

return/restoration of the benefit, if the judgment of this Tribunal at credit of the petitioner is set aside by august Supreme Court of Pakistan. Thus, there was no ambiguity in the order dated 06.01.2022 to provide room for the delay in execution of the judgment but the respondents have still omitted to furnish the implementation report. The representative of the respondents in attendance seeks time with the request that implementation will be furnished on the next date. Learned AAG states that he will take the respondents on board to enquire the compliance of the judgment in the manner as directed vide order dated 06.01.2022, positively before the next date. Case to come up on 24.01.2022 before S.B


Chairman

24.01.2022

Petitioner in person and Mr. Muhammad Adeel Butt, Addl. AG alongwith Basit HC for the respondents present.

Representative of the respondents has submitted copy of order dated 20.01.2022, whereby in compliance with the judgment/orders of this Tribunal, the petitioner has been conditionally and provisionally reinstated in service with back benefits subject to the outcome of CPLA by the august Supreme Court of Pakistan and production of Affidavit by the petitioner.

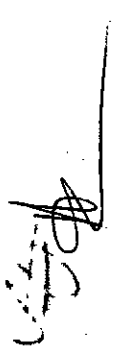
In view of the above, the petition in hands is consigned to the record room.


Chairman

17.01.2022

Petitioner in person present. Mr. Muhammad Adeel Butt, Addl. AG alongwith Muhammad Zahoor, Inspector (Legal) for the respondents are present.

The latter has furnished the copy of letter No. 283 dated 14.01.2022 Addressed to AIG (Legal) Khyber Pakhtunkhwa CPO Peshawar from the office of DPO Haripur. Accordingly the factual position about passing of judgment by this Tribunal and filing of CPLA in pursuance to opinion of the Law Department has been discussed. A particular reference has been given to order dated 06.01.2022 passed by this Tribunal in execution petition, whereby the implementation was required to be furnished today. However, the respondents instead of furnishing the implementation report have furnished the copy of aforementioned letter. There is nothing new in the said letter as this Tribunal vide order dated 06.01.2022 has already dealt with right of the respondents to challenge the judgment of this Tribunal through CPLA. Obviously, according to information furnished in the letter dated 14.01.2022, the CPLA has been filed. It was previously directed vide order dated 06.01.2022 that if the respondents are not in possession of any order of august Supreme Court of Pakistan as to suspension of judgment of this Tribunal, they are supposed to implement the judgment in letter and spirit after obtaining affidavit from the petitioner for



Execution Petition No.12/2022

06.01.2022

Learned counsel for the petitioner present.

The petitioner through this Execution Petition has brought the judgment of this Tribunal for execution which was passed in his favor on 14.10.2021, in service appeal No. 6042/2020. The findings in the judgment were followed by the operative part as copied below:-

"For what has been discussed above, we partially allow the appeal at hand and the impugned major penalty of appellant's dismissal from service is substituted with the minor penalty of withholding of increment for three years without cumulative effect. Consequently, the impugned order of appellant's dismissal from service is set aside with direction to the respondent No. 3 to re-instate him into service with all back benefits. It is further directed that the respondent No. 3 shall give effect to above mentioned substituted penalty under due course."

The petitioner has submitted that the judgment is still in field and has not been suspended or set aside by the august Supreme Court of Pakistan. Therefore, the respondents are legally bound to pass formal reinstatement order and he prayed for implementation of the judgment at his credit in letter and spirit.

Needles to say that the respondents are at liberty to challenge the judgment at credit of the petitioner before the august Supreme Court of Pakistan, if so advised; however, filing of the petition against the judgment before august Supreme Court of Pakistan does not absolve the respondents from their obligation from implementation of the judgment of this Tribunal in letter and spirit unless the same is suspended by a specific order of the august Supreme Court of Pakistan. If the respondents are not in possession of any such order, they are supposed to implement the judgment at credit of the petitioner but with liberty to get an affidavit from him for

return/restoration of the benefits, if the judgment of this Tribunal at his credit is set aside by the august Supreme Court of Pakistan. Copy of Execution Petition alongwith copy of this order be sent to Respondent No. 3 for implementation report on or before the date fixed. Notice of Execution Petition be given to other respondents.

To come up for implementation report on 17.01.2022 before
S.B.




CHAIRMAN

Form-A

FORM OF ORDER SHEET

Court of _____

Execution Petition No. 12/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	06.01.2022	<p>The execution petition of Mr. Muhammad Atif submitted today by Mr. Mohammad Aslam Tanoli 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> <p>This execution petition be put up before S. Bench at Peshawar on <u>06/01/22</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
2-		

BEFORE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Execution petition No. 12/2022

Muhammad Atif (Constable No. 359, District Police Haripur) R/O Mohallah Aljiran, Near BHU Sikandarpur, Tehsil & District Haripur.....(Petitioner)

Versus

1. Provincial Police Officer, KPK Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. District Police Officer Haripur.....(Respondents)

EXECUTION PETITION IN SERVICE APPEAL NO. 6042/2020.

