

GOVERNMENT OF KHYBER PAKHTUNKHWA
OFFICE OF THE DISTRICT POLICE OFFICER CHARSAJDA
PHONE# 091/9220400 FAX# 091-9220401
EMAIL: charsaddadpo@yahoo.com

ORDER

In compliance with the judgment dated 02.12.2021, passed by the Hon'ble Khyber Pakhtunkhwa Service Tribunal in Service Appeal No. 883/2020, coupling with letter No.437/Legal dated 21.01.2022, issued by the office of Assistant Inspector General of Police, Legal, Khyber Pakhtunkhwa, for implementation of the judgment mentioned above, ASI Hayat Ullah is hereby reinstated in service with all back benefits, provisionally and conditionally subject to outcome of CPLA.


(SOHAIL KHALID), PSP
District Police Officer
Charsadda

No. 170-72/EC, dated Charsadda the 28/01/2022

Copy for information to the:

1. The Registrar, Hon'ble Khyber Pakhtunkhwa Service Tribunal.
2. The Regional Police Officer, Mardan.
3. The Assistant Inspector General of Police, Legal, Khyber Pakhtunkhwa, Peshawar w/r quoted above.

26.05.2022

Nobody present for the petitioner.

Notices be issued to the counsel of petitioner as well as to the respondents. Respondents are directed to appear in person alongwith compliance report on 30.06.2022 before S.B. Original appeal also be requisitioned..

Noted

(R)

9

Kalim Arshad Khan
Chairman

28-6-2022


30.06.2022

Petitioner alongwith his counsel present. Mr. Kabir Ullah Khattak, Additional Advocate General alongwith Shah Jehan, Superintendent for respondents present.

Representative of the respondent department submitted reinstatement order No. 170-72/EC, dated 28.01.2022 which is placed on file through which petitioner has been reinstated in service with all back benefits, conditionally subject to the outcome of CPLA.

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

Announced.
30.06.2022


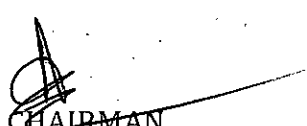
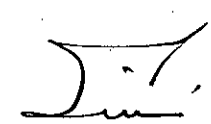
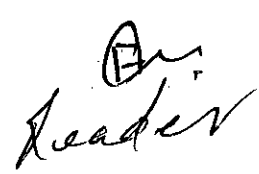

(Fareeha Paul)
Member (E)

Form- A

FORM OF ORDER SHEET

Court of _____

Execution Petition No. 16 /2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	<p>10.01.2022</p> <p>14.01.2022</p> <p>2-3-2022</p>	<p>The execution petition of Mr. Hayat Ullah submitted today by Roeeda Khan 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>14/01/22</u>.</p> <p style="text-align: right;">  CHAIRMAN </p> <p>Learned counsel for the petitioner present. Notices be issued to the respondents for submission of implementation report on 02.03.2022 before the S.B.</p> <p style="text-align: right;">  (Salah-Ud-Din) Member (J) </p> <p>Due to retirement of the Hon.ble Chairman the case is adjourned to come up for the same as before on 26-5-2022</p> <p style="text-align: right;">  Reader </p>

The Execution petition of Mr. Hayat Ullah received today i.e. on 04.01.2022 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

1. Address of respondent no 1 is incorrect.
2. Affidavit attested by the oath commissioner is unsigned.

No. 27 /S.T,

Dt. 05/01 /2021



REGISTRAR

SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA,
PESHAWAR.

Mr. Roeeda Khan Adv. Pesh.

objection No 1 & No 2
has been removed



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

Execution petition No. 16 /2022

In

S.A No. 883/2020

Hayat Ullah

VERSUS

Govt. of KPK through Secretary Home Civil Secretariat
Peshawar & Others

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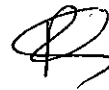

S#	Description of Documents	Annex	Pages
1.	Execution Petition with Affidavit.		1-2
2.	Addresses of Parties		3
3.	Copy of Judgment	"A"	
4.	Wakalat Nama.		

Dated: 04/01/2022


Petitioner

Through

Roeeda Khan
&
Sheeba Khan
Advocates, High Court
Peshawar

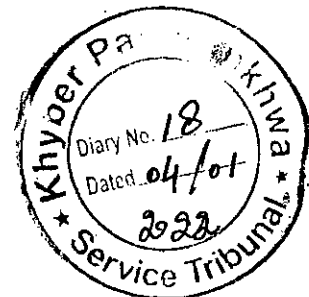



**BEFORE THE HONBLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR**

Execution petition No. 16 /2022

In

S.A No. 883/2020



Hayat Ullah S/o Fazal Hayat R/o Jharho Koruna,
Umarzai Tehsil & District Charsadda.

