

E.P. No. 428/2019
Attaulah vs Govt.

09.06.2020

Petitioner in person and Mr. Muhammad Adeel Butt,
AAG alongwith Sheraz H.C for the respondents present.

The representative of respondents has produced copy
of order dated 04.05.2021 passed in C.P No. 396-P/2018
and 560-P/2018, whereby inter-alia, Apex Court has
dismissed both the Civil Petitions of the petitioner as well
as the respondents.

In view of the above development, instant
proceedings are consigned to record.


Chairman

28.01.2021

Petitioner is present in person. Mr. Kabirullah Khattak, Additional Advocate General and Mr. Sheraz, Head Constable, for the respondents are also present.

Representative of the department submitted order dated 26.01.2021 whereby petitioner has been granted conditionally and provisionally salaries for the interim period subject to the outcome of CPLA. The order is placed on record. Petitioner is seeking time for examining the same. Time granted. File to come up for further proceedings on 30.03.2021 before S.B.


(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

30.03.2021

Petitioner in person and Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Mian Naik Muhammad, DSP (Legal) and Mr. Hameed Khan, District Account Officer, for the respondents present.

Implementation report has already been submitted by the respondents vide order sheet dated 28.01.2021.

Petitioner is seeking further adjournment on the ground that his counsel is not available today. Adjourned to 09.06.2021 for further proceedings before S.B.


(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)

E.P No. 428/2019

09.12.2020

Counsel for the petitioner and Addl. AG alongwith Muhammad Mukhtiar, H.C for the respondents present.

The Deputy Commandant Elite Force Khyber Pakhtunkhwa Peshawar issued an order on 03.01.2019, whereby, the petitioner was reinstated into service conditionally, subject to the outcome of CPLA and "with immediate effect". The petitioner is at present aggrieved of his reinstatement with effect from the date of said order.

Learned counsel for the petitioner contended that the respondents were obligated to have reinstated the petitioner from the date of judgment under execution i.e. 04.04.2018, however, by not doing so the petitioner was deprived of his salary and other emoluments for the period interregnum 4.4.2018 and 03.01.2019.

Learned AAG, on the other hand, attempted to argue that the petitioner did not apply for his reinstatement after announcement of judgment by this Tribunal. He joined the service with a delay, therefore, was not entitled for the salary etc., as claimed.

The record suggests that initially the petitioner submitted Execution Petition on 18.05.2018 which was consigned to record on 08.01.2019 on the score that his



reinstatement order was issued on 03.01.2019. He was, however, at liberty to apply for restoration of proceedings in accordance with the judgment in case any part of his grievance remained unsatisfied. Instant implementation application was submitted on 21.11.2019 for redressal of grievance of petitioner as noted herein above. The petition is competent for all intents and purposes.

It is not deniable that the petitioner earned a judgment of this Tribunal in Service Appeal No. 774/2016 on 04.04.2018. A certified copy of judgment was duly sent to the Deputy Commandant Elite Force, Khyber Pakhtunkhwa, Peshawar by the learned Registrar of this Tribunal on 20.04.2018. For the purpose of petition in hand and the disputed point between the parties, it is appropriate to reproduce the concluding part of judgment:-

"Resultantly the appellant is reinstated in service. The period intervening in between the original impugned order dated 05.05.2011 and this judgment shall be treated as extraordinary leave without pay. The present appeal is decided in the above terms. Parties are left to bear their own costs File be consigned to the record room."

This part of judgment under execution clearly suggests that the petitioner was reinstated in service on 04.04.2018 by this Tribunal while the respondents were to issue only a formal order in that regard. There was no need for the petitioner to have submitted any application for the



issuance of order/notification. The requisite order issued on 03.01.2019 having "immediate effect" was in utter disregard of the judgment under implementation. Besides, the misinterpretation of judgment by the respondents is tantamount to flouting the decision of a competent forum. It is also required to be noted that the CPLA, preferred against the judgment under implementation, has not yet been decided nor any order for suspension of operation of judgment has been passed. In the circumstances, the judgment holds the field for all intents and purposes.

In view of the forgoing, the respondents are required to issue an amended reinstatement order of petitioner giving it effect from the date of judgment under execution. It is expected that the requisite order will be issued at an early date but not later than one month. Failing which, punitive action would be taken against the defaulting official(s). Learned Registrar shall send a copy of instant order to the respondents at the earliest. To come up for submission of implementation report on 28.01.2021 before the S.B.



Chairman

19.10.2020

Petitioner in person and Addl. AG alongwith Mian Niaz Muhammad, DSP (Legal) for the respondents present.

On 17.09.2020 arguments were heard and the matter was posted today for order.

While writing the order, it was felt that some more assistance from both the parties was necessary. However, the Bar is observing general strike today, therefore, the matter is adjourned for the purpose to 23.11.2020.


Chairman

23.11.2020

Petitioner alongwith counsel and Addl. AG alongwith Mian Niaz Muhammad, DSP (Legal) for the respondents present.

Due to over occupation of the undersigned in a Division Bench today, instant matter is adjourned to 03.12.2020 for the purpose.


Chairman

03.12.2020

Petitioner alongwith counsel and Addl. AG alongwith Sheraz H.C for the respondents.


Learned AAG requests for adjournment as due to misconception ^{about} the cause list, he is not in possession of the brief today.

Adjourned to 09.12.2020 before S.B.


Chairman

18.06.2020

Petitioner in person and Addl: AG alongwith Mr. Shiraz, H.C for respondents present. Representative of the respondents submitted reply to the execution petition which is placed on file. A copy of the same is also handed over the petitioner. Petitioner seeks adjournment as his learned counsel is not available today. Adjourned. To come up for further proceedings on 04.08.2020 before S.B.

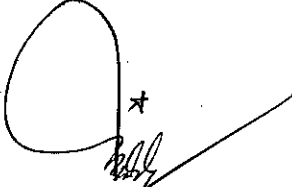


MEMBER

04.08.2020

Petitioner alongwith his counsel and Mr. Kabirullah Khattak, Additional AG for the respondents present.

