to accept the appeal of the Petitioner and as a consequence thereof respondents may please be directed to pay the arrears of pay/ salary to Petitioner with effect from 23.08.2011 to 25.01.2017.

9

Any other relief deems appropriate in the prevailing circumstances may also be granted.

Your humble petitioner,



Muhammad Ismail

Through Counsel

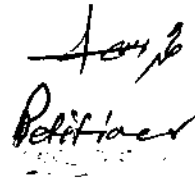
Dated: 30/09/2024



Gul Tiaz Khan Marwat
Advocate High Court
DIKhan

CERTIFICATE

Certified that it is a first petition by the petitioner before this learned tribunal against the impugned orders of respondents.



Petitioner

AFFIDAVIT

I, Muhammad Ismail Constable No 8170 FRP D.I.Khan, the petitioner do hereby solemnly affirm and declare on Oath that the contents of appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.



DEPONENT

A 110

ORDER:-

This Order will dispose off departmental enquiry conducted against Recruit Constable Muhammad Ismail No.8170, FRP, of FRP, D.I.Khan Range, on the Charges that according to Daily Diary reports vide Mad No.10, dated 06.06.2011, of FRP Police Line, Distt: D.I.Khan, he absented himself from law-full duties with effect from 06.06.2011 to till date, with-out any leave or permission.

On the basis of his above, he was proceeded against departmentally and served with proper Charge Sheet and Statement of allegations. Mr. ALLOU-UD-DIN KHAN LINE OFFICER/FRP D.I.KHAN, was appointed as Enquiry Officer. After completion of all codal formalities, the Enquiry Officer submitted his finding report along-with other relevant papers, where in he recommended the said Constable for Major Punishment i.e Removal from service from the date of absence i.e 06.06.2011. He was served with Final Show Cause Notice on 17.08.2011, reply received which was not satisfactory.

Keeping in view the facts stated above, as well as recommendation of enquiry officer, I MR. AMAN ULLAH KHAN, Superintendent of Police FRP D.I.Khan Range, D.I.Khan, in exercise of powers conferred upon me under the NWFP Removal from Service (Special Powers) Ord:- 2000 Amendment Act- 2005, hereby award Recruit Constable Muhammad Ismail No.8170/FRP, Major Punishment of Removal from service from the date of absence i.e,06.06.2011, and his period of absence i.e 06.06.2011 to till date, is treated as leave with-out pay.

ORDER ANNOUNCED.

Dated. 22.08.2011.

OB No. 801 /FRP

Dated 23 /08/2011.

(AMAN ULLAH KHAN)
Superintendent of Police,
FRP, D.I.Khan Range, D.I.Khan.

Attest
[Signature]

B

11

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
CAMP COURT D.I.KHAN.

SERVICE APPEAL NO. 461/2013

Date of institution ... 17.01.2013
Date of judgment ... 26.09.2016



Muhammad Ismail, Ex-Constable # 8170, FRP
R/o Ama Khel, Tehsil & District Tank.

... (Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Home, Civil Secretariat, Peshawar.
2. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
3. Commandant, Frontier Reserve Police/Additional Inspector General of Police, Peshawar.
4. Superintendent of Police, Frontier Reserve Police, D.I.Khan.
5. Gul Manan, the then Line Officer/Inquiry Officer, FRP D.I.Khan.
6. Alao-ud-Din, Line Officer/Inquiry Officer, FRP, D.I.Khan.

... (Respondents)

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER BEARING # 3630 DATED 13.12.2012 OF RESPONDENT-2 AND ORDER BEARING # 994-95/EC DATED 15.02.2012 PASSED BY RESPONDENT-3 VIDE WHICH APPEAL OF THE APPELLANT FOR REINSTATEMENT IN SERVICE AGAINST THE ORDER BEARING # OB# 801/FRP DATED 23.08.2011 PASSED BY RESPONDENT-4 WAS REJECTED/FILED.

Mr. Gul Tiaz Khan Marwat, Advocate.
Mr. Farhaj Sikandar, Government Pleader

.. For appellant.
.. For official respondents No. 1 to 4.

MR. MUHAMMAD AAMIR NAZIR
MR. ABDUL LATIF

.. MEMBER (JUDICIAL)
.. MEMBER (EXECUTIVE)

A. TESTED

JUDGMENT

MUHAMMAD AAMIR NAZIR, MEMBER:-

Muhammad Ismail,

Khyber Pakhtunkhwa
Service Tribunal
Peshawar
EX-

Constable Frontier Reserve Police, District Tank hereinafter called the appellant, through instant appeal under Section-4 of Khyber Pakhtunkhwa Service Tribunal Act, 1974 has impugned order dated 23.08.2011 vide which the appellant was awarded major punishment of removal from service and his absence period with effect from 06.06.2011 was treated as leave without pay. Against the impugned order referred above, the appellant filed a

26.09.16

departmental appeal which was also rejected by the Appellate Authority vide order dated 15.02.2012.

2. Brief stated facts giving rise to the appeal are that the appellant was appointed as constable in Frontier Reserve Police, D.I.Khan and was performing his duty to the satisfaction of his superiors. That on 06.06.2011 the appellant fell ill and the doctor advised him for one month bed rest. That the appellant was bed ridden but the respondents issued him charge-sheet alongwith statement of allegations on the charges of absence from duty. That the appellant submitted reply to the charge-sheet and statement of allegations accompanied by medical certificates. That thereafter, a one sided inquiry was conducted and the competent authority, on the basis of one sided inquiry awarded him major punishment of removal from service vide and his absence period was treated as leave without pay vide order dated 23.08.2011. That against the impugned order, the appellant filed a departmental appeal which was also rejected by the Appellate Authority vide order dated 15.02.2012, hence the instant service appeal.

3. We have heard the arguments of learned counsel for the appellant and learned Government Pleader for official respondents No. 1 to 4 and have gone through the record available on file.

26.09.16

4. Learned counsel for the appellant argued before the court that despite the facts that the appellant was ill and was bed ridden, he was proceeded against without taking into consideration his medical certificates. That a one sided inquiry was conducted against the appellant and Competent Authority without any justification ordered his removal from service and also treated his absence period as leave without pay which fall within the preview of double jeopardy. That since the impugned order is illegal, therefore the same may be set-aside and the appellant be reinstated into service with all back benefits.

ATTESTED

Signature
Service Tribunal
Sahawar


17-5-13

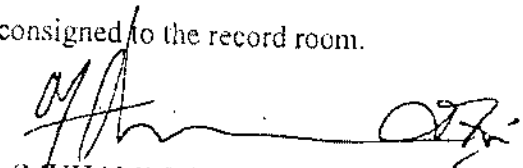
5. The learned Government Pleader on contrary argued before the court that the appellant was rightly removed from service as he willfully absented himself from duty. That the Competent Authority has adopted all the legal requirements before awarding him major punishment. That the appeal in hand is without any merits, hence may be dismissed.

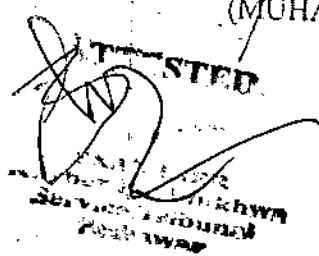
6. Perusal of the case file reveals that the appellant while serving as Frontier Reserve Police, D.I.Khan was issued charge sheet alongwith statement of allegations on the ground

of his willful absence from duty with effect from 06.06.2011 till date. The appellant in response to charge-sheet and statement of allegations, submitted a reply stating therein that due to serious ailment, the doctor had advised him complete bed rest. Though the application of appellant was supported medical certificate yet, the Competent Authority initiated an inquiry against the appellant. The inquiry officer conducted a one sided inquiry without associating the appellant with inquiry proceedings. The inquiry officer has also not taken into consideration of plea of illness of the appellant and recommended him for major punishment. Similarly, the Competent Authority while considering the defective inquiry report, awarded the appellant major punishment of removal from service and has also treated the absence period of the appellant as leave without pay which is not justifiable under the law as it comes within the preview of double jeopardy. The Appellate Authority has also not considered the plea of ailment of the appellant and has rejected the departmental appeal vide order dated 15.02.2012. The respondents were bound to have associated the appellant with the inquiry proceedings while providing him full opportunity of defense and there-after should have passed an appropriate order justifiable under the law. The impugned removal order suffered illegality on two scores, Firstly, the impugned order is based on one sided inquiry and secondly in the impugned order, appellant was awarded two punishment for single act of absence, one removal from service and other treating his absence period as leave without pay which is illegal and not warranted under the law. Hence, we are inclined to set-aside the impugned order dated 23.08.2011 and reinstate the appellant in service, while remand the case to the Competent Authority to conduct a de-novo inquiry against the appellant within two months for the date of receipt of this order by providing him full opportunity of defense and thereafter passed an appropriate order. The issue of salary and back benefits of the appellant will be subject to the de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

