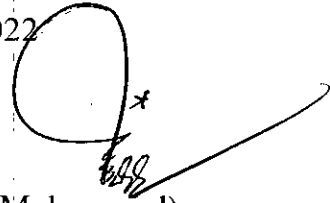


21.07.2022

Learned counsel for the petitioner. Mr. Asif Masood Ali Shah, Deputy District Attorney alongwith Mr. Arif Saleem, Stenographer for the respondents present.

02. It is evident from previous order sheet dated 15.06.2022 that the respondents were bound to appear in person alongwith implementation report. Perusal of the file reveals that copy of the said order sheet was also sent to the respondents by the office of Registrar Service Tribunal on 06.07.2022. Representative of the respondent department produced copy of order bearing No. 6086-88/SRC, dated 30.06.2022 whereby the Service Tribunal judgement dated 02.12.2021 has been provisionally/conditionally implemented subject to the outcome of CPLA by the august Supreme Court of Pakistan. The said judgement of Service Tribunal stands implemented. Consign.

03. Pronounced in open court at Peshawar and given under my hands and seal of the Tribunal this 21st of July, 2022.


(Mian Muhammad)
Member (E)

2.05.2022

Petitioner present through counsel.

Notice of the instant execution petition be issued to respondents for submission of implementation report. To come up for implementation report on 15.06.2022 before S.B



(Rozina Rehman)
Member (J)

15th June, 2022

Petitioner in person present. Mr. Kabirullah Khattak,
Addl: AG for respondents present.

Implementation report not submitted. Respondents are directed to appear in person alongwith the implementation report on 21.07.2022 before S.B.

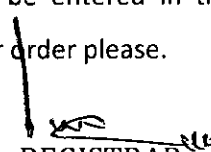




(Kalim Arshad Khan)
Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 61/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	20.01.2022	<p>The execution petition of Mr. Wahab 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-		<p>This execution petition be put up before S. Bench at Peshawar on <u>25/02/2022</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 12.05.2022 for the same as before.</p> <p style="text-align: right;"> Reader.</p>

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

Execution Petition No. 61 /2022

In Service Appeal No. 3326/2020

Abdul Wahab


VS

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


Abdul Wahab

Through:


Syed Noman Ali Bukhari
Advocate, High Court

Date: 20/01/2022

Cell No: 0306-5109438

1

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

Execution Petition No. 61 /2022

In Service Appeal No.3326/2020

Khyber Pakhtunkhwa
Service Tribunal

Mr. Abdul Wahab no.50, Ex- Constable Gunner
District Police, Kohat.

Diary No. _____

Dated _____

PETITIONER

VERSUS

1. The Inspector General Of Police, KPK, Peshawar.
2. The Regional Police Officer, Kohat, Region, Kohat.
3. District Police Officer Kohat.

RESPONDENTS

.....

**EXECUTION PETITION FOR DIRECTING THE
RESPONDENTS TO IMPLEMENT THE
JUDGMENT DATED: 02.12.2021 OF THIS
HONOURABLE TRIBUNAL IN LETTER AND
SPIRIT.**

.....

Respectfully Sheweth:

1. That the applicant/Petitioner filed Service Appeal No.3326/2020 against the dismissal order.
2. That the said appeal was finally heard by the Honorable Tribunal on 02.12.2021. The Honorable Tribunal is kind enough to accept the appeal and reinstate the appellant 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 02.12.2021.

- 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 02.12.2021 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 Wahab

Through:




Syed Noman Ali Bukhari)
Advocate High Court.

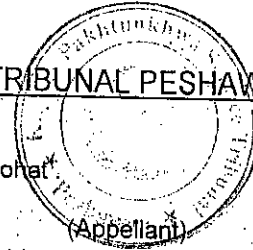
AFFIDAVIT:

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 PAKHTOON KHWA SERVICE TRIBUNAL PESHAWAR.

Abdul Wahab No-50 Ex-Constable Gunner District Police Kohat



A
3

VERSUS

1. INSPECTOR GENERAL OF KPK POLICE PESHAWAR.
2. DEPUTY INSPECTOR GENERAL OF POLICE KOHAT REGION KOHAT
3. DISTRICT POLICE OFFICER KOHAT.

(Appellant)
Khyber Pakhtunkhwa
Service Tribunal

Diary No: 2654

Dated: 24/04/2020

(Respondent)

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ORDER DATED 16-01-2020 VIDE OB-NO 34 IN WHICH THE RESPONDENT NO:-3 WITHOUT ANY PROPER ENQUIRY DIRECTLY AWARD THE MAJOR PUNISHMENT OF DISMISSAL FROM SERVICE WITH IMMEDIATE EFFECT AND THE APPELLANT PREFERRED DEPARTMENTAL REPRESENTATION DATED 20-01-2020 BUT THE SAME WAS NOT CONSIDER NOR ENTERTAIN TILL TO DATE

Respectfully Sheweth,

With great veneration the instant appeal is preferred by the appellant on the following Facts and grounds:-

Facts:

I:-Briefly facts as per impugned order are that on 03-12-2019 complainant of case FIR No-1593 dated 05-12-2019 U/S 365 PPC PS City reported regarding taking of her /his son by a person in Police uniform .

