

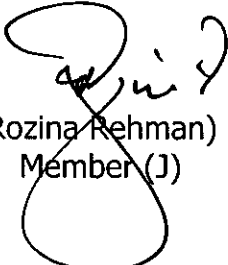
28.10.2020

Petitioner present in person.

Kabir Ullah Khattak learned Additional Advocate General alongwith Nowsherawan S.I for respondents present.

Copy of order passed by the August Supreme Court of Pakistan was produced before the Tribunal vide which operation of the impugned judgment was suspended.

In view of above, this execution petition is adjourned sine die. However, the petitioner would be at liberty to seek restoration of the present petition after the decision by the August Supreme Court of Pakistan. File be consigned to the record room.

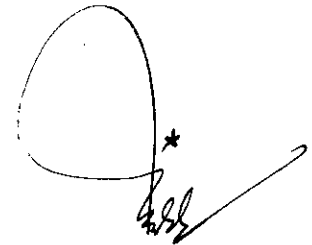

(Rozina Rehman)
Member (J)

13.07.2020

Counsel for the petitioner and Addl: AG for respondents present.

The matter was adjourned through Reader Note, therefore, the office shall issue notices to the respondents for submission of implementation report.

Adjourned to 14.09.2020 before S.B.



(Mian Muhammad)
Member(E)

22/09/20
22/09/20

14.09.2020

Counsel for the petitioner and Addl. AG. along with Noshawan, Inspector for the respondents present.

Representative of respondents states that a CPLA before the Apex Court has been preferred against the judgment under implementation. No date of hearing has though been fixed in the matter.

The concluding part of judgment under implementation suggests that the appellant has been reinstated in service without back benefits etc. The respondents shall, therefore, issue the reinstatement order of the petitioner before next date of hearing in case the judgment is not set aside or its operation suspended by the Apex Court till then.

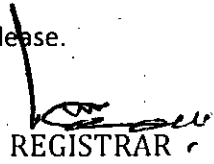



Adjourned to 28.10.2020 before S.B.



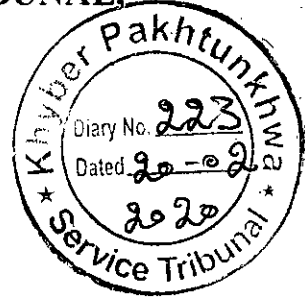
Chairman

Form- A
FORM OF ORDER SHEET

Court of _____
Execution Petition No. 59 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	20.02.2020	<p>The execution petition of Mr. Rahmat Ali submitted today by Mr. Taimur Ali Khan Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p> REGISTRAR</p>
2-	<u>20/02/20</u>	<p>This execution petition be put up before S. Bench on <u>13/03/2020</u>.</p> <p> MEMBER</p>
13.03.2020		<p>Junior counsel for the petitioner present. Notices be issued to the respondents for implementation report for 16.04.2020 before S.B.</p> <p> (MUHAMMAD AMIN KHAN KUNDI) MEMBER</p>
16.04.2020		<p>Due to public holiday on account of COVID-19, the case is adjourned to 13.07.2020 for the same. To come up for the same as before S.B.</p> <p> Reader</p>

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



Execution petition No. 59 /2020
In Service Appeal No.673/2013

Rahmat Ali S/O Mohammad Ali, Ex-Consatble No.181,
R/O Village Mula Yousaf Bunir.

PETITIONER

VERSUS

1. The Provincial Police officer, Khyber Pakhtunkhwa, Peshawar.
2. The D.I.G Malakand Region, Swat.
3. The D.P.O District Buner.

RESPONDENTS

.....

**EXECUTION PETITION FOR DIRECTING THE
RESPONDENTS TO IMPLEMENT THE
JUDGMENT DATED 06.01.2020 OF THIS
HONOURABLE SERVICE TRIBUNAL IN
LETTER AND SPIRIT.**

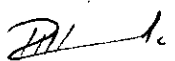

.....

RESPECTFULLY SHEWETH:

1. That the petitioner has filed an appeal bearing No.673/2013 in this august Service Tribunal against the impugned order dated 22.07.2003, ands against the order dated 30.11.2012, whereby departmental appeal of the petitioner for reinstated was rejected.
2. That the said appeal was finally heard on 06.01.2020 and the Honourable Tribunal was kind enough to accept the appeal and the petitioner was reinstated into service without back benefits. **(Copy of judgment dated 06.01.2020 is attached as Annexure-A)**
3. That since the announcement of judgment the petitioner has waited for more than one month, but the respondents have not taken action on the judgment dated 06.01.2020.