INDEX

S/No.	Description of documents	Anne-Xure	Page No.
1.	Execution petition.		01-05
2.	Service Appeal	"A"	06-13
3.	KPK Service Tribunal Decision dated 14-10-2021	"B"	14-19
4.	Duty Report Dated 09-12-2021 with registry receipt & letter of 16-12-2021.	"C&D"	20-21 22
5.	Wakalatnama		

THROUGH

PETITIONER

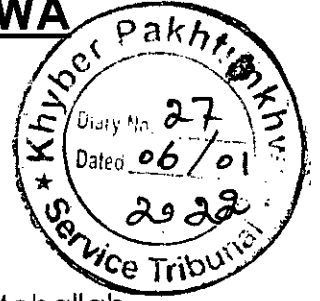
M. Aslam Tanoli

MOHAMMAD ASLAM TANOLI
ADVOCATE HIGH COURT
HARIPUR

Dated 01-01-2022

①

BEFORE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR



Execution petition No. 12/2022.....

Muhammad Atif (Constable No. 359, District Police Haripur) R/O Mohallah Aljiran, Near BHU Sikandarpur, Tehsil & District Haripur.....**(Petitioner)**

Versus

1. Provincial Police Officer, KPK Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. District Police Officer Haripur..... **(Respondents)**

EXECUTION PETITION IN SERVICE APPEAL NO. 6042/2020 FOR
IMPLEMENTATION OF JUDGMENT/DECISION DATED 14-10-2021
OF THIS HONOURABLE SERVICE TRIBUNAL ON CONDITIONAL
AND PROVISIONAL BASIS TILL OUTCOME OF CPLA (IF ANY)
FLED BY RESPONDENTS/POLICE DEPARTMENT AGAINST
PETITIONER.

Respectfully Sheweth:

1. That petitioner/appellant filed subject titled service appeal No. 6042/2020 before this Honorable Service Tribunal against the orders of Respondents whereby appellant was dismissed from service in flagrant violation and negation of law, departmental rules

2

and regulations. **(Copy of the service appeal is attached as Annex-"A").**

2. That this Honorable Service Tribunal while accepting subject service appeal No. 6042/2020 issued the judgment/decision dated 14-10-2021 that "we partially allow the appeal in hand and the impugned major penalty of appellant's dismissal from service is substituted with minor penalty of withholding of increment for three years without cumulative effect. Consequently, the impugned order of appellant's dismissal from service is set aside with direction to the respondent No.3 to reinstate him into service with all back benefits. It is further directed that the respondent No.3 shall give effect to the above mentioned substituted penalty under due course". **(Copy of judgment/order dated 14-10-2021 is attached as Annex-"B").**
3. That on receipt of attested copy of the judgment/decision dated 14-10-2021, the appellant reported for duty on 09-12-2021 and subsequently on 24-12-2021 through registered post. **(Copies of duty report & registry receipt are as Annexure-"C").**

3

4. That Respondents instead of taking appellant on duty has issued a letter dated 16-12-2021 that they are going to file CPLA against the judgment of Honorable KPK Service Tribunal Peshawar dated 14-10-2021 before the Supreme Court of Pakistan. **(Copy of the letter is attached as Annexure "D")**.
5. That there is no stay order from the Apex Supreme Court of Pakistan Islamabad in this respect. Petitioner is jobless since his dismissal from service i.e. 12-02-2020 and has no source of income to live on; therefore, appellant and his family members are badly suffering financially.
6. That despite petitioner's incessant approaches to respondents, he has not been allowed to join his duties as decided by this Honorable Tribunal even on conditional and provisional basis subject to outcome of CPLA (if any) filed by Respondents/Police Department against the petitioner. Hence this Execution Petition on the following:

GROUND:

- A. That as this Honorable Service Tribunal in its judgment dated 14-10-2021 had ordered that "we partially allow the

4

appeal in hand and the impugned major penalty of appellant's dismissal from service is substituted with minor penalty of withholding of increment for three years without cumulative effect. Consequently, the impugned order of appellant's dismissal from service is set aside with direction to the respondent No.3 to reinstate him into service with all back benefits. It is further directed that the respondent No.3 shall give effect to the above mentioned substituted penalty under due course".

- B) That there is no stay order from the Apex Supreme Court of Pakistan against the judgment and order dated 14-10-2021 of this Honorable Service Tribunal and its order is in the field. Respondents must comply with the said order.
- C) That respondents do not pay any heed to decision dated 14-10-2021 of this Honorable Tribunal, hence instant execution petition.
- D) That petitioner along with his family is facing financial distresses due to his unemployment and deserves to be allowed to join his duty in the light of decision dated 14-10-2021 of this Honorable Service Tribunal.
- E) That instant execution petition is well within time and this Honorable Service Tribunal has got every jurisdiction to entertain and adjudicate upon the same.

5

PRAYER:

It is, therefore, humbly prayed that this Honorable Service Tribunal may graciously be pleased to accept this Execution petition and issue necessary orders/directions to be respondents to allow the petitioner to join his duties in the light of its decision dated 14-10-2021 conditionally and provisionally subject to outcome of CPLA (if any) filed by respondents.


PETITIONER ✓

THROUGH


MOHAMMAD ASLAM TANOLI
ADVOCATE HIGH COURT
AT HARIPUR

AFFIDAVIT

I, Muhammad Atif petitioner do hereby solemnly affirm that the contents of fore-going petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable court.

