


# FORM OF ORDER SHEET

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

**Appeal No.** 2474/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	18/11/2024	<p>The appeal of Mr. Masood ur Rehman presented today by Syed Noman Ali Bukhari Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 22.11.2024. Parcha Peshi given to counsel for the appellant.</p> <p>By order of the Chairman</p> <p> REGISTRAR</p>

**BEFORE THE KP SERVICE TRIBUNAL PESHAWAR**

Appeal No. 2474 /2024

Masood-ur-Rehman

V/S

Higher Education Deptt:

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**APPELLANT**

*M. Masood-ur-Rehman*  
Masood-ur-Rehman

**THROUGH:**

*Noman Ali Bukhari*  
(SYED NOMAN ALI BUKAHRU)  
ADVOCATE HIGH COURT.

*Uzma Syed*  
&  
(UZMA SYED)  
ADVOCATE HIGH COURT

①

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

Appeal No. 2474 /2024

Masood-ur-Rehman s/o Mir Abbas Khan Ex: Lecturer (Maths:),  
Govt: Post Graduate College, Miran Shah,  
R/O Kotka Sher Zad, P/O, PS & Tehsil Domel District Bannu.

**APPELLANT**

**VERSUS**

1. The Chief Secretary, Govt: of Khyber Pakhtunkhwa Peshawar.
2. The Secretary, Higher Education, Archives & Libraries  
Department, Khyber Pakhtunkhwa Peshawar.
3. The Director, Higher Education, Khyber Pakhtunkhwa Peshawar..

**RESPONDENTS**

.....

APPEAL UNDER SECTION-4 OF THE KHYBER  
PAKHTUNKHWA, SERVICE TRIBUNAL ACT- 1974  
AGAINST THE ORDER DATED 03/07/2004  
WHEREBY THE APPELLANT HAS BEEN  
TERMINATED FROM SERVICE AND AGAINST  
ILLEGAL REJECTION ORDER DATED 28/10/2024.  
WHEREBY THE DEPARTMENTAL APPEAL OF  
THE APPELLANT WAS NOT REJECTED ON  
MERITS OR ALLOWED COMPASSIONATE  
ALLOWANCES UNDER SECTION- 19(3) OF CIVIL  
SERVANTS ACT 1973.

.....

**PRAYERS:**

THAT ON ACCEPTANCE OF THIS APPEAL, THE  
IMPUGNED ORDER DATED 03/07/2004 MAY PLEASE  
BE MODIFIED AND PENALTY OF TERMINATION  
FROM SERVICE MAY BE CONVERTED INTO  
MAJOR PENALTY OF COMPULSORILY  
RETIREMENT KEEPING IN VIEW OF 16 YEARS  
LONG SERVICE CAREER OF APPELLANT ON  
STRENGTH OF SUPERIOR COURT JUDGMENT, 2007  
PLC (C.S) 678 AND TRIBUNAL JUDGMENT CITED AS

**2008 PLC CS 77, APPEAL NO. 67/2018, 218/2022 AND SERVICE APPEAL NO 219/2022 OR THE APPELLANT MAY BE ALLOWED TO COMPASSIONATE ALLOWANCES UNDER SECTION-19(3) OF CIVIL SERVANT ACT 1973. ANY OTHER REMEDY WHICH TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.**

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

1. That the appellant had been appointed as LECTURER (Maths:) in BPS-17 under the orders issued vide then Secretary Education Department NWFP (Now Khyber Pakhtunkhwa) Peshawar's Notification No. SO (Colleges) 1-1/1-2/66 dated 26-11-1988 on stop gap arrangement. The service of the appellant was regularized w.e.from 08/12/1988. (Copy of appointment order and regularization order are attached as annexure-A & B.)
2. That while posted to Govt Post Graduate College Bannu, on 03-01-1992(Friday) when the appellant was present in the Animals Mandi of Bannu for purchasing of Cow, exchange of fires took place between the Brothers of Appellant as well Opponent Party over the Landed Property, which resulted into Murder of one Noor Muhammad and Injuring of Abdul Qadir of the Opponent Party, resultantly case FIR No.01 dated 03-01-1992 U/Ss 302/324/34 PPC was registered to this effect at Police Station Domel District Bannu. (Copy of FIR is attached as annexure-C.)
3. That the Case remained under trial in the Court of Addl: Session Judge No.1 Bannu and was decided on 07-08-1994 awarding thereby appellant the Punishment of Life Imprisonment of 25 Years. The instant decision of the Session Court was totally contrary to the Justice, thus filed a Revision Petition before the Honorable Peshawar High Court DI Khan Bench DI Khan against the impugned decision of the Session Court concerned, which was decided with Honorary Acquittal of the appellant vide Judgment dated 07-12-1995. (Copy of judgment is attached as annexure-D.)
4. That in compliance with Judgment of the Peshawar High Court DI Khan Bench, the Secretary Higher Education NWFP (Now KP) Peshawar was pleased to issue order regarding Re-instatement into

service of the appellant, treatment of overall Suspension Period as spent on duty also with release of over all Pending Salaries of the appellant vide orders bearing No.17129-32 dated 07-10-1996. (Copy of order is attached as annexure-E.)

5. That the Opponent Party once again filed a Criminal Appeal No.280 of 1997 before the August Supreme Court of Pakistan Islamabad against the instant Judgment of PHC DI Khan Bench, which remained under trial for 07 Years and was lastly decided with Restoration of decision of the Addl: Session Judge, No1 Bannu vide Judgment dated 02-12-2003. Consequent on receipt of the instant Judgment on 27/04/2024, in compliance the appellant surrendered himself to the Local Police in May 2004 while the services of appellant were terminated w.e.from 27-04-2004 by Orders of the Secretary Higher Education Department NWFP (Now KP) Peshawar bearing No.SO(Colleges)2-42/2004 dated 03-07-2004 but copy of the same was never served upon the appellant. (Copy of impugned order is attached as annexure-F.)
6. That on completion of the Confinement, the appellant was released from Central Jail Bannu on 19-09-2022. After that the appellant filed a detailed, comprehensive and self-explanatory appeal dated 08-01-2023 before the Secretary, Higher Education Department KP Peshawar requesting therein for the conversion of the Termination from Service Order into Compulsorily Retirement from Service in pursuance of certain decisions passed by this Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar in similar nature cases and on the strength of the Superior court of judgments being having 16 year service on credit. (Copy of departmental appeal and record are attached as annexure-G & H.)
7. That in response the Secretary Higher Education Department KP Peshawar was kind enough to refer the case to the Director Higher Education KP Peshawar over letter No.SO(C-II)HED/242/2004/Masoodur-Rehman/5914 dated: 13-04-2023 asking thereby as to whether "Masood-ur-Rehman (the appellant) have performed his duties in Higher Education Department i.e from 02-04-1994 till termination from service or other-wise" which letter was further Endorsed by the Director Higher Education KP Peshawar to the Principal Govt: Post Graduate College Bannu, In compliance the Principals of Govt: Post Graduate Colleges Bannu and Miran Shah conveyed a Joint report to the Director Higher Education KP Peshawar duly based on all relevant record indicating therein that Masood-ur-Rehman(i.e the appellant) has actually and really performed his duties for the

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requisite period in both the Colleges vide letter dated 19/07/2023. Thus the Director Higher Education KP Peshawar was pleased to further convey the requisite report to the Secretary Higher Education Department KP Peshawar over letter No.4203/CA-II/Estt: Branch/A12/Masood-ur-Rehman/Maths: dated 11-08-2023. On perusal of the case the Secretary Higher Education Department KP Peshawar once again asked the Director Higher Education KP Peshawar for furnishing of the over all relevant record as a result of which the services of appellant were terminated vide letter No.SO(CII)HED/2-42/2004/ Masood-ur-Rehman/9158 dated:11-09-2023. (Copy of letters is attached as annexure-I.)

8. That in compliance the Director Higher Education KP Peshawar again furnished the required record to the Secretary Higher Education Department KP Peshawar over letter No.5419/II/Estt:Branch/A-12/Masood-ur-Rehman/Maths: dated 04-10- 2023. It is pertinent to mention here that during consideration of the case in office of the Secretary Higher Education Department KP Peshawar, the Opinions/Guidance of Secretaries Establishment & Law Departments were also requisitioned over letter dated 27-10-2023 followed by subsequent reminding letter No So(C-II)/HED/2-42/2004/ Masood-urRehman/Maths/104741-43 dated 06-12-2023. Which outcome reflects that the Secretary Higher Education Department KP Peshawar was opined for disposal of the case under the rules for which he is competent one. However case of the appellant was referred to the Litigation Section of the Department, where it was remarked on the office file that "the case may be filed please" by not only ignoring of the provisions under CSR 371-A, but also overlooking of the certain decisions of the Honorable Service Tribunal Peshawar passed in similar nature cases and the Rejection Order was handed over to the appellant on 28/10/2024 through RTI indicating therein that the departmental appeal of the appellant was rejected by the competent authority being time bared, To this aspect it is astonishing to point out that the appeal in question could never treated as time barred by the HED during the period of past 19 months by making of continuous correspondence about it with certain Offices/Departments as is proved/evident from the corresponding letters placed as annexures above while on asking of the requisite copy of Rejection Order through the Information Commission KP Peshawar, appeal of the appellant could treated as time barred which act of the Department tantamount not only for joking of the Office Business but also speaks for ill correspondence on the part of officers concerned of HED

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Peshawar. (Copy of letter and Rejection Order is attached as annexure-J & K.)

9. That the appellant feeling aggrieved of such illegalities having No other remedy but to file the instant service appeal on the following grounds amongst the others.

**GROUND:**

- A. That the impugned order dated 03.07.2004 whereby the appellant was terminated from service w.e.from 27-04-2004 and Rejection Order were very harsh and against the law and rules.
- B. That according to Section-19(3) of Civil Servants Act 1973, a person removed or dismissed from service shall be eligible for compassionate allowances which is 1/3 of pensionary benefit, while the appellant has sixteen years of service on his credit, therefore becomes entitled for the same.
- C. That as per Regulation 371-A of the Civil Service Regulation, the appellant is entitled for pensionary benefits for the service already rendered by the appellant.
- D. That according to Superior Court Judgment cited as 2007 PLC (Civil Servant) 678, without touching other merits of the case on the basis of sixteen years' service' major penalty of compulsorily retirement be awarded just to avail pensionary benefits.
- E. That No proper procedure has been followed before awarding of the major penalty of "Removal from service", because the whole proceedings so conducted is violation of the RSO 2000 and thus does not tenable in the eyes of law.
- F. That the appellant has 16 years long service with good record at his credit and the impugned order has been passed so harsh, hence keeping in view of prolonged service career of the appellant the major penalty of termination from service may be converted into the major penalty of compulsorily retirement from service.
- G. That the appellant has been condemned un-heard and has not been treated under the law and rules.

