

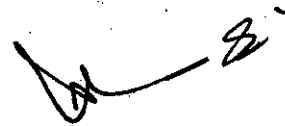
Execution Petition 17/2022

29th June, 2022

1. None for the petitioner present. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Mr. Muhammad Zubair, HC for respondents present.

2. Representative of the respondents submitted copy of order No. 3604/SI Legal dated 14.04.2022 whereby in compliance of the judgment of the Tribunal, the petitioner has been reinstated into service subject to the outcome of the CPLA. Since the petitioner and his counsel did not put appearance today and order of the Tribunal has been complied with, therefore, the instant execution petition is disposed off in the above terms. Consign.

3. *Pronounced in open court in D.I.Khan and given under my hand and seal of the Tribunal on this 29th day of June, 2022.*



(Kalim Arshad Khan)
Chairman
Camp Court D.I.Khan



OFFICE OF THE COMMANDANT
FRONTIER RESERVE POLICE
KHYBER PAKHTUNKHWA, PESHAWAR
Ph: No. 091-9214114 Fax No. 091-9212602

No. 3604 ISI Legal, dated



ORDER

In pursuance with the directions of Inspector General of Police Khyber Pakhtunkhwa Peshawar issued vide CPO Memo No. 1974/Legal, dated 11.04.2022. The decision of Khyber Pakhtunkhwa Service Tribunal, Peshawar dated 26.10.2021 in service appeal No. 580/2019 & Execution Petition No. 17/2022 is hereby implemented. Ex-constable Muhammad Imran, No. 8025 of FRP, DI Khan Range is hereby re-instated in service on provisional / conditional basis, subject to outcome of CPLA lodged by the department against the above mentioned judgment. However, his absence period and the intervening period which he remained out from service are hereby treated as leave without pay.

Commandant,
Frontier Reserve Police, *etc*
Khyber Pakhtunkhwa, Peshawar.

NO & date even:-

Copy of above is forwarded for information & n/action to the SP FRP DI Khan Range, DI Khan. His service record alongwith D file sent herewith.

Handwritten vertical text: 16/04/22

Handwritten notes: 18/04/22, 9098, 18/04/22

Handwritten notes: OB/Officer/SR/18/04/22, 18-04-22

Handwritten note: OB No. 417

Handwritten date: 18-04-2022

Handwritten signature and text: SP/FRP, DIK 18/4

ORDER.

In Continuation to this office order Endst: No.859-62/FRP dated 27.04.2022. Constable Muhammad Imran No.8025 is hereby reinstated in Service on provisional/conditional basis till the decision of CPLA lodged by the department against the judgment of Service Tribunal order dated 26.10.2021 vide Commandant FRP KPK Peshawar office order No.3604/Si legal dated 14.04.2022 with immediate effect. He Reported FRP Police Line DIKhan vide daily dairy No.11 dated 25.04.2022, allotted Constabulary No.8210 and posted in Platoon No.180 Distt: Line DIKhan.

However, his absence Period and the intervening period which he remained out from service are hereby treated as leave without pay.


**Superintendent of Police,
FRP, D.I.Khan Range, D.I.Khan.**

No 895-98 /FRP Dated DI Khan the 10/05 2022.

Copy of above is submitted to the:-

- 1 Commandant FRP Khyber Pakhtunkhwa, Peshawar.
- 2 Pay Officer
- 3 SRC
- 4 OHC


**Superintendent of Police,
FRP, D.I.Khan Range, D.I.Khan**

OPB No 483
10-05-2022

23rd June, 2022

Counsel for the petitioner present. Mr. Muhammad Riaz Khan Painsdakhel, Asst: AG for respondents present.

Respondents are directed through Asst: AG to submit implementation report on the next date positively. To come up for implementation report on 29.06.2022 before S.B at camp court D.I.Khan.




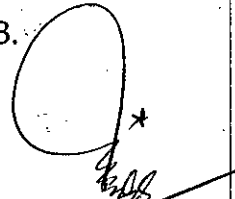


(Kalim Arshad Khan)
Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 17/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	10.01.2022	<p>The execution petition of Mr. Muhammad Imran submitted today by Mr. Taimur Ali 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>
2-		<p>This execution petition be put up before S. Bench at Peshawar on <u>11/2/2022</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	11.02.2022	<p>Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 04 04.2022 for the same as before.</p> <p style="text-align: right;"> Reader</p>
	04.04.2022	<p>Counsel for the petitioner present. Mr. Muhammad Adeel Butt, Addl; AG for respondents present.</p> <p>Notices be issued to the respondents for submission of implementation report. Adjourned. To come up for implementation report on 23.06.2022 before S.B.</p> <p style="text-align: right;"> (MIAN MUHAMMAD) MEMBER(E)</p>

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

Execution Petition No. 17 /2022
In Service Appeal No.580/2019



Muhammad Imran, Ex-Constable No.8025/FRP,
Office of SP/FRP, D.I.Khan,
Presently Village Kata-Khel Panyaila, Tehsil Paharpur, District D.I.Khan.

