

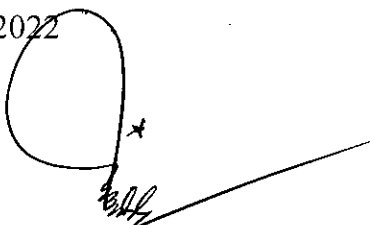
18.07.2022

Learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

02. On perusal of the file, office order bearing No. 11538-41/EC dated 23.12.2021 was found to have been placed as annexure B (Page-9) which depicts and reflects that the Service Tribunal judgement dated 10.09.2021 has been implemented conditionally/provisionally subject to the outcome of CPLA. When attention of the learned counsel for the petitioner was invited to the said implementation order, he requested that the No: of the said CPLA may be provided to him. Learned Additional Advocate General is directed to provide the same.

03. In view of the above, for all intents and purposes, the Service Tribunal judgement dated 10.09.2021 has conditionally/provisionally been implemented by the respondent department. As such the instant execution petition stands implemented. Consign.

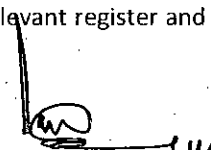



04. Pronounced in open court at Peshawar and given under my hands and seal of the Tribunal this 18th of July, 2022


(Mian Muhammad)
Member (E)

Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. _____ 310/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	27.05.2022	<p>The execution petition of Mr. Ilam Nawaz submitted today by Mr. Nasir Khan Afridi Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p> REGISTRAR</p>
2-	02-06-2022	<p>This execution petition be put up before Single Bench at Peshawar on <u>07-06-22</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> CHAIRMAN</p>
	<p> 07.06.2022</p>	<p>Petitioner in person present.</p> <p>Notice be issued to respondents for submission of implementation report. To come up for implementation report on 18.07.2022 before S.B.</p> <p> (Rozina Rehman) Member (J)</p>

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Execution Petition No. 310...../2022
In Service Appeal no. 1380/2014

Ilam Nawaz **Petitioner**

Versus

Inspector General of Police KPK & Others **Respondents**

INDEX

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1.	Execution Petition		1-3
2.	Copy of order 10/09/2021	A	4-8
3.	Copy of Order 23/12/2021	B	9
4.	Copy of applications	C	10-11
5.	Wakalatnama		Original

Dated: 27/05/2022

Through

PETITIONER



Nasir Khan Afridi
Advocate, High Court
Peshawar

Address: FF28, 5th Floor Bilour Plaza Peshawar Cantt.

0315 5250330 / 0300 5928596

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Execution Petition No. 310...../2022
In Service Appeal no. 1380/2014

Khyber Pakhtunkhwa Service Tribunal

Diary No. 657

Dated 27/05/2022

Ilam Nawaz S/O Bahadar Khan, Constable Built No. 213, District Police Hangu.

..... **Petitioner**

Versus

1. Inspector General of Police Khyber Pakhtunkhwa, Peshawar.
2. Secretary to Government of Khyber Pakhtunkhwa, Home Department Peshawar.
3. District Police Officer, Hangu.
4. Deputy Inspector General of Police, Kohat Region Kohat.

..... **Respondents**

EXECUTION / IMPLEMENTATION PETITION FOR DIRECTING THE RESPONDENTS TO IMPLEMENT THE JUDGMENT DATED 10/09/2021 OF THIS HON'BLE SERVICE TRIBUNAL IN LETTER AND SPIRIT

Respectfully Sheweth:

1. That the petitioner filed service appeal no. 1380/2014 in this Hon'ble Court against the impugned order dated 27/12/2013, whereby petitioner has been dismissed from service and the petitioner filed departmental appeal which was dismissed where after the petitioner filed representation which was also dismissed.
2. That the petitioner aggrieved from the impugned order dated 27/12/2013 filed appeal before this Hon'ble Service Tribunal Khyber Pakhtunkhwa, Peshawar which was allowed vide dated 10/09/2021 and the petitioner was reinstated in service with all back

