03.03.2021

Petitioner in person present. Mr. M. Riaz Khan Paindakhel, Assistant Advocate General for respondents present.

Petitioner submitted an application wherein he stated that his grievances have been redressed departmentally and do_{A}^{eb} not want to pursue further. He, therefore, requested for withdrawal of the instant execution petition.

As the grievances of the petitioner have been redressed, therefore, the instant execution petition is hereby withdrawn being executed. File be consigned to the record room.

ANNOUNCED: 03.03.2021

(MIAN MUHAMMAD) MEMBER (E) Camp Court Swat

بعدالت جناب جناب خواز ةحيله يممي كورب بمقام كلكد ضلع سوات

حكومت بنام سيدعالم .

<u>درخواست بمرادوا پس لینے مقد مہر</u>

جناب عالى! درخواست حسب ذيل ہے۔ یہ کہ مقدمہ عنوان بالا عدالت حضور میں زیر ساعت ہے۔جس میں آج تاریخ پیشی مقرر ÷ ()

یہ کہ مدعی رسائل نے بابت دوبارہ تعینات کرنے ایک دعوی عدالت حضور میں دائر کیا تھا۔ (٢ ۳) بید که سائل رمدی بحال ہو چکا ہے اس لئے سائل رمدی اپنا مقدمہ بلامزید کاروائی داپس لینا چاہتا*ہ*۔ ۲) ... بیه که درخواست مذاکی منظوری میں قانونی امر مانع موجود نه ہے۔

لهذااستدعاء ب كه بمنظوري درخواست بذامقدمه بالابلامزيد كاروائى ختم (كرنے كا تحكم ، صادر فرمايا جائر - المرقوم: 2021-03-03

(Liplan سائل رمدعي سيدعالم خان

4~1.2020

Due to summer vacation, case is adjourned to 1-3.2021 for the same as before.

01.03.2021

Clerk to counsel for the petitioner present. Mr. Noor Zaman Khattak, District Attorney alongwith Mr. Habib Ullah, SO, Mr. Muhammad Aman, Litigation Assistant and Mr. Saleem Javed, Assistant Litigation for respondents present.

Clerk to counsel for the petitioner seeks adjournment as learned counsel for the appellant was busy before the Peshawar High Court, Peshawar.

Adjourned to 02.03.2021 before S.B at camp court Swat.

(Mian Muhammad) Member(E) Camp Court Swat

02.03.2021

None for the petitioner present. Mr. Noor Zaman, District Attorney alongwith Mr. Asif Ullah, Junior Clerk for respondents present.

Adjourned to 03.03.2021 before S.B at camp court Swat.

(Mian Muhaminad) Member(E) Camp Court Swat 04.06.2020

Due to COVID-19, the case is adjourned. To come up for the same on 06.08.2020, at camp court Swat.

05.10.2020

Neither petitioner nor his counsel is in attendance. The last two adjournments were made due to spread of COVID-19, therefore, it would be appropriate to issue notice to petitioner as well as his respective counsel for 04.11.2020 before S.B at Camp Court, Swat. Respondents are directed to depute an officer not below the rank of BPS-17 for rendering assistance in compliance with the Standing Orders on the subject.

> (MUHAMMAD JAMAL KHAN) MEMBER CAMP COURT SWAT

03.11.2020

Petitioner in person present

B. Browner

Muhammad Jan learned Deputy District Attorney alongwith Jaffar Shah Assistant and Muhammad Aman Assistant for respondents present.

Representative of respondent department submitted execution reply which is placed on file. To come up for arguments/consideration on 04.01.2020 before S.B at Camp Court, Swat.

