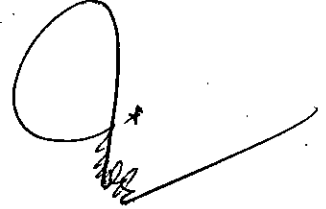


04.04.2022

Counsel for the petitioner present. Mr. Muhammad Adeel Butt, Addl: AG for respondents present.

Implementation report not submitted. Notices be issued to the respondents for submission of implementation report. Adjourned. To come up for implementation report on 23.06.2022 before S.B.



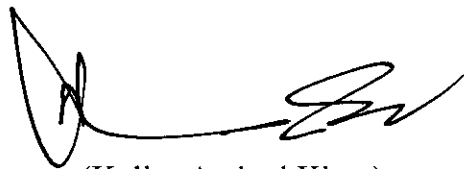
(MIAN MUHAMMAD)
MEMBER(E)

23rd June, 2022

Clerk of learned counsel for the petitioner present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for respondents present.

Respondents produced a copy of office order dated 25.10.2021 bearing endorsement No. 8055-61 whereby the judgment of the Tribunal has been fully complied with. Since the order of the Tribunal has been complied with, therefore, the instant execution petition is disposed off in the above terms. Consign.

Pronounced in open court in Peshawar and given under my hand and seal of the Tribunal on this 23rd day of June, 2022.

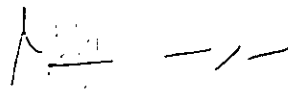


(Kalim Arshad Khan)
Chairman

ORDER:

In compliance with the Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar Judgment dated 26.07.2021 in the Service Appeal No.8282/2020, Ex: LHC Shahid Shah No. 1996 is hereby permanently Re-Instated into Service from the date of dismissal i.e. 26.08.2019 with all back benefits.

OB No. 1250
Dated: 25/10 2021.


District Police Officer,
Bannu.

No. 8055-61 dated Bannu, the 25/10 2021.

Copy of above is submitted to:

1. DSP Legal, Reader, Pay officer, SRC, OHC, Line Officer Bannu, for information and necessary action.

13.12.2021

Junior to counsel for the petitioner present. Mr. Kabirullah Khattak, Addl: AG for respondents present.

Learned AAG seeks time to contact the respondents for submission of implementation report. Adjourned. To come up for implementation report on 02.02.2022 before S.B.


(MIAN MUHAMMAD)
MEMBER (E)

02.02.2022

Junior to learned counsel for the petitioner present. Mr. Muhammad Adeel Butt, Addl: AG for respondents present. Preliminary arguments could not be heard due to learned Member (Executive) Mian Muhammad is on leave. To come up for further proceedings on 22.03.2022 before S.B.


Reader

22.03.2022



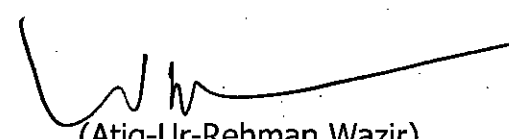
Counsel for the petitioner present. Mr. Kabirullah Khattak, Addl. AG for the respondents present.

Learned AAG seeks time to submit implementation report. Adjourned. To come up for implementation report on 04.04.2022 before S.B.


Chairman

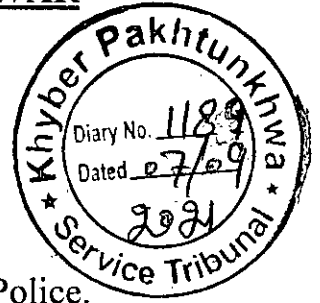
Form- A
FORM OF ORDER SHEET

Court of _____
Execution Petition No. 168 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	07.09.2021	<p>The execution petition of Mr. Shahid Shah submitted today by Syed Noman Ali Bukhari Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p> REGISTRAR</p>
2-		<p>This execution petition be put up before S. Bench at Peshawar on <u>15/10/21</u>.</p> <p> CHAIRMAN</p>
	15.10.2021	<p>Counsel for the petitioner present.</p> <p>Notice of the present execution petition be issued to the respondents for submission of implementation report. To come up for implementation report on 13.12.2021 before S.B.</p> <p> (Atiq-Ur-Rehman Wazir) Member (E)</p>

BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

Execution Petition No. 168 /2021
In Service Appeal No. 8282/2020



Shahid Shah, Lance Head Constable No. 1996, District Bannu Police.
S/O Akhtar Ali Shah R/O Village Sadat Madak Shah Surrani, Tehsil &
District Bannu.

PETITIONER

VERSUS

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

RESPONDENTS

.....
**EXECUTION PETITION FOR DIRECTING THE
RESPONDENTS TO IMPLEMENT THE
JUDGEMENT DATED 26.07.2021 OF THIS
HONOURABLE TRIBUNAL IN LETTER AND
SPIRIT.**
.....

