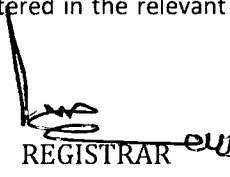
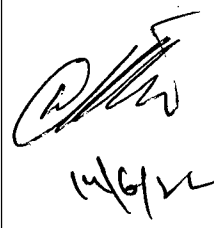
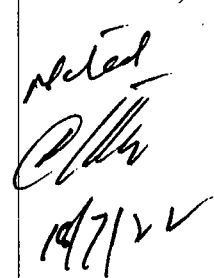




Form- A  
FORM OF ORDER SHEET

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

Execution Petition No. \_\_\_\_\_ 323/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	03.06.2022	<p>The execution petition of Syed Nasir Hussain Shah submitted today by Syed Noman Ali Bukhari Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p> REGISTRAR</p>
2	<p>14-6-22</p> <p> 14/6/22</p> <p>20<sup>th</sup> June, 2022</p> <p> 14/7/22</p>	<p>This execution petition be put up before Single Bench at Peshawar on <u>20-6-2022</u>. Original file be requisitioned. AAG has noted the next date. The respondents be issued notices to submit compliance/implementation report on the date fixed.</p> <p> CHAIRMAN</p> <p>Counsel for the petitioner present. Mr. Kabirullah Khattak, Addl: AG for respondents present.</p> <p>Respondents are directed through the learned Addl: AG to submit implementation report on or before the next date. To come up for implementation report on 10.08.2022 before S.B.</p> <p> (Kalim Arshad Khan) Chairman</p>

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

Execution Petition No. 323 /2022  
In Service Appeal No.862/2017

Syed Nasir Hussain

VS

police Deptt

**INDEX**

S.No.	Documents	Annexure	Page No.
1.	Memo of Execution Petition	-----	01-02
2.	Copy of Judgment	- A -	03-07
3.	Vakalat Nama	-----	08

  
**PETITIONER**  
Syed Nasir Hussain

THROUGH:

  
**SYED NOMAN ALI BUKHARI**  
ADVOCATE, HIGH COURT

Date: 18/01/2022

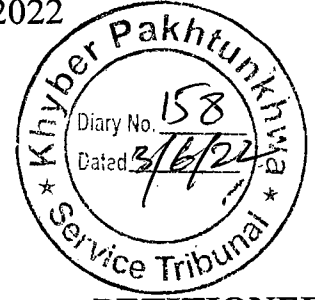
Cell No: 0306-5109438

1

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

Execution Petition No. 323 /2022  
In Service Appeal No.862/2017

Mr. Syed Nasir Hussain, IHC No.309  
District Police, Hangu.



**PETITIONER**

VERSUS

1. The Inspector General Of Police, KPK, Peshawar.
2. The Regional Police Officer, Kohat, Region, Kohat.
3. District Police Officer Hangu.
4. The Secretary Finance KP Peshawar.

**RESPONDENTS**

.....

**EXECUTION PETITION FOR DIRECTING THE  
RESPONDENTS TO IMPLEMENT THE  
JUDGMENT DATED: 21.01.2022 OF THIS  
HONOURABLE TRIBUNAL IN LETTER AND  
SPIRIT.**

.....

**RESPECTFULLY SHEWETH:**

1. That the applicant/Petitioner filed Service Appeal No.862/20170 for Back benefits.
2. That the said appeal was finally heard by the Honorable Tribunal on 21.01.2022. The Honorable Tribunal is kind enough to accept the appeal as prayed for. (Copy of judgment is attached as Annexure-A).
3. That the respondents were totally failed in taking any action regarded the Hon'able Tribunal Judgment dated 21.01.2022.

4. That in-action and not fulfilling formal requirements by the respondent after passing the judgment of this august Tribunal, is totally illegal amount to disobedience and Contempt of Court.
5. That the judgment is still in the field and has not been suspended or set aside by the Supreme Court of Pakistan, therefore, the respondents are legally bound to pass formal appropriate order.
6. That the petitioner has having no other remedy to file this Execution Petition.