Dated: 06-01-2022




DEPONENT ✓

6

Annex-A

**BEFORE HONOURABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Appeal No. 6047/20

Mohammd Atif S/O Alam Zeb, Ex-Constable No. 359 District Police Haripur, R/O Mohallah Aljiran, Dhairi Road, Near BHU Sikandarpur, Tehsil and District Haripur.

Appellant

VERSUS

1. Provincial Police Officer, Khyber Paktunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. District Police Officer, Haripur.

Respondents

SERVICE APPEAL UNDER SECTION-4 OF KPK SERVICE TRIBUNAL ACT 1974 AGAINST THE ORDER DATED 12-02-2020 OF THE DISTRICT POLICE OFFICER HARIPUR WHEREBY APPELLANT HAS BEEN "DISMISSED FROM SERVICE".

PRAYER: ON ACCEPTANCE OF INSTANT SERVICE APPEAL BOTH THE IMPUGNED ORDERS DATED 12-02-2020 THE RESPONDENT MAY GRACIOUSLY BE SET ASIDE AND THE APPELLANT BE REINSTATED IN SERVICE FROM THE DATE OF DISMISSAL WITH ALL CONSEQUENTIAL SERVICE BACK BENEFITS.

Respectfully Sheweth:

1. That appellant has rendered about 07 years service in the police department. Appellant always performed his duties with devotion, dedication and honesty and never provided a chance of reprimand. Appellant has good service record at his credit. On occasion the appellant was also awarded with Commendation Certificates and Cash rewards.

Attested

[Signature]



7


2. That while appellant posted as Computer Operator, in CDL Branch, at Haripur was served upon with a Charge Sheet alongwith statement of allegations dated 16-01-2020. **(Copy of Charge Sheet dated 16-01-2020 is attached as Annexure- "A")**.
3. That the aforementioned Charge Sheet was duly replied on 23-01-2020 explaining all facts and circumstances of the matter in detail and denying the allegations incorporated therein being incorrect and baseless. **(Copy of reply dated 23-01-2020 is attached as Annexure- "B")**.
4. That thereafter appellant was served with a Final Show Cause Notice dated 31-01-2020. **(Copy of Final Show Cause Notice dated 31-01-2020 is attached as Annex-C")**.
5. That above cited Final Show Cause Notice was duly replied on 10-02-2020 explaining all facts and circumstances of the matter in detail and flatly refusing the allegations being incorrect and baseless. **Copy of reply dated 10-02-2020 is attached as Annexure- "D")**.
6. That ultimately the appellant was awarded with the penalty of "Dismissal from service" vide order dated 12-02-2020 by the District Police Officer, Haripur without any reason and proof. **(Copy of order dated 12-02-2020 is attached as Annexure- "E")**.
7. That in fact while appellant posted as Computer Operator in CDL Branch Haripur "Ali Ajan" Telephone Operator, of the Additional Superintendent of Police, Haripur brought

Allestia

8

to appellant some documents of one Farman Ali S/O Arshad Ali R/O Village Deman District Attock (Cantt) for making entry in computer and issuing of Learning Chit. Appellant enquired from Ali Ajan about whereabouts of Farman Ali who told that he was near about and appellant should not be worried about him. Ali Ijan further told appellant that he must hand-over said documents alongwith Learning Chit and Test Page to concerned Clerk. Appellant, therefore, delivered learning chit & test page etc to the concerned Clerk.

8. That appellant knows nothing as to how the entire proceeding of preparation and passing of license was completed and by whom. After completion of entire process, Ali Ajan received documents from the concerned Clerk in a cleared & signed position and brought them to the appellant for making entry in the computer. The appellant had made only entries in the computer being a computer operator, He had nothing to do with the driving test, passing test and signing driving license. It was the duties of higher authorities.
9. That the authorities taking driving test and signing driving license are different and the appellant is the only computer operator thus not responsible for its passing, signing and issuing.
10. That no proper departmental inquiry was conducted to prove the allegations against the appellant, however, the Enquiry Officer was fully satisfied with appellant's innocence and wrong involvement in this case. The

Attested


Enquiry Officer, therefore, recommended only suitable penalty for appellant. But the competent authority contrary to recommendations awarded the appellant with EXTREME PENALTY OF "DISMISSAL FROM SERVICE" against the law and rules. Authority must have given reasons if he was not agreed with the recommendation of the Enquiry Officer.

11. That appellant aggrieved of the order dated 12-02-2020 of the District Police Officer Haripur preferred a departmental appeal dated 06-03-2020 before the Regional Police Officer, Hazara Region, Abbottabad but the same was not responded within statutory period of 90 days. **(Copy of departmental appeal dated 06-03-2020 is attached as Annexure "F")**.
12. Hence instant service appeal, inter alia, on the following amongst others:-

GROUND:

- a) That impugned orders dated 12-02-2020 of the District Police Officer Haripur is illegal, unlawful against the facts, departmental rules and regulations and principle of natural justice hence is liable to be set aside.
- b) That no proper departmental inquiry was conducted. Appellant was never confronted with documentary evidence, if any, produced against him. The appellant was also not provided copy of findings if any. Even opportunity of personal hearing was not afforded to him.

