

19th July 2022 1. Petitioner in person present. Mr. Noor Zaman Khattak, District Attorney alongwith Mr. Zahoor Khan, Inspector (Legal) for respondents present.

2. In compliance with the judgment the respondents/judgment debtor submitted pay bills of the petitioner which ^{are} ~~is~~ stated to have been submitted in the concerned Accounts Office for release of payment, therefore, the compliance of the judgment of the Tribunal has been made. Since, the judgment of the Tribunal has been complied with, therefore, this execution petition is filed. Consign.

3. *Pronounced in open court in Camp Court Abbottabad and given under my hand and seal of the Tribunal on this 19th day of July, 2022.*



(Kalim Arshad Khan)
Chairman
Camp Court Abbottabad

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Chairman
Camp Court Abbottabad

the compliance of the judgment of the Tribunal has been made.

PAYROLL SYSTEM
AMENDMENT FORM
SINGLE EMPLOYEE ENTRY

OFFICE OF THE

District Police Officer, Haripur

DDO Code (Cost Center) **H R 4 0 0 9** Description

Pay & Arrear

National ID Card Number

Personnel Number **0 0 2 4 7 1 8 8**

Employee Name **Inspector Babar Khan**

Grade (Pay Scale Group) **1 6** Sub Inspector

Start

Stop

GENERAL DATA CHANGE		CHANGE IN PAYMENTS / DEDUCTIONS					Effective Date	Remarks
NEW CONTENT		Wage Type	Amount	From 19.10.2016 to 28.10.2022				
Field ID	GENERAL DATA CHANGE ACTIVE			ADJUSTMENT	Wage Type	Amount		
				BASIC PAY	5601	414591	01.07.2022	The arrear of the period of Dismissal of the said official is drawn by the Order of Supreme Court of Pakistan Vide CPLA Order: No.580/2016. copy attached.
				HR	5032	18786		
				CA	5011	0		
				MA	5012	18858		
				RA	5054	0		
				WA		0		
				CRA	5079	5167		
				RISK ALLOWANCE	5879	93930		
				SIA	5878	0		
				ARA-2013	5303	36580		
				FIXED DA	5945	50633		
				ARA-2015	5964	31517		
				ARA-2016	5975	50633		
				ARA-2017	5990	0		
				ARA-2018	5322	0		
				ARA 19	5336	0		
				ARA 21	5151	0		
						0		
				GP FUND	6075			
				POLICE WEL. FUND	5958			
				Income Tax	415			
				IRTR B & DETH COMP	6275			

Prepared By
District Police Officer
Haripur

Audited/Checked By

Pay Calculation in R/O Babar Khan

Arrear in R/o Insp: Babar Khan Tanoli Personal No.00247188

Tenure	Period	Head	Monthly Salary	Amount		
19 October 2016 to 30 Nov 2016	42 days	Basic Pay	37640	52690		
		HRA	1818	2548		
		CRA	500	700		
		Pol: Serv: Uniform	1200	168		
		Risk Allowance	9090	1272		
		Medical All:	1825	255		
		15% Adhoc R All: 2013	3540	495		
		Fix Daily All:	4900	686		
		Adhoc R All: 10%	3050	427		
		Adhoc R All: 2016 10%	4900	686		
		01 December 2016 to 30 June 2017	7 Months	Basic Pay	38920	27244
				HRA	1818	1272
CRA	500			350		
Pol: Serv: Uniform	1200			840		
Risk Allowance	9090			6363		
Medical All:	1825			1272		
15% Adhoc R All: 2013	3540			2478		
Fix Daily All:	4900			3430		
Adhoc R All: 10%	3050			2130		
Adhoc R All: 2016 10%	4900			3430		
01 July 2017 to 28 August 2017	58 Days			Basic Pay	46270	894
				HRA	1818	35
		CRA	500	9		
		Pol: Serv: Uniform	1200	23		
		Risk Allowance	9090	175		
		Medical All:	1825	35		
		15% Adhoc R All: 2013	3540	68		
		Fix Daily All:	4900	94		
		Adhoc R All: 10%	3050	58		
		Adhoc R All: 2016 10%	4900	94		
		Total			7330	5


 District Police Officer
 Haripur

Pay Calculation

Due Drawn in R/o Insp: Babar Khan s/o

Tenure	Period	Head	Monthly Salary	Period of Salary
19 October 2016 to 30 Nov 2016	42 days	Basic Pay	37640	52696
		HRA	1818	2545
		CRA	500	700
		Pol: Serv: Uniform	1200	1680
		Risk Allowance	9090	12726
		Medical All:	1825	2555
		15% Adhoc R All: 2013	3540	4956
		Fix Daily All:	4900	6860
		Adhoc R All: 10%	3050	4270
		Adhoc R All: 2016 10%	4900	6860
01 December 2016 to 30 June 2017	7 Months	Basic Pay	38920	272440
		HRA	1818	12726
		CRA	500	3500
		Pol: Serv: Uniform	1200	8400
		Risk Allowance	9090	63630
		Medical All:	1825	12775
		15% Adhoc R All: 2013	3540	24780
		Fix Daily All:	4900	34300
		Adhoc R All: 10%	3050	21350
		Adhoc R All: 2016 10%	4900	34300
01 July 2017 to 28 August 2017	58 Days	Basic Pay	46270	89455
		HRA	1818	3515
		CRA	500	967
		Pol: Serv: Uniform	1200	2320
		Risk Allowance	9090	17574
		Medical All:	1825	3528
		15% Adhoc R All: 2013	3540	6844
		Fix Daily All:	4900	9473
		Adhoc R All: 10%	3050	5897
		Adhoc R All: 2016 10%	4900	9473
Total				733096

Pay Calculation

Due Drawn in R/o Insp: Babar Khan s/o

Tenure	Period	Head	Amount
19 October 2016 to 28 August 2022	10 month 10 Days	Basic Pay	4591
		HRA	8786
		CRA	5167
		Pol: Serv: Uniform	2400
		Risk Allowance	13930
		Medical All:	18858
		15% Adhoc R All: 2013	16580
		Fix Daily All:	10633
		Adhoc R All: 10%	11517
		Adhoc R All: 2016 10%	10633
Total			13096

26.01.2022

Counsel for the petitioner and Mr. Muhammad Adeel Butt, Addl. AG for the respondents present.

