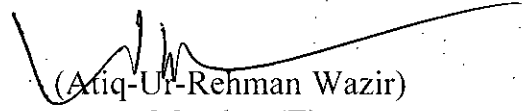


04.01.2022

Petitioner in person present.

Respondent department is directed to submit implementation order, if the department has filed CPLA before the august Supreme Court of Pakistan then they are directed to furnish conditional order or suspension order from august Supreme Court of Pakistan.

Notice of the instant execution petition alongwith copy of this order be issued to the respondents for submission of implementation report. To come up for implementation report on 17.01.2022 before S.B


(Atiq-Ur-Rehman Wazir)
Member (E)

17.01.2022

Petitioner alongwith counsel and Mr. Muhammad Adeel Buitt, Addl. AG alongwith Noor Daraz Khan, S.I (Legal) for the respondents present.

Representative of the respondents has produced copy of order dated 14.01.2022, whereby judgment under execution has been conditionally implemented till final decision on CPLA by the August Supreme Court of Pakistan. Copy of order is placed on file.

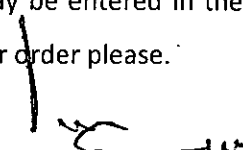

In view of the above, the execution petition in hands is consigned to the record room.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. _____ 360/2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	02.12.2021	<p>The execution petition submitted by Mr. Zahoor Khan through Mr. Khaled Khan Mohmand 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 at Peshawar on <u>04/01/22</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE HON'BLE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,
PESHAWAR

Misc. Application No. 360 of 2021
IN
Service Appeal No. 15182/2020

Mr. Zahoor Khan **VERSUS** Inspector General of Police & 2 others

I N D E X

S.No.	DESCRIPTION OF DOCUMENTS.	ANNEX	PAGES
1.	Application with affidavit		1
2.	Copy of Judgment dated: 15.09.2021 alongwith Service Appeal No.15182/2020	A	2-12
3.	Copy of application dated: 11.10.2021	B	13-14
4.	Wakalatnama		15

Applicant / Appellant
Through


Khalid Khan Mehmood


Muhammad Kareem Afridi

&


Haider Ali
Advocates, Peshawar

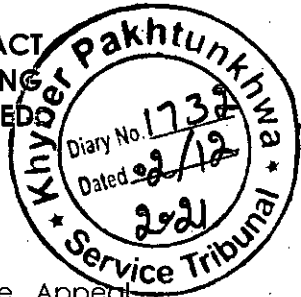
Dated: 01.12.2021

**BEFORE THE HON'BLE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,
PESHAWAR**

Misc. Application No. 360 of 2021
IN
Service Appeal No. 15182/2020

Mr. Zahoor Khan **VERSUS** Inspector General of Police & 2 others

APPLICATION U/S 7(2)(d) OF THE KP SERVICE TRIBUNAL ACT, 1974 (KP ACT NO.1 OF 1974), READ WITH ALL ENABLING PROVISIONS OF LAW GOVERNING THE SUBJECT, FOR EXECUTION/IMPLEMENTATION OF JUDGMENT DATED 15.09.2021 IN THE TITLED APPEAL.



=====

Respectfully Sheweth:

1. That Applicant/Appellant approached this Hon'ble Tribunal through Service Appeal Nos.15182/2020, which was allowed, vide Judgment dated: 15.09.2021
(Copy of Judgment dated: 15.09.2021 alongwith Service Appeal No.15182/2020 is attached as Annexure "A").
2. That Judgment dated: 15.09.2021 supra was announced by this Hon'ble Tribunal in open Court, in presence of the representatives of the Respondent Department, however, the same has not been implemented so far, although applicant/appellant has also communicated the Judgment ibid alongwith application dated: 11.10.2021, but to no avail so far, hence the instant application.
(Copy of application dated: 11.10.2021 is attached as Annexure "B").
3. That more than 50 days time has been elapsed, however, Respondent Department is reluctant to implement Judgment dated: 15.09.2021 of this Hon'ble Tribunal in letter and spirit, which has caused grave miscarriage of justice, moreover, this Hon'ble Tribunal has got ample jurisdiction to implement the Judgment ibid, by issuing appropriate directions to the delinquents for the desired relief.
4. That any other ground with the permission of this Hon'ble Tribunal will be taken at the time of arguments.

It is, therefore, most humbly prayed that on acceptance of instant application, Judgment dated: 15.09.2021 of this Hon'ble Tribunal may be ordered to be implemented in letter and spirit, so as to avoid untoward situation and further complications.

Uo, mb

Applicant / Appellant

Through

AFFIDAVIT

Stated on oath that contents of instant **Application** are true and correct to the best of knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

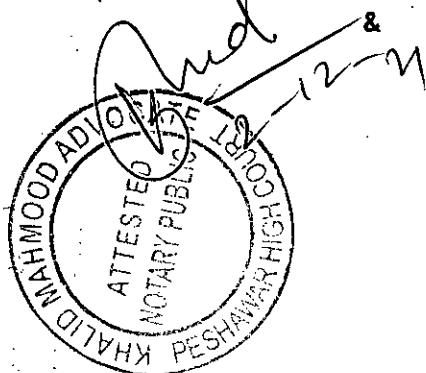
Uo, mb
Deponent

Khalid Khan Mohtam
Khalid Khan Mohtam

Muhammad Kareem Afridi
Muhammad Kareem Afridi

Dated: 01.12.2021

Haider Ali
Haider Ali
Advocates, Peshawar



(2)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 15782 /2020

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 14239

Dated 09/11/2020

Mr. Zahoor
Ex-HC,
District Police, Mardan



Appellant

VERSUS

1. The Inspector General of Police
Khyber Pakhtunkhwa, Peshawar
2. The Regional Police Officer,
Mardan Region, Mardan.
3. The District Police Officer,
District Mardan

Respondents

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 17.09.2020 WHEREBY MAJOR PUNISHMENT OF DISMISSAL FROM SERVICE WAS IMPOSED UPON THE APPELLANT AGAINST WHICH HE PREFERRED DEPARTMENTAL APPEAL TO RESPONDENT NO.2 ON 22.09.2020 BUT THE SAME WAS UNLAWFULLY REJECTED VIDE IMPUGNED APPELLATE ORDER DATED 12.10.2020.

