

27.06.2022


Learned Member (Executive), is on leave.
Therefore, the case is adjourned to 15.08.2022 for
the same as before.


READER

15.08.2022

Learned counsel for the petitioner present. Mr. Kabirullah
Khattak, Additional Advocate General alongwith Mr. Sarmad Khan,
ASI for the respondents present.

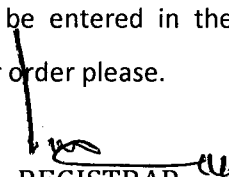


Implementation report not submitted. Representative of the
respondents requested for time to submit implementation report.
Adjourned. To come up for implementation report on 03.10.2022
before S.B.


(Mian Muhammad)
Member (E)

Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. _____ 197/2022

| S.No. | Date of order proceedings | Order or other proceedings with signature of judge |
|-------|---------------------------|---|
| 1 | 2 | 3 |
| 1 | 12.04.2022 | <p>The execution petition of Mr. Qais Khan submitted today by Syed Noman Ali Bukhari 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- | 20.05.2022 | <p>This execution petition be put up before to Single Bench at Peshawar on <u>20.05.2022</u>. Original file be requisitioned. Notices to the appellant and his counsel be also issued for the date fixed. <i>Notices be issued to the Respondents for I/R</i></p> <p style="text-align: right;"> CHAIRMAN</p> <p>Learned counsel for the petitioner present. Mr. Muhammad Adeel Butt, Addl. AG for the respondents present.</p> <p>Learned AAG requested for time to contact the respondents for submission of implementation report. Granted. To come up for implementation report on 27.06.2022 before S.B.</p> <p style="text-align: right;"> (Mian Muhammad) Member (E)</p> |

Noted
Qais Khan
19/4/022

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Execution Petition No. 199 /2022

In Service Appeal No. 4279/2021

Mr. Qais Khan

VERSUS

Police Department

INDEX

| S. No. | Documents | Annexure | Pages |
|--------|-------------------|----------|-------|
| 1. | Memo of Execution | | 01-02 |
| 2. | Copy of Judgment | A | 03-07 |
| 3. | Vakalat Nama | | 8 |

Petitioner

Through

Syed Noman Ali Bukhari

&

Uzma Syed

Advocates High Court Peshawar

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Execution Petition No. 197 /2022
In Service Appeal No. 4279/2021



Mr. Qais Khan Ex. Head constable NO. 270,
Traffic Police Office Peshawar.

Petitioner

VERSUS

1. The Addl: Inspector General of Police, KP Peshawar.
2. The Chief Traffic Officer Peshawar.
3. The Central City Police Officer, Peshawar.

RESPONDENTS

.....

EXECUTION PETITION FOR DIRECTING THE
RESPONDENTS TO IMPLEMENT THE
JUDGMENT DATED: 20.01.2022 OF THIS
HONOURABLE TRIBUNAL IN LETTER AND
SPIRIT.


.....

RESPECTFULLY SHEWETH:

1. That the applicant/Petitioner filed Service Appeal No. 4279/2021 against the impugned appellate order dated 04/03/2021 where by the appeal of the appellant has been accepted and appellant has been reinstated into service and penalty of dismissal was converted into penalty of reversion from Head Constable to Constable.
2. That the said appeal was finally heard by the Honorable Tribunal on 20.01.2021. The Honorable Tribunal is kind enough to accept the appeal with all back benefits. **(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 20.01.2021.

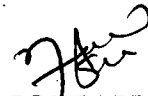
4. That in-action and not fulfilling formal requirements by the respondent after passing the judgment of this august Tribunal, is totally illegal amount to disobedience and Contempt of Court.
5. That the judgment is still in the field and has not been suspended or set aside by the Supreme Court of Pakistan, 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 20.01.2021 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
Qais Khan

THROUGH:



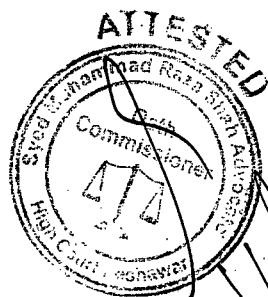
(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT.