Progress as requested on previous date has not been reported today. Learned AAG seeks further time. Request accorded. To come up on 15.03.2022 for progress report before S.B.

Chairman

15.03.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 13.6.2022. for the same as before.

Reader.

13th June, 2022

None for the petitioner present. Mr. Kabiruallh Khattak, Addl: AG for respondents present.

Implementation report not submitted. Learned AAG seeks time to contact the respondents for submission of implementation report. Respondents are directed to submit proper implementation report, failing which further coercive measures would be taken against them. To come up for implementation report on 19/07/2022 at camp court Abbottabad.

(Kalim Arshad Khan)
Chairman

EP No. 111/2021 Babar Khan

13.01.2022

Petitioner in person present. Mr. Muhammad Adeel Butt, Addl. AG alongwith Mr. Israr Shah Reader to Inspector Legal, Haripur for respondents are present.

In view of the findings given in previous order dated 29.12.2021, the respondents were directed to issue corrigendum and make payment of salary arrears of relevant period to the petitioner i.e. in-between 19.10.2016 and 28.08.2017 with arrears of annual increments after re-fixation of pension. Copy of said order was handed over to Mr. Israr Shah Reader to Inspector Legal, Haripur for further necessary action. He is in attendance today and stated that the progress towards implementation of the order is still awaited due to unavoidable reason and implementation report shall be submitted on the next date. To come up for implementation report before the S.B on 20.01.2022.


Chairman


20.01.2022

Clerk of learned counsel for the petitioner present. Mr. Muhammad Adeel Butt, Addl: AG alongwith Mr. Sheraz Khan, representative of the respondents are present.

The latter has produced the copy of corrigendum order issued on 18.01.2022 bearing No. 394 of even date and its copy has been endorsed to the District Accounts Officer, Haripur for information and necessary action as well as to the Pay Officer DPO Haripur and the Pension Clerk. The learned AAG states that further progress will be reported on the next date. The District Accounts Officer, Haripur is directed to do the needful in pursuance to the corrigendum order discussed above. To come up on 26.01.2022 before S.B for progress report.


Chairman

Noted for 20-1-2022


13/1/2022
Rashid M. Rehman
Asstt. Account Officer
(AGAD)



EP 111/2021

29.12.2021

Petitioner in person and Mr. Muhammad Rasheed DDA alongwith Gul Moeed Khan, D.A.O Tank, Muhammad Kashif, Computer Operator and Israr Shah, Reader for the respondents present.

Today, the respondents have produced the copy of the calculation of payment accrued in favour of the petitioner alongwith copy of credit advice to the Bank (Pay Roll) which reveals that an amount of Rs. 1887736/- has been credited into account of the petitioner. The respondents have pointed out that the calculation of the payment as produced today include the payment of Conveyance Allowance which as per rules was not admissible for the leave period and is liable to adjustment in future outstanding payment(s) to the petitioner, if any. The petitioner states that his reinstatement was due w.e.f. 19.10.2016 when the judgment of the Tribunal having got the finality was passed in his favour. However, according to the reinstatement order dated 28.09.2017, he was reinstated in service w.e.f. 28.08.2017. The department was supposed to give effect to reinstatement of the petitioner w.e.f 19.10.2016 instead of 28.08.2017. The reinstatement order dated 28.09.2017 does not contain any reason as to why effect to reinstatement of the petitioner was not given from 19.10.2016 when the judgment at credit of petitioner had got finality. As the said point of petitioner is well-founded, there is need for issuing of corrigendum of order dated 28.09.2017 for giving effect to his reinstatement w.e.f. 19.10.2016. As far as the point of the respondents as to over-payment in terms of Conveyance Allowance is concerned, the respondents may adjust the over payment in arrears of the salary

payable to the petitioner for the period he has been deemed on duty from the date of passing of judgment in his favour. The petitioner has also pointed out that the increments having accrued in his favour for the leave period almost for four years have not added in his pension by its re-fixation. The respondents have not been able to rebut this point of the petitioner. Therefore, re-fixation of the pension of the petitioner with addition of such increments is also necessary for final settlement/satisfaction of the execution petition. The respondents are directed to issue corrigendum accordingly and make payment of salary arrears of relevant period to the petitioner i.e in-between 19.10.2016 and 28.08.2017 with arrears of annual increments after re-fixation of pension. Copy of this order has been delivered to Mr. Israr Shah, Reader to Inspector Legal, Haripur for further necessary action. To come up for implementation report on 13.01.2022 before S.B at Peshawar

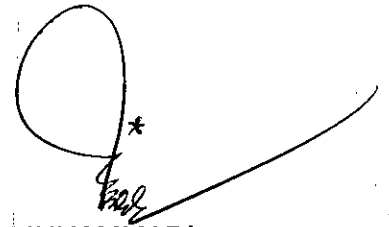


Chairman
Camp Court, A/Abad

22.11.2021

Counsel for the petitioner and Mr. Muhammad Adeel, Addl:
AG alongwith Mr. Iftikhar Ahmad, FC for respondents present.

Former requests for adjournment on the ground that learned
counsel is not available today. Adjourned. To come up for further
proceedings on 13.01.2022 before S.B.

