

23rd June, 2022 Counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakhel, Asst: AG alongwith Mr. Arif Saleem, Steno for respondents present.

Representative of the respondents submitted order OB No. 188/SRC dated 21.06.2022 bearing endorsement No. 5721-22/SRC, wherein partial implementation of the judgment of this Tribunal has been complied with. Respondents are directed to submit remaining implementation of the judgment on the next date. To come up for implementation report on 28.07.2022 before S.B.



28.07.2022

Petitioner present in person. Mr. Kabir Ullah Khattak, Additional
(Kalim Arshad Khan)
Chairman
Advocate General, Arif Saleem, Stenographer for respondents present.

Learned Advocate Generated sought time for submission of implementation report. To come up for implementation report on 19.09.2022 before S.B.

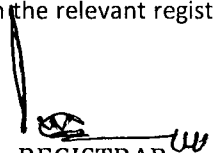





(Fareeha Paul)
Member (E)

Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 281/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	13.05.2022	<p>The execution petition of Mr. Hidayatullah submitted today by Mr. Ashraf Ali Khattak 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 Single Bench at Peshawar on <u>26-05-2022</u>. Original file be requisitioned. Notices to the parties be also issued for the date fixed.</p> <p> CHAIRMAN</p>
26.05.2022		<p>Petitioner in person present. Mr. Kabirullah Khattak, Addl AG for the respondents present.</p> <p>Notices be issued to the respondents for submission of implementation report. To come up for implementation report on 23.06.2022 before S.B.</p> <p> Kalim Arshad Khan Chairman</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

MISC: APPLICATION NO. 281/2022

EXECUTION OF THE JUDGMENT

IN

SERVICE APPEAL NO. 647 of 2019

&

Service Appeal No.1405 of 2020

Hidayat Ullah LHC No.88,

Operation Staff,

Police Line, Kohat.....Applicant/Petitioner

Versus


The Deputy Inspector General of Police,

Kohat Region, Kohat and others.....Respondents

INDEX

S.No.	Description of Documents	Date	Annexure	Pages
1.	Copy of application for execution of the judgment of this Hon'ble Tribunal alongwith affidavit.			1-4
2.	Copy of service appeal No. 3324/2020 alongwith judgment of this Hon'ble Tribunal.	17-01-2022	A	5-8
3.	Wakalat Nama.			9

Through


Applicant/Petitioner

Ashraf Ali Khattak

Advocate,

High Court, Peshawar

Dated: 13 / 05/ 2022

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

MISC: APPLICATION NO. 281/2021

EXECUTION OF THE JUDGMENT

IN

SERVICE APPEAL NO. 647 of 2019

&

Service Appeal No.1405 of 2020



Hidayat Ullah LHC No.88,
Operation Staff,
Police Line,
Kohat.....Applicant/Petitioner.

Versus

1. The Deputy Inspector General of Police,
Kohat Region, Kohat.
2. The District Police Officer,
District Kohat.....Respondents.

**APPLICATION FOR EXECUTION OF THE JUDGMENT OF
THIS HONOURABLE TRIBUNAL DATED 17.01.2022 IN
SERVICE APPEAL NO. 647/2021 and 1409/2020.**

Respectfully Sheweth,

The petitioner humbly submits as under;

1. That the applicant/petitioner filed the above titled service appeal in this Hon'ble Tribunal in which he had challenged the notification/order dated 26-02-2019, thereby appellant awarded punishment of reduction from higher stage to lower stage in the same time scale of pay for two years and order dated 17-10-2019, whereby penalty of reversion from the rank of LHC to the substantive rank of Food Constable was imposed.

(2)

2. That this Hon'ble Tribunal was pleased to allow both the appeals through a single consolidated judgment as prayed for in the following terms;
07. *“Keeping in view the position explained above, the instant appeal as well as the connect service appeal are accepted. The impugned order dated 26-02-2019 and 17-10-2019 are set aside. Respondents however are at liberty to proceed the appellant under General Proceedings by providing him appropriate opportunity of defense. Parties are left to bear their own costs. File be consigned to record room”*

Copy of the Judgment is attached as **Annexure-A**.