Filed to-day

Registrar

PRAYER:

On acceptance of the instant appeal, the impugned order dated 17.09.2020 passed by Respondent No.3 and impugned appellate order dated 12.10.2020 passed by Respondent No.2 may graciously be set aside/modified and appellant may be re-instated into service w.e.f. 17.09.2020 with all back benefits.

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:-

1. That the appellant was employed in the Police Force as Constable way back in the year 2009 and has rendered meritorious service for the Department.

ATTESTED

 REGISTRAR
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

Resubmitted to-day
and filed.

Registrar 26/11/2020

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.15182/2020

Date of Institution ... 09.11.2020
Date of Decision ... 15.09.2021



Mr. Zahoor Ex-H.C District Police, Mardan.

(Appellant)

VERSUS

The Inspector General of Police, Khyber Pakhtunhwa Peshawar
and two others.

(Respondents)

Muhammad Amin Ayub,
Advocate

... For Appellant.

Asif Masood Ali Shah,
Deputy District Attorney

... For Respondents.

AHMAD SULTAN TAREEN
ROZINA REHMAN

... CHAIRMAN
... MEMBER (J)

JUDGMENT

ROZINA REHMAN, MEMBER (J): Brief facts of the case are that appellant was inducted in the Police Force as Constable. While performing duties at Special Squad Police Lines Mardan, he was suspended from service on account of departmental proceedings. He was charge sheeted and an inquiry was conducted into the matter, where-after, major penalty of dismissal from service was imposed upon appellant. He filed departmental appeal which was rejected, hence, the present service appeal.

ATTESTED

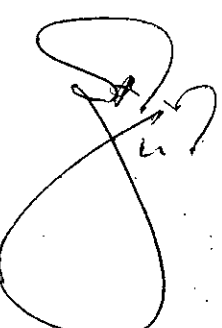
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

2. We have heard Muhammad Amin Ayub Advocate appearing on behalf of appellant and Asif Masood Ali Shah learned Deputy District

Attorney for the respondents and have gone through the record and the proceedings of the case in minute particulars.

3. Learned counsel for appellant contended that the appellant was not treated in accordance with law, rules and policy and that the respondents acted in violation of Article-4 & 25 of the Constitution of Islamic Republic of Pakistan, 1973. He contended that the appellant neither misused his official authority nor entered into the house of Khaista Rehman which is evident from the record and that complainant of case admitted the presence of appellant outside his house. That a false and concocted F.I.R was registered against the appellant and his wife. That mandatory requirement of law in shape of issuance of show cause notice was violated as no show cause notice was ever issued to the appellant and that in utter violation of law and principles of natural justice, after the first inquiry report, the second inquiry was clandestinely conducted at the back of the appellant and he was recommended for major punishment. That no notice was served upon the appellant nor reasons were shown as to how the first inquiry report was rejected and second inquiry was conducted and as to who was the Inquiry Officer as copy of the Inquiry report was not provided to the appellant. He submitted that neither regular inquiry was conducted nor any evidence was recorded in presence of appellant and that proper opportunity of defense was not given to the appellant. Lastly, he submitted that he was proceeded against departmentally on the allegations that he was involved in case F.I.R No.589 dated 12.07.2020 and that was the only stigma but the appellant was acquitted by competent court of Law, therefore, the impugned orders may kindly be set aside.

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

4. Conversely learned Deputy District Attorney submitted that appellant while posted at Special Squad, Police Lines Mardan, was placed under suspension on account of involvement in case F.I.R No.589 dated 12.07.2020 at Police Station Saddar, Mardan. On account of the aforementioned allegations, he was issued charge sheet with statement of allegations and inquiry was entrusted to D.S.P Headquarter, Mardan. He contended that Inquiry Officer during the course of inquiry, provided all lawful opportunities to the appellant to produce evidence in his defense but fiasco and that after fulfillment of all codal formalities, report was submitted and appellant was rightly dismissed from service.

5. From the record, it is evident that appellant Zahoor khan Ex-Head Constable of Mardan Police was proceeded against departmentally on the allegations that he while posted at Special Squad, Police Lines, Mardan was involved in F.I.R No.589 dated 12.07.2020 U/S 452, 354, 506/34 P.P.C Police Station Saddar, Mardan. The impugned order of District Police Officer Mardan is available on file which clearly shows that appellant was proceeded against departmentally through Mr. Gulshad Khan D.S.P Headquarter, Mardan and accordingly he was awarded major punishment of dismissal from service vide O.B No.1599 dated 17.09.2020. The inquiry report submitted by D.S.P Headquarter, Mardan is available on file as "Annexure-C" and this inquiry was conducted vide office No.318/PA dated 13.07.2020. The Inquiry Officer recommended temporary reinstatement of appellant till the Court decision. The entire record is silent as to why this inquiry report was not taken into consideration and as to how another order was passed for second

ATTESTED

EXAMINER
Khan P. Akh/ulhwa
Service Tribunal
Peshawar

inquiry. The statement of allegations available on file bearing No.318/PA dated 13.07.2020 shows that one Shakeel Ahmad D.S.P Headquarter was also nominated as Inquiry Officer. The respondents miserably failed to prove the service of charge sheet and statement of allegations upon the appellant and his association in the inquiry proceedings conducted by Shakeel Ahmad D.S.P.

6. As discussed earlier that the only allegation against the appellant was his involvement in the criminal case but the appellant was acquitted in the criminal case registered against him vide F.I.R No.589 by the competent court of Law on 06.04.2021.

