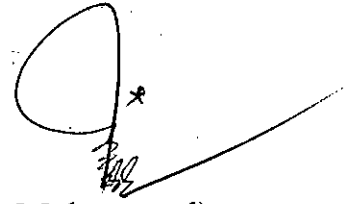


11.05.2022

Petitioner alongwith his counsel present. Mr. Noor Zaman Khattak, District Attorney alongwith Mr. Ali Rehman, SI for respondents present.

Representative of the respondents submitted conditional reinstatement order of the petitioner which is placed on file. Learned counsel for the petitioner stated at the bar that grievance of the appellatant has been redressed and the petitioner does not want to pursue the case further. His statement also recorded on the margin of order sheet. As such the instant execution petition is hereby withdrawn being satisfied. File be consigned to the record room.

Announced:
11.05.2022



(Mian Muhammad)
Member(E)
Camp Court Swat

*The Petitioner is satisfied as he has
remained his duty and thus wants to
withdraw the E.P. Muhammad
Adv*


08.02.2022 Tour is hereby canceled .Therefore, the case is adjourned to 05.04.2022 for the same as before at Camp Court Swat.


Reader

05.04.2022 Petitioner alongwith his counsel present. Mr. Ali Rehman, Inspector (Legal) alongwith Mr. Riaz Ahmed Paindakhel, Assistant Advocate General for the respondents.

The representative of respondents did not submit implementation report and stated at the bar that the judgment under execution has been challenged through filing of CPLA before the august Supreme Court of Pakistan.



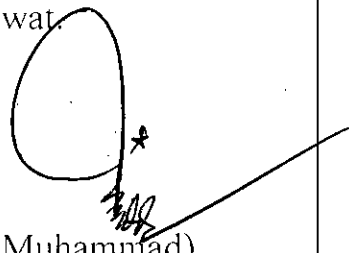
In this view of the matter, the respondents are required to pass a conditional order of implementation of the judgment dated 05.10.2021 passed by this Tribunal, which of course will be subject to outcome of the CPLA. To come up for implementation report on 11.05.2022 before S.B.


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

Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 371 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	07.12.2021	<p style="text-align: center;">The execution petition of Mr. Zia Ullah submitted by Mr. Imdad Ullah Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-		<p style="text-align: center;">This execution petition be put up before S. Bench at Swat on <u>6-1-22</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
06.01.2022		<p style="text-align: center;">Petitioner in person present. Mr. Muhammad Adeel Butt, Additional Advocate General for respondents present.</p> <p style="text-align: center;">Notices be issued to the respondents for submission of implementation report. To come up for implementation report on 08.02.2022 before S.B at camp court Swat.</p> <p style="text-align: right;"> (Mian Muhammad) Member(E) Camp Court Swat</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Execution Petition No. 371 of 2021

Zia Ullah Khan Ex-Constable No. 2868 S/o Bawaray R/o Jehan Abad, Tehsil
Charbagh, District Swat.

...Petitioner

VERSUS

The Provincial Police Officer Khyber Pakhtunkhwa, Peshawar and Others.

BEFORE THE

...Respondents

INDEX

S#	Description of documents	Annexure	Pages
1.	Memo of Petition	1-2
2.	Affidavit	3
3.	Addresses of the parties	4
4.	Copy of the Judgment dated 05-10-2021	A	5-8
5.	Vakalat Nama	9

Appellant Through

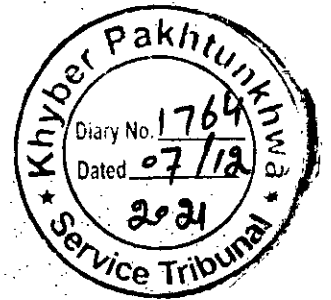
Imdad
Imdad Ullah

Advocate Swat

Office: Khan Plaza, Gulshone Chowk,
Mingora Swat, Cell 0333 929 7746

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Execution Petition No. 371 of 2021



*Zia Ullah Khan Ex-Constable No. 2868 S/o Bawaray R/o
Jehan Abad, Tehsil Charbagh, District Swat.*

...Petitioner

VERSUS

1. *The Provincial Police Officer Khyber Pakhtunkhwa,
Peshawar.*
2. *The Regional Police Officer Malakand Range at
Saidu Sharif, District Swat.*
3. *The District Police Officer Swat at Gulkada,
District Swat.*

...Respondents

**APPLICATION FOR
IMPLEMENTATION OF THE
JUDGMENT DATED 05-10-2021 PASSED
BY THIS HONOURABLE TRIBUNAL.**

Respectfully Sheweth:

- i. *That the petitioner filed a departmental appeal
for his reinstatement, which culminated finally
in the Service Appeal No. 1031 of 2018 before
this Honourable Tribunal.*
- ii. *That this Honourable Tribunal was pleased to
decide the same vide judgment dated 05-10-*

2021, whereby the Petitioner was reinstated back into service. Copy of the judgment dated 05-10-2021 is enclosed as Annexure "A".