II:-As contemplated from report of SP Investigation Kohat ,the appellant had telephonically contact with charged accused before and after the occurrence which shows professional misconduct.(Copy of Impugned order is annexed as annexure A)

That appellant was served with the charge sheet along with statement of allegation and the appellant had properly submitted his reply which was deliberately not consider nor discussed in impugned order as well as issued the Final Show Cause notice and then an ex-partly proceeding were conducted against the appellant.(Copy of charge Sheet with reply and FCN is annexed as annexure B)

That there is nothing is on the record which connect the appellant with the allegation nor proved and the appellant is blessed with impugned punishment which not warranted by law.

ATTESTED

That an unjust has been done with the appellant by not giving ample opportunity of cross examination as well as not heard in person nor properly enquired the allegation and ex-partly proceedings conducted against the appellant without

filed-to-day
Registrar
24/04/2020

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

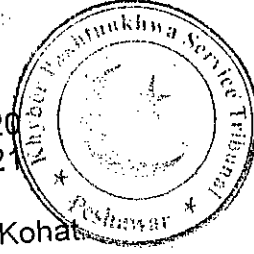
(4)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.3326/2020

Date of Institution
Date of Decision

24.04.2020
02.12.2021



Abdul Wahab No.50 Ex- Constable District Police Kohat

(Appellant)

VERSUS

Inspector General of Police Khyber Pakhtunkhwa Peshawar and
two others.

(Respondents)

Ashraf Ali Khattak,
Advocate

For appellant.

Muhammad Adeel Butt,
Additional Advocate General

For respondents.

Rozina Rehman
Atiq ur Rehman Wazir

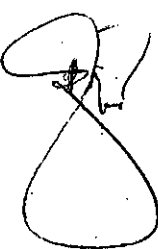
Member (J)
Member (E)

JUDGMENT

Rozina Rehman, Member(J) Appellant was Constable in the Police Department. He was dismissed from service on 16.01.2020. It is the legality and validity of this order which has been challenged by him U/S 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.

2. Brief facts leading to filing of the instant appeal are that complainant of case F.I.R No.1593 dated 15.12.2019 registered at Police Station City Kohat U/S 365, P.P.C reported regarding the kidnapping of his son by a person in Police uniform. The appellant had allegedly telephonic contact with the nominated accused in the above mentioned F.I.R before and after the occurrence. The appellant was also suspected for contact with the accused on the eventful day i.e. before and after the occurrence. He was served with charge sheet

ATTESTED


EXAMINING
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

(B) (S)


alongwith statement of allegations, where-after, he submitted reply and after issuance of the final show cause notice, appellant was awarded major punishment of dismissal from service.

3. We have heard Ashraf Ali Khattak and Muhammad Adeel Butt, learned Additional Advocate General for the respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Ashraf Ali Khattak, Advocate, learned counsel for appellant, inter-alia, contends that no proper inquiry was conducted as none from the general public was examined in support of the charges leveled against the appellant. He contended that the appellant was never informed about the inquiry proceedings and that he was condemned unheard. He contended that Sub Inspector Ayat Ullah was also proceeded against departmentally on the score of charges leveled against the present appellant and that in pursuance of the judgment of this Tribunal, Ayat Ullah Sub Inspector was reinstated in service and minor punishment of stoppage of three increments without cumulative effect was imposed upon him vide order of the District Police Officer, Kohat dated 31.08.2021. Learned counsel submitted that the present appellant was Gunner with Sub Inspector Ayat Ullah and that his order of dismissal was set aside, therefore, the present appellant being Gunner with S.H.O may also be reinstated in service with all back benefits.

5. Conversely, learned AAG submitted that S.H.O Ayat Ullah and his gunners Abdul Wahab and Muhammad Abid were found in contact with the accused who was charged in case F.I.R No.1593 dated 05.12.2019 registered at Police Station City Kohat U/S 365 P.P.C. He contended that after getting C.D.R of the accused, his telephonic

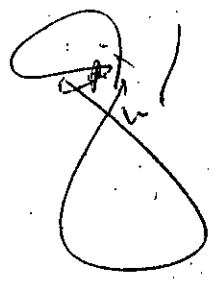
ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

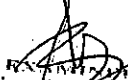
(7)


contact with the accused of the aforementioned case was established, therefore, departmental proceedings were initiated against the appellant under the relevant rules and on completion of all codal formalities, he was awarded major punishment.

