

21.11.2022

Nemo for the Petitioner present. Mr. Muhammad Adeel Butt Additional Advocate General for respondents present.

This case pertains to Camp Court Swat. Office is directed to fix it before the camp Court Swat. The respondents are directed through AAG to implement the judgment and submit the implementation report on 08.12.2022 before the S.B at camp Court Swat.



(Kalim Arshad Khan)  
Chairman

21.11.2022

Nemo for the Petitioner present. Mr. Muhammad Adeel Butt Additional Advocate General for respondents present.

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(KalimArshad khan)  
Chairman

18.11.2022

Appellant in person present and submitted an application for withdrawal of the instant service appeal on the ground that he has got another job and has been appointed as Patwari (BPS-09) therefore, he does not want to further pursue the instant service appeal. Application is allowed and the instant service appeal is dismissed as withdrawn. Consign.

02. *Pronounced in open court at Peshawar and given under my hand and seal of the Tribunal this 18<sup>th</sup> of November, 2022*

(Mian Muhammad)  
Member (E)



23.09.2022

Learned counsel for the petitioner. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Learned Deputy District Attorney shall intimate the respondents to positively submit implementation report on 27.10.2022 before the S.B.



(Salah-Ud-Din)  
Member (J)

27<sup>th</sup> Oct., 2022

Junior to counsel for the petitioner. Mr. Naseerud Din Shah, Assistant Advocate General for the respondents present.

Implementation report has not been submitted. Learned AAG seeks adjournment in order to contact the respondents to implement the judgment. Adjourned. To come up for implementation report on 21.11.2022 before S.B.





(Fareeha Paul)  
Member(E)

Form- A  
FORM OF ORDER SHEET

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

Execution Petition No. 435/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	29.07.2022	<p>The execution petition of Mr. Sajjad Ali Khan submitted today by Mr. Anwar Ali Khan Advocate may be entered in the relevant register and put up to the Court for proper order please. This execution petition be put up before Single Bench at Peshawar on <u>5-8-22</u>. Original file be requisitioned. Notices to the parties be also issued for the date fixed.</p> <p style="text-align: right;"> REGISTRAR</p> <p>Nemo for parties.</p> <p>Notice be issued to petitioner/counsel as well as to respondents for the date fixed. To come up for implementation report on 23.09.2022 before S.B.</p> <p style="text-align: right;"> (Fareeha Paul) Member (E)</p>

SCANNED  
KPST  
Peshawar

05.08.2022  
Counsel was informed telephonically due to non-availability of postal tickets

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

Execution Petition No. <sup>435</sup>...../2022

**SCANNED**  
**KPST**  
**Peshawar**

Sajjad Ali Khan ..... "Petitioner"

Versus

Inspector General of Police, KPK, Peshawar & others.... "Respondents"

**I N D E X**

S.No.	Description of documents.	Annexure	Pages.
1.	Memo of implementation with affidavit.		1-2
2.	Judgment and order dated 08.03.2021.	A	3-7
3.	Applications	B & C	8-9
4.	Wakalatnama		

Petitioner

Through



Anwar Ali Khan

Advocate, High Court

①

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

Execution Petition No. 435 /2022

Khyber Pakhtunkhwa  
Service Tribunal

Case No. 864

Dated 29/07/2022

Sajjad Ali Khan S/o Sardar Ali Khan  
(Class-IV) Investigation wing, District Lower Chitral..... "Petitioner"

Versus

1. Inspector General of Police, KPK, Peshawar.
2. Regional Police Officer Malakand Division, Saidu Sharif, Swat.
3. District Police Officer (DPO), District Lower Chitral.
4. Superintendent of Police Investigation, District Lower Chitral.

..... "Respondents"

**IMPLEMENTATION PETITION FOR  
DIRECTING THE RESPONDENTS TO  
EXECUTE/IMPLEMENT IN TRUE  
LETTER & SPIRIT THE JUDGMENT  
AND ORDER DATED 08.03.2021 PASSED  
IN APPEAL NO.645/2019.**

**Respectfully Sheweth:**

**The petitioner humbly submits as under;**

1. That the petitioner filed a service appeal bearing No. 645/2019 before this August Service Tribunal for his reinstatement into service with all back benefits.
2. That the appeal of the petitioner was heard and accepted and the appellant was re-instated into service with all back benefits vide judgment and order dated 08. 03. 2021 by this August Tribunal. (Copy of the judgment and order dated 08. 03. 2021 is attached as Annexure "A").