- iii. That the Respondents are intentionally delaying the process to the utter detriment of the petitioner on one hand while clearly disobeying the clear directions of this Honourable Tribunal.
- iv. That the Respondents have failed to comply with the direction of this Honourable Tribunal bald of any reasons and in very contemptuous manner.
- v. That the Respondents may very kindly be directed to comply the judgment of this Honourable Tribunal by reinstating the Petitioner back into service.

It is, therefore, very respectfully prayed that on acceptance of this petition the Respondent No. 3 may very kindly be directed to implement the judgment of this Honourable Tribunal and reinstate the petitioner back into service without any further delay.

Any other relief deemed appropriate in the circumstances and not specifically prayed for may also very kindly be granted.

Zahid Ullah Khan
Petitioner
Zahid Ullah Khan
Through Counsel,
Imdad Ullah
Imdad Ullah
Advocate Swat

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Execution Petition No. _____ of 2021

Zia Ullah Khan Ex-Constable No. 2868 S/o Bawaray R/o
Jehan Abad, Tehsil Charbagh, District Swat.

...Petitioner

VERSUS

The Provincial Police Officer Khyber Pakhtunkhwa,
Peshawar and Others.

...Respondents

AFFIDAVIT

It is solemnly stated on Oath that all the contents of
this implementation petition are true and correct to the
best of my knowledge and belief and nothing has either
been misstated or kept concealed before this Honourable
Tribunal.



Deponent
Zia Ullah Khan
Zia Ullah Khan

4

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Execution Petition No. _____ of 2021

Zia Ullah Khan Ex-Constable No. 2868 S/o Bawaray R/o
Jehan Abad, Tehsil Charbagh, District Swat.

...Petitioner

VERSUS

The Provincial Police Officer Khyber Pakhtunkhwa,
Peshawar and Others.

...Respondents


ADDRESSES OF THE PARTIES

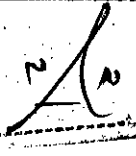
Petitioner:

Zia Ullah Khan Ex-Constable No. 2868 S/o Bawaray R/o
Jehan Abad, Tehsil Charbagh, District Swat.

Respondents:

1. The Provincial Police Officer Khyber Pakhtunkhwa,
Peshawar.
2. The Regional Police Officer Malakand Range at
Saidu Sharif, District Swat.
3. The District Police Officer Swat at Gulkada,
District Swat.

Petitioner
Through Counsel,

Imdad Ullah
Advocate Swat

Annexure 

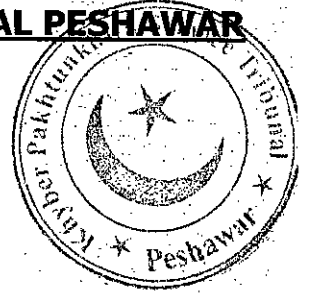
5

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1031/2018

Date of Institution ... 17.08.2018

Date of Decision ... 05.10.2021



Zia Ullah Khan S/o Bawaray R/o Jehan Abad, Tehsil Charbagh, District Swat (Ex-Constable B.No.2868)

... (Appellant)

VERSUS

Provincial Police Officer Khyber Pakhtunkhwa, at CPO Peshawar and two others.

... (Respondents)

Zia Ullah Khan
Appellant

... Pro Se


Asif Masood Ali Shah,
Deputy District Attorney

... For Respondents

ROZINA REHMAN
ATIQU-UR-REHMAN WAZIR

...
...

MEMBER (JUDICIAL)
MEMBER (EXECUTIVE)




JUDGMENT

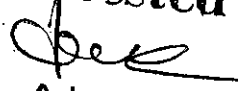
ATIQU UR REHMAN WAZIR MEMBER (E): Brief facts of the case are that

the appellant while serving as constable in police department was proceeded against on the charges of absence from duty and was ultimately dismissed from service vide order dated 20-07-2017, against which the appellant filed departmental appeal, which was rejected vide order dated 12-3-2018. The appellant filed review petition, which was also rejected vide order dated 31-07-2018, hence the instant service appeal with prayers that the appellant may be re-instated in service with all back benefits.

