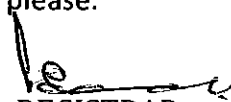
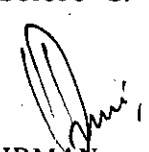
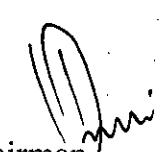
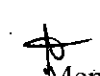


FORM OF ORDER SHEET

Execution Petition No. 473/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	27.12.2018	<p>The Execution Petition of Mr. Kamal Jalal submitted to-day by Mr. Noor Muhammad Khattak 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>
2-		<p>This Execution Petition be put up before S. Bench on - <u>14-1-19</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	14.1.2019	<p>Petitioner alongwith counsel present.</p> <p>Notices be issued to the respondents for submission of implementation report on 27.02.2019 before S.B.</p> <p style="text-align: right;"> Chairman</p>
	27.02.2019	<p>Petitioner in person present. Mr. Kabirullah Khattak, Addl: AG for respondents present. Fresh notice be issued to the respondents for submission of implementation report on or before the next date of hearing on 02.04.2019 before S.B.</p> <p style="text-align: right;"> Member (Ahmad Hassan)</p>

02.04.2019

Counsel for the petitioner present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Atta Muhammad, Senior Law Instructor for respondents present.

Representative of the respondents submitted provisional implementation report dated 06.02.2019, through which the petitioner has been reinstated in service on provisional basis subject to ^{the final} outcome of the CPLA filed by the respondents in the august Supreme Court of Pakistan and the same is placed on filed. A copy of was also handed over to the learned counsel for the petitioner. Case to come up for further proceedings 02.05.2019 before S.B.

(AHMAD HASSAN)
MEMBER

02.05.2019

Counsel for the petitioner and Mr. Usman Ghani District Attorney alongwith M/S Atta Muhammad Senior Law Instructor, Sajid Superintende, Saleem Javed Litigation Officer, Zakiullah, Senior Auditor and Mastan Ali Shah, Litigation Officer for the respondents present.

Learned counsel for the petitioner states that as the petitioner has been conditionally reinstated into service he is under instructions not to press the instant petition any further for the time being.

The execution proceedings are, therefore, consigned. The petitioner may resort to restore the proceedings in case any part of relief granted to him remained unsatisfactory.

Chairman

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Implementation Petition No. _____ /2018

In

Appeal No.361/2017

KAMAL JALAL

VS

I.G. PRISON & OTHERS

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE NO.
1-	Memo of petition	1- 2.
2-	Affidavit	3.
3-	Judgment	A	4- 6.
4-	Vakalat nama	7.

PETITIONER/APPLICANT

THROUGH:

NOOR MOHAMMAD KHATTAK
ADVOCATE

MOBILE NO.0345-9383141

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 2328

Implementation Petition No. 473 /2018

Dated 27-12-2018

In

Appeal No.361/2017

Mr. Kamal Jalal, Warder
Prisoner judicial Lockup, Swabi.

.....PETITIONER

VERSUS

- 1- The Inspector General of Prisons, Khyber Pakhtunkhwa, Peshawar.
- 2- The Headquarter Superintendent, ^{Pril} Peshawar.
- 3- The Superintendent, Prisoner Judicial Lockup, Swabi.

..... RESPONDENTS

**IMPLEMENTATION PETITION FOR DIRECTING
THE RESPONDENTS TO OBEY THE JUDGMENT IN
LETTER AND SPIRIT**

R/SHEWETH:

- 1- That the petitioner filed Service appeal bearing No. 361/2017 before this august Service Tribunal for his re-instatement on the post of Warder.
- 2- That the appeal of the petitioner was finally heard by this august Tribunal on 05.10.2018 and was decided in favor of the petitioner vide judgment dated 05.10.2018 with the view that ***"In the stated circumstances, the argument of learned counsel for appellant that the major penalty of removal from service is extremely harsh and excessive, carries weight. Consequently, for the safe administration of justice, the impugned major penalty of reduction to lower stage in time scale for a period of five (05) years. Resultantly the appellant is re-instated in service. The absence period and the intervening period shall be treated as leave without pay the present service appeal is accepted in the above terms"***. Copy of the judgment is attached as annexure..... A.