RESPECTFULLY SHEWETH:

1. That the petitioner/applicant filed Service Appeal No. 8282/2020 in this august Tribunal against the order dated 26.08.2019 whereby the petitioner (appellant then) was awarded major penalty of dismissal from service.
2. That the said appeal was finally heard by the honorable Tribunal and the august Tribunal graciously set aside the impugned order and reinstated the petitioner (appellant) in service with all back and consequential benefits from the date of his dismissal from service.
Copy of Judgment is attached as Annexure - A.
3. That the petitioner also filed an application to the respondents for implementation of judgment but the respondents have totally failed in taking any action regarding the judgment dated 26.07.2021 of this august Tribunal.
4. That the inaction and not fulfilling formal requirements by the respondent after passing of the judgment of this august Tribunal, is totally illegal and amounts to disobedience and contempt of this Tribunal/Court.

5. That the judgment is still in the field and has not been suspended or set aside by the Supreme Court of Pakistan, therefore, the respondents are legally bound to pass formal appropriate order.
6. That the petitioner as having no other remedy, but to file this Execution Petition.

It is, therefore, most humbly prayed that the respondents may be directed to obey the judgment dated 26.07.2021 of this august Tribunal in letter and spirit. Any other remedy, which this august Tribunal deems fit and appropriate that, may also be awarded in favour of petitioner/applicant.

Petitioner/ Applicant

[Signature]
Shahid Shah

THROUGH:

[Signature]
(SYED NOMAN ALI BUKHARI)
Advocate, High Court
Peshawar.

AFFIDAVIT:

It is affirmed and declared that the contents of the above Execution Petition are true and correct to the best of my knowledge and belief and nothing has been concealed from the Hon'able Tribunal.

[Signature]
DEPONENT



1

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Appeal No. 8282/2020

Diary No. 2648

Dated 23/4/2020

Shahid Shah Lance Head Constable # 1996 District
Bannu Police S/o Akhtar Ali Shah R/o Village Sadat
Madak Shah Surrani Tehsil & district Bannu

..... Appellant

V E R S U S

1. Inspector General of Police Khyber Pakhtunkhwa Peshawar
2. Regional Police Officer, District Bannu.
3. District Police Officer, District Bannu.
4. The Superintendent of Police Investigation Bannu.

..... Respondents

Filed to-day
23/4/2020
Registrar

APPEAL UNDER SECTION 4 OF THE

KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL ACT, 1974, AGAINST THE

IMPUGNED ORDER DATED 29.11.2019,

WHEREBY DEPARTMENTAL APPEAL OF

Re-submitted to-day
and filed.
21/7/2020
Registrar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No.8282/2020

Date of Institution ... 23.04.2020
Date of Decision ... 26.07.2021



Shahid Shah Lance Head Constable No.1996 District Bannu Police
S/O Akhtar Ali Shah R/O Village Sadat Madak Shah Surrani Tehsil &
District Bannu.

... (Appellant)

VERSUS

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

... (Respondents)

Bashir Khan Wazir,
Advocate

... For appellant.

Kabir Ullah Khattak,
Additional Advocate General

... For respondents.

AHMAD SULTAN TAREEN
ROZINA REHMAN

... CHAIRMAN
... MEMBER (J)

ATTESTED

JUDGMENT

ATTESTED
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

ROZINA REHMAN, MEMBER (J): Appellant has filed the instant service
appeal U/S 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974
against the order dated 26.08.2019 whereby he was dismissed from
service.

2. Brief facts of the case are that appellant was enlisted as
Constable in the Police Department. A complaint was filed by a private

Handwritten signature and date: 26/7/21

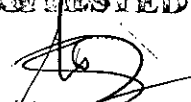
person in respect of theft of his car. His report was entered in shape of Naqal Mad, which was culminated into F.I.R No.805 dated 01.10.2018.

During investigation, statement of one Sakhi Jan was recorded who nominated the appellant for the alleged occurrence. He was issued a letter in this regard in respect of initiation of departmental proceedings and accordingly, his services were suspended. He was served with charge sheet and statement of allegations and lastly was dismissed from

3. Learned counsel for the appellant contends that appellant was proceeded against departmentally twice on the same set of charges and he was not held guilty by the Inquiry Officer but even then, the competent authority terminated the services of the appellant with a single stroke of pen which act of the respondents is against law, facts and contrary to the norms of justice. Learned counsel submitted that no proper opportunity of defense was provided to the appellant and he was condemned unheard. Lastly, he submitted that he was not charged directly in the case F.I.R No.805 rather he was implicated by one Sakhi Jan in his statement before Police recorded U/S 161 Cr.PC which statement is inadmissible in evidence but even then, he was proceeded against departmentally.

4. Conversely, learned A.A.G submitted that during the course of investigation, complainant of case F.I.R No.805 charged one Kamran alongwith two other unknown accused for theft of his car. He submitted that statement of one Sakhi Jan was recorded U/S 161 Cr.PC and during investigation, he charged the present appellant for the commission of offence. He contended that the appellant was found

26/11/21

ATTESTED

 EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

actively involved in car lifting criminal case, therefore, he was treated according to law and no illegality or irregularity was committed by the respondents. He submitted that D.S.P Saddar, Bannu was appointed as Inquiry Officer who probed the matter under the cover of specified rules and after observing all codal formalities, proper order of dismissal from service was issued.