02. Learned counsel for the appellant has contended that the appellant has not been treated in accordance with law and impugned order has been passed in flagrant violation of law and rules, tainted with mala fide and is therefore not

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Attested

Advocate

5

also observed that the appellant was proceeded against on the ground of absence for the mentioned period, however the authority has treated the mentioned period as leave without pay, as such the very ground, on the basis of which the appellant was proceeded against has vanished away. Wisdom in this respect derived from the judgment of the august supreme court of Pakistan, reported as 2006 SCMR 434 and 2012 TD (Services) 348.

In view of the foregoing, the instant appeal is accepted and the appellant is re-instated in service, however the intervening period is treated as leave without pay. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
02.10.2021

(ATTO UR REHMAN WAZIR)
MEMBER (E)
CAMP COURT, SWAT

(ROZINA REHMAN)
MEMBER (J)
CAMP COURT, SWAT

18/10/21

Date of the court
18/10/21

Certified to be true copy
Kandahar District
Bardera District
Swat District

18/10/21
18/10/21

Attested
Advocate

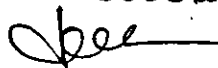
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sustainable in the eye of law; that absence of the appellant was not intentional but was due to compelling situation, which was beyond control of the appellant; that the disciplinary proceedings were conducted at the back of the appellant and the appellant was not afforded any opportunity of defense; that no charge sheet/statement of allegations as well as show cause notice was served upon the appellant; that no inquiry was conducted against the appellant nor the appellant was associated with such proceedings, hence the appellant was condemned unheard; that copy of the dismissal of the appellant was not provided to the appellant well in time, so that the appellant could knock at the door of the proper forum; that the appellant was not heard properly and no weightage was given to his stance in defense neither it was deemed necessary by respondents, which totally violates every corner of justice that prevails; that the appellant was dismissed from service as well as his period of absence was treated as leave without pay, which is illegal.

Wm

03. Learned Deputy District Attorney for the respondents has contended that the appellant absented from duty without permission of the competent authority, consequently, he was proceeded against as per law and rule; that proper charge sheet/statement of allegations was served upon the appellant and inquiry to this effect was also conducted against the appellant and upon recommendations of the inquiry officer, the appellant was dismissed from service under the relevant law.

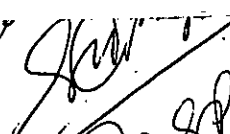
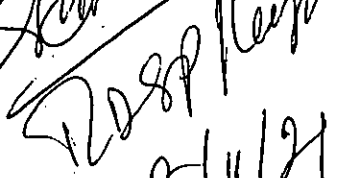
04. We have heard learned counsel for the parties and have perused the record.

Attested


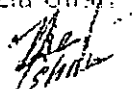
ATTESTED

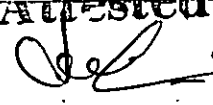

 EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

05. Record reveals that the appellant has not been treated in accordance with law as record is silent as to whether any charge sheet/statement of allegations was served upon the appellant. Similarly, no inquiry report is available on record to ascertain as to what were recommendations of the inquiry officer, upon which the appellant was dismissed from service. Record is also silent as to whether any opportunity of defense was afforded to the appellant. Most importantly we have

10


 8/11/21

Zia Ullah



Attested

 Advocate

8/11/21

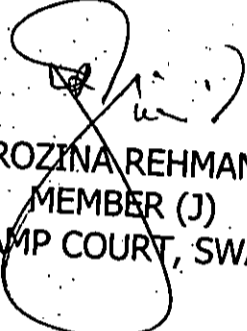
0344-9816113

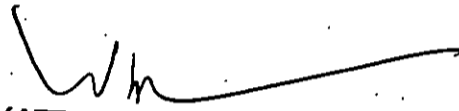
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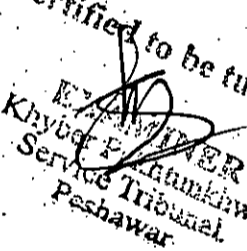
also observed that the appellant was proceeded against on the ground of absence for the mentioned period, however the authority has treated the mentioned period as leave without pay, as such the very ground, on the basis of which the appellant was proceeded against, has vanished away. Wisdom in this respect derived from the judgment of the august supreme court of Pakistan, reported as 2006 SCMR 434 and 2012 TD (Services) 348.