Learned counsel for the petitioner informed that the petitioner stands reinstated in service and he has joined duty. However, the petitioner has not been released salary for the period from 04.04.2018 to 03.01.2019. The learned Additional AG would inform the Tribunal about the outcome and update on the issue of release of his salary for the said period on 17.09.2020 before S.B.



(MIAN MUHAMMAD)
MEMBER (E)

17.09.2020

Counsel for the petitioner and Addl. AG alongwith Mian Niaz Muhammad, DSP (Legal) for the respondents present.

Arguments on behalf of both the parties regarding the delay in reinstatement of petitioner were addressed. To come up for order on 19.10.2020. Original record of Execution Petition No. 151/2018 in appeal No. 774/2016 shall also be appended with the instant brief.



Chairman

10.02.2020

Petitioner with counsel present. Implementation report not submitted. Mian Hizbullah DSP (Legal) representative of respondents present and seeks time to furnish reply/implementation report. Adjourn. To come up for reply/implementation report on 16.03.2020 before S.B.


Member

16.03.2020

please please
Appellant in person present. Mr. Kabirullah Khattak learned Addl. AG alongwith Muhammad Naeem Naib Court for the respondents present. Implementation report not submitted. Representative of the respondent department seeks time to furnish reply/implementation report. Adjourned. To come up for implementation report on 27.03.2020 before S.B.


Member




27.03.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 18.06.2020 before S.B.


Reader

Form- A
FORM OF ORDER SHEET

Court of _____
Execution Petition No. 428/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	21.11.2019	<p>The execution petition of Mr. Attaullah submitted today by Mr. Tariq Kakar 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-	26/11/19.	<p>This execution petition be put up before S. Bench on <u>20/12/19.</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	20.12.2019	<p>Petitioner in person present.</p> <p>Issue notice to respondents for submission of implementation report on 10.02.2020.</p> <p style="text-align: right;"> Chairman</p>

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Implementation No. 428 of 2019
In Appeal No.774/2016

Atta Ullah Constable No.512 Appellant

VERSUS

Provincial Police Chief, Khyber Pakhtunkhwa
Peshawar and others Respondents

Index

S.No	Description of documents	Annexure	Pages
1.	Application for implementation		1-3
2.	Affidavit		4
3.	Copy of judgment dated 04/04/2018	"A"	5-10
4.	Wakalat Nama	In original	//

Dated 18/11/2019

Applicant
Through


Tariq Kakar
ASC, Peshawar
Cell # 0333-9126151

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Implementation No. 428 of 2019
In Appeal No.774/2016

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1211

Dated 21-11-2019

Atta Ullah Constable No.512 Elite Force
Presently SSP Office Peshawar
R/o Village & PO Masho Khel, Tehsil & District
Peshawar.

..... Appellant

VERSUS

- 1) Provincial Police Chief, Khyber Pakhtunkhwa Peshawar.
- 2) Additional Inspector General, Commandant Elite Force Khyber Pakhtunkhwa Peshawar.
- 3) Deputy Commandant, Elite Force Khyber Pakhtunkhwa Peshawar.
- 4) Budget Officer Police Khyber Pakhtunkhwa Peshawar, Police Line Peshawar.
- 5) Accountant General, Provincial Peshawar.

..... Respondents

APPLICATION FOR IMPLEMENTATION OF JUDGMENT DATED 04/04/2018 passed IN APPEAL NO.774/2016

Respectfully Sheweth:

- 1- That the service appeal of the appellant / petitioner was decided by this Hon'ble Tribunal on 04/04/2018.

- 2- That thereafter the respondents were not implementing the order dated 04/04/2018 and the appointment/posting was made and the petitioner was not letting to assume duty and take charge.
- 3- That the petitioner under constrained approaches to this Hon'ble Tribunal with an implementation petition and pursuant to that the petitioner was posted and was given charge for duty.
- 4- That the petitioner's 8/9 months salary has been withheld by the respondents for unknown reasons.
- 5- That as per law the petitioner is entitled for the salary from the date of announcement / pronouncement of judgment i.e. 04/04/2018.
- 6- That immediately after the order of reinstatement by this Hon'ble Tribunal the petitioner approached to the respondents for assuming charge on his duty and was ready to carry on / launch his duty in the Department but the respondents were not letting the petitioner to assume duty and start function and it was on the part of the respondents, that the giving charge was delayed.
- 7- That so much so that the petitioner was compelled to approach this Hon'ble Tribunal for implementation and it was due to the subsequent

and repeated directions by this Hon'ble Tribunal, that the order dated 04/04/2018 was implemented but now the salary of 9/8 months has been withheld for no good reasons.

8- That the petitioner as per law and rules is entitled for the benefit of the service and respondents by no cannon of law can deny the said benefits in the shape of salary and hence the indulgence of this Hon'ble Tribunal has become inevitable.

9- That the respondents are legally bound to implement the judgment of this Hon'ble Tribunal in letter and spirit without any further delay and are bound to pay the salary from the date of judgment dated 04/04/2018.


It is, therefore, most humbly prayed that on acceptance of this application the judgment and order dated 04/04/2018 of this Hon'ble Tribunal and be directed to pay the salary of outstanding 8/9 months to the petitioner.


Any other remedy deem fit and appropriate in the circumstances of the case may also be granted.

Dated 18/11/2019

Applicant

Through


Tariq Kakar
ASC, Peshawar

Javaidullah Advocate


4

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Implementation No. _____ of 2019
In Appeal No.774/2016

Atta Ullah Constable No.512 Appellant

VERSUS

Provincial Police Chief, Khyber Pakhtunkhwa
Peshawar and others Respondents

AFFIDAVIT

I, Atta Ullah Constable No.512 Elite Force
Presently SSP Office Peshawar R/o Village & PO
Masho Khel, Tehsil & District Peshawar do hereby
solemnly affirm and declare on oath that the contents of
the accompanied application are true and correct to the
best of my knowledge and belief and nothing has been
concealed from this Hon'ble Tribunal.

