


26th July, 2022 Learned counsel for the petitioner present. Mr. Muhammad Adeel Butt, Addl: AG for respondents present.

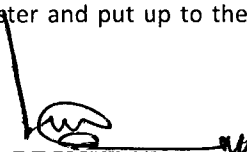



Learned AAG has assured that he will coordinate with the respondents to get the judgment implemented and submit implementation report on the next date. To come up for implementation report on 23.09.2022 before S.B.


(Kalim Arshad Khan)
Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

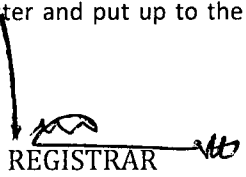
Execution Petition No. _____ 305/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	25.05.2022	<p>The execution petition of Mr. Aamir Shah submitted today by Naila Jan Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p> REGISTRAR</p>
2-	<p><i>noted</i></p> 	<p>This execution petition be put up before Single Bench at Peshawar on <u>02-06-2022</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>
2 nd June, 2022		<p>None for the petitioner present. Kabirullah Khattak, Addl: AG for respondents present.</p> <p>Notices be issued to the respondents for submission of implementation report. To come up for implementation report on 26.07.2022 before S.B. Original file be also requisitioned.</p> <p> (Kalim Arshad Khan) Chairman</p>

Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. _____ 305/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	25.05.2022	<p>The execution petition of Mr. Aamir Shah submitted today by Naila Jan Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This execution petition be put up before Single Bench at Peshawar on _____ . Original file be requisitioned. Notices to the parties be also issued for the date fixed.</p> <p style="text-align: right;">CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Execution petition No. 305 /2022

In

Service Appeal No: 25/2018

AAmir Shah Ex-Constable

Versus

Government of Khyber Pakhtunkhwa and others

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Dated: 05/05/2022

Petitioner

Through

Naila Jan

Advocate, High Court
Peshawar

D

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Execution petition No. _____/2022

In

Service Appeal No: 57/2018

Amir Shah S/o Sufi Ali Shah R/o Sheikhan Kohat
EX- Constable No. 388 Police Line Kohat.

.....Petitioner

Versus

1. Inspector General of Police Khyber Pakhtunkhwa.
2. Additional Inspector General Establish Khyber Pakhtunkhwa.
3. Deputy Inspector General of Police Kohat region, Kohat.
4. District Police officer - Kohat.

.....Respondents

EXECUTION PETITION FOR
IMPLEMENTATION OF THE
JUDGMENT OF THIS HON'BLE
TRIBUNAL IN APPEAL No.
57/ 2018 DECIDED ON
24/01/2022

Respectfully Sheweth,

1. That the above mention appeal was decided by this Hon'ble Tribunal vide Judgment dated

24/01/2022 (Copy of the judgment is annexed as annexure "A")

2. That the relevant portion of the judgment is reproduced *"in of the situation mentioned aabove and keeping in view the principle of consistency, we are inclined to partially accept the instant appeal as well as the connected service appeal by converting the major penalty of dismissal from service into minor penalty of stoppage of increments for two years. The intervening period is treated as leave without pay. Respondents however are at liberty to conduct de-nove inquiry as per mandate of law, if they so desire. Parties are left to bear their own costs. File be consigned to record room"*.
3. That the Petitioner after getting of the attested copy of same approached the Respondents several time for implementation of the above mention judgment. However they are using delaying tactics and reluctant to implement the judgment of this Hon'ble Tribunal.
4. That the Petitioner has no other option but to file the instant petition implementation of the judgment of this Hon'ble Tribunal.

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5. That there is nothing which may prevent this Hon'ble Tribunal from implementing of its own judgment.

It is, therefore, requested that on acceptance of this petition the Respondents may directed to implement the judgment of this Hon'ble Tribunal by reinstating the Petitioner with all back benefits.

Dated: 25/05/2022

[Signature]
Petitioner
Through
Naila Jan
&
Huma Khan
Advocates, High Court
Peshawar
[Signature]
[Signature]

AFFIDAVIT:-

I, Amir Shah S/o Sufi Ali Shah R/o Sheikhan Kohat EX- Constable No. 388 Police Line Kohat. do hereby solemnly affirm and declare on oath that all the contents of above application are true and correct to the best of my knowledge and belief and nothing has been misstated or concealed from this Hon'ble Court.

Deponent
[Signature]

[Handwritten mark]

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BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Execution petition No. _____/2022

In

Service Appeal No: 57/2018

Amir Shah Ex-Constable

Versus

Government of Khyber Pakhtunkhwa and others

ADDRESSES OF PARTIES

PETITIONER

Amir Shah S/o Sufi Ali Shah R/o Sheikhan Kohat
EX- Constable No. 388 Police Line Kohat.