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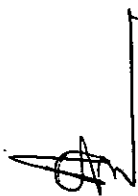
(MIAN MUHAMMAD)
MEMBER (E)

EP 111/2021

01.11.2021

Petitioner alongwith counsel and Mr. Kabirullah Khattak, Addl, AG alongwith Mujahid Shah, H.C for the respondents present.

The representative of the department has produced copy of the order dated 27.09.2021 on previous date which was placed on file. Accordingly, the District Police Officer, Haripur granted 1174 days earned leave to the petitioner as found at his credit in the leave account, treating the same as leave with full pay. There is a rider to the said order that the same is subject to the final outcome of CPLA No. 580/2016 by the august Supreme Court of Pakistan. When a query was made from the departmental representative as to drawal of the leave salary, he informed that the department has drawn the bill in compliance with the order dated 27.09.2021 but drawnee i.e the District Accounts Officer, Haripur, may be for want of some clarification in respect of the order dated 27.09.2021, is not clearing the bill. The learned AAG was asked to telephonically contact the District Accounts Officer Haripur to know about the reason of his omission as to passing of the bill having been drawn under valid order of the DPO, Haripur, the learned AAG came back with the information that the DAO Haripur is of the view that the order for grant of leave is subject to final outcome of CPLA No. 580/2016 by the august Supreme Court of Pakistan. It seems that the DAO has unnecessarily taken pain to confuse



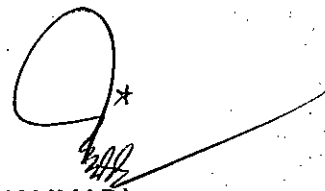
himself about the said rider to the leave granting order which has nothing to do with the job of the Account Office. The leave granting authority has sanctioned the leave for 1174 days in explicit terms having regard to the orders of this Tribunal. It was his administrative domain to make the grant of leave subject to the decision of CPLA obviously for the purpose that if the judgment of this Tribunal in favour of the petitioner is set aside, he shall be liable to refund the amount of leave salary received by him on the basis of order dated 27.09.2021. It has been stated at the bar on behalf of the petitioner that he is ready to furnish the affidavit, if required by the leave sanctioning authority for compliance of the condition of the result of CPLA No. 580/2016. It is observed that the District Account Officer Haripur is failing to exercise his authority in respect of the bill of leave salary of the petitioner as drawn upon him by the DDO. The petitioner as well as the departmental representative are allowed to obtain copy of this order and place it before the DAO Haripur for doing the needful, failing which, the petitioner may approach this Tribunal even before the date fixed for further appropriate order against the DAO Haripur so as to enable the execution of the judgment and orders of this Tribunal in their letter & spirit. To come up on 22.11.2021 before S.B.


Chairman

29.09.2021

Counsel for the Petitioner present. Mr. Kabirullah Khattak,
Addl: AG alongwith Mr. Mujahid Shah, Head Constable for
respondents present.

Representative of the respondents submitted order dated
27.09.2021 which is placed on file. A copy of the same is also
handed over to the learned counsel for the petitioner. Learned
counsel for the petitioner seeks time to go through the order.
Adjourned. To come up for further proceedings before the S.B
on 01.11.2021.

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(MIAN MUHAMMAD)
MEMBER (E)

04.08.2021

Counsel for the petitioner and Mr. Muhammad Adeel Butt, Addl. AG alongwith Mujahid Shah, H.C DPO office for the respondents present.

In pursuance of order dated 05.07.2021 of this Tribunal, the representative of the respondents has produced the copy of order OB No. 389 dated 27.07.2021 and the same has been placed on file. Accordingly, the date of reinstatement of the petitioner stands corrected in light of the order of this Tribunal but intervening period from 06.07.2012 to 28.09.2017 has been treated as leave with kind due. The later part as to leave with kind due is not clear as far as direction in the order dated 05.07.2021 is concerned. Accordingly, it was directed that in case of availability of earned leave at credit of the petitioner to cope with the numbers of days of the intervening period on full or half pay, it shall be dealt with accordingly. The order produced by representative of the respondents today is not clear as to compliance of the said direction. Moreover, it is not clear whether the benefits having accrued due to antedating of the reinstatement order have been restored to the petitioner or not. Let the respondents be given more time for further implementation in the given line. Case to come up on 29.09.2021 before S.B.


Chairman

05.07.2021

Counsel for the petitioner and Mr. Kabir Ullah Khattak, Additional Advocate General alongwith Mr. Mujahid Shah, Head Constable for the respondents present and heard.

The earlier execution petition No. 254/2016 was filed vide order dated 16.10.2017 as evident from the file of the said execution petition. Accordingly an order dated 30.08.2017 was submitted whereby the petitioner was posted as SHO at Police Station Ghazi. Although the copy of the said order is not available on file but from its nature as discussed before, it is clear that it was an order of posting of the petitioner subsequent to his reinstatement. The petitioner though stated that his pay was not released and the representative of the department assured for resolution of the issue as mentioned in the said order but for no obvious reason execution petition was filed and cosigned without any further direction to the respondents for implementation in its letter and spirit. So filing of the fresh execution petition with the ground about non satisfaction of the petitioner above judgment or his credit is justified.