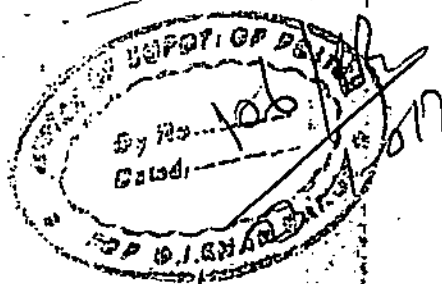
ANNOUNCED
26.09.2016


(ABDUL LATIF)
MEMBER


(MUHAMMAD AAMIR NAZIR)
MEMBER


Service Tribunal
Karachi

Date of Presentation of Application _____
Number of Words 37
Copying Fee 15/-
Urgent _____
Total _____
Name of Copyist _____
Date of Completion of Copy 17-5-29
Date of Delivery of Copy 17-5-29



ORDER

As per directions of Inspector General of Police Khyber Pakhtunkhwa, Peshawar issued vide CPO letter No. 3141/E&I, dated 26.12.2016, the decision of Khyber Pakhtunkhwa, Service Tribunal, Peshawar dated 26.09.2016, in Service Appeal No. 461/2013 is hereby implemented, Ex-constable Muhammad Ismail No.8870 of FRP/DIKhan Range, is hereby reinstated in service subject to denove enquiry.

[Signature]
COMMANDANT
Frontier Reserve Police
Khyber Pakhtunkhwa, Peshawar
[Signature]

N^o 5=3 /SI Legal, dated Peshawar the 17/01/2017.

Copy of above is forwarded for information and necessary action to the FRP/FRP, DIK Range, DIK with directions to conduct denove enquiry into the matter and decided the case on merit and their outcome may be communicated to this office for onward submission to CPO, Peshawar. His service Roll alongwith D-File sent herewith.

[Signature]
OB/SHC/SRC/PO # Pig A. K. K.
23-01-2017

For inspection, Issue Charge sheet & Statement of Allegation
DSP/Muhammad Ashraf is appointed as Enquiry Officer

[Signature]
23/01/2017

Attes

OB-67
23-01-2017

12 D 15

ORDER.

On his re-instatement in Service subject to denove Enquiry vide Commandant FRP KPK Peshawar order endst: No. 503/SI Legal, dated 17.01.2017, and arrival in FRP Police Line D.I.Khan vide daily diary report Mad No. 07, dated 26.01.2017, Ex: Recruit Constable Mohammad Ismail No. 8170 is hereby allotted Constabulary No. 7902 of FRP D.I.Khan Range from the date of his arrival and posted in Platoon No. 187 FRP Police Line D.I.Khan with immediate effect.

/

**Superintendent of Police,
FRP, D.I.Khan Range, D.I.Khan.**

No. 181-83 /FRP, Dated of D.I.Khan 30 /01/2017

Copy of above is submitted to the:-

1. Commandant FRP KPK Peshawar for kind information please.
2. Pay Officer FRP D.I.Khan.
3. OHC/SRC FRP D.I.Khan. ✓

/

**Superintendent of Police,
FRP, D.I.Khan Range, D.I.Khan.**
30-01-2017

Attest
Jinnat
ad

E - 16

ORDER:-

This Order is aimed to dispose off the denovo enquiry initiated against Recruit Constable Muhammad Ismail No.8170 of FRP D.I.Khan on the allegation that according to daily diary report No.10 dated 06.06.2011 of FRP Police Line DIKhan, he absented himself from law full duties with effect from 06.06.2011 without any leave or permission.


He was served with charge sheet and statement of allegation. SI/PC Alau Ud Din Line Officer, FRP D.I.Khan was nominated as Enquiry Officer. After completion of enquiry the Enquiry Officer found him guilty of the charges and recommended him for major punishment of removal from service. He was served with final Show Cause Notice, reply received which was found not satisfactory. Hence he was removed from Service vide order bearing O.B No.801/FRP, dated 23.08.2011. Later on lodged an appeal before the KPK Service Tribunal Peshawar bearing No.461/2013 which was subsequently accepted vide judgment dated 26.09.2016, whereby the honouable service tribunal directed to reinstate the appellant in service subject to denovo enquiry. Therefore denovo proceeding was initiated and Mr. Muhammad Ashraf DSP/FRP D.I.Khan, was deputed to conduct denovo enquiry as per rules. After completion of all codal formalities, the Enquiry Officer submitted his finding report wherein he recommended the absence period from 06.06.2016 to 23.08.2016 i.e (77) days and period the defaulter constable remained out of service be treated as without pay. He was also provided opportunity of personal hearing.

Keeping in view the facts stated above as well as recommendation of enquiry officer and by taking lenient view, I MR. HAMEED ULLAH BALOCH, Superintendent of Police FRP D.I.Khan Range, D.I.Khan, in exercise of powers vested in me under Khyber Pakhtunkhwa Rules 1975 with amendments-2014 hereby file the departmental enquiry paper and the absence period from 06.06.2011 to 23.08.2011 i.e (77) days is treated as with-out pay. Similarly the period he remained out of service is also treated as without pay.

ORDER ANNOUNCED.

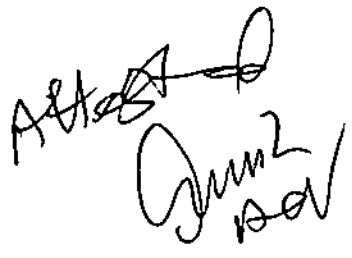
Dated 14.02.2017.


OB No. 153 /FRP
Dated 15 /02/2017


(HAMEED ULLAH BALOCH)
Superintendent of Police,
FRP, DIKhan Range DIKhan.

No. 310 / dated DIKhan the 15 /02/2017.

Copy of above is submitted to Commandant FRP Khyber Pakhtunkhwa Peshawar for favour of information with reference to his office order endst: No.503/SI-legal dated 17.01.2017.




Superintendent of Police,
FRP, DIKhan Range DIKhan.

I F

17

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Execution Petition No. 394/18

Khyber Pakhtunkhwa
Service Tribunal

CMA No. _____/2018

Diary No. 1590

Dated 31-10-2018

Muhammad Ismail Constable No 8170 FRP D.I.Khan

03439295237

Petitioner

VERSUS

1. Govt: of KPK through Secretary Home Civil Secretariat Peshawar.
2. The Inspector General of Police KPK Peshawar.
3. Commandant FRP/ Additional Inspector General of Police KPK Peshawar.
4. The Superintendent of Police FRP D.I.Khan

.....Respondents

PETITION CONTAINING THE REQUEST FOR IMPLEMENTATION OF JUDGMENT / ORDER OF THIS LEARNED TRIBUNAL CAMP COURT D.I.KHAN DATED 26.09.2016 PASSED IN SERVICE APPEAL NO. 461/2013 TITLED AS "MUHAMMAD ISMAIL V/S GOVT. OF KPK THROUGH SECRETARY HOME KPK PESHAWAR AND OTHERS".

Respected Sir,

1. That the Petitioner was appointed as Constable in FRP D.I.Khan.

Jun 2

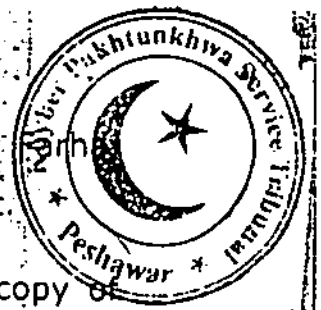
Attested Jun 2 2018

ATTESTED

[Signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar



18



27.03.2019

Counsel for the petitioner and Mr. Sikandar, District for the respondents present.

Learned District Attorney has produced copy of order dated 15.02.2017 passed by Superintendent of Police, FRP, D.I.Khan Range, D.Khan, whereby, the departmental enquiry against the appellant was filed while his absence of 77 days was treated as without pay. Simultaneously the period during which the appellant remained out of service was also treated as without pay.