Member (E) Camp Court, Swat 7

Form- A

FORM OF ORDER SHEET

Court of

Execution Petition No. 43 /2020

Order or other proceedings with signature of judge S.No. Date of order procèedings . 3 2 1 The execution petition of Mr. Said Alam submitted today by 10.02.2020 1 Mr. Shamsul Hadi Advocate may be entered in the relevant register and put up to the Court for proper order please. 11-1 REGISTRAR This execution petition be put up before touring S. 2-Bench at Swat on <u>04-03-20</u> CHAI Due to corrone viroue. tour to Camp Court Swat has been Canellel. To come op Jor the Same on - 04-6-20

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL CAMP COURT SWAT

Execution Petition. No.43/20

Service Appeal No. 380/2019

Said Alam (Ward Orderly Civil Hospital. Barikot, R/o Fazal Banda, Barikot, District Swat......(Appellant)

Versus

- 1. District Health Officer Swat at Gulkada Swat
- 2. Director General Health Services Khyber Pakhtunkhwa, Peshawar......(Respondents)

Subject:

Execution Reply

Memo:

I have the honour to state that in the subject case, as per decision of the honourable Service Tribunal, Camp Court, Swat, the official was re-instated against the vacant post as Ward Orderly with all back benefis including regularization of absent period vide this office order No. 3053-57 dated 27/02/2020 (Annexure A), and presently he is receiving his salary with all allowances, pay slip attached as (Annexure B). Report submitted in your honour for information, please.

RICT HEALTH OFFICER SWAT AT GULKADA

Ann(A) **OFFICE OF THE DISTRICT HEALTH OFFICER GULKADA DISTRICT SWAT** Phone No: 0946-9240139, Fax No: 0946-9240215 Email: edohswat@yahoo.com Dated: 87/2 /2020 OFFICE ORDER.

The Honorable Service Tribunal Camp Court Swat Judgment appeal No.380/2019 dated 2-12-2019 and Director General Health Services Khyber Pakthunkhwa letter No.609-12/Lit dated 20/2/2020, Mr. Said Alam Ward Orderly is hereby re- instated against the vacant post as Ward Orderly at BHU: Chungai swat with immediate effect

It is further added that the intervening period with effect from 9/4/2013 to 7/8/2013 (120 days) is hereby treated as leave with full pay and the period with effect from 8/8/2013 to 6/4/2016 (972 days) is hereby treated as leave with half pay and the remaining period with effect from 7/4/2016 till date is hereby treated as leave without pay.

Arrival Departure reports should be submitted to this office accordingly.

sd/xxxx District Health Officer District Swat at Gulkada.

Copy forwarded to the:-

01-Medical Officer I/C BHU:Chungai swat

02-District Account Officer swat.

03-Account Section of this office

04-The above named official

05-DHIS Sell of this office.

06-P/File

NO

No.

07-Divisional Monitoring Officer MKD Division swat. for information and necessary action

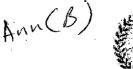
District Health Officer District Swatat Gulkada.

copy forwarded to the :-

01- Chairman Honorable Service Tribunal Camp court swat for information please. 02-Director General Health Services Khyber Pakthunkhwa Peshawar for information with reference to his No.cited above please.

> District Health Officer District Swat at Gulkada.

Dist. Govt. NWFP-Provincial District Accounts Office SWAT Monthly Salary Statement (October-2020)





