

04.08.2022

Learned counsel for the petitioner present. Mr. Kabir Ullah Khattak, Additional Advocate General alongwith Atta Ur Rehman, Inspector Legal for respondents present.

Representative of the respondent department submitted Office order No. 3595-3601/EC dated 23.06.2022 which is placed on file, through which judgment of Service Tribunal has been implemented conditionally and the major penalty of dismissal from service awarded to petitioner has been set aside and he is conditionally reinstated in service on acquisition of bail bonds and treating his intervening period as leave of the kind due with immediate effect subject to the outcome of CPLA.

In view of the above, instant petition is disposed off. File be consigned to record room.

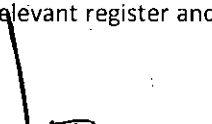

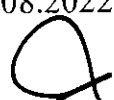
Announced
04.08.2022

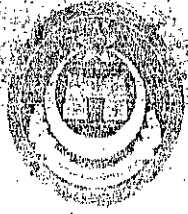

(Fareeha Paul)
Member (E)

Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 293/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	19.05.2022	<p>The execution petition of Mr. Adnan Khan submitted today by Mr. Mir Zaman Safi Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p> REGISTRAR</p>
2-	<u>25-5-22</u>	<p>This execution petition be put up before Single Bench at Peshawar on <u>16-6-22</u>. Original file be requisitioned. Notices to the parties be also issued for the date fixed.</p> <p> CHAIRMAN</p>
	16 th June, 2022	<p>Counsel for the petitioner present. Mr. Kabiruallh Khattak, Addl: AG for respondents present.</p> <p>Learned AAG seeks time to implement the judgment. Respondents are directed to appear in person alongwith implementation report on 04.08.2022 before S.B. Original file be requisitioned.</p> <p> (Kalim Arshad Khan) Chairman</p>



OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email dpo_mardan@yahoo.com

1
2022

ORDER

Consequent upon the filing of execution petition No. 293/2022 by Ex-Constable Adnan No. 3081 for the implantation of the orders of Honorable Service Tribunal, KP announced on 27.01.2022 in service appeal No. 458/2018, "the major penalty of dismissal from service awarded to Ex-Constable Adnan No.3081 vide this office OB No. 188 dated 30.01.2015 is set aside and he is conditionally re-instated in service on acquisition of bail bonds and treating his intervening period as leave of the kind due with immediate effect subject to the outcome of CPLA after the Scrutiny Committee of Law department has determined the instant case fit for filing CPLA in the meeting held on 27.04.2022".

OB No. 1352

Dated. 22/06/2022

~~District Police Officer
Mardan~~

No. 3595-3601/EC, dated 23/6/2022

Copy for information to the:-

1. Superintendent of Police, Operations, Mardan.
2. District Accounts officer, Mardan.
3. DSP/Legal
4. DSP/HQR:
5. PO.
6. PA.
7. OSI

6711CB
23-06-2022

Inspector Legal
For signature

DSP/L
23-06-2022

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Implementation Petition No. 293 /2022
In

Appeal No.458/2018

ADNAN KHAN

VS

POLICE DEPTT:

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S.NO.	DOCUMENTS	ANNEXURE	PAGE NO.
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3-	Judgment	A	4- 6.
4-	Application	B	7.
5-	Vakalat nama	8.

PETITIONER/APPLICANT

THROUGH:


MIR ZAMAN SAFI
ADVOCATE

MOBILE NO.0333-9991564
0317-9743003

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Implementation Petition No. 293 /2022

In

Appeal No.458/2018

Khyber Pakhtunkhwa
Service Tribunal

Discy No. 626

Dated: 19/5/2022

Mr. Adnan Khan S/O Mumtaz Ali,
R/O Mohallah Saleem Khan Dheri, Village Saleem Khan, Mardan.

.....APPELLANT

VERSUS

- 1- The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
- 2- The Regional Police Officer, Mardan Region, District Mardan.
- 3- The District Police Officer, District Mardan.

