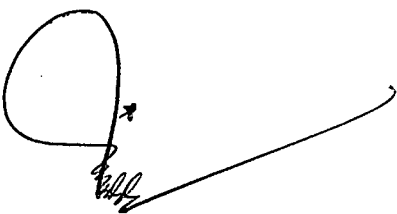


19.07.2022

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

Representative of the respondent department submitted office order bearing No. 149-54 dated 11.01.2022 whereby the petitioner has been reinstated in service conditionally/provisionally subject to the outcome of CPLA and the intervening period also treated as leave of the kind due. Copy of the said order is placed on file as well as provided to learned counsel for the petitioner. Learned counsel for the petitioner requested that time may be granted for submission of objection(s). Adjourned. To come up for objection, if any, and arguments on implementation report, on 20.09.2022 before S.B.

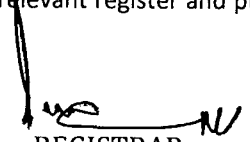




(MIAN MUHAMMAD)
MEMBER(E)

Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. _____ 265/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	27.04.2022	<p>The execution petition of Mr. Abdul Waheed submitted today by Uzma Syed 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-	25-5-22	<p>This execution petition be put up before to Single Bench at Peshawar on <u>8-6-22</u>. Original file be requisitioned. Notices to the parties be also issued for the date fixed.</p> <p style="text-align: right;"> CHAIRMAN</p>
	08.06.2022	<p>Petitioner present through representative.</p> <p>Notice be issued to all the respondents for implementation report for 19.07.2022 before S.B.</p> <p style="text-align: right;"> (Rozina Rehman) Member (J)</p>

In compliance with the order of Honorable Khyber Pakhtunkhwa Service Tribunal Postwar Judgment dated 30.11.2021 Passed in the Service Appeal No. 195/2018, Ex: Constable Abdul Waheed No. 1950 is hereby conditionally Re-instated into service and the intervening period is treated as leave of the kind due. The back benefit is granted to the official subject to provision of an affidavit of the official with regard to if the decision of Honorable Supreme Court of Pakistan became against the official then the amount of back benefit will be recovered accordingly.

OB No. 17
Dated: 10-01-2022

District Police Officer,
Bannu.

No. 169-571 dated Bannu, the 11/01/2022

Copy of above is submitted to:

1. DCP (Legal), Reader, Pay Officer, SRC, OMC, Line Officer Bannu, for information & necessary action

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.

Execution Petition No. 265 /2022
In Service Appeal No.195/2018

Abdul Waheed

V/S

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

THROUGH:


SYED NOMAN ALI BUKHARI
ADVOCATE, HIGH COURT

&

(UZMA SYED)
ADVOCATE, PESHAWAR

Cell No: 0306-5109438

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



Execution Petition No. 265 /2022
In Service Appeal No.195/2018

Mr. Abdul Waheed, Ex- Constable. No 1950
District Police Bannu.

petitioner

VERSUS

1. The Regional Police Officer Bannu Region Bannu.
2. The District Police Officer Bannu.

RESPONDENTS

.....

**EXECUTION PETITION FOR DIRECTING THE
RESPONDENTS TO IMPLEMENT THE
JUDGMENT DATED: 23.11.2021 OF THIS
HONOURABLE TRIBUNAL IN LETTER AND
SPIRIT.**

.....

RESPECTFULLY SHEWETH:

1. That the applicant/Petitioner filed Service Appeal No.195/2018 against the dismissal order.
2. That the said appeal was finally heard by the Honorable Tribunal on 23.11.2021. The Honorable Tribunal is kind enough to accept the appeal vide judgment dated 23.11.2021 and the appellant is reinstated into service and the intervening period is treated as leave of Kind due. (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 23.11.2021.
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 23.11.2021 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
Abdul waheed

THROUGH:

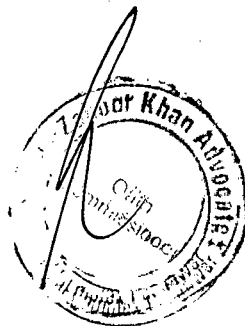

(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT.

&

(UZMA SYED)
ADVOCATE, PESHAWAR

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

For Appellant

(2)

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 195 /2018

Abdul waheed , EX- Constable, No.1950
Bannu District Police.



149
26-01-2018

.....(Appellant)

VERSUS

1. The Regional Police Officer, Bannu Region, Bannu.
2. The District Police officer Bannu.

.....(Respondents)

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT, 1974 AGAINST THE REJECTION ORDER DATED 04.12.2017 OF RESPONDENT NO. 1 RECEIVED BY APPELLANT ON 02.01.2018 WHEREBY THE DEPARTMENTAL APPEAL AGAINST THE ORDER DATED 17.10.2017 HAS BEEN REJECTED FOR NO GOOD GROUNDS.