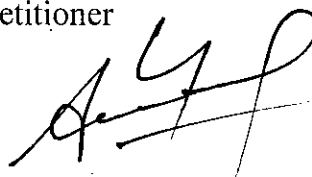
3. That after obtaining the attested copy of the judgment & order dated 08.03. 2021 the petitioner submitted the same to the respondent No. 3 and 4 whereby the petitioner has been re-instated into service , however, out of arrears of pay only the pay w.e.f 07.02.2019 to 31.12. 2019 has been issued and the remaining arrears of pay w.e.f 01.01.2020 to 31.08.2021 has not been issued till date despite several applications and reminders to the respondents. (Copy of the applications are Annexure "B" & "C").
4. That the petitioner having no any other remedy files the instant implementation/execution petition before this August Tribunal.

It is, therefore, humbly prayed that the respondents may kindly be directed to execute/ implement in true letter and spirit the judgment and order dated 08.03.2021 passed in appeal No. 645/2019 and issue the arrears of pay to the petitioner accordingly.

Any other remedy which this Hon'ble may deem fit in the circumstances of the case may also be granted in favor of the petitioner.

Petitioner

Through



Anwar Ali Khan

Advocate, High Court

**AFFIDAVIT:**

I Sajjad Ali Khan S/o Sardar Ali Khan, (Class-IV) Investigation wing, District lower Chitral do hereby solemnly affirm and declare that the contents of the instant petition are true and correct to the best of my knowledge and belief.

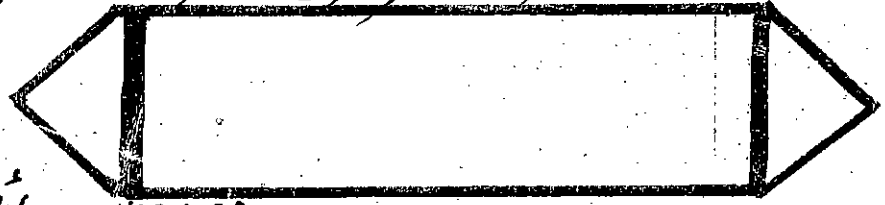


Deponent





بعدالت سرورس ٹریبونل، حیدرآباد، سندھ



2022ء حجاب مسائل

سجاد علی خان بنام اسپیکر جنرل پولیس KPK  
وغیرہ

Execution petition

موزعہ  
مقدمہ  
دعویٰ  
جزم

باعث تحریر آئینکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی وجواب وہی وکل کا کھلی متعلقہ  
آن مقام لحمی اور کیلے انور علی خان ایڈووکیٹ علی گڑھ

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز  
وکیل صاحب کو راضی نامہ کرنے و تقررات ہ فیصلہ برحلف دینے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور صولی چیک وردیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق  
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری کی طرف یا اپیل کی برآمدگی اور منسوخ  
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور  
کے کل یا جزوی کاروائی 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 مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ  
پرداختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو شرطیں ہر جانشین التوا نے مقدمہ کے سبب سے وہوگا۔  
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی  
نہ کوڑ کریں۔ لہذا وکالت نامہ لکھدیا کہ سند ہے۔

سجاد علی خان  
(سائل)

المرقوم 29  
ماہ جولائی 2022ء

Attested and accepted. کے لیے منظور ہے۔

بجھانم

B.C No. 12-3659  
CNEC No. 15202-482335-7

3

Annexure "A"

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



Khyber Pakhtunkhwa Service Tribunal

Diary No. 753

Dated 14/5/2019

Service Appeal No. 645 /2019

Sajjad Ali Khan S/o Sardar Ali Khan  
R/o Village Parkusap, Tehsil Mastuj, District Chitral.

.....Appellant

**VERSUS**

1. Inspector General of Police, Khyber Pakhtunkhwa.
2. Regional Police Officer, Malakand Saidu Sharif, Swat, Khyber Pakhtunkhwa
3. Deputy Inspector General, Special Branch Police, Khyber Pakhtunkhwa
4. District Police Officer, Chitral, District Chitral.

....Respondents

**SERVICE APPEAL U/S 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED OFFICE ORDER NO.4609/E DATED 15.04.2019 OF RESPONDENT NO.2, WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT AGAINST THE IMPUGNED ORDER NO.1488-93/EB DATED 07.02.2019 OF THE RESPONDENT NO.4 WAS DISMISSED ON NO GOOD REASONS**

Filed to-day  
Registrar  
14/5/19

ATTESTED

EXAMINER  
Khyber Pakhtunkhwa Service Tribunal  
Peshawar

4

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No.645/2019

Date of Institution: 16.05.2019  
Date of Decision: 08.03.2021



Mr. Sajjad Ali Khan S/o Sardar Ali Khan R/o Village Parkhusap, Tehsil Mastuj,  
District Chitral.