7. 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, made him re-emerge as fit and proper person entitled him to continue with his service.

8. For what has been discussed above, we allow this appeal as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.

15.09.2021

(Ahmad Sultan Tareen)
Chairman

(Rozina Rehman)
Member (J)

EXAMINED
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 01/12/24
Number of Words 2000
Copying Fee 2/-
Urgent 4/7
Total 26/-
Name of Copyist _____
Date of Completion of Copy 01/12/24
Date of Delivery of Copy 01/12/24

7

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 15782 /2020

Khyber Pakhtunkhwa Service Tribunal

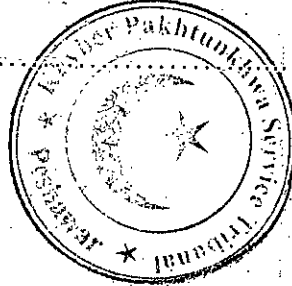
Diary No. 14239

Dated 09/11/2020

Mr. Zahoor
Ex-HC,
District Police, Mardan

Appellant

VERSUS



1. The Inspector General of Police
Khyber Pakhtunkhwa; Peshawar
2. The Regional Police Officer,
Mardan Region, Mardan.
3. The District Police Officer,
District Mardan

Respondents

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 17.09.2020 WHEREBY MAJOR PUNISHMENT OF DISMISSAL FROM SERVICE WAS IMPOSED UPON THE APPELLANT AGAINST WHICH HE PREFERRED DEPARTMENTAL APPEAL TO RESPONDENT NO.2 ON 22.09.2020 BUT THE SAME WAS UNLAWFULLY REJECTED VIDE IMPUGNED APPELLATE ORDER DATED 12.10.2020.

Filed to-day

Registrar

PRAYER:

On acceptance of the instant appeal, the impugned order dated 17.09.2020 passed by Respondent No.3 and impugned appellate order dated 12.10.2020 passed by Respondent No.2 may graciously be set aside/modified and appellant may be re-instated into service w.e.f. 17.09.2020 with all back benefits.

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:-

1. That the appellant was employed in the Police Force as Constable way back in the year 2009, and has rendered meritorious service for the Department.

ATTESTED

[Signature]
Khyber Pakhtunkhwa Service Tribunal Peshawar

9/11/2020
Registrar
Re-submitted to-day and filed.
Registrar 26/11/2020

(8)

During service, the appellant has never been departmentally proceeded against and even a minor penalty has not been imposed upon him so far, thus the service of the appellant remained unblemished and spotless throughout on the basis of the same he was promoted against the post of HC.

2. That the appellant while performing duties at Special Squad Police Lines Mardan, was suspended from service on 13.07.2020 on account of departmental proceedings. Later on, he was issued Charge Sheet and Statement of Allegations (*Annex:-A*) for the reasons mentioned therein. Since the charges were unfounded, misplaced therefore, appellant refuted the same and furnished a detailed reply (*Annex:-B*) explaining his position before the Competent authority. (Copy of the reply may be considered as integral part of this appeal.)
3. That thereafter an enquiry was conducted into the matter by the Deputy Superintendent of Police HQrs, Mardan on 27.08.2020 (Inquiry Report *Annex:-C*) by holding that:-

RECOMMENDATION:-

"Keeping in view of the above facts and findings and after thoroughly examined the attached statements of the all relevant, DD Report and copy of FIR revealed that case is already under trial in court and on 26.08.2020 BBA of the alleged HC Zahoor No. 2646, has been confirmed by the honorable learn court of ASJ-II.

Therefore, the alleged Constable may temporarily be reinstated, till the court decisions, if agreed.

Thereafter report *ibid*, was then submitted to the Competent Authority and appellant was predicting a favourable decision from him but to his utter bewilderment reportedly the Competent Authority got conducted another inquiry clandestinely wherein the appellant was allegedly recommended for major punishment of dismissal from service. Neither the appellant was associated with the inquiry nor inspite of repeated requests, the report of the

ATTESTED

[Signature]
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

so called inquiry was provided to the appellant.

4. That without issuing the Show Cause Notice, appellant was imposed upon major penalty of dismissal from service vide impugned order dated 21.09.2020 (*Annex:-D*) against which he preferred Departmental Appeal (*Annex:-E*) to Respondent No.2 on 22.09.2020 who by means of impugned appellate order dated 12.10.2020 (*Annex:-F*) unlawfully rejected the same.
5. That appellant, being aggrieved of the impugned orders *ibid*, files this appeal, inter-alia, on the following grounds:-

Grounds:

- A. That Respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 and unlawfully issued the impugned orders, which are unjust, unfair and hence not sustainable in the eye of law.
- B. That it is momentous to aver that on the day of incident neither appellant misused his official authority nor he entered into the house of Khaista Rahman which is crystal clear from the contents of Daily Diary No.23, dated 05.07.2020 (*Annex:-G*) wherein complainant himself admits that appellant did not enter his house rather he was standing outside of the house. Subsequently a false and concocted FIR No.589 (*Annex:- H*) dated 12.07.2020 U/S 452, 354, 506, 34 was chalked out against the appellant and his wife Mst. Iqbala wherein it was wrongly alleged that on the day of occurrence the appellant and his wife had entered into the house of Complainant and forcibly took away his wife Mst. Shagufta (Sister-in-law of appellant). Moreover, on the day of occurrence Mst. Shagufta wife of complainant insisted upon the appellant to register a case against one Murad brother-in-law of her husband because he was instrumental in causing strained relations between Mst. Shagufta and her husband (Complainant). It would not be out of place to put here that Mst. Shagufta Rahman has recorded a Statement U/s 164 (*Annex:-I*) before the learned Judicial Magistrate, Mardan on 28.07.2020 and also gave a statement U/S 161 P.P.C (*Annex:-J*) on 17.07.2020 wherein she categorically conceded that she had visited the house of her sister Mst. Iqbala on free will rather her husband (Complainant) himself permitted her. After registration of the


ATTESTED

BY AMENEH
Khan
Service File/and
Peshawar

F.I.R, the appellant alongwith his wife filed a BBA Application in the Court of learned Additional Session Judge, Mardan wherein Mst. Shagufta Rahman also executed an Affidavit (*Annex:-K*) exonerating the appellant and his wife on the basis of which the BBA was confirmed vide order dated 20.08.2020 (*Annex:-L*).