VERSUS

- Secretary*
1. Govt. of KPK through Chief Home, Civil Secretariat Peshawar
 2. Inspector General of Police Khyber Pakhtunkhwa Peshawar.
 3. Deputy Inspector General of Police, Mardan Division Mardan
 4. Senior Superintendent of Police district Charsadda
 5. Superintendent of Police Investigation Charsadda.

**EXECUTION PETITION FOR
IMPLEMENTATION OF THE
JUDGMENT OF THIS HONBLE
TRIBUNAL IN APPEAL No. 883/2020
DECIDED ON 02/12/2021**

Respectfully Sheweth,

1. That the above mention Service Appeal No.883/2020 was decided by this Hon'ble Tribunal vide Judgment dated 02/12/2021. (Copy of the judgment is annexed as annexure "A").



2. That the Petitioner after getting of the attested copy of same approached the Respondent several time for implementation of the above mention judgment. However they are using delaying tactics and reluctant to implement the judgment of this Hon'ble Tribunal.
3. That the Petitioner has no other option but to file the instant petition for implementation of the judgment of this Hon'ble Tribunal
4. That the respondent department is bound to obey the order of this Hon'ble Tribunal by implementing the said judgment.

It is, therefore, requested that on acceptance of this petition, the Respondents may directed to implement the judgment of this Hon'ble Tribunal.

Dated: 04/01/2022



Petitioner

Through

ROEEDA KHAN 
&
Sheeba Khan
Advocates, High Court
Peshawar 

AFFIDAVIT:-

I, Hayat Ullah S/o Fazal Hayat R/o Jharho Koruna Umarzai Tehsil & District Charsadda, do hereby solemnly affirm and declare on oath that all the contents of above application are true and correct to the best of my knowledge and belief and nothing has been misstated or concealed from this Hon'ble Court.


Deponent



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

Execution petition No. _____/2022

In

S.A No. 883/2020

Hayat Ullah

VERSUS

Govt. of KPK through Secretary Home Civil Secretariat
Peshawar & Others

ADDRESSES OF PARTIES

PETITIONER

Hayat Ullah S/o Fazal Hayat R/o Jharho Koruna
Umarzai Tehsil & District Charsadda.



RESPONDENTS

1. Govt. of KPK through Chief Home, Civil Secretariat
Peshawar
2. Inspector General of Police Khyber Pakhtunkhwa
Peshawar.
3. Deputy Inspector General of Police, Mardan Division
Mardan
4. Senior Superintendent of Police district Charsadda
5. Superintendent of Police Investigation Charsadda.

Dated: 04/01/2022


Petitioner

Through

ROEEDA KHAN 
&
Sheeba Khan
Advocates, High Court
Peshawar 



PAKISTAN National Identity Card

ISLAMIC REPUBLIC OF PAKISTAN



Name

Hayat Ullah



Father Name

Fazal Hayat

M

Pakistan

Identity Number

17101-0382835-5

Date of Birth

11.04.1977

Date of Issue

12.04.2018

Date of Expiry

12.04.2028



Holder's Signature



محمد طارق حمزہ گورنمنٹ ڈاک خانہ عمرزئی، تحصیل

17101-0392835-5



محمد طارق حمزہ گورنمنٹ ڈاک خانہ عمرزئی، تحصیل

ضلع چانڈیہ

Umar Farooq

Registrar General of Pakistan

101011157148
139-72-420647

گمشدہ کارڈ ملنے پر قریبی لیویڈیکس میں ڈال دیں

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 883/2020

Date of Institution ... 27.01.2020

Date of Decision ... 02.12.2021



Hayat Ullah S/o Fazal Hayat R/o Jharho Koruna Umarzai Tehsil & District Charsadda.
... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Home, Civil Secretariat,
Peshawar and five others.
... (Respondents)

Kamran Khan,
Advocate

... For Appellant

Muhammad Adeel Butt,
Additional Advocate General

... For Respondents

ROZINA REHMAN
ATTIQ-UR-REHMAN WAZIR

...
...