.....RESPONDENTS

IMPLEMENTATION PETITION FOR DIRECTING
THE RESPONDENTS TO OBEY THE JUDGMENT
OF THIS AUGUST TRIBUNAL DATED 14.01.2022 IN
LETTER AND SPIRIT

R/SHEWETH:

- 1- That the petitioner filed Service appeal bearing No. 458/2018 before this august Service Tribunal against the impugned dismissal order dated 30.01.2015.
- 2- That appeal of the petitioner was finally heard by this august Tribunal on 14.01.2022 and was decided in favor of the petitioner vide judgment dated 14.01.2022 with the view that *"In view of the situation, we are inclined to partially accept the appeal. The appellant is re-instated in service by converting the major penalty of his dismissal into minor penalty of stoppage of two increments"*. Copy of the judgment is attached as annexure.....A.
- 3- That after obtaining attested copy of the judgment dated 14.01.2022 the petitioner submitted the same alongwith an application before the respondents for implementation but till date the judgment of this Tribunal has not been implemented by the respondent in letter and spirit. Copy of the application 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 of this august Tribunal dated 14.01.2022 in letter and spirit. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the petitioner.

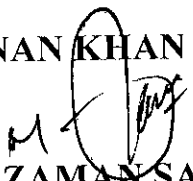
Dated: 19.05.2022.

PETITIONER



ADNAN KHAN

THROUGH:



**MIR ZAMAN SAFI
ADVOCATE**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Implementation Petition No. _____/2022

In

Appeal No.458/2018

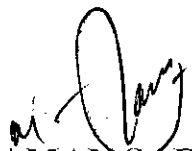
ADNAN KHAN

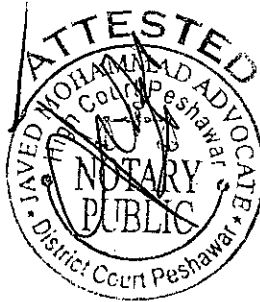
VS

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



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 458/2018

Date of Institution ... 09.02.2018

Date of Decision ... 14.01.2022



A-4

Adnan Khan S/o Mumtaz Ali R/o Mohallah Saleem Khan Dheri, Village Saleem Khan, Tehsil & District Mardan Ex-Constable Police Department, K.P, District Mardan. ... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Home & Tribal Affairs Department, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others. ... (Respondents)

Naila Jan, Advocate ... For Appellant.

Muhammad Rasheed, Deputy District Attorney ... For respondents.

AHMAD SULTAN TAREEN ... **CHAIRMAN**
ATIQ-UR-REHMAN WAZIR ... **MEMBER (EXECUTIVE)**

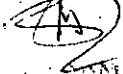
JUDGMENT

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

Brief facts of the

case are that the appellant was appointed as Constable vide order dated 02-08.2009. During the course of his service, the appellant was proceeded against on the charges of absence from duty and was ultimately dismissed from service vide order dated 30-01-2015, against which the appellant filed departmental appeal, which was also rejected vide order dated 12-03-2015. The appellant filed revision petition, which was also rejected vide order dated 26-01-2017 communicated to the appellant on 24-01-2018, hence the instant appeal with prayers that the impugned orders dated 12-03-2015 and 30-01-2015 and 26-01-

ATTESTED


CHAIRMAN
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

ATTESTED



5

2017 may be set aside and the appellant may be re-instated in service with all back benefits.

02. Learned counsel for the appellant has contended that the appellant has not been treated in accordance with law, as the appellant has not been associated with proceedings of the inquiry; that absence of the appellant was not intentional, rather due to compelling reason of illness of his wife, which was not taken into consideration; that the appellant has been proceeded against ex-parte, thus was deprived of the opportunity to defend his cause; that absence on medical ground does not constitute gross misconduct entailing major penalty of dismissal from service.

Wm
03. Learned Deputy District Attorney for the appellant has contended that the appellant willfully absented himself from lawful duty without permission of the competent authority; that plea of the sickness of his wife is baseless, non-reliable and is false, hence denied; that proper departmental inquiry was conducted against the appellant and the appellant was afforded opportunity to prove his innocence but the appellant did not join the inquiry proceedings; that departmental appeal as well as revision petition of the appellant were considered but were rejected being devoid of merit; that the instant appeal of the appellant being devoid of merit may be dismissed.

