


| S.No. | Date of order/ proceedings | Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary. |
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| | 14.06.2021 | <p><u>Present.</u></p> <p>Petitioner ... In person</p> <p>Mr. Muhammad Adeel Butt, Addl. Advocate General ... For respondents.</p> <p>Vide my detailed order of today in Execution Petition No. 132/2020, titled "Muhammad Ali Vs. Government of Khyber Pakhtunkhwa through Secretary Environment, Wildlife Department, Peshawar and others" and copy placed on this file, the petition at hand has become infructuous, leaving no room for further proceedings and the same be consigned to the record room.</p> <p style="text-align: right;"> CHAIRMAN</p> <p><u>ANNOUNCED</u> 14.06.2021</p> |

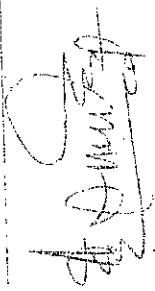
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| 1 | 2 | 3 |
| | 14.06.2021 | <p style="text-align: center;">KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, <u>PESHAWAR.</u></p> <p style="text-align: center;">Execution Petition No. 132/2020</p> <p>Mr. Muhammad Ali son of Anwar Ajaz Ali, Ex-Range Forest Officer, Kohistan Water Shed Forest Division Besham, Khyber Pakhtunkhwa. ... (Petitioner)</p> <p style="text-align: center;"><u>Versus</u></p> <p>1. The Government of Khyber Pakhtunkhwa through Secretary Environment and Wildlife Department, Peshawar and two others. ... (Respondents)</p> <p>Petitioner in person and Mr. Muhammad Adeel Butt, Addl., AG for the respondents present.</p> <p>2. Parawise comments against the Execution Petition at hand have been received on behalf of the respondents, which are placed on file. Arguments heard and record perused.</p> <p>3. The petitioner in Paragraph-11 of his petition stated that the order/judgment was passed by this Tribunal, and directed to proceed de-novo enquiry, on the basis of implementation report and without reinstatement of the petitioner in second Execution Petition 263/2018 dated 08.02.2019. The said Paragraph in the given term was ambiguously drafted giving no clue as to what the order/judgment dated 08.02.2019 was meant to impart. However, the respondents in reply to Paragraph-11 of the Execution Petition have admitted it correct to the extent that</p> |

this Tribunal announced judgment dated 08.02.2019 in second Execution Petition No. 263/2018 in Service Appeal No. 30/2017; and the direction given in the said judgment has been reproduced under Para-11 of the Parawise comments. It was added by the respondents after reproduction of the operative part of the judgment dated 08.02.2019 that it is clear enough to prove that the appellant/petitioner instead of cooperating the department/inquiry committee to finalize the proceedings in implementation of court order dated 19.03.2018, repeatedly interrupted in the inquiry proceedings either by non-furnishing replies or through filing irrelevant/untimely execution petition in this Tribunal and CPLA in August Supreme Court of Pakistan.

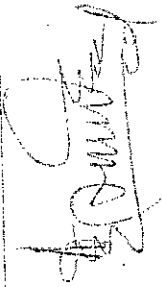
4. The Execution Petition by its contents is self speaking to support the said view of the respondents about instrumentality of petitioner in misdirecting the course of Execution of judgment dated 19.03.2018, which if taken in simple terms of its operative part, contain a direction to C.C-I to resume the proceedings from the stage as mentioned above and decide the same within 60 days from the receipt of the judgment failing which the appellant shall be deemed to have been reinstated in service. The issue of back benefits in case of reinstatement shall be subject to the rules on the subject. The expression "from the stage as mentioned above" relates to observation in conclusion part of the decision in Para-6 of the judgment and accordingly the C.C-I was required to be seized with the matter from the stage of submission of enquiry

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report. The next step was to issue show cause notice to the appellant tentatively describing the imposition of penalty or otherwise, by asking him to submit reply to the show cause notice; and then should have afforded him personal hearing and there-after should have decided the same. When the order dated 08.09.2019 as referred to by respondents in reply to Para-11 of the Execution Petition was perused from its copy available on file as Annexure-I, the previous Execution Petition No. 263/2018 was filed on the strength of the said order with observation that non-conclusion of proceedings against the petitioner, within time prescribed in the judgment under execution, is not solely attributable to the respondents; and having regard to the particular circumstances, the prayer of petitioner for reinstatement with back benefits then appeared to be premature. Consequently, the execution proceedings were consigned to the record room with extending permission to the petitioner to have resort to appropriate proceedings upon conclusion of departmental proceedings and passing of any order to his detriment. This successive execution petition has been filed seeking direction to the respondents for implementation of the judgment dated 19.03.2018 which in view of the petitioner has attained the finality. Obviously, the petitioner means by implementation of the judgment in sense of his reinstatement with all back benefits without consultation of which was not completed within the stipulated time of 60 days given in the judgment dated 19.03.2018. No doubt, the rider for reinstatement of appellant is there in the judgment



