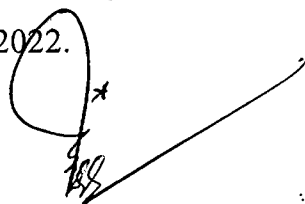


27.09.2022

Petitioner in person present. Mr. Naseer-ud-Din Shah,
Assistant Advocate General alongwith Mr. Waqar Ahmad
ASI for respondents present.

Implementation report not submitted. Representative
of the respondents requested for time to submit
implementation report. Adjourned. To come up for
implementation report before the S.B on 03.11.2022.





(Mian Muhammad)
Member (E)

Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 407/2022

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. Afrahim Nasir submitted today by Roeeda Khan Advocate. It is fixed for implementation report before Single Bench at Peshawar on <u>26.7.2022</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>By the order of Chairman  REGISTRAR</p>
Doc	26 th July, 2022	<p>Learned counsel for the petitioner present. Mr. Muhammad Adeel Butt, Addl: AG for respondents present.</p> <p>Learned counsel for the petitioner submits that order is to be implemented by ^{the} District Police Officer, Karak, therefore, the remaining respondents are deleted from the panel of respondents. Notice be issued to ^{the} District Police Officer, Karak to implement the judgment of the Tribunal and submit implementation report. To come up for implementation report on 27.09.2022 before S.B.</p> <p> (Kalim Arshad Khan) Chairman</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Execution Petition No. 407 /2022

In Service Appeal: 4995/2021

Ifrahim Nasir S/o Abdul Karim R/o Daggar Narai Tehsil
Banda Daud Shah District Karak

Appellant/Petitioner

VERSUS


- (1) The Secretary Home and Tribal Affairs KPK Peshawar.
- (1) The Inspector General of Police KPK Peshawar.
- (2) The regional Police Officer Kohat regional Kohat.
- (3) The District Police officer Karak.
- (4) The District Police officer Kohat.

Respondents


Index

S.No.	Description of documents	Annexure	Pages
1.	Copy of petition		1-2
2.	Copy of Judgment	A	3-7
3.	Wakalat Nama		

Dated 22/07/2022


Appellant/Petitioners

Through


Roeda Khan
Advocate High Court,
Peshawar.

(1)

BEFORE THE KHYBER PAKHTUNKHWASERVICE TRIBUNAL,
PESHAWAR.

Execution Petition No. 407 /2022

Khyber Pakhtunkhwa
Service Tribunal

In Service Appeal: 4995/2021

Diary No. 755

Dated 22/7/2022

Ifrahim Nasir S/o Abdul Karim R/o Daggar Narai Tehsil
Banda Daud Shah District Karak

Appellant/Petitioner

VERSUS

- (1) The Secretary Home and Tribal Affairs KPK Peshawar.
- (2) The Inspector General of Police KPK Peshawar.
- (3) The regional Police Officer Kohat regional Kohat.
- (4) The District Police officer Karak.
- (5) The District Police officer Kohat.

Respondents

.....

EXECUTION PETITION FOR DIRECTING THE
RESPONDENTS TO IMPLEMENT THE
JUDGMENT DATED: 31/05/2022 OF THIS
HONOURABLE TRIBUNAL IN LETTER AND
SPIRIT.

.....

Respectfully Sheweth:

1. That the appellant/Petitioners filed Service Appeal No. 4995/2021 before this Hon' able Tribunal which has been accepted by this Hon' able Tribunal vide Judgment dated 31/05/2022. (Copy of Judgment is annexed as Annexure-A).

(2)

2. That the Petitioner after getting of the attested copy approached the respondents several times for implementation of the above mentioned Judgment. However they using delaying and reluctant to implement the Judgment of this Hon' able Tribunal.
3. That the Petitioner has no other option but to file the instant petition for implementation of the Judgment of this Hon' able Tribunal.
4. That the respondent Department is bound to obey the order of this Hon' able Tribunal by implementing the said Judgment.

It is therefore requested that on acceptance of this Petition the respondents may kindly be directed to implement the Judgment of this Hon' able Tribunal letter and spirit.