PETITIONER

VERSUS

1. The Provincial Police Officer (IGP), Khyber Pakhtunkhwa, Central Police Office, Peshawar.
2. Commandant, FRP, Khyber Pakhtunkhwa, Peshawar.
3. SP, FRP, D.I.Khan.

RESPONDENTS

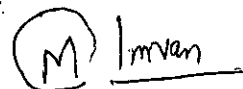
.....
**EXECUTION PETITION FOR DIRECTING THE
RESPONDENTS TO IMPLEMENT THE
JUDGMENT DATED 26.10.2021 OF THIS
HONOURABLE TRIBUNAL IN LETTER AND
SPIRIT.**
.....

RESPECTFULLY SHEWETH:

1. That the petitioner has filed service appeal No.580/2019 against the order dated 20.12.2018, whereby the appellant was removed from service and against the order dated 04.04.2019, whereby the departmental appeal of the appellant was rejected.
2. The said appeal was heard by this Honourable Service Tribunal on 26.10.2021. The Honourable Service Tribunal accepted the appeal and the petitioner was reinstated in service and intervening period was treated as leave without pay. (Copy of judgment dated 26.10.2021 is attached as Annexure-A)

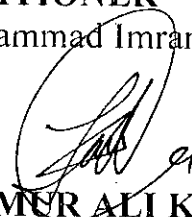
3. That the Honourable Tribunal accepted the appeal and reinstated the appellant into service on 26.10.2021, but after the lapse of more than two months the appellant was not reinstated by the respondents.
4. That in-action and not fulfilling formal requirements by the respondents after passing the judgment of this Honourable Service 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 department is legally bound to obey the judgment dated 26.10.2021 of this Honourable Service Tribunal in letter and spirit.
6. That the petitioner has having no other remedy except to file this execution petition for implementation of judgment dated 26.10.2021 of this Honourable Tribunal.

It is, therefore, most humbly prayed that the respondents may kindly be directed to implement the judgment dated 26.10.2021 of this Honourable Service Tribunal in letter and spirit. Any other remedy, which this august Service Tribunal deems fit and appropriate that, may also be awarded in favour of petitioner.



PETITIONER
Muhammad Imran

THROUGH:



(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT

AFFIDAVIT:

It is affirmed and declared that the contents of the execution petition are true and correct to the best of my knowledge and belief.

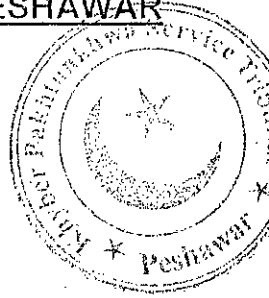



DEPONENT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR
AT CAMP COURT, D.I.KHAN.

Service Appeal No. 580/2019

Date of Institution ... 03.05.2019
Date of Decision ... 26.10.2021



Muhammad Imran S/O Muhammad Jan, Ex-Constable No. 8025/FRP, Office of S.P/F.R.P/ D.I.Khan. Presently, Village Kata-Khel, Panyalla, Tehsil Paharpur, District D.I.Khan.

... (Appellant)

VERSUS

The Provincial Police Officer (IGP), Khyber Pakhtunkhwa, Central Police Office, Peshawar and two others.

... (Respondents)

Muhammad Ismail Alizai,
Advocate

... For appellant.

Muhammad Rasheed,
Deputy District Attorney

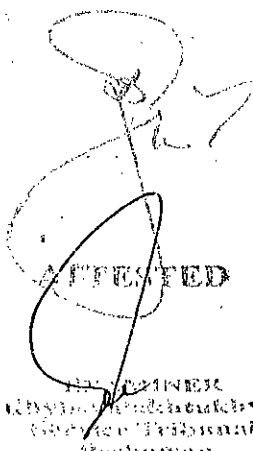
... For respondents.

Rozina Rehman
Atiq Ur Rehman Wazir

... Member (J)
... Member (E)

JUDGMENT

Rozina Rehman, Member(J): Facts gleaned out from the memorandum of appeal are that appellant was enlisted as Constable in the Police Department. He was subjected to departmental proceedings on the allegations of being absent from duty and a show cause notice was issued. The proceedings culminated in award of punishment of removal from service. He moved an appeal duly supported by medical record but the same could not find favor with the appellate authority and was dismissed, hence, the present service appeal.


