

07.10.2022

Petitioner present through his counsel Mr. Imdad Ullah Advocate who at the very outset informed this Bench regarding implementation of judgment.

Muhammad Jan, learned District Attorney for respondents present.

Learned counsel for petitioner requested for filing of the instant execution proceedings as the grievance of the petitioner have been redressed.

In this view of the matter, instant execution proceedings stand consigned being fully satisfied. No order as to costs.


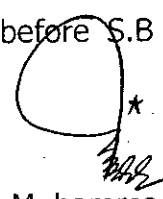
Announced.  
07.10.2022

(Rozina Rehman)  
Member (J)  
Camp Court Swat

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Execution Petition No. 406/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	22.07.2022	<p>The execution petition of Mr. Ali Imran submitted today by Mr. Imdadullah Advocate. It is fixed for implementation report before touring Single Bench at Swat on <u>9-9-22</u>. Original file be requisitioned. AAG has noted the next date. The respondents be issued notices to submit compliance/implementation report on the date fixed.</p> <p style="text-align: right;">By the order of Chairman  REGISTRAR.</p>
	09.09.2022	<p>Learned counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General alongwith Mr. Ali Rehman, Inspector (Legal) for the respondents present.</p> <p>Implementation report not submitted. Representative of the respondents requested for time to submit implementation report on the next date. The department is obligated to either implement the judgement of Service Tribunal or to get it suspended from the august Supreme Court of Pakistan. Adjourned. To come up for implementation report on 07.10.2022 before S.B at Camp Court, Swat.</p> <p style="text-align: right;"> (Mian Muhammad) Member (E) Camp Court, Swat</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR

Execution Petition No. 406 of 2022

Ali Imran Ex-Constable Swat Police, District Swat.

...Petitioner

VERSUS


The Provincial Police Officer Khyber Pakhtunkhwa, Peshawar and Others.

...Respondents

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Petitioner Through

  
Imdad Ullah  
Advocate Swat

Office: Khan Plaza, Gulshone Chowk,  
Mingora Swat, Cell 0333 929 7746

①

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

Execution Petition No. 406 of 2022

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 756

Dated 22/7/2022

Ali Imran Ex-Constable Swat Police, District Swat.

...Petitioner

**VERSUS**

1. The Provincial Police Officer Khyber Pakhtunkhwa,  
Peshawar.
2. The Regional Police Officer Malakand Range at  
Saidu Sharif, District Swat.
3. The District Police Officer Swat at Gulkada,  
District Swat.

...Respondents

APPLICATION FOR  
IMPLEMENTATION OF THE  
JUDGMENT DATED 04-04-2022  
PASSED BY THIS HONOURABLE  
TRIBUNAL.

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Respectfully Sheweth:

- i. That the petitioner filed a departmental appeal for his reinstatement, which culminated finally in the Service Appeal No. 12098 of 2020 before this Honourable Tribunal.
- ii. That this Honourable Tribunal was pleased to decide the same vide judgment dated 04-04-

2022, whereby the Petitioner was reinstated back into service with all back benefits. Copy of the judgment dated 04-04-2022 is enclosed as Annexure "A".

- iii. That the Respondents are intentionally delaying the process to the utter detriment of the petitioner on one hand while clearly disobeying the clear directions of this Honourable Tribunal.
- iv. That the Respondents have failed to comply with the direction of this Honourable Tribunal bald of any reasons and in very contemptuous manner.
- v. That the Respondents may very kindly be directed to comply the judgment of this Honourable Tribunal by reinstating the Petitioner back into service and also granting all the back benefits as directed by this Honourable Tribunal.

It is, therefore, very respectfully prayed that on acceptance of this petition the Respondent No. 3 may very kindly be directed to implement the judgment of this Honourable Tribunal without any further delay.

Any other relief deemed appropriate in the  
circumstances and not specifically prayed for  
may also very kindly be granted.