Atta Ullah
DEPONENT

17301-7677789-7

0313-9624540

ATTESTED
IRFAN ULLAH ADVOCATE
NOTARY PUBLIC

29-11-19

5

No. of
Order/
proceeding

2

Order or other proceedings with signature of Judge or Magistrate-

3



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No. 774/2016

Date of Institution ... 11.07.2016

Date of Decision ... 04.04.2018

Attallah, Ex-Constable No.512 Elite Force, resident of Village & P.O Masho Khel, P/S Baddher District Peshawar:

Appellant

1. The Provincial Police Officer Khyber Pakhtunkhwa Peshawar.
2. Additional Inspector General of Police/Commandant Elite Force, Khyber Pakhtunkhwa Peshawar.
3. Deputy Commandant, Elite Force, Khyber Pakhtunkhwa, Peshawar.

Respondents

04.2018
Cm

JUDGMENT

MUHAMMAD HAMID MUGHAL, MEMBER: - Learned counsel

for the appellant present. Learned Additional Advocate General for the respondents present.

2. The appellant has filed the present appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974. The appellant was awarded major punishment of dismissal from service vide order dated 05.05.2011. The departmental appeal of the appellant against the order dated 05.05.2011 was rejected vide order dated 12.07.2011. Thereafter, appellant approached this Tribunal by filing service appeal No.1457/2011. Resultantly this Tribunal set aside the appellate order dated 12.07.2011 and remitted the case to the departmental appellate authority for decision afresh. The appellate authority again rejected the departmental appeal of the appellant

ATTESTED

MEMBER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

that the appellant was proceeded against departmentally and proper inquiry was conducted. Further argued that the inquiry officer examined various witnesses and after adopting procedural and codal formalities the appellant was awarded punishment. Further argued that being custodian of life and property of the citizens the appellant has committed a serious crime hence the impugned orders are not open to any exception.

5. Arguments heard. File perused.

6. In the present case the appellant replied the Charge Sheet, the inquiry officer recorded the statements of witnesses and found the appellant guilty.

7. In the original order dated 05.05.2011 whereby the major punishment of dismissal from service was awarded to the appellant, the authority has mentioned that the appellant was caught red handed while attempting to steal golden ornaments during search operation of a house.

8. From the material available on file it transpired that the appellant has not negated the fact that he had taken into possession gold made Necklace during search of the house, similarly this Tribunal in its judgment passed in service appeal bearing No.1457/2011 mentioned above noted that taking/keeping of the golden locket has been admitted by the appellant.

9. However it may also be mentioned that, in reply to Charge Sheet, the stance of the appellant was that he indeed wanted to deliver the gold made necklace to the inmates of the house and had

ATTESTED

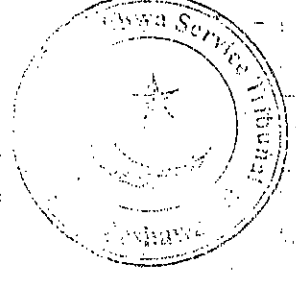
X. AMINER
for Pakhtunkhwa
Service Tribunal,
Peshawar

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

9

No 843 /ST

Dated 20 /04/2018



To

The Deputy Commandant, Elite Force,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: ORDER/JUDGEMENT IN APPEAL NO. 774/2016, MR. ATTAULLAH.

I am directed to forward herewith a certified copy of Judgment/Order dated 04/04/2018 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal
Peshawar

00366945 ATTA ULLAH

Prev Pers No:

Desig: CONSTABLE

(00100745) Grade: 07 NTN:

Buckle No.: 4632

Gazetted/Non-Gazetted: N

Father Name: SHAFI UR REHMAN

Date Of Birth: 03.03.1988

Date Of Appointment: 19.07.2007

ENIC: 1730176777897

101

PAYMENTS

AMOUNT

DEDUCTIONS

AMOUNT

LOAN/FUND

PRINCIPAL

REPAID

BALANCE

	AMOUNT	DEDUCTIONS	AMOUNT	LOAN/FUND	PRINCIPAL	REPAID	BALANCE
0001 Basic Pay	12,210.00	3007 GPF Subscription	1,010.00-				8,334.00
1001 House Rent Allowance	2,384.00	3530 Police wel:Fud BS-1 c	244.00-				
1210 Convey Allowance 20	1,932.00	4004 R. Benefits & Death C	690.00-				
1300 Medical Allowance	1,500.00						
1547 Ration Allowance	681.00						
1567 Washing Allowance	150.00						
1646 Constabulary R Allow	300.00						
1901 Risk Allowance (Poli	3,530.00						
1902 Special Incentive Al	775.00						
1938 Elite Force Allowanc	3,500.00						
2148 15% Adhoc Relief All	374.00						
2168 Fixed Daily Allowanc	2,730.00						
2199 Adhoc Relief Allow @	125.00						
2211 Adhoc Relief All 201	1,111.00						
2224 Adhoc Relief All 201	1,221.00						
2247 Adhoc Relief All 201	1,221.00						
2264 Adhoc Relief All 201	1,221.00						

PAYMENTS
Branch Code:

34,965.00

DEDUCTIONS

1,944.00-

Payment through DDO




NET PAY

33,021.00

01.08.2019

31.08.2019

Accnt.No:

قیمت 50 روپے	33240	  
ایڈوکیٹ: طارق عطار		
بار کونسل / ایسوسی ایشن نمبر: SC 3418		
رابطہ نمبر: 03339126151		پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: سروس ٹریبونل پشاور

منجانب: سائل	دعویٰ: <i>Implementation</i>
عطاء اللہ	علت نمبر: _____
بنام	مورخہ: _____
حکومت KPK	جرم: _____
	تھانہ: _____

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ
 آن مقام پشاور دیکھتے طارق عطار سید اور عبدالرحمن ایڈووکیٹس کو ذیل مقرر
 کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز ذیل صاحب کو
 راضی نامہ کرنے و تقرر ثالث و فیصلہ برخلاف دینے جواب دعویٰ اقبال دعویٰ اوڈرز خواست از ہر قسم کی تصدیق
 زرائیں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری کیٹرز فیڈ یا اپیل کی برآمدگی اور منسوخی، نیز
 دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
 کارروائی کے واسطے اور ذیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب
 مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر ذاختہ منظور و قبول ہوگا
 دوران مقدمہ میں جو خرچہ ہر جانبہ التوائے مقدمہ کے سبب سے ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے
 باہر ہو تو ذیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے
 المرقوم: 21/11/2019

مقام کے لیے منظور ہے۔

Attested & Accepted

نوٹ: اس وکالت نامہ کی نوٹو کاپی ناقابل قبول ہوگی۔

عطا اللہ ولد شعیب الرحمان



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
Central Police Office, Peshawar

No. 1549 /Legal dated Peshawar, the 9 / 5 /2018.