Personal Information of Mr SYED ALAM d/w/s of BUNERAY Personnel Number: 00881597 CNIC: 1560281153865 NTN: Date of Birth: 01.01.1989 Entry into Govt. Service: 07.02.2018 Length of Service: 02 Years 08 Months 026 Days **Employment Category: Active Temporary** Designation: WARD ORDERLI 80814408-DISTRICT GOVERNMENT KHYBE . DDO Code: SW6442-District Health Officer (BHUs) Swat Payroll Section: 002 GPF Section: 005 Cash Center: GPF A/C No: Interest Applied: No **GPF** Balance: 27,270.00 Vendor Number: -Pay and Allowances: Pay scale: BPS For - 2017 Pay-Scale Type: Civil BPS: 04 Pay Stage: 2 Wage type Amount Wage type Amount 0001 **Basic** Pay 10,780.00 1000 House Rent Allowance 1,458.00 1210 Convey Allowance 2005 1,785.00 1300 Medical Allowance 1,500.00 1551 Spl Conveyance to Disable 3,000.00 1911 Compen Allow 20% (1-15) 1,000.00 2211 Adhoc Relief All 2016 10% 2224 Adhoc Relief All 2017 10% 828.00 1,078.00 2247 Adhoc Relief All 2018 10% 1,078.00 2264 Adhoc Relief All 2019 10% 1,078.00 **Deductions - General** Wage type Amount Wage type Amount 3004 GPF Subscription 3501 Benevolent Fund -830.00 -300.00 3534 R. Ben & Death Comp Fresh -300.00 0.00 Deductions - Loans and Advances Loan Description Principal amount Deduction Balance **Deductions - Income Tax** Recovered till October-2020: Payable: 0.00 0.00 Exempted: 0.00 Recoverable: 0.00 Gross Pay (Rs.): 23,585.00 Deductions: (Rs.): -1,430.00 Net Pay: (Rs.): 22,155.00 Payee Name: SYED ALAM Account Number: 4065733808 Bank Details: NATIONAL BANK OF PAKISTAN, 232009 KABAL BAZAR SWAT KABAL BAZAR SWAT, SWAT Leaves: **Opening Balance:** Availed: Earned: Balance: Permanent Address: City: SWAT Domicile: -Housing Status: No Official Temp. Address: City: Email:

BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL, PESHAWAR.

Execution Petition No.43 /2020.

Service Appeal No.380/2019.

In

Said Alam (Ex-Ward Orderly Civil Hospital Barikot, Swat)

VERSUS

1.District Health Officer, Swat.

2. Director General Health Khyber Pakhtunkhwa, Peshawar.

......Respondents

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S.N	Description of Documents	Pages
1	Memo of Appeal.	1 2
2	Affidavit	3
3.	Addresses of the Parties.	4
6.	Copy of Judgment dated:02.12.2019	5-8
7.	Copies of applications.	9-10
8.	Wakalat Nama	11.

Through

Shams ul Hadi Advocate, Serater.

Office: Swat Shopping Mall,Opposite Peshawar High court Mingora Bench, Swat. Cell No. 0347-477/3440.

Dated: 04/02/2020.

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BEFORE THE SERVICES TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR

Execution Petition No. <u>43</u>/2020 IN Service Appeal No. 380/2019

Pa<u>shtukh</u>w ce Tribunal y No. 163 10-2-2020

1. District Health Officer, Swat.

PETITIONFORIMPLEMENTATIONOFTHEORDER/JUDGMENTDATED02/12/2019OFTHISHON'BLETRIBUNALDELIVERED IN ABOVETITLESERVICEAPPEAL

Respectfully Sheweth:

 That initially the petitioner filed the above title service appeal before this Hon'ble Tribunal which was decided in favour of the petitioner vide judgment dated 02/12/2019, with clear direction to the respondents to re-instate the applicant. (Copy of judgment is attached)

Registral

and the second

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That the petitioner communicated the judgment to respondents through written application and as such waited for the implementation of the judgment but the same has not been implanted nor any positive steps has been taken by the respondents for implementation. (Copies of applications are attached) It is, therefore, most humbly prayed that On acceptance of this petition respondents may kindly be directed to implement the judgment dated 02.12.2019 passed in service appeal No.380/2019 letter in spirit.

。 "你不是你们的?""这些,就是你都是你都是我们的问题,我们还是你不是你的。"你是你的,你是不是你。

Through

Dated: 04/02/2020

Shams ul Hadi Advocate, Peshawar.

Petitioner

BEFORE THE KHYBER PAKHTGON KHWA SERVICES TRIBUNAL PESHAWAR

Execution Petition No. /2020.

In

Service Appeal No.380/2019.