- Page No. 2
- 3- That after obtaining copy of the judgment the petitioner applied to the Department for his claim but the respondent Department is not willing to obey the judgment and till date the respondents have not been allowed/issued back benefits to the appellant.
 - 4- That the petitioner has no other remedy but to file this implementation petition.

It is therefore, most humbly prayed that on acceptance of this implementation petition the respondents may be directed to implement the judgment dated 05.10.2018 in letter and spirit. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the petitioner.

PETITIONER


KAMAL JALAL

THROUGH:


**NOOR MOHAMMAD KHATTAK
ADVOCATE**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Implementation Petition No. _____/2018

In

Appeal No.361/2017

KAMAL JALAL

VS

I.G. PRISON & OTHERS

AFFIDAVIT

I Noor Mohammad Khattak, Advocate on behalf of the petitioner, do hereby solemnly affirm that the contents of this **implementation petition** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.



27-12-2018


NOOR MOHAMMAD KHATTAK
ADVOCATE

A-4



Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No. 361/2017

Date of Institution 24.03.2017
Date of Decision 05.10.2018

Kamal Jalal son of Said Jalal resident of Kurram Agency (Ex-Warder prisoner judicial lockup, Swabi)-----**Appellant**

Versus

1. Inspector General Prisons Khyber Pakhtunkhwa Peshawar.
2. Headquarter Superintendent, Peshawar.-----**Respondents**

Mr. Muhammad Hamid Mughal-----**Member**
Mr. Hussain Shah-----**Member**

JUDGMENT

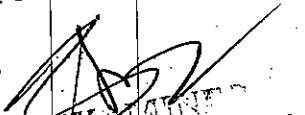
MUHAMMAD HAMID MUGHAL, MEMBER: - Mr. Noor

05.10.2018

Muhammad Khattak Advocate learned counsel for appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General for the respondents present.

2. The appellant (Ex-Warder Prisoners Judicial Lockup Swabi) has filed the present appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 03.12.2016 whereby he was awarded penalty of dismissal from service on the ground of absence from duty. The appellant has also challenged the order dated 24.02.2017 through which his departmental appeal against the original impugned order was rejected however the

ATTESTED


Khyber Pakhtunkhwa
Service Tribunal
Peshawar

5

punishment of dismissal from service was converted into removal from service.

3. Learned counsel for the appellant argued that the impugned order is against law and facts. Learned counsel for the appellant while referring to the copies of medical prescriptions available on file argued that the appellant got injured in road accident, fractured his right leg and fallen ill therefore the appellant was unable to join his duties. Further argued that the absence of the appellant was not intentional. Further argued that no regular inquiry was conducted prior to the issuance of impugned order. Learned counsel for appellant mainly argued that the appellant had eleven (11) years service at his credit when the impugned punishment was awarded to him and that his absence was beyond his control hence the impugned punishment orders are extremely harsh and excessive.

4. As against that learned Additional Advocate General argued that the appellant remained absent without any permission. Further argued that the appellant has not sent any application for the grant/extension of leave nor submitted any medical certificate to the competent authority. Further argued that absence notices were issued to the appellant at his home address to defend himself, moreover notices were also published in leading newspapers but the appellant did not attend to his duties nor submitted reply. Further argued that proper Show Cause Notices were also issued to the appellant and thereafter the original impugned order was issued.

5. Arguments heard. File perused.

ATTESTED

EXAMINED
Khyber Pakhtunkhwa
Service Commission
Peshawar

6

6. Admittedly the appellant remained absent from duty from 09.06.2016 without any permission and resultantly he was dismissed from service vide original impugned order dated 03.12.2016. Documents available on file reflect that notices to the appellant were issued including that through publication in newspaper. Show Cause Notices were also issued to the appellant hence in the circumstances of the case learned counsel for the appellant could not demonstrate that the appellant was wrongly punished. However there is also no dispute that the appellant had already served for eleven (11) years in the respondent department and that there is no allegation of corruption against him moreover the plea of the appellant is that due to road accident he got injured and fallen ill and for that reason he could not attend to his duties. In the stated circumstances, the argument of learned counsel for appellant that the major penalty of removal from service is extremely harsh and excessive, carries weight. Consequently, for the safe administration of justice, the impugned major penalty of removal from service is modified and converted into major penalty of reduction to lower stage in time scale for a period of five (05) years. Resultantly the appellant is reinstated in service. The absence period and the intervening period shall be treated as leave without pay. The present service appeal is accepted in the above terms. Parties are left to bear their own costs. File be consigned to the record room.