APPELANT
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
Peshawar

2. We have heard Muhammad Ismail Alizai Advocate learned counsel for appellant and Muhammad Rasheed learned Deputy District Attorney for the respondents and have gone through the record and the proceedings of the case in minute particulars.

3. Muhammad Ismail Alizai Advocate learned counsel appearing on behalf of appellant, in support of appeal contended with vehemence that impugned orders are discriminatory, illegal and arbitrary in nature. He submitted that the appellant is innocent who was subjected to the penalty which is harsh in nature. Learned counsel further contended that the appellant was vexed twice in clear defiance of law and the principles laid down by the superior courts. He submitted that while adjudicating the departmental proceedings and the departmental appeal, the entire matter was disposed in a slip shod manner and the respondents failed to decide the same in accordance with the principles of natural justice and thus awarded impugned punishment which is patently unwarranted and illegal.

4. Conversely, learned D.D.A submitted that the appellant remained willfully absent from his lawful duty on different occasions for a long period, therefore, he was awarded different punishments. He submitted that the appellant was absent from lawful duty w.e.f 08.07.2018 till the date of his removal from service without any leave or permission of the competent authority, therefore, he was proceeded against departmentally and was issued show cause notice but he refused to receive the said notice and that after fulfillment of all codal formalities, he was awarded major punishment of removal from service by the competent authority.

ATTESTED

SECRETARY
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

5. From the record, it is evident that appellant was proceeded against departmentally on the allegations of absence from lawful duty w.e.f 08.07.2018 till the date of his removal from service i.e. 20.12.2018. From the impugned order of Superintendent of Police F.R.P, D.I.Khan Range, D.I.Khan dated 20.12.2018, it is evident that his absence was reported vide daily dairy report No.18 dated 08.07.2018. Another report No.7 of daily dairy dated 27.11.2018 is also available on file which clearly shows the absence of appellant vide daily dairy No.18 as mentioned above besides his ailment and attendance in the Police Station. He made a request for marking his attendance vide the above mentioned report and the same report of daily dairy is not denied by the respondents. Once, the appellant marked his attendance, then it is astonishing as to why he was proceeded against departmentally for this period when he was very much present for his duty. His medical record was also not taken into consideration.

6. Record reveals that appellant was not been treated in accordance with law as record is silent as to whether any charge sheet/statement of allegations was served upon the appellant. Similarly, no inquiry report is available on record to ascertain as to what were recommendations of the Inquiry Officer upon which the appellant was removed from service. Record is silent as to whether any opportunity of defense was afforded to the appellant. Most importantly we have also observed that the appellant was proceeded against on the ground of absence for the mentioned period, however the authority has treated the mentioned period as leave without pay, as such the very ground, on the basis of which the appellant was proceeded against, has vanished away. Wisdom in this respect is


ATTESSED

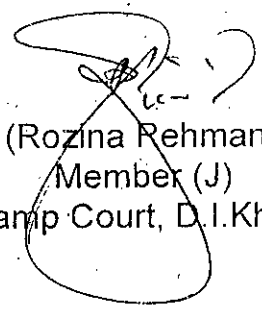
EXAMINER
 K. S. SINGH
 10/11/2018

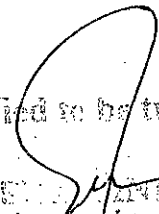
derived from the judgment of the august Supreme Court of Pakistan, reported in 2006 S.C.M.R 434 and 2012 TD (Services) 348.


7. In view of the foregoing, instant appeal is accepted and the appellant is reinstated in service, however the intervening period is treated as leave without pay. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.
26.10.2021


(Atiq Ur Rehman Wazir)
Member (E)
Camp Court, D.I.Khan


(Rozina Rehman)
Member (J)
Camp Court, D.I.Khan

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of presentation of application 11/11/2021
Amount of fine 2000
22 -
4 -
26 - 
Date of Copy 11/11/2021
Date of Delivery 11/11/2021

VAKALAT NAMA

NID. _____/2021

IN THE COURT OF KP Service Tribunal, Peshawar

Muhammad Imran

(Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Police Deptt.

(Respondent)
(Defendant)

I/We, Muhammad Imran

Do hereby appoint and constitute **Taimur Ali Khan, 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 _____/2021

(M) Imran.

(CLIENT)

ACCEPTED

T.A.K.

TAIMUR ALI KHAN
Advocate High Court
BC-10-4240

CNIC: 17101-7395544-5
Cell No. 0333-9390916

OFFICE:

Room # FR-8, 4th Floor,
Bilour Plaza, Peshawar,
Cantt: Peshawar