Learned counsel for the petitioner, on the other hand, stated that although the petitioner was reinstated into service on 30.01.2017 subject to denovo enquiry in accordance with the judgment of the Tribunal dated 26.09.2016 but it was not communicated to the petitioner and the order dated 15.02.2017 came to surface in the court today. In the circumstances, learned counsel for the petitioner requests for transmission of instant petition to the departmental appellate authority/Commandant FRP, Peshawar for treating the same as departmental appeal of the petitioner against the order dated 15.02.2017.

In view of the request of learned counsel for the petitioner, instant execution petition shall be sent to respondent No. 3 for its decision as departmental appeal in accordance with law. A copy of the record shall be retained in the office.

Disposed of accordingly.

Chairman
Camp Court, D.I.Khan

ANNOUNCED
27.03.2019

Certified to be true copy

Chairman
Khayabani
Service Tribunal
Peshawar

Attested
[Signature]

Date of presentation of App. _____
 Number of Words _____
 Copying Fee _____
 Urgent _____
 Total _____
 Name of Copyist _____
 Date of Completion of Copy _____
 Date of Delivery of Copy _____

ORDER

9 19

This order will dispose of the departmental appeal preferred by constable Muhammad Ismail No. 8170/7902 of FRP DI Khan Range, against the order of SP FRP DI Khan Range, DIK issued vide OB No. 153, dated 15.02.2017, wherein his departmental enquiry was filed, while the absence and intervening period was treated as leave without pay.

Brief facts of the case are that the above named constable had been removed from service on 23.08.2011, due to absence from duty. Feeling aggrieved he submitted the Service Appeal No. 461/2013 before the Khyber Pakhtunkhwa Service Tribunal Peshawar, against the order of his removal from service.

The Khyber Pakhtunkhwa Service Tribunal accepted his appeal by setting aside the impugned order dated 23.08.2011, vide judgment dated 26.09.2016 and the case remanded back to department for the purpose of denovo enquiry. The Honorable Tribunal further directed that denovo proceedings will be completed within a period of two months and the issue of salary and back benefits shall be decided subject to the outcome of denovo enquiry.

The case was forwarded to CPO Peshawar vide this office Memo No.9083, dated 03.11.2016 for lodging an appeal in the Supreme Court of Pakistan, the same has returned by the CPO vide Memo No. 3141/E&I, dated 26.12.2016 with directions, that the Judgment of Service Tribunal may be implemented and denovo enquiry may be conducted through SP FRP DI Khan Range, DI Khan.

The said judgment was provisionally implemented vide this office order Endst: No. 503/SI Legal, dated 17.01.2017. The denovo enquiry was conducted through SP FRP DI Khan Range, DI Khan, and finally the same has been filed by the competent authority, however, the period of his 77 days absence and intervening period treated as leave without pay.

Feeling aggrieved the delinquent constable submitted the Execution Petition No. 394/18 before the Service Tribunal Peshawar for implementation of the judgment with request for back benefits, which was disposed off by the Honorable Tribunal and sent before respondent No: 03 i.e Commandant FRP Khyber Pakhtunkhwa, Peshawar for its decision as departmental appeal in accordance with law.

For disposal of departmental appeal the appellant was summoned and heard in person in Orderly Room held on 15.05.2019.

During the course of personal hearing, the applicant failed to present any justification regarding to his prolong absence. It is settled proposition of law that the law helps the diligent and not indolent.

From perusal of the relevant record it has been found that his appeal is badly time barred as impugned order was passed on 15.02.2017 and now he desired/approached for back benefits. The one, who wish to enforce his claim, must do it at the earliest laches deprive the litigant from enforcing his right.

Based on the findings narrated above, I, Sajid Ali PS Commandant FRP Khyber Pakhtunkhwa, Peshawar, being the competent authority, has found no substance in the appeal, therefore, the same is rejected and filed being time barred and meritless.

Order Announced.

[Handwritten signature]

Commandant
Frontier Reserve Police
Khyber Pakhtunkhwa, Peshawar.

No 4755 /EC, dated Peshawar the 30 /05 /2019.
Copy of above is forwarded for information and necessary action to the SP FRP DI KHAN Range, DI Khan.

H 20



I

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No. 1099 /2019

Muhammad Ismail Constable No. 7902 FRP D.I.Khan

Appellant Khyber Pakhtunkhwa Service Tribunal

VERSUS

Diary No. 1172

Dated 19-8-2019

1. Govt: of KPK through Secretary Home Secretariat Peshawar.
2. The Inspector General of Police KPK Peshawar.
3. Commandant FRP/ Additional Inspector General of Police KPK Peshawar.
4. The Superintendent of Police FRP D.I.Khan

Civil

.....Respondents

APPEAL U/S 4 OF KPK SERVICE TRIBUNAL ACT 1974 AGAINST THE ORDER DATED 30.05.2019 PASSED BY RESPONDENT NO. 3, COPY SUPPLIED TO THE APPELLANT ON 22.07.2019 VIDE WHICH DEPARTMENTAL APPEAL DATED 27.03.2019 AGAINST THE IMPUGNED ORDER OF NO. 153/FRP DATED 15.02.2017 PASSED BY RESPONDENT NO. 4, COPY WHEREOF SUPPLIED TO THE APPELLANT ON 27.03.2019, VIDE WHICH INTERVENING PERIOD OF LITIGATION CONSUMED IN SERVICE APPEAL NO. 461/2013 HAS BEEN TREATED AS LEAVE WITHOUT PAY.

Respected Sir,

1. That the Appellant was appointed as Constable in FRP D.I.Khan.

ATTESTED

[Signature]
 Khyber Pakhtunkhwa Service Tribunal
 Peshawar

17-5-24

Filed to-day
 Registrar
 19/8/19
 Re-submitted to-day
 and filed
 Registrar
 23/8/19

[Handwritten mark]

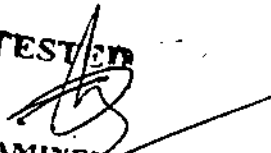
21

2

2. That the Appellant was removed from service vide order dated 23.08.2011 passed by Respondent No. 4 on the basis of absent from duty for 77 days i.e. w.e.f 06.06.2011 to 10.08.2011. Copy of order is enclosed as **Annexure - A.**
3. That against the imposition of major penalty of removal from service, the Appellant filed service appeal before this learned tribunal which came up for hearing on 26.09.2016 and this learned tribunal was pleased accept the appeal of Appellant and set aside the impugned order of removal from service dated 23.08.2011 and remanded the case back to the department for conducting de-novo inquiry however, the issue of salary and back benefits to the Appellant were ordered subject to de-novo inquiry. Copy of judgment is enclosed as **Annexure-B.**
4. That after the decision of appeal, the Appellant was reinstated into service vide office orders No. 503 dated 17.01.2017 and No. 181-83/FRP dated 30.01.2017 and the Appellant took the charge on 26.01.2017. Copies of Order is enclosed as **Annexure-C&D** respectively.
5. That the Appellant was served with charge sheet and statement of allegations to which the Appellant filed reply explaining his position and also prayed for payment of back benefits of the period for which the Appellant remained out of service due to issuance of order of

June

ATTESTED



EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

22

3

removal from service dated 23.08.2011. Copies of Charge sheet, statement of allegations and reply are enclosed as **Annexure E,F&G** respectively.

6. That after submission of reply to the charge sheet and statement of allegations by the Appellant neither any final show cause notice has been issued to the Appellant nor an opportunity of personal hearing has been provided to the Appellant and nor any final order has so far been communicated to the Appellant and the Appellant anxiously waited for the result of the inquiry conducted de-novo but no order whatsoever has been communicated to the appellant.
7. That facing with these circumstances and having no other remedy, the appellant filed CMA/Execution Petition No. 494/2018 which came for hearing before a single Bench comprising honourable Chairman of Tribunal on 27.03.2019 and the respondents there and then produced a copy of impugned order dated 15.02.2017 and the learned Chairman of the Tribunal was pleased to treat the execution petition as departmental appeal to be decided by the Appellate Authority/ Respondent No. 3 in accordance with law. Copies of petition, impugned order dated 15.02.2017 and order of Tribunal dated 27.03.2019 are enclosed as **Annexure H&J**.

