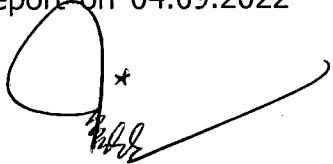
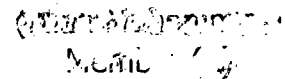


25.08.2022

Learned counsel for the petitioner present. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Implementation report not submitted. Learned Additional Advocate General requested for adjournment to gain some time to appraise the court and implement the Service Tribunal judgement in question. Last chance is, therefore, granted and the department is obligated either to implement the judgement of Service Tribunal or get it suspended from the august Supreme Court of Pakistan. Adjourned. To come up for implementation report on 04.09.2022 before S.B.

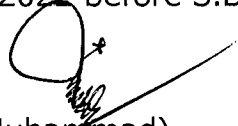

(Mian Muhammad)
Member (E)


MEMBER (E)

16.05.2022

Learned counsel for the petitioner present.

Notice of the present execution petition be issued to the respondents for submission of implementation report. To come up for implementation report on 21.07.2022 before S.B.




(Mian Muhammad)
Member(E)

21.07.2022

Learned counsel for the petitioner present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present.

Implementation report not submitted. Learned Assistant Advocate General seeks time to contact the respondents for submission of implementation report. Adjourned. To come up for implementation report on 25.08.2022 before S.B.

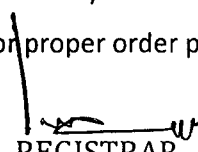




(Mian Muhammad)
Member (E)

Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 72/2022

| S.No. | Date of order proceedings | Order or other proceedings with signature of judge |
|-------|---------------------------|--|
| 1 | 2 | 3 |
| 1 | 25.01.2022 | <p>The execution petition of Mr. Mumtaz Khan submitted today by Mr. Muhammad Ilyas Orakzai 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 at Peshawar on <u>25/02/22</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> |
| | 25.02.2022 | <p>Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 16.05.2022 for the same as before.</p> <p style="text-align: right;"> Reader.</p> |

2

2. *That this Honourable Tribunal give direction to the respondents, which is reproduced as under:-*


“in view of the above factual and legal position, we set aside the impugned orders and direct that the appellant be reinstated in service with all back benefits.”

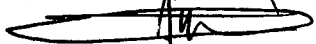
3. *That the respondent have not take any action of the judgment of this Honourable Tribunal till date and in this regard the appellant/applicant also filed an application before the respondent for implementation of the above order dated 17/09/2021, but in vain. (Copy of application is attached as annexure “B”).*

It is, therefore, most humbly prayed that on acceptance of this application, the respondents may kindly be direct to implement the order/judgment of this Honourable Tribunal dated 17/09/2021.


Dated:- 25/01/2022

Through:-


Applicant/Appellant


Muhammad Ilyas Orakzai
Advocate High Court
Peshawar.

&


Muhammad Shabir Khalil
Advocate High Court
Peshawar.

BEFORE THE SERVICE TRIBUNAL, KPK, PESHAWAR

CM No: - _____/2022

In

Service Appeal No:- **616** /2017

Mumtaz Ali

Versus

Govt: of KPK & others

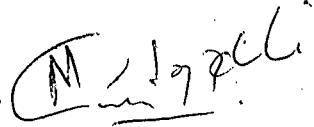
..... Petitioner


..... Respondents



AFFIDAVIT

*I, Mumtaz Ali, Ex-Constable No 777 R/o Samana Tehsil & District Hangu, (The petitioner) do hereby solemnly affirm and declare on oath that the contents of this accompanying **application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.*

DEPONENT 
CNIC No:- 14101-1225527-5
Cell No:- 0333-9662641


* IMRAN KHAN ADVOCATE
ATTORNEY AT LAW
COMMISSIONER
High Court Peshawar
25/11/2022

TO ANNEX A

**BEFORE THE HON'BLE SERVICES TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR**



Khyber Pakhtunkhwa
Service Tribunal

Service appeal No. 616/2017

Diary No. 640

Dated 07-6-2017

MUMTAZ ALI EX-CONSTABLE NO# 777, R/O SAMANA
DISTRICT HANGU.