Attested
A



10

and the principle of natural justice was seriously violated in the matter of appellant. That the appellant is constantly without job since his dismissal from service and have no source of his livelihood.

- c) That respondents have not treated the appellant in accordance with law, departmental rules & regulations and policy on the subject and have acted in violation of Article-4 of constitution of Islamic Republic of Pakistan 1973 and unlawfully issued the impugned order, which is unjust, unfair hence not sustainable in the eyes of law.
- d) That the appellate authority has also failed to abide by the law and even did not take into consideration the grounds taken by appellant in the memo of appeal and did not responded the appeal. Thus act of respondent is contrary to the law as laid down in the KPK Police Rules 1934 read with section 24-A of General Clause Act 1897 and Article 10A of the Constitution of Islamic Republic of Pakistan 1973.
- e) That appellant had discharged his duties and responsibilities with care, caution, dedication and honesty and had left no stone unturned in performing his duties. However, the appellant has wrongly been awarded the extreme punishment of dismissal from service.
- f) That instant appeal is well within time and this honorable Service Tribunal has got every jurisdiction to entertain and adjudication upon the same.

Attesa

PRAYER:



11

It is, therefore, humbly prayed that on acceptance of instant Service Appeal order dated 12-02-2020 of the District Police Officer Haripur may graciously be set aside and appellant be reinstated in his service from the date of dismissal with all consequential service back benefits. Any other relief which this Honourable Service Tribunal deems fit and proper in circumstances of the case may also be granted.

Through:


Appellant

(Mohammad Aslam Tanoli)
Advocate High Court
At Haripur

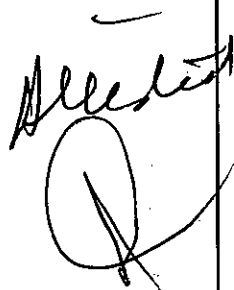
Dated -06-2020

VERIFICATION

It is verified that the contents of instant Service Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed thereof.

Dated -06-2020


Appellant





BEFORE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Mohammad Atif S/O Alam Zeb, Ex-Constable No. 359 District Police Haripur, R/O Mohallah Aljiran, Dhairi Road, Near BHU Sikandarpur, Tehsil and District Haripur.

Appellant

VERSUS

1. Provincial Police Officer, Khyber Paktunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. District Police Officer Haripur.

Respondents

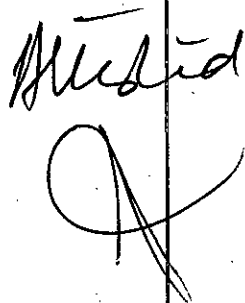
SERVICE APPEAL

CERTIFICATE

It is certified that no such Appeal on the subject has ever been filed in this Honorable Service Tribunal or any other court prior to instant one.


APPELLANT

Dated: - 06-2020





13

**BEFORE HONOURABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Mohammad Atif S/O Alam Zeb, Ex-Constable No. 359 District Police Haripur, R/O Mohallah Aljiran, Dhairi Road, Near BHU Sikandarpur, Tehsil and District Haripur.

Appellant

VERSUS

1. Provincial Police Officer, Khyber Paktunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. District Police Officer, Haripur.

Respondents

SERVICE APPEAL

AFFIDAVIT:

I, Mohammad Atif S/O Alam Zeb, appellant do hereby solemnly declare and affirm on oath that the contents of the instant Service Appeal are true and correct to the best of my knowledge and belief and nothing has been suppressed from this Honorable Service Tribunal.

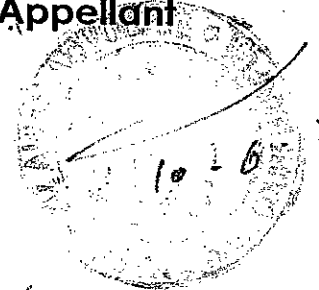
Dated: -06-2020

Identified By:

M. Aslam

Mohammad Aslam Tanoli
Advocate High Court
At Haripur

Atif
Deponent/Appellant



Atif
Appellant

Atif

14

Annex-B



BEFORE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. **6042**

Khyber Pakhtunkhwa Service Tribunal
Diary No. **5317**
Dated **22/6/2020**

Mohammd Atif S/O Alam Zeb, Ex-Constable No. 359 District Police Haripur, R/O Mohallah Aljiran, Dhairi Road, Near BHU Sikandarpur, Tehsil and District Haripur.

Appellant

VERSUS

1. Provincial Police Officer, Khyber Paktunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. District Police Officer, Haripur.

Respondents

SERVICE APPEAL UNDER SECTION-4 OF KPK SERVICE TRIBUNAL ACT 1974 AGAINST THE ORDER DATED 12-02-2020 OF THE DISTRICT POLICE OFFICER HARIPUR WHEREBY APPELLANT HAS BEEN "DISMISSED FROM SERVICE".

PRAYER: ON ACCEPTANCE OF INSTANT SERVICE APPEAL BOTH THE IMPUGNED ORDERS DATED 12-02-2020 THE RESPONDENT MAY GRACIOUSLY BE SET ASIDE AND THE APPELLANT BE REINSTATED IN SERVICE FROM THE DATE OF DISMISSAL WITH ALL CONSEQUENTIAL SERVICE BACK BENEFITS.