dated 19.03.2018 linked with stipulated time of 60 days but order of this Tribunal in previous Execution Petition No. 263/2018 holding the prayer of the petitioner for reinstatement as premature had created an obligation on the part of the petitioner to contribute towards conclusion of proceedings of enquiry. However, the petitioner has come with nothing new constituting a fresh ground for filing of present execution petition. Unless the petitioner cleans his hands by going through the course of pending inquiry to enable its conclusion with his proactive response to doing the needful of his part, his present execution petition or any other, which he may file in future without cleaning his hands in the given manner, would be nothing than a stepping into abuse of process of this Tribunal, with erroneous clue taken from the judgment of this Tribunal at the credit of the petitioner. Therefore, he is expected to pursue his case only for conclusion of the pending enquiry and he should not expect about his reinstatement into service on the basis of the rider in the judgment dated 19.03.2018, which being not part of the main relief, is executable. The main relief as granted to the petitioner in the judgment dated 19.03.2018 includes the direction for issuing of show cause notice to the appellant from the stage of submission of enquiry report and to afford him with the opportunity of submitting reply to the show cause notice followed by the opportunity of personal hearing in the course of pending enquiry before decision of the concerned competent authority i.e C.C-I.



5. With the foregoing observations, this Execution Petition be filed and consigned to the record room. There is no order as to costs but the petitioner is warned to be careful in future to avoid the abuse of process of this Tribunal.



(AHMAD SULTAN TAREEN)
Chairman

ANNOUNCED
14.06.2021

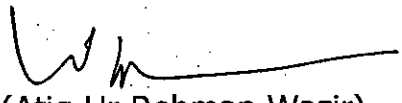
31
03.2021

Petitioner in person present.

Add: AG for respondents present.

Notice be issued to the respondents for submission of reply on COC application.

Adjourned to 19.04.2021 before S.B.


(Atiq Ur Rehman Wazir)
Member(E)

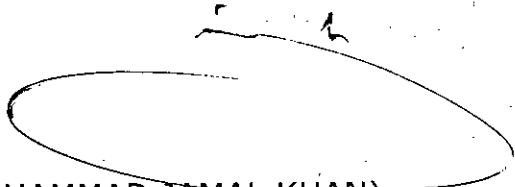
19.04.2021

Due to demise of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 14.06.2021 for the same as before.


Reader

17.11.2020

Petitioner is present in person. He submitted Contempt of Court application, it be registered. File to come up for arguments on 14.12.2020 before S.B at Camp Court, Abbottabad.


(MUHAMMAD JAMAL KHAN)
MEMBER
CAMP COURT ABBOTTABAD

~~18~~ 12.2020


Due to Covid-19, case is adjourned to 15.03.2021 for the same as before.


Reader

15.03.2021

Petitioner in person present.

To come up alongwith Execution Petition No. 159/2020 before S.B at Principal Seat Peshawar.


(Atiq ur Rehman Wazir)
Member (E)
Camp Court, A/Abad

Original

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

COC, No. 166 /2020

In Execution Petition No. 132 / 2020

In Service Appeal No. 30 / 2017,

Muhammad Ali, Near Sathy House and Degree College for Girls kunj Ground
AbbottabadPETITIONER

V E R S U S

1. Mr. Muhammad Siddique Khan Khattak the then CCF-I Peshawar, C/O CCF-I Peshawar
2. Mr. Ali Gohar Khan the CCF-I PeshawarRESPONDENTS

THE JUDGMENTS / ORDERS OF THIS AUGUST TRIBUNAL COURT DATED 19.03.2018, AND 08.02.2019, ATTAINED FINALITY, AND DID NOT COMPLIANCE AND EXECUTED BY MR. MUHAMMAD SIDDIQE KHAN KHATTAK THE THEN CCF-I, AND MR. ALI GOHAR KHAN THE CCF-I, BEING IN VIOLATION OF THE SECTION NO.3 OF THE ORDINANCE IV OF 2003 CONTEMPT OF COURT AND INITIATE STRICT (CRIMINAL PROCEEDINGS) BE TAKEN AGAINST THE ABOVE CCFs AFTER THE ORDERS OF THIS AUGUST TRIBUNAL IS TANTAMOUNT TO CONTEMPT OF COURT.