Appellant

VERSUS

- ✓1. GOVT OF KHYBER PAKHTUNKHWA THROUGH SECRETARY HOME & TRIBAL AFFAIRS KHYBER PAKHTUNKHWA PESHAWAR.
- ✓2. INSPECTOR GENERAL OF POLICE KHYBER PAKHTUNKHWA PESHAWAR
- ✓3. DEPUTY INSPECTOR GENERAL OF POLICE KOHAT REGION, KOHAT.
4. REGIONAL POLICE OFFICER, KOHAT REGION KOHAT
- ✓5. DISTRICT POLICE OFFICER, DISTRICT HANGU.


Respondents

Filed to-day

Registrar

2/6/17

**APPEAL U/S-4 OF THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL ACT 1974 AGAINST THE
IMPUGNED JUDGMENT AND ORDER NO 1186-
94/17, DATED 02/03/2017 OF THE RESPONDENT
NO.2, WHEREBY DEPARTMENTAL APPEAL
AGAINST THE IMPUGNED OFFICE ORDER NO. 416
DATED 31/07/2015 OF THE DISTRICT POLICE
OFFICER HANGU WAS DISMISSES IN A CURSORY
AND WHIMSICAL MANNER.**

TESTED

Registrar
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

(5) ~~ANWER IAC~~

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 616/2017

Date of Institution ... 07.06.2017
Date of Decision ... 17.09.2021



Mumtaz Ali Ex-Constable No.777, R/O Samana District Hangu.

... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Home &
Tribal Affairs Department, Peshawar and four others.

... (Respondents)

Muhammad Ilyas Orakzai,
Advocate

... For appellant.

Asif Masood Ali Shah,
Deputy District Attorney

... For respondents.

AHMAD SULTAN TAREEN
ROZINA REHMAN

... CHAIRMAN
... MEMBER (J)

JUDGMENT

ROZINA REHMAN, MEMBER (J): The relevant facts leading to filing of instant appeal are that appellant was appointed as Constable. He was performing his duties in the Control Room of District Hangu. During the days of occurrence, while traveling in a passenger coach from Hangu to Kohat, he was enrobed in a case U/S 9-C of C.N.S.A. He was suspended from service and was served with a show cause notice. He was proceeded against departmentally and was dismissed from service. He preferred departmental appeal which was rejected, he, therefore, filed representation as he had been acquitted by the

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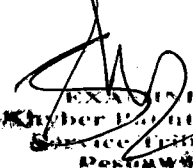
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learned Trial Court but representation was also dismissed despite his acquittal, hence, the present service appeal.

2. We have heard Muhammad Ilyas Orakzai Advocate for appellant and Asif Masood Ali Shah learned D.D.A for the respondents and have gone through the record and the proceedings of the case in minute particulars.

3. It has been contended by the learned counsel for appellant that the impugned dismissal order and the order of appellate authority are against law, facts. He submitted that the appellant was acquitted by competent court of Law and that every acquittal is honorable but instead of giving benefit of acquittal to the appellant, his representation was dismissed on the ground of limitation which is not allowed under the law. He submitted that he served the Department for more than seven years and that he was deprived from his bread & butter just on the basis of a false criminal case and that the only stigma on the person of the appellant is no more, therefore, he may kindly be reinstated in service. Reliance was placed on 2005 P.L.C (C.S) 1197; 2002 S.C.M.R 57 and 2006 S.C.M.R 453.

4. Conversely learned D.D.A submitted that appellant while traveling towards Kohat, was intercepted by local Police of Kohat and a huge quantity of Charas was recovered from his possession, therefore, he was arrested and case F.I.R No.176 was registered against him. He was proceeded against departmentally on this score of allegations and the Inquiry Officer held him guilty, therefore, the proceedings culminated in his dismissal from service. He submitted

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

that he was rightly dismissed from service being member of disciplined force, he involved himself in criminal activities and committed gross professional misconduct.

