

03.10.2022

Nemo for the petitioner. Mr. Muhammad Jan, District Attorney for the respondents present.

Previous date was changed on Reader Note, therefore, notice for prosecution of the petition be issued to the petitioner as well as his counsel through registered post and to come up for arguments on restoration application on 08.11.2022 before the D.B at Camp Court Swat.

**SCANNED  
KPST  
Peshawar**



(Rozina Rehman)  
Member (Judicial)  
Camp Court Swat



(Salah-Ud-Din)  
Member (Judicial)  
Camp Court Swat

08<sup>th</sup> Nov, 2022

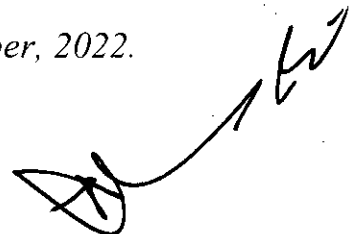
Nobody present on behalf of the petitioner. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present.

2. On the previous date neither the petitioner nor his counsel was present and the case was adjourned for today. But today nobody put appearance on behalf of the petitioner till rising of the court, therefore, the restoration application is dismissed in default. Consign.

3. *Pronounced in open court in Swat and given under our hands and seal of the Tribunal on this 08<sup>th</sup> day of November, 2022.*



(Salah Ud Din)  
Member (Judicial)  
Camp Court Swat



(Kalim Arshad Khan)  
Chairman  
Camp Court Swat

Shazad

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

**EXECUTION PETITION NO. 311/2022**

Taj Mir Ex-Constable No. 2801/L

...(Appellant)

**Versus**

The Provincial Police Officer, KP Peshawar etc

...(Respondents)

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<b>Total</b>		---	<b>08</b>

Put up to the court with  
relevant execution petition.

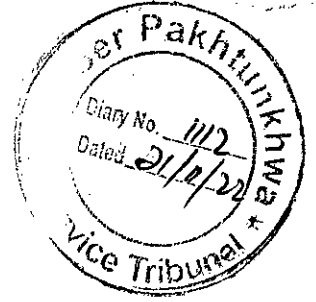
ew  
24/11/22.

Reader

  
DEPONENT



OFFICE OF THE  
**DISTRICT POLICE OFFICER**  
**DERA ISMAIL KHAN**  
0966-9280062 Fax # 9280293



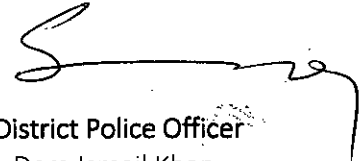
No. **5198** /EC,

dated D.I.Khan the

**19** /11/2022

AMENDMENT/CORRIGENDUM

Consequent upon the execution petition No.311/2022 Taj Mir Ex Constable No.2801/L, Vs Provincial Police officer KP Peshawar etc order sheet dated 01.11.2022 of the KP Service Tribunal Peshawar, this office order issued vide No. 868/EC dated 05.03.2022, so far it relates with the reinstatement of Ex Constable Taj Mir No. 2027/L-2078/L in the light of judgment in Service Appeal No. 7132/2021 passed by the KP Service Tribunal Peshawar and directions of the W/IGP KP Peshawar endorsed by the RPO DIKhan vide No. 1308/ES dated 28.02.2022, the words "with immediate effect" mentioned in this office order ibid shall stand "**omitted**" and consider him reinstated in service from the date of Dismissal i.e 14.07.2020.

  
District Police Officer  
Dera Ismail Khan

No. **5199-5205** /EC

dated

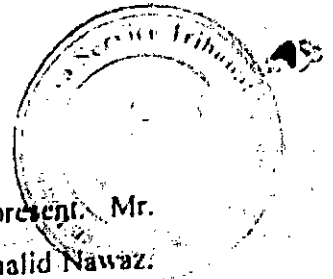
/11/2022

Copy of above is submitted for information to:-

1. The Registrar, KP Service Tribunal Peshawar.
2. The Regional Police Officer, DIKhan with reference to his office letter No. 5279/ES dated 05.08.2022, please.
3. Pay Officer, DPO Office DIKhan.
4. PA to DPO DIKhan.
5. OHC DPO Office DIKhan.
6. I/C Security & Computer Lab DPO Office DIKhan.

  
District Police Officer  
Dera Ismail Khan

E.P. No. 311/22  
Tajmir



1<sup>st</sup> Nov, 2022

1. Learned counsel for the petitioner present: Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Khalid Nawaz. Inspector for respondents present

02. Learned Addl: AG submitted copy of an office order No.868/LC dated 05.03.2022. to which learned counsel for the petitioner objected that it was passed with immediate effect whereas it ought to have been passed from the date of the judgment. The respondents are directed to modify the order in accordance with the terms of the judgment and provide the copy of the same to the petitioner as well as to the Registrar of this Tribunal within a week. In case they do not do that the petitioner may come again in contempt. The instant execution petition is filed. Consign.