Said Alam (Ex-Ward Orderly Civil Hospital Barikot, Swat)

R/O Fazal Abad Barikot, Swat

VERSUS

3. District Health Officer, Swat.

4. Director General Health Khyber Pakhtunkhwa, Peshawar.

......Respondents

AFFIDAVIT

I, Shams ul Hadi, Advocate, Peshawar do hereby as per information convoyed to me by my client solemnly affirm and declare that the contents of the **petition** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

ADVOCATE

BEFORE THE KHYBER PAKHTOON KHWA SERVICES TRIBUNAL PESHAWAR.

Execution Petition No. /2020.

In

Service Appeal No.380/2019.

Said Alam (Ex-Ward Orderly Civil Hospital Barikot, Swat) R/O Fazal Abad Barikot, Swat......Applicant.

VERSUS

- 1. District Health Officer, Swat.
- 2. Director General Health Khyber Pakhtunkhwa, Peshawar.

.....Respondents

ADDRESSES OF THE PARTIES

PETITIONER:

- Said Alam (Ex-Ward Orderly Civil Hospital Barikot, Swat)
- R/O Fazal Abad Barikot, Swat

Cell No.

RESPONDENTS:

- 1. District Health Officer, Swat.
- 2. Director General Health Khyber Pakhtunkhwa, Peshawar.

Petitioner

Through

Dated: 04/02/2020

Shams ul Hadi Advocate, Peshawar.

BEFORE THE KHYBER PAKHTOON KHWA SERVICES TRIBUNAL, PESHAWAR

Khyber Paklitukh Service Tribuna Service Appeal No. 320 /2019. 2)6 Diary No Said Alam (Ex-Ward Orderly Civil Hospital Barikot, Swat) Duted Appellant R/O Fazal Abad Barikot, Swat.. VERSUS District Health Officer, Swat. 1. Director General Health Khyber Pakhtunkhwa, Peshawar Respondents

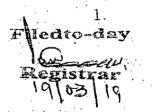
5

APPEAL UNDER SECTION 4 OF KHYBER PUKHTUNKHWA SERVICES TRIBUNAL ACT 1974 AGAINST THE IMPUGNED OFFICE AT **ORDERS DATED:11.03.2016.**

PRAYER IN APPEAL:

On acceptance of this appeal the impugned Orders dated: 11.03.2016 regarding major penalty i-e Removal from service of appellant may kindly be set aside and the appellant may kindly be re-instated to his service with all back benefits of service.

Respectfully Sheweth:



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the joined appellant initially the That respondent/department in the year 1990 and as such performed his duties with zeal and zest. (Copy of appointment order is annexure-A)

That in month of May 2012, the appellant was taken in to custody by the Pak Army personals on the basis of some fake information and as such the appellant remained in his custody till June 2018 and finally he was exonerated from the charges and was released.(Copies of Application & certificate from Pak army is annexure-B)

That thereafter when the appellant approached to concerned authority for joining his duties where he was and finally in October 2018 he was informed

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

<u>AT CAMP (</u>	AT CAMP COURT SWAL.			
Service App	Service Appeal No. 380/2019			
Date of Institution	•••	19.03.2019		
Date of Decision	•••	02.12.2019		

Said Alam (Ex-Ward Orderly Civil Hospital Barikot, Swat.

VERSUS

District Health Officer, Swat and one other.

MR. SHAMS UL HADI, Advocate

MR. M. RIAZ KHAN PAINDAKHEL, Assistant Advocate General

MR. AHMAD HASSAN, MR. MUHAMMAD HAMID MUGHAL

(Appellant)

(Respondents)

For appellant.

For respondents

MEMBER(Executive) MEMBER(Judicial)

TECT

JUDGMENT

AHMAD HASSAN, MEMBER:- Arguments of the learned counsel for the parties heard and record perused.

ARGUMENTS.