- C. That the appellant was not issued Show Cause Notice which is a mandatory requirement of law and without issuing such Show Cause Notice the passing of the impugned penalty is highly arbitrary, unlawful and hence cannot be sustained under any canons of law, justice and fair-play. Thus the impugned orders are against the principle of natural justice and hence liable to be brushed aside.
- D. That in utter violation of the law and rules and principle of natural justice after the first Inquiry Report, the second Inquiry was clandestinely got conducted at the back of the appellant and the appellant was got recommended for major punishment. No Notice was served upon the appellant nor the reasons are known to the appellant that how the first Inquiry was rejected and second Inquiry was conducted and that who was the Inquiry Officer as copy of the Inquiry Report has also not been provided to him. Such being the case, the appellant has been highly prejudiced and the impugned order appears to be the result of pre-determination and pre-set mind and hence not sustainable.
- E. That neither regular inquiry was conducted into the case in hand nor any documentary or oral evidence was recorded in presence of the appellant nor was he provided opportunity of cross-examination. The entire action was taken at the back of the appellant and thus he was condemned unheard. It is a settled law that where a major penalty is to be imposed then regular inquiry is necessary which has not been done in the case in hand. Even the copy of the second Enquiry Report was not provided to appellant, which was mandatory in law.
- F. That Article-10A of the Constitution of the Islamic Republic of Pakistan, 1973 read with Section-16 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 provides for the right of fair trial as per prescribed law and Rules. Even the second Enquiry Report was not provided to the appellant which


ATTESTED


Khyber Pakhtunkhwa
Service Tribunal
Peshawar

(11)

was the mandatory requirement of law and also appellant was condemned unheard, thus the impugned orders are void, ab-initio as well as against the principle of natural justice.

- G. That instead of a regular enquiry, an irregular, fact finding second enquiry was conducted although appellant was exonerated in the first Inquiry Report. In the second inquiry, the Inquiry Officer in a highly pre-judicial manner and without any evidence drew the conclusion on the basis of mere surmises and conjectures declaring charges as proved in utter deviation of the procedure and Rules on the subject which has resulted into serious miscarriage of justice.
- H. That it is a settled law that mere registration of an F.I.R cannot be taken as a Gospel truth inas much as the allegations have to be established in the competent court of law and until then the accused is presumed innocent. In this view of the matter C.S.R 194 mandates that a civil servant who is charged for a criminal case and is arrested is to be deemed as suspended and until finally convicted by the competent court of law, mere on the basis of F.I.R he cannot be dismissed from service. The appellant has already been granted BBA by the competent Court and has not been convicted for the offence. In this view of the matter, the impugned order is highly arbitrary inas much as the appellant was kicked out of service on the basis of unconfirmed and unproved allegations.
- I. That no meaningful opportunity of personal hearing was afforded to the appellant neither by the competent authority, nor by the Inquiry Officer nor by the appellate authority which are the mandatory requirements of law. Thus appellant was condemned unheard as the action has been taken at the back of the appellant which is against the principle of natural justice.
- J. That the appellant served the Department for long 11 and during this period, the appellant has never been departmentally proceeded against nor even a minor penalty has ever been imposed upon him, thus the service of the appellant remained unblemished, spotless throughout. It is pertinent to add here that appellant has been awarded long ATC Course Certificate wherein he got first position in Pakistan. He also qualified another short

ATTESTED

Secretary
Tribunal
Peshawar

13

ATC course and ATS Course vide Certificates (*Annex;-M*) and was also commended by the DPO, Mardan. Furthermore, appellant was seriously injured in a terror attack at Par Hoti, Mardan in which Inspector Mazhar Shah Khan... embarrassed martyrdom, resultantly four terrorist terrorists/attackers were succumbed to death pursuant to which appellant was commended and awarded a cash prize by the IGP (Naqal Madd No.28 by Mst. Shagufta *Annex:-N*).

K. That appellant would like to offer some other grounds during the course of arguments.

It is, therefore, humbly prayed that the instant appeal may graciously be accepted as prayed for above.

Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to appellant.

Through

Appellant
v
Khaled Rahman,
Advocate,
Supreme Court of Pakistan

&

Muhammad Amin Ayub
Advocate, High Court

&

Muhammad Ghazanfar Ali
Advocate, High Court

Dated: ___/11/2020

Date of Presentation of Application 01/11/20
Number of Pages 2700
Copy fee 26/-
Urgent 31/-
Total 38/-
Name of ...
Date of Completion of Copy 02/11/20
Date of Delivery of Copy 01/11/20

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

جائے گا

تذکرہ سنی جامعہ حیدرآباد میں 2000ء میں حکم کو لایا گیا اور 2015ء

میں نوٹ کر کے بائبل کے بعد 2016ء میں عدالت نے حکم کو واپس لیا

سائل نے صرف نوٹ لیا تھا اور خاندانی رنجیدگی بنا کر 589 درجہ

7/19/2020 ایچ 24-354-506 کے تحت 10 رقم میں سائل نے خلاف ورزی

انٹوائری ہو کر عدالتی حکم کے انتظار میں بقدر سائل کو جمع کیا تو تاریخ 17/9/2020

کو برخواست کیا گیا تھا

2 یہ آج سائل نے صرف لکھا ہے کہ الزامات صحیح ہے بنیاد اور منکر

تھے کوئی عدالت - جا بجا خود کو مسلمہ قرار دے سائل کو عدم قبول

دیم کی بنا پر برخواست ہے (عدالتی حکم خواہ لکھے)