It is, therefore, most humbly prayed that the respondents may be directed to obey the judgment dated 21.01.2022 of this august Tribunal in letter and spirit. Any other remedy, which this august Tribunal deems fit and appropriate that, may also be awarded in favor of applicant/appellant.

  
PETITIONER  
Syed Nasir Hussain

**THROUGH:**

  
(SYED NOMAN ALI BUKHARI)  
ADVOCATE HIGH COURT.

**AFFIDAVIT:**

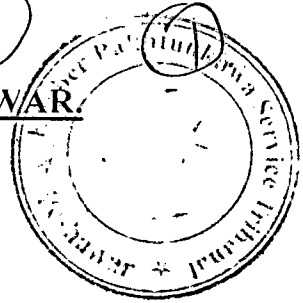
It is affirmed and declared that the contents of the above Execution Petition are true and correct to the best of my knowledge and belief.



  
DEPONENT

A (3)

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.**



APPEAL NO. 862 /2017

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 908

Dated 18-8-2017

Syed Nasir Hussain, IHC No.309,  
District Police Hangu.

**VERSUS**

1. The Provincial Police Officer, KPK, Peshawar.
2. The Regional Police Officer Kohat Region, Kohat.
3. The District Police Officer, Hangu.
4. The Secretary Finance KPK Peshawar.

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 01.08.2017, WHEREBY THE REVISION OF APPELLANT UNDER RULE 11-A OF THE POLICE RULES 1975 AGAINST THE ORDER DATED 24.01.2017 OF RPO KOHAT REGION HAS BEEN REJECTED WHEREIN THE RPO KOHAT REGION UPHELD THE ORDER DATED 27.04.2016 OF THE DPO HANGU.

**PRAYER:**

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 01.08.2017, 24.01.2017 AND 27.04.2016 MAY BE SET ASIDE AND RESPONDENTS MAY BE DIRECTED TO GRANT MONETARY BACK BENEFITS IN THE SHAPE OF SALARIES TO THE APPELLANT FOR THE REMAINING PERIOD OF ABSENCE FROM DUTY WHICH WAS CONSIDERED IN SERVICE BUT NOT ON DUTY BY THE RESPONDENTS. ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT, MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

Filed to-day

Registrar

18/8/17

**ATTESTED**

[Signature]

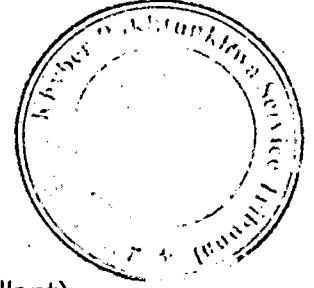
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

-4-

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 862/2017

Date of Institution ... 18.08.2017  
Date of Decision ... 21.01.2022



Syed Nasir Hussain, IHC No. 309, District Police Hangu.

... (Appellant)

**VERSUS**

The Provincial Police Officer, Khyber Pakhtunkhwa Peshawar and three others.

... (Respondents)

Syed Noman Ali Bukhari,  
Advocate

... For Appellant

Asif Masood Ali Shah,  
Deputy District Attorney

... For respondents

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

...  
...

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

**JUDGMENT**

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

Brief facts of the

case are that the appellant joined Police Department in the year 1998. During the course of his service, the appellant was charged in FIR U/Ss 9-C CNSA/13, AO/411 Dated 13-05-2008. The appellant was proceeded against departmentally on the same very charges and was ultimately removed from service vide order dated 24-09-2008. In the meanwhile, the appellant was acquitted of the criminal charges vide judgment dated 26-03-2010. The appellant filed departmental appeal, which was rejected vide order dated 04-06-2010. The appellant filed service appeal No. 1266/2010, which was decided vide judgment dated 30-03-2016 and the appellant was re-instated in service with direction to the