Respectfully Sheweth,

1. That, the titled **Execution Petition No. 132/2020**, had filed on dated 14.09.2020 before this Honorable Tribunal, Court contents of where may pleased be treated as integral part of the instant Petition.
2. That, the titled **Execution Petition** is pending at adjudication in this Honorable Tribunal Court.
3. That the respondent No.1, has being in violation of this August Tribunal Court Direction in Judgment dated 19.03.2018 by the (CCF-I) of Para No. 7, "to resume the proceedings from the stage as mentioned below

"This Tribunal reaches the conclusion that the proceedings before the CCF-I culminating into order dated 22.08.2016 con not be sustained in the eyes of Law nor the departmental appellate authority could maintain the said order. The CCF-I is therefore, directed to resume the proceedings from the stage as mentioned above and decide the same within 60 days from the receipt of this Judgment failing which the appellant shall be deemed to have reinstated in service".

4. That the charges proved against the petitioner and penalties were also recommended by the Enquiry committees, and Impugned order was issued on dated 25.08.2014, the then CCF-I has issued Same Impugned Charge Sheets once again to the petitioner, on dated 10.04.2018, so same charge sheets were issued once again is malice in Law and Facts. Besides that, no reasons have been provided for re-enquiry on account of witch impugned action of the competent authority is bad in law and is liable to be struck down, and **against the Same direction the of said Judgment and volatile of Article 13** of the Constitution of Republic of Pakistan, (**Double Jeopardy**) no person shall be vexed twice for the same Charges.

(Copies of the Enquiry Reports, & Impugned Order 25.08.2014, the Same Charge Sheets are attached as Annexure.....H, in the Execution Petition No. 132/2020)

5. That in compliance of the Judgment dated 19.03.2018, this August Tribunal Court, the petitioner had submitted 1st Reply to the same charge sheet on dated 26.04.2018, to the then CCF-I within time.
(Copy of the 1st Reply dated 26.04.2018, attached as Annexure.....R, in the Execution Petition No. 132/2020)
6. That the respondent No. 1, the then Competent Authority thereafter, has been called for Personal Hearing through letter date 07.05.2018 and shall be appeared before hearing in person on dated 11.05.2018.
(Copy of the Letter date 07.05.2018, is attached as Annexure.....P, in the Execution Petition No. 132/2020)
7. That the Compliance of the Judgment dated 19.03.2018, of this August Tribunal, that the petitioner had appeared before hearing in person on dated 12.05.2018, and 14.05.2018, in the office of the respondent No.2, and during the personal hearing proceedings, petitioner had submitted written preliminary defense and objection, and also raised facts and figures verbally in each Enquiry Proceedings, and rebut through documented evidence against the charges one by one and the Prosecution did not proved any single charge against the petitioner.
8. That the then respondent No.1, Admitted in this letter No.4005-5/E Dated 09.04.2019, that he did not recorded the proceedings of the personal hearings on dated 12 & 14 May 2018, being in violation of the CCP- Section 142, authorities an Order and Notices to be in

writing, In Powering Authorities by this Sub Rule (1) & (2) of the Rule 12 of the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules, 2011.

(Copy of the Dated 09.04.2019, is attached as Annexure.....Q, in the Execution Petition No. 132/2020)

9. That the August Tribunal, directed to forward herewith a certified copy of Judgment dated 19.03.2018, vide No. 625/ST, on dated 26.03.2018, passed by August Tribunal on the above subject for strict compliance.

(Copy of the covering letter is attached as Annexure.....F, in the Execution Petition No. 132/2020)

10. That the CCF-I is therefore, directed to resume the proceedings from the stage as mentioned above and decide the same within 60 days from the receipt of this Judgment failing which the appellant shall be deemed to have reinstated in service.

11. That the order/judgment was Passed by this August Tribunal Court, and directed to proceed De-novo Enquiry, *on the basis of Implementation report* and without re-instatement of the petitioner in Execution Petition 263/2018, in Service Appeal No. 30/2017, on date 08.02.2019.

GROUND

- A.** That the respondent No.1, has being in violation of **procedure** of this August Tribunal Court in Judgment dated 19.03.2018 by the (CCF-I) of Para No. 6 as follow,

"The CCF-I was then required to have seized the matter from the stage of submission of enquiry report. The CCF-I then required to have the sized the matter from the stage of submission of enquiry report. The next step was to issue show cause notice to the appellant tentatively deciding the imposing of penalty or otherwise by asking him to submit reply of the said show cause notice. And then should have afforded him personal hearing and thereafter should have decided the same. But the CCF-I did not issue show cause notice etc."