Respectfully Sheweth:

1. That appellant has rendered about 07 years service in the police department. Appellant always performed his duties with devotion, dedication and honesty and never provided a chance of reprimand. Appellant has good service record at his credit. On occasion the appellant was also awarded with Commendation Certificates and Cash rewards.

Filed on day
20/06/2020
Registrar

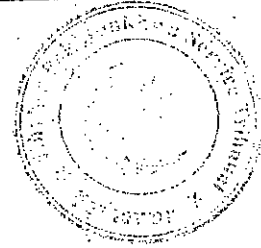
REGISTERED
[Signature]
Registrar
Khyber Pakhtunkhwa Service Tribunal
Peshawar

15

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR
(Camp Court, Abbottabad)

Service Appeal No: 6042/2020

Date of Institution ... 22.06.2020
Date of Decision ... 14.10.2021



Muhammad Atif S/O Alim Zeb, Ex-Consable No. 359 District Police Haripur R/O
Mohallah Aljiran Dhairi Road, Near BHU Sikandarpur, Tehsil and District Haripur.
...(Appellant)

VERSUS

The Provincial Police Officer, Khyber Pakhtunkhwa and others.
...(Respondents)

Muhammad Aslam Khan Tanoli,
Advocate ... For appellant

Usman Ghani,
District Attorney ... For respondents

MR. AHMAD SULTAN TAREEN ... CHAIRMAN
MR. SALAH-UD-DIN KHAN ... MEMBER (J)

JUDGMENT

AHMAD SULTAN TAREEN, CHAIRMAN:- The appellant, through the instant appeal, seeks setting aside the order dated 12.02.2020 issued by Respondent No. 3 whereby, he i.e appellant has been dismissed from service and prayed for his reinstatement into service with all consequential back benefits.

2. Factual account as offered in Memo of appeal with supporting annexures precisely tells that the Appellant, while on working assignment as Computer Operator in the office of Additional Superintendent of Police, Haripur,, purportedly prepared bogus/fake license for one Farman Ali S/o Arshad Ali resident of District Attock; and owing to his said act, he was issued a charge sheet coupled with a statement describing the allegation as follows: *"It has come to the notice of the undersigned vide preliminary enquiry No. 13 dated 14.01.2020 conducted by Additional Superintendent of Police Haripur. That you posted at CLD Branch as Computer Operator Haripur,*

[Handwritten signature]

RECEIVED
[Handwritten signature]
Khyber Pakhtunkhwa Service Tribunal
Peshawar

16

you were found involved in preparation of bogus/fake driving licence of Farman Ali s/o Arshad Ali r/o Demand District Attock (Cantt), who was abroad i.e. Hong Kong, without his personal appearance and driving test in licence branch. You took illegal gratification for the same and got issued license to him. Your act shows dishonesty and malafide on your part. Your action is also gross misconduct in terms of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011. Hence, charge sheeted."

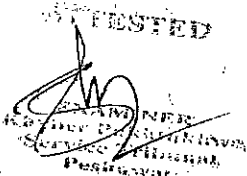
Mr. Ifitikhar Ahmed, SDPO Headquarters, Haripur was appointed as Inquiry Officer. As directed in the Charge Sheet, the Appellant submitted his written defense to the Inquiry Officer. The inquiry report was submitted to the competent authority and was followed by a final show cause notice, which too was replied by the appellant. The competent authority, however, decided to impose penalty upon the Appellant. Consequently, major penalty of dismissal from service under the Khyber Pakhtunkhwa Police E&D Rules, 1975 was imposed upon him. Feeling aggrieved, the appellant filed a departmental appeal before the Higher Authority, which did not raise any response and after expiry of statutory waiting period of 90 days, the present service appeal was preferred.

3. After admission of appeal for regular hearing, notice was given to respondents. They after joining the proceedings filed their para-wise reply wherein, they raised several legal and factual objections and asserted for the dismissal of the appeal with cost.

4. We have heard arguments as advanced on behalf of the parties and perused the record.

5. The arguments on behalf appellant by and large were aimed at making a case that charge of taking illegal gratification was not proved against the Appellant. The issuing of disputed license was not a job of single hand and even if there was any role attributable to the Appellant, it was not so grave so as to warrant the punishment of dismissal from his service. While concluding his

Handwritten signature

TESTED

 GOVERNMENT OF KHYBER PAKHTUNKHWA
 HARIPUR
 P.S. No. 100/2011

arguments, he submitted that due to triviality of the appellant's role in the collective fault, the case is fit for setting aside of the impugned penalty by his exoneration from the charge.

6. On the other hand, learned District Attorney argued that the appellant has rightly been dismissed from service as he was involved in preparing fake driving licenses. Further that proper inquiry was conducted in pursuance to the charge sheet coupled with the statement of allegation duly served upon appellant. He concluded his arguments with the submission that the impugned order having been passed after fulfillment of all codal formalities does not suffer from any illegality or irregularity and asserted for dismissal of the appeal with cost.