**ATTESTED**  
  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

respondents to conduct de-novo inquiry. As a result of de-novo proceedings the appellant was re-instated in service vide order dated 13-04-2016 and the respondents issued another order dated 27-04-2016 that the appellant spent one year, eleven months and thirteen days in detention, out of detention period with effect from 13-05-2008 to 24-09-2008 were considered as on full pay, while the remaining detention period with effect from 25-09-2008 to entailment of his leave credit were counted as leave of the kind due and the remaining period of absence from duty was considered as in service but not on duty and was not entitled for salary. The appellant filed departmental appeal dated 02-09-2016 against the order dated 27-04-2016, which was rejected vide order dated 24-01-2017. The appellant filed revision petition dated 31-01-2017, which was also rejected vide order dated 01-08-2017, hence the instant service appeal with prayers that the impugned orders dated 01-08-2017, 24-01-2017 and 27-04-2016 may be set aside and the appellant may be granted monetary benefits in shape of salaries for the remaining period of absence from duty, which was considered as in service but not on duty.

02. Learned counsel for the appellant has contended that the impugned orders are against law, fact and norms of natural justice and material on record, therefore not tenable and liable to be set aside; that the appellant remained unpaid employee for period from removal from service till re-instatement into service and in this respect, the appellant furnished affidavit to this effect, but the respondents did not take it into consideration; that the appellant was acquitted of the criminal charges, hence there remains no ground to deprive the appellant of his salaries; that the appellant has not been treated in accordance with law and has been deprived of his legal right of salaries for the remaining period, which is against the norms of natural justice and fair play.

03. Learned Deputy District Attorney for respondents has contended that the appellant was arrested in narcotics case and an FIR to this effect was registered

ATTESTED  
 KUSHER POKHTUKHWT  
 Service Tribunal  
 Mohamadia

against him; that the appellant was proceeded against on the same charges and was removed from service vide order dated 24-09-2008; that in pursuance of judgment of this tribunal, the appellant was re-instated in service and his detention period was considered as on pay but rest of his period was treated as in service but without pay on the established principle of no work no pay.

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

05. Record reveals that the appellant while serving was involved in FIR, based on which the appellant was proceeded departmentally and was ultimately removed from service. Being involved in a criminal case, the respondents were required to suspend the appellants from service under section 16:19 of Police Rules, 1934, which specifically provides for cases of the nature. Provisions of Civil Service Regulations-194-A also supports the same stance, hence the respondents were required to wait for the conclusion of the criminal case, but the respondents hastily initiated departmental proceedings against the appellants and dismissed him from service before conclusion of the criminal case. It is a settled law that dismissal of civil servant from service due to pendency of criminal case against him would be bad unless such official was found guilty by competent court of law. Contents of FIR would remain unsubstantiated allegations, and based on the same, maximum penalty could not be imposed upon a civil servant: Reliance is placed on PLJ 2015 Tr.C. (Services) 197, PLJ 2015 Tr.C. (Services) 208 and PLJ 2015 Tr.C. (Services) 152.

06. The appellant was exonerated of the criminal charges by the competent court of law vide judgment dated 26-03-2010. It is a settled law that if a civil servant is dismissed from service on account of his involvement in criminal case,

ATTESTED

then he would have been well within his right to claim re-instatement in service after acquittal from that case. Reliance is placed on 2017 PLC (CS) 1076. On the same very ground, the appellant was re-instated in service by judgment dated

Signature  
 Name of the Officer  
 Designation  
 Office




30-03-2016 of this Tribunal. In 2012 PLC (CS) 502, it has been held that if a person is acquitted of a charge, the presumption would be that he was innocent. Moreover, after acquittal of the appellant in the criminal case, there was no material available with the authorities to take action and impose penalty. Reliance is placed on 2003 SCMR 207 and 2002 SCMR 57, 1993 PLC (CS) 460.


07. In view of the situation, we are of the considered opinion that the appellant was exonerated of the criminal charges by the competent court of law, which means that he was innocent. Moreover, he was re-instated in service by this tribunal and he was again proceeded against in de-novo proceedings, where he was declared innocent and was re-instated. In a situation, grant of back benefits to an employee who was re-instated in service by a court/Tribunal or the department was a rule and denial of such benefits was an exception. Reliance is placed on 2015 PLC (CS) 366. The appellant was entitled to back benefits, as it was the police department, which on the basis of a wrong opinion kept him away from performance of his duty. In such circumstances, depriving him of his salaries would not be in accordance with law, particularly when nothing is available on record that the appellant had remained gainfully employed in any service during the period of his absence from duty.