June

ATTESTED
[Signature]
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

4

2.3

8. That after the decision dated 27.03.2019, the appellant was summoned by the respondent No. 3, and after providing personal hearing, the impugned order dated 30.05.2019 has been passed by the Respondent No. 3, copy supplied to the Appellant on 22.07.2019 after submission of application for provision of copy to the Appellant in respect of rejection of departmental appeal of the appellant has been rejected. Copies of application of appellant dated 12.07.2019 and order dated 30.05.2019 are enclosed as **Annexure K&L** respectively.
9. That the Appellant feeling aggrieved from all the impugned orders/actions and inactions of respondents 3&4 individually and collectively, the appellant seeks the indulgence of this learned tribunal under its appellate jurisdiction inter alia on the following grounds.

GROUND:-

- A. That the impugned actions / inactions of Respondents of non-payment of arrears of pay/ salaries with effect from 23.08.2011 to 25.01.2017, the period vide which the appellant was kept out of service due to issuance of order of removal of service is against law, arbitrary, Malafide void abinitio, without lawful authority, without Jurisdiction and of no legal effect qua the rights of appellant.

Jun 2

ATTESTED

[Signature]
Kh. *[Signature]*
Service Tribunal
Peshawar

24

5

- B. That the impugned action /inaction of non-payment of arrears of pay/ salary to the Appellant on the eve of reinstatement into service is against the fundamental rights guaranteed under the constitution.
- C. That the impugned action /inaction of nonpayment of arrears of pay/salary to the appellant on the eve of reinstatement into service is also against the provisions of fundamental rights guaranteed under Constitution of Islamic Republic of Pakistan as not only the appellant has been deprived of his vested rights of property and life but his entire family members who are the dependants upon the appellant have been deprived of last piece of morsel.
- D. That the Appellant has been met out discriminatory treatment and he has not been treated under the law as required under the provisions of fundamental rights guaranteed the Constitution of Islamic Republic of Pakistan.
- E. That this Honorable Tribunal is creation of Constitution under which fundamental rights of the citizens of the Country are protected and having vast Constitutional Power, this Honorable Tribunal is competent and authorized to correct the failure, faults, dereliction of duty, laches, defects in jurisdiction denial of justice, bias or disability and to set aside/struck down illegal and

Jan 2

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

6

25

order without lawful authority of the Departmental Authorities of Government Offices/Departments including the Respondents.

F. That the Appellant remained jobless during the period vide which the appellant was kept out of service due to issuance of wrong and illegal order of major penalty passed by respondents i.e. from the date of removal from service with effect from 23.08.2011 to 25.01.2017 and he has never been gainfully employed elsewhere.

G. That all the actions/inactions and orders passed by the respondents are void and illegal and no limitation runs against the void orders and it is also a settled principle of law that when the initial order is void then the superstructure built thereon shall have to fall on the grounds automatically.

H. That counsel for the Appellant may please be allowed to raise additional ground during the course of arguments.

It is, therefore, humbly prayed on acceptance this Appeal this Honorable Tribunal may very graciously be pleased to accept the appeal of the Appellant and as a consequence thereof respondents may please be directed to pay the arrears of pay/ salary to Appellant with effect from 23.08.2011 to 25.01.2017.

June 2

ATTESTED

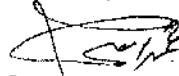
[Signature]
EXAMINED
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

7

26

Any other relief deems appropriate in the prevailing circumstances may also be granted.

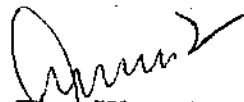
Your humble appellant,



Muhammad Ismail

Through Counsel

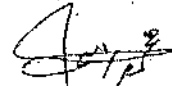
Dated: 17/08/2019



Gul Tiaz Khan Marwat
Advocate High Court
DIKhan

CERTIFICATE

Certified that it is a first appeal by the appellant before this learned tribunal against the impugned orders of respondents.



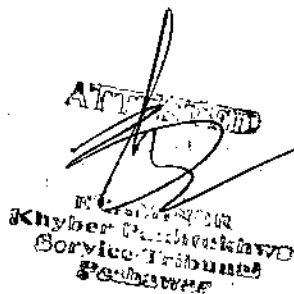
APPELLANT

AFFIDAVIT

I, Muhammad Ismail Constable No 8170 FRP D.I.Khan, the appellant do hereby solemnly affirm and declare on Oath that the contents of appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.


DEPONENT

17/8/19



Date of Presentation of Application 15-5-24
Number of Words 77
Copying Fee 35/-
Urgent _____
Total 35/-
Name of Copyist _____
Date of Completion of Copy 17-5-23
Date of Delivery of Copy 17-5-23

J

27

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR
AT CAMP COURT D.I.KHAN.

Service Appeal No. 1099/2019

Date of Institution ... 19.08.2019

Date of Decision ... 01.10.2021



Muhammad Ismail Constable No. 7902 FRP D.I.Khan.

... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Home Civil
Secretariat Peshawar and three others.

... (Respondents)

MR. GUL TIAZ KHAN MARWAT,
Advocate

--- For appellant.

MR. ASIF MASOOD ALI SHAH,
Deputy District Attorney


--- For respondents.

MR. SALAH-UD-DIN
MR. ATIQ-UR-REHMAN WAZIR

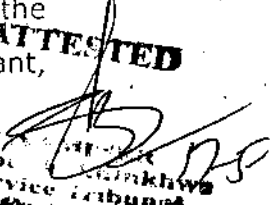
--- MEMBER (JUDICIAL)
--- MEMBER (EXECUTIVE)

JUDGMENT:

SALAH-UD-DIN, MEMBER:-


Precise facts forming the background of the instant service appeal are that the appellant while posted as Constable in FRP D.I.Khan was removed from service on the ground of his absence from duty. The service appeal of the appellant was, however accepted by this Tribunal vide judgment dated 26.09.2016 and the matter was remanded back to the department for conducting of de-novo inquiry. The appellant was reinstated into service for the purpose of de-novo inquiry and the inquiry was also conducted, however the outcome of the same was not conveyed to the appellant,

ATTESTED


Khyber Pakhtunkhwa
Service Tribunal
Peshawar

28

therefore, he filed Execution Petition in this Tribunal. It was during the proceedings on the execution petition on 27.03.2019 that the respondents produced copy of the impugned order dated 15.02.2017 passed by the competent Authority, therefore, upon the request of learned counsel for the appellant, the execution petition was sent to the appellate Authority/Commandant FRP Peshawar for treating the same as departmental appeal against the order dated 15.02.2017. The appellate Authority rejected the same vide impugned order dated 30.05.2019, hence the instant service appeal.

2. Notices were issued to the respondents, who submitted their comments.

3. Learned counsel for the appellant has contended that the appellant did not remain gainfully employed after his removal from service, therefore, the intervening period with effect from 23.08.2011 to 25.01.2017 has been wrongly treated by the competent Authority as without pay; that after reinstatement of the appellant into service, there was no justification for treating the period with effect from 23.08.2011 to 25.01.2017 as without pay; that the appellant was kept out of service through wrong removal order being passed by the competent Authority, therefore, he became entitled to back benefits for the period from 23.08.2011 to 25.01.2017.

4. On the other hand, learned Deputy District Attorney for the respondents has contended that all legal and codal formalities were complied with in the de-novo inquiry conducted against the appellant, however he failed to justify his absence; that the competent Authority has already taken lenient view on humanitarian ground, therefore, the appellant cannot claim himself to be entitled to pay for the period during which he remained out of service.

5. Arguments heard and record perused.

6. A perusal of the record would show that the appellant was proceeded against departmentally on the ground of his absence from duty for about 77 days without seeking prior

J. I.

ATTESTED
EX. NO. 12
Kash. Serv. Tribunal
Peshawar

29

3


permission of the competent Authority. The absence of the appellant without seeking ^{prior} period permission of the competent Authority is an admitted fact, therefore the burden was upon the appellant to show any legal and valid justification for his absence from duty. The appellant was duly associated during the inquiry proceedings, however he did not opt to produce any official/officer from the concerned hospital as witness in his defence regarding the plea of his illness. The appellant was in the very initial stage of his service and his conduct was unbecoming of a good official and in the given circumstance, the absence of the appellant from duty without leave, even if considered as not willful, was an act of disorder in the service discipline, which certainly constitutes misconduct. The appellant has been reinstated in service and the period of his absence from duty as well as the period during which, he remained out of service has been treated as without pay. The competent Authority has thus already taken lenient view in the matter, therefore, the impugned orders do not call for any interference by this Tribunal.