PRAYER:

THAT ON ACCEPTANCE OF THIS APPEAL, THE ORDERS DATED 04.12.2017 RECEIVED BY APPELLANT ON 02.01.2018 AND 17.10.2017 MAY BE SET ASIDE AND THE APPELLANT MAY BE REINSTATED IN TO SERVICE WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

26/1/18

12/2/18

ATTESTED

.....

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 195/2018

Date of Institution ... 26.01.2018

Date of Decision ... 23.11.2021



Abdul Waheed, Ex-Constable, No. 1950 Bannu District Police.

... (Appellant)

VERSUS

The Regional Police Officer, Bannu Region, Bannu and one another.

... (Respondents)

Syed. Noman Ali Bukhari,
Advocate

... For Appellant

Mr. Muhammad Adeel Butt,
Additional Advocate General

... For Respondents

ROZINA REHMAN
ATIQ-UR-REHMAN WAZIR

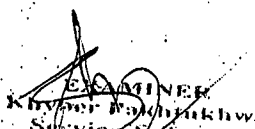
...
...

MEMBER (JUDICIAL)
MEMBER (EXECUTIVE)

JUDGMENT

ATIQ-UR-REHMAN WAZIR MEMBER (E):- Brief facts of the case are that the appellant while serving as constable in police department, was proceeded against on the charges of absence from duty and was ultimately dismissed from service vide order dated 17-10-2017. Feeling aggrieved, the appellant filed departmental appeal, which was rejected vide order dated 04-12-2017, hence the instant service appeal with prayers that the impugned orders dated 17-10-2017 and 04-12-2017 may be set aside and the appellant may be re-instated in service with all back benefits.

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

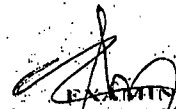
02. Learned counsel for the appellant has contended that the impugned orders are against law, fact and norms of justice as the period of absence has already been condoned as leave without pay and there remains no ground to punish the appellant; that no regular inquiry has been conducted, nor illness of the appellant was considered, as medical prescriptions have not been taken into consideration, therefore without adopting proper procedure, the impugned orders have been passed which are not sustainable in the eye of law; that there is no order in black & white to dispense with the regular inquiry, which is violation of law and rule and without giving him personal hearing, which is mandatory before imposition of major penalty of dismissal from service; that the appellant has been condemned unheard and has not been treated in accordance with law; that absence of the appellant was not willful, but due to serious illness, for which the appellant had already submitted his medical prescriptions.

Wh 03. Learned Additional Advocate General for the respondents has contended that the appellant absented himself from lawful duty for a period of two months and 13 days without permission of the competent authority; that proper charge sheet was served upon the appellant and inquiry officer was appointed and during departmental proceedings, the appellant confessed that he did not inform the authorities about his illness in a proper way; that during the course of inquiry, the appellant was afforded proper opportunity of defense, but he failed to defend his cause; that upon recommendations of the inquiry officer, the appellant was awarded major punishment as per law and rule.

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


05. Record reveals that the appellant was enlisted as police constable on 15-07-2009. The appellant was served with a charge sheet/statement of allegations

ATTESTED


 EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

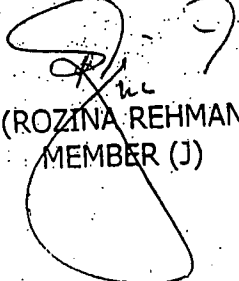
for his willful absence for 2 months and 13 days, to which the appellant responded accordingly. Placed on record is a finding report of DSP Saddar, which confirms that the appellant had submitted his medical certificates for the mentioned absence period, but his stance on medical grounds was ignored and he was served with final show cause notice and was dismissed from service vide order dated 17-10-2017 without conducting regular inquiry and without affording opportunity of defense to the appellant. The respondents were repeatedly directed to produce record pertaining to disciplinary proceedings of the appellant, but they failed to provide such record, which shows that the appellant was dismissed from service in an unlawful manner. The Supreme Court of Pakistan in its judgment reported in 2008 SCMR 1369 has held that in case of imposing major penalty, the principles of natural justice required that a regular inquiry was to be conducted in the matter and opportunity of defense and personal hearing was to be provided to the civil servant proceeded against, otherwise civil servant would be condemned unheard and major penalty of dismissal from service would be imposed upon him without adopting the required mandatory procedure, resulting in manifest injustice. Obviously the appellant was not associated with the process of disciplinary proceedings and was condemned unheard. We have observed that absence of the appellant was neither so long nor willful, but he availed such leave due to compelling reasons by submitting his medical certificates. Even otherwise, absence on medical grounds without permission of the competent authority could not be considered an act of gross misconduct entailing major penalty of dismissal from service, but the respondents did not consider his case on compassionate ground and dismissed him in an arbitrary manner, which was not warranted. Reliance is placed on 2008 SCMR 214.