03. Pronounced in open court in Peshawar and given under my hand and seal of the Tribunal on this 1<sup>st</sup> day of November, 2022.

(Kalim Arshad Khan)  
Chairman

Date of Presentation of Petition 16/11/22  
Number of Pages 800  
Copies 16/-  
Fees 9/-  
Stamp 15/-  
Date 16/11/22  
Date of Delivery of Copy 16/11/22

Certified to be true copy  
Kalim Arshad Khan  
Service Tribunal  
Peshawar



OFFICE OF THE  
DISTRICT POLICE OFFICER  
DERA ISMAIL KHAN  
☎0966-9280062 Fax # 9280293

No. 868 /I.C.

dated D.I.Khan the

05/03/2022

ORDER

Consequent upon the Judgment in Service Appeal No. 7132/2021 passed by the Khyber Pakhtunkhwa Service Tribunal Peshawar on 10.01.2022 and in compliance with the directions issued by the Inspector General of Police, Khyber Pakhtunkhwa Peshawar, endorsed to this office by the Regional Police Officer Dera Ismail Khan vide No. 1308/ES dated 28.02.2022, Ex Constable Taj Mir No. 2027/L is hereby reinstated in service with immediate effect.

He is hereby allotted Constabulary No. 2076L

*Nia*  
DISTRICT POLICE OFFICER  
DERA ISMAIL KHAN

No.

/I.C

dated

/03/2022.

Copy of above is submitted to:-

1. The Regional Police Officer, Dera Ismail Khan with reference to his office Endst: No. quoted above. Necessary guidance regarding counting of out of service period and back benefits is solicited, please.
2. Pay Officer, DPO Office DIKhan.
3. PA to DPO DIKhan.
4. OIC DPO Office DIKhan.
5. I/C Security & Computer Lab DPO Office DIKhan.

✓  
✓  
DISTRICT POLICE OFFICER  
DERA ISMAIL KHAN

✓  
✓  
OR 313

DT 07-03-2022

*OR*

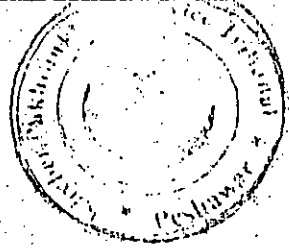
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**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 7132/2021

Date of Institution ... 02.08.2021

Date of Decision ... 10.01.2022



Taj Mir, Ex-Constable, No. 2021/L, Kohi Bharā Chowki D.I.Khan.  
... (Appellant)

**VERSUS**

The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and two others.  
... (Respondents)

Taimur Ali Khan  
Advocate ... For Appellant

Muhammad Adeel Butt,  
Additional Advocate General ... For respondents

**AHMAD SULTAN TAREEN** ... **CHAIRMAN**  
**ATIQU-UR-REHMAN WAZIR** ... **MEMBER (EXECUTIVE)**

**JUDGMENT**

**ATIQU-UR-REHMAN WAZIR MEMBER (E):-** Brief facts of the case are that the appellant while serving as constable in police department, was proceeded against departmentally on the charges of his involvement in a criminal case and was ultimately dismissed from service vide order dated 14-07-2020. Feeling aggrieved, the appellant filed departmental appeal, but in the meanwhile the appellant was also acquitted of the criminal charges vide judgment dated 22-12-2020, but despite his acquittal, his departmental appeal was rejected vide order dated 31-12-2020. The appellant filed revision petition, which was also rejected vide order dated 12-07-2021, hence the instant service appeal with prayers that the impugned orders dated 14-07-2020, 31-12-2020 and 12-07-2021

FILED

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may be set aside and the appellant may be re-instated in service with all back benefits.

02. Learned counsel for the appellant has contended that the impugned orders are against law, facts and norms of natural justice, therefore not tenable and liable to be set aside; that the inquiry officer recommended that the appellant may be re-instated and the inquiry may be kept pending till decision of criminal case pending against the appellant, but the appellant was dismissed without waiting for conclusion of the criminal case, which is against the norms of natural justice and fair-play; that the appellant was falsely implicated in criminal case and as per CSR-194, the appellant was required to be kept under suspension till completion of the criminal case, but the appellant was dismissed, which was against law and rule; that after acquittal from the criminal charges, there remains no reason to maintain the penalty so awarded; that the honorable court in its judgment of acquittal has held that the parent department is supposed to re-instate the appellant on the basis of acquittal, but despite clear instructions of the court, the appellant was not re-instated; that as per judgments of superior courts, mere allegation of commission of offense and registration of FIR against a person would not ipso facto made him guilty rather he would be presumed to be innocent until convicted by a competent court of law, but the appellant was dismissed from service merely on the basis of FIR, in which he was granted acquittal.