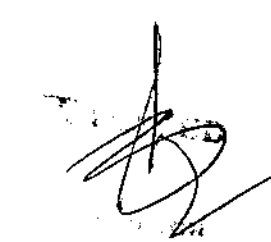
7.

7. In view of the above discussion, the appeal in hand being devoid of any force stands dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
01.10.2021


(SALAH-UD-DIN)
MEMBER (JUDICIAL)
CAMP COURT D.I.KHAN


(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)
CAMP COURT D.I.KHAN


Registrar
CAMP COURT D.I.KHAN

Date of Presentation of Application 15-5-23
 Number of Pages 3-p
 Court 151
 U.S. No. 151
 Title 151
 Name _____
 Date of _____ 17-5-23
 Date of Delivery of Copy 17-5-23

2015 S C M R 77

[Supreme Court of Pakistan]

K 30

Present: Iftikhar Muhammad Chaudhry, C.J., Tassaduq Hussain Jilani, Amir Hani Muslim, Gulzar Ahmed and Sh. Azmat Saeed, JJ

INSPECTOR-GENERAL OF POLICE, PUNJAB---Appellant**Versus****TARIQ MAHMOOD---Respondent**

Civil Appeal No. 52 of 2012, decided on 25th April, 2013.

(On appeal from the judgment dated 20-10-2011 of the Punjab Service Tribunal, Lahore passed in Appeal No.3039 of 2010)

Civil Service Rules (Punjab)---

---R. 7.3---Fundamental Rules, R. 54---Reinstatement in service---Back benefits, entitlement to--- Payment of back benefits on reinstatement in service---Scope---Police official was dismissed from service due to registration of F.I.R. and civil suit filed against him---Police official filed revision petition before the Inspector General of Police, which was kept pending till the decision of F.I.R. case and civil suit by the court---Subsequently police official was acquitted from the F.I.R. case and as a result his revision petition was allowed and he was reinstated in service---Service Tribunal allowed payment of back benefits to the police official for the period during which he remained out of service---Validity---Grant of back benefits to an employee who was reinstated by a Court/Tribunal or the department was a rule and denial of such benefits was an exception on the proof that such person had remained gainfully employed during such period---Entitlement of back benefits of a person had to be determined on the basis of facts of each case independently---Police official could not be held responsible for the period during which his revision petition was kept pending due to the F.I.R. and civil suit, because such pendency was on account of the act of the police department---Revision petition filed by police official was kept pending till the decision of the criminal as well as civil case, which had no relevance because unless he had been found guilty by the Court, he was not debarred from performing his duty---Police official was entitled to back benefits, as it was the police department, which on basis of a wrong opinion kept him away from performing his duty---Police official was entitled to back benefits from the date of filing revision petition till his reinstatement in service---Appeal was dismissed accordingly.

Muhammad Hussain and others v. EDO (Education) and others 2007 SCMR 855; Federation of Pakistan through Secretary, Ministry of Education and others v. Naheed Naushahi 2010 SCMR 11; Sher Muhammad Shahzad v. District Health Officer 2006 SCMR 421; Binyamin Masih v. Government of Punjab through Secretary Education, Lahore 2005 SCMR 1032; General Manager/Circle Executive Muslim Commercial Bank Limited v. Mehmood Ahmed Butt 2002 SCMR 1064; Pakistan through General Manager, P.W.R.; v. Mrs. A.V. Issacs PLD 1970 SC 415; Muhammad Bashir v. Secretary to the Government of Pakistan 1994 SCMR 1801 and Trustees of the Port of Karachi v. Muhammad Saleem 1994 SCMR 2213 ref.

Jawwad Hassan, Additional A.-G. for Appellant.

Aftab Alam, Advocate Supreme Court for Respondent.

Date of hearing: 25th April, 2013.

JUDGMENT

IFTIKHAR MUHAMMAD CHAUDHRY, C.J.---Leave to appeal has been granted by this Court vide order dated 1st March, 2012, to examine the following question:--

Altaf
Gur
2013

"Inter alia contends that the learned Service Tribunal could not have exercised discretion to modify the quantum of punishment. Relies on IG (Prisons) N.-W.F.P., etc. v. Syed Jaffar Shah (2009 PLC (C.S.) 47). Leave is granted inter alia to consider the issue raised.

2. On 13th March, 2012, the learned Bench, seized of the matter, was required to examine the provisions of rule 7.3 of the Civil Service Rules (Punjab) in the context of the payment of the entire back benefits for a period of 17 years, 8 months and 29 days during which the respondent stood removed from service and in this behalf, two judgments, titled as Muhammad Hussain and others v. EDO (Education) and others (2007 SCMR 855) and Federation of Pakistan through Secretary Ministry of Education and others v. Naheed Naushahi, (2010 SCMR 11) were cited. The learned Bench noted that some principles had been laid down in both the above-mentioned judgments but not in a definite way, particularly, when examined in the light of the circumstances of this case, therefore, it was considered appropriate that a rule be enunciated, after considering all the relevant aspects, arising in this and similar cases with further observation that it be placed before a Bench of five learned Judges of this Court for resolving the conflicting judgments.

3. A brief account of the facts of the instant case is that upon a written complaint submitted by one Mst. Sakina Bibi through her husband, a case was registered against the respondent, Constable Tariq Mehmood (No.7607) and others, vide F.I.R. No.52/1992 under sections 109/419/420/468/471, P.P.C. at Police Station Lower Mall, Lahore. Due to registration of the criminal case he was placed under suspension on 6-7-1992 w.e.f. 29-6-1992. Incidentally, the respondent had also been found absent from duty for a period of three months and 26 days w.e.f. 29-6-1992 to 28-7-1992 and 30-8-1992 up till the passing of order dated 26-11-1992, when in pursuance of departmental proceedings, he was dismissed from service under Punjab Police Rules, 1975. Against the order of dismissal from service, respondent preferred an appeal which was dismissed on 21-4-1993.

4. The respondent had been facing trial before the learned Magistrate in pursuance of the above-referred F.I.R. In the meanwhile, he also filed a Revision Petition before the Inspector General of Police. Revision petition so filed by him was entertained but it was kept pending till the decision of the case arising out of the F.I.R. noted hereinabove, as well as adjudication of a civil suit. It may also be noted that in respect of the same subject matter, a civil suit was also pending in which the respondent was not a party. However, in the criminal case noted hereinabove, the respondent was ultimately acquitted from the criminal charge by the learned Magistrate Section-30, Lahore vide order dated 1-3-2010 not on merits but while disposing of application under section 249-A, Cr.P.C.

5. It may be observed that this Court in the case of Dr. Muhammad Islam v. Govt. of N.-W.F.P. through Secondary Food, Agriculture Live Stock and Cooperative Department Peshawar and 2 others (1998 SCMR 1993) had declared that all acquittals are certainly honourable. There can be no acquittal which may be said to be dis-honourable and the law has not drawn any distinction between these two types of acquittals. Thus, after recording of acquittal, the revision petition so preferred by him was allowed on 13-8-2010. The relevant paras therefrom are reproduced herein below:--

"This order shall dispose of a revision petition preferred by Ex-Constable Tariq Mehmood No.7607 of Lahore district against the punishment of "dismissal from service" awarded by the SP Headquarters, Lahore vide order No. 5575-80/ST, dated 26-11-1992 on the charge of his involvement in case F.I.R. No.52/92 under sections 419/420/468/471, P.P.C., Police Station Lower Mall, Lahore and absence from duty for a period of about 4 months. His appeal was rejected by the appellate authority vide order No.16150-51/AC, dated 21-4-1993.

(2) The undersigned has gone through the revision petition, parawise comments thereon offered by the punishing as well as appellate authorities and other relevant papers minutely. The petitioner has also been heard in person in the Orderly Room on 11-5-2010.

(3) Upon perusal of the case file it has transpired that on receipt of instant appeal the case was referred to AIG Legal for opinion as the criminal case is under trial who opined that the innocence of the appellant can not be established prior to the decision of the criminal case, which will be however, decided by the court after the disposal of civil suit, In the light of legal opinion

32

the then competent authority directed on 13-2-1994 to pend the case till the decision of the court."