یہ سائل کو صرف نوٹ لیا تھا اور 2 سائل نے بنا کر حکم سیدھا

لیا تھا اور اس قدر میں سائل بائبل لکھی ہو گئی ہے

4 یہ کہ سائل نے سروس ریویو میں اپیل کے بعد بھی لکھا ہے کہ سائل نے سروس ریویو میں

نے بھی نوٹ 9/2020 کو سائل کی اپیل منظور کر کے سائل کو حکم سے باخبر و آغا

بجالی کے احکامات سیدھا لکھا ہے

5 یہ کہ سائل نے خاستگی سائل کے نام سے نوٹ لیا تھا اور نوٹ

ذیل کو لکھا ہے کہ سائل نے نوٹ لکھا ہے

ATTESTED

۱۰۰ سوال کے خلاف چھوٹا مقدمہ درج کرنا اور اس کے خلاف سزا اور عدالت
کو خراب بنانا بلکہ حکم سے اہم سنگی پر سوال کو یوں مسائل سے دوچار ہونا
فروغ علی بن حکیم

گوئی اور دیگر درخواستیں اس لئے کہ یہ مسائل کو حکم لکھیں میں دوبارہ اس
سلسلہ کے مسائل کے خلاف عدالت کے حکم سے سزا دینا اور اس سے
تعمیرت دیا گیا ہے۔

لفظ "اللہ تعالیٰ حکم بابت عدالت اور سزا دینا" سے
تعمیرت دیا گیا ہے اور اس سے

الطرح

سائل ظہیر خان 24410
Ex Hz

10/11 حورمہ ڈائری نمبر 8883

DSP Liquid

ATTESTED

وکالت نامہ

بعدالت جناب سروس سٹریٹوئل KPK ایسٹاڈ

IGP

بنام

طہور خان

دعویٰ اجرم

جناب ایڈوائزر

تاریخ

ایف آئی آر

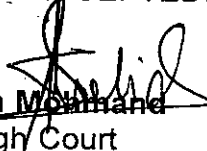
تھانہ

باعث تحریر آنکہ

مقدمہ مندرجہ بالا عنوان میں اپنی طرف سے واسطے پیروی و جوابدہی بمقام ایسٹاڈ کے لئے

خالد خان مہمند ایڈوائزر ہائی کورٹ، پشاور کو بدین شرط وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص رو برو عدالت حاضر ہوتا رہوں گا۔ اور بوقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دیکر حاضر عدالت کروں گا اگر پیشی پر من مظہر حاضر نہ ہو اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور میرے برخلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام کچہری کے کسی اور جگہ یا کچہری کے مقررہ اوقات سے پہلے یا پیچھے یا بروز تعطیل پیروی کرنے کے ذمہ دار نہ ہوں گے۔ اگر مقدمہ علاوہ صدر مقام کچہری کے کسی اور جگہ سماعت ہونے یا بروز تعطیل یا کچہری کے اوقات کے آگے پیچھے پیش ہونے پر من مظہر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا مختار نامہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل ساختہ پرداخت صاحب موصوف مثل کردہ ذات خود منظور قبول ہوگا۔ اور صاحب موصوف کو عرضی دعویٰ و جواب دعویٰ اور درخواست اجراءے ڈگری و نظر ثانی اپیل و نگرانی ہر قسم کی درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا۔ اور کسی حکم یا ڈگری کے اجراء کرانے اور ہر قسم کا روپیہ وصول کرنے اور رسید دینے اور داخل کرنے اور ہر قسم کے بیان دینے اور سپرد ثالثی و رضی نامہ کو فیصلہ برخلاف کرنے، اقبال دعویٰ دینے کا بھی اختیار ہوگا۔ اور بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم امتناعی یا قرقی یا گرفتاری قبل از اجراء ڈگری بھی موصوف کو بشرط ادائیگی علیحدہ مختار نامہ پیروی کا اختیار ہوگا۔ اور بصورت ضرورت صاحب موصوف کو بھی اختیار ہوگا یا مقدمہ مذکورہ یا اس کے کسی جزو کی کاروائی کے واسطے یا بصورت اپیل، اپیل کے واسطے کسی دوسرے وکیل یا بیرسٹر کو بجائے اپنے یا اپنے ہمراہ مقرر کریں۔ اور ایسے مشیر قانون کو ہر امر میں وہی اور ویسے ہی اختیارات حاصل ہوں گے۔ جیسے کہ صاحب موصوف کو حاصل ہیں اور دوران مقدمہ میں جو کچھ ہر جانہ التواء پڑے گا۔ وہ صاحب موصوف کا حق ہوگا۔ اگر وکیل صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔ لہذا یہ مختار نامہ لکھ دیا کہ سندر ہے مورخہ ۱۳-۱۲-۱۱ مضمون مختار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

ATTESTED & ACCEPTED:


Khalid Khan Mohmand
Advocate High Court
Peshawar
B.C. No. 18-1115
CNIC No. 16101-8191351-1
Mobile No. 0342-9101124



**OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN**

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email dpo_mardan@yahoo.com

2022

ORDER.

On acceptance of the pray filed by Ex-Constable Zahoor Khan No. 2640 by Honorable KP Service Tribunal in Service appeal No. 15182/2020 in its order announced on 15.09.2021, Ex Head Constable Zahoor Khan No. 2640 is hereby provisionally/conditionally re-instated in to service from the date of decision i.e 15.09.2021, subject to the outcome of CPLA filed against the above mentioned orders.

OB No. 104.

Dated. 14/01/2022.


District Police Officer
Mardan

No. 311-17/EC, dated 14/01/2022.

Copy for information to: -

1. Deputy Inspector General of Police, Mardan Region-I, Mardan.
2. Superintendent of Police Operations, Mardan.
3. DSP/Legal
4. DSP/HQrs.
5. Pay Officer
6. OSI
7. P.A



URGENT

**DISTRICT POLICE OFFICER
HARIPUR**

Ph: 0995-920100/01, Fax-0995614714, Email:-dpoharipur1@gmail.com

No. 283 /

dated Haripur the 14 / 01 / 2022

To: The Assistant Inspector General of Police, Legal
Khyber Pakhtunkhwa, CPO, Peshawar

Subject: EARLY HEARING OF CPLAs AGAINST JUDGMENT OF
HONORABLE KHYBER PAKHTUNKHWA, SERVICE
TRIBUNAL DATED 14.10.2021 ON SERVICE APPEAL NO.6042,
6043 & 6044.

Memo:

Kindly refer to the subject service appeals which were decided on 14.10.2021 by the honorable Khyber Pakhtunkhwa, Service Tribunal Camp Court Abbottabad. The judgments were sent to your good office for filing of CPLA in the apex court. Consequently, the scrutiny committee of the law department held all the judgments fit for filing of CPLAs vide your good office letter No.11738 dated 16.12.2021 and No.12056-57/Legal dated 24.12.2021.

Consequently, CPLAs were lodged through the honorable Advocate General Office, Khyber Pakhtunkhwa Peshawar which are subjudice before the august Supreme Court of Pakistan.

The appellant of the above cited judgments have filed execution petitions No.10.11&12/2022 before the honorable Khyber Pakhtunkhwa, Service Tribunal Peshawar for the implementation of judgments. (Copies of the execution petitions are attached).

The honorable Khyber Pakhtunkhwa, Service Tribunal vide its order dated 06.04.2022 directed for the implementation of judgment and submission of report on or before 17.01.2022. (Copy of order is attached).

It is therefore, requested that office of learned Advocate General Khyber Pakhtunkhwa, Peshawar may kindly be approached for early hearing of CPLAs with stay orders for suspension of operation of judgments/execution proceedings, please.


District Police Officer,
Haripur

1

BEFORE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Execution petition No.....

Ali Ajan (Constable No. 744, District Police Haripur) R/O Village Kakolri,
Tehsil and District Haripur.....(Petitioner)

Versus

1. Provincial Police Officer, KPK Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. District Police Officer Haripur..... (Respondents)

EXECUTION PETITION IN SERVICE APPEAL NO. 6043/2020 FOR
IMPLEMENTATION OF JUDGMENT/DECISION DATED 14-10-2021
OF THIS HONOURABLE SERVICE TRIBUNAL ON CONDITIONAL
AND PROVISIONAL BASIS TILL OUTCOME OF CPLA (IF ANY)
FLED BY RESPONDENTS/POLICE DEPARTMENT AGAINST
PETITIONER.

Respectfully Sheweth:

1. That petitioner/appellant filed subject titled service appeal No. 6043/2020 before this Honorable Service Tribunal against the orders of Respondents whereby appellant was dismissed from service in flagrant violation and negation of law, departmental rules

2

and regulations. (Copy of the service appeal is attached as Annex-"A").

2. That this Honorable Service Tribunal while accepting subject service appeal No. 6043/2020 issued the judgment/decision dated 14-10-2021 that "we partially allow the appeal in hand and the impugned major penalty of appellant's dismissal from service is substituted with minor penalty of withholding of increment for three years without cumulative effect. Consequently, the impugned order of appellant's dismissal from service is set aside with direction to the respondent No.3 to reinstate him into service with all back benefits. It is further directed that the respondent No.3 shall give effect to the above mentioned substituted penalty under due course". (Copy of judgment/order dated 14-10-2021 is attached as Annex-"B").
3. That on receipt of attested copy of the judgment/decision dated 14-10-2021, the appellant reported for duty on 09-12-2021 and subsequently on 24-12-2021 through registered post. (Copies of duty report & registry receipt are as Annexure-"C").

3

4. That Respondents instead of taking appellant on duty has issued a letter dated 16-12-2021 that they are going to file CPLA against the judgment of Honorable KPK Service Tribunal Peshawar dated 14-10-2021 before the Supreme Court of Pakistan. **(Copy of the letter is attached as Annexure "D")**.
5. That there is no stay order from the Apex Supreme Court of Pakistan Islamabad in this respect. Petitioner is jobless since his dismissal from service i.e. 12-02-2020 and has no source of income to live on; therefore, appellant and his family members are badly suffering financially.
6. That despite petitioner's incessant approaches to respondents, he has not been allowed to join his duties as decided by this Honorable Tribunal even on conditional and provisional basis subject to outcome of CPLA (if any) filed by Respondents/Police Department against the petitioner. Hence this Execution Petition on the following:

GROUNDS:

- A. That as this Honorable Service Tribunal in its judgment dated 14-10-2021 had ordered that "we partially allow the

(u)

appeal in hand and the impugned major penalty of appellant's dismissal from service is substituted with minor penalty of withholding of increment for three years without cumulative effect. Consequently, the impugned order of appellant's dismissal from service is set aside with direction to the respondent No.3 to reinstate him into service with all back benefits. It is further directed that the respondent No.3 shall give effect to the above mentioned substituted penalty under due course".

- B) That there is no stay order from the Apex Supreme Court of Pakistan against the judgment and order dated 14-10-2021 of this Honorable Service Tribunal and its order is in the field. Respondents must comply with the said order.
- C) That respondents do not pay any heed to decision dated 14-10-2021 of this Honorable Tribunal, hence instant execution petition.
- D) That petitioner along with his family is facing financial distresses due to his unemployment and deserves to be allowed to join his duty in the light of decision dated 14-10-2021 of this Honorable Service Tribunal.
- E) That instant execution petition is well within time and this Honorable Service Tribunal has got every jurisdiction to entertain and adjudicate upon the same.