02. Learned counsel for the appellant argued that he joined the respondentdepartment as Ward Orderly in 1990 and had an unblemished service record. That in May, 2012, he was taken into custody by the Pakistan Army and remained there till June 2018. Upon release, when he went to join duty, he came to know about his removal from service vide impugned order dated 11.03.2016. He filed departmental appeal on 04.10.2018, which remained unanswered, hence, the present service appeal. The learned counsel for the appellant further argued that the issue pertaining to his arrest was in the knowledge of the respondents, as was evident from order dated 23.04.2013, where-under he was placed under suspension. Moreover, the Army Authorities issued certificate dated 23.09.2018, wherein it was clarified that he was neither involved in any terrorist activities nor wanted by them. The DPO, Swat, vide letter dated 15.03.2019 also confirmed his arrest by the Army. The appellant was not deliberately absent from duty and the charge of misconduct could

not be leveled against him.

03. Learned Assistant Advocate General raised preliminary objections that the present appeal was badly time barred thus not maintainable. He further argued that on account of willful absence from duty proceedings were initiated against the appellant by calling his explanation. It was followed by notices directing him to resume duty. Final notice was published in Darly Mashriq on 02.02.2016 but he failed to resume duty: Thereafter a show cause notice dated 18,12.2016 was also served on the appellant but to no avail. Finally the respondents had no other option but to remove him from service. Accordingly, major penalty of removal from service was awarded to him vide impugned order dated 11.03.2016.

CONCLUSION.

04. Before proceedings further let us first decide the issue of maintainability of the present service appeal. Impugned order was passed on 11.03.2016, against which departmental appeal was filed by the appellant on 04.10. 2018, followed by service appeal on 19.3.2019, Departmental appeal filed by the appellant was badly time barred so on this score alone the present service appeal was not in accordance with the para-meters laid down in Secitori-04 of Khyber Pakhtunkhwa Service Tribunal Act, 1974, thus not maintainable. It is not disputed that the appellant was taken into custody by the Army Authorities on 20.05.2012 and released on .14.06.2018. After release from custody, he came to know about his removal from Service impugned order dated 11.03.2016. Thereafter, departmental appeal was filed

by the appellant on 04.1.2013. One thing is clear beyond doubt that circumstances

were beyond his control and the course adopted by the appellant was right and as such his appeal cannot be dislodged on the ground of limitation. Furthermore, stance of the appellant has not been repelled by the respondents. In these circumstances, he has every right to be treated fairly on merit.

05. Even on merits, he has a very strong case to be reinstated in service. Attention is invited to letter dated 23.04.2013 through which he was suspended from service. His wife through application dated 08.04.2013 had also informed the respondents about his arrest by Pak Army. Despite knowledge, the respondents initiated disciplinary proceedings against the appellant which finally culminated in award of major penalty of removal from service. Had they applied their mind and taken into consideration the mitigating circumstances the present situation could have been averted? Anyhow in no way this is the case of willful absent from duty which constituted misconduct under the relevant rules. The appellant has suffered a lot for sins he did not commit and deserves to be reinstated in service.

06. In view of the foregoing, the appeal is accepted, impugned order dated 11.03.2016 is set aside and appellant is reinstated into service. However, the intervening period shall be treated as leave of the kind due. Parties are left to bear their own costs. File be consigned to the record room.

(AHMAD HASSAN) Member Camp court Swat

100

(MUHAMMAD HAMID MUGHAL) Member Date of

Nami

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ANNOUNCED

02.12.2019

to an who capy

بخدمت جناب ذستركث بميلتها فيسر ضلع سوات

درخواست بمراد : سول میپتال بر یکوٹ میں دوبارہ بحسثیت وارڈ ارد کی ملازمت کی بحالی کے

، احکامات صادر فرمائے۔

جناب عالی!