06. In view of the foregoing, the instant appeal is accepted and the appellant is re-instated in service, however the intervening period is treated as leave without pay. Parties are left to bear their own costs. File be consigned to record room.

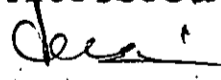
ANNOUNCED.
05.10.2021

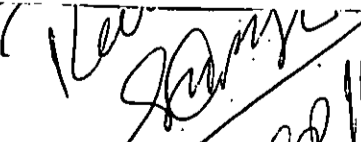

(ROZINA REHMAN)
MEMBER (J)
CAMP COURT, SWAT


(ATIQ UR REHMAN WAZIR)
MEMBER (E)
CAMP COURT, SWAT

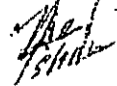
Certified to be true copy

KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
Peshawar

Date of Presentation of Application 18/10/21
Number of Words 1200
Copying Fee 5/-
Fees 18/-
Date of Delivery of Copy 18/10/21

Attested

Advocate


8/11/21

Zia Ullah



8/11/21

Advocate

0344-9816113

بعد الت سیدیں ٹریڈنگ لیٹ



مورثہ
مقدمہ
دعویٰ
جہاں

۵۲

دسمبر

ضد اس

۲۰۲۱ء پنجاب

بنام

محمد یونس

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ
آن مقام کیس کو روک کیلئے خواجہ صاحب اسدین کا امر ادا و رٹ کیس

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کال اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
دریں پر دستخط کرانے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی
اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت
مقدمہ مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا محتاز قانونی کو اپنے ہمراہ یا اپنے بجائے
تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے
اور اس کا ساختہ پر ذاختہ منظور قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانبہ التوائے مقدمہ کے
سبب سے ہوگا۔ کوئی نارنجی پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں
گے۔ کہ پیروی مذکور کریں۔ لہذا دالالت نامہ لکھد یا کہ سندر ہے۔

صاحب اسدین

الرقوم ۵۲

دسمبر

۲۰۲۱ء

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المصنف المصروف

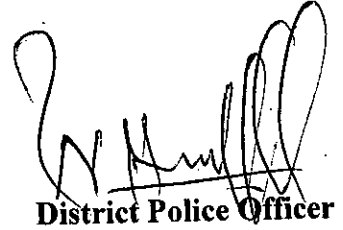
مقام لیسٹڈ ریکورڈنگ سہارہ کے لئے منظور ہے۔

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عدالت مشفقہ ماریٹ
پتہ: ۲۲۲۰۱۹۳
Mob: 0345-9223239

ORDER

In compliance with the Judgment dated 05-10-2021 of Service Tribunal Khyber Pakhtunkhwa in Service Appeals No.1031/2018 & execution No.371/2021 and directions received from AIG Legal CPO, Peshawar vide Memo: No.1593/Legal, dated 16-03-2022, Ex-Head Constable Ziaullah No.2868 of this District Police is hereby provisionally re-instated into service subject to the out-come of CPLA with immediate effect.


District Police Officer
Swat

OB No. 54

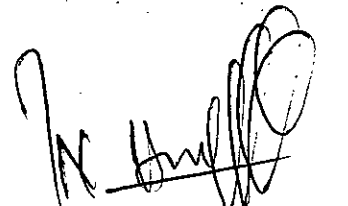
Dated. 11/09/2022.

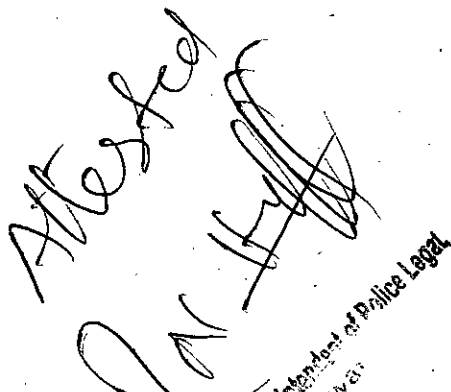
OFFICE OF THE DISTRICT POLICE OFFICER, SWAT

No. _____/E, dated Saidu Sharif the, _____/2022.

Copy for information and necessary action to the;

- 1) Regional Police Officer, Malakand at Saidu Sharif, Swat.
- 2) AIG/Legal, CPO, Peshawar w/r to above.
- 3) DSP/Legal, Pay Officer, P.A. and OASI, Swat.
- 4) DSP, Headquarters, Swat.


District Police Officer,
Swat

Attested

Deputy Superintendent of Police Legal
Swat