5. As per record on the basis of allegations that Constable Mumtaz Ali while posted at District Hangu, was caught red-handed with 1000 grams of Charas and directly charged in case F.I.R No.176 dated 25.06.2015 registered U/S 9(c) of C.N.S.A at P.S Ustarzai District Kohat. He was served with charge sheet together with statement of allegations and Mr. Gul Sarwar S.D.P.O was appointed as Inquiry Officer to conduct departmental inquiry against him. It is on record that the appellant was tried in the criminal case registered against him vide F.I.R No.176 in the Court of Judge, Special Court Kohat and was acquitted vide judgment dated 29.10.2016. From the order of the appellate authority, it is evident that meeting of the Appellate Board was held on 19.01.2017, wherein, the appellant was heard in person and during hearing, it was brought into the knowledge of authority that the appellant has been acquitted by the Court but even then, his acquittal was not taken into consideration. It has been held by superior fora that all the acquittals are certainly honorable. There can be no acquittal which may be said to be dishonorable. Involvement of the appellant in the criminal case was the only ground on which he had been dismissed from service and the said ground had subsequently disappeared, therefore, his acquittal, making him re-emerge as fit and proper person entitled to continue with his service.

ATTESTED

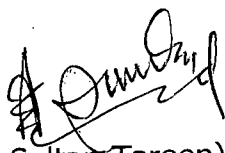

EXAMINER
Khyber Pakhtunkhwa

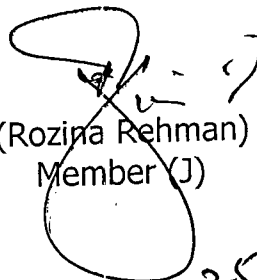
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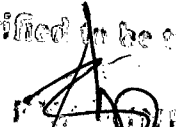
6. It is established from the record that charges of involvement in the criminal case ultimately culminated in honorable acquittal of appellant by the competent Court of Law in the above-mentioned criminal case. In this respect, we have sought guidance from 1988 P.L.C (C.S) 179; 2003 S.C.M.R 215 and P.L.D 2010 Supreme Court 695.

7. In view of the above factual and legal position, we set aside the impugned orders and direct that the appellant be reinstated in service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.
17.09.2021


(Ahmad Sultan Tareen)
Chairman


(Rozina Rehman)
Member (J)

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Number of copies of Application 2000
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Date 25/01/22
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Date 25/01/22

وکالت نامہ

بعدالت جناب سرسی ٹرنزول لٹلے 19

ضلع:-

منجانب:-

مقدمہ فوجداری ادیوانی

علت مورخہ جرم تھانہ

محمد نثار علی بنام گورنمنٹ آف پ.ک.ا

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام کیلئے

محمد الیاس اور کرنی ایڈوکیٹ ہائی کورٹ، پشاور مقرر کر کے اقرار کیا جاتا

ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف

دیئے جواب دعویٰ اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ عرضی دعویٰ اور درخواست ہر قسم کی

تصدیق زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل

نگرانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی 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 باختیارات حاصل ہوں گے اور اس کا

ساختہ پرواختہ منظور قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو

یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکورہ کریں۔

ہذا وکالت نامہ لکھ دیا تاکہ سند رہے۔

المبروم:- کو 01 ماہ 2022ء

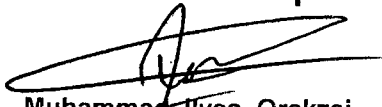
العبد

العبد

کے لئے منظور ہے۔

بمقام

Attested & Accepted



Muhammad Ilyas Orakzai

Advocate High Court

BC No:- 10-3471

CNIC 14101-0798923-7

Cell 0333-9191892

محمد نثار علی وکل مندرجہ عنوان سے مکمل اختیار حاصل ہے۔