

18.04.2022

Petitioner alongwith counsel present. Notice be issued to the respondents for the date fixed. To come up for implementation report on 21.06.2022 before S.B. Original file be also requisitioned.

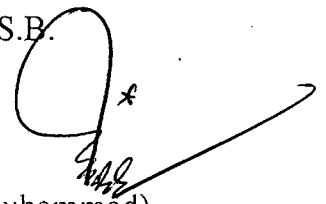
Q

Chairman

21.06.2022

Learned counsel for the petitioner present. Mr. Kabirullah Khattak, Additional Advocate General for respondents present.

Implementation report not submitted. Learned Additional Advocate General is directed to consult the relevant quarter and ensure submission of implementation report on next date. Adjourned. To come up for implementation report on 01.08.2022 before S.B.




(Mian Muhammad)
Member (E)

Q

01.08.2022

Petitioner alongwith counsel present. Mr. Kabir Ullah Khattak, Additional Advocate General for respondents present.




Learned Additional Advocate General seeks time for submission of implementation report. Adjourned. To come up for Implementation report on 09.09.2022 before S.B.


(Fareeha Paul)
Member (E)

Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. _____ 38/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	12.01.2022	<p>The execution petition of Mr. Shah Faisal 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>This execution petition be put up before S. Bench at Peshawar on <u>18/2/22</u>.</p> <p> CHAIRMAN</p>
	18.02.2022	<p>Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 18.04.2022 for the same as before.</p> <p> Reader</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Execution No. 37 /2022

In

Service Appeal No. 99/2013

Shah FaisalApplicant

V E R S U S

Regional Police Officer & othersRespondents

I N D E X

S.No	Description of Documents	Annex	Pages
1.	Execution Petition with affidavit		1-2
2.	Address of parties		3
3.	Copy of judgment dated 14.01.2021	A	4-6
4.	Wakalatnama		7

Through

Shah Faisal
Applicant

Naila Jan
Naila Jan
Advocate, High Court
Peshawar

Date: 12.01.2022

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**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**



Execution No. 37 /2022
In
Service Appeal No. 99/2013

Shah Faisal Ex-Constable No. 1760 son of Ghulam Ibrahim, District
Police Bannu.

.....Applicant

V E R S U S

1. Regional Police Officer, Bannu Region Bannu.
2. District Police Officer, Bannu.
3. Provincial Police Officer, KPK, Peshawar.

.....Respondents

**EXECUTION PETITION AGAINST THE ORDER
AND JUDGMENT DATED 14.01.2021 IN THE
ABOVE MENTIONED SERVICE APPEALS.**

Respectfully Sheweth:

1. That above titled service appeal was filed by the appellant / petitioner before this Hon'ble Tribunal on 11.01.2013 which was decided vide order dated 14.01.2021
2. That on the said judgment, the appellant / petitioner was reinstated on service. The operative part of judgment is hereasunder:

“the appeal in hand is allowed to the extent that impugned portion of order dated 29.08.2012, concerning the treatment of absence period as leave without pay, is set aside. Any content to that effect in the decision of departmental appeal dated 23.11.2012 is also be disregarded”

3. That the petitioner approached to the department several times but no response has been made till date.
4. That the action and inaction of the respondent department by not complying the judgment of this Hon'ble Court is illegal, unlawful, against the law and facts on the subject matter.
5. That the action of respondent department is intentional by using delaying tactics in the matter subject above.
6. That as per the judgment of this Hon'ble Tribunal dated 14.01.2021 respondents are bound to implement the above judgment, however they have not yet implemented the same in the letter and spirit.

It is, therefore, most humbly prayed that on acceptance of this application, the judgment dated 14.01.2021 may please be implemented and respondents may please be directed to implement the judgment of this Hon'ble Court.

Applicant

Through

Naila Jan
Advocate, High Court
Peshawar

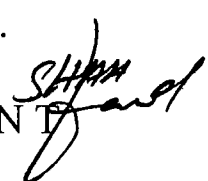


Date: 12.01.2022

AFFIDAVIT

It is solemnly affirm and declare that the contents of the **application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

DEPONENT



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Execution No. _____/2022

In

Service Appeal No. 99/2013

Shah FaisalApplicant

V E R S U S

Regional Police Officer & othersRespondents

ADDRESSES OF PARTIES

APPLICANT / APPELLANT:

Shah Faisal Ex-Constable No. 1760 son of Ghulam Ibrahim, District Police Bannu.

RESPONDENTS:

1. Regional Police Officer, Bannu Region Bannu.
2. District Police Officer, Bannu.
3. Provincial Police Officer, KPK, Peshawar.

Through

Applicant

Naila Jan
Advocate, High Court
Peshawar

Date: 12.01.2022

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR



Appeal No. 99/2013

Date of Institution ... 11.01.2013

Date of Decision ... 14.01.2021

Shah Faisal, Constable No.1760, son of Ghulam Ibrahim District Police, Bannu. ... (Appellant)

VERSUS

The District Police Officer, Bannu and two others. ... (Respondents)

Present:

Mr. Fazal Shah, Advocate. ... For appellant

Mr. Muhammad Rashid, Deputy District Attorney ... For respondents.