5. From the record it is evident that one Sakheem Ullah alias Sakhat was arrested in case F.I.R No.44 dated 11.02.2017 at Police Station Basya Khel who during interrogation nominated the appellant as accomplice. The accused further disclosed that the appellant was involved in sale/purchase of stolen vehicles, therefore, appellant was proceeded against departmentally. He was issued with charge sheet and statement of allegation and D.S.P Cantt; Bannu was appointed as Inquiry Officer to scrutinize the conduct of the official. The Inquiry Officer submitted his report wherein, he requested for filing of the inquiry proceedings as there was no evidence against L.H.C Shahid Shah, the present appellant. Again, he was proceeded against departmentally when allegedly the present appellant was found guilty and was charged in case F.I.R No.805 dated 01.10.2018 registered at Police Station Saddar when during the course of investigation, co-accused nominated him for the commission of offence. Charge sheet and statement of allegations were issued to him once again and D.S.P, Saddar was appointed as Inquiry Officer to scrutinize the conduct of the official. The Inquiry Officer submitted his report and he recommended that the inquiry may be deferred till the outcome of the criminal case but his aspect of the issue was not taken care of and the competent authority passed the impugned

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

order dated 27.08.2019, whereby, the appellant was awarded major punishment of dismissal from service. Record further shows that complete Challan in case F.I.R No.805 dated 01.10.2018 was submitted in the court of learned Judicial Magistrate, Bannu and vide order dated 14.12.2019 of the learned Magistrate in view of an application submitted under Section 4-C(II) of the Prosecution Act, 2005, accused was discharged from the allegations leveled against him. Similarly, Challan in case F.I.R No. 44 dated 11.02.2017 was also submitted in the competent court of Law and vide order of the learned Additional Sessions Judge-III Bannu, application under Section 4-C(II) of the Prosecution Act, 2005 was allowed and the present appellant was discharged U/S 265-D of Cr.PC. The involvement of the appellant in case F.I.R No.805 dated 01.10.2018 was the only ground on which he had been dismissed from service and the said ground had subsequently disappeared through his discharge making him ²¹which re-emerge as a fit and proper person entitled to continue with his service.

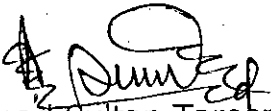
6. It is established from the record that charges of involvement in the theft of motorcar ultimately culminated in his discharge by the competent court of Law in the above-mentioned criminal case and prosecution had conceded before the competent court of Law regarding the weakness of the case from the evidentiary point of view as there was no probability of the accused being convicted of any offence. In this respect, we have sought guidance from 1988 PLC (C.S) 179; 2003 SCMR 215 and PLD 2010 Supreme Court 695.

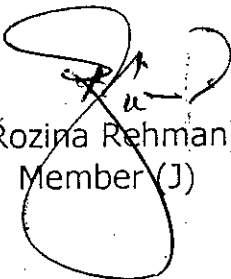
In view of the above discussion, instant service appeal is accepted and impugned order dated 26.08.2019 is set aside alongwith other order

26/7/21
ATTESTED
 EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar


on appeal of the appellant and the appellant is reinstated in service with all back benefits from the date of his dismissal from service. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.
26.07.2021


(Ahmad Sultan Tareen)
Chairman


(Rozina Rehman)
Member (J)

Certified to be true copy


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 16/08/2021
Number of Words 2000
Copying Fee 22/-
Urgent 4/-
Total 26/-
Name of Copyist _____
Date of Completion of Copy 16/08/2021
Date of Delivery of Copy 18/08/2021



VAKALATNAMA

NO. _____ /20

IN THE COURT OF KP SERVICE TRIBUNAL PESHAWAR

----- Shahid Shah -----

Appellant
Petitioner
Plaintiff

VERSUS

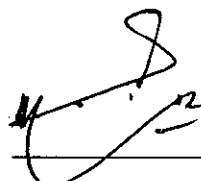
Police Deptt

Respondent (s)
Defendants (s)

I/WE Shahid Shah

do hereby appoint and constitute the **SYED NOMAN ALI BUKHARI Advocate High Court** for the aforesaid Appellant(s), Petitioner(S), Plaintiff(s) / Respondent(s), Defendant(s), Opposite Party to commence and prosecute / to appear and defend this action / appeal / petition / reference on my / our behalf and all proceedings that may be taken in respect of any application connected with the same including proceeding in taxation and application for review, to draw and deposit money, to file and take documents, to accept the process of the court; to appoint and instruct council, to represent the aforesaid Appellant, Petitioner(S), Plaintiff(s) / Respondent(s), Defendant(s), Opposite Party agree(s) ratify all the acts done by the aforesaid.

DATE _____ /20



(CLIENT)

ACCEPTED


SYED NOMAN ALI BUKHARI
ADVOCATE HIGH COURT