H. That in Supreme Court judgment cited as *2007 PLC CS 678* as well Tribunal Judgment cited as *2008 PLC CS 77* and in service appeals NOs. *872/2014, 898/2014, 67/2018, 218/2022 AND SERVICE APPEAL NO 219/2022*, in such circumstances mentioned above in facts, the appeal of the appellant was accepted and the major penalty of dismissal from service is converted in to the major penalty of compulsorily retirement, So, the appellant is also entitled to the said relief under the rules of consistency and law of good governance as per Supreme Court Judgment cited as *1996 SCMR 1185, 2009 SCMR 1, 2018 SCMR 380, 2021 SCMR 1313, 2023 SCMR 8* being on similar footing.. (Copies of judgments are attached as annexure-L.)

I. That in a similar nature case i.e. in Civil Appeal No.1520/2008 titled as Abdul "Qudus Vs. Government of NWFP through Secretary Education Department, NWFP, decided by the Supreme Court of Pakistan on 23.04.2013, it was held that:-

"It is being argued by the learned counsel for the appellant that after reinstatement of the appellant in service vide order dated 24.09.2000, withdrawing of his reinstatement, had been illegally passed without adopting proper procedure as No Show Cause Notice was issued. That the said order of withdrawal of his reinstatement had been passed after the appellant had. Served, for 6/7 years as such he was fully entitled to pensionary benefits. His appeal was accepted in terms as the Tribunal holds that the appellant has a long service at his credit and consider it appropriate to compensate him for the service rendered by him. In order to enable the appellant to get his pension for the period before his involvement in the criminal case the retirement order dated 26.08.2000 is amended to the extent that he will stand, retired from service. The appeal is accepted to that extent and the impugned order is partially set a sided. No order as to costs file be consigned to the record". He further asserted, that the Tribunal has also failed to take into consideration that the appellant after reinstatement have rendered service for 6/7 years on account of which he was entitled, to pension from the period 06.02.1989 to 17.07.1994. Therefore, while granting the appellant partial relief the same should have been allowed which needs to be rectified. The appellant has a long service record at his credit. He had been inducted in service as CT Teacher on 01.08.1961, he has not been involved in



any departmental disciplinary proceeding and prior to the period. Moreover, the contention of the appellant for the grant of pension for the period from 06.02.1989 to 17.07.1994 cannot be justified in any manner as during this period he has been absent from service which, on sympathetic grounds, has been converted into Extra Ordinary Leave without pay. following the above judgment of the Supreme Court of Pakistan”

Keeping in view of 16 years long service of the appellant please modify the punishment of dismissal and convert into that of consideration of the case of the appellant for pensionary benefits.

J. That the appellant has been condemned unheard in violation of Article 10-A of the Constitution of Islamic Republic of Pakistan and in violation of maxim “Audi Alterum Partum” and has not been treated according to the Law and Rules. That according to reported judgment cited as *2019 CLC 1750* stating that Audi Alterum Partum” shall be read as part and parcel of the every statute. The same principle also held in the Superior Court judgments cited as 2016 SCMR 943, 2010 SCMR 1554 and 2020 PLC(cs) 67, wherein it has clearly been stated that the penalty awarded in violation of maxim “Audi Alterum Partum” is not sustainable in the eyes of law.

K. That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

*M. Masood-ur-Rehman*  
**APPELLANT**  
Masood-ur-Rehman

**THROUGH:** *Sy Noman Ali Bukhari*  
(SYED NOMAN ALI BUKHARI)  
ADVOCATE HIGH COURT  
& *Uzma Syed*  
(UZMA SYED)  
ADVOCATE HIGH COURT

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**CERTIFICATE:**

It is certified that No other service appeal has earlier been filed between the present parties in this Tribunal, except the present one.

  
DEPONENT

**LIT OF BOOKS:**

1. Constitution of the Islamic Republic of Pakistan, 1973.
2. The ESTA CODE.
3. Any other case law as per need.

  
(SYED NOMAN ALI BUKHARI)  
ADVOCATE HIGH COURT

01

**BEFORE THE KP SERVICE TRIBUNAL PESHAWAR**

Appeal No. \_\_\_\_\_/2024

**Masood-ur-Rehman**

V/S

Higher Education Deptt:

**AFFIDAVIT**

I, **Masood-ur-Rehman**, (Appellant) do hereby affirm that the contents of this Service Appeal are true and correct and nothing have been concealed from this Honorable Tribunal.

DEPONENT



**Masood-ur-Rehman**

**BEFORE THE KP SERVICE TRIBUNAL PESHAWAR**

**APPEAL NO. \_\_\_\_\_/2024**

**Masood-ur-Rehman**

**V/S**

**H. Education Deptt:**

**APPLICATION FOR CONDONATION  
OF DELAY IN FILING OF THE INSTANT APPEAL**

**RESPECTFULLY SHEWETH:**

1. That the instant appeal is pending before this Honorable Tribunal in which No date has been fixed.
2. That the appellant was punished under the repealed law of RSO 2000 and as such the penalty of termination was without legal backing, void ab initio and No limitation runs against such orders because the said penalty was not included in the list of penalties. where a similar nature appeal No: 1208/2017 was accepted.
3. That Section-4 of the KP Service Tribunal Act 1974 is clear on the point that the limitation run from the date of communication of order, which provisions under the relevant section is produced below: -

"Any civil servant aggrieved by any final order, whether original or appellate made by a departmental authority in respect of any of the terms and conditions of his service may, within thirty days of the communication of such order to him [or within six months of the establishment of the appropriate Tribunal, whichever is later], prefer an appeal to the Tribunal having jurisdiction in the matter"

That the said point has also cleared by the Supreme Court of Pakistan in judgment cited as *2003 SCMR 826, 2016 SCMR 189 and 2013 SCMR 1053*, hence Service Appeal of the Petitioner was not time barred and may be heard on merits.

4. That as per judgment of the Supreme Court of Pakistan cited as *2010 PLD SC 695* wherein it was held that if the Departmental appeal was filed after releasing from Jail the same would not be dismissed as time barred. Because the appellant received the order after releasing from Jail.
5. That the August Supreme Court of Pakistan have further held that decision on merit should be encouraged rather than knocking-out the litigants on technicalities including limitation. Therefore, the appeal needs to be decided on merit (2003, PLD (SC) 724 refers.

It is therefore most humbly prayed that the instant appeal may be decided on merit by condoning the delay to meet the ends of justice.

**APPELLANT**

Masood-ur-Rehman

**THROUGH:**

*M.A.R.*  
(SYED NOMAN ALI BUKAHRU)  
ADVOCATE HIGH COURT.

*U.S.*  
&  
(UZMA SYED)  
ADVOCATE HIGH COURT



50	Sarfaraz Khan S/O	
51	Sarfaraz Ali	
52	Iqbal Hussain S/O	
53	Fazli Ahmad	
54	Muhammad Yousaf S/O	
55	Sirous Khan	
56	Arshad Farooq S/O	
57	Muhammad Yousaf S/O	
58	Muhammad Yousaf S/O	
59	Muhammad Yousaf S/O	
60	Muhammad Yousaf S/O	
61	Muhammad Yousaf S/O	
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75	Muhammad Yousaf S/O	
76	Muhammad Yousaf S/O	
77	Muhammad Yousaf S/O	







- 1. 1.1.1988. Dr. M. A. Khan, Lecturer in Chemistry, Govt. College, Hurdan.
- 2. 1.1.1988. Dr. M. A. Khan, Lecturer in Urdu, Govt. College, Hurdan.
- 3. 1.1.1988. Dr. M. A. Khan, Lecturer in English, Govt. College, Hurdan.
- 4. 1.1.1988. Dr. M. A. Khan, Lecturer in Maths, Govt. College, Hurdan.
- 5. 1.1.1988. Dr. M. A. Khan, Lecturer in Chemistry, Govt. College, Hurdan.
- 6. 1.1.1988. Dr. M. A. Khan, Lecturer in Physics, Govt. College, Hurdan.
- 7. 1.1.1988. Dr. M. A. Khan, Lecturer in Biology, Govt. College, Hurdan.
- 8. 1.1.1988. Dr. M. A. Khan, Lecturer in History, Govt. College, Hurdan.
- 9. 1.1.1988. Dr. M. A. Khan, Lecturer in Political Science, Govt. College, Hurdan.
- 10. 1.1.1988. Dr. M. A. Khan, Lecturer in Economics, Govt. College, Hurdan.
- 11. 1.1.1988. Dr. M. A. Khan, Lecturer in Sociology, Govt. College, Hurdan.
- 12. 1.1.1988. Dr. M. A. Khan, Lecturer in Education, Govt. College, Hurdan.
- 13. 1.1.1988. Dr. M. A. Khan, Lecturer in Fine Arts, Govt. College, Hurdan.
- 14. 1.1.1988. Dr. M. A. Khan, Lecturer in Music, Govt. College, Hurdan.
- 15. 1.1.1988. Dr. M. A. Khan, Lecturer in Physical Education, Govt. College, Hurdan.
- 16. 1.1.1988. Dr. M. A. Khan, Lecturer in Health Education, Govt. College, Hurdan.
- 17. 1.1.1988. Dr. M. A. Khan, Lecturer in Social Work, Govt. College, Hurdan.
- 18. 1.1.1988. Dr. M. A. Khan, Lecturer in Library Science, Govt. College, Hurdan.
- 19. 1.1.1988. Dr. M. A. Khan, Lecturer in Information Science, Govt. College, Hurdan.
- 20. 1.1.1988. Dr. M. A. Khan, Lecturer in Mass Communication, Govt. College, Hurdan.

Dr. M. A. Khan, Lecturer in Chemistry, Govt. College, Hurdan.

Dr. M. A. Khan, Lecturer in Urdu, Govt. College, Hurdan.

Dr. M. A. Khan, Lecturer in English, Govt. College, Hurdan.

Dr. M. A. Khan, Lecturer in Maths, Govt. College, Hurdan.

Dr. M. A. Khan, Lecturer in Chemistry, Govt. College, Hurdan.

Dr. M. A. Khan, Lecturer in Physics, Govt. College, Hurdan.

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Dr. M. A. Khan, Lecturer in Health Education, Govt. College, Hurdan.

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Dr. M. A. Khan, Lecturer in Library Science, Govt. College, Hurdan.

Dr. M. A. Khan, Lecturer in Information Science, Govt. College, Hurdan.

Dr. M. A. Khan, Lecturer in Mass Communication, Govt. College, Hurdan.