To: - The Section Officer (Courts),
Government of Khyber Pakhtunkhwa,
Home & TAs Department, Peshawar

Subject:- LODGING OF CPLA BEFORE SUPREME COURT OF PAKISTAN AGAINST THE JUDGMENT OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL DATED 04.04.2018 PASSED IN SERVICE APPEAL NO.774/2016 TITLED ATTA ULLAH VS INSPECTOR GENERAL OF POLICE KHYBER PAKHTUNKHWA AND OTHERS.

Memo:-

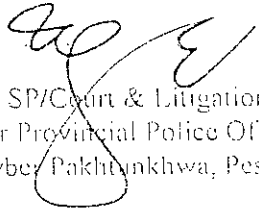
Commandant Elite Force Khyber Pakhtunkhwa has placed request vide his office memo No. 6188/legal dated 02.05.2018, for lodging of CPLA against the Judgment cited as subject.

He has reported that the appellant Atta Ullah of this unit was dismissed from service on 05.05.2011 on the charges of attempt of theft of gold necklace. His departmental appeal for reinstatement was filed by the competent authority on 05.07.2011. Resultantly, he filed service appeal No: 1457/2001 before the Khyber Pakhtunkhwa Service Tribunal, which was decided on 13.04.2016 in the case was remitted to the appellant authority for decision afresh after giving full opportunity of hearing to the appellant. Consequently, he was summoned, heard in person and his written statement was also recorded and was rejected on 09.06.2016.

The said Ex-Constable preferred another appeal No. 774/2016 before the Tribunal which has been decided on 04.04.2018 wherein his punishment of dismissal is modified and converted into withholding of two (02) annual increments for a period of two years and reinstated him in service.

It is therefore, requested that Law Department may be approached for lodging CPLA before Supreme Court of Pakistan against the judgment of Service Tribunal.

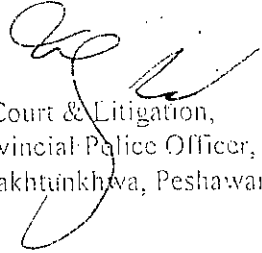
Enclosure: Copy of Judgment, orders and Working Papers


SP/Court & Litigation,
For Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar

No. 1550 /Legal.

Copy of the above is forwarded for information to the:-

1. Commandant Elite Force Khyber Pakhtunkhwa with reference to his office memo quoted above.


SP/Court & Litigation,
For Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar



No. 6188 /EF

Dated 02/05/2018

To : The AIG legal,
CPO, Peshawar.

Subject: LEGAL OPINION
Memo:

Ex-Constable Attaullah No. 512 of this unit was dismissed from service on 05.05.2011 on the charges of attempt of theft of gold necklace. His departmental appeal for reinstatement was filed by the competent authority on 05.07.2011. Resultantly, he filed service appeal No. 1457/2011 before the Khyber Pakhtunkhwa Service Tribunal, which was decided on 13.04.2016 and the case was remitted to the appellatant authority for decision afresh after giving full opportunity of hearing to the appellatant. Consequently, he was summoned, heard in person and his written statement was also recorded and was rejected on 09.06.2016.

The said Ex-Constable preferred another appeal No. 774/2016 before the Tribunal which has been decided on 04.04.2018 wherein his punishment of dismissal is modified and converted into withholding of two (02) annual increments for a period of two years and reinstated him in service.

His complete enquiry file along with judgement of Service Tribunal is sent herewith for legal opinion, please.

Encl:- 43 pages file

(MUHAMMAD HUSSAIN) P.S.P.
Deputy Commandant
Elite Force Khyber Pakhtunkhwa Peshawar

30.05.18

R-14

انفارمیشن رپورٹ


عنوان: سروس اپیل نمبر 774/17 عطاء اللہ بنام کمانڈنٹ ایلینٹ فورس

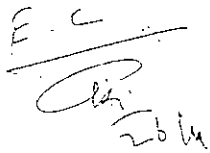
جناب عالی۔

معروض خدمت ہوں کہ عطاء اللہ نمبر 512 محکمہ پولیس سے برخاست ہوا تھا جس نے اس حکم کے خلاف سروس ٹریبونل میں اپیل دائر کی۔ جس پر مورخہ: 04.04.2018 کو بحث ہو کر اس کی اپیل منظور ہوئی۔

تجمنٹ کاپی ہمراہ لف ہے۔

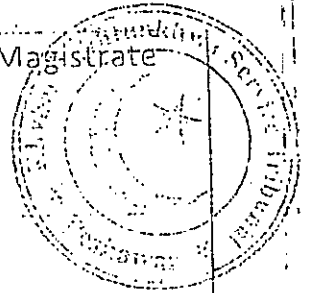
انفارمیشن رپورٹ گزارش ہے۔


اسپیکٹر لیگل ایلینٹ فورس

E.C.

20/4

PK/FMC
dtd up enquiry file
27/4/18

G. No. 3371
Dtd. 28/4/18
Commandant F.M.C.



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No. 774/2016

Date of Institution ... 11.07.2016

Date of Decision ... 04.04.2018

Ataullah, Ex-Constable No.512 Elite Force, resident of Village &
P.O Masho Khei, P/S Baddher District Peshawar.

Appellant

1. The Provincial Police Officer Khyber Pakhtunkhwa Peshawar.
2. Additional Inspector General of Police/Commandant Elite Force, Khyber Pakhtunkhwa Peshawar.
3. Deputy Commandant, Elite Force, Khyber Pakhtunkhwa, Peshawar.

Respondents

JUDGMENT

MUHAMMAD HAMID MUGHAL, MEMBER: - Learned counsel

for the appellant present. Learned Additional Advocate General for the respondents present.