درخواست ذیل عرض ہے۔ 1: بیر کہ سائل گاؤں بر یکوٹ تخصیل بر یکوٹ ضلع سوات کا مستقل باشندہ ہے۔ 2: بیر کہ سائل تحسین وارڈ ارد لی سول سیتال بر یکوٹ میں فرائض منصی انتجام دے رہاتھا۔ 3: بیر کہ سائل کو پاک آرمی نے مئی 2012 میں شک کے بنیاد پر کھر ہے گرفتار کیا تھا۔ 4: بیر کہ مذکورہ تاریخ سے کیر جولائی 2018 تک سائل پاک آرمی کے زیر حراست میں رہا۔ 5: بیر کہ تحقیقات کے بعد پاک آرمی نے سائل کو ہا عزت پور بری کردیا۔ 6: بیر کہ دہائل کے بعد سائل نے ملازمت کی بیحانی کے لئے عدالت ہے رجو رع کیا۔ 7: بیر کہ عدالت کے علم نامہ کی قتل لف ہے)

لہٰذااستدعا کیجاتی ہے۔ کہ عدالتی احکامات کے مطابق سائل کی ملازمت کی بحالی کے احکامات صادرفر مادیں توعین نوازش ہوگی۔

مورخه: 12/2019/31/31

سيدعالم ولد خيبر سكنه فضلآبادكالونى بريكوب

كارد نمبر:7-15602-1353626

عريف ليرعال

OFFICE OF THE DISTRICT HEALTH OFFICER GULKADA DISTRICT SWAT Phone No: 0946-9240139, Fax No: 0946-9240215 Email: edohswat@yahoo.com /PFSaid Alam/S-2 Dated 2 -/ 12 /2019 To; The Director General Health Services Khyber Pakthunkhwa Peshawar. Assistant Director litigation attention e al tradición de la composition de la La composition de la c JUDGMENT IN APPEAL NO.380/2019 MR. SAID ALAM Subject:-<u>R/Sir</u> :... I have the honour to enclose herewith a copy of Judgment received from Registrar Khyber Pakthunkhwa Service Tribunal Peshawar vide letter No.2194/St dated 13/12/2019 in respect of Mr.Said Alam Ex-Ward orderly, for information and advise please. District Health Officer District Switten Galkada. copy forwarded to the litigation cell of this office for information District Health Officer/ District Swar an Gulkada Rahman Ali - **1**-......

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بوس بر بوال ت ورجيم تحتو ا () ب**عدالت** قیمت *ایک روپیچ* ی مردری محفظ منجانب سیر مالی بنام حکی، ایک (ویشهره دعوكي باعث تحريراً نكه جرم مقدمہ مندرجہ بالا میں اپنی طرف سے واسطے پیروی وجواب دہی و کل کاروائی ی ایک ایک متعلقہ آن مقام سروس روس روس کر میں جا ہے ور کی کے ایک دی ا تحمقرر کرے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختباط ہوگا۔ نیز وکیل صاحب کو راضی نامہ وتقرر ثالث و فیصلہ پر حلف دینے جواب دی اورا قبال دعویٰ اور درخواست ہوشم کی تصدیق زراس پر دستخط کرنے کا اختیار ہوگا نیز بصورت عدم پیروی یا ڈگری ایک طرف یا ایپل کی برامدہوگی اور منسوخ ڈائر کرنے ایپل نگرانی و نظرتانی و پیروی کرنے کا اختیار ہوگا۔ بصورت ضرورت مذکور کے نسل یا جزوی کاردائی کے واسطے اور وکیل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شده کو بھی جملہ مذکورہ بالااختیارات حاصل ہوئے اور اسکا ساختہ برواخته منظور وقبول ہوگا اور دوران مقدمہ میں جو خرچہ وہر جانہ التواے مقدمہ کے سب سے ما گا اسکے مستحق وکیل صاحب ہوئگے۔ نیز بقایا دخرچہ کی وصولی کرتے وقت کا بھی اختیار ہوگا اگر کوئی تاریخ پیش مقام دورہ ہر ہو یا حد سے باہر ہوتو وکیل صاحب یابند نه ہوئیے کی پیروی مقدمہ مذکور لہذا وکالت نامہ لکھ دیا ک سندر ہے r. 20 المرقوم واہ ش Ilan Il کے لئے منظور ہے سروس تربيع نک Attested be shares Adv.