3. That the salary of the appellant/applicant was calculated and fixed in line with the impugned order dated 26-02-2019 and 17-10-2019 i.e. in lowest stage in present time scale and reversion to the substantive rank of Foot Constable Appellant / Petitioner has been receiving her monthly salary in lowest stage in present time scale and as Foot Constable since the impugned orders till date.
4. That after obtaining the attested copy of the judgment dated 17-01-2022, appellant / petitioner submitted an application for implementation of the judgment through proper channel along with attested copy of the judgment.
5. That the application for implementation of the judgment of this Hon'ble Tribunal is still awaited as the respondents are reluctant to implement in its true spirit.
6. That since the both the impugned orders has been declared as illegal and set aside therefore, appellant / petitioner is entitled for re-instatement with all back benefits.


GROUND

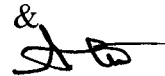
- A. That non-compliance of the aforesaid order of the Hon'ble Tribunal by the respondents is illegal, without lawful authority and mala fide.
- B. That every Government functionary is under legal obligation to honour the order of the Court of competent jurisdiction, the respondents by not complying with the order, have not performed their duty in accordance with law.
- C. That non-compliance of the order of the Hon'ble Tribunal, speaks malafide on the part of respondents and to lower the position of the judiciary in the eyes of public.
- D. That from the facts, mentioned above, it has become crystal clear that the respondents have committed contempt of court.

It is therefore, most humbly prayed that on acceptance of this application, this Hon'ble Tribunal may graciously be pleased to direct the respondents to implement the judgment/order of this Hon'ble Tribunal in letter and spirit without any further delay.

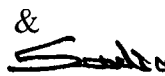
Through


Applicant/Petitioner


Ashraf Ali Khattak
Advocate,
High Court, Peshawar

&


Ali Bakht Mughal
Advocate, Peshawar

&


Sadia Umar
Advocate, Peshawar.

Dated: 13 / 05/ 2022

(4)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**MISC: APPLICATION NO. _____/2022****EXECUTION OF THE JUDGMENT****IN****SERVICE APPEAL NO. 647 of 2019****&****Service Appeal No.1405 of 2020**

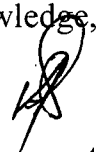
Hidayat Ullah LHC No.88,
Operation Staff,
Police Line, KohatApplicant/Petitioner

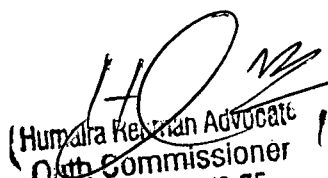
Versus

**The Deputy Inspector General of Police,
Kohat Region, Kohat and others.....Respondents**

AFFIDAVIT

I, Hidayat Ullah LHC No.88 Operation Staff, Police Line, Kohat hereby solemnly affirm and declare on oath that the contents of this execution petition are true and correct to the best of my knowledge, and nothing has been concealed from this Hon'ble Tribunal.


Deponent


(Humaira Khan Advocate)
Oath Commissioner
Endst No. 3370-75
13/5/2022

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 647/2019

Date of Institution ... 17.05.2019

Date of Decision ... 17.01.2022



Hidayat Ullah LHC No. 881 Operation Staff Karak Police Takht-e-Nusrati.
... (Appellant)

VERSUS

Inspector General of Khyber Pakhtunkhwa Police Peshawar and others.
... (Respondents)

Ashraf Ali Khattak,
Advocate ... For Appellant

Muhammad Adeel Butt,
Additional Advocate General ... For respondents


AHMAD SULTAN TAREEN ... **CHAIRMAN**
ATIQU-UR-REHMAN WAZIR ... **MEMBER (EXECUTIVE)**

JUDGMENT

ATIQU-UR-REHMAN WAZIR MEMBER (E):- This single judgment shall dispose of the instant service appeal as well as his connected Service Appeal bearing No. 1405/2020 titled "Hidayat Ullah Versus Inspector General of Khyber Pakhtunkhwa Police Peshawar and others" as common question of law and facts are involved therein.

02. Brief facts of the case are that the appellant has impugned two adverse orders in his separate service appeals. Vide impugned order dated 26-02-2019, punishment of reduction from higher stage to lower stage in the same time scale of pay for the period of three years has been imposed upon the appellant, which was reduced to two years by the appellate authority, whereas in another case, vide impugned order dated 17-10-2019 the penalty of reversion from the rank of

ATTESTED


CHAIRMAN
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

LHC to the substantive rank of Foot Constable, which was also challenged by the appellant vide his departmental appeal, which was not responded, hence the appellant filed separate service appeals with respect to both the issues with prayers that the impugned orders may be set aside and the appellant may be restored to his old position as before and the order of punishments may be set aside.