4. That the petitioner has also filed application on 16.01.2020 for implementation of judgment dated 06.01.2020 of this august Tribunal, but till date the petitioner was not reinstated in compliance of judgment dated 06.01.2020. *(copy of applicat is attached as -B)*
5. That in-action and full filling formal requirement by the respondents after passing the judgment of this august Tribunal, is totally illegal and amount to disobedience and contempt of Court.
6. 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 implement the judgment of this Honourable Service Tribunal in letter and spirit.
7. That the petitioner has having no other remedy except to file this execution petition for Implementation of judgment dated 06.01.2020 of this august Service Tribunal.

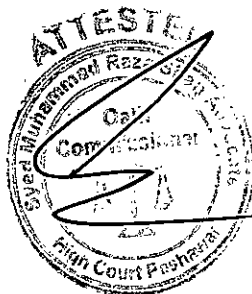
It is, therefore, most humbly prayed that the respondents may kindly be directed to implement the judgment dated 06.01.2020 of this august Service Tribunal in letter in spirit. Any other remedy, which this august Service Tribunal deems fit and appropriate, may also be awarded in favour of petitioner.



PETITIONER
 THROUGH:

(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT,
&
(ASAD MAHMOOD)
ADVOCATE HIGH COURT

AFFIDAVIT:

It is affirmed and declared that the contents of the execution petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this august Service Tribunal.


DEPONENT



Sr. No	Date of order/proceeding	Order or other proceedings with signature of Judge or Magistrate
1	2	
	06.01.2020	<p align="center">BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL Service Appeal No. 673/2013</p> <p>Date of Original Institution 22.03.2013 Date of Decision 06.01.2020</p> <p>Rehmat Ali son of Mohammad Ali Ex-Constable No.181 resident of Village Mula Yousaf Bunir. <p align="right">Appellant</p> <p align="center">Versus</p> <ol style="list-style-type: none"> The Provincial Police Officer Khyber Pakhtunkhwa, Peshawar. The D.I.G Malakan Region, Swat. The D.P.O District Buner. <p align="right">Respondents</p> <p>Mr. Muhammad Hamid Mughal _____ Member(J) Mr. Ahmad Hassan _____ Member(E)</p> <p align="center">JUDGMENT MUHAMMAD HAMID MUGHAL, MEMBER: Learned counsel for the appellant present. Mr. Zia Ullah learned Deputy District Attorney present.</p> <ol style="list-style-type: none"> The appellant has filed the present service appeal against the order dated 30.11.2012 whereby his departmental appeal for his reinstatement in service, was filed/regretted. Learned counsel for the appellant argued that the appellant joined the Police Department in the year 1996; that having been charged in a murder case vide FIR No.220 dated 04.03.2001 P.S </p>

ETA
6.1.2020

ATTESTED

SECRETARY
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

dated 20.06.2007 of this Tribunal passed in Service Appeal No.274/2006.

4. As against that learned DDA argued that the appellant was dismissed from service after he was convicted and sentenced to life imprisonment and fine by the learned Sessions Judge Buner; that criminal appeal filed by the appellant was also dismissed by the Hon'ble Peshawar High Court Peshawar and his conviction and sentence was maintained; that departmental inquiry was also conducted against the appellant; that the august Supreme Court of Pakistan accepted the appeal of the appellant on the basis of compromise; that the appellant was not acquitted rather he was released on the basis of compromise.

5. Arguments heard. File perused.

6. The appellant was convicted and sentenced in the murder case as mentioned above which conviction and sentence was also maintained by the Hon'ble Peshawar High Court Peshawar. Owing to the factum of compromise between the parties, the Criminal Appeal No.572 of 2006 filed by the appellant before the august Supreme Court of Pakistan was allowed, the impugned judgment was set aside to his extent and he was released vide order dated 27.09.2012.

7. Perusal of the order dated 22.07.2003 as mentioned above, would show that the appellant was awarded punishment of dismissal from service in view of the court judgment dated 02.07.2003 whereby he was convicted and sentenced, which

1.2010
 ATTESTED

EX-100
 Peshawar
 Service Tribunal
 Peshawar

		judgment is however no more in field in view of the above mentioned order of the august Supreme Court of Pakistan dated
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judgment is however no more in field in view of the above mentioned order of the august Supreme Court of Pakistan dated 27.09.2012, passed just because the parties have compromised.