MR. HAMID FAROOQ DURRANI, MR. ATIQRU REHMAN WAZIR, ... CHAIRMAN MEMBER(E)

DSP Legal
PO

JUDGMENT

HAMID FAROOQ DURRANI, CHAIRMAN:-

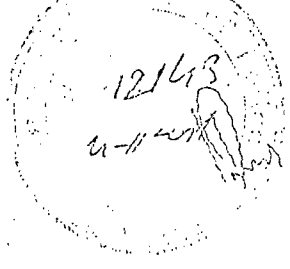
- Instant appeal has been preferred against the order dated 29.08.2012 passed by respondent No. 1. Through the order absence period of appellant from 14.10.2010 upto 19.04.2012 was treated as leave without pay. Another absence period from 05.10.2010 to 14.10.2010 was also given the same treatment. The appellant is also displeased with the order dated 23.11.2012 issued by respondent No. 2, whereby, his departmental appeal was filed.
- The facts, as detailed in the memorandum of appeal, suggest that the appellant was appointed as Constable in the Police Department on 15.07.2009. During the course of his service, the appellant was discharged through an order by respondent No. 1. This Tribunal was consequently approached through Service Appeal No. 311/2011 which was decided on 02.02.2012. The appellant was reinstated into service with all back benefits

Per mja
Jalil
District Police Officer
BANNU

04/11/2021

ATTESTED

[Signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar



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while the respondents were permitted to conduct proper departmental enquiry against him. Denovo enquiry was conducted and the enquiry officer submitted his findings. The proceedings culminated into order dated 29.08.2012, by virtue whereof, the appellant was exonerated from the charges and the enquiry was filed. His period of absence, as detailed herein above was, however, treated as leave without pay.

3. Learned counsel for the appellant as well as learned Deputy District Attorney on behalf of the respondents heard and available record perused.

4. Before proceeding further in the matter, it shall be useful to reproduce hereunder the concluding Paragraph (8) of the judgment passed in Appeal No. 311/2011:-

"In view of the above, the appeal is accepted, the impugned order dated 14.10.2010 is set aside and the case is remanded to the department to conduct proper departmental enquiry against the appellant by providing him proper opportunity of defence strictly in accordance with the law. In the meantime, the appellant is reinstated into service with all back benefits. Parties are left to bear their own costs. File be consigned to the record."

The above reproduction provides in clear and unequivocal terms that the appellant, inter-alia, was reinstated into service with all back benefits. The record is silent regarding setting aside of the judgment by the Apex Court rendering the judgment to have attained finality. On the other hand, through the impugned order dated 29.08.2012, the competent authority treated the absence period as leave without pay.

It thus shows that the competent authority as well as the departmental appellate authority brushed aside a portion of judgment rendered by a Tribunal of competent jurisdiction. The impugned part of the order is, therefore, not sustainable.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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5. Learned DDA, while arguing the matter, referred to judgment reported as 2003-SCMR-228. His contention was that the appellant was not entitled to the salary for the period when he remained absent from duty. The judgment in Appeal No.311/2011, inter-alia, suggests that the absence attributable to the appellant was 31 days, that too, on account of his ailment. Pertinently, in the impugned order dated 29.08.2012 the appellant was shown to have been absent for 18 months and 15 days. The period for which he remained discharged from duty also appears to have been added up.

Be that as it may, the appellant had earned a judgment in his favour from Tribunal of competent jurisdiction which was not disturbed at any forum. The respondents were, therefore, obligated to have honored the judgment in letter & spirit. More particularly, when the appellant was exonerated from the charges and the enquiry was filed.

6. For what has been discussed above, the appeal in hand is allowed to the extent that impugned portion of order dated 29.08.2012, concerning the treatment of absence period as leave without pay, is set aside. Any content to that effect in the decision of departmental appeal dated 23.11.2012 is also to be disregarded.

Parties are, however, left to bear their respective costs. File be consigned to the record room.

(HAMID FAROOQ DURRANI)
CHAIRMAN

(ATIQUIR REHMAN WAZIR)
MEMBER(E)

ANNOUNCED
14.01.2021

Certified to be true copy

EXAMINER
Khayber Pakhtunkhwa
Service Tribunal
Peshawar

بعد التجدد اسٹریٹس ٹریبونل نشانیہ

2022ء منجانب Petitioner

شاہ صفی بنام دیو

99/2013

سینٹریل سٹیٹس

سورجہ

مقدمہ

دعویٰ

جرم

نیل 20/1/14

باعث تحریر آنکے

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

آن مقام شاہ صفی کیلئے شاہ صفی

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

وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور

بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ 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 اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور

کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ لیا اپنے بجائے تقرر کا اختیار

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

پر و اختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جاتہ التوائے مقدمہ کے سب سے وہ ہوگا۔

کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی

مذکورہ کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

المرقوم 12 ماہ جلوری 2022

العبد گواہ العبد

مقام شہر کے لئے منظور ہے۔

شاہ صفی

Accepted

شاہ صفی

"B"

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

SB

No.

 E.P No. 37 & 38
Appeal No. *Shah Farid & 10 others* of 20 *22*

.....Appellant/Petitioner

Regional Police Officer, Bara Region

.....Respondent

Respondent No.

Notice to:

Provincial Police Officer, 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.....*22/06/2022*.....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 appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

13/6

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

Day of.....*April*.....20 *22*

(For Summary-mention Report)
22/6

[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.
2. Always quote Case No. While making any correspondence.

“B”

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

No.

SB

Regd

Appeal No. E.P No. 37 & 38 of 2022

Shah Faisal & 10 other Appellant/Petitioner

Versus

Regional Police officer, Bannu Region Respondent

Respondent No. (1)

Notice to: — Regional Police Officer, Bannu Region

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.....21/06/2022.....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.

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

19th

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

Day of.....April.....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. *Recd* *SB*
E.P No. 37 & 38
Appeal No. of 2022
Shah Faisal & 0 other Appellant/Petitioner
Regional Police officer, Bannu Region Respondent
(2)
Respondent No.

Notice to: — *DPO Bannu*

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.....*21/06/2022*.....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 ~~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.....*19th*.....
Day of.....*April*.....2022.

*(For Impl-ment-
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.