- benefits. (Copy of the Judgment / Order dated 10/09/2021 is annexed as annexure "A")
3. That the petitioner filed application to respondents department for implementation of judgement of this Hon'ble Service Tribunal dated 10/09/2021 in appeal no.1380/2014.
 4. That the respondent no. 3, vide office order no. 446, dated 23/12/2021 partially implement the order / judgement of Hon'ble Service Tribunal, Khyber Pakhtunkhwa, Peshawar dated 10/09/2021 in appeal no.1380/2014 and only reinstated the petitioner in service but did not allow other benefits and refused to release the arrears. (Copy of the order dated 23/12/2021 is annexed as annexure "B")
 5. That the petitioner filed application to respondent no.3 for implementation of judgment / order dated 10/09/2021 passed by this Hon'ble Tribunal for the implementation of the said order to release all back benefits but the respondents not fulfilling the order dated 10/09/2021. (Copy of the application is annexed as annexure "C")
 6. That in action and not fulfilling formal requirements by the respondents after passing the judgment of this Hon'ble Tribunal is totally illegal amount to disobedience and contempt of Court.
 7. That the judgement is still in field and has not been suspended or set aside by the August Supreme Court of Pakistan, therefore the respondent department is legally bound to obey and implement the order / judgement of Hon'ble Service Tribunal, Khyber Pakhtunkhwa, Peshawar dated 10/09/2021 in appeal no.1380/2014 in letter and spirit.

8. That the petitioner has having no other remedy except to file this execution petition for implementation of judgment dated 10/09/2021 of this Hon'ble Court.

It is therefore most humbly prayed that the respondents may kindly be directed to implement the judgment dated 10/09/2021 of this Hon'ble Service Tribunal Khyber Pakhtunkhwa, Peshawar in letter and spirit.

Any other remedy which this august service tribunal deems fit and appropriate that may also be awarded in favour of the petitioner.

Dated: 27/05/2022

Through

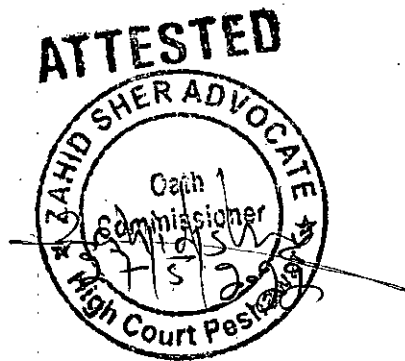
PETITIONER

Nasir Khan Afridi

Nasir Khan Afridi
Advocate, High Court
Peshawar

AFFIDAVIT:

It is affirmed and declared on oath that the contents of the execution petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.



DEPONENT

Nasir Khan Afridi
14203-44453119

Annexure "A"

4

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR



Service Appeal No. 1380/2014

Date of Institution ... 04.12.2014
Date of Decision ... 10.09.2021

Ilam Nawaz S/O Bahadar Khan, Ex-Constable No.292, District Police, Hangu.

(Appellant)

VERSUS

Inspector General of Police, Khyber Pakhtunkhwa, Peshawar and three others.

(Respondents)

Raja Muhammad Ijaz,
Advocate ... For appellant.

Kabir Ullah Khattak,
Assistant Advocate General ... For respondents.

ROZINA REHMAN ... MEMBER (J)
ATIQU UR REHMAN WAZIR ... MEMBER (E)

JUDGMENT

ROZINA REHMAN, MEMBER (J): The relevant facts leading to filing of instant appeal are that appellant joined service of the Prison Department as Constable. He was implicated in a criminal case and was arrested by the Islamabad Police, where-after, he was released on bail. He visited Hangu Police Lines for joining duty but was shocked to know about his dismissal from service vide order dated 27.12.2013. He filed departmental appeal which was dismissed,

ATTESTED
MEMBER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

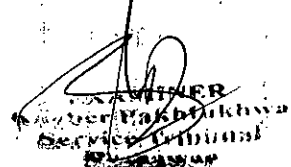
where-after, he filed representation which was also dismissed, hence, the present service appeal.

2. We have heard Raja Muhammad Ijaz Advocate for appellant Kabir Ullah Khattak learned Additional Advocate General and for the respondents and have gone through the record and the proceedings of the case in minute particulars.

3. It has been contended by the learned counsel for appellant that the impugned orders were passed at the back of the appellant as no charge sheet was served upon him and he was condemned unheard because he was in the judicial lockup. Learned counsel further submitted that the appellant was arrested by the Islamabad Police without seeking permission of the competent authority of Khyber Pakhtunkhwa Police and that the absence of appellant was not deliberate as he was confined in judicial lockup, therefore, joining the duty was beyond his control. He submitted that mere arrest in a criminal case is no ground for dismissal from service unless and until conviction order is recorded by the competent court of Law and lastly, he submitted that the appellant was acquitted in the criminal case and the only stigma on the person of appellant is no more; therefore, he may kindly be reinstated in service. Reliance was placed on 2005 P.L.C (C.S) 1197; 2002 S.C.M.R 57 and 2006 S.C.M.R 453.