The appellant has filed the present appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974. The appellant was awarded major punishment of dismissal from service vide order dated 05.05.2011. The departmental appeal of the appellant against the order dated 05.05.2011 was rejected vide order dated 12.07.2011. Thereafter, appellant approached this Tribunal by filing service appeal No.1457/2011. Resultantly this Tribunal set aside the appellate order dated 12.07.2011 and remitted the case to the departmental appellate authority for decision afresh. The appellate authority again rejected the departmental appeal of the appellant

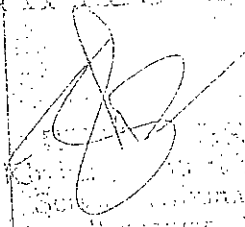
ATTESTED

Khyber Pakhtunkhwa
Service Tribunal
Peshawar

vide order dated 09.06.2016: Hence the appellant again approached this Tribunal by filing the present service appeal.

3. Learned counsel for the appellant argued that the appellant was made member of raid party and due to some misunderstanding it was alleged that the appellant intended to steal Gold Made Necklace from a house during search proceedings. Further argued that the departmental proceedings were initiated against the appellant and ultimately the appellant was dismissed from service vide order dated 05.05.2011. That the departmental appeal of the appellant was also rejected vide order dated 12.07.2011, however the service appeal bearing No.1457/2011, of the appellant was partially accepted vide judgment dated 13.04.2016 and resultantly the appellate order dated 12.07.2011 was set aside with the direction to departmental appellate authority for decision afresh. That the departmental appeal of the appellant was again rejected vide order dated 09.06.2016 without observing legal requirements. That the punishment orders are illegal, unlawful, against the facts and that the appellant has not been treated in accordance with law. That the appellant was punished without observing the codal formalities and proper procedure and that the punishment awarded to the appellant is otherwise harsh and excessive.

4. As against that learned Additional Advocate General argued that the appellant was one of the member of the police party which conducted search operation and the appellant was caught red handed while committing theft of ornaments made of gold. Further argued

ATTES TO

Additional Advocate General
Punjab

that the appellant was proceeded against departmentally and proper inquiry was conducted. Further argued that the inquiry officer examined various witnesses and after adopting procedural and codal formalities the appellant was awarded punishment. Further argued that being custodian of life and property of the citizens the appellant has committed a serious crime hence the impugned orders are not open to any exception.

5. Arguments heard. File perused.

6. In the present case the appellant replied the Charge Sheet, the inquiry officer recorded the statements of witnesses and found the appellant guilty.

7. In the original order dated 05.05.2011 whereby the major punishment of dismissal from service was awarded to the appellant, the authority has mentioned that the appellant was caught red-handed while attempting to steal golden ornaments during search operation of a house.

8. From the material available on file it transpired that the appellant has not negated the fact that he had taken into possession gold made Necklace during search of the house, similarly this Tribunal in its judgment passed in service appeal bearing No.1457/2011 mentioned above noted that taking/keeping of the golden locket has been admitted by the appellant.

9. However it may also be mentioned that, in reply to Charge Sheet, the stance of the appellant was that he indeed wanted to deliver the gold made necklace to the inmates of the house and had

ATTESTED

Signature
 Secretary, Tribunal,
 Patna

no intention to steal the same.

10. In view of the narrative of the appellant during the departmental action as mentioned above and that the appellant was produced before the high-ups as and when he took into the possession the gold made Necklace, this Tribunal is of the considered view that the punishment awarded to the appellant appears to be harsh, hence for the purpose of safe administration of justice the punishment awarded to the appellant is modified and converted into withholding of two (02) annual increments for a period of two (02) years. Resultantly the appellant is reinstated in service. The period intervening in between the original impugned order dated 05.05.2011 and this judgment shall be treated as extraordinary leave without pay. The present appeal is decided in the above terms. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
04.04.2018

Sd/- M. Hamid Nughal
Munir

Sd/- Ahmad Hassam
Munir

Certified true copy
Secretary
04/04/2018

Date of Presentation of _____ 09-04-18
Number of Words _____ 1600
Copying Fee _____ 10
Urgent _____
Total _____ 10
Name of Copyist _____
Date of Copying _____ 23-4-18
Date of Delivery of Copy _____ 23-4-18

BEFORE THE HONORABLE SERVICE TRIBUNAL, PESHAWAR

Implementation No. 428/ 2019

In

Execution Petition No. 151/ 2018

In

Service Appeal No. 774 /2016.

Attaullah Ex-FC Elite.....(Appellant)

VERSUS

Provincial Police Officer and others.....(Respondents)

SUBJECT: **COMMENTS ON BEHALF OF RESPONDENTS ARE AS UNDER.**

RESPECTIVELY SHEWETH:

FACTS:-

1. That admittedly this Honorable Tribunal had disposed of Service Appeal No. 774/ 2016 vide judgment dated 04.04.2018, (**Annexure-A**) the Operating Para of which is reproduced as under:-

“The punishment awarded to the appellant is modified and converted into withholding of two (02) annual increments for the period of 02 years. Resultantly, the appellant is reinstated in service. The period intervening in between original impugned order dated 05.05.2011 and this judgment shall be treated as extra ordinary leave without pay. The present is decided in the above terms”.

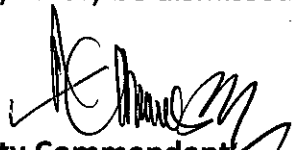
2. This Para is incorrect and misleading one. In fact, the appellant was reinstated into service vide Office Order Endst: No. 188-93/ EF, dated 03.01.2019, (**Annexure-B**) in light of judgment dated 13.04.2016, of this Honorable Tribunal conditionally and provisionally subject to the outcome of CPLA.
3. Pertains to record, hence needs no comments.
4. This Para is misleading one hence, rebutted. The appellant was reinstated into service in light of judgment dated 13.04.2016, of this Honorable Tribunal. As for as the salary of the appellant is concerned, a report from


Pay Officer Elite Force, Khyber Pakhtunkhwa, Peshawar has been obtained wherein, it is stated that the appellant was drawing his salary from January 2019 to October, 2019 (**Annexure-C**) and later on, transferred to CCP, Peshawar vide Office Order No. 10127-36/ E-IV, dated 15.10.2019. (**Annexure-D**)