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TO BE RECORDED

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|-----|---|-------------|
| 30. | Mrs. Karim Fatima Soofi, Lect: in Maths, GGC, Kohat.      | 22.12.1988. |
| 31. | Mrs. Rukhsana Yasmin, Lect: in Psychology, GGC, Kohat.    | 22.12.1988. |
| 32. | Mrs. Masooda Jaleel, Lect: in Islamiat, GGC, Mardan.      | 3.4.1989.   |
| 33. | Mrs. Abbas Begum, Lect: in History, GGC, Haripur.         | 6.4.1989.   |
| 34. | Mrs. Saadia Gul, Lect: in Economics, GGC, Haripur.        | 6.4.1989.   |
| 35. | Mrs. Mumtaz Taj, Lect: in Chemistry, GGC, Maneri (Swabi). | 15.4.1989.  |
| 36. | Mrs. Khair Bano, Lect: in Urdu, GGC, Mardan.              | 20.4.1989.  |
| 37. | Mrs. Zausar Shaheen, Lect: in Islamiat, GGC, Haripur.     | 25.4.1989.  |
| 38. | Mrs. Azeem Tabassum, Lect: in History, GGC, Nowshera.     | 23.5.1989.  |

FILE

- |     |   |            |
|-----|---|------------|
| 39. | Mr. Isha Khan, Lecturer in Zoology, G.C. Khairabad.       | 18.2.1988. |
| 40. | Mr. Amanullah Khan, Lect: in Hist/Civ: CC, Ghazi.         | 1.3.1988.  |
| 41. | Mr. Ahmad Jan, Lect: in Zoology, G.C. Chitral.            | 21.3.1988. |
| 42. | Mr. Naemullah, Lect: in Physics, CC, Akorakhattak.        | 8.6.1988.  |
| 43. | Mr. Shad Ali Khan, Lect: in Urdu, CC, Daggan.             | 9.6.1988.  |
| 44. | Mr. Mohammad Khurshid, Lect: in Botany, CC, Daggan.       | 9.6.1988.  |
| 45. | Mr. M. Asif Shah Bukhari, Lect: in Zoology, CC, Swabi.    | 9.6.1988.  |
| 46. | Mr. M. Iqbal Wazir, Lect: in Pak: Stud: CC, Ladha.        | 9.6.1988.  |
| 47. | Mr. Sartaj Khan, Lect: in Law, CC, D.I. Khan.             | 9.6.1988.  |
| 48. | Mr. Razaullah, Lect: in Chemistry, CC, Tank.              | 9.6.1988.  |
| 49. | Mr. Mohammad Asif, Lect: in Economics, CC, Agra.          | 9.6.1988.  |
| 50. | Mr. Badar Zaman, Lect: in Pak: Stud: CC, Satta.           | 9.6.1988.  |
| 51. | Mr. Mohammad Basir Khan, Lect: in Maths, CC, Karak.       | 9.6.1988.  |
| 52. | Mr. Tamsaz Khan, Lect: in Chemistry, CC, Chitral.         | 9.6.1988.  |
| 53. | Mr. Mohammad Jehan, Lect: in Economics, CC, Daggan.       | 9.6.1988.  |
| 54. | Mr. Mohamad Sadiq, Lect: in Physics, GSSC, Peshawar.      | 9.6.1988.  |
| 55. | Mr. Ghub Nawaz, Lect: in Zoology, CC, Peshawar.           | 12.6.1988. |
| 56. | Mr. Nawab Khan, Lect: in Law, CC, Chitral.                | 13.6.1988. |
| 57. | Mr. Mohammad Usman, Lect: in Urdu, CC, Darra Adam Khel.   | 14.6.1988. |
| 58. | Mr. Khadim Mohammad, Lect: in Statistics, CC, Chitral.    | 29.6.1988. |
| 59. | Mr. Mohammad Razaq, Lect: in English, CC, Haripur.        | 2.11.1988. |
| 60. | Mr. Farid Hafeez, Lect: in English, GJC, S. Shari (Swat). | 2.11.1988. |
| 61. | Mr. Firdaus Ali Shah, Lect: in Chemistry, GSSC, Peshawar. | 2.11.1988. |
| 62. | Mr. Firdaus Ali Shah, Lect: in Botany, CC, Manohra.       | 2.11.1988. |
| 63. | Mr. Firdaus Ali Shah, Lect: in Botany, CC, Manohra.       | 2.11.1988. |
| 64. | Mr. Firdaus Ali Shah, Lect: in Botany, CC, Manohra.       | 2.11.1988. |
| 65. | Mr. Sangita Khan, Lect: in Maths, CC, Satta.              | 2.11.1988. |
| 66. | Mr. Sibt Khan, Lect: in Islamiat, CC, Chalf.              | 3.11.1988. |
| 67. | Mr. Sami Razi, Lect: in Urdu, CC, Daggan.                 | 3.11.1988. |
| 68. | Mr. Mohammad Ayub, Lect: in Economics, CC, Haripur.       | 3.11.1988. |
| 69. | Mr. Mohammad Siddiq, Lect: in Urdu, CC, Ghazi.            | 3.11.1988. |
| 70. | Mr. Jan Mohammad, Lect: in Islamiat, CC, Agra.            | 3.11.1988. |
| 71. | Mr. Jan Mohammad, Lect: in Islamiat, CC, Agra.            | 3.11.1988. |
| 72. | Mr. Jan Mohammad, Lect: in Islamiat, CC, Agra.            | 3.11.1988. |
| 73. | Mr. Jan Mohammad, Lect: in Islamiat, CC, Agra.            | 3.11.1988. |

No.	Name	Subject	Institution	Date
206.	Mr. Falak Naz Khan,	lect: in Economics,	GC, Lakki	12. 1988.
208.	Mr. Rashid Ishaq,	lect: in English,	GJC, S/Sharif (Swat)	12. 1988.
208.	Mr. Feroz Shah,	lect: in English,	GC, Matta.	10. 12. 1988.
209.	Mr. Saabir Ahmad,	lect: in Pashto,	GC, Charsadda.	10. 12. 1988.
210.	Mr. Abdul Malik,	lect: in Hist./Civ:	GC, Mansehra.	10. 12. 1988.
211.	Mr. Zafrullah,	lect: in Islamiat,	GC, D.I. Khan.	10. 12. 1988.
212.	Mr. Zafsehtullah,	lect: in Pashto,	GC, Thali.	10. 12. 1988.
213.	Mr. Amir Hussain,	lect: in Statistics,	GC, Kohat.	10. 12. 1988.
214.	Mr. Fajr-ur-Rahman,	lect: in Pak Stud:	GC, Swabi.	10. 12. 1988.
215.	Mr. Nasrullah Khan,	lect: in English,	GC, Abbottabad.	10. 12. 1988.
216.	Mr. Iqbal Nadim Abtaisi,	lect: in Urdu,	GC, Timergara.	10. 12. 1988.
217.	Mr. Jehanzeb,	lect: in Hist/Civ:	GC, D.I. Khan.	10. 12. 1988.
218.	Mr. M. Ibrahim Khalid,	lect: in Maths,	GC, /Abad.	10. 12. 1988.
219.	G. Muhammad Abbas,	lect: in Math,	GC, D.I. Khan.	10. 12. 1988.
220.	Mr. Saif Baccol,	lect: in Statistics,	GC, Pannu.	10. 12. 1988.
221.	Mr. Muhammad Tariq,	lect: in Pol: Sc:	GC, Kohat.	10. 12. 1988.
222.	Mr. Zahoorud Din,	lect: in Pol: Sc:	GC, Abbottabad.	10. 12. 1988.
223.	Mr. Saifur Rahman,	lect: in Maths,	GC, Karak.	10. 12. 1988.
224.	Mr. Abbas Saaved,	lect: in Urdu,	GC, Pannu.	11. 12. 1988.
225.	Mr. Eadash Wahab,	lect: in Stats:	GC, Nowshera.	11. 12. 1988.
226.	Mr. Aungzeb,	lect: in Economics,	GC, Mardan.	11. 12. 1988.
227.	Mr. Sartiraz Khan,	lect: in Economics,	GHSS, Pakhal (Pab)	12. 12. 1988.
228.	Mr. Mohammad Ayaz,	lect: in Hist/Civ:	GC, Pabli.	12. 12. 1988.
229.	Mr. Kir Baz Khan,	lect: in Hist/Civ:	GC, Matta.	13. 12. 1988.
230.	Mr. Sher Zaman Khan,	lect: in Maths,	GC, Swabi.	13. 12. 1988.
231.	Mr. Azad Khan,	lect: in Stats:	GSSC, Peshawar.	13. 12. 1988.
232.	Mr. Lutfur Rahman,	lect: in Maths,	GC, Toru.	14. 12. 1988.
233.	Mr. Mukhtor Ahmad,	lect: in Urdu,	GC, Pabli.	14. 12. 1988.
234.	Mr. Inayatullah Rahman,	lect: in English,	GC, Hangu.	14. 12. 1988.
235.	Mr. Mohammad Shafi,	lect: in Hist/Civ:	GC, Miranah.	14. 12. 1988.
236.	Mr. Noor Khan,	lect: in Pashto,	GC, Pahrpur.	17. 12. 1988.
237.	Mr. Abdur Rashid,	lect: in English,	GC, Haripur.	17. 12. 1988.
238.	S. Amjad Ali,	lect: in English,	GC, Abbottabad.	17. 12. 1988.
239.	Mr. Javed Hussain,	lect: in Chemistry,	GC, Timergara.	18. 12. 1988.
240.	Mr. Arshad Farvez,	lect: in Economics,	GHSS, Pirmal.	19. 12. 1988.
241.	Mr. Umar Farooq,	lect: in Botany,	GC, Peshawar.	21. 12. 1988.
242.	Mr. Taj Muhammad,	lect: in Pol: Sc:	GHSS-1, Peshawar City.	21. 12. 1988.
243.	Mr. Sahar Gul Wazir,	lect: in Pol: Sc:	GC, D.I. Khan.	21. 12. 1988.
244.	Mr. Umar Nawaz Khan,	lect: in Economics,	GC, D.I. Khan.	21. 12. 1988.
245.	Mr. Akbar Shah,	lect: in Biology,	GC, Swabi.	22. 12. 1988.
246.	Mr. Asmat Shah,	lect: in Chemistry,	GC, Mansehra.	22. 12. 1988.
247.	Mr. Mahmood Ahmad Jan,	lect: in Maths,	GC, Mansehra.	22. 12. 1988.
248.	Mr. Ibrahim Khan,	lect: in Geography,	GC, Balakot.	22. 12. 1988.
249.	Mr. Haroonur Rashid,	lect: in English,	GC, Alpur.	24. 12. 1988.

- 1983-84
161. Mr. Mohammad Ali, Lecturer in English, GC, Durgam.
  162. Mr. Mohammad Yousuf, Lecturer in Persian, GC, Bannu.
  163. Mr. Yousuf Karim, Lecturer in Hindi, GC, Bannu.
  164. Mr. Yousuf Karim, Lecturer in Hindi, GC, Bannu.
  165. Mr. Yousuf Karim, Lecturer in Hindi, GC, Bannu.
  166. Mr. Yousuf Karim, Lecturer in Hindi, GC, Bannu.
  167. Mr. Yousuf Karim, Lecturer in Hindi, GC, Bannu.
  168. Mr. Yousuf Karim, Lecturer in Hindi, GC, Bannu.
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  170. Mr. Yousuf Karim, Lecturer in Hindi, GC, Bannu.
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  202. Mr. Yousuf Karim, Lecturer in Hindi, GC, Bannu.
  203. Mr. Yousuf Karim, Lecturer in Hindi, GC, Bannu.
  204. Mr. Yousuf Karim, Lecturer in Hindi, GC, Bannu.
  205. Mr. Yousuf Karim, Lecturer in Hindi, GC, Bannu.