(4) The petitioner in his revision petition as well as during the course of personal hearing denied the allegations levelled against him and stated that he was falsely implicated in the above said criminal case. During personal appearance he has adduced a copy of order dated 1-3-2010 by Magistrate Section-30, Lahore, vide which he has been acquitted in case F.I.R. No.52/92 under sections 419/420/468/471, P.P.C., Police Station Lower Mall, Lahore under section 249-A, Cr.P.C. When asked about his absence from duty, the petitioner stated that he remained absent due to registration of said criminal (case) against him. Now the case has been decided by the competent court of law and there is no reason to keep it pending further.

(5) In the light of his acquittal in the criminal case, a lenient view is taken. The petitioner is reinstated in service with immediate effect and the period of absence/out of service will be treated as leave without pay. No emolument will be paid to him for the period of his absence/out of service."

6. In the opinion of the AIG, back benefits of the period during which the respondent could not join his service could not be established because of the pendency of the decision of the criminal case, which was to be decided by the Court after disposal of the civil suit case to determine the innocence of the respondent. We may observe, at this stage, that this opinion was against the law because the proposition of the law is that a person is innocent unless he is proven guilty by a competent Court of law. Reference may be made to the case of MUHAMMAD ASGHAR alias NANNAH v. State (2010 SCMR 1706).

However, for the redressal of his grievance in respect of grant of back benefits, he approached the Service Tribunal and succeeded in getting the back benefits as prayed for vide impugned judgment dated 20-10-2011. Concluding para therefrom is reproduced herein below:--

"5. The departmental view that according to rule 7.3 of CSR it is discretion of the competent authority to treat the period of absence either on duty or otherwise. But the discretion has to be used judiciously. After acquittal in the criminal case and his reinstatement by the departmental authority there is no justification for depriving him of the benefits of the period that he remained out of service. Appeal is, therefore, accepted and the impugned orders are set aside. He be paid benefits of the period that he remained out of service."

7. The learned Additional Advocate-General, Punjab, in support of his arguments stated that as this Court in the, judgment reported as Naheed Naushahi (Supra) had observed that the question of grant of back benefits in terms of monetary benefits has to be decided by the Department keeping in view the facts whether civil servant had been engaged in any job during the period when he was subjected to departmental proceedings or otherwise. Therefore, the Tribunal could not have passed an order in his favour without determining this aspect of the case. Reliance has also been placed by him on the case of Muhammad Bashir v. Secretary to the Government of the Punjab, Education Department, Lahore and 2 others (1994 SCMR 1801).

Whereas on the other hand in the case of Muhammad Hussain (ibid) it has been held that grant of service back-benefits to an employee who had been illegally kept away from employment was the rule and denial of such benefits to such a reinstated employee was an exception on the proof of such a person having remained gainfully employed during such a period. Therefore, he prayed that under Rule 7.3 of CSR, Service Tribunal may have not allowed him back benefits in view of the judgment which has been relied upon.

8. Learned counsel for the respondent stated that in view of the facts and circumstances of the case, Service Tribunal had given relief which is in accordance with the law laid down in the case of Muhammad Hussain (ibid).

9. We have carefully examined arguments put forward by both the learned counsel for the parties. It would be appropriate to note that a Full Bench of this Court in the case of Muhammad Bashir (ibid), while taking into consideration facts of the case, namely, the appellant therein was compulsorily retired on 26-6-1986 after completing 25 years of service under section 12(ii) of Punjab Civil Servants Act, 1974. After having failed to get his grievance redressed from the departmental authorities, he challenged the order of his retirement before Punjab Service

Accepted
Counsel
for
Respondent

Tribunal on two grounds, firstly, that he had not completed 25 years' service qualifying for pension and secondly, that the order of reinstatement had not been made in accordance with public interest. The Tribunal did not attend to the first ground but allowed appeal on the ground that the record of appellant was satisfactory and good. The Tribunal also held that the intervening period during which he remained out of service would be treated as leave without pay and on having taken into consideration section 16 of Punjab Civil Servants Act, 1974 read with FR 54 held as under:--

"In the present case clause (b) would attract. The Committee shall also take into consideration whether a civil servant has earned any amount by way of salary or as profit on account of his having accepted some employment or been engaged in some profitable business during the intervening period. Similarly, according to proviso (ii) of section 16 of the Punjab Civil Servants Act, 1974, where an order of removal of a civil servant has been set aside, he shall be entitled to such arrears of pay as the authority setting aside the order may determine, In the instant case, the Tribunal has not allowed the arrears of pay without assigning any reason. The learned counsel appearing on behalf of the respondents has referred to comments of the Punjab Service Tribunal, which state as under:--

"While hearing the case the appellant Muhammad Bashir had given his comment to forego arrears in case of his re-instatement in service. Consequently in the last para. of the judgment dated 28-3-1992 it is observed that the intervening period during which the appellant remained out of service shall be treated as leave without pay."

At this stage it would be appropriate to place in juxtaposition FR 54 and CSR 7.3 as under:--

F.R. 54	7.3 Civil Service Rules (Punjab)
<p>When the suspension of a Government servant is held to have been unjustifiable or not wholly justifiable; or when a Government servant who has been dismissed, removed or suspended is reinstated, the revising or appellate authority may grant to him for the period of his absence from duty...</p> <p>(a) if he is honourably acquitted, the full pay to which he would have been entitled if he had not been dismissed, removed or suspended and, by an order to be separately recorded any allowance of which he was in receipt prior to his dismissal, removal or suspension; and</p> <p>(b) if otherwise, such proportion of such pay and allowances as the revising or appellate authority may prescribe. It further provides that in a case falling under clause (a), the period of absence from duty will be treated as a period spent on duty.</p> <p>In a case falling under clause (b) it will not be treated as a period spent on duty unless the revising or appellate authority so directs. Provided that the amount of arrears payable to the government servants concerned, whether he is re-instated as a result of a Court judgment or acceptance of his appeal by the departmental authority, shall be reduced by the amount earned by way of salary or as profit on account of his having</p>	<p>When a Government Servant who has been dismissed or removed from service, is reinstated, the revising or appellate authority may grant to him for the period of his absence from duty:</p> <p>(a) "if he is honourably acquitted, the full pay to which he would have been entitled if he had not been dismissed or removed and by an order to be separately recorded and allowances of which he was in receipt prior to his dismissal or removal; or</p> <p>(b) "if otherwise, such proportion of such pay and allowances as the revising or appellate authority may prescribe".</p> <p>In a case falling under clause (a), the period of absence from duty will be treated as a period spent on duty. In a case falling under Clause (b), it will not be treated as a period spent on duty unless the revising or appellate authority so directs.</p>

Handwritten signature and initials:
 Accepted
 J. M. B. S.

34

Accepted some employment or been engaged in some profitable business during the period he remained dismissed, removed or suspended, and for the determination of the said amount a committee shall be constituted consisting of two officers of the Administrative Division and a representative of the Finance Division.

In the provisions quoted above, one thing is common namely that on re-instatement either by Court order or by the departmental authority, after acceptance of appeal, the employee would be entitled to back benefits, if it is established that he had not been engaged gainfully during the period when he was out of job.

10. There is yet another provision on this subject i.e. Sl.No.155, Vol-II, Esta Code, 2007 Edition, the contents whereof are reproduced hereinbelow:-

Reinstatement of Government Servants on Court decision and Functions of Enquiry Committee.

A. reference is invited to the O.M from the Law Division No.F.7(8)-70-Sol(1), dated 12th August, 1970 (SL No.154), which states, inter alias, that, in accordance with the Supreme Court's judgment in C.A. No.28 of 1969 (West Pakistan v. Mrs. A. V. Issacs), if the dismissal of a government servant is held to be unlawful, he has to be allowed salary for the period he was kept out of service, reduced by the amount, if any, that he might have earned by way of salary, or as profits, on account of having accepted some employment, or having been engaged in some profitable business, during the above period. Thus, the legal status of Governments' claims for arrears of pay and allowances is no longer the same as had been indicated in para.3 of this Ministry's Circular D.O. No.F.9(15)-RI (Rwp.)/61 dated 23rd December, 1961 (Annex). Consequently, it is no longer appropriate for the enquiry committee referred to in para.4 of that circular D.O. to consider on merits, in cases in which government servants are restored to their posts as a result of Court's decisions, as to whether or not, and not to what extent, pay and allowance for the period of their absence from duty should be restored.