6. From the record it is evident that one Mst. Fatima Gul reported the matter on 3rd December 2019 that her son was taken away in a motorcar by a person wearing Police uniform. Her report was properly entered and investigation U/S 156 (III) Cr.PC was initiated which culminated in registration of F.I.R No.1593 dated 05.12.2019 U/S 365 P.P.C. Not only the present appellant Abdul Wahab but also S.H.O Ayat Ullah and his Driver Constable Abid Ali were also departmentally proceeded against on the allegations of their telephonic contact with the accused of the above mentioned criminal case. Admittedly, complainant party of case F.I.R No.1593 has patched up the matter with the nominated accused Farhad and main accused was discharged vide order of the learned Judicial Magistrate-II dated 10.10.2020. It merits a mention here that the appellant was Gunner/Constable with S.H.O (S.I. Ayat Ullah) who had been dismissed from service on the same allegation and who filed the service appeal which appeal was partially accepted and case was remanded to the Department to receive reply of the appellant to the final show cause notice within 7 days of the receipt of judgment vide judgment of this Tribunal in Service Appeal No.3325/2020. In pursuance to the directions of this Tribunal, process was initiated and S.H.O submitted his reply to the final show cause notice. He was heard in person and vide order of D.P.O Kohat dated 31.08.2021, he was reinstated into service and minor punishment of stoppage of three increments without cumulative effect was imposed upon him. The



ATTESTED

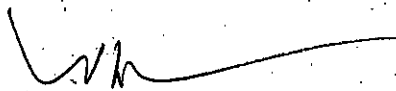

Khatir (Punjab) Division
Service Tribunal
Peshawar

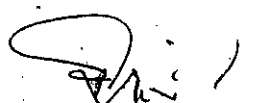
(X) 

present appellant was Gunner with S.H.O Ayat Ullah. He was not charged by the complainant of case F.I.R No:1593 dated 05.12.2019 registered U/S 365 P.P.C. The allegations in respect of contact of the present appellant with the nominated accused Farhad in case F.I.R No.1593 has also got no force as accused Farhad was not charged by the complainant party and accordingly he was discharged by a competent of Law.

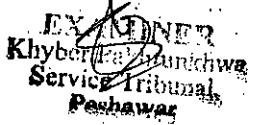
7. For what has gone above, the appeal at hand is accepted. Consequently, the impugned order of imposition of penalty with disciplinary proceedings wherefrom it resulted, are set aside and the appellant is reinstated into service from the date of his dismissal from service with all back benefits. The concerned respondent on receipt of the copy of this judgment shall issue the order of appellant's reinstatement with all back benefits having accrued or accruable from the date of his dismissal from service. With no order as to costs. File be consigned to the record room.

ANNOUNCED.
02.12.2021


(Atiq ur Rehman Wazir)
Member (E)


(Rozina Rehman)
Member (J)

Certified to be true copy


Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 02-12-2021
Number of Words 2020
Copying Fee 22/-
Urgent _____
Total 24
Name of Copyist _____
Date of Completion of Copy 15-12-21
Date of Delivery of Copy 15-12-21

VAKALAT NAMA

NO. _____/20

IN THE COURT OF KP Service Tribunal, Peshawar

Abdul Wahab

(Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Police Deptt.

(Respondent)
(Defendant)

I/We, Abdul wahab (Petitioner)

Do hereby appoint and constitute **SYED NOMAN ALI BUKHARI Advocate High Court Peshawar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/We authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/20

APDS
(CLIENT)

ACCEPTED

APDS
SYED NOMAN ALI BUKHARI
Advocate High Court Peshawar.

ORDER

In compliance with the judgment dated 02.12.2021, passed by Khyber Pakhtunkhwa the Service Tribunal Peshawar in service appeal No.3326/2020 and approval of competent authority vide CPO letter No.3123/ Legal dated 23.06.2022, Ex-Constable Abdul Wahab No.50 is hereby reinstated in service with immediate effect conditionally / provisionally subject to the outcome of CPLA, filed against the impugned judgment before August Supreme Court of Pakistan.

OB NO. 200 /SRC
Dated. 30-6 /2022

(MUHAMMAD SULEMAN) PSP
District Police Officer,
Kohat

OFFICE OF THE DISTRICT POLICE OFFICER KOHAT

No 6086-88 /SRC, dated Kohat the 30/6 /2022.

Copy of above is submitted to the Regional Police Officer Kohat Region Kohat for favour of information please.

2. Reader / Line Officer / Pay Officer / OHC for necessary action.
3. Official concern to report in Police line Kohat immediately.

(MUHAMMAD SULEMAN) PSP
District Police Officer,
Kohat