MEMBER (JUDICIAL)
MEMBER (EXECUTIVE)

JUDGMENT

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

Brief facts of the

case are that the appellant while serving as Assistant Sub Inspector in Police Department, was proceeded against on the charges of misconduct and was ultimately dismissed from service vide order dated 25-03-2019. The appellant filed departmental appeal dated 27-03-2019, which was rejected vide order dated 24-04-2019. The appellant filed review petition dated 28-04-2019, before the Provincial Police Officer, which was partially accepted and major penalty of dismissal from service was converted into major penalty of compulsory retirement from service vide order dated 01-01-2020, hence the instant service appeal with prayers that the impugned orders dated 25-03-2019, 24-04-2019 and 01-01-2020

ATTESTED



Attesting Officer
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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 impugned orders are illegal, unlawful and not based upon facts, hence not tenable in the eye of law; that no show cause or opportunity of personal hearing has been given to the appellant so by violating law, rules and regulations, the impugned orders are not maintainable and liable to be set aside; that the appellant was kept deprived of the opportunity to cross-examine witnesses and bare statement without cross-examination does not carry any value; that the appellant has a long and spotless service, but the respondents have malaofiedly passed the impugned orders without considering his long unblemished service; that the impugned orders are harsh and not based upon the real facts; that the inquiry officer had recommended the appellant for minor penalty, but respondent No. 4 without recording any reason, appointed another inquiry officer, which is illegal and without any legal authority; that the statements of the witnesses so recorded is based on malafide as the appellant had personal grudge with the witnesses, who had falsely implicated the appellant in a fabricated case, which was unlawful and contrary to the norms of natural justice; that the appellant has not been treated in accordance with law, hence his rights secured and guaranteed by constitution has badly been violated.

03. Learned Additional Advocate General for the respondents has contended that the appellant while posted as In-charge of a police post, was involved in taking illegal gratifications from public as well as truck drivers carrying chromites; that the appellant was also involved in changing case property like changing of foreign made weapon with local made; that the appellant was charge sheeted with suspension from service and inquiry was conducted against him and the inquiry officer recommended him for minor punishment; that the competent authority was not satisfied with findings of the inquiry, hence he ordered for appointment of another inquiry officer who conducted such inquiry and the appellant was

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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7

and in accordance with law and the appellant was afforded appropriate opportunity of defense, but the appellant failed to prove his innocence; that taking a lenient view, the major punishment of dismissal from service was converted into major penalty of compulsory retirement from service.

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

05. Record reveals that the charges leveled against the appellant were of taking illegal gratifications and changing case property and for which an inquiry was conducted against the appellant. The inquiry officer did not prove such allegations, hence he recommended the appellant for minor penalty, but the competent authority did not agree with such recommendations and without recording any reason appointed another inquiry officer, thus violated Rule-14 (6) of Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules, 2011.

The issue was re-inquired and the inquiry officer again did not prove any of the allegations against the appellant, but recommended him for major punishment, which shows malafide on part of the respondents. The inquiry officer neither recorded statement of anyone, from whom the appellant received any illegal gratification, nor any evidence was produced to show that the appellant had changed any of the case property, but the respondents were bent upon removing the appellant from service on any pretext, which however was not warranted. The inquiry so conducted cannot be termed as a regular inquiry, as neither statement of the relevant persons were recorded nor the appellant was afforded opportunity

ATTESTED to cross-examine such witnesses, thus skipping a mandatory step in the


EXAMINER
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Service Tribunal
Peshawar

disciplinary proceedings, therefore action of authority in awarding major penalty of removal from service, in circumstances, was in sheer violation of principles of natural justice. Reliance is placed on 2011 PLC (C.S) 387. The Supreme Court of Pakistan in its judgment reported as 2008 SCMR 1369 has held that in case of imposing major penalty, the principles of natural justice required that a regular

condemned unheard and major penalty of dismissal from service would be imposed upon him without adopting the required mandatory procedure, resulting in manifest injustice. Main task of the inquiry officer was to prove such allegations with solid evidence, but the inquiry officer badly failed to prove such allegations.

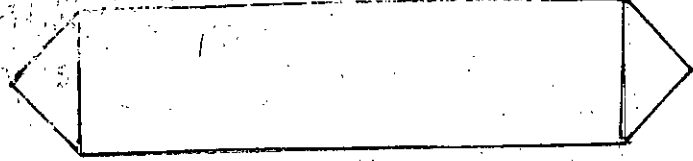
06. In view of the foregoing discussion, the instant appeal is accepted as prayed for. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
02.12.2021


(ROZINA REHMAN)
MEMBER (J)


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

بعد از تسلیم صورتی ہوگی



2. منجانب
حیات اللہ بنام یو بیس

مورخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آئندہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام ^{مقام} کیلئے درمندانہ خان اینڈ شریکان
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کالین اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقریر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرایں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی
اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بسورت ضرورت
مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے
تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی عملہ یا دورہ یا اختیارات مباحث ہوں گے
اور اس کا ساختہ پر داختم منظور و قبضہ ہوگا دوران مقدمہ میں جو چیز چاہے التوا لے مقدمہ کے
سبب سے دہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں
گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

المرقوم 4 ماہ 2022ء

العہدہ
Accepted by
Adv. Roshed Khas
Adv. Sheeb
مقام
کے لئے منظور ہے۔