& 

(UZMA SYED)
ADVOCATE HIGH COURT.

AFFIDAVIT:

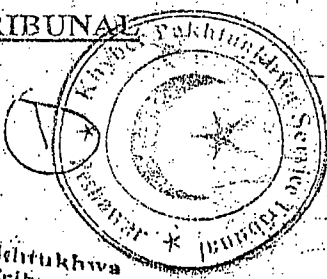
It is affirmed and declared that the contents of the above Execution Petition are true and correct to the best of my knowledge and belief.




DEPONENT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

3



Appeal No. 4299 /2021

Mr. Qais Khan Ex. Head constable NO. 270,
Traffic Police Office Peshawar.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 4289

Dated 20/3/2021

APPELLANT

VERSUS

1. The Addl: Inspector General Of Police, KP Peshawar;
2. The Chief Traffic Officer Peshawar.
3. The Central City Police Officer, Peshawar.

(Respondents)

APPEAL UNDER SECTION 4 OF THE SERVICES TRIBUNAL ACT, 1974 AGAINST THE APPELLATE ORDER DATED 04.03.2021 WHEREBY, THE APPEAL OF THE APPELLANT HAS BEEN ACCEPTED AND APPELLANT HAS BEEN RE-INSTATED INTO SERVICE AND PENALTY OF DISMISSAL WAS CONVERTED IN TO PENALTY OF REVERSION FROM HEAD CONSTABLE TO CONSTABLE.

PRAYER:

THAT ON ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 01.10.2020, 25.08.2020 MAY KINDLY BE SET ASIDE AND ORDER DATED 04.03.2021 MAY KINDLY BE MODIFIED TO THE EXTENT OF REVERSION FROM THE RANK OF HEAD CONSTABLE TO CONSTABLE AND MAY KINDLY BE RESTORE TO THE ORIGINAL POST WITH ALL BACK AND CONSEQUENTIAL BENEFITS AND. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND

Filed to-day
30/03/2021

ATTESTED

Registrar
Khyber Pakhtunkhwa
Service Tribunal

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESH

Service Appeal No. 4279/2021

Date of Institution ... 30.03.2021

Date of Decision ... 20.01.2022

Mr. Qais Khan Ex-Head Constable No. 270; Traffic Police Office, Peshawar.
... (Appellant)

VERSUS

The Addl: Inspector General of Police, Khyber Pakhtunkhwa Peshawar and
others. ... (Responder)

Qais Khan,
Appellant

In Person

Muhammad Adeel Butt,
Additional Advocate General

For respondents

AHMAD SULTAN TAREEN ...
ATIQU-UR-REHMAN WAZIR ...

CHAIRMAN
MEMBER (EXECUTIVE)

JUDGMENT

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

Brief facts of
are that the appellant while serving as head constable in police depart
proceeded against on the charges of misconduct and was ultimately
from service vide order dated 25-08-2020. Feeling aggrieved, the app
departmental appeal, which was also rejected vide order dated 01-10-
appellant filed revision petition, which was accepted vide order dated 0
and the appellant was re-instated in service and penalty of dis
converted into reduction from the rank of head constable to that of
hence the instant service appeal with prayers that the impugned order
10-2020 may be set aside and order dated 25-08-2020 may be modi
extent of reversion from the rank of head constable to coristabl

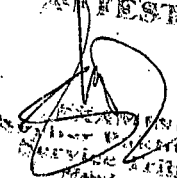
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appellant may be restored to his original post of head constable with all back and consequential benefits.