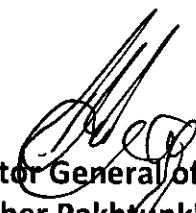
5. Incorrect. The appellant was reinstated into service vide Order Endst: No. 188-93/ EF, dated 03.01.2019, in compliance with judgment dated 13.04.2016, of this Honorable Tribunal, therefore, he is not entitle for the pay which he claims as he made his arrival report after his reinstatement order dated 03.01.2019, there is a principle of natural justice that no work no pay hence, the petitioner is not entitle for the salary which he claims in this Para.
6. Incorrect. The petitioner was reinstated into service in light of judgment dated 13.04.2016, of this Honorable Tribunal and was transferred to CCP, Peshawar vide Office Order Endst: No. 10127-36/ E-IV dated 15.10.2019.
7. Incorrect. As already above in preceding Paras.
8. Incorrect. As already explained at Para No. 5.
9. That the judgment of this Honorable Tribunal has been implemented in letter & spirit by reinstated the appellant vide 188-93/ EF, dated 03.01.2019.

PRAYERS:-

In view of the above, the respondents complied the judgment of this Honorable Tribunal in letter and spirit by reinstatement into service. It is humbly prayed that Implementation Report of the respondents may kindly be accepted and the prayer of appellant may kindly be dismissed.


Deputy Commandant,
Elite Force, Khyber Pakhtunkhwa,
Peshawar.
(Respondent No. 3)


Addl. Inspector General of Police,
Elite Force, Khyber Pakhtunkhwa,
Peshawar.
(Respondent No. 2)


Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.
(Respondent No. 1)

Anexure "A"

Date of
Order/
proceeding

2

Order or other proceedings with signature of Judge or Magistrate

3



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No. 774/2016

Date of Institution ... 11.07.2016

Date of Decision ... 04.04.2018

Attaullah, Ex-Constable No.512 Elite Force, resident of Village & P.O Masho Khel, P/S Baddher District Peshawar.
Appellant

1. The Provincial Police Officer Khyber Pakhtunkhwa Peshawar.
2. Additional Inspector General of Police/Commandant Elite Force, Khyber Pakhtunkhwa Peshawar.
3. Deputy Commandant, Elite Force, Khyber Pakhtunkhwa, Peshawar.

Respondents

JUDGMENT

MUHAMMAD HAMID MUGHAL, MEMBER: - Learned counsel

for the appellant present. Learned Additional Advocate General for the respondents present.

2. The appellant has filed the present appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974. The appellant was awarded major punishment of dismissal from service vide order dated 05.05.2011. The departmental appeal of the appellant against the order dated 05.05.2011 was rejected vide order dated 12.07.2011. Thereafter, appellant approached this Tribunal by filing service appeal No.1457/2011. Resultantly this Tribunal set aside the appellate order dated 12.07.2011 and remitted the case to the departmental appellate authority for decision afresh. The appellate authority again rejected the departmental appeal of the appellant

04.04.2018

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Khyber Pakhtunkhwa Service Tribunal,
Peshawar

vide order dated 09.06.2016. Hence the appellant again approached this Tribunal by filing the present service appeal.

3. Learned counsel for the appellant argued that the appellant was made member of raid party and due to some misunderstanding it was alleged that the appellant intended to steal Gold Made Necklace from a house during search proceedings. Further argued that the departmental proceedings were initiated against the appellant and ultimately the appellant was dismissed from service vide order dated 05.05.2011. That the departmental appeal of the appellant was also rejected vide order dated 12.07.2011, however the service appeal bearing No.1457/2011, of the appellant was partially accepted vide judgment dated 13.04.2016 and resultantly the appellate order dated 12.07.2011 was set aside with the direction to departmental appellate authority for decision afresh. That the departmental appeal of the appellant was again rejected vide order dated 09.06.2016 without observing legal requirements. That the punishment orders are illegal, unlawful, against the facts and that the appellant has not been treated in accordance with law. That the appellant was punished without observing the codal formalities and proper procedure and that the punishment awarded to the appellant is otherwise harsh and excessive.

4. As against that learned Additional Advocate General argued that the appellant was one of the member of the police party which conducted search operation and the appellant was caught red handed while committing theft of ornaments made of gold. Further argued

ATTESTED


 Khyber Pakhtunkhwa
 Service Tribunal,
 Peshawar

that the appellant was proceeded against departmentally and proper inquiry was conducted. Further argued that the inquiry officer examined various witnesses and after adopting procedural and codal formalities the appellant was awarded punishment. Further argued that being custodian of life and property of the citizens the appellant has committed a serious crime hence the impugned orders are not open to any exception.

5. Arguments heard. File perused.

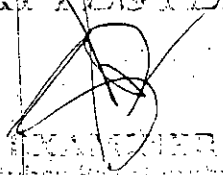
6. In the present case the appellant replied the Charge Sheet, the inquiry officer recorded the statements of witnesses and found the appellant guilty.

7. In the original order dated 05.05.2011 whereby the major punishment of dismissal from service was awarded to the appellant, the authority has mentioned that the appellant was caught red handed while attempting to steal golden ornaments during search operation of a house.

8. From the material available on file it transpired that the appellant has not negated the fact that he had taken into possession gold made Necklace during search of the house, similarly this Tribunal in its judgment passed in service appeal bearing No.1457/2011 mentioned above noted that taking/keeping of the golden locket has been admitted by the appellant.

9. However it may also be mentioned that, in reply to Charge Sheet, the stance of the appellant was that he indeed wanted to deliver the gold made necklace to the inmates of the house and had

ATTESTED


 MEMBER
 Khyber Pakhtunkhwa
 Service Tribunal,
 Peshawar

no intention to steal the same.