The only thing which with certain elaboration needs to be attended by the respondents with reference to the implementation of the judgment is the correction of date of reinstatement of the petitioner and treating the intervening period of the absence of the petitioner from duty as leave of the kind due. It is a matter of fact that the order of reinstatement dated 28.09.2017 as passed by the DPO, Haripur for reinstatement of the petitioner reveals that his reinstatement followed the de-novo enquiry. However, the reinstatement in service was made from 28.08.2017 after imposition of a minor punishment of forfeiture of one year approved service. As far as operative part of the judgment is concerned, it obviously directs for de-novo inquiry within stipulated time but with a rider observation that in case respondents failed to conduct and conclude the enquiry within the prescribed period of two months then it shall be deemed that the appellant had been reinstated in service and intervening period of his absence from duty would be treated as leave of the kind due. Undeniably, de-novo enquiry was not

concluded within the stipulated time of two months rather in view of the narrative of the reinstatement order, the de-novo enquiry was conducted in pursuance to the letter dated 26.12.2016 and culminated on the reinstatement order dated 28.09.2017. Thus, the de-novo enquiry commenced even after expiry of the stipulated period of two months and took about nine months to its conclusion. As and when the stipulated time given for de-novo enquiry was expired, the direction in rider had become enforceable for direct reinstatement of the petitioner. The respondent-department while issuing the order dated 28.09.2017 failed to attend the directions of the Tribunal as contained in the rider discussed before; and reinstated the appellant from wrong date i.e 28.08.2017 instead of the date of reinstatement having become due as soon as two months period starting from announcement of the judgment of this Tribunal had passed. Accordingly, the due date of reinstatement of the petitioner was 19.12.2016. Thus, the order dated 28.09.2017 needs correction to this effect by issuance of corrigendum. As far as intervening period of absence from duty in between removal of the petitioner from service vide order dated 06.07.2012 and his reinstatement vide order dated 28.09.2017 is concerned, the Tribunal held the appellant (present petitioner) entitled for the leave of the kind due. So, if the earned leave account of the petitioner for the said intervening period had supported the petitioner with availability of the earned leave at his credit, the intervening period should have be treated as leave having regard to the requirement of the Khyber Pakhtunkhwa Leave Rules 1981. The said intervening period has not been dealt with by the competent authority in any way at the time of reinstatement of petitioner. Therefore, it is directed that if earned the leave was available at credit of the petitioner to cope with the numbers of days of the intervening period on full or half pay, it shall be dealt with accordingly. File to come up for implementation report on 04.08.2021 before S.B.


Chairman

statement, the previous execution petition was filed vide order dated 16.10.2017.

According to the relief in operative part of the judgment dated 19.10.2016 of this Tribunal, it was specifically directed that the respondents shall conduct a denovo enquiry against the appellant/petitioner within a period of two months from the date of receipt of the judgment and thereafter pass orders as deemed appropriate. In case the respondents failed to conduct and conclude the enquiry within the prescribed period of two months then it shall be deemed that the appellant has been reinstated in service and intervening period of absence of the appellant from duty shall then be treated as leave of the kind due.

Copy of reinstatement order of the petitioner bearing Endst. No. 5167-75/SRC, dated 28.09.2017 issued by DPO Haripur is available on file of the previous Execution Petition as well as the same has been annexed with the present Execution Petition. Accordingly, the petitioner was reinstated in service w.e.f 28.08.2017 with penalty of forfeiture of one year approved service.

It is note-worthy that the judgment of the Tribunal was passed on 19.10.2016 and the reinstatement order in consequence of the denovo enquiry was passed on 28.09.2017. Conversely, there was a specific direction in the judgment to the respondents to conduct denovo enquiry within a period of two months and in case it was not so conducted and concluded, the appellant was to be deemed reinstated in service under judicial command given in the said judgment. Let the respondents be put on notice to respond as to whether the denovo enquiry was conducted and concluded within two months after receipt of the judgment or not?

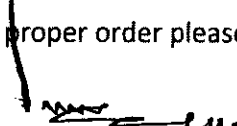

Case to come up on 05.07.2021 before S.B.


Chairman

FORM OF ORDER SHEET

Court of _____

Execution Petition No. 111 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	07.06.2021	<p>The Execution Petition submitted by Mr. Babar Khan Tanoli through Mr. Mir Zaman Safi 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-	08/06/21	<p>This Execution Petition be put up before S. Bench on 11/06/21.....</p> <p style="text-align: right;"> CHAIRMAN</p>
	11.06.2021	<p>Junior to counsel for the petitioner present.</p> <p>It is disclosed in Paragraph- 3 of this Petition that the petitioner had filed Execution Petition No. 254/2016 and during the pendency, the respondents partially implemented the judgment of this Tribunal by reinstating the petitioner into service on 28.09.2017. However, they are reluctant to grant back benefits according to the judgment w.e.f. 06.07.2012 till 28.09.2017. The office has requisitioned the file of previous Execution Petition and placed with this file for ready reference. The last order dated 16.10.2017 passed in Execution Petition No. 254/2016 reveals that the representative of the respondents submitted an order dated 30.08.2017, whereby the petitioner was posted as SHO, Police Station, Ghazi. It was pointed out by the petitioner that he had not been released his pay, which was responded by the representative of the respondents that the issue of pay would be resolved soon after the receipt of documents of previous service of the petitioner. In view of the said</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Implementation Petition No. 111 /2021

In

Appeal No. 896/2014

BABAR KHAN

VS

POLICE DEPTT:

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE NO.
1-	Memo of petition	1- 2.
2-	Affidavit	3.
3-	Judgment	A	4- 9.
4-	Re-instatement order	B	10.
5-	Vakalat nama	11.

PETITIONER/APPLICANT

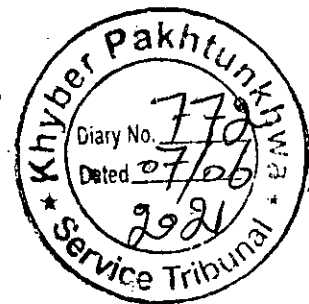
THROUGH:


MIR ZAMAN SAFI
ADVOCATE

MOBILE NO.0323-9295295

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Implementation Petition No. 11 /2021
In
Appeal No. 896/2014



Mr. Babar Khan Tanoli, Ex-Inspector/SHO (Retired),
Police Station Kalabat Township, District Haripur.