Dated 22/07/2022



Appellant/Petitioner

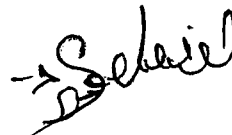
Through



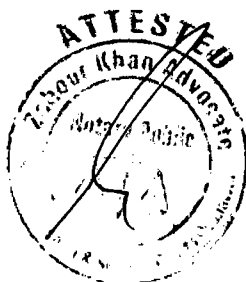
**Rooeda Khan
Advocate High Court Peshawar**

AFFIDAVIT

I, Ifrahim Nasir S/o Abdul Karim R/o Daggar Narai Tehsil Banda Daud Shah District Karak do here by solemnly affirm and declare on oath that all the contents of the above petition are true and correct to the best of my knowledge and belief and nothing has been misstated or concealed from this Hon' able Tribunal.



DEPONENT



(1) (3)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Khyber Pakhtunkhwa Service Tribunal

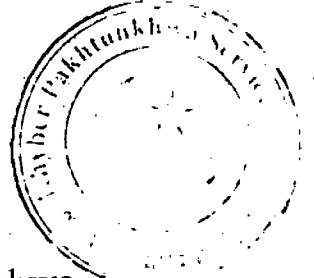
Service Appeal No. 4995 of 2021

Diary No. 5030

Dated 23/4/2021

Ifrahim Nasir Son of Abdul Karim R/o Daggar Narai Tehsil Banda Daud Shah District Karak.

..... Appellant



VERSUS

- 1) The Secretary Home & Tribal Affairs, Khyber Pakhtunkhwa Peshawar.
- 2) The Inspector General of Police, Khyber Pakhtunkhwa Peshawar.
- 3) The regional Police Officer Kohat, Regional Kohat.
- 4) The District Police office Karak.
- 5) The District Police Officer Kohat.

..... Respondents

APPEAL U/S 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 18/03/2021 COMMUNICATED TO THE APPELLANT ON 24/03/2021 WHEREBY THE DEPARTMENTAL APPEAL FOR BACK BENEFITS OF INTERVENING PERIOD OF SERVICE WITH EFFECT FROM 26/12/2017 TO 12/06/2019 OF THE APPELLANT HAS BEEN REJECTED ON NO GOOD GROUNDS.

Filed to-day

Registrar

23/4/2021

Re-submitted to -day and filed.

Registrar

6/5/2021

Prayer:

On acceptance of this appeal the impugned order dated 18/03/2021 may kindly be set aside and the Appellant may kindly be allowed back benefits of intervening period of service with effect from 26/12/2017, to 12/06/2019 along with back benefits.

(4)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 4995/2021

Date of Institution ... 23.04.2021
Date of Decision ... 31.05.2022

Ifrahim Nasir son of Abdul Karim R/O Daggar Narai Tehsil Banda
Daud Shah District Karak.

(Appellant)

VERSUS

The Secretary Home & Tribal Affairs Khyber Pakhtunkhwa,
Peshawar and four others.

... (Respondents)

Miss Roeeda Khan,
Advocate

... For appellant.

Asif Masood Ali Shah,
Deputy District Attorney

... For respondents.

Rozina Rehman
Fareeha Paul

... Member (J)
... Member (E)

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 impugned order dated 18.03.2021 may kindly be set aside and the appellant may kindly be allowed back benefits of intervening period of service with effect from 26.12.2017 to 12.06.2019.”

2. Brief facts of the case are that appellant was appointed as Constable and after appointment, he performed his duty with full devotion and dedication. He was transferred to District Kohat on

Rozina Rehman
Member (J)


Fareeha Paul
Member (E)

14.02.2014 and posted at Digital Lab Crimes Kidnapping Cell. While performing his duty at District Kohat, he was dismissed from service on 26.12.2017. He filed Service Appeal which was allowed with direction to conduct a de-novo inquiry vide judgment dated 15.02.2019. Consequently appellant was reinstated on 12.06.2019 and the punishment was converted into forfeiture of service for two years. He submitted departmental appeal which was allowed to the extent of forfeiture of two years service. He then filed mercy petition to the extent of back benefits which was rejected, hence, the present service appeal.

3. We have heard Miss Roeeda Khan Advocate learned counsel for appellant and Asif Masood Ali Shah learned Deputy District Attorney for respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Miss Roeeda Khan Advocate learned counsel appearing on behalf of appellant inter-alia submitted that the appellant was not treated in accordance with law and his rights secured and guaranteed under the Constitution of Islamic Republic of Pakistan, 1973 were badly violated. Learned counsel further argued that the appellant was exonerated from the charges leveled against him but even then back benefits to the extent of intervening period were not granted, therefore, requested for acceptance of the instant service appeal.

5. Conversely, learned AAG submitted that appellant had committed gross professional misconduct and was proceeded against departmentally, therefore, major punishment of dismissal was imposed by the competent authority. It was



(b)
appellant was treated in accordance with law and proper order was passed after fulfillment of all codal formalities.

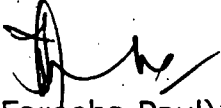
6. From perusal of the record, we have come to the conclusion that the appellant was proceeded against departmentally on the allegations that he while posted at Counter Kidnapping Cell had misused the authority and major penalty of dismissal from service was imposed upon him on 26.12.2017. He filed Service Appeal No.278/2018 which was allowed; appellant was reinstated in service with direction to respondents to issue fresh charge sheet with statement of allegations and to conduct de-novo inquiry within a period of 90 days from the receipt of copy of judgment. In compliance with the judgment of this Tribunal, de-novo inquiry was properly conducted. As per charge sheet, allegations against the present appellant were that he fraudulently wrote mobile number 03109004679 on proforma and handed over to another person. From the inquiry report it is evident that the allegations leveled against the appellant did not prove and he was recommended to be absolved from the charges leveled against him. In view of the available record, the competent authority i.e. DPO Karak did not agree with the findings of the inquiry officer and he while reinstating the appellant in service permanently converted his punishment into forfeiture of service for two years while absence period was treated as leave without pay on the ground that the appellant leaked secret information being posted at a responsible post at Crime

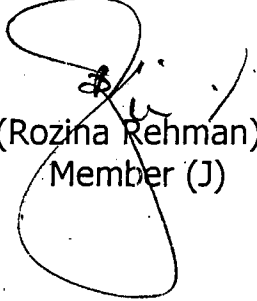
Cell, Kohat. Feeling aggrieved, he filed departmental appeal which was allowed by Regional Police Officer, Kohat.

C 71

by setting aside the punishment order and restored his two years forfeited service. He then filed mercy petition against the order, whereby, intervening period was counted as leave without pay but the same was filed being time barred. From the entire record it is evident that the allegations leveled against the appellant were never proved. His service record is clear and there is no bad entry. He was dismissed from service in the absence of cogent and reliable evidence which order was later on set aside. Again, his two years service was forfeited in the absence of strong evidence and his appeal was accepted. He was punished for no fault. We also would differ with the contention of the learned AAG about time of limitation, as the issue involves a continuous cause of action, involving monetary loss to the appellant, hence, no limitation runs against the instant case. There is nothing in black & white which could show that any secret while posted at a responsible seat was ever leaked by the appellant, therefore, he is entitled to all back benefits and accordingly instant service appeal is accepted as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.
31.05.2022

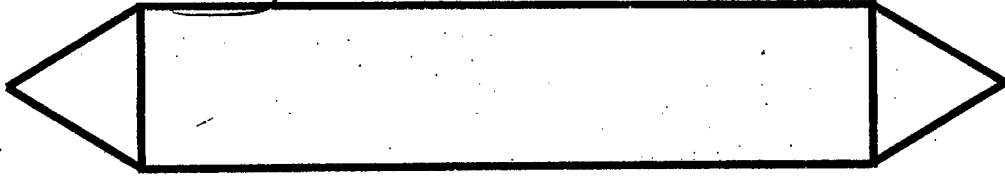

(Fareeha Paul)
Member (E)


(Rozina Rehman)
Member (J)

2000
22/-
4/-
26/-
20/6/22
20/6/22



بعدالت جناب سرور سے تم اسنوٹ کے ساتھ



مورخہ

مقدمہ

دعویٰ

جرم

2022 منجانب

الہامی نام

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ

آن مقام کے لیے روایتی طور پر

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے کی تفریق ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا محتاج ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکور با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ ہوں گے سب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

2022ء

ماہ جولائی

22

المرقوم

العبد گاہ العبد واہ العبد

کے لئے منظور ہے۔

Accepted

مقام

“A”

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

No. *100*

APPEAL No. *EP No.* *407* of *20* *22* ^{*SP*}

Ibrahim Nasir

Appellant/Petitioner

Versus

Sey Home & Tribal Affairs

RESPONDENT(S)

Respondent

Notice to Appellant/Petitioner *District Police Officer, Korak*

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on *27/09/2022* at *9:00am*

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

For Implementation Report

[Signature]

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Copy of EP Attached