10. In view of the narrative of the appellant during the departmental action as mentioned above and that the appellant was produced before the high-ups as and when he took into the possession the gold made Necklace, this Tribunal is of the considered view that the punishment awarded to the appellant appears to be harsh, hence for the purpose of safe administration of justice the punishment awarded to the appellant is modified and converted into withholding of two (02) annual increments for a period of two (02) years. Resultantly the appellant is reinstated in service. The period intervening in between the original impugned order dated 05.05.2011 and this judgment shall be treated as extraordinary leave without pay. The present appeal is decided in the above terms. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
04.04.2018

Sd/- M. Hamid Nighal
Member

Sd/- Ahmad Hassan
Member

Certified true copy

[Signature]
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 10-5-18
Number of Pages 2000
Copying Fee 12
Urgent 2
Total 14
Name of Copy [Signature]
Date of Consideration 10-5-18
Date of Delivery of Copy 10-5-18



Office of the Commandant
Elite Force Khyber Pakhtunkhwa Peshawar



Amir B

No. _____ /EF

Dated: 03/01/2019

ORDER

In light of Judgment of Service Tribunal Khyber Pakhtunkhwa, dated 13.04.2016, and legal opinion of AIG/Legal vide letter No. 5006/legal, dated 31.12.2018, Ex-Constable Attaullah No. 512 of this unit is hereby re-instated into service conditionally and provisionally subject to the outcome of CPLA till further order with immediate effect.

(MUHAMMAD HUSSAIN) P.S.P.

Deputy Commandant

Elite Force Khyber Pakhtunkhwa Peshawar

No. 188-93 /EF

Copy of above is forwarded for information and necessary action to the:-

1. Superintendent of Police, Elite Force, HQrs: Peshawar.
2. Accountant, of Elite Force Pakhtunkhwa Peshawar.
3. RI, Elite Force Khyber Pakhtunkhwa Peshawar.
4. SRC/OHC/FMC, Elite Force Khyber Pakhtunkhwa Peshawar. 50 Pages

R.K/FMC
File

Anexur
C

ACKNOWLEDGEMENT

It is certified that Ex- Constable namely Attaullah No. 512 of this Unit was reinstated into service vide Office Order No. 188-93/ EF, dated 03.01.2019 in light of judgment of Honorable Khyber Pakhtunkhwa Service Tribunal dated 13.04.2016.

Constable Attaullah No. 512 was drawing his salary from January, 2019 to October, 2019 and later on transferred to CCP, Peshawar vide Office Order No. 10127-36/ IV dated 15.10.2019. The Service Record of above mentioned Constable was sent to Capital City Police Officer, Peshawar vide this Office Letter EF/SRC/S. Record/ 18913, dated 11.12.2019.



PAY OFFICER

Elite Force, Khyber Pakhtunkhwa,
CPO, Peshawar.



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
CENTRAL POLICE OFFICE,
PESHAWAR

Aneko
"D"

ORDER

On the recommendation of Selection Committee the following lower subordinates of various districts as noted against their names, are hereby transferred and posted to Elite Force Khyber Pakhtunkhwa as per under Standing Order No. 02/2011 with immediate effect:-

1. District Peshawar

S.No	Name & No.
1.	FC Amir Khan No. 1247
3.	FC Farooq Khan No. 4834
5.	FC Sajjad Hussain No. 1228
7.	FC Ihsan Ullah No. 4652
9.	FC Abdul Qahar No. 4374
11.	FC Shah Faisal No. 1356
13.	FC Inayat Rehman No. 1036
15.	FC Sohail No. 4569
17.	FC Gul Nawaz No. 4807
19.	FC Imdad Ali No. 4863

S.No	Name & No.
2.	FC Zawaz Hussain No. 3955
4.	FC Rashid Khan No. 4567
6.	FC Umer Hayat No. 1649
8.	FC Zia Ullah No. 2905
10.	FC Murad Ali No. 438
12.	FC Kamil Khan No. 5711
14.	FC Amad No. 4549
16.	FC Sabz Ali No. 4623
18.	FC Muhammad Atif No. 4817
20.	FC Naveed No. 4624

2. District Mardan

S.No	Name & No.
1.	FC Khaista-ur-Rehman No. 2311
3.	FC Ismail No. 163
5.	FC Amjid No. 1602

S.No	Name & No.
2.	FC Muhammad Nawaz No. 3100
4.	FC Nadeem Khan No. 1533

3. District Nowshera

S.No	Name & No.
1.	FC Muhammad Asif Nawaz No. 924
3.	FC Arif No. 320
5.	FC Nadeem No. 1096
7.	FC Sohail No. 404

S.No	Name & No.
2.	FC Fawad Ali No. 118
4.	FC Shakeel No. 1192
6.	FC Akhlaq No. 531
8.	FC Sajjad No. 732

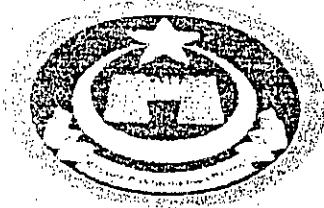
4. District Charsadda

S.No	Name & No.
1.	FC Amjid Khan No. 502

5. District Kohat

S.No	Name & No.
1.	FC Rafi Ullah No. 1348
3.	FC Muhammad Niaz No. 1154
5.	FC Ihtesham-ul-Haq No. 1196
7.	FC Zakir Ullah No. 862
9.	FC Tahir Mehmood No. 815
11.	FC Shafaqat Mehmood No. 218
13.	FC Nazar Hussain No. 1376
15.	FC Samiullah No. 492
17.	FC Saif Ullah No. 798

S.No	Name & No.
2.	FC Malak Noor No. 409
4.	FC Muhammad Amir No. 164
6.	FC Muhammad Tayab No. 1164
8.	FC Shahimal No. 229
10.	FC Samir Aslam No. 692
12.	FC Samiullah No. 1306
14.	FC Salah-ud-Din No. 1290
16.	FC Sabhat Ali No. 1283
18.	FC Muhammad Irfan No. 751



**OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
CENTRAL POLICE OFFICE,
PESHAWAR**

S.No	Name & No.
19.	FC Muhammad Ali No. 192
21.	FC Salman Khan No. 463
23.	FC Wasim Raja No. 344
25.	FC Kabir Hussain No. 451

S.No	Name & No.
20.	FC Mohsin Shahir No. 249
22.	FC Shah Tamas No. 960
24.	FC Mujahid Ali No. 406

6. District Karak

S.No	Name & No.
1.	FC Asif Hayat No. 158
3.	FC Kifayat Ullah No. 624
5.	FC Zulfqar Ahmed No. 158
7.	FC Wali Ullah No. 49
9.	FC Afaq Ahmed No. 535
11.	FC Zahid Ullah No. 407