(The above August Tribunal Court direction Same procedure provided in Sub Rule 4 & 5 of Rule 14, and 15 of the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules, 2011.

- B.** That the Judgment 19.03.2018, in the service appeal No. 30/2018 was not the assailed by *the Department in the Next Higher Court against by way of appeal the finality, to submit an appeal which was not consider by this August Court.*
- C.** That the then competent Authority (respondent No.1) *had failed to compliance the Judgment dated 19.03.2018, this August Tribunal Court , could not followed the procedure provided in Sub Rule 5 (i) of Rule 14 of the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules, 2011, and then may issue an order / Decision in writing (Exonerate the petitioner).*
- D.** That the respondent No. 1, thereafter, has issued *Impugned De-novo Enquiry proceedings order on dated 06.06.2018,* which is unjust and unlawful when had attained the finality to decide before

25/05/2018, (time barred) being in violation of direction for proceedings in the Judgment dated 19.03.2018, of this Hon'ble Service Tribunal Court, and without reinstatement of the petitioner and justified the proceedings of the prosecution because the prosecutions did not prove any of the allegations against the petitioner on dated 12.05.2018 and 14.05.2018.

E. That the respondent No.1 *had failed to* compliance the Judgment dated 19.03.2018, this August Tribunal Court, Orders with intent to, effect of, obstructing the administration of Justice, and being in violation of the Section No.3 of the Ordinance iv of 2003 Contempt of Court.

Section No.3, Contempt of Court. Whoever disobeys or disregards any order, direction or process of the court, which he is legally bound to obey; or commits a willful breach of a valid undertaking given to a Court; or does anything which is intended to or tends to bring the authority of a Court of administration of law into disrespect or disrepute, or to interfere with or obstruct or interrupt or prejudice the process of law or due course of any Judicial proceedings, or lower the authority of a Court, or scandalize a Judge in relation to his office, or to disturb the order or decorum of a Court, is said to commit "**Contempt of Court**"

F. That the respondents Fraudulently and mis representation through concealed the proceedings of the personal hearings conducted on dated 12 & 14 May 2018, and same Charge Sheets from the August Tribunal Court in the Impugned Implementation Report

- G.** That the respondents have been submitted Implementation report in Execution Petition No. 263/2018, and during proceedings on dated 08.02.2019, being in violation CPC Section of 12(2) and Judgment / Order on the Implementation Report of fraud and misrepresentation.
- H.** That the order/judgment was Passed by this August Tribunal Court, and directed to proceed De-novo Enquiry, on the basis of Implementation report and without re-instatement of the petitioner in 2nd Execution Petition 263/2018, in Service Appeal No. 30/2017, on date 08.02.2019.
- I.** That the Civil Petition for Leave to Appeal Article 212 (3) of the Constitution of Islamic Republic of Pakistan, 1973 against the impugned judgment, order and decision dated 08.02.2019 passed by the Hon'ble Khyber Pakhtunkhwa Service Tribunal Peshawar in execution petition No.263/2018 in service appeal No.30/2017, on dated 09.04.2019.
- J.** That the institution of CPLA, the Worthy Institution Officer, of the Hon'able Supreme Court of Pakistan has returned my CPLA on 09.04.2018, on the ground of incorrect year on the execution petition No. mentioned as 263/2019 instated of Execution Petition No. 263/2018, and petitioner had through written requested to the Worthy Chairman Hon'able Khyber Pakhtunkhwa Service Tribunal Peshawar for correction of year on dated 10.04.2018, and the Worthy Chairman Hon'able Khyber Pakhtunkhwa Service Tribunal Peshawar, that the stipulated period of fourteen (14) days had elapsed since the delivery of copy of the Judgment returned to the

petitioner on dated 24.04.2019, without any justification was given on application dated 03.05.2019.

K. That the petitioner has re-submitted an application under section No. 5, read with section No.12, of the limitation act 1908, for condonation delay for **5 days** due to prosecution of proceedings in re-filing of titled civil petition, on dated 30.04.2019, and other hand **14 days** already given by the Worthy Institution Officer, on dated 10.04.2019.