... (Appellant)

VERSUS

Inspector General of Police Khyber Pakhtunkhwa and three other.

... (Respondents)

Mr. Anwar Ali Khan  
Advocate

... For Appellant

Mr. Asif Masood Ali Shah  
Deputy District Attorney

... For Respondents

MR. HAMID FAROOQ DURRANI  
MR. ATIQ UR REHMAN WAZIR

... CHAIRMAN  
... MEMBER (E)

JUDGMENT: -

ATIQ UR REHMAN WAZIR MEMBER (E):- Brief facts of the case are that the appellant was initially appointed as Class iv in police investigation wing District Chitral on 18-06-2015 and was performing duty at the residence of a police officer in Peshawar until he requested for joining his original duty at Chitral on 02-01-2019 and which sparked the vengeance of his boss. Resultantly the appellant was proceeded against on the charges of absence from duty and dismissed from service on 07-02-2019, against which the appellant filed departmental appeal, which was also rejected on 15-04-2019, hence filed the instant appeal with prayers that the impugned orders dated 07-02-219 and 15-04-2019 may be set aside and the appellant may be re-instated into service with all back benefits.

02.

Written reply/comments were submitted by respondents.

**ATTESTED**

03. Arguments heard and record perused.


04. Learned counsel for the appellant contended that the appellant performed duty at the residence of a police officer for four years in Peshawar and never absented from duty, but when he requested for joining his original duty at Chitral due to his domestic issues, he was proceeded against on the charges of absence from duty, but without any proof of absence. Learned counsel for the appellant further contended that while imposing major penalty of dismissal, a regular inquiry was required to be conducted, but the respondents only fulfilled the formalities and no proper opportunity of defense was provided to the appellant, which is against law and rule. Learned counsel for the appellant pointed out that charges must be proved on firm evidence. Reliance was placed on 2014 PLC (CS) 590, PLD 2008 SC 451 and 2000 SCMR 1743. Learned counsel for the appellant added that the impugned order is based on malafide and false allegations, where the real facts have been concealed, hence not maintainable in law. That the appellant was proceeded against under Government of Khyber Pakhtunkhwa (Efficiency & Discipline) Rules, 2011 as well as Police Rules 1975 at a time, Where Show Cause notice was served under Police Rules 1975, whereas the remaining proceedings under Government of Khyber Pakhtunkhwa (Efficiency & Discipline) Rules, 2011, which made the entire proceedings null and void, as the same could not have been conducted under two different sets of laws simultaneously. Reliance was placed on 2007 PLC (CS) 1306. That the action so initiated was such in haste that Rule 5 (1) (ii) read with Rule 6 have wrongly been referred in the charge sheet and name of another person inserted in place of appellant in the statement of allegations, which shows that the appellant has not been treated in accordance with law and rule. Learned counsel for the appellant prayed that the impugned orders dated 07-02-2019 and 15-04-2019 may be set aside and the appellant may be re-instated with all back benefits.

ATTESTED

  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

05. Learned Deputy District Attorney appeared on behalf of official respondents contended that the appellant was proceeded against as per rule and law and was provided opportunity of defense. He stated that the charges against the appellant have been proved beyond any shadow of doubt and there was no chance of any leniency with the respondents to take in the case of appellant except dismissal and rejection of his appeal. Learned Deputy District Attorney prayed that his appeal being devoid of merit may be dismissed.

06. We have heard learned counsel for the parties and perused the record. Record reveals that the appellant was appointed as Class-IV in police investigation wing District Chitral on 18-06-2015 but was made to work as cook in the residence of Deputy Inspector General, Special Branch, located at Hayatabad Peshawar. The appellant served for almost four years at the residence of respondent No. 3. During the course, he developed certain domestic issues, which compelled him to request respondent No. 3 to relieve him for joining his original place of duty, which enraged fury of respondent No. 3, who verbally reported absence of the appellant and verbally asked the district police to initiate action against him for his absence. It was interesting to note that his presence, absence and leave were made on verbal directions and there is nothing on record to prove that the appellant was absent from his lawful duty. We have also observed that the appellant was initially proceeded against under Police Rules 1975, but later on the respondents switched over to Government of Khyber Pakhtunkhwa (Efficiency & Discipline) Rules, 2011 with proceedings under two different sets of laws simultaneously and where the Apex Court have declared such proceeding null & void in its judgment 2007 PLC (CS) 1306. We have observed that only codal formalities have been fulfilled just to remove the appellant from service for the only reason that he was no more willing to work at the residence of respondent No. 3. Nothing were made available on


ATTESTED  
  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

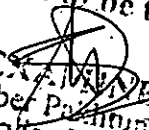
record to prove that the appellant was absent from duty or guilty of misconduct. The proceedings so initiated were replete with deficiencies.