02. Appellant has contended that the impugned order is liable to be set aside as the authorities has passed such order without properly evaluating the evidence and material on record; that the penalty so awarded is in violation of FR-29 as the time period has not been mentioned in the impugned order of reversion to lower grade; that sufficient ground of innocence of the appellant exist as per verdict of supreme court judgment cited as NLR 2005 TD SC 78, which has held that no one can be punished for fault of others, hence the impugned order is illegal; that the penalty so awarded is harsh which does not commensurate with gravity of the guilt; that inquiry proceedings were conducted at the back of the appellant and the appellant was not associated with proceedings of the inquiry; that the appellant was not afforded appropriate opportunity of defense, nor any chance of personal hearing was afforded to the appellant; that neither statements of the witnesses were recorded in presence of the appellant nor the appellant was afforded opportunity to cross-examine such witnesses; that inquiry report was not handed over to the appellant alongwith showcuase notice inspite of repeated requests of the appellant to this effect, thus the appellant was left unable to advance his defense in rebuttal of the finding report.

03. Learned Additional Advocate General for the respondents has contended that the appellant was proceeded against on the charges of insubordination as he had impounded a vehicle belonging to DSP Headquarter and upon intervention of DSP, he got furious and squabbled with DSP Headquarters; that upon the compliant of DSP Headquarter, the appellant was issued proper charge sheet/statement of allegations, to which he responded; that showcuase notice was issued to the appellant, and inquiry officer was appointed, who conducted proper inquiry and found him guilty of misconduct; that the appellant was afforded appropriate opportunity of defense, but he failed to prove his innocence,

ATTESTED


[Illegible text]

hence he was awarded with major punishment of dismissal from service; that revision petition of the appellant was considered and accepted and taking a lenient view, the appellant was re-instated into service and major penalty of dismissal from service was converted into reduction from the rank of head constable to that of constable.

04. We have heard both the parties and have perused the record.

05. Record reveals that the appellant while serving as head constable in traffic police and performing his routine duty, had noticed a Suzuki van wrongly parked on main GT road. The appellant asked for documents of the vehicle, but the driver resorted to misbehavior. The appellant reported the matter to incharge traffic GT Road, who also was present in the vicinity and who reached the spot immediately, but at the same time DSP Headquarter also reached the spot and it was found that driver of the van was son of DSP Headquarter and DSP Headquarter misbehaved with the appellant and threatened him of dire consequences. In a way, the appellant was restrained from performing his legal duty and complaint was registered against the appellant and on the same charges. The appellant was proceeded against departmentally on personal scores of DSP Headquarters and was ultimately dismissed from service. Needless to mention that one-sided departmental proceedings were initiated against the appellant and the respondents were bent upon removing the appellant at any cost. The appellant was kept deprived of the opportunity to cross-examine witnesses, thus skipping a mandatory step and the appellant was dismissed from service without adhering to the method prescribed in law. The appellant however was re-instated in service by converting his major punishment into reduction from the post of head constable to that of constable but with no time period mentioned for such reduction, which however is illegal and not supported by the prevailing law and rule. We have observed that the appellant was targeted by DSP Headquarter due to his personal grudge, as his son was charged by the appellant

ATTESTED


[Signature]
 Khyber Pakhtunkhwa
 Service Tribunal

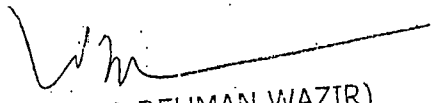
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for wrong parking, for which the appellant was mala fide involved in departmental proceedings and was penalized for his good performance.