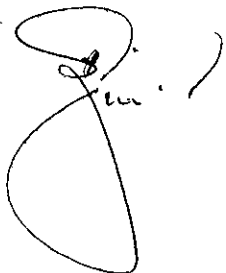
4. Conversely learned A.A.G submitted that appellant absented himself from lawful duty and was arrested in case F.I.R No.282 of Police Station Sabzi Mandi Islamabad for recovery of stolen car,


ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

therefore, proper charge sheet was issued and departmental inquiry was conducted as he was involved in the offence of *moral turpitude*.

5. As per record on the basis of allegations that Alam Nawaz while posted at Qazi Pump Naka Bandi Police Lines, Hangu proceeded on Shabashi on 08.06.2013 and absented himself from official duty w.e.f 09.06.2013 who was arrested in Punjab in F.I.R No.282 dated 13.06.2013 of Sabzi Mandi Police Station, Islamabad. Charge sheet and statement of allegations were issued and available on file. One Gul Sarwar Khan R.I Police Station Hangu was appointed as Inquiry Officer. The inquiry report is available on file which clearly shows that neither the charge sheet nor statement of allegation was ever served upon the appellant as he had been arrested by the Islamabad Police. He was confined in Jail but the Inquiry Officer did not try even to contact the appellant to make sure service of any notice upon the appellant for the purpose of departmental proceedings. He was proceeded against ex-parte despite the fact that he was in jail and this fact was in the knowledge of the respondents but even then, final show cause notice was issued and he was dismissed from service vide order dated 27.12.2013. He preferred departmental appeal on 04.08.2014 which was dismissed on 12.11.2014. There is nothing on file which could show that order of dismissal was properly communicated to the appellant in time. Perusal of record would reveal that after arrest of the appellant, case was tried in the competent court of Law and the appellant was convicted by the learned Judicial Magistrate on 23.04.2014. Feeling aggrieved, he filed Criminal Appeal under Section 408/409 of PPC against the order of Judicial Magistrate,



ATTESTED

CHIEF CLERK
Service Tribunal
Islamabad

Islamabad in the Court of Additional Sessions Judge-VIII, Islamabad and vide order dated 16.05.2014 of the Additional Sessions Judge, Islamabad, appeal was accepted, the impugned judgment was set aside and case was remanded to Trial Court with direction to proceed in accordance with law and to remove all the illegalities, however, he did not pass the order of acquittal giving cause to the present appellant to file bail application in the Islamabad High Court and vide order dated 02.07.2014 of the august Court, he was admitted to bail, where-after, the learned Trial Court concluded the trial and vide order dated 14.05.2015 of the learned Judicial Magistrate, he was acquitted. It has been held by the superior fora that all the acquittals are certainly honorable. There can be no acquittal which may be said to be dishonorable. Involvement of the appellant in the criminal case was the only ground on which he had been dismissed from service and the said ground had subsequently disappeared, therefore, his acquittal, making him re-emerge as fit and proper person entitled to continue with his service.

6. It is established from the record that charges of involvement in the criminal case ultimately culminated in honorable acquittal of appellant by the competent Court of Law in the above-mentioned criminal case. In this respect, we have sought guidance from 1988 P.L.C (C.S) 179; 2003 S.C.M.R 215 and P.L.D 2010 Supreme Court 695.

7. In view of the above factual and legal position, we set aside the impugned orders and direct that the appellant be reinstated in

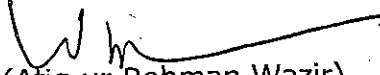
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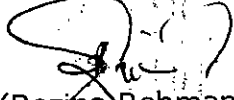
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Islamabad

8

in service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.
10.09.2021


(Atiq ur Rehman Wazir)
Member (E)


(Rozina Rehman)
Member (J)

Date of Presentation of Application 12/05/2022
 Number of Words 2402
 Copying Fee 26/-
 Urgent ✓
 Total 26/-
 Name of Copyist _____
 Date of Completion of Copy 20/5/22
 Date of Delivery of Copy 20/5/22

Certified to be true copy

EXHIBIT
Khyber Pakhtunkhwa
Service Tribunal
Peshawar



OFFICE OF THE
DISTRICT POLICE OFFICER,
HANGU

Tel: No. 0926-023078 & Fax No. 0926-020136
Email: dpohangu8@gmail.com

ORDER

In pursuance of Hon'ble Service Tribunal, Khyber Pakhtunkhwa, Peshawar order announced on 10/09/2021 in Service Appeal No. 1380/2014 dated 14.12.2014, Ex-Constable Alam Nawaz No. 292 is hereby conditionally/provisionally reinstated in service with all back benefits till the outcome of CPLA with immediate effect.