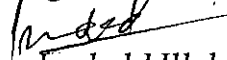
3

Petitioner



Ali Imran

Through Counsel,



Imdad Ullah

Advocate Swat

(4)

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

Execution Petition No. \_\_\_\_\_ of 2022

*Ali Imran Ex-Constable Swat Police, District Swat.*

...Petitioner

**VERSUS**

*The Provincial Police Officer Khyber Pakhtunkhwa,  
Peshawar and Others.*

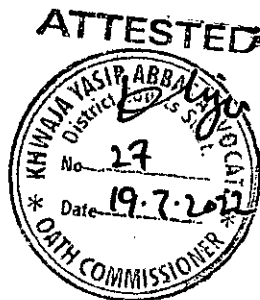
...Respondents

**AFFIDAVIT**

*It is solemnly stated on Oath that all the contents of  
this implementation petition are true and correct to the  
best of my knowledge and belief and nothing has either  
been misstated or kept concealed before this Honourable  
Tribunal.*

*Moreover no other such like petition is either  
pending or decided among the same parties on the same  
subject is neither pending nor decided by this this  
Honourable Tribunal.*

Deponent  
  
Ali Imran



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

Execution Petition No. \_\_\_\_\_ of 2022

*Ali Imran Ex-Constable Swat Police, District Swat.*

*...Petitioner*

**VERSUS**

*The Provincial Police Officer Khyber Pakhtunkhwa,  
Peshawar and Others.*

*...Respondents*

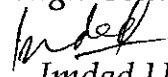
**ADDRESSES OF THE PARTIES**

Petitioner:

*Ali Imran Ex-Constable Swat Police, District Swat.*

Respondents:

1. *The Provincial Police Officer Khyber Pakhtunkhwa,  
Peshawar.*
2. *The Regional Police Officer Malakand Range at  
Saidu Sharif, District Swat.*
3. *The District Police Officer Swat at Gulkada,  
District Swat.*

*Petitioner  
Through Counsel,  
  
Imdad Ullah  
Advocate Swat*



BEFORE THE SERVICE TRIBUNAL KHYBER  
PAKHTUNKHWA AT PESHAWAR

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*7098*

Appeal No \_\_\_\_\_ of 2020

Khyber Pakhtunkhwa  
Service Tribunal

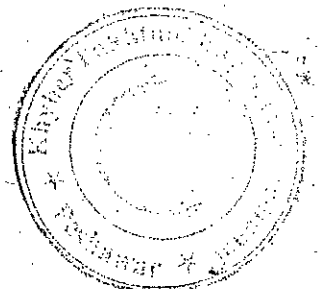
Entry No 11393

Dated 12/10/2020

Ali Imran Ex Constable Department of Police District Swat,  
son of Wazir Zada resident of Islamabad, Rahim Abad,  
Tehsil & District Swat.

.....Appellant -

VERSUS



- 1) District Police Officer Swat.
- 2) Regional Police Officer Malakand Division at Saidu sharif, Swat

.....Respondents

SERVICE APPEAL UNDER SECTION 4, OF  
THE KPK SERVICE TRIBUNAL ACT, 1974,  
AGAINST THE ORDER DATED 10-01-2020  
PASSED BY THE RESPONDENT NO. 2  
WHEREBY HE DISMISSED THE APPEAL  
OF THE APPELLANT AND MAINTAINED  
THE ORDER DATED 09-04-2019, WHEREBY  
THE APPELLANT WAS REMOVED FROM  
SERVICE.

Filed to-day  
*Law Registrar*  
12/10/2020

Admitted to-day  
and filed.  
*Law Registrar*  
15/10/2020

*Attested*  
*Advocate*

ATTESTED  
*Ali Imran*  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

(7)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR**  
**AT CAMP COURT, SWAT.**

Service Appeal No. 12098/2020

Date of Institution ... 12.10.2020  
Date of Decision ... 04.04.2022



Ali Imran Ex-Constable Department of police District Swat, son of Wazir Zada resident of Islamabad, Rahim Abad, Tehsil & District Swat.

(Appellant)

**VERSUS**

District Police Officer Swat and one another.

(Respondents)

Imdad Ullah,  
Advocate

... For appellant.

Noor Zaman Khan Khattak,  
District Attorney

... For respondents.

Salah-Ud-Din  
Rozina Rehman

... Member (J)

... Member (J)

**JUDGMENT**

**ROZINA REHMAN, MEMBER (J):** The appellant has invoked the jurisdiction of this Tribunal through above titled appeal with the prayer as copied below:

“On acceptance of this appeal the orders passed by the respondents be declared as illegal, discriminatory, against law, void ab-initio and may graciously be set aside and the appellant may be reinstated in service with all back benefits.”