(Hussain Shah)
Member

ANNOUNCED
05.10.2018



(Muhammad Hamid Mughal)
Member

Certified to be true copy

ANNOUNCED
Khy. Service Tribunal,
Peshawar

VAKALATNAMA

Before the KP Service Tribunal, Peshawar

_____ OF 2018

Kamal Jalal

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

J.G Prison & others

(RESPONDENT)
(DEFENDANT)

I/We Kamal Jalal

Do hereby appoint and constitute, **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. 26 / 12 / 2018



CLIENT


ACCEPTED

NOOR MOHAMMAD KHATTAK

&


MUHAMMAD MAAZ MADNI
ADVOCATES

OFFICE:

Flat No.3, Upper Floor,
Islamia Club Building, Khyber Bazar,
Peshawar City.

Phone: 091-2211391

Mobile No. **0345-9383141**



MOST IMMEDIATE
COURT MATTER
TIME LIMIT CASE
OUT JUST NOW

OFFICE OF THE
INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR
☎ 091-9210334, 9210406 📠 091-9213445
🌐 www.facebook.com/kpkprisons
✉ Prisonsig@gmail.com

No. 4065-WE-1-
Dated 06-02-2019-1-

To,

The Superintendent,
Headquarters Prison Peshawar.

Subject: **SERVICE APPEAL NO. 361/2017 FILED BY EX-WARDER KAMAL JALAL VS GOVERNMENT OF KHYBER PAKHTUNKHWA.**

Memo;

I am directed to refer to the subject and to convey that Ex- Warder Kamal Jalal filed an appeal in the Khyber Pakhtunkhwa Learned Service Tribunal Peshawar against the major penalty of "**Removal from Service**" awarded to him by the Superintendent Circle Headquarters Prison Peshawar vide office order No.3714 dated, 03-12-2016 (copy enclosed) due to his willful absence from official duties with effect from 09-06-2016 to 03-12-2016 (more than 05 months).

The Khyber Pakhtunkhwa learned Service Tribunal accepted his appeal vide Judgment dated, 05-10-2018 (Copy enclosed) and the major penalty of "**Removal from Service**" has been modified and converted into major penalty of "**Reduction to lower stage in time scale**" for a period of five (05) years and re-instated in service. Absence period and intervening period ordered to be treated as Leave without Pay.

This Department has already filed a CPLA in the August Supreme Court of Pakistan against the Judgment referred to above.

I am further directed to convey that the appellant may be reinstated into Service with immediate effect subject to the final decision/outcome of CPLA, already filed in the August Supreme Court of Pakistan.

Upon his reinstatement, he is hereby transferred and posted to Central Prison Peshawar for all purpose/further duty against the vacant post.

ole
ASSISTANT DIRECTOR (LITG;)
FOR INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR
06/2/19

Endst; No. 4066-69-1-

Copy of the above is forwarded to the:-

1. Secretary to Government of Khyber Pakhtunkhwa Home and T.As Department Peshawar for information with reference above please.
2. Registrar, Khyber Pakhtunkhwa Learned Service Tribunal Peshawar for information please.
3. Superintendent Headquarters Prison Peshawar for information.
4. Superintendent Central Prison Peshawar for information and necessary action.

ole
ASSISTANT DIRECTOR (LITG;)
FOR INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR
06/2/19

EP 473/2018

02.05.2019

Counsel for the petitioner and Mr. Usman Ghani District Attorney alongwith Mr. Atta Muhammad Senior Law Instructor, for the respondents present.

Learned counsel for the petitioner states that as the petitioner has been conditionally reinstated into service he is under instructions not to press the instant petition any further for the time being.

The execution proceedings are, therefore, consigned. The petitioner may resort to restore the proceedings in case any part of relief granted to him remained unsatisfactory.

Chairman