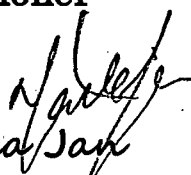
RESPONDENTS

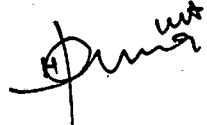
1. Inspector General of Police Khyber Pakhtunkhwa.
2. Additional Inspector General Establish Khyber Pakhtunkhwa.
3. Deputy Inspector General of Police Kohat region, Kohat.
4. District Police officer ^{Kohat}

Dated: 25/05/2022


Petitioner

Through


Naila Jan
Advocate, High Court
Peshawar



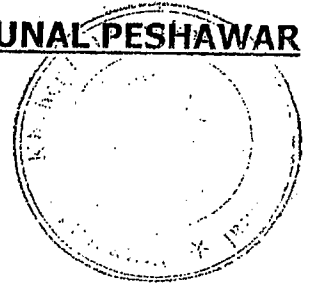
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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 498/2018

Date of Institution ... 10.04.2018

Date of Decision ... 24.01.2022



Rashid Ahmad S/o Sher Zada, R/o Village Kokarai, Swat, Ex-Constable No. 1834,
District Police Swat. ... (Appellant)

VERSUS

District Police Officer, Swat and others. ... (Respondents)

Arbab Saiful Kamal,
Advocate

... For Appellant

Asif Masood Ali Shah,
Deputy District Attorney

... For respondents

AHMAD SULTAN TAREEN
ATIQU-UR-REHMAN WAZIR

...
...

CHAIRMAN
MEMBER (EXECUTIVE)

JUDGMENT

ATIQU-UR-REHMAN WAZIR MEMBER (E):- This single judgment shall dispose of the instant service appeal as well as the connected Service Appeal bearing No. 571/2018 titled "Aamir Shah Versus District Police Officer, Kohat and two others", as common question of law and facts are involved therein.

02. Brief facts of the case are that the appellant while serving as constable in police department, was proceeded against on the charges of absence and was ultimately dismissed from service vide order dated 21-02-2009. Feeling aggrieved, the appellant filed departmental appeal dated 20-03-2009, which was not responded. Subsequent appeal was submitted to respondent No 2, which was rejected vide order dated 12-03-2018, hence the instant service appeal with

ATTESTED

MEMBER (EXECUTIVE)
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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prayers that the impugned orders dated 21-02-2009 and 12-03-2018 may be set aside and the appellant may be re-instated in service with all back benefits.

03. Learned counsel for the appellant has contended that the appellant was dismissed from service on the charges of absence but absence of the appellant was not willful but was due to compelling reason of terrorism; that a large number of police personnel had deserted their jobs due to threats of Taliban, who were again re-instated in service vide orders dated 30-11-2010, 15-03-2017 and 09-08-2017, but case of the appellant was not considered positively; that this Tribunal in numerous cases has already granted relief to the similarly placed employees and the appellant is also requesting for the same treatment under the principle of consistency; that absence of the appellant was not willful, which does not constitute gross misconduct and the penalty so awarded is harsh, which does not commensurate with gravity of the guilt; that the impugned order was issued with retrospective effect, which is void ab initio; that no codal formalities were fulfilled and the appellant has not been treated in accordance with law, hence his rights secured under the Constitution has badly been violated.

04. Learned Deputy District Attorney for the respondents has contended that the appellant was proceeded against on the charges of willful absence from duty, therefore proper departmental proceedings were initiated against him, which culminated into his removal from service under RSO 2000; that the appellant file departmental appeal with a considerable delay, which was rejected being barred by time; that numerous other officials were re-instated into service but every case has its own merits, whereas the appellant was awarded punishment for his own conduct; that final show cause notice was also served at his home address, but the appellant did not turn up, hence he was proceeded in absentia.

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

ATTESTED

Secretary to the Tribunal
Service Tribunal

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06. Placed before us is case of a police constable, who alongwith many other police personnel had deserted their jobs in the wake of insurgency. Police department had constituted a committee for cases of desertion and keeping in view humanitarian aspect, re-instated such personnel into service in large number. Placed on record is a notification dated 30-11-2010, where 253 similarly placed employees had been re-instated on the recommendation of the committee constituted for the purpose. Vide another order dated 07-02-2012, batch of another 12 employees had been re-instated in service. Yet another order dated 15-03-2017 would show that similarly placed employee had been re-instated upon his revision petition on the ground of length of his service and cause of terrorism. Other cases of similar nature are available on record, which would suggest that the provincial government had taken a lenient view keeping in view the peculiar circumstances in the area at that particular time. Even this tribunal has already granted relief in similar nature cases under the principle of consistency. Appellant is also one among those, who had deserted his job due to threats from terrorists. Situation at that particular time was so perturb, as how to proceed such large number of cases of desertion, for which publications were made in newspapers, hence the proceedings so conducted in such like cases were not in accordance with law. In the instant case no regular inquiry was conducted, nor any charge sheet/statement of allegation was served upon the appellant and the appellant was condemned unheard and which shows that the appellant was summarily proceeded without adhering to the method prescribed in law.

