

30th May, 2022

Petitioner alongwith his counsel present. Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Raziq, Reader for respondents present.

Proper Implementation report not submitted. Learned Addl: AG seeks time to submit the same on the next date. Last opportunity is granted failed which coercive measures will be taken against them. To come up for proper implementation report on 17.06.2022 before the S.B.



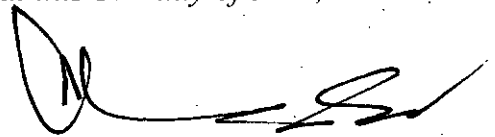
(Kalim Arshad Khan)
Chairman

17th June 2022

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

2. The judgment has been implemented vide order dated 16.06.2022 and copy of the same has been delivered to the petitioner. Disposed of accordingly. Consign.

3. *Pronounced in open court in Peshawar and given under my hand and seal of the Tribunal this 17th day of June, 2022.*



(Kalim Arshad Khan)
Chairman



OFFICE OF THE
CAPITAL CITY POLICE OFFICER
PESHAWAR

ORDER

In light of Khyber Pakhtunkhwa Peshawar Service Tribunal vide Judgment dated 08.01.2018 in r/o Ex-Constable Shehreyar No.508/2189 of CCP, Peshawar was awarded minor punishment of withholding of three years annual increments for the period of three years, vide order OB No.1933, dated 17.06.2019. After the completion of three years, his said increments are hereby released from the date of completion i.e 17.06.2022.

(Zafar Ahmad) DSP/HQrs
FOR CAPITAL CITY POLICE OFFICER,
PESHAWAR.

OB No. 1558

Dated : 16/6 /2022.

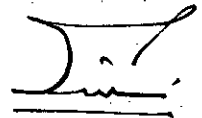
No 11221-25 /CRC, dated Peshawar the 16/6 /2022.

Copy of above is sent for information to the :-

1. Commandant FRP HQrs Peshawar
2. DSP/HQrs: Peshawar.
3. Pay Officer
4. OASI, FMC

11.01.2022

Petitioner alongwith his counsel present. Mr. Naseer-ud-Din Shah, Assistant alongwith Mr. Muhammad Adèel Butt, Additional Advocate General for the respondents present and produced copy of order dated 17.06.2019 by alleging that the implementation of the judgment under execution has been made in the aforementioned order. Copy of the order handed over to learned counsel for the petitioner, who requested that time may be granted to him for submission of objections on the order dated 17.06.2019. Adjourned. To come up for objections, if any, on the order dated 17.06.219 as well as further proceedings on 24.02.2022 before the S.B.



(Salah-Ud-Din)
Member (J)

24.02.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 11.05.2022 for the same as before.



Reader

11.05.2022

Petitioner alongwith his counsel present.

Muhammad Adeel Butt, learned Additional Advocate General alongwith Ahmad Jan S.I (Legal) for respondents present.

A request was made for adjournment in order to submit objections; directed to submit the same within 10 days and file to come up for arguments/further proceedings on 30.05.2022 before S.B.

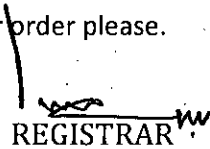

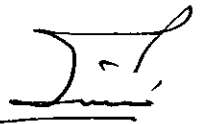


(Rozina Rehman)
Member (J)

Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 247 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	22.10.2021	<p>The execution petition of Mr. Sheryar submitted today by Mr. Noor Muhammad Khattak 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 on <u>19/11/21</u></p> <p style="text-align: right;"> CHAIRMAN</p>
2-	19.11.2021	<p>Learned counsel for the petitioner present. Notices be issued to the respondents for submission of implementation report on 11.01.2022 before the S.B.</p> <p style="text-align: right;"> (Salah-Ud-Din) Member (J)</p>

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

EXECUTION PETITION NO. 247 /2021

SHEHRYAR V/S POLICE DEPTT:

INDEX

S.N O	DOCUMENTS	ANNEXURE	PAGE
1	Memo of implementation	1 - 2
2	Affidavit	3
3	Judgement dt: 08.01.2018	A	4-6
4	Wakalat Nama	7

Dated: 22.10-2021

APPELLANT

Through:

**NOOR MOHAMMAD KHATTAK
ADVOCATE**

FLATE NO: 04/2ND FLOOR,
JUMA KHAN PLAZA, NEAR FATA SECRETARIAT,
WARSAK ROAD, PESHAWAR

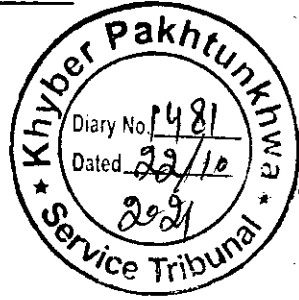
0345-9383141

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Implementation Petition No. 247 /2021

In

Appeal No. 973/2014



Shehryar, Ex-Constable No. 5008/2189,
Police Lines, Peshawar.

.....PETITIONER

VERSUS

- 1- The Inspector General of Police Khyber Pakhtunkhwa, Peshawar.
- 2- The Capital City Police Officer, Peshawar.
- 3- The Superintendent of Police, Headquarters, Peshawar.

.....RESPONDENTS

IMPLEMENTATION PETITION FOR DIRECTING THE
RESPONDENTS TO OBEY THE ORDER DATED 08-
01-2018 IN LETTER AND SPIRIT

R/SHEWETH:

- 1- That the petitioner filed service appeal bearing No. 973/2014 before this august Service Tribunal against the impugned Order dated 21-04-2014.
- 2- That the appeal of the petitioner was fixed before divisional bench of this Honourable Tribunal on 08-01-2018 and the divisional bench of this Honourable Tribunal very graciously partially allowed the Service appeal of the appellant vide its judgment dated 08-01-2018. The operative part is under "***Consequently this Tribunal partially allows the present appeal by modifying/converting major penalty of dismissal from service to withholding of three (03) annual increments for a period of three (03) years. The absence and intervening period shall be treated as leave of the kind due. Parties are left to bear their own costs. File be consigned to the record room.***" Copy of the order dated 08-01-2018 is attached as annexure **A.**
- 3- That after obtaining copy of the order dated 08-01-2018 the petitioner/appellant applied to the Department for its implementation but the respondent Department.

- 2
- 4- That since the passage of more than 02 year of time the department has not implemented or obeyed the judgment dated 08-01-2018 passed by this Honourable Tribunal.
- 5- That the petitioner has no any other remedy but to file this implementation petition.

It is therefore, most humbly prayed that the respondents may be directed to implement the order dated **08-01-2018** in letter and spirit.

Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the petitioner.

Petitioner

S. Khan
SHEHRYAR

Through:

N. Khattak
Noor Mohammad Khattak
Advocate, High Court, Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

EXECUTION PETITION NO. _____/2021

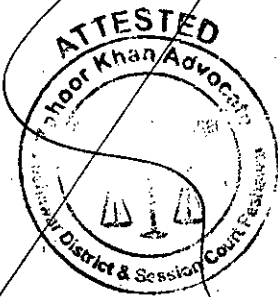
SHEHRYAR

VS

POLICE DEPTT:

AFFIDAVIT

Stated on oath that the contents of the accompanying **execution petition** are correct to best of my knowledge and belief and nothing has been concealed from this Honorable Service Tribunal.



S. Khan

DEPONENT

CERTIFICATE:

Certify that no earlier service appeal has been filed by the appellant in the instant matter before this Honorable Service Tribunal.

S. Khan

CERTIFICATION

Sr. No	Date of order/proceedings	Order or other proceedings with signature of Judge/Magistrate
1	2	3



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Appeal No. 973/2014

Date of Institution ... 23.07.2014
Date of Decision ... 08.01.2018

Mr. Shehryar, Ex. Constable No.5008/2189, Police Lines
Peshawar.

Versus

1. The Inspector General of Police Khyber Pakhtunkhwa, Peshawar.
2. The Capital City Police Officer, Peshawar.
3. The Superintendent of Police, Headquarters, Peshawar.

JUDGMENT

MUHAMMAD HAMID MUGHAL, MEMBER: -

Learned counsel for the appellant and Mr. Kabir Ullah Khattak, Learned Additional Advocate General on behalf of the respondents present.

2. The appellant has filed the present appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974 against the respondents and made impugned the order dated 21.04.2014 whereby he was dismissed from service

ATTESTED

SECRETARY
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

ATTESTED

on the ground of absence from duty. The appellant has also challenged the order dated 04.07.2014 whereby the departmental appeal of the appellant was rejected.

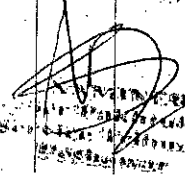
3. Learned counsel for the appellant argued that the appellant remained absent from the duty for the reason beyond his control as he was seriously ill and the respondents have not considered this fact rather passed the severe penalty of dismissal from service. Further argued that the impugned order of punishment was passed without adhering to the legal requirements/codal formalities. Further argued that the impugned penalty is harsh and does not commensurate with the lapse on the part of the appellant.

4. As against that learned AAG while opposing the present appeal argued that the appellant remained absent from duty without prior application and permission and was dismissed from service after the fulfillment of legal requirements.

5. Argument heard. File perused.

6. It is not disputed that the appellant remained absent from duty and after going through the record this Tribunal also observed that the impugned orders were passed upon

ATTESTED

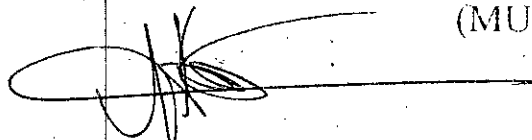

ATTESTED

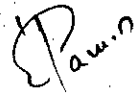
~~ATTESTED~~

3
6

the fulfillment of legal formalities. However keeping in view the stance of the appellant that because of serious illness he was unable to attend to his duties, the punishment in the shape of dismissal from service found harsh and the safe administration of justice would justify the modification in the impugned penalty.

