

E.P. No. 450/2022
Muhammad Khan vs Govt

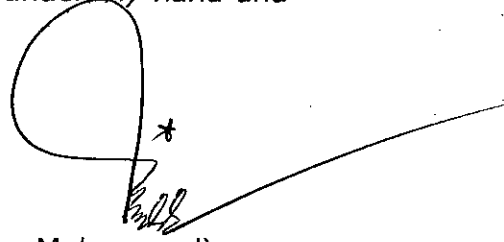
26.09.2022

Learned counsel for the petitioner present. Mr. Kabirullah Khattak,
Additional Advocate General alongwith Mr. Muhammad Ayaz, S.I (Legal)
for the respondents present.

02. Representative of respondent department produced a copy of the
office order bearing No. 9150/SB dated 22.09.2022 whereby the petitioner
has been reinstated in service with immediate effect subject to the
outcome of CPLA pending before the august Supreme Court of Pakistan.
Since the Service Tribunal judgement dated 17.05.2022 has been
conditionally/provisionally implemented vide the said office order and the
learned counsel for petitioner stated at the Bar that he feels satisfied with
the implementation report, as such the Service Tribunal judgement stands
implemented. Consign.

03. *Pronounced in open at Peshawar and given under my hand and
seal of the Tribunal this 26th of September, 2022.*




(Mian Muhammad)
Member (E)

ORDER

This order is passed in compliance with the Judgment of the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar dated 17.05.2022 passed in Service Appeal No. 6223/2020 filed by Muhammad Khan Ex-Assistant Sub Inspector (hereinafter referred as accused officer) against impugned Order of Dismissed from Service under the Khyber Pakhtunkhwa Police Rules 1975 (amended 2014) vide Order dated 04.03.2020. Facts in brief leading to the instant departmental action of imposing Major Punishment of Dismissed from service against the accused officer are as follows:-

Ex-Assistant Sub Inspector Muhammad Khan was posted in field office, GO Special Branch Kohat got involved in criminal case bearing FIR No. 48 dated 16.01.2020 u/s 15AA/17/AA, PS Muhammad Riaz Shaheed (MRS) District Kohat while smuggling an Arms cache comprising Kalashnikov rifles, Pistols and Ammunition, in motorcar No. B7111/Mardan, however, appellant decamped from the scene.

Proper departmental proceedings were initiated under ibid Rules by issuing Charge Sheet and Statement of Allegations against the accused officer. Mr. Fazal Hanif Khan DSP/Alien Special Branch was appointed as Enquiry Officer to probe into the matter. The Enquiry Officer after conduct of detailed enquiry, found the accused officer guilty of misconduct within the meaning of ibid Rules. The competent authority after perusal of the enquiry imposed Major Punishment of Dismissal from Service upon the accused officer under ibid Rules vide Order dated 04.03.2020. Where after, the accused officer filed Appeal to Deputy Inspector General of Police Special Branch, but filed by the competent authority on 19.05.2020. Later on, the accused officer filed Service Appeal No. 6223/2020 in Khyber Pakhtunkhwa Service Tribunal which was accordingly allowed/accepted on 17.05.2022 as prayer for.

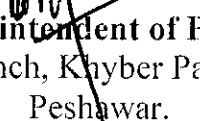
Department approached Law Department for lodging appeal/CPLA wherein the Scrutiny Committee headed by Secretary Law approved the case hence CPLA against the impugned Judgment/Order has been filed by this establishment in the August Supreme Court of Pakistan.

In the meanwhile, accused officer filed Execution Petition No. 450/2022 in Service Appeal No. 6223 of 2020 before the Khyber Pakhtunkhwa Service Tribunal, Peshawar for implementation of the judgement. The case was fixed for hearing on 04.08.2022 wherein the Hon'ble Tribunal was pressing hard and directed for implementation of the Judgment with the following remarks passed:-

"Learned Assistant Advocate General requested for time to submit implementation report on the next date. Adjourned. To come up for implementation report on 26.09.2022 before S.B.

Proper guidance was sought from CPO vide letter No. 94/Legal/SB dated 08.09.2022 and the competent authority directed to implement the judgment dated 17.05.2022 conditionally and provisionally subject to outcome of CPLA vide letter No. 4602/Legal dated 19.09.2022.

As the Hon'ble Tribunal is pressing hard and directed for implementation of the Judgment and to come up for report in compliance on 26.09.2022 therefore, the judgment has become final and there is no other option but to implement the judgment hence is provisionally implemented and Muhammad Khan Ex-Assistant Sub Inspector is re-instated in service with immediate effect. Further the accused officer shall submit proper affidavit on stamp paper that he will return the payment made to him if CPLA was accepted.



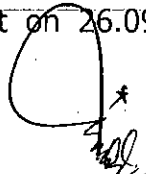

Senior Superintendent of Police, Admin
Special Branch, Khyber Pakhtunkhwa,
Peshawar.

No. 9150 18B, dated, the Peshawar 22 / 09 /2022
Copy of the above is forwarded to all concerned.

Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 450/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	03.08.2022 SCANNED KPST Peshawar	<p>The execution petition of Mr. Muhammad Khan submitted today by Mr. Muhammad Liaqat Advocate may be entered in the relevant register. This execution petition be put up before Single Bench at Peshawar on <u>04-08-2022</u>. Original file be requisitioned.</p> <p style="text-align: right;"> REGISTRAR</p>
04.08.2022		<p>Petitioner present in person.</p> <p>Notice be issued to respondents for submission of implementation report. To come up for implementation report on 30.08.2022 before S.B.</p> <p style="text-align: right;"> (Fareeha Paul) Member (E)</p>
30.08.2022		<p>Learned counsel for the petitioner present. Mr. Naseer-Ud-Din Shah, Assistant Advocate General along with Mr. Suleman Reader for the respondents present.</p> <p>Implementation report not submitted. Learned Assistant Advocate General requested for time to submit implementation report on the next date. Adjourned. To come up for implementation report on 26.09.2022 before S.B.</p> <p style="text-align: right;"> (Mian Muhammad) Member (E)</p>