17



Warrant  
for arrest  
13/1/93

**FORMAL ORDER**

IN THE PESHAWAR HIGH COURT CIRCULAR  
BENCH - D. I. KHAN

ADDL. SESSIONS JUDGE  
BANNU

APPELLATE CRIMINAL SIDE: CRIMINAL APPEAL No. 20 of 1994  
Razaq Khan

8/1/93

1) Masood-ur-Rohman (2) Muhammad Wali alias Masood-ur-Rohman sons of Mir Abbas Khan alias Tala residents of Kotla Sher Dada Police Station Dera Ismail Khan District Bannu.

(1) APPELLANT (s)

~~XXXXXXXXXX~~

Versus

THE STATE

APPEAL FROM

~~XXXXXXXXXX~~ THE ORDER of Mr. Hayat Ali Shah Additional Sessions Judge Bannu dated 7.8.1992 in Sessions case No. 34 of 1992.

Charge: under section 302/324/34 PPC vide F.I.R. No. 1 dated 3.1.1992 of Police Station Dera Ismail Khan Bannu.

(b) Sentence: The accused-appellant Masood-ur-Rohman was convicted under section 302(b) PPC and sentenced to under-go life imprisonment while the accused-appellant Muhammad Wali alias Masood-ur-Rohman was convicted under section 324 PPC and sentenced to under-go 10 years jail with a fine of Rs. 2,000/- or in default of payment of fine to under-go further two months P.I. Accused Muhammad Wali alias Masood-ur-Rohman was also held liable to pay Rs. 3,000/- as Damna to the complainant for the injuries caused to him which shall be payable in lump sum to the complainant, in case he failed to Bannu, he shall be kept in jail until he pays the same to complainant within the meaning of section 337-X PPC.

Both the accused appellants were also entitled to the benefit of section 382-B Cr. P.C..



DX: DIRECTOR OF EDUCATION  
(COLLEGES) N.P.P. PESHAWAR.

Handwritten mark resembling a heart or a stylized 'V'.

- 1. Section Officer (Colleges) Govt. N.P.P. Peshawar, Deptt. to his letter No. SD(C) XI. 23/95 III dated 9.9.1995.
- 2. Principal, Govt. Postgraduate College Bannu.
- 3. Distt. Accounts Officer Bannu.
- 4. Officer concerned.

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

Encl: No. 17198-39

(PROF. MOHAMMAD SHUAIB KHAN)  
DIRECTOR OF EDUCATION (COLLEGES)  
N.P.P. PESHAWAR.

Consequent upon his acquittal from Criminal case Mr. Masood-ur-Rahman, lecturer in Maths, Government Postgraduate College Bannu is hereby re-instated in service as per approval of Authority (Chief Secretary, N.P.P.) with effect from 3.1.1992 i.e. the date he was suspended from service vide order No. 1474-77 dated 30.1.1992. He is further adjusted against his original post at GPC Bannu and is also entitled to draw his withheld pay etc. from 3.1.1992. The period of his suspension is treated as spent on duty.

NOTIFICATION  
Y-12/Masood-ur-Rahman/MATHS/CA-II

(COLL.)  
Dated Peshawar, the 21/08/95

Handwritten number 21 in a circle.

Handwritten signature or initials.





  
GOVERNMENT OF NWFP  
HIGHER EDUCATION ARCHIVES & LIBRARIES  
DEPARTMENT

F (22)

Dated Peshawar the 3/7/2004

ORDER

No. SOIC(COLLEGES) 2-12/2004. The Competent Authority is pleased to terminate the services of Mr. Masood-ur-Rehman, Lecturer (11-17) in Mathematics Government College Bannu with effect from 27-1-2004.

SECRETARY TO GOVT. OF NWFP  
HIGHER EDUCATION DEPARTMENT

(NOTE: No. SOIC(COLLEGES) 2-12/2004.

Dated Peshawar the 3/7/2004.

Copy forwarded to the:-

1. Secretary to Governor NWFP Peshawar.
2. Director Higher Education NWFP Peshawar.
3. Director of Education FATA Peshawar.
4. P.S to Chief Secretary NWFP Peshawar.
5. Section Officer (FATA EDUCATION).
6. Principal Government College Bannu
7. Mr. Masood-ur-Rehman, Lecturer in Mathematics Government College Bannu.

*J*  
7/7/04

*AS*  
*9*

*Shahzad Ali*  
SECTION OFFICER (COLLEGES)

بکھنورا آنور جناب سیکرٹری صاحب ہائیر ایجوکیشن خیبر پختونخواہ پشاور۔

عنوان :-  
سائل کے خلاف آنجناب کے دفتر سے جاری کردہ غیر عدل اور قابل رد ملازمت سے ہٹانے والی آرڈر  
(Impugned Termination from Service Order) کو سول سروس ریگولیشن  
(C.S.R) رولز 371-A اور قابل احترام سروس ریگولیشن پشاور سے بچوں کا مسئلہ (فیصلہ جاری ہونے کی روشنی میں  
(Re-instatement into "Service" Order) منسوخ فرمانے نیز ساتھ بحالی ملازمت آرڈر  
انڈورسمنٹ نمبر 17129-32 مورخہ 07.10.1996 کے مطابق سائل کو ڈیوٹی پیریڈ (Duty Period) از  
مورخہ 26.11.1988 (تاریخ بھرتی) 02.01.1992 اور مورخہ 03.07.2004 تا 03.01.1992  
(کل 15 سال 07 ماہ اور 06 ایام کی Pensionable Service دلوانے کے ساتھ مورخہ  
03.07.2004 سے نکلے ہائیر ایجوکیشن سے جبری طور پر ریٹائرڈ (Compulsorily  
Retirement) فرمانے کیلئے حکمانہ اپیل۔

جناب والا شان!

سائل آنجناب کی خدمت میں نہایت ہی آدب۔ عاجزی اور انکساری کے ساتھ گزارش کرتا ہوں کہ سائل محکمہ تعلیم (ہائیر ایجوکیشن) میں بحوالہ مشمولہ نوٹیفیکیشن نمبر 1-1/1-2/66 S.O. (Colleges) مورخہ 26.11.1988 سے بطور لیکچرار (BPS-17) بھرتی ہوا اور گورنمنٹ ڈگری کالج میرانشاہ میں تعینات کیا گیا۔ اور تب سے اپنی ڈیوٹی نہایت ہی خوش اسلوبی اور جانفشانی کے ساتھ سرانجام دیا کرتا تھا۔  
جناب والا! اس کے بعد سال سن 1991ء میں سائل کا تبادلہ ہو کر گورنمنٹ پوسٹ گریجویٹ کالج نمبر 1 بنوں میں بطور لیکچرار (Maths) تعینات کیا گیا۔ اور یہیں بھی اپنی ڈیوٹی نہایت ہی دیانتداری اور دلجوئی کے ساتھ سرانجام دیا کرتا رہا۔ مگر اللہ تعالیٰ کو کچھ اور منظور تھا وہ یوں کہ مورخہ 03.01.1992 کو بروز جمعہ المبارک جب سائل بنوں کے منڈی مولیشیاں میں گائے کی خریداری میں مصروف تھا کہ سائل کے بھائیوں اور مخالف فریق کے مابین آراضی کے تنازعہ پر جھگڑا ہو گیا اور یوں دونوں فریقین کے مابین فائرنگ کا تبادلہ ہو گیا۔ نتیجتاً دونوں فریقین کے مابین فائرنگ کے تبادلے کے نتیجے میں مخالف فریق کے نور محمد متوج پر جان بحق ہو گئے جبکہ مستغیث عبدالقادر زخمی ہو گئے۔

جناب والا!

اس وقوعہ کے زود نما ہونے پر زخمی مستغیث عبدالقادر کی رپورٹ پر مقدمہ FIR نمبر 01 مورخہ 03.01.1992 زیر دفعات PPC 302/324/34 تھانہ ڈومیل ضلع بنوں میں درج رجسٹر کیا گیا (کاپی FIR مراد اپیل منسلک ہے) جس میں مخالف فریق کے مستغیث عبدالقادر نے سوچے سمجھے منصوبے کے تحت من سائل کی گزٹڈ کیڈز کی سرکاری ملازمت کو خراب کروانے اور نقصان رسانی کی غرض سے نہ صرف من سائل پر مقتول نور محمد کے قتل کرانے کی دعویداری کی بلکہ ساتھ ہی ساتھ دوسرے بھائیوں سمیت بشمول بھائی ولید الرحمن پر مستغیث عبدالقادر کے زخمی کروانے کی دعویداری بھی کی۔

جناب والا!

چونکہ من سائل اس وقوعہ میں بالکل بے گناہ اور بے قصور تھا کیونکہ بوقت وقوعہ 10:00 بجے صبح من سائل بنوں کے منڈی مولیشیاں میں گائے کی خریداری میں مصروف تھا مگر پھر بھی نہایت ہی مالدار اور سینئر اور مخالف فریق نے دولت کے بل بوتے پر تھانہ ڈومیل کے انوسٹی گیشن سٹاف سے قطعاً غلط اور ناجائز تفتیش کرائی اور یوں بے گناہ اور بے قصور ہوتے ہوئے بھی من سائل کو اس ناکردہ جرم میں پھینک دیا۔

(24)

جناب والا! اس مقدمے کی ابتدائی ٹرائل (Trial) اور سماعت عدالت جناب ایڈیشنل سیشن جج صاحب بنوں میں ہوئی جہاں عدالت موصوف نے صریحاً غلط۔ بے بنیاد اور من گھڑت تفتیش کی بنیاد پر مورخہ 07.08.1994 کو فیصلہ سناتے ہوئے عمر قید کی سزا سنائی۔ (فیصلے کی نقل ہمراہ منسلک ہے) جس فیصلے کو قطعی ناجائز اور غیر منصفانہ قرار دیتے ہوئے سائل نے فوری طور پر عدالت عالیہ پشاور ہائی کورٹ سرکٹ بیچ D.I.Khan میں Revision Petition دائر فرمائی۔ جس پر عدالت عالیہ ہڈانے اس مقدمے کی ایک سہ ماہی اور 04 ماہ تک طویل سماعت فرمائی اور آخر کار من سائل کو بے گناہ اور بے قصور قرار دیتے ہوئے اس مقدمہ میں باعزت طور پر بری الذمہ قرار دیتے ہوئے مورخہ 07.12.1995 کو فیصلہ سنایا۔ (عدالت عالیہ کے فیصلے کی نقل ہمراہ اپیل منسلک ہے)۔