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

05. Record reveals that the appellant was served with charge sheet/statement of allegation dated 02-12-2014, to which he responded and presented medical prescription in respect of his wife, who reportedly was having issue in her spinal cord. The inquiry officer in his report has taken into consideration illness of his wife and also checked medical prescriptions, but he neither termed it fake nor sent it for verification but reiterated that the appellant was supposed to inform

ATTESTED
[Signature]
MEMBER
National Labour Tribunal
Kolkata

ATTESTED
[Signature]

6

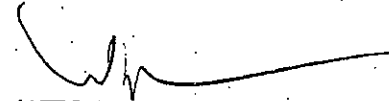
the authorities well in time about such illness, hence his absence amounts to misconduct, which deserve to be awarded with major punishment. It is a well settled legal proposition that leave on medical grounds even without permission of the competent authority does not constitute gross misconduct entailing major penalty of dismissal from service. Reliance is placed on 2008 SCMR 214. The inquiry officer was supposed to take a lenient view, instead he recommended him for major punishment, which appears to be harsh. We have observed that the appellant has not been treated in accordance with law, as no final show cause notice was served upon him, thus deprived him of the opportunity to prove his innocence. The disciplinary proceedings were also conducted in absence of the appellant and the appellant was not associated with proceedings of the inquiry, thus the respondents skipped a mandatory step prescribed in law.


06. We are of the considered opinion that absence of the appellant was not willful but due to illness of his wife and stance of the appellant was considered to some extent by the inquiry officer, but neither such stance of the appellant was regretted nor the medical prescriptions were sent for verification, despite he was recommended for major penalty, which to our opinion appears to be harsh.

07. In view of the situation, we are inclined to partially accept the appeal. The appellant is re-instated in service by converting the major penalty of his dismissal into minor penalty of stoppage of two increments. The intervening period is treated as leave of the kind due. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
14.01.2022


(AHMAD SULTAN TAREEN)
CHAIRMAN

Certified to be true copy

 MEMBER (E)
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

ATTACHED


حضرت عبدالرشید صاحب ڈسٹرکٹ پولیس آفیسر مردان

B-7

جنرل اسٹیشن برائے ٹھکانہ اور فیصلہ کروٹس ٹریبونل
مورخہ 14.01.2022

حضرت عالی، میرنگہ سائیکل سٹیبل ڈیل عرضداشتیں۔

میرنگہ سائیکل سٹیبل ڈیل کروٹس ٹریبونل میں بطور کارکن شریک فریقین کے درج نام کے ساتھ
دوران سرواں پولیس ٹریبونل کے مورخہ 30-1-2015 کو نوٹری کے ساتھ
مردان۔

تکمیر برائے سٹیبل آرڈر مورخہ 30-01-2015 کے تحت شریک فریقین کے درمیان
بین میں فیصلہ کیا گیا جو کہ مورخہ 14-01-2022 کو سٹیبل ڈیل کروٹس
سوا اور حکم بنا کر حکم صادر ہوا کہ سٹیبل کے برائے سٹیبل آرڈر کے
کوئی دو انگریزی جملے اور تین کے احکامات صادر ہونے کے

میرنگہ سائیکل سٹیبل ڈیل کے مورخہ 30-01-2015 کے فیصلے کے تحت
برائے ٹھکانہ اور فیصلہ کروٹس ٹریبونل میں

ATTESTED

Handwritten signature

مردان اور سٹیبل ڈیل کے مورخہ 30-01-2015 کے فیصلے کے تحت
کوئی دو انگریزی جملے اور تین کے احکامات صادر ہونے کے

B No 3081
عنوان: خانہ اولیٰ، مردان
3081

VAKALATNAMA

BEFORE THE KP Service Tribunal, Peshawar

OF 2022

Adnan Khan

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Police Deptt.

(RESPONDENT)
(DEFENDANT)

I/We Adnan Khan

Do hereby appoint and constitute **MIR ZAMAN SAFI, Advocate, 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 cost. 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.

Dated. 19 / 05 / 2022

Adnan Khan
CLIENT

Mir Zaman Safi
ACCEPTED

MIR ZAMAN SAFI

Said Rehman
&
SAID REHMAN
ADVOCATES

OFFICE:

Room No.6-E, 5th Floor,
Rahim Medical Centre, G.T Road,
Hashtnagri, Peshawar.
Mobile No.0323-9295295
0317-9743003



KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

No: 2293-95 /ST Dated: 28/07 /2022

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262

To,

- 1 INSPECTOR GENERAL OF POLICE, KHYBER PAKHTUNKHWA PESHAWAR.
- 2 REGIONAL POLICE OFFICER, MARDAN REGION, DISTRICT MARDAN
- 3 DISTRICT POLICE OFFICER, DISTRICT MARDAN.

Subject: PERSONAL APPEARANCE IN EXECUTION PETITION NO. 293/22 IN CASE TITLE ADNAN KHAN VS POLICE

I am directed to forward herewith a certified copy of Order dated 16.06.2022 passed by this Tribunal on the above subject for strict compliance.

Encl: As Above.


(WASEEM AKHTAR)

REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR