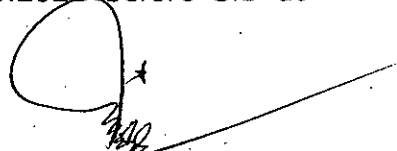


09.09.2022

Learned counsel for the petitioner present. Mr. Muhammad Riaz Khan Pindakhel, Assistant Advocate General alongwith Mr. Muhammad Rasool Shah, Finance Officer for the respondents present.

Respondent department is under obligation either to implement the judgement of Service Tribunal dated 06.12.2021 provisionally/conditionally or to get it suspended from the august Supreme Court of Pakistan. In either case, the department is granted last chance and strictly directed to come up with final implementation report on the next date. Adjourned. To come up for final implementation report on 07.10.2022 before S.B at Camp Court, Swat.


(Mian Muhammad)
Member (E)
Camp Court Swat

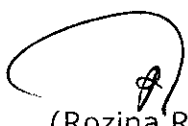
07.10.2022

Nemo for petitioner.

Muhammad Jan, learned District Attorney alongwith Khushi Muhammad S.O (Litigation) and Raza Ullah Superintendent for respondents present.

Implementation report was produced in form of office order dated 03.10.2022 vide which competent authority conditionally allowed pension and other benefits to the present petitioner subject to final outcome of pending CPLA in the august Supreme Court of Pakistan. As the grievances of the petitioner have been fully redressed, therefore, execution proceedings stand consigned being fully satisfied. No order as to costs.

Announced.
07.10.2022


(Rozina Rehman)
Member (J)
Camp Court Swat

8. 22

Due to summer vacation the case
is adjourned to 5-9-22 for the same.

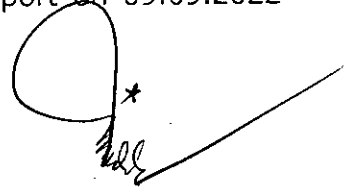


05.09.2022

Nemo for the petitioner. Mr. Muhammad Riaz Khan
Paindakhel Assistant Advocate General alongwith Khushi
Muhammad, Section Officer for the respondents present.

P

Representative of the respondent department stated at the
Bar that he is trying to contact the ~~concerned Quarter~~ and
implementation report will be submitted on the next date.
Adjourned. To come up for implementation report on 09.09.2022
before S.B at Camp Court Swat.

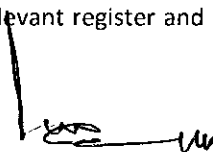




(Mian Muhammad)
Member (E)
Camp Court, Swat

Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. _____ 288/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	17.05.2022	<p>The execution petition of Mr. Wahid Zaman submitted today by Syed Abdul Haq 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>
2-	25-5-22	<p>This execution petition be put up before touring Single Bench at Swat on <u>10-6-22</u>. Original file be requisitioned. Notices to the parties be also issued for the date fixed.</p> <p style="text-align: right;"> CHAIRMAN</p>
10 th	June, 2022	<p>Mr. Ikramullah, brother of the petitioner on behalf of the petitioner present. Mr. Kabirullah Khattak, Addl: AG for respondents present.</p> <p>Notices be issued to the respondents for submission of implementation report with the direction to submit proper implementation report. To come up for implementation report on 01.08.2022 before the S.B at camp court Swat.</p> <p style="text-align: right;"> (Kalim Arshad Khan) Chairman</p>

Camp Court Swat

BEFORE THE HONOURABLE SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA AT PESHAWAR

Exception Petition no. 288/2022

C.M. _____/2022 IN
Service Appeal 1507 of 2018

Wahid ZamanApplicant


VERSUS

District Coordination Officer /DC Dir Upper and others.....Respondents.

INDEX

S.NO	DESCRIPTION	ANNEX	PAGES
1.	Copy of Application with affidavit		1-5
2.	Copy of judgment dated 6.12.2021	A	6-10
3.	Copy of application		11-12
4.	Legal Notice		13
5.	Power of attorney		14 E
6.	Wakalatnama		15

Applicant through Counsel


SYED ABDUL HAQ (ASC)
HIGH COURT DARULQAZA
BAR ROOM SWAT
Cell No 0333-9546154

1

**BEFORE THE HONOURABLE SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA AT PESHAWAR**

C.M. _____/2022 IN

Execution Petition no. 289

Service Appeal 1507 of 2018



Waihd Zaman Son of Abdul Rehman resident of Akhun Banda
Tehsil Wari District Dir Upper.....Applicant

VERSUS

1. District Coordination Officer /Deputy Commissioner Dir Upper.
2. Secretary Home and Tribal affairs, Government of Khyber Pakhtunkhwa at Peshawar. Respondent

**APPLICATION FOR IMPLEMENTATION OF THE
JUDGMENT RENDERED BY THIS HONOURABLE
TRIBUNAL IN SERVICE APPEAL BEARING
NO.1507 OF 2018 DATED 06.12.2021**

Respectfully Sheweth;

The facts of the instant application are, as under.

- 1) That the appellant has filed a service bearing no. 1507/2018 before this honourable Tribunal wherein comments were called from the concerned respondents and the case was posted for arguments.

- 2) That after hearing this honourable Tribunal partially accepted the appeal of applicant and major penalty of removal from service was converted into compulsory retirement, vide judgment dated 06.12.2021. (Copy of judgment dated 6.12.2021 is attached as annexure-A)
- 3) That after receiving the judgment, the applicant approached office of respondent No.1 in shape of application and submitted the judgment of this honourable Tribunal to him.
- 4) That the applicant was told verbally that the judgment of this honourable Tribunal would be implemented in letter and spirit, but after passing some days he was informed that the respondents has decided to challenge the judgment of this honourable Tribunal in Supreme Court of Pakistan.
- 5) It is very astonishing, that passing almost one year the respondents is not willing to implement the judgment of this honourable Tribunal, so, applicant have no other efficacious and adequate remedy except to file this

application for implementation for the judgment before this honourable Tribunal interalia on the following grounds

GROUNDS


- A. That the act of respondent as not obeying the order/judgment of this honourable Tribunal in its true spirit is highly discriminatory and just to deprive the applicant from his legitimate rights.
- B. That such act of respondent is against the 10-A of the constitution as right of due process and fair trial is fundamental right of applicant.
- C. That the respondent submitted comments and tried his best to rebut the stance of applicant but whenever this honourable Tribunal passed his judgment mentioned *ibid* then there is no other legal way for respondent except to implement such judgment in letter in spirit without any artificial break/delay.
- D. That the respondent No.1 have no authority to delay the judgment of this honourable Tribunal on the pretext that

"they will approach to the apex Court" and if such practice on part of respondent was not discouraged then, the dignity/decorum of this honourable Tribunal would be demolished.

- E. That the applicant seeks leave of this honourable court to raise/argue any additional point at the time of arguments.

It is, therefore, humbly prayed that on acceptance of this application the respondents may kindly be directed to implement spirit of the judgment rendered by this honourable Tribunal from the date of its announcement.

Applicant
Through
Counsel


SYED ABDUL HAQ, H.C (Swat)
Advocate, Supreme Court
0333-9546154

5

**BEFORE THE HONOURABLE SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA AT PESHAWAR**

C.M. _____/2022 IN
Service Appeal 1507 of 2018

Wahid ZamanApplicant
VERSUS

District Coordination Officer /DC Dir Upper and others.....Respondents.

AFFIDAVIT

I, *Wahid Zaman (through Attorney Ikram Ullah, Brother)*
Son of Abdul Rehman resident of Akhun Banda Tehsil Wari
District Dir Upper, do hereby solemnly affirm and declare on oath
that contents of above application are true and correct to the best
of knowledge and belief, and nothing has been kept concealed
therein before this honourable tribunal.

ATTESTED
Gul Daraz Khan
Oath
Commissioner
14/5/22

Wahid
DEPONENT

'A'
Anney

6

BEFORE THE SERVICE TRIBUNAL KPK, PESHAWAR

Service Appeal No. 1507 /2018

Wahid Zaman Son of Abdul Rehman Resident of Akhun Banda Tehsil
Wari District Dir Upper..... **Appellant**

VERSUS

**Khyber Pakhtunkhwa
Service Tribunal**

District Co-ordination Officer, Dir Upper.

Diary No. 1733

Dated 6/12/2018

Secretary Home & Tribal Affairs, Government of Khyber
Pakhtunkhwa at Peshawar. **Respondents**



**APPEAL UNDER SECTION 4 OF THE GOVT. OF KHYBER
PAKHTUNKHWA, SERVICE TRIBUNAL ACT, 1974 AGAINST
THE IMPUGNED ORDER DATED 06.11.2018 WHEREBY
DEPARTMENTAL APPEAL OF APPELLANT WAS REJECTED.**

PRAYER IN APPEAL

*On acceptance of this appeal, the
impugned order qua termination of appellant may
kindly be set aside and the appellant be reinstated in
service with all back benefits.*

Filed this day
[Signature]
Magistrate

6/12/18 Respectfully Sheweth;

Re-submitted to -day
and filed

[Signature]
Registrar

The facts of the instant are as under.

1. That the appellant was appointed as Sepoy in Dir Levies (Provincial) against the vacant post vide appointment order dated 24.11.1999 (Annexure-A)

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

7

Service Appeal No. 1507/2018

Date of Institution 06.12.2018
Date of Decision 06.12.2021

Wahid Zaman, son of Abdul Rehman Resident of Akhun Banda
Tehsil Wari, District Dir Upper. (Appellant)

VERSUS

District Coordination Officer, Dir Upper and one another. (Respondents)

Syed Abdul Haq,
Advocate For appellant.

Muhammad Riaz Khan Paindakheil,
Assistant Advocate General For respondents.

Rozina Rehman Member (J)
Atiq ur Rehman Wazir Member (E)

ATTESTED

MEMBER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

JUDGMENT

Rozina Rehman, Member(J): Brief facts of the case are that appellant was appointed as Sepoy in Dir Levies (Provincial) on 24.11.1999 and was promoted to the rank of Lance Naik. During service, he filed an application for grant of two years leave which was forwarded to the respondent No.1. In the meanwhile, he was proceeded against departmentally and was removed from service on 20.06.2012. He filed departmental appeal which was rejected, hence, the present service appeal.

2. We have heard Syed Abdul Haq Advocate learned counsel for appellant and Muhammad Adeel Butt, learned Additional Advocate General for the respondents and have gone through the record and the proceedings of the case in minute particulars.

ATTESTED TO BE
TRUE COPY

Scanned with CamScanner

9/11

8

3. Syed Abdul Haq Advocate, learned counsel for appellant submitted that impugned order is illegal, against law and facts as the appellant was not treated in accordance with law. He argued that one Maqbool Shahzada was reinstated into service but appellant was discriminated and was removed from service without issuance of show cause notice. He argued that no regular inquiry was initiated and that opportunity of defense was not provided to the appellant according to law and lastly he submitted that the appellant has put in considerable service but was removed from service on the ground of alleged unauthorized absence which punishment is extremely harsh and does not commensurate with the gravity of misconduct. He, therefore, requested for reinstatement of appellant with all back benefits.

4. Conversely, learned AAG submitted that no leave application was submitted by the appellant to the then District Coordination officer District Dir Upper and that Incharge Subedar Levy post reported in respect of his absence from duty since 22.02.2012 without prior permission of the competent authority. Owing to the reason, notice was issued in the name of appellant with direction to submit reply but he failed. Show cause notice was also issued but this time too, the appellant failed to submit reply. He submitted that major penalty was imposed against the appellant under the relevant rules after fulfillment of all legal formalities.

5. It is an admitted fact that during the period from 2009 to 2012, the appellant alongwith many other levy personnel were dismissed from service on the charges that they had left either levy headquarters or other Levy Post Guards, where they were on duty for fear of the wrath of militants. Amongst whom, 68 levy personnel, who had

ATTESTED TO BE
TRUE COPY
CTE

9

actually left their duty due to fear of Taliban, were re-instated vide judgment dated 19.08.2009 of Home Secretary and subsequently a batch of another 30 Levy officials were reinstated by Federal Service Tribunal vide judgment dated 03.06.2011. Vide another judgment of Federal Service Tribunal in Service Appeal No.382/P.C.S/2014, other similar Sepoy were reinstated vide judgment dated 18.05.2017. Placed on record is another similar case of a Levy Sepoy, Mr. Maqbool Shahzada, who was also dismissed from service on the charges of absence vide order dated 14.11.2011, but upon his departmental appeal, he was re-instated by Home Secretary vide order dated 29.09.2017. Besides, there are other such examples, where quantum of punishment has been reduced either by courts or by respondents themselves in case of desertion, which exhibit lenient consideration specifically in time limitation, keeping in view the peculiar circumstances at that particular time.

6. We are also mindful of the question of limitation, as the appellant filed departmental appeal with a considerable delay, but the circumstances in the instant appeal are eccentric, which requires dealing in a distinguishable manner, if compared with numerous cases of desertion, where such levy personnel remain fugitive from law for years, but case of the appellant was not that of desertion, rather the appellant submitted proper application for grant of two years leave, which was processed at some length. Placed on record is a letter dated 08.2.2012 issued by Home Department addressed to D.C.O Upper Dir enclosing his application for grant of two years leave and after submission of application for leave, the appellant proceeded on leave with the understanding that such leave has been granted, but the respondents instead of considering his leave application, initiated

Attested to be TRUE COPY

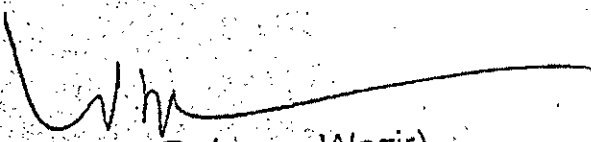
Handwritten marks and stamps at the bottom left corner, including a signature and some illegible text.

ex-parte proceedings against the appellant on the charges of absence from duty and without affording him any opportunity, imposed major penalty of removal from service upon the appellant vide order dated 22.06.2012 without adopting the proper legal course. Moreover discrimination on part of the respondents is evident from the fact that departmental appeal of the appellant was filed, whereas such appeal of Mr. Maqbool Shahzada was accepted and he was re-instated in service. Besides, other similar levy personnel of the same rank and batch were re-instated with delayed submission of their cases for re-instatement; hence, the principle of consistency demands that the appellant also deserves the same treatment as meted out to his other colleagues. We are of the considered opinion that the appellant has not been treated in accordance with law and penalty so awarded is harsh, which does not commensurate with guilt of the appellant.

7. Taking a lenient view of the situation and keeping in view the length of service of the appellant, the instant appeal is partially accepted and major penalty of removal from service is converted into compulsory retirement from service. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED.

06.12.2021


(Atiq ur Rehman Wazir)


(Rozina Rehman)
Member (J)

BEFORE THE WORTHY DEPUTY COMMISSIONER
DIR UPPER

Applicant: Wahid Zaman Son of Abdul Rehman Resident of Akhun
Banda Tehsil Wari District Dir Upper

Subject: APPLICATION FOR IMPLEMENTATION/COMPLIANCE
THE JUDGMENT PASSED IN SERVICE APPEAL NO.
1507/2018.

Respectfully Sheweth;

The facts of the instant application are as under.

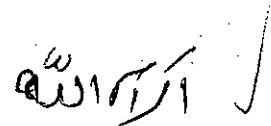
1. That the applicant/appellant was appointed as Sepoy in Dir levies (provincial) on 24.11.1999, however after removal from service on 20.6.2012 he filed service appeal bearing No. 1507/2018 before the Khyber Pakhtunkhwa service tribunal Peshawar.
2. That in compliance of the order of the tribunal your good office has submitted comments and after hearing the service appeal was partially allowed and major penalty of removal from service was converted in to compulsory retirement vide judgment dated 06.12.2021 (Copy of the judgment is attached)

ATTESTED TO BE
TRUE COPY

12

3. That as per law the appellant/applicant has ordered to be compulsory retired by the tribunal so as per mandate of the judgment the applicant is entitled for pensionary and other retirement benefits proportionate to the period of service standing to his credit.


It is therefore humbly prayed that on the strength of the judgment rendered by the honourable Tribunal, all the pensionary and other retirement benefits may kindly be awarded to the applicant.



APPLICANT

Wahid Zaman (through)
his brother Ikramullah

Dated: 12.1.2022



ATTESTED TO BE
TRUE COPY

13

SYED ABDUL HAQ

ADVOCATE, SUPREME COURT

Mobile : 0311-0950959

Email : syedabdulhaq@gmail.com

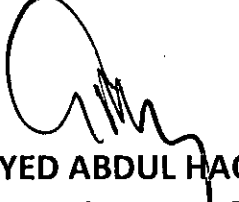
Address: Swat Shopping Mall, Opp:
Peshawar High Court Mingora Bench,
Swat.

To,

District Coordination Officer /Deputy Commissioner,
Dir Upper.

Memo

I am filing an application in Service tribunal against non-implementation of judgment dated 06.12.2021. (Copy of the application is sent herewith for your information please.


SYED ABDUL HAQ (Swat)
Advocate Supreme Court

(A)



14

Validity of the attestation of Power of Attorney is 120 days



SPECIAL POWER OF ATTORNEY FOR COURT CASES

KNOW ALL MEN BY THESE PRESENT THAT BY THIS SPECIAL POWER OF ATTORNEY I **Wahid Zaman S/O Abdur Rahman** (CNIC:1570224735037) R/o Akhun Banda P.O Wari Bala District Upper Dir Pakistan Presently Residing at Saudi Arabia, I do hereby appoint, make and constitute my real brother **Mr, Ikram Ullah S/o Abdur Rahman CNIC No: 1570240936541** R/o Akhun Banda P.O Wari Bala District Upper Dir Pakistan to be my true and lawful attorney in my name and on my behalf. To do or execute all or any of the following acts or things in connection with the affair of Court cases.

The executants signed this document in this Mission

1. To file suit, application, written statement written reply, execution, and petition to defend for Civil Courts / Sessions Courts / Revenue Courts / Chairman Union Council / maintenance against me and my favor
2. To manage purse the affair of the above titled suits/application and other related cases/ affairs / matters and also manage/ pursue all kind of related intuition of new cases on my behalf in any court of law
3. To engage or appoint an Advocate or legal practitioner to conduct case.
4. To sign, verify application written reply, written statements or file application; Suit or written reply or further file any suit or application in any Court of Law on my behalf.
5. To file and defend appeal review, revision and any kind of application, suit from High Court to Supreme Court of Pakistan or Revenue Court or in any competent court.
6. Generally to do all other lawful acts necessary for the conduct the case.
7. That the Attorney can appoint Advocate; purchase Stamp Papers, claim and therefore on my behalf.
8. To receive money due to me under such decree or order and to the court.
9. To apply for inspection and inspect documents and records and to file suit degrading above said cases.

Attested

Sadaqat Ali Gujjar
Vice Consul (Accounts)
Consulate General of Pakistan
Jeddah

26 APR 2022

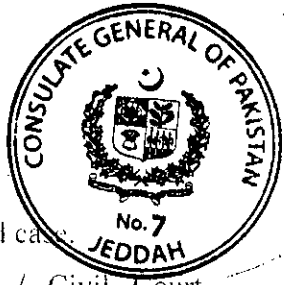
CONSULATE IS NOT RESPONSIBLE FOR THE CONTENTS OF THE DOCUMENTS



7599

The executants signed this document in this Mission

14



- 10. To take possession of the above said property for the conduct of the said case.
- 11. To file any suit appeal and appear before the Revenue Court / Civil Court Appellate Court and Arbitration Court (UC) form the civil Court Family Court up to the Supreme Court. To appear before the Sub Registrar Union Council, Revenue Authority Municipal Committee or Revenue Court and From the Civil Court up to the Supreme Court of Pakistan or before any department or relevant office.

And I hereby agree that all acts and things lawfully done by my said attorney in connection with any case shall be constructed as acts and things done by me and I undertake to ratify and confirm all and whatsoever that my said attorney shall lawfully do or cause to be done for me by virtue of the power of attorney hereby given by me.

IN WITNESS WHERE OF I have signed this deed on this day 26-02-2022.

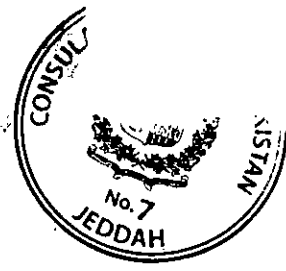
EXECUTANT



Wahid Zaman S/O Abdur Rahman
 (CNIC: 1570224735037)
 Iqama#: 2319595779
 Cell no: +966 581267892

Attested

Sadaqat Ali Gujjar
Sadaqat Ali Gujjar
 Vice Consul (Accounts)
 Consulate General of Pakistan
 Jeddah
 26 APR 2022



Witness No1 Muhammad Ayub Shah
 CNIC no 1110158000539

Muhammad Ayub Shah

Witness No2 Sajid Ullah
 CNIC no 1570221941121

Sajid Ullah

CONSULATE IS NOT RESPONSIBLE FOR THE CONTENTS OF THE DOCUMENTS

Attestation of
 Sadaqat Ali Gujjar
 Vice Consul (Accounts)
 Consulate General of Pakistan
 Jeddah
 is 120 days

195

حکومت پاکستان

قومی شناختی کارڈ

15702-2473503-7



نام: ولید زمان

پیشہ: ...

تعلقہ: ...

شناختی برسر: ...

تاریخ پیدائش: 01/03/1978

عثمان یوسف مبین

دستخط جسٹس

دستخط مال

شناختی نمبر: 15702-2473503-7

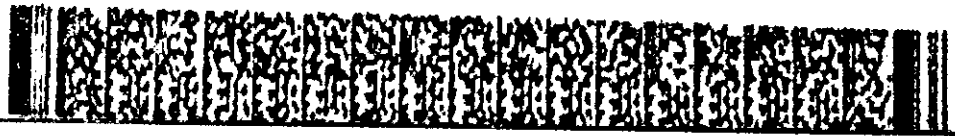
...

...

20/11/2028

20/11/2018

...



ATTESTED