OB No. 446

Dated 23/12/2021.

DISTRICT POLICE OFFICER,
HANGU 23/12

OFFICE OF THE DISTRICT POLICE OFFICER, HANGU.

No. 11538 - 41/EC, dated Hangu, the 23/12/2021.

Copy of above is submitted for favour of information to the:-

1. Deputy Inspector General of Police, ER&I, Khyber Pakhtunkhwa, Peshawar, please.
2. Regional Police Officer, Kohat Region, Kohat, please.
3. Assistant Inspector General of Police, Legal, Khyber Pakhtunkhwa Peshawar, please.
4. Reader, Pay Officer, SRC & OASI for information and necessary action.

DISTRICT POLICE OFFICER,
HANGU 23/12

Attested
S. Khair
Advocate

10

Annexure "C"

To,

The District Police Officer,
Hangu

Application for the reinstatement
Of the appellant with all back
Benefits according to the judgment
Order passed by the Khyber Pakhtunkhawa
Service Tribunal Peshawar dated
10/09/2021 in service appeal No 1380/2014

Respectfully Sheweth:-

It is Stated that the appellant filed appeal against the departmental
Order of dismissal before the Hon'ble Service tribunal kpk Peshawar.

That the appeal of the appellant has been accepted by the .Hon'ble
Service Tribunal KPK Peshawar through Order / Judgment dates
10/09/2021 through which the appellant has been reinstated on service
With all back benefits.

It is therefore humbly prayed to issue Order of reinstatement of the
Appellant of Honble Service Tribunal KPK Peshawar with all back benefits.

Thanks

Dated 23 / 12 / 2021

Attested
S. Khan
Advocate



Your Sincerely
Alam Nawaz
Constable No 292
District Police Hangu
Mob:0333-9256963

To,

The District Police Officer,

Hangu

11

Subject: APPLICATION FOR PAYMENT OF ARREARS AS PER ORDER/JUDGMENT HON'BLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR VIDE DATED 10/09/2021.

Respected Sir,

It is, stated that the applicant has been reinstated in service by the Hon'ble Tribunal vide order / judgment dated 10/02/2021 with all back benefits.

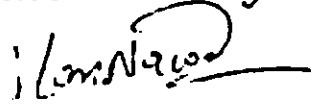
That, the applicant was reinstated in service vide order No.446 dated 23/12/2021 with immediate effect but the payment of the arrears has not been paid to the applicant till date.

That the applicant is entitled for all back benefits / salaries as per decision of Hon'ble Service Tribunal Khyber Pakhtunkhwa Peshawar.

It is, therefore, humbly requested that to issue order of payment of the arrears and release the outstanding amount to the applicant.

Thanking you and anticipation;

Yours Sincerely



Alam Nawaz

Constable Built No.213




DP Hangu

Cell # 0333-9256963

Attested

Advocate


Dated 12/04/2022

قیمت 50 روپے	127059			
ایڈوکیٹ: <u>ناہر خان آفسروہی</u>		پشاور بار ایسوسی ایشن، خیبر پختونخواہ		
بار کونسل/ایسوسی ایشن نمبر: <u>be 10-9607</u>				
رابطہ نمبر: <u>0315 5250330</u>				

بعدالت جناب: سروس ٹریبونل KPK پشاور

منجانب: <u>سائل</u>	دعویٰ: <u>اجراء</u>
	علت نمبر: _____
	مورثہ: _____
	جرم: _____
	تھانہ: _____
باعت تحریر آنگہ	

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دی کاروائی متعلقہ
 آن مقام لٹ و سروس ایڈوکیٹ ناہر خان آفسروہی صاحب محترم ایف ایم رضا خان صاحب ایڈووکیٹ کو
 کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز ذیل صاحب کو
 راضی نامہ کرہے و تقریر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از جرم کی تصدیق
 زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یا سب طرفہ یا اپیل کی برآمدگی اور منسوخی، نیز
 دائر کرنے اپیل انگریزی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
 کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ مانا جائے گا۔ نقر کا اختیار ہوگا اور صاحب
 مقرر شدہ کو وہی جملہ مذکورہ یا اختیارات حاصل ہوں گے اور ان کا ساختہ پرداخت منظور و قبول ہوگا
 دوران مقدمہ میں جو خرچہ ہر جانب اتوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے
 باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سندر ہے

المرقوم: 27-05-2023


مقام لٹ و سروس کے لیے منظور ہے۔

Accepted