03. Learned counsel for the appellant has contended that the allegations leveled against the appellant were never practiced by the appellant and always earned good name for the department; that it is settled principle of natural justice that one should not be condemned unheard but in case of the appellant no inquiry was conducted; that punishment awarded to the appellant of time scale is neither in the list of relevant rules nor in E&D Rules; that the appellant was penalized on the basis of discreet inquiry, which is not supported by any rule or law, that the appellant was not afforded opportunity to be heard in person, hence the appellant was condemned unheard; that nothing has been proved against the appellant and the appellant was penalized on the basis of presumptions.

04. Learned Additional Advocate General for the respondents has contended that on the one hand the appellant had indulged himself in illegal activities, misused his authority for personal gains and was found ill reputed. On the other hand, the appellant was found involved having links with notorious criminal gangs, therefore he was served with showcause notice separately in both cases; that reply of the showcause notices was found un-satisfactory, hence he was awarded with the punishments from time to time but the appellant did not mend his way; that his service record is full of bad entries and he is not willing to abide by law and rule and has always displayed to be a disobedient subordinate.

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

APPROVED



EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

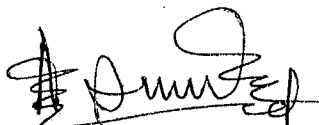
06. Record would suggest the appellant was awarded with major punishment of reduction in time scale for a period of three years, but regular inquiry was dispensed with and the penalty was awarded through summary proceedings, which however is illegal, as major punishment cannot be awarded through summary proceedings. It was also noted that such penalty is not available in the list of penalties in Police Rules, 1975; hence, the penalty so awarded is illegal. The second punishment of reversion from rank of LHC to the substantive ranks of Foot Constable was also awarded to the appellant through summary proceedings, which too was illegal as minor penalty can be imposed in case of summary proceeding but in the instant case, major punishment was awarded through summary proceedings, which too is illegal.


07. Keeping in view the position explained above, the instant appeal as well as the connected service appeal are accepted. The impugned order dated 26-02-2019 and 17-10-2019 are set aside. Respondents however are at liberty to proceed the appellant under General Proceedings by providing him appropriate opportunity of defense. Parties are left to bear their own costs. File be consigned to record room.

to record room.

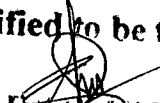
ANNOUNCED

17.01.2022


(AHMAD SULTAN TAREEN)
CHAIRMAN


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

Certified to be true copy


F. A. Q. AINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Appeal No. 1405/2020

8



ORDER
17.01.2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for respondent present. Arguments heard and record perused.

Vide our detailed judgment of today, placed on file of service appeal bearing No. 647/2019 titled "Hidayat Ullah Versus Inspector General of Khyber Pakhtunkhwa Police Peshawar and others", the instant appeal is accepted. The impugned order dated 26-02-2019 and 17-10-2019 are set aside. Respondents however are at liberty to proceed the appellant under General Proceedings by providing him appropriate opportunity of defense. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
17.01.2022

(AHMAD SULTAN TAREEN)
CHAIRMAN

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

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

"B"

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

No.

Recd

SB

E.P No. 281

Appeal No. of 20 22

Hidayat Ullah

Appellant/Petitioner

Versus

DIG of Police Kohat

Respondent

Respondent No. *(1)*

Notice to:

[Handwritten mark]

DIG of Police Kohat 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 *23.06.2022* 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: *03*

Day of *June* 20*22*

For Impl-ment-tion Report

[Handwritten 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.

Recd

SB

E.P. No. 281
 Appeal No. of 20 *22*

Hidayat ulah Appellant/Petitioner

Versus

DIG of Police Kohat Respondent

Respondent No. *(22)*

Notice to: —

District Police Officer District 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.....*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 ^{*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.....*03*.....

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.

POLICE DEPARTMENT

DISTRICT KOHAT

ORDER

In compliance with the judgment dated 17.01.2022 passed by Khyber Pakhtunkhwa Service Tribunal Peshawar in Service Appeal No. 647/2019 and approval of the competent authority vide CPO Peshawar letter No. 2993/Legal dated 17.06.2022, Constable Hidayat Ullah No. 98 is re-instated in the rank of LHC, conditionally / provisionally subject to the outcome of CPLA, filed against the impugned judgment before august Supreme Court of Pakistan.

OB NO: 188/SRC
Dated. 21-6-2022

(MUHAMMAD SULEMAN) PSP
District Police Officer,
Kohat

OFFICE OF THE DISTRICT POLICE OFFICER KOHAT

No S721-24/SRC, dated Kohat the 21-06 /2022.

Copy of above to Reader / OHC / Line Officer for information and necessary action.

2. Official concerned.