8. The learned DDA has asserted that the departmental inquiry has been conducted against the appellant however he remained unable to produce record of regular inquiry in the shape of charge sheet/statement of allegation, statements of witnesses recorded by the inquiry officer and Show-Cause Notice etc.

9. This may also be observed that it was not the stance of the learned counsel for the appellant that the allegations/charge leveled against the appellant is false rather he pressed for the reinstatement of the appellant in service due to his release in the murder case on the basis of compromise.

10. In view of above scenario, the appellant is reinstated in service without back benefits. The out of service period/intervening period shall be treated as leave without pay. The present service appeal is accepted in the above noted terms. No order as to costs. File be consigned to the record room.

Certified to be a true copy

Khyber Pakhtunkhwa
Services Commission
Peshawar



Ahmad Hassan
SCA Member

Mohd Hamid Mughal
SCA Member

ANNOUNCED
06.01.2020

Date of Receipt of Copy 13-1-2020
Number of Sheets 18
Copying Fee 1600
Amount 18
Total 18
Date of Copy 15-1-2020
Date of Delivery of Copy 15-1-2020

حضور جناب DPO صاحب کو میر

درخواست براء بحال کرنے کو تری پر سلسلہ فیصلہ 16/01/2020
جاریہ عدالت سروس ٹریبونل پشاور

جناب عالی

موضوع ہوں کہ سائیل حکمہ پولیس پولیس کو میر میں بحیثیت

نیشنل 16/01/1996 کو پھرتی ہوا تھا۔ بعد میں سائیل کو مورخ 22/07/2003

کو حکمہ سے برخواست کیا گیا۔ اب سروس ٹریبونل پشاور نے
فیصلہ حزرہ 16/01/2020 کو حکمہ میں دوبارہ بحال کرنے کا حکم
جاری فرمایا ہے۔

لہذا استدعا ہے کہ سائیل کو متذکرہ بالا فیصلہ کی روشنی میں

بحال کرنے کا حکم صادر فرمائی جائیں۔

نقل فیصلہ لف درخواست ہے۔ فقط

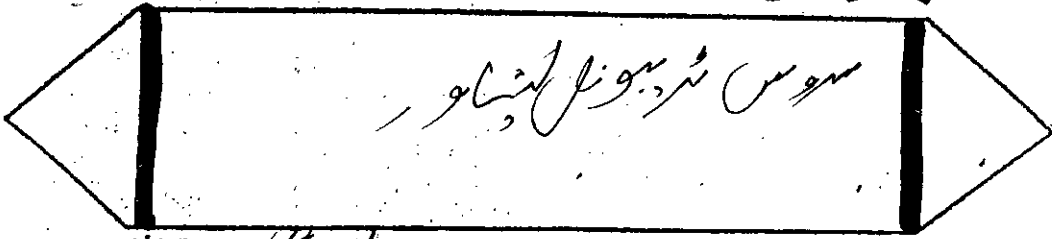
العارض

آپ کا تالعداد سابقہ کنٹریبل نمبر 181

رحمت علی

16-01-2020

بعدالت



اصحت علیٰ 2، پنجاب
مصطلح بینام عدلیہ

موزخه
مقدمه
دعویٰ
جرم

باعث تحریر آئنگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام ~~سوس ٹریڈ ہیونٹل لٹیاو~~ کیلئے ~~سوس ٹریڈ ہیونٹل لٹیاو~~ اور ~~سوس ٹریڈ ہیونٹل لٹیاو~~
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 تقرر ثالثہ فیصلہ برحلف دینے جواب دہی اور اقبال دعویٰ اور
بہ صورت ڈگری کرنے اجراء اور صولی چیک در و پیا عرضی 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 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 باختیارات حاصل ہوں گے اور اس کا ساختہ
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانہ التوائے 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
مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

Attested
Accepted
[Signature]

المرتوم _____ ماہ _____ 20 _____

العبد _____ واہ العبد _____

بمقام _____ کے لئے منظور ہے۔

B حضور صائب DPPO صاحب لوئیر

درخواست بمراد بحال کرنے کوئری پر بسبباً فیصلہ 16/01/2020
جاریہ عدالت سروس ٹریبونل پشاور