L. That the petitioner had through written requested to the Worthy Chairman Hon'able Khyber Pakhtunkhwa Service Tribunal Peshawar for correction of year on dated 10.04.2018, and the Worthy Chairman Hon'able Khyber Pakhtunkhwa Service Tribunal Peshawar, that the stipulated period of fourteen (14) days had elapsed since the delivery of copy of the Judgment returned to the petitioner on dated 24.04.2019, without any justification was given on application dated 03.05.2019.

M. That the Hon'able Supreme Court of Pakistan has dismissed my CPLA on dated **08.07.2020**, on the ground of Barred by **19 days** that the petitioner has filed the CPLA in time but it was returned to him for removal of the objections. He contends that time was spent in seeking correction of record from the Service Tribunal.

Through he has mentioned such facts in the application generally but has not explained each day's delay which is the requirement of the law.

N. That the this August Tribunal Court directed to the respondent No. 1 on dated 19.03.2018, that was as under,

“The CCF-I is therefore, directed to resume the proceedings from the stage as mentioned above and decide the same within 60 days from the receipt of this Judgment failing which the appellant shall be deemed to have reinstated in service”.

This above direction and Judgment was received by the respondent No.1 on Dated 26.03.2018, from this Tribunal Court and till up to now did not compliance the order/ Judgment of this August Tribunal Court without out any Justification.

- O.** That, the Petitioner had received two notices either first from the convener of the enquiry committee (Director General, PFI Peshawar) on dated 17.06.2019, second and final notice from (respondent No.2) the Chief Conservator of the Forests, Central Southern Forest Region-I Peshawar on dated 03.07.2019, finally to furnish reply to the charge/ memo of allegations to the Enquiry Committee within (7) days falling which an ex-part action will be taken against you and this office being competent authority will not be responsible.
- P.** That, in the compliance of this Tribunal Court Judgment dated 08.02.2019, and above said notices, the *Petitioner had been submitted again second (2nd) detailed reply of the charge sheets on dated 11.07.2019, (1st detailed reply of the charge sheets was already submitted on dated 26.04.2018,)* and thereafter the Department had failed to compliance to conduct the De-novo Enquiry proceedings, and the Judgment dated 19.03.2018, *attained finality.*
- Q.** That the petitioner has submitted written appeal to the respondents' No. 1, and the Convener Enquiry Committee, on dated 23.07.2020, against the De-novo Enquiry Proceedings through registry postal along with AD card, and the respondents did not compliance the orders as the direction of this August Tribunal Court.
- R.** That the complainant of the 1st charge sheet (Mr. Azhar currently working as Chief Conservator of Forests Northern Forest Region – II Abbottabad) has *attempted to prove Government loss* about Timber Volume 2638.50 C. ft @ Rs=5000=**1,31,96,2500/=** but failed.

- S. That the complainants of the 2nd charge sheet (Mr. Ejaz Qadder currently working as Conservator of forests Lower Hazara Abbottabad) has been *given the loss to the Government* about Timber Volume 400 cft @ Rs=5000= **20,00,000/=** is outcome of conjunctures and surmises.
- T. That the *prosecution* has not produced any witnesses, relevant record, no recovery has been made, no Government loss can be proved in accordance with fake Charge Sheets, against petitioner in 4th Sessions of the Personal Hearings.
- U. That the respondents are using delaying tactics and ~~don't~~ forget order / Judgments of this August Tribunal Court.
- V. That the petitioner is having no other remedy to file contempt of court.
- W. That the respondents after both the judgments of this august tribunal are tantamount to contempt of court.

It is therefore, most respectfully prayed that on acceptance of this contempt of court under Section No. 3 of the Ordinance iv of 2003 Contempt of Court may be initiate strict (criminal proceedings) against the respondents in the best interest of Justice.

Petitioner in Person

Muhammad Ali

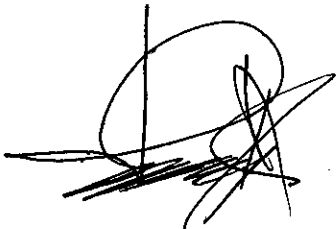
Ex- Forest Range Officer,

Near Sathy House and Degree College for Girls kunj Ground Abbottabad

Date: 17 / 11 / 2020, Cell No. 0315-3199931

AFFIDAVIT

Muhammad Ali s/o Anwar Ajaz Ali Ex-Range Forest Officer Kohistsan Water Shad Forest Division Besham, do hereby solemnly affirmed declare on Oath that all the contents of the accompanied Execution Petition are true and correct to the best of my knowledge and noting has been concealed or withheld from this Honorable Court.

A handwritten signature in black ink, consisting of several overlapping loops and lines, positioned above the word 'DEPONENT'.

DEPONENT