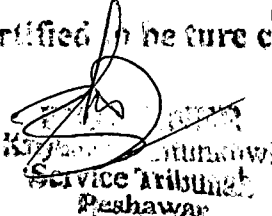
08. In view of the foregoing discussion, the instant appeal is accepted as prayed for. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED  
21.01.2022

  
(AHMAD SULTAN TAREEN)  
CHAIRMAN

Certified to be true copy

  
(ATIQ-UR-REHMAN WAZIR)  
MEMBER (E)

  
Service Tribunal  
Peshawar

VAKALATNAMA

NO. \_\_\_\_\_ /2022

IN THE COURT OF KP Service Tribunal, Peshawar

Syed Noman Hussain

Appellant  
Petitioner  
Plaintiff

VERSUS

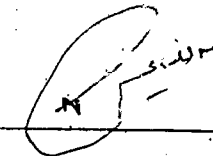
Public Dept

Respondent (s)  
Defendants (s)

I/WE Syed Noman Hussain

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 2-6-2022

  
(CLIENT)

ACCEPTED

  
SYED NOMAN ALI BUKHARI  
ADVOCATE HIGH COURT

**"B"**

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**  
JUDICIAL COMPLEX (OLD), KHYBER ROAD, PESHAWAR. *S.B*

No.

Appeal No. *E.P. NO. 323* of 20 *22*

*Rygd*

*Syed Nasir Hussain* Appellant/Petitioner

Versus

*The I.G.P. KPN* Respondent

Respondent No. *2*

Notice to: —

*The Regional Police Officer Kohat  
Region Kohat.*

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on *20/6/2022* at *8.00 A.M.* If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of *E.P.* appeal is attached. Copy of ~~appeal has already been sent to you vide this~~ office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this *15<sup>th</sup>*.....

Day of..... *June*.....20 *22*

*for implementation  
Report*

Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
2. Always quote Case No. While making any correspondence.

**"B"**

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.  
JUDICIAL COMPLEX (OLD), KHYBER ROAD, PESHAWAR.

No.

Appeal No. E.P. No. 323 of 20 22

Syed Nasir Hussain Appellant/Petitioner

*Recd*

The I.G.P. KPK Respondent

Respondent No. 3

Notice to: —

Distt: Police Officer Hanay.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on 20/6/2022 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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E.P. ✓  
Copy of appeal is attached. Copy of appeal ~~has already been sent to you vide this~~

office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this 15th

Day of June 20 22

*for 1-ple station  
Report*

Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
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**"B"**

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.  
JUDICIAL COMPLEX (OLD), KHYBER ROAD, S.B.  
PESHAWAR.

No.

Appeal No. E.P. No. 323 of 20 22

Syed Navir Hussain Appellant/Petitioner

The I.G.P. KPK Peshawar Respondent

Respondent No. 1

Notice to: —

The Inspector General of Police  
KPK Peshawar

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on 20/6/2022 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No. .... dated .....

Given under my hand and the seal of this Court, at Peshawar this 15th

Day of June 20 22

for Implementation  
Report

[Signature]  
Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
2. Always quote Case No. While making any correspondence.

**"B"**

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.  
JUDICIAL COMPLEX (OLD), KHYBER ROAD  
PESHAWAR. SB

No.

Appeal No. E.P. No. 323 of 20 22  
Syed Nasir Hussain Appellant/Petitioner  
Versus  
The I-G-P KPh Respondent

Respondent No. 4

Notice to: The Secretary Finance KPh Peshawar.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on.....20/6/2022.....at 8.00 A.M. If you wish to urge anything against the appellants/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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E.P.  
Copy of appeal is attached. ~~Copy of appeal has already been sent to you vide this office Notice No.....dated.....~~

Given under my hand and the seal of this Court, at Peshawar this...15/6.....  
Day of.....June.....20 22

for Repleatation Report  
17-6

[Signature]  
Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
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