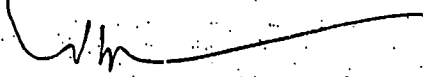
06. In view of the fore-going discussion, the instant appeal is accepted. Impugned orders dated 17-10-2017 and 04-12-2017 are set aside and the

ATTESTED

 EXAMINER
 Khushk-Pakhtunkhwa
 Service Tribunal

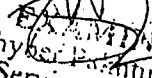
appellant is re-instated in service. The intervening period is treated as leave of the kind due. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
23.11.2021


(ROZINA REHMAN)
MEMBER (J)


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

Certified to be true copy


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 09/12/21
 Number of Words 2000
 Copies 22/-
 Litigation 4/-
 Total 26/-
 Date of Completion of Copy 09/12/21
 Date of Delivery of Copy 09/12/21

بعدالت

HP Service Tribunal, Jhansi

2022ء منجانب

عبدالمجید بنام

ادو لیسٹ

مورخہ

مقدمہ

دعویٰ

جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی کے لئے درخواست کی گئی ہے۔

آن مقام پیشاور کیلئے عظیمی سید ایڈووکیٹ

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 ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی 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 مختار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کارروائی 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 اختیارات حاصل ہوں گے۔

اور اس کا ساختہ پرداختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانبہ التوائے مقدمہ کے

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

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

2022ء

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ماہ

27

المرقوم

العبد العبد العبد

کے لئے منظور ہے۔

Jhansi

مقام

"B"

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

No.

Regd

Appeal No. E.P.No. 265 of 2022

SB

Abdul Wahid

Appellant/Petitioner

Versus

RPO Banna

Respondent

Respondent No. (2)

Notice to: —

DPO Banna

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.....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.

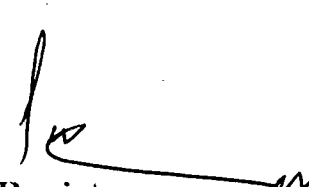
Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition 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.....31

Day of.....May.....2022.


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

Appeal No. E.P No. 265 of 2022

Abdul Waheed Appellant/Petitioner

Versus

RPO Bannu Respondent

Respondent No. *(1)*

Notice to: —

The Regional Police Officer 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.....*07/05/2022*.....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.

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.....*31*.....

Day of.....*May*.....*2022*

[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.

Provincial
Khyber Pakhtunkhwa Services Tribunal
Registrar

Date:

Given under my hand and the seal of this Court at Peshawar, this 24

office Notice No.

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

this appeal petition.

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

appeal petition will be heard and decided in your absence.

Defence of your appearance on the date fixed and in the manner mentioned, the strength and other documents upon which you rely, those also the notice that in this Court at least seven days before the date of hearing, copies of written statement and affidavits, duly supported by your power of attorney, to be filed in the case may be postponed either in person or by authorized representatives of the appeal petitioners, you may be permitted to do so on the date fixed or any other day to which you are referred. If you wish to take any further steps in the above case by the petitioners in this Court and notice has been ordered to issue, you may present the same to the Registrar of the Province at Peshawar, who has been presented registered for consideration in

WHEREAS an appeal petition under the provision of the Khyber Pakhtunkhwa

Notice to:

Handwritten signatures and names

Responsible to:

Handwritten initials/signatures

AGENTS

Handwritten initials/signatures

No.

Handwritten initials/signatures

Handwritten initials/signatures

PESHAWAR

JUDICIAL COMPLEX (OGD) KHAYBER PAKHTUNKHWA

KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR

cc B...

"A"

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

No. *Recd*

S.B

APPEAL No. *265* of 20 *22*.

Mr. Abdul Wahid

Appellant/Petitioner

Versus

Regional Police officer Bannu Region Bannu

RESPONDENT(S)

Respondent (1)
Notice to Appellant/Petitioner *The Regional Police officer*
Bannu Region Bannu

Take notice that your appeal has been fixed for Preliminary hearing,
replication, affidavit/counter affidavit/record/arguments/order before this Tribunal
on *19/07/2022* at *9:00 am*.

(Copy of Appeal Already Sent)

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

(For Gmp)-men-tion Report)

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

"A"

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

No.

Recd

APPEAL No. 265 of 20²²

SB

Mr. Abdul Waheed

Appellant/Petitioner

Versus

Regional Police officer Bannu Region Bannu

RESPONDENT(S)

Respondent (2)

Notice to Appellant/Petitioner

The District Police officer Bannu.

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 19/07/2022 at 9:00 am.

(Copy of Appeal Already Sent)

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

(For Implementation Report)

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.