7. It is evident from the statement of allegation copied above that the competent authority decided to proceed against the appellant on account of the information deduced from the report of preliminary enquiry No. 13 dated 14.01.2020 conducted by Additional Superintendent of Police Haripur. The copy of said inquiry report is annexed with the written reply of respondents as reliance document. The findings in the said report are significant for determination about role of the appellant in the fateful episode; as accordingly, the process of the disputed license was not a one man doing. The findings in preliminary inquiry maintain that constable Ali Ajlan handed over photograph and other papers pertaining to Farman Ali (disputed licensee) to Appellant for issuing of learning chit. The latter after completing the process of learning chit and test page handed over the papers to License Clerk Mudassar, who deceitfully got the test of disputed licensee passed by intermixing his papers with papers of other successfully tested candidates. It was further observed in pursuance to said description of role of afore-named individuals that they all three were enlightened about the fact that disputed licensee was abroad and his learning chit was prepared from an image; and they without caring about the

[Handwritten signature]

ATTESTED

[Handwritten signature]
Officer-in-Charge
Service Sub-Station
Haripur

respect of higher officers managed the issuing of disputed driving license deceptively, which after its printing was received by constable Ali Ajlan. The validity of the disciplinary proceedings have neither been adequately questioned before us on behalf of the Appellant nor do we find any illegality or material irregularity in such proceedings conducted against him. However, it is an irrefutable position that the inquiry report relied upon by the competent authority does not support the allegation of taking any gratification by the Appellant in lieu of his contributory role in issuing of the disputed license. Obviously, this part of allegation went unsubstantiated because of there being no evidence of such allegation during the formal inquiry. It is there in findings of the enquiry officer that the appellant prepared the Learning Slip on behest of constable Ali Ajlan and prepared the test page. Constable Atif (Appellant) was not in the knowledge at all that the concerned applicant was living abroad. The enquiry officer, however, observed that he should have not done it on behest of Ali Ajlan. The enquiry officer fortified his findings simply by admissions of the appellant and co-accused and himself was not able to collect any evidence to substantiate the charge against appellant in totality of allegations. In view of the admissions of appellant and co-accused as discussed in the enquiry report, we hold that they collectively contributed in doings having resulted into issuance of a wrong license and as such, they are not entitled to a clean chit. Simultaneously, we having no cavil to the powers of competent authority to impose the penalty in the appellant's case on satisfaction about proof of his wrong, are of the considered opinion that the punishment imposed upon the appellant is extremely harsh and not commensurate to his guilt. The allegations were not of such a nature that it would have entailed major penalty of dismissal from service inconsiderately when there was a long unblemished service at credit of the appellant.

[Handwritten signature]

ATTESTED

[Handwritten signature]
 EXAMINER
 Khyber Pakhtunkhwa
 Service Commission
 Peshawar

8. For what has been discussed above, we partially allow the appeal at hand and the impugned major penalty of appellant's dismissal from service is

19

substituted with the minor penalty of withholding of increment for three years without cumulative effect. Consequently, the impugned order of appellant's dismissal from service is set aside with direction to the respondent No. 3 to reinstate him into service with all back benefits. It is further directed that the respondent No. 3 shall give effect to above mentioned substituted penalty under due course. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.
14.10.2021

(SALAH-UD-DIN KHAN)
MEMBER (J)
(Camp Court, A/Abad)

(AHMAD SULTAN TAREEN)
CHAIRMAN
(Camp Court, A/Abad)

کامپیوٹر پر لکھی گئی ہے
AD
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of receipt of copy 07/12/21
Number of words 2400
Number of pages 26/-
Amount 4/-
Taxes 30/-
Date of Completion of Copy 07/12/21
Date of Delivery of Copy 07/12/21

20

Amex-C

To

The District Police Officer,
Haripur.

Sub:- DEUTY REPLY IN THE LIGHT OF JUDGMENT/DECISION
OF HONOURABLE KPK SERVICE TRIBUNAL DATED 14-10-
2021 IN SERVICE APPEAL NO.6042.

R/Sir,

With most reverence and humble submission it is stated:-

1. That while appellant serving the department as Constable was dismissed from service vide District Police Officer Haripur order dated 12-02-2020 which order was appealed against before the Regional Police Officer, Hazard Range, Abbottabad but was never responded.
2. That appellant aggrieved of the departmental order filed a Service Appeal No. 6042/20 dated 22-06-2020 before the Khyber Pakhtunkhwa Service Tribunal Peshawar which was partially accepted vide judgment/order dated 14-10-2021 and the appellant has been re-instated in service with back benefit. **(Copy of judgment/order dated 14-10-2021 is attached herewith).**
3. That in view of the above judgment/order I do hereby report for duty.

It is, therefore, requested that I may very kindly be allowed to join my duty in the light of judgment/order dated 14-10-2021 of the KPK Service Tribunal Peshawar and obliged.

Your obedient servant

(Muhammad Atif)
Constable No. 359
District Police Haripur

9/12/2021

Address: Mohallah Aljiran, Dhairi Road
Near BHU Sikandarpur,
Tehsil & District Haripur

Attested
CA

22

Amo-D

No. 11278 / Legal dated the 15.12.2021

To: The District Police Officer
Haripur

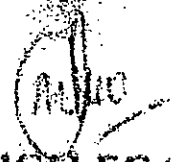
Subject: LOGGING OF CPLA AGAINST JUDGMENT DATED 14.10.2021 IN SERVICE APPEAL NO. 6042/2020 TO 6054/2020 FILED BY MUDASSAR HUSSAIN ABBASI ALONG WITH 02 OTHERS

Reference: Please refer to your office letter No. 7992 to 7994, dated 07.12.2021 on the subject cited above.