جناب والا! یہاں آنجناب کے نوٹس میں لاتے ہوئے ضروری سمجھتا ہوں کہ اس وقوعہ کے بعد من سائل کو آنجناب کے دفتر سے جاری کردہ آرڈر نمبر 1474-77 مورخہ 16.01.1993 کے تحت نہ صرف معطل (Suspend) کیا گیا تھا بلکہ ماہوار تنخواہیں بھی بند کرائی گئیں تھیں۔ مگر عدالت عالیہ پشاور ہائی کورٹ سرکٹ بیچ D.I.Khan کا فیصلہ جاری ہونے پر آنجناب کے دفتر سے جاری کردہ آرڈر نمبر 17129-32 مورخہ 07.10.1996 کے تحت نہ صرف من سائل کو ملازمت میں بحال (Re-instated into Service) کیا گیا، بلکہ مورخہ 03.01.1992 سے بند شدہ تنخواہوں کے اجراء اور عرصہ معطلی (Suspension Period) کو ڈیوٹی پیریڈ (Duty Period) میں شمار کرنے کا حکم بھی صادر فرمایا گیا (آرڈر کی کاپی ہمراہ اپیل منسلک ہے)۔

جناب والا! اب من سائل کو مورخہ 19.09.2022 سے سنٹرل جیل بنوں سے رہائی مل چکی ہے جبکہ سنٹرل جیل بنوں میں مقید ہوتے ہوئے بھی جناب ڈائریکٹر صاحب ہائیر ایجوکیشن پشاور کی خدمت میں مورخہ 11.06.2020 سے بڑھاپے کی پنشن (Superannuation Pension) پر ریٹائرڈ فرمانے کیلئے باقاعدہ درخواست کرائی تھی جس کو بحوالہ لیٹر انگریزی نمبر 4330 مورخہ 07.10.2020 آنجناب کے دفتر کو بغرض غور و فکر بھیجوا گیا تھا۔

جناب والا! یہاں ایک بار پھر آنجناب کے نوٹس میں لاتے ہوئے یہ کہنا بالکل بے جا نہ ہوگا کہ اسی ہی نوعیت کے کیس مقدمہ FIR نمبر 119 مورخہ 04.05.1999 زیر دفعات 302/324/34 PPC تھا نہ بیتہ خیل بنوں میں محکمہ پولیس بنوں سے وابستہ LHC صحت اللہ ہیلتھ نمبر 1184 کو بحوالہ آرڈر بک نمبر 86 مورخہ 23.01.2001 محکمہ پولیس سے بذریعہ D.P.O بنوں درخواست (Dismissed) کیا گیا تھا۔ جس سزا کے خلاف اُس نے قابل احترام سزوں ٹریبونل پشاور میں سروس اپیل نمبر 3117/2010 دائر فرمائی۔ جس پر مورخہ 16.05.2012 کو فیصلہ سناتے ہوئے سزوں ٹریبونل پشاور نے LHC صحت اللہ کی 13 سالہ پولیس ملازمت کو مد نظر رکھتے ہوئے اُس کی Dismissal Order کو CSR-371-A کے تحت Set-aside کراتے ہوئے محکمہ پولیس سے جبری ریٹائرمنٹ (Compulsory Retirement) میں تبدیل فرمایا (ٹریبونل کا فیصلہ ہمراہ اپیل منسلک ہے)۔

لہذا اس سائل آجخاب سے بذریعہ حکمانہ اپیل ہذا التجا کرتا ہوں کہ چونکہ اس سائل بھی سول سروس ریگولیشن (CSR) رولز 371-A کے تحت ڈیوٹی پیریڈ (Duty Period) کے پیش دلوانے کا حقدار بننا تھا جبکہ یہ رولز 2004ء میں لاگو (Applicable) بھی تھے مگر اس کے باوجود اس سائل کو آجخاب کے دفتر سے جاری کردہ آرڈر نمبر: S.O (Collegès) 2-42/2004 dt: 03.07.2004 کے تحت ملازمت سے ہٹا کر Terminate کیا گیا (آرڈر کاپی ہمراہ اپیل منسلک ہے) جو کہ نہ صرف متذکرہ بالا رولز کے بالکل خلاف تھا بلکہ انصاف کے تمام تر تقاضوں کو پامال کرانے کے مترادف بھی تھا۔

اس لئے مندرجہ ذکر بالا رولز اور سروس ٹریبونل پشاور کے فیصلے پر عمل درآمد کراتے ہوئے اس سائل کو مورخہ 26.11.1998 تا 03.07.2004 ڈیوٹی پیریڈ (Duty Period) کی منظوری دیتے ہوئے مورخہ 03.07.2004 سے محکمہ ہائیر ایجوکیشن سے جبری طور پر ریٹائرڈ فرمانے (Compulsorily Retirement) کا حکم صادر فرماتے ہوئے اسائل اور ان کے چھوٹے چھوٹے معصوم اور بے گناہ بچوں سے دین و دنیا کی بھلائی اور مزید ترقی کی دعائیں لے لیں۔

عین نوازش اور کرم نوازی ہوگی۔

تحریر:- 08.01.2023

الارض

سائل مسعود الرحمن: Ex: لیکچرار (Maths) گورنمنٹ ڈگری (حال پوسٹ گریجویٹ) کالج میرانشاہ۔

C.N.I.C No. 11101-1479250-1 Mob: No.0333-9600135

Mehran

ORDER:

(26)

Mr. Sibghat Ullah LHC No.1184 being found convicted by the court of Addl: Sessions Judge Bannu vide Judgment dated 10-01-2001 in case vide FIR No.119 dated 04-05-1999 u/s 302/324/34 PPC PS Basya Khel, was dismissed from service vide OB No.86 dated 23-01-2001. The applicant challenged the said dismissal order before the Khyber Pakhtunkhwa Service Tribunal Peshawar vide appeal No.3117/2010.

The Honorable Tribunal vide judgment date 16-05-2012 accepted the appeal to the extent that the impugned dismissal order dated 23-01-2001 is converted into compulsory retirement.

The appellant filed execution petition no.159/2012 in the above appeal to the Khyber Pakhtunkhwa Service Tribunal Peshawar for implementation of above judgment by the respondent and on 28.02.2013 the Honorable Tribunal Peshawar directed the respondents to consider the pension etc of the appellant and submit report before the Tribunal on 08.04.2013.

In compliance with the judgment and direction of Honorable Khyber Pakhtunkhwa service Tribunal Peshawar, Gul Wali Khan District Police Officer Bannu being competent authority is hereby modified OB No. 86 dated 23.01.2001. Dismissal from Service is converted into compulsory retirement.

OB No. 34  
Dated 28/04 /2013

District Police Officer,  
Bannu.

No. 61-65 /SRC dated Bannu, the 04 /2013.

Copy of above is submitted to the:

1. Registrar Service Tribunal Khyber Pakhtunkhwa Peshawar for information please.
2. SRC, OASI, Pay Officer and Pension Clerk for necessary action and completion of record.

*[Handwritten signature]*

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. 3117/2010

27

Sibghatullah S/O Muhammad Nawaz Shah, R/O Village Hassan, Kallan,  
Ex-Head Constable, Police Station City, Bannu. (Appellant)

VERSUS

1. Regional Police Officer, Bannu
2. District Police Officer, District, Bannu. (Respondents)

S.No.	Date of hearing	Order/proceedings of the court with signature of judge/magistrate.
1	16.5.2012	<p>Counsel for the appellant and Mr. Sherafgan Khattak AAG with Mr. Faraz, Inspector (Legal) for the respondents present. Further arguments heard and record perused.</p> <p>This is an appeal filed by Mr. Sibghatullah under Section 19 of the Khyber Pakhtunkhwa Service Tribunal Act 1974 against the order dated 23.1.2001 whereby he had been dismissed from service and against the order dated 12.11.2010 whereby his departmental appeal has been rejected. It has been prayed that on acceptance of the appeal, the impugned order may be set aside and the appellant may be reinstated into service with all back benefits.</p> <p>Brief facts of the case are that the appellant was the employee of Police Department and had more than 13 years service at his credit. The appellant was charged in Criminal case vide FIR No. 119 dated 14.5.1999 under Section 302/324/34 PPC. He was tried by the competent court of law and finally convicted and sentenced him to imprisonment for life, by the Special Court (ASJ) Bannu vide judgment dated 10.1.2001. During the criminal proceedings, the department</p>

Counsel for the appellant argued that the appellant was falsely implicated in a murder case and when he was in judicial lock-up, the respondent department conducted ex-parte proceedings against him under Police Rules 1975 despite the fact that Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance was in the field and has overriding effect over all other laws. Therefore, the whole disciplinary proceedings against the appellant is nullity in the eyes of law. He further argued that conviction under Section 302/324 PPC does not come within the ambit of moral turpitude, therefore on the sole ground of criminal conviction, appellant cannot be dismissed from service. This Tribunal in its judgment dated 29.12.2004 in Service Appeal No. 453/2004, declared that conviction under Section 324 PPC, etc. does not come within the purview of moral turpitude. The learned counsel also stated that the appellant had more than 13 years service, and is entitled to pensionary benefits as per Regulation 371-A of CSR.

The learned AAG argued that the appellant was involved in a murder case, he must have surrendered himself to the law enforcement agencies but he remained fugitive from law for a considerable long time and remained absent from duty. He further argued that the appellant was convicted for the life imprisonment by the competent court of law and also upheld by the august Supreme Court of Pakistan and retention of such an official is not in the interest of police department as well as general public. He requested that the appeal may be dismissed.

The Tribunal observes that the appellant was the employee of Police Department and had more than 13 years service at his credit when he was involved in a criminal case under Section 302/324/34 PPC, vide FIR No. 119, dated 4.5.1999, otherwise had a clean service record. The appellant was tried by the competent court of law, and was sentenced to life imprisonment vide judgment dated

(29)

10.1.2001. He is entitled to pensionary benefits for the service already rendered by him under Regulation 371-A of Civil Service Regulation. His reinstatement into service in view of his conviction in murder case by august Supreme Court of Pakistan, would not be beneficial to the police department or the general public but forfeiture of his service prior to his involvement would also be not justified.

In view of the above, the appeal is accepted to the extent that the impugned order dated 23.1.2001 is modified and the punishment of dismissal is converted into compulsory retirement of the appellant from service. With the above variation/modification, the instant appeal stands disposed of accordingly. Parties are left to bear their own costs. File be consigned to the record.

ANNOUNCED  
16.5.2012.

(NOOR ALI KHAN)  
MEMBER

  
(SYED MANZoor ALI SHAH)  
MEMBER





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**GOVERNMENT OF KHYBER PAKHTUNKHWA  
HIGHER EDUCATION, ARCHIVES &  
LIBRARIES DEPARTMENT  
CIVIL SECRETARIAT**

Dated Peshawar the 27/09/2018

**NOTIFICATION**

**NO.SO(C-1)/HE/2-1/Summary for CM/Disciplinary Action/Manzoor Hussain.** WHEREAS Mr. Manzoor Hussain, Associate Professor (BPS-19), Government Postgraduate College No.1, Abbottabad was proceeded under the Khyber Pakhtunkhwa, Government Servants (*Efficiency & Discipline*) Rules 2011, for the charges mentioned in the Charge Sheet and Statement of Allegations.