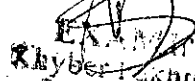
7. Consequently this Tribunal partially allows the present appeal by modifying/converting major penalty of dismissal from service to withholding of three (03) annual increments for a period of three (03) years. The absence and intervening period shall be treated as leave of the kind due. Parties are left to bear their own costs. File be consigned to the record room.


(AHMAD HASSAN)
MEMBER


(MUHAMMAD HAMID MUGHAL)
MEMBER

ANNOUNCED
08.01.2018

Certified to be true copy


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 01-09-21
Number of Words 1200
Copying Fee 14.00
Target 0
Total 14.00
Name of Copyist _____
Date of Completion of Copy 03-09-21
Date of Delivery of Copy 03-09-21

~~ATTESTED~~

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Implication No: _____ OF 2021

Shehryar

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Police Deptt

(RESPONDENT)
(DEFENDANT)

I/We Shehryar

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, 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. ____/____/202

S. Khair
CLIENT

ACCEPTED
NOOR MOHAMMAD KHATTAK

Kamran Khan
KAMRAN KHAN
&

Umar Farooq Mohmand
UMAR FAROOQ MOHMAND
Said Khan
SAID KHAN
Haider Ali
HAIDER ALI
ADVOCATES

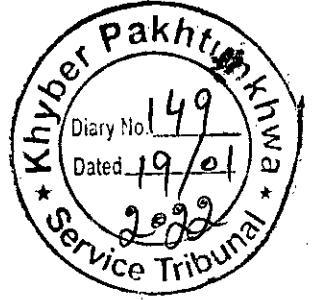
OFFICE:
Flat No.4, 2ND Floor,
Juma khan plaza near
FATA Secretariat, Warsak road
Peshawar City. Mobile No. 0345-9383141

11/1/22 701P
10
24/2/22 701P
BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

C.M. NO. _____/2022

IN

EXECUTION PETITION No: 247/2021



Put up to the Wazir
Chairman with appeal.

NFA

21/1/2022
V/S

19/1/22 SHEHRYAR KHAN

POLICE DEPARTMENT

Ready

**APPLICATION FOR EARLY HEARING OF THE ABOVE
TITLED EXECUTION PETITION.**

Respectfully Sheweth:

1. That, the above title execution petition is pending adjudication before this Honourable Court, which is fixed for hearing on **24.02.2022**.
2. That, applicant/appellant has the above titled petition for the implementation of the judgment dated 08/01/2018 whereas the applicant has been reinstated into service.
3. That, the petition of the applicant/appellant has been notice for reply to the respondents.
4. That, valueable rights of the applicant/appellant are involved in the instant appeal therefore, needs to fix at an earlier.
5. That, the instant early hearing application may very kindly be fixed before the bench.

It is, therefore, most humbly prayed that on acceptance of this application the instant early hearing application may very kindly be fixed before the bench.

PETITIONER

Through:

NOOR MOHAMMAD KHATTAK
Advocate High Court,
Peshawar

ORDER

Ex-Constable Shehreyar No.508/2189 was awarded major punishment of removal from service by the then SP HQrs vide OB No.1314 dated 21.04.2014 on the charges of absence from duty w.e.f 08.02.2013 to 23.05.2013 & 24.05.2013 to 24.01.2014 (11-months & 14-days).

In this regard he was filed departmental appeal before appellate authority against above punishment orders which was rejected/filed by the then CCPO, Peshawar vide No.1382-87/PA dated 04.07.2014.

Ex-Constable Shehreyar No.508/2189 has produced court Judgment, wherein the court of Hon'able Service Tribunal ordered that **"the judgment order dated 08.01.2018 partially accepted his appeal and modifying/converting major penalty of dismissal from service to withholding of three (03) annual increments for a period of 03-years. The absence and intervening period shall be treated as leave of the kind due."**

In light of the Court Judgment, DSP Legal opinion & kind approval of SSP Coordination, Ex-Constable Shehreyar No.508/2189 is hereby conditionally re-instated in service & punishment order of dismissal is modified & converted into withholding of three annual increments for a period of 03-years with immediate effect. Hence, intervening period i.e period of absence & out of service is treated as leave of the kind due subject to the decision of CPLA which is still subjudice in the Apex Court.


**SUPERINTENDENT OF POLICE
HEADQUARTERS, PESHAWAR**

OB. NO. 1933 / Dated 17/6 /2019

No. 1203-09 /PA/SP/dated Peshawar the 17/6 /2019

Copy of above is forwarded for information & n/action to:

- ✓ Capital City Police Officer, Peshawar.
- ✓ DSP/HQrs, Peshawar / *DSP-legal.*
- ✓ Pay Office,
- ✓ OASI, CRC & FMC along-with complete departmental file.
- ✓ Officials concerned.

ORDER

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