(2) It has accordingly been decided that, in cases where a government servant is reinstated retrospectively as a result of a Court's decision, the functions of the enquiry committee to be set up under para.4 of this Ministry's Circular D.O.No.F.9(15)-RI(RHT)/61 dated 23rd December, 1961 (Annex) would henceforth be as follows:-

(a) The Ministry/Division/Department, as the case may be, may obtain from the government servant concerned, a solemn declaration, supported by an affidavit, as to the particulars of his employment, or engagement in profitable business, during the period of his absence from duty, and the amount earned by him by way of salary from such employment, or as profits in such business.

(b) After examining such evidence as might be available, and cross-examining, if necessary, the government servant, the Ministry/ Division/Department, as the case may be, may give their findings as to whether or not the above declaration is, 'prima facie' acceptable and on what grounds.

(c) If the declaration is found to be, 'prima facie' unacceptable, the Ministry/Division/Department, as the case may be, should refer the case to the committee, which, before giving their finding as to the amount earned by the government servant during the period of absence from duty, may get the declaration properly verified/scrutinized by any agency they consider appropriate. For example, if the case had been dealt with by the Special Police Establishment at any earlier stage in any connection, this verification/scrutiny may be arranged to be carried out by that Establishment. For purpose of this verification/scrutiny, assistance of the relevant Income-tax authorities may also be sought, if the government servant concerned be an Income-tax payer.

Handwritten signature and initials

35

(d) In case the reinstatement of the government servant has been ordered by the Court on account of the relevant administrative action having been found to be defective, the committee should also give their findings:

- (i) As to which officers were responsible for that defectiveness of an administrative action; and
- (ii) As to whether any, and what part, of the amount payable to the government servant by way of net salary for the period of his absence from duty, might justifiably be recovered from such officers. The recovery from such officers will, of course, follow departmental proceedings under the Government Servants (Efficiency and Discipline) Rules.

(3) The above instructions do not apply to cases in which government servants are reinstated as a result of acceptance of appeals by departmental appellate authorities, which will continue to be regulated by provisions of FR-54 as hitherto

(Annex)

(Extract of paras,4 and 5 of the Finance Division letter No.F.1(15)RI (Rwp)/61, dated 23rd December, 1961 as amended).

(4) If as a result of Court decision, a government servant restored to his post, the question whether pay and allowances for the period he was under suspension or was removed from service should be decided on merit of each case. For this purpose, it is suggested that in all cases the Ministry or Department concerned should order a departmental enquiry headed by the representative of the Ministry/Department Administratively concerned with their Financial Adviser/Deputy Financial Adviser as a member of the committee. This committee should consider whether, on the merits of the case, Government would be justified in restoring the official concerned, the pay and allowances for the period involved and, if so, whether in full or in part. In coming to a conclusion whether pay and allowances to the individual should or should not be restored, following considerations will have to kept in view:--

- (a) Whether the person concerned was acquitted on a purely technical or procedural grounds or whether the actual allegations against him had been gone into and were found to be incorrect;
- (b) Whether the individual during the period he was away from active duty and other sources of income; and so on.

(5) It has further been decided that in cases where the total period involved does not exceed 12 months from the time the individual was suspended or removed from service, the final decision should be taken by the Ministry concerned at the level of Secretary and in all other cases the matter should be referred to the Ministry of Finance for prior concurrence."

In view of the above provisions of F.R. and CSR as well as Esta Code, this Court had been expressing its opinion with regards to the settled law in various pronouncements. Reference may be made to judgments in the cases of Muhammad Hussain (ibid); Naheed Naushahi's case (supra); Sher Muhammad Shahzad v. District Health Officer (2006 SCMR 421); Binyamin Masih v. Government of Punjab through Secretary Education, Lahore (2005 SCMR 1032); General Manager/Circle Executive Muslim Commercial Bank Limited v. Mehmood Ahmed Butt (2002 SCMR 1064); Pakistan through General Manager, P.W.R., v. Mrs. A. V. Issacs (PLD 1970 SC 415).

In the case of Muhammad Hussain (ibid), this Court has clearly settled the law stating that:--

"It is a settled law that grant of service back-benefits to an employee who had been illegally kept away from employment was the rule and denial of such benefits to such a reinstated employee was an exception on the proof of such a person having remained gainfully employed during such a period."

And further that:-

"It is an admitted fact that there is nothing on record that the petitioners were gainfully employed anywhere during the relevant period and this fact was also not considered by the learned Service

Handwritten signature/initials

Tribunal in para 6 of the impugned judgment. Therefore, it would be very unjust and harsh to deprive the petitioners of back-benefits for the period for which they remained out of job without any fault from their side. It is a settled law that back benefits in such situation cannot be withheld by the respondents or by the learned Service Tribunal."

In the same case, the Supreme Court also distinguished the judgment of this Court in Mansoor-ul-Haq's case, cited above:--

"The learned Service Tribunal has refused back-benefits to the petitioners in view of law laid down by this Court in Mansoor-ul-Haq's case 2004 SCMR 1308 which is distinguished on facts and law wherein PIDC vide order dated 23-6-1986 terminated Mansoor-ul-Haq's lien by stating that the same will be maintained by PACO, a borrowing organization and not in the PIDC and the said proposal was accepted by the PACO, therefore, the judgment relied by the Law Officer and learned Service Tribunal is distinguished on facts and law."

In the case of Sher Muhammad (supra) it was held:--

"...there is nothing on record that the petitioners were gainfully employed anywhere during the relevant period. It would be very unjust and harsh to deprive them of back-benefits for the period for which they remained out of job without any fault from their side. At the cost of repetition they were proceeded under (Efficiency and Discipline) Rules for no fault on their part and their services were terminated in an arbitrary manner without providing any reason. The departmental authority rejected their appeals simply on the ground that they were appointed against the post of Medical Technician in an erratic manner without noticing that they were selected as Dispensers in BS-6 and the competent authority of its own adjusted them as Medical Technicians in their own pay and scale. It was not their fault that they held the post of Medical Technician, All these aspects have not been considered and the petitioners were made to suffer throughout this period for no fault of their own. In these circumstances we fail to understand how their salary can be withheld for the said period when they remained out of service due to whimsical and arbitrary actions of the functionaries. The petitioners have got every right to recover their arrears. Reliance in this respect is placed on Pakistan through General Manager, P.W.R., Lahore v. Mrs. A.V. Issacs (PLD 1970 SC 415). Accordingly, keeping in view all the aforesaid features of the cases, we convert these petitions into appeals and allow the petitioners all the back-benefits."

In the case of Binyamin Masih (supra), the Service Tribunal accepted the appeal preferred on behalf of the petitioner therein. However, it refused to grant back-benefits for the period during which the petitioner remained out of service. It was ordered by this Court that the intervening period be treated as leave of the kind due to him. The Supreme Court converted the petition into appeal and accepted the same while modifying the judgment of the Tribunal to the extent that the salary concerning the period from 24-1-1996 to 11-2-2000 would be paid to the petitioner within a period of four weeks under intimation to the Assistant Registrar of this Court at Lahore.

This Court ruled in the Mehmood Ahmed Butt case (supra) that:--

"It may be added that grant of service benefits to an employee who had been illegally kept away from his employment was the rule and denial of service benefits to such a reinstated employee was an exception on the proof of such a person having remained gainfully employed during such a period. The mere fact that the respondent had left the country and had gone abroad without any proof of his being gainfully employed during the period in question, was not sufficient to deprive him of the benefits in issue. Needless also to add that nothing is available with us to hold that the respondent had remained gainfully employed somewhere during the said period."

The Supreme Court directed in its judgment in the Naheed Naushahi case (supra):--

"Thus we are of the considered opinion that the Service Tribunal instead of granting relief as it is evident from the concluding paras with regard to the financial back-benefits may have referred the case to the department for establishing a Committee for the purpose as noted above. Before parting with this order it is to be noted that the department shall refer the case of the respondent to the Committee, which will be constituted in view of the above instructions contained in Sl.No.151 of the Code for determining whether she is entitled for the claimed financial benefits or not. However, the department is directed to dispose of the matter in respect of her back-benefits expeditiously but not beyond the period of two months on receipt of this order."