صائب عالی

معرضوں ہوں کہ سائیل حکمہ پولیس لوئیر میں بحیثیت

کنسٹیبل 16/02/1996 کو پھرتی ہوا تھا۔ بعد میں سائیل کو مورخ 22/07/2003

کو حکمہ سے برخواست کیا گیا۔ اب سروس ٹریبونل پشاور

فیصلہ محررہ 16/01/2020 کو حکمہ میں دوبارہ بحال کرنے کا حکم جاری فرمایا ہے۔

لہذا استدعا ہے کہ سائیل کو متذکرہ بالا فیصلہ کی روشنی میں

بحال کرنے کا حکم صادر فرمائی جائیں۔

نقل فیصلہ لف درخواست ہے فقط

العارض

آپ کا تالعداد سابقہ کنسٹیبل نمبر 181

رحمت علی
16-01-2020

*
Attested

21
C

SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Gulzar Ahmed, CJ
Mr. Justice Faisal Arab
Mr. Justice Ijaz ul Ahsan

CIVIL PETITION NO.154-P OF 2020

[Against the judgment dated 06.01.2020, passed by the Khyber Pakhtunkhwa Service Tribunal in Service Appeal No.673 of 2013]

Provincial Police Officer, K.P., Peshawar and others. :
...Petitioner(s)

Versus

Rahmat Ali. :
...Respondent(s)

For the Petitioner(s) : Mr. Atif Ali Khan, Additional Advocate General, KP
Muhammad Shah, DSP, Headquarter, Buner.

For the Respondent(s) : N.R.

Date of Hearing : 19.10.2020

ORDER

GULZAR AHMED, CJ.- Learned Additional Advocate General, KP contends that the very departmental appeal so also the service appeal filed by the respondent was hopelessly time-barred and the Khyber Pakhtunkhwa Service Tribunal, Peshawar (**the Tribunal**) did not consider such aspect of the matter and proceed to pass the impugned judgment, which is not tenable in law.

2. The submission made by the learned Additional Advocate General requires consideration. Leave to appeal is granted to consider, *inter alia*, the same. The appeal shall be heard on the available record but the parties are allowed to file additional documents, if any, within a

ATTESTED

[Signature]
Senior Court Associate
Court of Pakistan

CP.154-P of 2020

period of one month. As the matter relates to service, office is directed to fix the same, expeditiously, preferably, after three months.

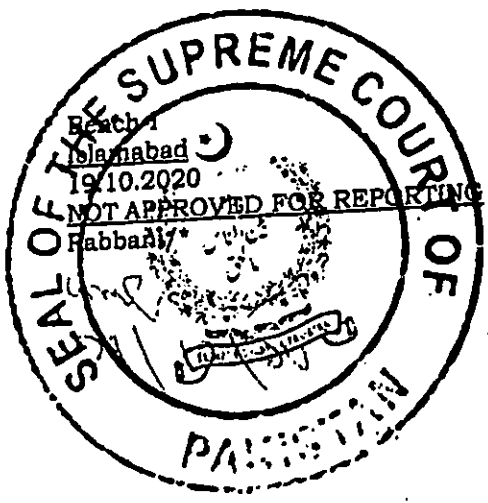
C.M.A.No.306-P of 2020

3. The operation of the impugned judgment is suspended.

sd/aj
sd/aj
sd/aj

Certified to be True Copy

[Signature]
**Senior Court Associate
Supreme Court of Pakistan
Islamabad**



GR No: 15408/20 Civil/Criminal
Date of Presentation: 19-10-20
No of Words: 600

Online Case Status

Case Title:

Provincial Police Officer, KP Peshawar and others v Rehmat Ali

Case No:

CP154-P/2020

Case Status:

Disposed

Case Institution Date:

06-03-2020

Case Disposal Date:

19-10-2020

AOR/ASC:

Advocate General, KPK (-)

Saadullah Mian (AOR)

History:

Fixation Date	Details	Action
19-10-2020	<p><u>Bench:</u> REGULAR BENCH - I Final</p> <p><u>List:</u> Cause List No. 44</p> <p><u>Serial#:</u> 4</p> <p><u>Location:</u> Islamabad</p>	Leave Granted in probation is suspended to be for 6 months.