03. Learned Additional Advocate General for the respondents has contended that it is correct that the inquiry officer in its finding have made recommendations that the appellant may be re-instated and the inquiry may be kept pending till conclusion of the criminal case, but the allegation of misconduct had been proved against him during departmental probe; that the appellant was directly charged in FIR u/s 324/337A(I)/148/149 PPC Dated 25-05-2020, hence the punishment awarded to the appellant is in accordance with law and rule; that the appellant

REINSTATED

*[Handwritten signature]*

*[Faint official stamp]*

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was acquitted of the charges on the basis of compromise, which does not amount to honorable acquittal and which does not affect departmental proceedings.

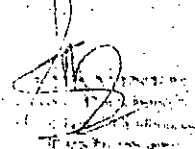
04. We have heard learned counsel for the parties and have perused the record.

05. Record reveals that the appellant was charged in FIR u/s 324/337A (i)/148/149 PPC Dated 25-05-2020 and was arrested. Simultaneously departmental proceedings were also initiated against him and because of departmental proceedings, the appellant was dismissed from service vide order dated 14-07-2020. In the meanwhile, the appellant was acquitted of the charges by the competent court of law vide judgment dated 22-12-2020.

06. Being involved in a criminal case, the respondents were required to suspend the appellant from service under section 16:19 of Police Rules, 1934, which specifically provides for cases of the nature. Provisions of Civil Service Regulations-194-A also supports the same stance, hence the respondents were required to wait for the conclusion of the criminal case, but the respondents hastily initiated departmental proceedings against the appellant and dismissed him from service before conclusion of the criminal case. It is a settled law that dismissal of civil servant from service due to pendency of criminal case against him would be bad unless such official was found guilty by competent court of law. Contents of FIR would remain unsubstantiated allegations, and based on the same, maximum penalty could not be imposed upon a civil servant. Reliance is placed on PLJ 2015 Tr.C. (Services) 197, PLJ 2015 Tr.C. (Services) 208 and PLJ 2015 Tr.C. (Services) 152. The respondents however did not honor their own rules and dismissed the appellants in violation of rules.

07. As per provisions contained in Section 16:3 of police rules, 1934, the respondents were bound to re-instate the appellant after earning acquittal from the same charges, upon which the appellant was dismissed from service, but the

ACCEPTED







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respondents despite his acquittal, did not consider his departmental appeal ignoring the verdict of the court as well as of Police Rules, 1934. The respondents also violated section-54 of Fundamental Rules by not re-instating the appellant after earning acquittal from the criminal charges. In a manner, the appellant was illegally kept away from performance of his duty. In 2012 PLC (CS) 502, it has been held that if a person is acquitted of a charge, the presumption would be that he was innocent. Moreover, after acquittal of the appellant in the criminal case, there was no material available with the authorities to take action and impose major penalty. Reliance is placed on 2003 SCMR 207, 2002 SCMR 57 and 1993 PLC (CS) 460.


08. Needless to mention that disciplinary proceedings so conducted are also replete with deficiencies as the appellant was kept deprived of the opportunity to defend his cause. In view of the foregoing discussion, the instant appeal is accepted as prayed for. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED  
10.01.2022

  
(AHMAD SULTAN TAREEN)  
CHAIRMAN

  
(ATIQU-UR-REHMAN WAZIR)  
MEMBER (E)

Certified to be true copy

  
MEMBER (E)  
Atiq-ur-Rehman Wazir  
Peshawar

Date of Presentation of Application 24/01/22  
 Number of Words 7000  
 Copying Fee 22/-  
 Urgent \_\_\_\_\_  
 Total 22/-  
 Name of Clerk \_\_\_\_\_  
 Date of Completion of Copy 25/01/22  
 Date of Delivery of Copy 25/01/22

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

**EXECUTION PETITION NO. 311/2022**

Taj Mir Ex-Constable No. 2801/L

...(Appellant)

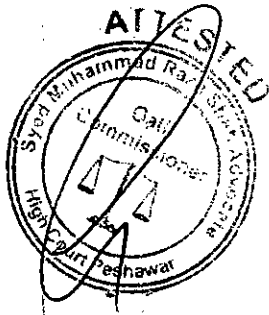
**Versus**

The Provincial Police Officer, KP Peshawar etc

...(Respondents)

**AFFIDAVIT**

I Khalid Nawaz Inspector Legal solemnly affirms and declares on oath that the contents, of Comments/Written reply to writ Petition are true & correct to the best of my knowledge & belief and nothing has been concealed from this Honourable Tribunal.



*Khalid*

**DEPONENT**

12201-0511170-9

21 NOV 2022