..... PETITIONER

VERSUS

- 1- The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
- 2- The Deputy Inspector General of Police, Hazara Region, Abbottabad.
- 3- The District Police Officer, District Haripur.
- 4- The District Account Officer, District Haripur.

.....PETITIONERS

IMPLEMENTATION PETITION FOR DIRECTING
THE RESPONDENTS TO OBEY THE JUDGMENT OF
THIS AUGUST TRIBUNAL DATED 19.10.2016 IN
LETTER AND SPIRIT

R/SHEWETH:

- 1- That the petitioner filed Service appeal bearing No. 896/2014 before this august Service Tribunal against the impugned order dated 19.10.2016.
- 2- That the appeal of petitioner was finally heard by this august Tribunal on 19.10.2021 and was decided in favor of the petitioner vide judgment dated 19.10.2021 with the view that ***"During the enquiry proceedings criminal case registered vide FIR No.126 dated 3.3.2010 was not investigated which has been decided after the impugned order of removal of the appellant from service. The respondents have not taken evidence collected during investigation, role of appellant in the episode and judgment of acquittal and its consequence on the case of appellant as such we are left with no option but to set aside the impugned orders referred to above, as a consequences thereof, re-instate the appellant in service with the direction to the respondents to conduct de-novo enquiry against the appellant within a period of 2 months from the date of receipt of this judgment and***

thereafter pass orders deem appropriate. In case the respondents fail to conduct and conclude the enquiry within the prescribed period of 2 months then it shall be deemed that the appellant has been re-instated in service and the intervening period of absence of the appellant from duty shall be treated as leave of the kind due". Copy of the judgment is attached as annexure.....**A.**

- 3- That after obtaining attested copy of the judgment dated 19.10.2021 the petitioner submitted the same before the respondents for implementation but the respondents were not willing to implement the judgment of this august Tribunal. Feeling aggrieved the petitioner filed implementation petition No. 254/2016 and during the pendency the respondents partially implemented the judgment of this august Tribunal while re-instating the petitioner into service on 28.09.2017, however remained reluctant to grant back benefits according to the judgment w.e.f. 06.07.2012 till 28.09.2017. Copy of the re-instatement order is attached as annexure.....**B.**
- 4- That the petitioner has no other remedy but to file this implementation petition.

It is therefore, most humbly prayed that on acceptance of this implementation petition the respondents may very kindly be directed to implement the judgment dated 19.10.2016 in letter and spirit. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the petitioner.

PETITIONER

BABAR KHAN

THROUGH:

MIR ZAMAN SAFI

&

**IMTIAZ AHMAD YOUSAFZAI
ADVOCATES**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Implementation Petition No. _____/2021

In

Appeal No. 896/2014

BABAR KHAN

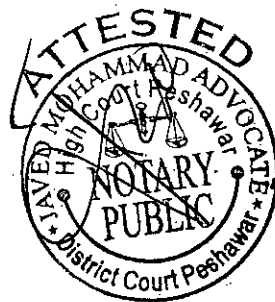
VS

POLICE DEPTT:

AFFIDAVIT

I **Mir Zaman Safi, Advocate** on behalf of the petitioner, do hereby solemnly affirm that the contents of this **implementation petition** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.


MIR ZAMAN SAFI
ADVOCATE



A-4

BEFORE THE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL PESHAWAR.

Service Appeal No. 896 of 2014

Babar Khan Tanoli S/o Fazal Dad
Ex- Inspector /SHO Police Station: Kalabat Township
R/o T.P. HOUSING SOCIETY H.No: 134/5
Dist: Haripur Appellant

VERSUS

- 1- Inspector General
Khyber Pakhtunkhwa Police Deptt: Central Police
Office, Peshawar.
- 2- Additional Inspector General (HQs)
KPK Police Deptt: Central Police Office, Peshawar.
- 3- Additional Superintendent of Police
KPK Police Deptt: District Haripur.
- 4- Deputy Inspector General of Police
KPK Police Deptt: Hazara Region Abbottabad
..... Respondents

L.S.O
30/6/14

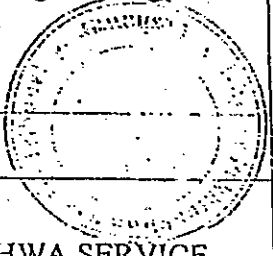
APPEAL UNDER SECTION 4 OF THE
KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT, 1974, AGAINST THE
ORDER NO.618-20 DATED 20/06/2014
PASSED BY THE RESPONDENT NO.2
WHEREBY THE DEPARTMENTAL APPEAL
OF THE APPELLANT WAS REJECTED,
FILED AGAINST THE IMPUGNED ORDER
NO.4832 DATED 06/07/2012 PASSED BY THE
RESPONDENT NO.4, WHEREBY THE
APPELLANT WAS DISMISSED/REMOVED
FROM HIS SERVICE ON THE BASIS OF A
FAKE CASE.

ATTESTED

M.F.

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S.No.	Date of Order or proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL CAMP COURT ABBOTTABAD

Service Appeal No. 896/2014

Babar Khan Tanoli Versus Inspector General of Police Khyber Pakhtunkhwa Peshawar and 3 others.

JUDGMENT

MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:-

19.10.2016

Counsel for the appellant and Mr. Muhammad Siddique, Senior Government Pleader alongwith Mr. Muhammad Zahoor, Inspector (Legal) for respondents present.

2. Babar Khan Tanoli Ex-Inspector/SHO Police Station Kalabat Township, Haripur hereinafter referred to as the appellant has preferred the instant service appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against final order dated 20.6.2014 vide which his departmental appeal against original order dated 06.07.2012 was dismissed and punishment in the shape of removal from service was maintained.