**Attested**  
*[Signature]*  
**Advocate**

**ATTESTED**  
*[Signature]*  
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR

2. The relevant facts leading to filing of instant appeal are that appellant was appointed as Constable in District Police, Swat. During service, he was charged in a criminal case and during the pendency of trial, he was dismissed from service on 09.04.2019. He was acquitted by Judge, Special Court, Swat on 20.11.2019, where-after, he approached the respondent Department for his adjustment but to no avail and lastly his departmental appeal was dismissed, hence, the present service appeal.

3. We have heard Imdad Ullah Advocate for appellant and Noor Zaman Khan Khattak, learned District Attorney for the respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Imdad Ullah Advocate, learned counsel appearing on behalf of appellant, inter-alia, submitted that the impugned orders are illegal, against law and facts as the appellant was not treated according to law and rules. He contended that the appellant was discriminated as no charge sheet with statement of allegations and show cause notices were communicated to the appellant and no proper inquiry was conducted in the matter. He submitted that the appellant was not provided proper opportunity of personal hearing and he was condemned unheard. He, therefore, requested for acceptance of the instant appeal.

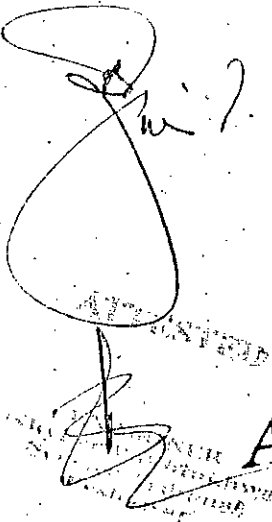
5. Conversely learned District Attorney submitted that the appellant performed his duty in different police posts and police stations however his performance was not satisfactory and he remained

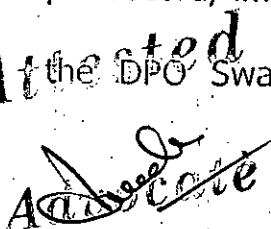
Attested  
Advocate

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involved in narcotics cases and was caught red handed while selling Charas. He argued that he was charged in case FIR No.70 at Police Station Rahimabad which brought a bad name for Police Department and that his act was against the disciplined force and badly influenced the attitude of other police personnel, therefore, he was dismissed from service being charged in a case registered U/S 9(b) of CNSA and lastly he submitted that he was acquitted by the court, however, was dismissed from service on departmental proceedings conducted against him as per rules.

6. After hearing the learned counsel for the parties and going through the record of the case with their assistance and after perusing the precedent cases cited before us, we are of the opinion that Ali Imran was dismissed from service vide impugned order dated 09.04.2019 on account of being involved in a narcotics case registered against appellant vide FIR No.70 dated 23.01.2019 registered at Police Station Rahim Abad U/S 9(b) of CNSA. It was on 20.11.2019 when the present appellant was discharged in the above mentioned case on the strength of statement recorded by principal accused namely Muhammad Sardar. Just after discharge by a competent court of Law on 20.11.2019, he filed departmental appeal on 08.01.2020 but his departmental appeal met the same fate at the hands of respondent vide order of Regional Police Officer dated 10.01.2020. The assertion of the learned AAG regarding the departmental appeal being barred by time does not find support from any document. As per record, impugned order of dismissal from service was passed by the DPO Swat on 09.04.2019. He filed departmental appeal on

Attested  


Attested  


08.01.2020 after disposal of criminal case on 20.11.2019. His departmental appeal was dismissed on merits and not on the ground of limitation and this order was passed by RPO Malakand on 10.01.2020 while the present service appeal was filed on 12.10.2020. In wake of COVID-19, the Government of Khyber Pakhtunkhwa declared Public Health Emergency for the first time in March, 2020 for three months which was extended from time to time for further term. The case of the appellant falls within the period of emergency. In view of Section-30 of the Khyber Pakhtunkhwa Epidemic Control and Emergency Relief Act, 2020, the limitation period provided under any law shall remain frozen. This appeal having been filed after promulgation of the said Act, is not affected by bar of limitation. It has been held by the superior fora that all acquittals are certainly honorable. There can be no acquittal which may be said to be dishonorable. In case of the present appellant, he alongwith one another namely Muhammad Sardar were charged vide FIR No.70 dated 23.01.2019 registered at Police Station Rahimabad U/S 9(b) of CNSA. They were tried in a competent court of law and vide order of Judge, Special Court Swat dated 20.11.2019 co-accused Muhammad Sardar was convicted and sentenced to undergo simple imprisonment for eight days while the present appellant Ali Imran was discharged on the strength of statement recorded by principal accused. Involvement of the appellant in the case of narcotics was the only ground on which he had been dismissed from service and the said ground had subsequently disappeared through his discharge, making him re-emerge, as a fit and proper person entitled to continue his