07. In view of the situation, the present service appeal is accepted and the impugned orders dated 07-02-2019 and 15-04-2019 are set aside and the appellant re-instated into service with all back benefits. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED  
08.03.2021

  
(HAMID FAROOQ DURRANI)  
CHAIRMAN

  
(ATIQ UR REHMAN WAZIR)  
MEMBER (E)

**Certified to be true copy**  
  
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

**Date of Presentation of Application** 16/6/22  
**Number of Words** 2000  
**Copying Fee** 22/-  
**Urgent** ✓  
**Total** 22/-  
**Name of Copyist** \_\_\_\_\_  
**Date of Completion of Copy** 21/6/22  
**Date of Delivery of Copy** 21/6/22

"B" گزرت ضیا - ڈسٹرکٹ پولیس آفیسر D.P.O بہارہ حیدرآل

درخواست رائے جاری کرنے لگایا تنخواہ مورخہ 01.01.2020 تا 31.08.2021

ضیا - عالی ا

نیابت اد - سے گزارش ہے کہ سائل بطور کلاس - IV (واشر میں) تعیناتی ہو کر خدمات انجام دے رہا ہے۔ سروس سے *dismiss* ہونے کے بعد سروس ٹریبونل لٹ در کے فیصلہ و حکم مورخہ 08.03.2021 کے ذریعے *back benefits* کے ساتھ سروس پر دوبارہ بحال کیا گیا۔ اس کے بعد 07.02.2019 تا 31.12.2019 تک کے لگایا تنخواہ مجھے مل چکا ہے۔ صدمہ مورخہ 01.01.2020 تا 31.08.2021 تک لگایا تنخواہ اب تک مجھے نہیں ملے ہیں۔ لگایا تنخواہ حاصل کرنے کیلئے میں نے کئی بار متعلقہ دفتر سے رجوع کیا لیکن آج کل کے مثال مثول سے کام لے رہے ہیں۔

لٹنر اسٹیٹریٹ سے کہ مورخہ 01.01.2020 تا 31.08.2021 تک کے فیصلے لگایا تنخواہ مجھے دلوانی جائے۔

عین نواز مس، برگی۔

آر۔ کا۔ تالعداز اور دعا گو

سید علی خان

کلاس - IV (واشر میں)  
انولسٹی کمیشن وننگ ڈسٹرکٹ حیدرآل فورم

(9)

Annexure  
"C"

گرفتہ D.P.O. سب ڈسٹرکٹ حکمران لوئر

درخواست گزار release کی سہ ماہی مورخہ 01.01.2020 تا 31.08.2021

صہ - عالی  
گزارش ہے کہ اس میں سروس ٹریبونل کی طرف سے  
وکیل مورفہ 08.03.2021 کا رول سے تمام back benefits  
کے ساتھ سروس ٹریبونل پر لیا گیا ہے اور اپنی ڈیوٹی  
تقاضی سے انعام دے گا، سروس - مورخہ 07.02.2019  
تا 31.12.2019 تک کے تقاضے سہ ماہی وصول کر لیا گیا ہے  
لیکن مورخہ 01.01.2020 تا 31.08.2021 تک کے تقاضے  
ابھی تک جمع نہیں ہوئے ہیں۔ ان تقاضے سہ ماہی وصول  
اور release کے لیے دلیل بھی اپنی ہے۔ حضرت درخواست  
جمع کیا تھا اور کئی بار متعلقہ دفتر سے رجوع کیا لیکن اب  
تک تقاضے سہ ماہی جمع نہیں ہوئے ہیں۔

لینڈ اسٹریٹجی کے منظور ہونے پر درخواست دہندہ مورفہ  
01.01.2020 تا 31.08.2021 تک کے تقاضے سہ ماہی  
back benefits جمع دلوانے کے لئے۔

عین خواہش ہوگی۔

آئی۔ کا۔ لعدار

سیا، علی خان

کلاس - 1 (واٹر مین)

انٹرنیشنل گیسٹنگ ونگ، ڈسٹرکٹ حکمران لوئر