3. Brief facts of the case of the appellant are that the appellant was serving as SHO Police Station Kalabat Township Haripur when subjected to enquiry on the allegations of facilitating kidnap of one Shafqat Hussain S/O Muhammad Nazir Khan owner of Navay Gul Factory with an object to help the

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opposite party for ulterior motives of taking possession of the said factory and, after the enquiry removed from service vide original order dated 06.07.2012 where-against he preferred departmental appeal on 03.08.2012 which was rejected on 20.6.2014 and hence the instant service appeal on 30.06.2014.

4. Learned counsel for the appellant has argued that the allegations attributed to the appellant were not substantiated in the enquiry. That the impugned orders were passed in disregard to the findings of the enquiry officer. That the appellant was attributed the role of deputing Asghar Ali, S.I along with two constables which the appellant had deputed under the instructions of DPO, Haripur. That Ali Asghar, S.I and the said 2 constables exceeded from their authority by illegally facilitating one Ihsanullah. That the said 2 constables were exonerated during the enquiry while proceedings of enquiry were terminated against S.I Ali Asghar as he was dismissed from service in another case. That the impugned orders are therefore liable to be set aside. Reliance was placed on case law reported as 2007-SCMR-192 (Supreme Court of Pakistan), 2004-SCMR-641 (Supreme Court of Pakistan) and 2001-PLC(C.S)623 (Karachi High Court).

5. Learned Senior Government Pleader has argued that the appellant was the incharge of the affairs as he had deputed the said Sub Inspector along with 2 constables. That a criminal case was also registered regarding the said ugly incident wherein appellant was also an accused. That his acquittal was not on merit

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Signature
 Name of the Officer,
 Post Office

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Signature

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of the criminal case and as such the appellant could not be entitled to claim any benefit of the same. That the two constables were exonerated from the charges as they had not acted at their own and had proceeded to the spot and acted under the command of SHO. That the appeal is time barred in view of case law reported as 2013-SCMR-911 (Supreme Court of Pakistan).

6. We have heard arguments of learned counsel for the parties and perused the record.

7. perusal of record would suggest that a detailed enquiry was conducted in the matter by the enquiry officer who had submitted his report dated 11.3.2011 wherein Moharrir of Police Station H.C Arshad had deposed that during conversation between SHO Babar Khan (appellant) and Addl. SHO Ali Asghar he heard SHO asking the Addl. SHO not to commit any unlawful act. The said enquiry officer has also recorded in his findings that the real intention and actual role of the appellant in the whole episode could not be opined at that point of time as the said issue was also the subject matter of investigation and could be determined only after completion of the trial in case FIR No. 126 dated 03.03.2010 under Section 365-A PPC P.S Tarnopol Islamabad. The competent authority has not given due weight to the said findings despite the fact that the same were based on proper appreciation of the material brought forth on the record and has thus passed the impugned order of removal from service of the appellant without given any solid reason for disagreement

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with the said report of the enquiry officer.

8. in case of Shakeel Ahmad versus I.G Punjab Police Lahore and others reported as 1992-SCMR-192 (Supreme Court of Pakistan) it was observed that FIR would remain an unsubstantiated allegations and that on the basis of mere FIR maximum penalty could not be imposed.

9. In case of Senior Superintendent of Police, Government of Sindh, Hyderabad and others Versus Iqbal Ahmad and another reported as 2004-SCMR-641 (Supreme Court of Pakistan) it was observed that the police authority had not given weight to the acquittal order of a civil servant passed by court of competent jurisdiction and as such their leave to appeal was refused by the august Supreme Court of Pakistan.

10. In case of Abdul Sattar Versus Federation of Pakistan and others reported as 2013-SCMR-911 (Supreme Court of Pakistan), the august Supreme Court of Pakistan has observed that successful departmental appeal would not extend period of limitation for filing service appeal.

11. The judgment of the august Supreme Court of Pakistan referred to above could not attract to the fact and circumstances of the present case as in the said reported case the appellant had not preferred service appeal after preferring departmental appeal within the time prescribed by law while in the instant case the appeal has been preferred within the prescribed period after

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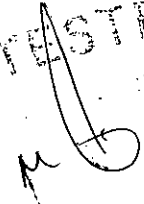
passing of the final order by the appellate authority,

12. During the enquiry proceedings criminal case registered vide FIR No. 126 dated 3.3.2010 was not investigated which has been decided after the impugned order of removal of appellant from service. The respondents have not taken evidence collected during investigation, role of appellant in the episode and judgment of acquittal and its consequence on the case of appellant as such we are left with no option but to set set aside the impugned orders referred to above, as a consequence thereof, reinstate the appellant in service with the directions to the respondents to conduct denovo enquiry against the appellant within a period of 2 months from the date of receipt of this judgment and thereafter pass orders deem appropriate. In case the respondents fail to conduct and conclude the enquiry within the prescribed period of 2 months then it shall be deemed that the appellant has been reinstated in service and the intervening period of absence of the appellant from duty shall then be treated as leave of the kind due. Parties are left to bear their own costs. File be consigned to the record room.

Announced
19.10.2016
Sh. M. Azim Khan Afzali,
Chairman
Comp Court
A/Asst.

Sh. M. Azim Noor,
Member

Certified to be true copy
 P. S. JAIN
 Khayr Bakhtulhwa
 Service Tribunal
 Patna

ATTESTED


ORDER

Inspector Babar Khan while posted as SHO PS KTS, Haripur involved himself in case FIR No. 126, dated 03.03.2010 u/s 365-A PPC, PS Tarnol, Islamabad in which Shafqat Hussain s/o Muhamamd Nazeer Khan r/o Rawalpindi owner of NAVAY GAL Factory, was kidnapped in order to illegally help opposite party with ulterior motives for taking possession of said factory, he was proceeded against departmently on charges of misconduct under Removal from service Special Power Ordinance 2000, consequently, being found guilty of misconduct, he was removed from service by the then Regional Police Officer, Hazara Region, Abbottabad on 06.07.2012.