S#	Name & Designation	Penalty Imposed
1	Mr. Manzoor Hussain, Associate Professor (BPS-19), Government Postgraduate College No.1, Abbottabad.	"Compulsorily Retirement"

2. AND WHEREAS show cause was served to the accused officer.
3. AND WHEREAS the Inquiry officer after having examined the charges, evidence on record and explanation of accused officer, submitted report.
4. NOW THEREFORE, the Chief Minister, Khyber Pakhtunkhwa being Competent Authority afforded an opportunity of personal hearing to the accused officer with Mr Adil Siddiq, Secretary to Govt. of Khyber Pakhtunkhwa, Inter-Provincial Coordination Department, while exercising the powers conferred upon him under Rule-04 in sub-rule (b)(2) of the Khyber Pakhtunkhwa, Government Servants (*Efficiency & Discipline*) Rules 2011, has been pleased to impose major penalty of "compulsorily retirement" upon the accused with immediate effect. However, the intervening period w.e.f 30.05.2013 till date may be treated un-authorized absence from duty without pay and allowances.

**SECRETARY  
HIGHER EDUCATION DEPARTMENT**

DIP / (E)

RECEIVED ON  
28 SEP 2013  
4175 Peshawar 133

CA-I B

20:- Abdul Manang  
Muzaffar Khan S/O  
Saifullah.

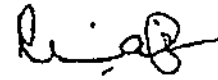
Contract Lecturer in  
Biology & Zoology

ENDST: NO. & DATE EVEN.

31

Copy forwarded to the:

- ✓ 1. Director, Higher Education Khyber Pakhtunkhwa, Peshawar.
2. Registrar, Hazara University, Manselra.
3. Principal, Government Postgraduate College No.1, Abbottabad.
4. District Accounts Officer, Abbottabad.
5. Mr. Manzoor Hussain, Associate Professor (BPS-19), Government Postgraduate College No.1, Abbottabad.
6. PS to Secretary to Govt. of Khyber Pakhtunkhwa, Inter-Provincial Coordination Department.
7. PS to Secretary to Govt. of Khyber Pakhtunkhwa, Higher Education Department.
8. Master File.



(RIAZ)

SECTION OFFICER (COLLEGES-I)

Abdul Manan,

20:- Muzaffar Khan S/O  
Saifullah.

BIOLOGY (Contract Lecturer in

Biology & Tinargera-

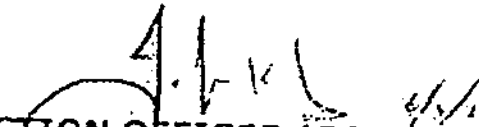
GOVT. OF KHYBER PAKHTUNKHWA  
HIGHER EDUCATION, ARCHIVES &  
LIBRARIES DEPARTMENT

No. SO(C-II)/HED/2-1/2023/Manzoor Hussain/Botany  
Dated Peshawar the 06<sup>th</sup> March, 2023

The Director,  
Higher Education, Khyber Pakhtunkhwa,  
Peshawar.

**SUBJECT: REQUEST FOR ISSUANCE OF RETIREMENT NOTIFICATION**

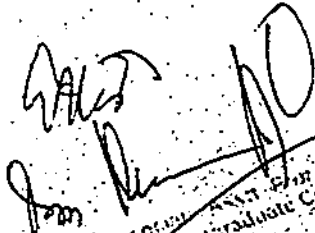
I am directed to refer to your letter No.6912/CA-II/Estt: Branch/A-12/Dr. Manzoor Hussain/Botany dated 02-12-2023 on the subject noted above and to state that the penalty notification dated 27.09.2018 is the retirement notification of the officer concerned, therefore, pension papers in r/o Dr. Manzoor Hussain, Ex-Associate Professor of Botany, GPGC No.1, Abbottabad may be processed, please.

  
SECTION OFFICER (COLLEGES-II)

**ENDST: NO. & DATE EVEN.**

Copy is forwarded to the PS to Secretary, Higher Education Department.

  
SECTION OFFICER (COLLEGES-II)

  
Associate Professor  
Govt. Postgraduate College No 1  
Abbottabad



**GOVT. OF KHYBER PAKHTUNKHWA  
HIGHER EDUCATION, ARCHIVES &  
LIBRARIES DEPARTMENT**

No.SO(C-II)/HED/2-42/2004/Masood-ur-Rehman/S91  
Dated Peshawar the 13<sup>th</sup> April, 2023

To

The Director,  
Higher Education Khyber Pakhtunkhwa,  
Peshawar.

SUBJECT: APPLICATION OF MR. MASOOD-UR-REHMAN EX-LECTURER IN  
MATHEMATICS.

I am directed to refer to your letter No.758/CA-II/Estt: Branch/A-12/Masoud ur Rehman/Maths dated 10.02.2023 on the subject noted above and to state that this department may kindly be intimated that is Mr. Masood Ur Rehman Ex-Lecturer has performed his duties in this department from 02.04.1994 till his termination from service. If yes, then relevant notification/record may be provided to proceed further in the matter.

*Sulaiman Ahmad*  
13-04-2023  
(SULAIMAN AHMAD)  
Section Officer (Colleges-II)

P.T.O.

ROCEA  
*(Handwritten initials)*

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6) The Opponent Party once again filed a Criminal Appeal No. 280 of 1997 before the August Supreme Court of Pakistan Islamabad against the instant judgment of PHC DI Khan Bench, which remained under trial for 07 years but resulted into restoration of the

OFFICE OF THE PRINCIPAL/COORDINATOR GOVT. POST-GRADUATE COLLEGE BANNU

OUTSIDE MIRYAN GATE BANNU CITY

PH & FAX: 0920-660011, E-mail: [gpacbannu@vsnl.com](mailto:gpacbannu@vsnl.com)  
<https://twitter.com/GPGCB> <https://facebook.com/GPGCBannu> Web Site: [WWW.gpacbannu.edu.pk](http://WWW.gpacbannu.edu.pk)



No. S-10/GPGC/Bannu

Dated: 17/07/2023

To:

The Director Higher Education,  
Khyber Pakhtunkhwa, Peshawar

Subject: APPLICATION OF MR. MASOOD UR REHMAN EX-LECTURER IN MATHEMATICS

Memo, السلام عليكم

Reference your letter No. 6608-09/CA-II/Estt: Branch/A-12/ Masood ur Rehman/ Maths dated 03.05.2023 on the subject cited above, find enclosed herewith relevant documents in respect of Mr. Masood ur Rehman, Ex-Lecturer in Mathematics indicates that Ex-Lecturer has performed his duties in this college w.e.f 02.04.1994 to 17.04.2001 and was transferred to GPGC, Miranshah vide Secretary to Govt. of Khyber Pakhtunkhwa (NWFP), Higher Education Department, Peshawar Notification No. SO (C) XIII/3-96-II (M) dated 31.03.2001 (Copy enclosed for kind perusal) and complying with the order had relinquished his charge on 17.04.2001 (A.N) (Copy of charge report also enclosed).

It is further submitted that so far the remaining duty period till termination from his service w.e.f 18.04.2001 to 31.01.2004, in this regard the report of the Principal GPGC, Miranshah vide letter No. 1151 dated 17.07.2023 is submitted herewith in original which reflects that due to vanishing of the complete record of that college as a result of Pak Army operation of "Zarb-e-Azab," no record about the duty period w.e.f 18.04.2001 till the termination from service is available. However, according to the record of District Accounts Office Tribal District NWA maintained in G.A. Ledger Vol: I in Page No. 108 (Photocopies enclosed for kind perusal) the Ex-lecturer concerned has regularly drawn his monthly salaries w.e.f 18.04.2001 till 31.01.2004.

The report is submitted for further process, please.

Encl: (na)

PRINCIPAL  
PRINCIPAL  
GOVT. POST-GRADUATE COLLEGE BANNU



**GOVT. OF KHYBER PAKHTUNKHWA**  
**HIGHER EDUCATION, ARCHIVES &**  
**LIBRARIES DEPARTMENT**

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No. SO(C-I)/HED/2-42/2004/Masood Ur Rehman  
 Dated Peshawar the 11<sup>th</sup> September, 2023

To

The Director,  
 Higher Education Khyber Pakhtunkhwa,  
 Peshawar

**SUBJECT: APPLICATION OF MR. MASOOD UR REHMAN EX-LECTURER IN MATHEMATICS**

I am directed to refer to your letter No.4203/CA-II/Estt:Branch/A-12/Masood Ur Rehman/Maths dated 11.08.2023 on the captioned subject and to state that all relevant record on the basis of which the officer concerned was terminated may please be shared with this Department at the earliest, please.

(ABDUL WALI KHAN)  
 SECTION OFFICER (COLLEGES-II)

ENDST. NO. & DATE EVEN.

Copy is forwarded to the PS to Secretary, Higher Education Department.

11/09/2023

SECTION OFFICER (COLLEGES-II)

11/09/2023

*Handwritten initials and date:*  
 J.A. on  
 13/9/23

Report furnished by the Director  
 Higher Education Khyber Pakhtunkhwa  
 Peshawar over  
 letter No. 5419 dt. 04-10-2023

(no membership nor perusal)

REMINDER



**GOVT. OF KHYBER PAKHTUNKHWA  
HIGHER EDUCATION, ARCHIVES &  
LIBRARIES DEPARTMENT**

No. SO(C-II)/HED/2-42/2004/Masood Ur Rehman/Maths  
Dated Peshawar the December 06, 2023

To

The Secretaries to Govt. of Khyber Pakhtunkhwa:

1. Establishment Department.

2. Law Department.

**SUBJECT: APPLICATION OF MR. MASOOD UR REHMAN EX-LECTURER IN  
MATHEMATICS.**

Dear Sir,

I am directed to refer to this Department's letter of even No. dated 27.10.2023 on the captioned subject and to state that reply in the subject matter is still awaited at your end?

2. It is therefore, requested to furnish opinion/guidance in the subject case, as to whether the request of the applicant concerned may be honoured or otherwise, please.

(ABDUL WALI KHAN)

SECTION OFFICER (COLLEGES-II)

**ENDST: NO. & DATE EVEN:**

Copy is forwarded to the:-

1. Director Higher Education, Khyber Pakhtunkhwa, Peshawar.
2. PS to Special Secretary, Higher Education Department.

SECTION OFFICER (COLLEGES-II)

8/10/23

--- 01-10-1990. (copy enclosed for kind perusal).

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**GOVERNMENT OF KHYBER PAKHTUNKHWA  
HIGHER EDUCATION, ARCHIVES & LIBRARIES DEPARTMENT**


NO.SO(C-II)/HED/2-4/2024/Lect. Math  
Dated 28-10-2024

To

The Deputy Registrar,  
Khyber Pakhtunkhwa Information Commission,  
Peshawar.

Subject: **COMPLAINT AGAINST NON-SUPPLY OF INFORMATION  
(COMPLAINT NO. 11707)**

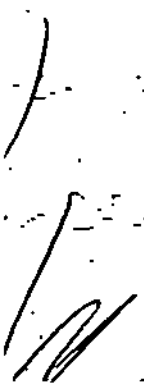
I am directed to refer to the subject noted above and to state that Mr. Masood Ur Rehman filed an application/departmental appeal in the office of Secretary Higher Education Department on 20-01-2023 (copy enclosed). The Competent Authority was pleased to file the said application/appeal, being time barred.

  
Deputy Secretary (Admn)/  
Public Information Officer, HED

**Endst: No & Date even.**

Copy forwarded to the PS to Secretary, Higher Education Department.

Deputy Secretary (Admn)/  
Public Information Officer, HED





2008 P L C (C.S.) 77

L (37)

[N.-W.F.P. Service Tribunal]

Before Abdul Sattar Khan, Chairman and Adalat Khan, Member

ABDUL HASSAN

Versus

SECRETARY, EDUCATION (S&amp;L) N.-W.F.P. and 3 others

Appeal No.226 of 2006, decided on 16th February, 2007.

North-West Frontier Province Removal from Service (Special Powers) Ordinance (V of 2000)---

----Ss. 3 & 10---North-West Frontier Province Service Tribunals Act (I of 1974), S.4--Penalty of dismissal from Service---Conversion of penalty into compulsory retirement---Appeal to Service Tribunal---Appellant, who was involved in murder case, was sentenced to life imprisonment---Appellant, after undergoing said sentence reported his arrival to the Department, but he had already been dismissed from service---Only contention of appellant was that since he had rendered more than 10 years of service in the Department, impugned order of his dismissal from service, be converted into compulsory retirement to enable him to get pensionary benefits---Keeping in view service of 10 years rendered by the appellant, impugned punishment of dismissal from service was converted into one of compulsory retirement, which was also a major penalty.

Wazir Zada, Legal Adviser with A.-G.P. for Respondents.

**ORDER**

Counsel for the appellant and Wazir Zada, Legal Adviser with A.-G.P. for respondent-Department present. Replication not filed. Heard. Record perused.

This appeal under section 4 of the N.-W.F.P. Service Tribunals, Act, 1974 arises against an order, dated 10-6-1998 vide which the appellant was dismissed from service w.e.f. 10-1-1998, with the prayer that on acceptance of this appeal, the impugned dismissal order may be changed into one compulsory retirement enabling the appellant to get pensionary benefits of rendering more than 10 years service.

It appears that the appellant while serving as A.W.I. in the respondent-Department was involved in a murder case. On conclusion of the trial, he was sentenced to imprisonment for life and also to pay a fine of Rs.70,000. The accused/appellant after undergoing the above sentence, reported his arrival to the Director, National, Telecommunication Corporation, Peshawar on 14-8-2005, where his services were already placed on deputation, but before his arrival, he had already been dismissed from service. After exhausting his departmental remedy, the appellant has approached the Tribunal for the redressal of his grievances.

The only contention of the appellant is that since he has rendered more than 10 years of service, therefore, the impugned order of his dismissal from service be converted into one compulsory retirement to enable him (appellant) to get pensionary benefits.

The plea taken by the respondent-Department is that the appellant was involved in a murder case; that he was convicted by the Court of Additional Sessions. Judge, Takht Bhai in the said murder case and in the light of the judgment of the competent Court of law, the impugned order of dismissal from service of the appellant was passed which being proper calls for no interference by the Tribunal.

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After hearing the arguments and perusing the record, the Tribunal tends to agree with the arguments advanced by the learned counsel for the appellant. Before conviction order passed against the appellant, he had already rendered more than 10 years of service, therefore, keeping in view the services rendered by him the impugned punishment of dismissal from service is converted into one compulsory retirement which is also a major penalty. With the above modification/ variation in the impugned order, the instant appeal stands disposed of accordingly, with no order as to costs. File be consigned to the record.

H.B.T./4/N.-W.F.P.(Ser.)

Order accordingly.

2007<sup>th</sup> LC (C.S.) 678

[Supreme Court of Pakistan]

Present: Faqir Muhammad Khokhar and Karamat Nazir Bhandari, JJ

Syed FIDA HUSSAIN KAZMI

Versus

INSPECTOR-GENERAL OF POLICE, PUNJAB and others

Civil Petition No.3583/L of 2002, decided on 29th November, 2005.

Railways Servants (Efficiency and Discipline) Rules, 1975---

---R. 4(1)(b)(ii)& (iv)---Constitution of Pakistan (1973), Art.212(3)---Penalty of dismissal from service---Conversion into compulsory retirement---Petitioner did not press his petition on merits, but had sought indulgence of Supreme Court for conversion of extreme penalty of dismissal from service into compulsory retirement from service---Extreme penalty of dismissal of petitioner from service did not commensurate with the nature of his misconduct in peculiar facts and circumstances of the case---Petition for leave to appeal was converted into appeal and same was partly allowed---Impugned orders of dismissal from service, were modified to the extent that penalty of dismissal of petitioner from service was converted into compulsory retirement from service.

Muhammad Iqbal Khan, Advocate Supreme Court and Muhammad Ozair Chughtai, Advocate-on-Record for Petitioner.

valid., A.A.-G., Punjab and Asif Riaz Inspector Legal, Sahiwal for Respondents.

1. The learned counsel for the petitioner on the last date of hearing, frankly stated that he did not press his petition on merits and sought indulgence of this Court for conversion of the extreme penalty of dismissal into compulsory retirement from service. It was also brought to our notice that meantime the petitioner had completely lost his eye-sight and had children of advanced age.

2. Today the learned counsel for the petitioner has repeated the same request. The learned Assistant Advocate-General, Punjab as well as the Inspector (Legal), Sahiwal have also been heard. We have carefully gone through the orders passed by the departmental authority as well as by the Tribunal. In our view, the extreme penalty of dismissal of the petitioner from service did not commensurate with the nature of his misconduct in the peculiar facts and circumstances of the case.

3. Therefore, this petition is converted into appeal and the same is partly allowed. Consequently, the impugned judgment, dated 15-8-2002 passed by the Punjab Service Tribunal in Appeal No.641 of 2001 as well as the order, dated 12-10-2000 passed by the Deputy Inspector-General of Police, Multan Range, are modified to the extent that the penalty of dismissal of the petitioner from service is converted into compulsory retirement from service. However, there shall be no order as to costs.

H.B.T./F-44/SC

Order accordingly.

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**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

Appeal No. 67 /2018

Mrs. Nasreen Sardar, Ex-Charge Nurse (BPS-16) Hayat Shaheed Teaching Hospital, Peshawar resident of C/O Mr. Zafar Sardar Christian Town, Sialkot No.2.

Khyber Pakhtukhwa  
Service Tribunal

Diary No. 63 ..... Appellant

VERSUS

Dated 19-1-2018

1. Khyber Pakhtoonkhwa Health Department through Sectary health Govt of KPK Peshawar.
2. Director General Health Government of Khyber Pakhtoonkhwa, Peshawar.
3. Medical Superintendent Lady Reading Hospital Peshawar

.....Respondents

**APPEAL UNDER SECTION 4 OF THE KPK SERVICE  
TRIBUNAL ACT - 1974**

Appeal against the impugned order dated 10-01-2003 (Annexed-A), whereby major penalty of removal from service was imposed upon the Appellant, whereas against departmental appeals dated 05-03-2003, 11-02-2008, 2009 and 10-10-2017 which are yet un-responded (Annexure-B), hence this appeal.

**PRAYER IN APPEAL**

It is very humbly and respectfully prayed that this Hon'ble Tribunal may kindly accept this appeal and set aside the impugned order dated 10-01-2003 and modified the order of removal into compulsory retirement with all back benefits. Any other relief which this Hon'ble Tribunal may deems just and proper be awarded to the appellent.

**FACTS OF THE CASE**

1. That the names and addresses of the parties have been correctly recorded above for the purpose of service of notice to them as and when it is so directed by this Hon'ble Tribunal.

Filed to Day  
19/1/18  
Registered

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 67/2018

Date of Institution ... 19.01.2018

Date of Decision ... 19.01.2022

Mrs. Nasreen Sardar, Ex-Charge - Nurse (BPS-16) Hayat Shaheed Teaching Hospital, Peshawar resident of C/O Mr. Zafar Sardar Christian Town, Sialkot No. 2.  
(Appellant)

**VERSUS**

Khyber Pakhtunkhwa Health Department through Secretary Health Peshawar and others.  
(Respondents)

Uzma Syed,  
Advocate

... For Appellant

Muhammad Riaz Khan Paindakheil,  
Assistant Advocate General

... For respondents

**AHMAD SULTAN TAREEN**  
**ATIQU-UR-REHMAN WAZIR**

... **CHAIRMAN**  
... **MEMBER (EXECUTIVE)**

**JUDGMENT**

**ATIQU-UR-REHMAN WAZIR MEMBER (E):-**

Brief facts of the

case are that the appellant was initially appointed as Charge Nurse vide order dated 16-05-1981. During the course of her service, the appellant was proceeded against on the charges of absence from duty and was ultimately removed from service vide order dated 10-01-2003. Feeling aggrieved, the appellant filed many appeals and the appellant was assured every time that her case would be considered sympathetically but with no fruitful result, hence the appellant filed the instant service appeal with prayers that keeping in view her long service, the penalty of removal from service may be converted into compulsory retirement with all back benefits.

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02. Learned counsel for the appellant has contended that the impugned penalty has been imposed upon the appellant with malafide intention of the competent authority by adopting summary procedure without appreciation of the law, rules and regulations in the matter, therefore the impugned order is liable to be set aside; that the respondents while passing the impugned order did not apply judicious, fair and independent mind and imposed the impugned penalty upon the appellant, which resulted in miscarriage of justice; that no regular inquiry was conducted, which was mandatory under the prescribed law; that the principle of Audi Altum Partum requires opportunity of fair inquiry and personal hearing before issuance of any adverse order against an employee; that the apex court repeatedly has held that violation of the principle would be deemed as violation of law and the said principle has to be deemed as integral part of every statute even if the same is not provided therein; that the impugned order having been passed without adhering to the said principle would be nullity in the eye of law, the same therefore, deserve to be set aside. Reliance was placed on 1994 SCMR 2232 and 2002 SCMR 1034; that the impugned order is a result of non-reading and misreading of record and the respondents passed the impugned order in hasty manner, which suffers from legal infirmities and are liable to be set aside; that the competent authority ignored the departmental appeal of the appellant, wherein the appellant had narrated the factual position in respect to the allegation leveled against her but the competent authority did not consider the departmental appeal and passed the impugned order; that no charge sheet/statement of allegation was served upon the appellant, which was mandatory under the law; that the appellant has never been involved in disciplinary case and having unblemished service record; that law governing the subject and precedential law as established by the superior courts of the land favors adjudication on merit and technicalities must be avoided in order to reach a just and fair conclusion; that the impugned order was passed without providing an opportunity of personal hearing which is also violation of principle of natural



justice, as the superior courts has laid down principle in the judgment reported as 1997 SCMR 1543 and 1999 PLC CS 818, therefore both the impugned order and appellate order are liable to be set aside; that the impugned order is void as the appellant was proceeded against under E&D Rules, 1973, whereas RSO 2000 was in field, hence no limitation runs against void order.