It is intimated that the subject case has been declared fit for CPLA by Service Committee of Law Department on 15.12.2021.

It is, therefore, directed that to depute an officer to execute Power of Attorney and attend the office of Advocate General, Khyber Pakhtunkhwa, Peshawar within two days for further course of action.

Musaid
D


AIG/LEGAL
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.
16.12.2021

وکالت نامہ

کورٹ فیس

قیمتی

محترم قاضی صاحب کورٹ فیس کی رقم لکھ کر پیش کرنا اور
 محترم قاضی صاحب / امینڈمنٹ محمد عاطف Perdomus
 محمد عاطف امینڈمنٹ KPR PPO/198 & others

دعویٰ یا جرم Execution Petition باعث تحریر آنکہ

مندرجہ بالا عنوان میں اپنی طرف سے پیروی و جوابدہی مقام
 ایڈیٹ آباد / نیباد

محکمہ ٹرنوٹی کا پڈ و وکیٹ بدیں شرط وکیل مقرر کیا۔ کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص رو برو عدالت
 حاضر ہوتا ہوں گا۔ اور بوقت پکارے جانے وکیل صاحب موصوف کو اطلاع دے کر حاضر کروں گا۔ اگر کسی پیشی پر مظہر
 حاضر نہ ہوا۔ اور حاضری کی وجہ سے کسی وجہ پر مقدمہ میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ
 ہونگے۔ نیز وکیل صاحب موصوف صدر مقام پکھری کے علاوہ کسی اور جگہ یا پکھری کے مقرر اوقات سے پہلے یا بروز
 تعطیل پیروی کرنے کے مجاز نہ ہونگے۔ اگر مقدمہ مقام پکھری کے کسی اور جگہ سماعت ہونے پر یا بروز پکھری کے اوقات
 کے آگیا یا پیچھے ہونے پر مظہر کو کوئی نقصان پہنچے تو ذمہ دار یا اس کے رابطے کسی معاوضہ ادا کرنے مختار نامہ واپس کرنے کے
 بھی صاحب موصوف ذمہ دار نہ ہونگے۔ مجھے کل ساختہ پرواختہ صاحب مثل کردہ ذات خود منظور و قبول ہوگا اور صاحب
 موصوف کو عرضی دعویٰ اور درخواست اجراءے ڈگری و نظر ثانی اپیل گرانی دائر کرنے نیز ہر قسم کی درخواست پر دستخط تصدیق
 کرنے کا بھی اختیار ہوگا۔ اور کسی حکم یا ڈگری کے اجرا کرنے اور ہر قسم کار و پیہ وصول کرنے اور رسید دینے اور داخل کرنے
 کا ہر قسم کا بیان دینے اور سپروٹاشی دراضی نامہ و فیصلہ برخلاف کرنے اقبال دعوے کا اختیار ہوگا۔ اور بصورت اپیل و
 برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم اتناعی یا ڈگری قبل از فیصلہ اجراءے ڈگری بھی صاحب موصوف کو
 بشرط ادا ہوگی علیحدہ پیروی مختار نامہ کرنا مجاز ہوگا۔ اور بصورت ضرورت اپیل یا اپیل کے واسطے کسی دوسرے وکیل یا بیرسٹر
 کو بجائے اپنے ہمراہ مقرر کریں اور ایسے مشیر قانونی کو بھی اس امر میں وہی اختیارات حاصل ہونگے جیسے صاحب
 موصوف کو۔ پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا۔ تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ
 کریں اور ایسی حالت میں میرا مطالبہ صاحب موصوف کے برخلاف نہیں ہوگا۔ لہذا مختار نامہ لکھا دیا ہے کہ سندر ہے مضمون
 مختار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا اور منظور ہے۔

Accepted
 M. A. Adv

مورخہ: 06 جنوری 2022ء

(Mohammed Atif)
 Petitioner

BEFORE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR



Execution petition No. 12/2022.....

Muhammad Atif (Constable No. 359, District Police Haripur) R/O Mohallah Aljiran, Near BHU Sikandarpur, Tehsil & District Haripur.....(Petitioner)

Versus

1. Provincial Police Officer, KPK Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. District Police Officer Haripur.....(Respondents)

EXECUTION PETITION IN SERVICE APPEAL NO. 6042/2020.

INDEX

S/No.	Description of documents	Anne-Xure	Page No.
1.	Execution petition.		01-05
2.	Service Appeal	"A"	06-13
3.	KPK Service Tribunal Decision dated 14-10-2021	"B"	14-19
4.	Duty Report Dated 09-12-2021 with registry receipt & letter of 16-12-2021.	"C&D"	20-21 22
5.	Wakalatnama		

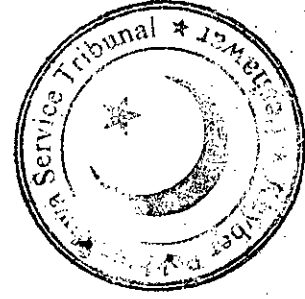
THROUGH

PETITIONER

M. Aslam Tanoli
MOHAMMAD ASLAM TANOLI
ADVOCATE HIGH COURT
HARIPUR

Dated 01-01-2022

Execution Petition No.12/2022



06.01.2022

Learned counsel for the petitioner present.