07. We are also mindful of the question of limitation, but since the impugned order was passed without proper legal process and when an adverse order is passed without fulfilling the legal formalities, such order is void and no limitation runs against void order. Still another reason exists for condonation of delay that the impugned order was issued with retrospective effect being void ab initio.

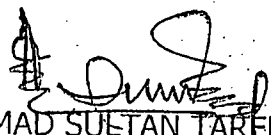
ATTESTED

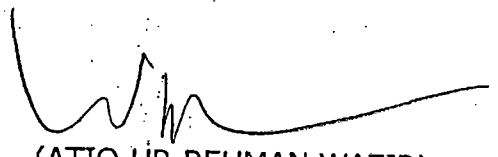
[Signature]
 Director
 Service Tribunal

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08. In view of the situation mentioned above and keeping in view the principle of consistency, we are inclined to partially accept the instant appeal as well as the connected service appeal by converting the major penalty of dismissal from service into minor penalty of stoppage of increments for two years. The intervening period is treated as leave without pay. Respondents however are at liberty to conduct de-novo inquiry as per mandate of law, if they so desire. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
24.01.2022


(AHMAD SULTAN TARJEEN)
CHAIRMAN


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

Certified to be true copy

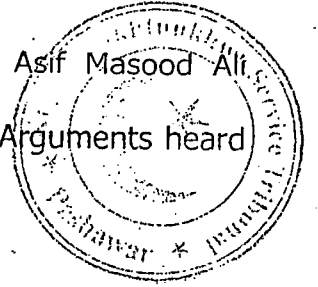

Khayal Iqbal
Service Tribunal
Reshawar



Date of Presentation of Application 24-01-22
 Number of Words 1600
 Copying Fee 68/-
 Urgent _____
 Total 68/-
 Name of Applicant _____
 Date of Presentation of Copy 20/4/22
 Date of Delivery of Copy 20/4/22

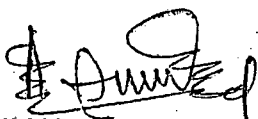
ORDER
24.01.2022

Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for respondents present. Arguments heard and record perused.





Vide our detailed judgment of today, placed on file of Service Appeal bearing No. 498/2018 titled "Rashid Ahmad Versus District Police Officer, Swat and one another", we are inclined to partially accept the instant service appeal by converting the major penalty of dismissal from service into minor penalty of stoppage of increments for two years. The intervening period is treated as leave without pay. Respondents however are at liberty to conduct de-novo inquiry as per mandate of law, if they so desire. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
24.01.2022


(AHMAD SULTAN TAREEN)
CHAIRMAN


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


Date of Presentation of Application 24-01-22
Number of Words 800
Copying Fee 16/-
Urgent —
Total 101/-
Name of Copyist —
Date of Completion of Copy 20/4/22
Date of Delivery of Copy 20/4/22

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal
Peshawar

بعد التضا - ۲۹ کی روک ٹوک سے
 ۹

Petition

2022 پنجاب

عامر شاہ بنام ڈپٹی

مورثہ

مقدمہ

دعویٰ

جرم

باعث تحریر آنکہ

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

آن مقام **بشمار** کیلئے **نامکرم خان امجدہ** کے نام سے

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز

وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور

بصورت ڈگری کرنے اجراء اور وصولی چیک دروپہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق

زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی

اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت

مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے

تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے

اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے

سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں

گے۔ کہ پیروی مذکور کریں۔ لہذا کالت نامہ لکھ دیا کہ سندر ہے۔

2022

ماہ مئی

25

المرقوم

العہدہ

کے لئے منظور ہے۔

مقام مشاور

Attest

Accepted by

“B”

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

No.

9. B

Appeal No. E.P No. 305,306 of 20 12

Amir Shah & Others Appellant/Petitioner
Versus

I.C.P. KPK Respondent
Respondent No. 2

Notice to: - Additional Inspector General Establish
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 26/7/2012 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 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 26/7/12

Day of..... June20 12

(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.

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— F.B. No. 302
Vernon Span

f. (r. s.)
t. b. r.

ABORIGINAL
K-6
INVESTIGATION (16 Nov 50)
F. B. I.

SP/F/1003

EIP

DN IN

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ZINE

! (not to be used in reports)

“B”

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

S. B

No.

E.P. No. 305, 306 of 2022

Amir Shah & Others Appellant/Petitioner

Versus

I. C. P. KPK Respondent

Respondent No. 1

Notice to:

Inspector General of Police KPK Peshawar.

Handwritten signature and date 27/7/22

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 26/7/2022 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

24th

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

Day of June 2022

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.