1
2
3
S

PRAYER:

3

It is, therefore, humbly prayed that this Honorable Service Tribunal may graciously be pleased to accept this Execution petition and issue necessary orders/directions to be respondents to allow the petitioner to join his duties in the light of its decision dated 14-10-2021 conditionally and provisionally subject to outcome of CPLA (if any) filed by respondents.

PETITIONER

THROUGH

MOHAMMAD ASLAM TANOLI
ADVOCATE HIGH COURT
AT HARIPUR

AFFIDAVIT

I, Ali Aqil petitioner do hereby solemnly affirm that the contents of fore-going petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable court.

Dated: 01-01-2022

DEPONENT



(1)

BEFORE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Execution petition No.....

Mudassar Hussain Abbasi (Junior Clerk, District Police Haripur) R/O Village Hayala, VC Barkol, Tehsil and District Haripur.....(Petitioner)

Versus

1. Provincial Police Officer, KPK Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. District Police Officer Haripur.....(Respondents)

EXECUTION PETITION IN SERVICE APPEAL NO. 6044/2020 FOR
IMPLEMENTATION OF JUDGMENT/DECISION DATED 14-10-2021
OF THIS HONOURABLE SERVICE TRIBUNAL ON CONDITIONAL
AND PROVISIONAL BASIS TILL OUTCOME OF CPLA (IF ANY)
FLED BY RESPONDENTS/POLICE DEPARTMENT AGAINST
PETITIONER.

Respectfully Sheweth:

1. That petitioner/appellant filed subject titled service appeal No. 6044/2020 before this Honorable Service Tribunal against the orders of Respondents whereby appellant was dismissed from service in flagrant violation and negation of law, departmental rules

and regulations. (Copy of the service appeal is attached as Annex-"A").

2. That this Honorable Service Tribunal while accepting subject service appeal No. 6044/2020 issued the judgment/decision dated 14-10-2021 that "we partially allow the appeal in hand and the impugned major penalty of appellant's dismissal from service is substituted with minor penalty of withholding of increment for three years without cumulative effect. Consequently, the impugned order of appellant's dismissal from service is set aside with direction to the respondent No.3 to reinstate him into service with all back benefits. It is further directed that the respondent No.3 shall give effect to the above mentioned substituted penalty under due course". (Copy of judgment/order dated 14-10-2021 is attached as Annex-"B").

3. That on receipt of attested copy of the judgment/decision dated 14-10-2021, the appellant reported for duty on 09-12-2021 and subsequently on 24-12-2021 through registered post. (Copies of duty report & registry receipt are as Annexure-"C").

3

4. That Respondents instead of taking appellant on duty has issued a letter dated 16-12-2021 that they are going to file CPLA against the judgment of Honorable KPK Service Tribunal Peshawar dated 14-10-2021 before the Supreme Court of Pakistan. **(Copy of the letter is attached as Annexure "D").**
5. That there is no stay order from the Apex Supreme Court of Pakistan Islamabad in this respect. Petitioner is jobless since his dismissal from service i.e. 12-02-2020 and has no source of income to live on; therefore, appellant and his family members are badly suffering financially.
6. That despite petitioner's incessant approaches to respondents, he has not been allowed to join his duties as decided by this Honorable Tribunal even on conditional and provisional basis subject to outcome of CPLA (if any) filed by Respondents/Police Department against the petitioner. Hence this Execution Petition on the following:

GROUNDS:

- A. That as this Honorable Service Tribunal in its judgment dated 14-10-2021 had ordered that "we partially allow the

4

appeal in hand and the impugned major penalty of appellant's dismissal from service is substituted with minor penalty of withholding of increment for three years without cumulative effect. Consequently, the impugned order of appellant's dismissal from service is set aside with direction to the respondent No.3 to reinstate him into service with all back benefits. It is further directed that the respondent No.3 shall give effect to the above mentioned substituted penalty under due course".

- B) That there is no stay order from the Apex Supreme Court of Pakistan against the judgment and order dated 14-10-2021 of this Honorable Service Tribunal and its order is in the field. Respondents must comply with the said order.
- C) That respondents are reluctant to pay any heed to decision dated 14-10-2021 of this Honorable Tribunal, hence instant execution petition.
- D) That petitioner along with his family is facing financial distresses due to his unemployment from 12-02-2020 and deserves to be allowed to join his duty in the light of decision dated 14-10-2021 of this Honorable Service Tribunal.

5

E) That instant execution petition is well within time and this Honorable Service Tribunal has got every jurisdiction to entertain and adjudicate upon the same.

PRAYER:

It is, therefore, humbly prayed that this Honorable Service Tribunal may graciously be pleased to accept this Execution petition and issue necessary orders/directions to be respondents to allow the petitioner to join his duties in the light of its decision dated 14-10-2021 conditionally and provisionally subject to outcome of CPLA (if any) filed by respondents.

[Handwritten Signature]
PETITIONER

THROUGH

MOHAMMAD ASLAM TANOLI
ADVOCATE HIGH COURT
AT HARIPUR

AFFIDAVIT

I, Mudassar Hussain Abbai petitioner do hereby solemnly affirm that the contents of fore-going petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable court.

Dated: 06-01-2022

[Handwritten Signature]
DEPONENT



1

BEFORE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Execution petition No.....

Muhammad Alif (Constable No. 359, District Police Haripur) R/O Mohallah
Aljiran, Near BHU Sikandarpur, Tehsil & District Haripur.....(Petitioner)

Versus

1. Provincial Police Officer, KPK Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. District Police Officer Haripur..... (Respondents)

EXECUTION PETITION IN SERVICE APPEAL NO. 6042/2020 FOR
IMPLEMENTATION OF JUDGMENT/DECISION DATED 14-10-2021
OF THIS HONOURABLE SERVICE TRIBUNAL ON CONDITIONAL
AND PROVISIONAL BASIS TILL OUTCOME OF CPLA (IF ANY)
FILED BY RESPONDENTS/POLICE DEPARTMENT AGAINST
PETITIONER.

Respectfully Sheweth:

1. That petitioner/appellant filed subject titled service appeal No. 6042/2020 before this Honorable Service Tribunal against the orders of Respondents whereby appellant was dismissed from service in flagrant violation and negation of law, departmental rules

2

and regulations. (Copy of the service appeal is attached as Annex-"A").

2. That this Honorable Service Tribunal while accepting subject service appeal No. 6042/2020 issued the judgment/decision dated 14-10-2021 that "we partially allow the appeal in hand and the impugned major penalty of appellant's dismissal from service is substituted with minor penalty of withholding of increment for three years without cumulative effect. Consequently, the impugned order of appellant's dismissal from service is set aside with direction to the respondent No.3 to reinstate him into service with all back benefits. It is further directed that the respondent No.3 shall give effect to the above mentioned substituted penalty under due course". (Copy of judgment/order dated 14-10-2021 is attached as Annex-"B").
3. That on receipt of attested copy of the judgment/decision dated 14-10-2021, the appellant reported for duty, on 09-12-2021 and subsequently on 24-12-2021 through registered post. (Copies of duty report & registry receipt are as Annexure-"C").

3

4. That Respondents instead of taking appellant on duty has issued a letter dated 16-12-2021 that they are going to file CPLA against the judgment of Honorable KPK Service Tribunal Peshawar dated 14-10-2021 before the Supreme Court of Pakistan. **(Copy of the letter is attached as Annexure "D")**.
5. That there is no stay order from the Apex Supreme Court of Pakistan Islamabad in this respect. Petitioner is jobless since his dismissal from service i.e. 12-02-2020 and has no source of income to live on; therefore, appellant and his family members are badly suffering financially.
6. That despite petitioner's incessant approaches to respondents, he has not been allowed to join his duties as decided by this Honorable Tribunal even on conditional and provisional basis subject to outcome of CPLA (if any) filed by Respondents/Police Department against the petitioner. Hence this Execution Petition on the following:

GROUND:

- A. That as this Honorable Service Tribunal in its judgment dated 14-10-2021 had ordered that "we partially allow the

appeal in hand and the impugned major penalty of appellant's dismissal from service is substituted with minor penalty of withholding of increment for three years without cumulative effect. Consequently, the impugned order of appellant's dismissal from service is set aside with direction to the respondent No.3 to reinstate him into service with all back benefits. It is further directed that the respondent No.3 shall give effect to the above mentioned substituted penalty under due course".

- B) That there is no stay order from the Apex Supreme Court of Pakistan against the judgment and order dated 14-10-2021 of this Honorable Service Tribunal and its order is in the field. Respondents must comply with the said order.
- C) That respondents do not pay any heed to decision dated 14-10-2021 of this Honorable Tribunal, hence instant execution petition.
- D) That petitioner along with his family is facing financial distresses due to his unemployment and deserves to be allowed to join his duty in the light of decision dated 14-10-2021 of this Honorable Service Tribunal.
- E) That instant execution petition is well within time and this Honorable Service Tribunal has got every jurisdiction to entertain and adjudicate upon the same.

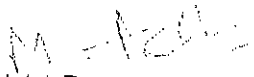
5

PRAYER:

It is, therefore, humbly prayed that this Honorable Service Tribunal may graciously be pleased to accept this Execution petition and issue necessary orders/directions to be respondents to allow the petitioner to join his duties in the light of its decision dated 14-10-2021 conditionally and provisionally subject to outcome of CPLA (if any) filed by respondents.



PETITIONER

THROUGH


MOHAMMAD ASLAM TANOLI
ADVOCATE HIGH COURT
AT HARIPUR

AFFIDAVIT

I, Muhammad Atif petitioner do hereby solemnly affirm that the contents of fore-going petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable court.

Dated:  -01-2022


DEPONENT



06.01.2022

Learned counsel for the petitioner present.

The petitioner through this Execution Petition has brought the judgment of this Tribunal for execution which was passed in his favor on 14.10.2021, in service appeal No. 6043/2020. The findings in the judgment were followed by the operative part as copied below:-


"For what has been discussed above, we partially allow the appeal at hand and the impugned major penalty of appellant's dismissal from service is substituted with the minor penalty of withholding of increment for three years without cumulative effect. Consequently, the impugned order of appellant's dismissal from service is set aside with direction to the respondent No. 3 to re-instate him into service with all back benefits. It is further directed that the respondent No. 3 shall give effect to above mentioned substituted penalty under due course."

The petitioner has submitted that the judgment is still in field and has not been suspended or set aside by the august Supreme Court of Pakistan. Therefore, the respondents are legally bound to pass formal reinstatement order and he prayed for implementation of the judgment at his credit in letter and spirit.

Needles to say that the respondents are at liberty to challenge the judgment at credit of the petitioner before the august Supreme Court of Pakistan, if so advised; however, filing of the petition against the judgment before august Supreme Court of Pakistan does not absolve the respondents from their obligation from implementation of the judgment of this Tribunal in letter and spirit unless the same is suspended by a specific order of the august Supreme Court of Pakistan. If the respondents are not in possession of any such order, they are supposed to implement the judgment at credit of the petitioner but with liberty to get an affidavit from him for

return/restoration of the benefits, if the judgment of this Tribunal at his credit is set aside by the august Supreme Court of Pakistan. Copy of Execution Petition alongwith copy of this order be sent to Respondent No. 3 for implementation report on or before the date fixed. Notice of Execution Petition be given to other respondents.

To come up for implementation report on 17.01.2022 before S.B.


CHAIRMAN

Office of the Chairman
Tribunal for the Enforcement of
Judgments and Decrees
Islamabad