The petitioner through this Execution Petition has brought the judgment of this Tribunal for execution which was passed in his favor on 14.10.2021, in service appeal No. 6042/2020. The findings in the judgment were followed by the operative part as copied below:-

"For what has been discussed above, we partially allow the appeal at hand and the impugned major penalty of appellant's dismissal from service is substituted with the minor penalty of withholding of increment for three years without cumulative effect. Consequently, the impugned order of appellant's dismissal from service is set aside with direction to the respondent No. 3 to re-instate him into service with all back benefits. It is further directed that the respondent No. 3 shall give effect to above mentioned substituted penalty under due course."

The petitioner has submitted that the judgment is still in field and has not been suspended or set aside by the august Supreme Court of Pakistan. Therefore, the respondents are legally bound to pass formal reinstatement order and he prayed for implementation of the judgment at his credit in letter and spirit.

Needles to say that the respondents are at liberty to challenge the judgment at credit of the petitioner before the august Supreme Court of Pakistan, if so advised; however, filing of the petition against the judgment before august Supreme Court of Pakistan does not absolve the respondents from their obligation from implementation of the judgment of this Tribunal in letter and spirit unless the same is suspended by a specific order of the august Supreme Court of Pakistan. If the respondents are not in possession of any such order, they are supposed to implement the judgment at credit of the petitioner but with liberty to get an affidavit from him for

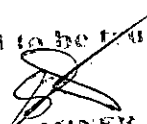
Certified to be true copy
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

return/restoration of the benefits, if the judgment of this Tribunal at his credit is set aside by the august Supreme Court of Pakistan. Copy of Execution Petition alongwith copy of this order be sent to Respondent No. 3 for implementation report on or before the date fixed. Notice of Execution Petition be given to other respondents.

To come up for implementation report on 17.01.2022 before S.B.


CHAIRMAN

Certified to be true copy


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar



DISTRICT POLICE OFFICER
HARIPUR

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

OB. No. 47 /

dated Haripur the 20/01/2022

ORDER

The appellant/petitioner Ex-constable Muhammad Atif No.359 was proceeded against on charges of misconduct and he was awarded major punishment of dismissal from service vide OB.No.116 dated 12.02.2020. He filed service appeal No.6042/2020 titled "Muhammad Atif s/o Alam Zeb Ex-Constable No.359 vs Provincial Police Officer, Khyber Pakhtunkhwa & others" before the honorable Khyber Pakhtunkhwa Service Tribunal Peshawar. The honorable Khyber Pakhtunkhwa Service Tribunal Camp Court Abbottabad vide its judgment dated 14.10.2021 set aside the punishment of dismissal from service of the appellant and substituted with minor penalty of withholding of increments for 03 years without cumulative effect. Consequently, CPLA NO.852-P/2021 titled "Provincial Police Officer Khyber Pakhtunkhwa Peshawar & others vs Muhammad Atif" was filed against the judgment of honorable Khyber Pakhtunkhwa Service Tribunal Peshawar in the august Supreme court of Pakistan which is subjudice. The appellant filed execution petition No.11/2022 before the honorable Khyber Pakhtunkhwa Service Tribunal Peshawar for the implementation of judgment. The honorable Khyber Pakhtunkhwa Service Tribunal vide orders dated 06.01.2022 and 17.01.2022 directed for the implementation of judgment in letter and spirit. The competent authority i.e. Assistant Inspector General of Police, Legal, CPO, Khyber Pakhtunkhwa, Peshawar, vide letter No.375/Legal dated 19.01.2022, has directed for the implementation of judgment dated 14.10.2021 provisionally and conditionally subject to the outcome of CPLA No.852-P/2021.

Therefore, in compliance with the judgment of honorable Khyber Pakhtunkhwa Service Tribunal Peshawar Camp Court Abbottabad, dated 14.10.2021 and orders dated 06.01.2022 and 17.01.2022 on execution petition No.11/2022, Ex Constable Atif No.359 is hereby conditionally and provisionally reinstated in service with back benefits subject to the outcome of CPLA No.852-P/2021 by the august supreme Court of Pakistan. The appellant/petitioner constable Muhammad Atif No.359 shall also furnish affidavit to return the benefits, if the judgment of honorable Khyber Pakhtunkhwa Service Tribunal is set aside by the august Supreme Court of Pakistan. The judgment of honorable Khyber Pakhtunkhwa Service Tribunal is hereby implemented in letter and spirit.


19/1/2022
District Police Officer,
Haripur

Copy To: 406-9/18-01-2022.

1. The Assistant Inspector General of Police, Legal, CPO, Khyber Pakhtunkhwa, Peshawar with reference to his office letter No.375/Legal dated 19.01.2022 for favor of information, please.
2. The Regional Police Officer, Hazara Region Abbottabad for favor of information, please.
3. District Account Officer, Haripur for favor of information and necessary action.
4. Pay Officer/SRC/OHC, DPO office Haripur for necessary action.


District Police Officer,
Haripur