Inspector Babar Khan filed departmental representation to the worthy Provincial Police Officer, Khyber Pakhtunkhwa Peshawar which was also rejected feeling aggrieved with the order, Inspector Babar Khan lodged service appeal No. 896/2014 in Khyber Pakhtunkhwa Service Tribunal Peshawar which was decided on 19.10.2016 and Service Tribunal Camp Court Abbottabad accepted his appeal and directed the department to conduct the denovo enquiry and ordered his reinstatement in service the department filed CPLA No. 580-P against the judgement of Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar which is pending subjudice before august Supreme Court of Pakistan and decision of which shall be binding on Inspector Babar Khan Tanoli.

Furthermore, in compliance of the Deputy Inspector General of Police, Enquiry & Inspection letter Endst: No. 3115-16/E&I, dated 26.12.2016, denovo enquiry was conducted through Superintendent of Police, Investigation, Haripur, the defaulter police officer was served with statement of allegation and charge sheet, proper departmental enquiry was conducted as per Police Rules 1975, in which the right of personnel hearing, cross examination and self defence was given to Inspector Babar Khan, enquiry officer submitted his findings and highlighted the illegations committed by the Inspector Babar and recommended him for reinstatement in service, thereafter, he was issued Final Show Cause Notice which he received and submitted his reply.

Having gone through entire enquiry proceedings and evidence on record, it is established fact that Inspector Babar Khan while posted as SHO PS KTS exceeded his powers on 29.03.2010 and he sent Additional SHO Ali Asghar along with 02 constables outside from his jurisdictional area i.e. Tarnol District Islamabad without lawful excuse or justification.

The enquiry officer in his findings held the character of Inspector Babar Khan dubious, he was heard in Orderly Room in which he told that he is suffering with financial crises and his childrens are getting education from universities/colleges, furthermore, Inspector Babar Khan has reached to retireing age.

In the above mentioned facts and circumstances I Syed Shehzad Nadeem Bukhari, District Police Officer, Haripur, being competent authority under Police Rules 1975 take lenient view and awarded minor punishment of "forfeiture of one year approved service" to Inspector Babar

OB NO. 875
27-9-2017

ATTESTED



Khan for his proved misconduct, and reinstated in service with effect from 28.08.2017.

Order announced in his presence.

10/A

District Police Officer,
Haripur

No. 5167-25 /SRC dated 28 / 8 /2017.

Copy of above is submitted to:-

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar
2. The Deputy Inspector General of Police, Enquiry & Inspection, Khyber Pakhtunkhwa, Peshawar
3. The Deputy Inspector General of Police, Headquarter, Khyber Pakhtunkhwa, Peshawar
4. The Assistant Inspector General of Police, Establishment, Khyber Pakhtunkhwa, Peshawar.
5. The Deputy Inspector General of Police, FRP, Khyber Pakhtunkhwa, Peshawar
6. The Regional Police Officer, Hazara Region, Abbottabad.
7. The Superintendent of Police, Investigation, Haripur.
8. The Accountant General Khyber Pakhtunkhwa, Peshawar.
9. The District Account Officer, Haripur

District Police Officer,
Haripur

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قیمت
50 روپے

83731



ایڈوکیٹ: صدر زمان صافی
بار کونسل/ایسوسی ایشن نمبر: bc-18-1028
رابطہ نمبر: 0323-9295295

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب:

منجانب: <u>صدر زمان صافی</u>	دعویٰ:
	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ
آن مقام صدر زمان صافی / صدر زمان صافی کو وکیل 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 کرہے و تقریر ثالث و فیصلہ برخلاف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق
زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور مستثنیٰ، نیز
دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقریر کا اختیار ہوگا اور صاحب
مقرر شدہ کو وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پر داخستہ منظور و قبول ہوگا
دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے
باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم:

الع بد الع بد

مقام کے لیے منظور ہے۔

نوٹ: اس وکالت نامہ کی فونو کاپی ناقابل قبول ہوگی۔

Accepted by
Mil Zaman Safi
Advocate M. Zaman



**DISTRICT POLICE OFFICER
HARIPUR**

Ph: 0995-910100/01, Fax-0995614714, Email:-dpoharipur1@gmail.com

OB - No. 389 /

dated Haripur the 27-7 /2021

CORRIGENDUM ORDER

Reference order of honourable Khyber Pakhtunkhwa Service Tribunal Peshawar dated 05.07.2021 on execution petition No.111/2021 titled "Babar Khan Tanoli vs Inspector General of Police, Khyber Pakhtunkhwa Peshawar and others"

The petitioner was removed from service by the then worthy Regional Police Officer, Hazara Region Abbottabad for involvement in case FIR No.126 dated 03.03.2010 u/s 365-A PPC Police Station Tarnol Islamabad. The petitioner was acquitted by the learned ATC Court Islamabad vide order dated 05.11.2013. After acquittal from the court, the petitioner filed service appeal No.896/2014 before the honourable Khyber Pakhtunkhwa Service Tribunal Peshawar. The honourable Service Tribunal vide its judgment dated 19.10.2016 reinstated the petitioner in service with the direction to the department to conduct the De-novo inquiry. CPLA No.580-P was also filed in august Supreme Court of Pakistan against the judgment of honourable Khyber Pakhtunkhwa Service Tribunal Peshawar, which is subjudic in the august Supreme Court of Pakistan. In compliance with the judgment of honourable Khyber Pakhtunkhwa Service Tribunal Peshawar and DIG inquiry and inspection CPO Peshawar letter Endst: No.3115-16/E&I dated 26.12.2016, De-novo inquiry was conducted and appellant was reinstated in service and he was awarded minor punishment of forfeiture of 01 year approved service by the competent authority vide this office order Endst: No.5167-75/SRC dated 28.09.2017.

The petitioner earlier filed the execution petition No.254/2016 which was complied with, and honourable Khyber Pakhtunkhwa Service Tribunal Peshawar vide order dated 16.10.2017 disposed of the same. The petitioner has again filed the instant execution petition No.111/2021 before the honourable Khyber Pakhtunkhwa Service Tribunal Peshawar for the implementation of judgment in toto. The honourable Khyber Pakhtunkhwa Service Tribunal Peshawar vide order dated 05.07.2021 has directed that corrigendum order be issued and necessary corrections in the order be made, the petitioner be reinstated in service with effect from 19.12.2016 instead of 28.09.2017 i.e. dated of judgment. The honourable Khyber Pakhtunkhwa Service Tribunal Peshawar has further directed that the intervening period of petitioner from removal of service till reinstatement in service may be treated as leave with kind due. Therefore, the order of honourable Khyber Pakhtunkhwa Service Tribunal Peshawar is implemented in letter and spirit and date of reinstatement of petitioner is considered with effect

from 19.12.2016 and the intervening period i.e. 06.07.2012 to 28.09.2017 is treated as leave with kind due. This order is subject to the final outcome of CPLA No.580 /2016 by the august Supreme Court of Pakistan.

District Police Officer
Haripur

Copy To:

4668-70

26-7-2021

1. The Regional Police Officer, Hazara Region Abbottabad, for favour of information, please.
2. The Assistant Inspector General of Police, Legal, Khyber Pakhtunkhwa, CPO, Peshawar, please.
3. The District Account Officer, Haripur.

District Police Officer
Haripur



**DISTRICT POLICE OFFICER
HARIPUR**

Ph: 0995-920100/01, Fax-0995614714, Email:-dpoharipur1@gmail.com

No. 6343

dated Haripur the 27/9/2021

ORDER

Reference order of honourable Khyber Pakhtunkhwa Service Tribunal Peshawar dated 04.08.2021, on the execution petition No,111/2021 titled "Babar Khan Tanoli vs Inspector General of Police Khyber Pakhtunkhwa, Peshawar and others" for the clarification of leave with kind due to the petitioner. In compliance with the judgment of Khyber Pakhtunkhwa Service Tribunal Peshawar on service appeal No.896/2014 the petitioner inspector (Retired) Babar Khan Tanoli was reinstated in service with effect from 19.12.2016 from the date of judgment of honourable court vide this office order Endst: No.4668-70 dated 26.07.2021. The honourable Khyber Pakhtunkhwa Service Tribunal Peshawar, vide order dated 04.08.2021 directed for the clarification of leave of kind due to the petitioner. The execution petition is subjudic before the honourable Khyber Pakhtunkhwa Service Tribunal Peshawar, in which the honourable Khyber Pakhtunkhwa Service Tribunal Peshawar, has directed for the submission of implementation report clarifying the leaves to the petitioner. The petitioner availed 530 days leaves during the service and 1174 days were found in his credit of leaves account, which are granted/treated as leave with full pay. This order is also subject to the final outcome of CPLA No.580/2016 by the august Supreme Court of Pakistan.

District Police Officer
Haripur

Copy To: No 6343-45 dt 27/9/21

1. The Regional Police Officer, Hazara Region Abbottabad, for favour of information, please.
2. The Assistant Inspector General of Police Legal, Khyber Pakhtunkhwa, CPO Peshawar, please.
3. The District Account Office, Haripur.

District Police Officer
Haripur

اللہ تعالیٰ سے دعا ہے کہ یہ سب کاموں کو بروقت انجام دیا جائے

محترم

میرزا محمد علی صاحب

مقام: سید محمد علی صاحب، قریب 13/12/2021

میرزا محمد علی صاحب، قریب 13/12/2021

میرزا محمد علی صاحب، قریب 13/12/2021

میرزا محمد علی صاحب

اللہ تعالیٰ سے دعا ہے کہ یہ سب کاموں کو بروقت انجام دیا جائے

میرزا محمد علی صاحب، قریب 13/12/2021

27/12/2021

میرزا محمد علی صاحب

Approved.
Be finalized for 29/12/21.

27/12/2021

13/01

SB

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Put up to the weekly chair-aw
with relevant appeal

C.M NO. _____/2021

IN

Execution Petition NO. 111/2021

23/12/2021.
BABAR KHAN

VS

POLICE DEPT.



APPLICATION FOR TRANSFERRING THE
ABOVE TITLE APPEAL FROM THE PRINCIPAL
BENCH BENCH OF THIS AUGUST TRIBUNAL AT
PESHAWAR TO THE TOURING BENCH AT
ABBOTTABAD AND FIXATION FOR HEARING IN
THE COMING TOUR

R/SHEWETH:

- 1- That the above mentioned execution petition is pending adjudication in this Hon'ble Tribunal which is fixed for hearing on 13/01/2022.
- 2- That the petitioner filed the above mentioned execution petition for implementation of the judgment of this august Tribunal dated 19.10.2016.
- 3- That the petitioner belongs to the Hazara Division and residing at District Haripur, therefore the execution petition needs to be fixed in the touring bench of this august Tribunal at Abbottabad which is most accessible to the petitioner and the respondents.
- 4- That the interest of justice demands that such like matter should be transferred from the principal bench of this august Tribunal at Peshawar to the touring bench at Abbottabad and be fixed for hearing in the coming touring bench at abbottabad to meet the ends of justice and also to meet the principles of access to justice.

It is therefore, most humbly prayed that on acceptance of this application the appeal of appellant may very kindly be transferred to the principal bench of this august Tribunal at Peshawar and be fixed for hearing on an earlier date.

Dated: 22.12.2021.

APPELLANT

THROUGH: 

MIR ZAMAN SAFI
ADVOCATE