06. In view of the foregoing discussion, the instant appeal is accepted as prayed for. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
20.01.2022


(AHMAD SULTAN TAREEN)
CHAIRMAN


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

Certified to be true copy


EXAMINED
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 26/01/22
Number of Words 2000
Copying Fee 22/-
Urgent 9/-
Total 26/-
Name of Copyist _____
Date of Completion of Copy 26-01-22
Date of Delivery of Copy 26-01-22

VAKALATNAMA

NO. _____ /20

IN THE COURT OF KP Service Tribunal Peshawar

Qais Khan

Appellant
Petitioner
Plaintiff

VERSUS

Police Dept

Respondent (s)
Defendants (s)

I/WE Qais Khan

do hereby appoint and constitute the **SYED NOMAN ALI BUKHARI Advocate High Court** for the aforesaid Appellant(s), Petitioner(S), Plaintiff(s) / Respondent(s), Defendant(s), Opposite Party to commence and prosecute / to appear and defend this action / appeal / petition / reference on my / our behalf and all proceedings that may be taken in respect of any application connected with the same including proceeding in taxation and application for review, to draw and deposit money, to file and take documents, to accept the process of the court, to appoint and instruct council, to represent the aforesaid Appellant, Petitioner(S), Plaintiff(s) / Respondent(s), Defendant(s), Opposite Party agree(s) ratify all the acts done by the aforesaid.

DATE _____ /20

Qais Khan
(CLIENT)

ACCEPTED

7/8/21
SYED NOMAN ALI BUKHARI
ADVOCATE HIGH COURT

"B"

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

PESHAWAR.

No. i

E.P. No. 197/2022
4279

21

Appeal No. Mr. Qais Khan of 20

Appellant/Petitioner

The Addl: I.G.P ^{Versus} KP Pesh:

Respondent

1

The Addl: Inspector ^{Respondent No.} (General of Police,
KP Peshawar.

Notice to: —

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 appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated..... 2116

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

April 22

(Day of Implementation Report)20

Umar
31-5-2022

R

[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.

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"B"

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

No.

E.P. No. 197 / 22

Appeal No. 4279 of 20 21

Mr. Qais Khan Appellant/Petitioner

Versus

The Addl: I-G.P. K.P. Pesh. Respondent

Respondent No. 3

Notice to:

The Central City Police officers,
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..... 27/05/2022 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.

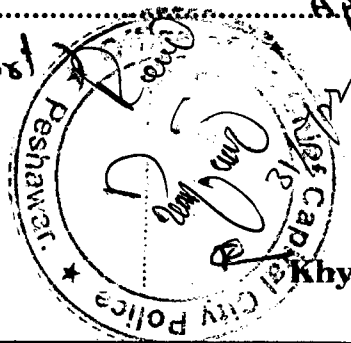
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Copy of ~~appeal~~ ^{E.P. ✓} is attached. Copy of ~~appeal~~ has already been sent to you via this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this..... 21/5

Day of..... April 20 22

(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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Response

The Central Office Police Officers

3

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Mr. Jones Know

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F.B. No. 10/9/55

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"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR. 8.B

No.

E.P.No. 197 / 22

Appeal No. 4279 of 20 21

Qais Khan Appellant/Petitioner

Versus

The Addl. I.C.P. K.P. Pesh. Respondent

Respondent No. 2

Notice to: — The Chief Traffic Officer 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 27/05/2022 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.

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

under my hand and the seal of this Court, at Peshawar this 21.05

April 20 22

Report,
8/6/22

Note: Use the hours of attendance in the court the same that of the High Court except Sunday and Gazetted Holidays. Always quote Case No. While making any correspondence.

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

8.8

F.P.N. 197/57
HJFD

David Khan

The April: 1. (1. 6 K B Penn)

The Chief Traffic Officer Inspector

9/12/5077

ETB

5115

April 57

Inspector Watson Report

"B"

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

No.

E.P.No. 197/22

Appeal No. **4279** of 20 **21**

Qais Khan Appellant/Petitioner

Versus

The Addl. I.C.P.K.P. Pesh. Respondent

Respondent No. **2**

Notice to:

The Chief Traffic Officer 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 **27/05/2022** 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.

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Copy of ~~appeal~~ **F/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 **21.05.2022**

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

Implementation Report,

CHIEF
[Signature]
8/6/22

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

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