03. Learned Assistant Advocate General for the respondents has contended that the appellant was regular employee of the respondent department, however she absented herself from lawful duty with effect from 22-07-2002 without permission of competent authority; that absence notice was published in two leading newspapers and the appellant was asked to join duty but she failed to join her duty; that showcause notice was also served upon the appellant, but she did not respond to the show cause notice, therefore all the codal formalities were completed and she was removed from service; that departmental appeal of the appellant was also rejected being barred by time.

04. We have heard learned counsel for the parties and have perused the record.

05. Record reveals that the appellant was appointed as Charge Nurse vide order dated 16-05-1981 and was removed from service vide order dated 10-01-2003 on the charges of absence from duty. Record would suggest that the appellant was otherwise punctual and dutiful but upon sickness of her brother she went to her native city Sialkot, where her brother died due to illness and she was traumatized due to the incident and after recovery from the incident, the appellant came back to resume her duty but to her utter dismay it was found that she has been removed from service vide order dated 10-01-2003, which would suggest that the appellant was proceeded against departmentally in absentia without affording her opportunity of defense. Besides the appellant was proceeded against under E & D Rules, 1973, whereas RSO 2000 was in field,

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hence the impugned order is void, which also disposes of the question of limitation:

06. The appellant went from pillar to post for her re-instatement and to this effect, she had submitted numerous applications/appeals to respondents even to minister health and secretary health but since the appellant was from minority community having no one at her back and otherwise, she was a single lady without any family and her only brother also died of his illness. Placed on record is an inquiry report conducted against the appellant and the inquiry officer was quite sympathetic with the appellant and had categorized her miseries that she is all alone having no male member to support her financially, she is from minority community and her case need to be considered on humanitarian grounds and finally the inquiry officer recommended that instead of removing her from service, she may be retired from service keeping in view her long service, so that she may get all the benefits of pension, which would be sufficient for her financial support as well as she would be at liberty to join other service, but the competent authority removed her from service ignoring recommendations of the inquiry officer as well as turned deaf ear over the consideration on humanitarian grounds.

07. We are of the considered opinion that the appellant has rendered more than 22 years service, which must not go in waste. The appellant otherwise, was not treated in accordance with law and was treated discriminately. We are also mindful of the question of limitation but since the impugned order was passed under wrong law and is a void order, hence no limitation would run against void order. Reliance is placed on 2007 SCMR 834 and 2015 SCMR 795. It however was observed that the appellant continuously tried her best to submit appeals from time to time but nobody bothered to listen to her clamour. In the instant appeal, the appellant did not press her appeal on merits, but has sought indulgence of this Tribunal for conversion of extreme penalty of removal from service into



Service Appeal No.218/2022 titled "Noor Shah Ali Vs District & Sessions Judge, Charsadda and others", and Service Appeal No.219/2022 titled "Liaqat Ali Vs District & Sessions Judge, Charsadda and others" decided on 03.07.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Mrs. Rashida Bano, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

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**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR**

BEFORE: **KALIM ARSHAD KHAN** ... CHAIRMAN  
**RASHIDA BANO** ... MEMBER(Judicial)

***Service Appeal No.218/2022***

Date of presentation of Appeal.....23.02.2022  
Date of Hearing.....03.07.2024  
Date of Decision.....03.07.2024

**Noor Shah Ali S/O Jamrooz Kha R/O Sokhta Shabqadar, Ex-Junior Clerk/Moharrir, Court of Civil Judge/Judicial Magistrate, Shabqadar**  
.....(*Appellant*)

**Versus**

1. District & Sessions Judge, Charsadda.
2. Registrar, Peshawar High Court, Peshawar.
3. Civil Judge/Judicial Magistrate, Shabqadar, District Charsadda.....(*Respondents*)

***Service Appeal No.219/2022***

Date of presentation of Appeal.....23.02.2022  
Date of Hearing.....03.07.2024  
Date of Decision.....03.07.2024

**Liaqat Ali S/O Shakhel R/O Mirzai Shabqadar, Ex-Execution Moharrir, Court of Civil Judge/Judicial Magistrate, Shabqadar**  
.....(*Appellant*)

**Versus**

1. District & Sessions Judge, Charsadda.
2. Registrar, Peshawar High Court, Peshawar.
3. Civil Judge/Judicial Magistrate, Shabqadar, District Charsadda.....(*Respondents*)

Present:

Mr. Arbab Saiful Kamal, Advocate.....For the appellant  
Mr. Asif Masood Ali Shah, Deputy District Attorney ...For respondents

APPEALS UNDER SECTION 4 OF THE KHYBER  
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974

**CONSOLIDATED JUDGMENT**

**KALIM ARSHAD KHAN CHAIRMAN:** Through this single judgment, the above two appeals, are jointly taken up, as both are similar

in nature and almost with the same contentions, therefore, can be conveniently decided together.

2. Brief facts of the cases as per averments of the appeals, are that appellants were serving in the District Judiciary Charsadda; that on the allegations of burning the record, they were issued show cause notices, (Appellant Noor Shah Ali was suspended by the Additional District & Sessions Judge, Charsadda); that statement of allegations were also served upon the appellants which were replied by them; that criminal proceedings were initiated against the appellants alongwith one Raham Sher, wherein, they were sentenced to imprisonment for five years vide order dated 21.08.2006 which sentence was though maintained by the Peshawar High Court on 14.11.2006, however, declaring the undergone sentence as sufficient; that vide orders dated 23.08.2006 (of Noor Shah Ali) and 07.01.2007 (of Liaqat Ali) they were dismissed from service w.e.f 21.08.2006; feeling aggrieved, they filed departmental appeal which were dismissed, therefore, the appellants filed appeals before this Tribunal, which were returned with the direction to approach proper forum, hence, they filed Writ Petitions No.1658-P/2019 (of Noor Shah Ali) and 1670/2019 (of Liaqat Ali) before the Hon'ble Peshawar High Court, Peshawar and the Hon'ble High Court, vide order dated 16.02.2022 sent the said writ petitions to this Tribunal, which were converted into the instant service appeals.

3. On receipt of the appeals and their admission to full hearing, the respondents were summoned, who put appearance. They had already

submitted comments before the Hon'ble Peshawar High Court, Peshawar which were considered in the instant cases. The defense setup was a total denial of the claim of the appellants.

4. We have heard learned counsel for the appellants and learned Deputy District Attorney for respondents.

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

6. The issue involved in these cases was of putting on fire the official documents. In the said case, appellants had proceeded against, and were in the first round of litigation, were imprisoned for five years by the learned Trial Court. The judgment of sentence to imprisonment was impugned before the Hon'ble Peshawar High Court, Peshawar. The Hon'ble High Court, had reduced the sentence to the one already undergone by them.

7. The appellants have been proceeded departmentally as well as criminally. In the initial stage, they were proceeded criminally and were sentenced to imprisonment. Besides, they were also proceeded departmentally and were accordingly dismissed from service. In quite a similar case i.e. in Civil Appeal No.1520/2008 titled Abdul "Qudus Vs. Government of NWFP through Secretary Education Department, NWFP



Peshawar, etc." decided by the Supreme Court of Pakistan on 23.04.2013, it was held that:

"3. It is being argued by the learned counsel for the appellant that after reinstatement of the appellant in service the order dated 24.09.2000, withdrawing his reinstatement, had been illegally passed without adopting proper procedure as no show cause notice was issued. That the said order of withdrawal of his reinstatement had been passed after the appellant had served for 6/7 years as such he was fully entitled to pensionary benefits. His appeal was accepted in terms as "... The Tribunal holds that the appellant has a long service at his credit and consider it appropriate to compensate him for the service rendered by him before he was involved in the criminal case which subsequently resulted in conviction of the appellant by the court through judicial proceedings. In order to enable the appellant to get his pension for the period before his involvement in the criminal case the retirement order dated 26.08.2000 is amended to the extent that he will stand retired from service on the date of registration of FIR i.e. 5.6.1985. The appeal is accepted to that extent and the impugned order is partially set aside. No order as to costs file be consigned to the record". He further asserted that the Tribunal has also failed to take into consideration that the appellant after reinstatement have rendered service for 6/7 years on account of which he was entitled to pension from the period 06.02.1989 to 17.07.1994. therefore, while granting the appellant partial relief the same should have been allowed which needs to be rectified.

06. The appellant has a long service record at his credit. He had been inducted in service as CT Teacher on 01.08.1961, he has not been involved in any departmental disciplinary proceeding and prior to the period of his conviction his performance has been judged to be satisfactory. Moreover, the contention of the appellant for the grant of pension for the period from 06.02.1989 to 17.07.1994 cannot be justified in any manner as during this period he has been absent from service which, on sympathetic grounds, has been converted into Extra Ordinary Leave without pay."

8. Following the above judgment of the Supreme Court of Pakistan, and keeping in view the length of their service, this bench is of the opinion to modify the punishment of dismissal and convert into that of consideration of the cases of the appellants for pensionary benefits. Costs

Service Appeal No. 218/2022 titled "Noor Shah Ali Vs District & Sessions Judge, Charsadda and others", and Service Appeal No. 19/2022 titled "Luqat Ali Vs District & Sessions Judge, Charsadda and others" decided on 03.07.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Mrs. Rashida Bano, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

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shall follow the event. Copy of this judgment be placed on files of the connected appeal. Consign.

9. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 3<sup>rd</sup> day of July, 2024.*



**KALIM ARSHAD KHAN**  
Chairman



**RASHIDA BANO**  
Member (Judicial)

\*Mutazem Shah\*

VAKALAT NAMA

NO. \_\_\_\_\_ /20

IN THE COURT OF Service Tribunal Peshawar

Masood - w - Rehman

Appellant  
Petitioner  
Plaintiff

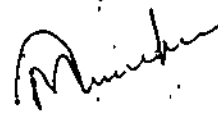
VERSUS

Higher Education

Respondent (s)  
Defendants (s)


I, Masood - w - Rehman do hereby appoint and constitute the *SYED NOMAN ALI BUKHARI Advocate High Court* for the aforesaid Appellant(s), Petitioner(S), Plaintiff(s) / Respondent(s), Defendant(s), Opposite Party to commence and prosecute / to appear and defend this action / appeal / petition / reference on my / our behalf and all proceedings that may be taken in respect of any application connected with the same including proceeding in taxation and application for review, to draw and deposit money, to file and take documents, to accept the process of the court, to appoint and instruct council, to represent the aforesaid Appellant, Petitioner(S), Plaintiff(s) / Respondent(s), Defendant(s), Opposite Party agree(s) ratify all the acts done by the aforesaid.

DATE 18/11 /2024



(CLIENT)

ACCEPTED

  
SYED NOMAN ALI BUKHARI  
ADVOCATE HIGH COURT  
BC-15-5643



UZMA SYED

Attc

CELL NO: 0306-5109438