*Ali Imran*

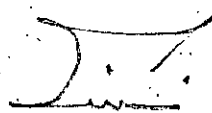
ATTESTED  
*Attestea*  
*Attestea*

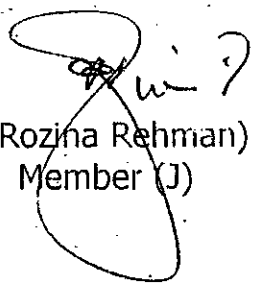
service. In this respect we have sought guidance from 1988 PLC (CS) 179, 2003 SCMR 215 and PLD 2010 Supreme Court, 695 and judgments rendered by this Tribunal in Service Appeal No.1380/2014 titled Ilam Nawaz Vs. Police Department; Service Appeal No.616/2017 titled Mumtaz Ali Vs. Police Department; Service Appeal No.863/2018 titled Fateh-ur-Rehman Vs. Police Department; Service Appeal No.1065/2019 titled Naveed Gul Vs. Police Department and Service Appeal No.767/2019 titled Waqas Ahmad Vs. Police Department.

7. It merits a mention here that neither charge sheet with statement of allegations nor show cause notice was ever served upon appellant. No inquiry was conducted and the appellant was dismissed from service just on the strength of his involvement in the narcotics case. Admittedly, he was condemned unheard as no opportunity of personal hearing was ever afforded to the appellant.


8. For what has been discussed above, this appeal is accepted and the impugned order dated 09.04.2019 is set aside alongwith other orders on the appeal of the appellant and the appellant is reinstated in service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.  
04.04.2022

  
(Salah-Ud-Din)  
Member (J)

  
(Rozina Rehman)  
Member (J)

**Attested**  
*Arif*  
**Associate**

Certified to be true copy  
  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

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In the matter of:-

ALI IMRAN Appellant

VERSUS

DISTRICT POLICE OFFICER Respondent,  
KOTLAKH.

KNOWN ALL to whom these present shall come that I/we, the undersigned appoint

AZIZ-UR-RAHMAN and IMDAD ULLAH

Advocates High Court

To be the advocate for the Petitioner in the above mentioned case to do all the following acts, deeds and things or any one of them, that is to say:-

- ❖ To acts, appear and plead in the above mentioned case in this court or any other Court in which the same may be tried or heard in the first instance or in appeal or review or revision or execution or at any other stage of its progress until its final decision.
- ❖ To present pleadings, appeals, cross objections or petitions for execution review, revision, withdrawal, compromise or other petition or affidavits or other documents as shall be deemed necessary or advisable for the prosecution of the said case in all its stages.
- ❖ To withdraw or compromise the said or submit to arbitration any difference or dispute that shall arise touching or in any manner relating to the said case.
- ❖ To receive money and grant receipts therefore, and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case.
- ❖ To employ any other Legal Practitioner authorizing him to exercise the power and authorities hereby conferred on the Advocate wherever he may think fit to do so.
- ❖ I understand that the services of aforesaid lawyer are hired irrespective of the outcome of the case.

And I/We hereby agreed to ratify whatever the advocate or his substitute shall to do in the said premises.

And I/We hereby agree not to hold the Advocate or his substitute responsible for the result of the said case in consequences of his absence from the Court when the said case is called up for hearing.

And I/We hereby agree that in the event of the whole or any part of the fee agreed by me/us to be paid to the Advocate remaining unpaid, the Advocate shall be entitled to withdraw from the prosecution of the case until the same is paid.

IN THE WITNESS WHEREOF I/WE hereunto set my/our hand(s) to these present the contents of which have been explained to and understood by me/us, this 18 day of 07 2022

(Signature or thumb impression)

(Signature or thumb impression)

(Signature or thumb impression)

Accepted subject to terms regarding fees

(AZIZ-UR-RAHMAN)

Advocate High Court

Office: Khan Plaza, Gulshone Chowk  
G.T. Road Mingora, District Swat.  
Cell No. 0300 907 0671

(IMDAD ULLAH)

Advocate High Court

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G.T. Road, Mingora, District Swat  
Cell No. 0333 929 7746