Handwritten signature and initials:
 Mansoor-ul-Haq
 June 2
 2005

37

In the case of Muhammad Bashir v. Secretary to the Government of Pakistan (1994 SCMR 1801), leave to appeal was granted to the appellant to consider whether the Service Tribunal was justified in refusing back benefits. The brief facts of the case were that:--

"...the appellant was serving as Subject Specialist in Government Comprehensive School, Faisalabad, when he was retired from service under section 12(ii) of Punjab Civil Servants Act, 1974, after having completed 25 years' service, on 26-6-1986. The appellant having failed to get his grievance redressed from the Departmental authorities, approached the Punjab Service Tribunal. He challenged the order of his retirement on two grounds; firstly, the appellant had not completed 25 years' service qualifying for pension, and secondly that the order of retirement had not been made in the public interest, The learned Service Tribunal had not attended to ground No. 1 but allowed the appeal on the ground that the record of the appellant was satisfactory and good. The Character Roll presented in the Court depicts that his service record was quite satisfactory/good. While allowing the appeal the Service Tribunal held that the intervening period, during which the appellant remained out of service, shall be treated as leave without pay."

Citing the provisions of F.R. 54, the Supreme Court held that:--

"In the present case clause (b) would attract. The Committee shall also take into consideration whether a civil servant has earned any amount by way of salary or as profit on account of his having accepted some employment or been engaged in some profitable business during the intervening period. Similarly, according to proviso (ii) of section 16 of the Punjab Civil Servants Act, 1974, where an order of removal of a civil servant has been set aside, he shall be entitled to such arrears of pay as the authority setting aside the order may determine. In the instant case the Tribunal has not allowed the arrears of pay without assigning any reason."

In the case of Trustees of The Port of Karachi v. Muhammad Saleem (1994 SCMR 2213) the Court has held that the while the entitlement of a reinstated employee to get the back benefits is to be determined on the basis of the facts of each case independently.

In the impugned judgment in this case, the Service Tribunal had held that the appellant had given his comment to forego arrears (back benefits) in case of his re-instatement in service. Consequently, it was observed by the tribunal that the intervening period during which the appellant remained out of service shall be treated as leave without pay. However, the Supreme Court held that this concession of the appellant had not been incorporated in the impugned judgment of the Service Tribunal and that there was also no reference to that back benefits are not allowed in view of the concession of the appellant. Therefore, it was held that these comments cannot be taken into consideration. In view of these facts and circumstances, the appeal was accepted, and the case remanded to the official respondents for deciding the matter in accordance with law. The Committee was ordered to decide the appellant's entitlement of arrears of pay and adjustment, if any, in accordance with Rule F.R. 54 and Civil Services Laws.

11. The crux of the above case-law is that the grant of back benefits to an employee who was reinstated by a Court/Tribunal or the department is a rule and denial of such benefit is an exception on the proof of that such a person had remained gainfully employed during such period. The entitlement of back benefits of a person has to be determined on the basis of facts of each case independently. There would be cases at times when no difficulty is felt by the Court or Tribunal to grant the back benefits when there are admitted facts between the parties but when there is a dispute in respect of the facts then of course, the matter had to be referred to the Department.

12. In the instant case the respondent was dismissed from service was awarded to him vide order dated 26-11-1992 but later on reinstated on 13-8-2010, however, the back benefits were not awarded to him as the intervening period was considered as absence/out of service. The case of the respondent is to be considered at the touchstone of the principles of granting back benefits as deduced from the judgments cited above. It is to be observed that as far as the question of granting back benefits to the respondent with regard to the period during which he remained absent from duty i.e. period of about 4 months could be based on a disputed fact but as far as the period during which his Revision Petition was kept pending for decision of the criminal as well as civil cases are concerned, the respondent cannot be held responsible for the same because it

was on account of the act of the Department for which he cannot be held responsible in any manner, therefore, in view of such admitted facts and following the principles as laid down in both the above said judgments as well as in the case of Muhammad Basher (supra), we are of the opinion that minus the period during which he remained absent from duty i.e. four months, he is entitled to back benefits subject to establishing before the department in terms of Rule 7.3 of CSR that he was not gainfully employed during this period. As far as rest of the period is concerned, he is entitled for back benefits, as it was the Department, which on the basis of a wrong opinion kept him away from performing his duty, as it is evident from the order dated 13-8-2010 passed by the Revisional Authority, which has already been reproduced hereinabove.

12(sic.) For the foregoing reasons, we are of the opinion that there is no conflict in the judgments, which has been cited in the subsequent leave granting order dated 13-3-2012, the principles of both the cases are common, as it has been observed hereinabove. In the cases of such like nature, the Department should have decided the cases, depending upon the facts of each case and as far as the instant case is concerned, the respondent is entitled to get back benefits during the period when he had instituted a revision petition, which was kept pending till the decision of the criminal as well as civil cases, which have no relevance as unless he had been found guilty by the Court, he was not debarred from performing his duty. Therefore, from the date of filing of the revision petition and till its decision he is entitled for back benefits as far as the question of giving him back benefits during the period when he remained absent, it is for the Department to conduct an inquiry and independently decide whether he is entitled for the same or not.

13. Thus, the appeal is dismissed with costs.

MWA/I-18/SC Appeal dismissed.

Handwritten signature and initials:
 [Signature]
 [Initials]

BEFORE THE KPK SERVICE

2 39
RIBUNAL PESHAWAR

Service Appeal

299/2019

Muhammad Ismail

..... (Appellant)

Versus

Govt. of KPK etc

..... (Respondents)

REQUEST FOR PROVISION OF CERTIFIED COPIES

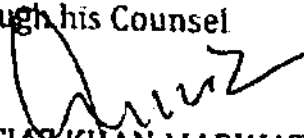
Respected Sir,

1. That the above noted the service appeal has been decided on 01.10.2021 by Camp Court D.I.Khan.
2. That the Appellant intends to file a petition for leave to appeal in the Supreme Court of Pakistan for which he is in need of certified copies of the following document:
 - (i) Copy of Appeal
 - (ii) Copy of Reply
 - (iii) Copy of Judgment / order

It is therefore, requested that certified copies of the above noted documents may please be issued to the appellant.

Your Humble Appellant
Through his Counsel

Dated: 14/10/2021


GULTIAZ KHAN MARWAT,
Advocate High Court
District Bar D I Khan

Allowed
27/10/2021

Allowed
27/10/2021



**KHYBER PAKHTUNKHWA
BAR COUNCIL**

ADVOCATE HIGH COURT

GUL TIAZ KHAN

Advocate
bc-11-2767
Date of Issue: June 2020
Valid upto: June 2023



Secretary
KP Bar Council

Father's Name: MUHAMMAD NAWAZ KHAN
Address: E-27, COMMISSIONERS COLONY NORTH
CIRCULAR ROAD D.I. KHAN
Contact No:
Enrolment Date LCO3-July-2008
Enrolment Date HLC06-November-2010
Place of Practice: D.I. KHAN
Date of Birth: 01-November-1961
Blood Group: B+ VE
C.NIC No: 12101-5311150-1

40

VAKALATNAMA

IN THE COURT OF KPK Service Tribunal Peshawar
Mohammad Jona VERSUS Govt. of KPK etc

Title Petition 4/5 1201 CP

I/we Mohammad Jona

The above named Petitioner hereby appoint Gul Tiaz Khan Marwat Advocate High Court D.I.Khan, in the above mentioned case to all or any of the following acts, deeds and things.

1. To appear, act and plead for me/us in the above mentioned case in this court/tribunal in which the same may be tried or heard or any other proceedings out of our connected therewith.
 2. To sign and verify and file or withdraw all proceedings, petitions, appeals, affidavits, and applications for compromise or withdrawal, or for the submission to arbitration of the said case or any other documents, may be deemed necessary or advisable by them by the conduct, prosecution or defense of the said case at all its stages.
 3. To receive payments of and issue receipts for all moneys that may be or become due and payable to us during the course on conclusion of the proceeding.
To do all other acts and things, which may deemed necessary or advisable during the course of proceedings.
- AND hereby agree:
- a. To ratify whatever advocates may do the proceedings.
 - b. Not to hold the advocates responsible if the said case be proceed ex-parte or dismissed in default in consequence of their absence from the court when it is called for hearing.
 - c. That the advocates shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fee remains un-paid.
 - d. That advocates may be permitted to argue any other point at the time of arguments.

In witness whereof I/we have signed this vakalatnama here under the contents of which have been read/explained to me/us which is fully understood by me/us.

Date: 9/10/2024

[Signature]
Signature of Executants (s)

Attested & Accepted: [Signature]

12201-3603574-1

Gul Tiaz Khan Marwat
Advocate High Court D.I.Khan (KPK)
Cell No. 0300-9092488 / 0345-9853488

Cell No: 03490486551