S.No	Name & No.
2.	FC Altaf Ahmed No. 99
4.	FC Musadiq Rehman No. 673
6.	FC Imran Ullah No. 467
8.	FC Moazzam Ahmed No. 222
10.	FC Rizwan Ullah No. 186
12.	FC Noor Alam No. 280

7. District Bannu

S.No	Name & No.
1.	FC Younas Khan No. 15
3.	FC Imran Khan No. 635
5.	FC Nayab Khan No. 475
7.	FC Hamim Ullah No. 1095
9.	FC Liqman Khan No. 1220
11.	FC Mati Ullah No. 2087
13.	FC Khurshid Alam No. 725
15.	FC Abdul Wadood No. 849
17.	FC Zahir Ullah No. 1075
19.	FC Zeeshan Gul No. 1111

S.No	Name & No.
2.	FC Ahmad Zubair No. 1989
4.	FC Nijal Khan No. 633
6.	FC Zahid Ullah Khan No. 310
8.	FC Nizam Ullah No. 491
10.	FC Sanaj Ullah No. 488
12.	FC Noor Aslam Khan No. 2082
14.	FC Tahir Khan No. 1676
16.	FC Kalim Ullah No. 1683
18.	FC Atif Ullah Khan No. 1344
20.	FC Mufid Ullah No. 1553

8. District Lakki Marwat

S.No	Name & No.
1.	FC Sadam Khan No. 196
3.	FC Amir Hamza No. 342
5.	FC Bilal Ahmad No. 471
7.	FC Sana Ullah No. 449
9.	FC Khoob Nawaz No. 402

S.No	Name & No.
2.	FC Rizwan Ullah No. 269
4.	FC Khair-ul-Ibrar No. 419
6.	FC Farhad-ul-Islam No. 772
8.	FC Zafran Ullah No. 681

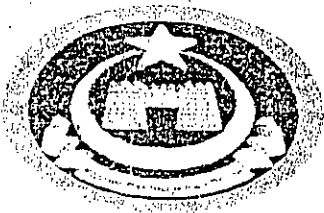
ORDER

The Following lower subordinates of various Districts presently serving in Elite Force, Khyber Pakhtunkhwa are hereby repatriated to their parent Districts as noted against their names with immediate effect as their services are no more required and they have also completed their mandatory period in his Establishment as per Standing Order No. 02/2011:-

1. District Peshawar

S.No	Name & No.
1.	LHC Fazal Rahim No. 137
3.	FC Fida Hussain No. 158
5.	FC Muhammad Tariq No. 272

S.No	Name & No.
2.	FC Faisal No. 523
4.	LHC Manzoor Ahmad No. 528
6.	FC Qasim Khan No. 576



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
CENTRAL POLICE OFFICE,
PESHAWAR

7.	LHC RazaUllah No. 304
9.	LHC Syed Waqar Ali shah No.336
11.	FC Alta,Ullah No. 509
13.	FC Muhammad Fayaz No. 518

8.	LHC Meer Qadir No. 1197
10.	FC Sarbiland No. 1301
12.	FC Kashif Khan No. 216

2. District Nowshera

S.No	Name & No.
1.	FC Noor Ali Shah No. 688
3.	FC FalakNiaz No. 690
5.	FC Ikram Ullah No. 705

S.No	Name & No.
2.	FC ArifUllah No. 1071
4.	LHC Fazle Iaq No. 1319
6.	FC Zubair Khan No. 1369

3. District Mardan

S.No	Name & No.
1.	FC Maroof Ali No. 187
3.	FC Muhammad Arsal No. 1193
5.	FC Amir No. 1253

S.No	Name & No.
2.	FC Asim Badshah No. 1293
4.	FC Tehseen Ullah No. 2020

4. District Kohat

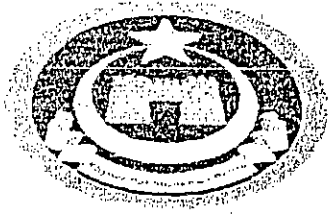
S.No	Name & No.
1.	LHC Hashim Khan No. 220
3.	LHC Fahim Shah No. 437
5.	LHC Muhammad Shahid No.1168
7.	FC Rahim Shah No. 1187
9.	LHC Wajid Khan No. 1491
11.	LHC Nishat Ali No. 1508
13.	LHC Gul Muhammad No. 1509
15.	LHC Gul Islam No. 1511
17.	FC Rehan Gul No. 1514
19.	LHC Majid Islam No. 1515
21.	LHC Farhan Shah No. 1519
23.	LHC Muhammad Aman No. 1523

S.No	Name & No.
2.	LHC Yasirb Mehmood No. 1527
4.	LHC Muhammad Abid No. 1534
6.	LHC Dilawar Khan No. 1584
8.	FC Faisal Mehmood No. 1587
10.	LHC Sho Nawaz No. 1590
12.	LHC Imam Shah No. 1591
14.	LHC Muhammad Yaseen No.1592
16.	LHC Anwar Shah No. 1596
18.	LHC Noor Shoaib No. 1598
20.	FC Muhammad Ayaz No. 1605
22.	LHC Muhammad Ances No.3486
24.	LHC Saif-ur-Rehman No. 1560

5. District Karak

S.No	Name & No.
1.	FC Sabir Rehman No. 17
3.	LHC Muhammad IshaqNo.20
5.	LHC Mohib Ullah No. 78
7.	LHC Abdur Rehman No.82
9.	LHC Rahim Ullah No.89
11.	LHC Mudassar Ahmad No.447

S.No	Name & No.
2.	LHC Asif Farooq No.453
4.	LHC Hameed Ullah No.458
6.	LHC Sarwar Farooq No.468
8.	FC Asim Khan No.536
10.	LHC NajeebUllah No. 93
12.	LHC Khalid Ayub No. 1184



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
CENTRAL POLICE OFFICE,
PESHAWAR

6. District Bannu

S.No	Name & No.
1.	LHC Sher Aslam No. 882
3.	LHC Rashid Ali No. 893
5.	LHC Muhammad Tufail No. 1006
7.	LHC Rehman Ullah No. 1436
9.	FC Hidayat Ullah No. 302
11.	LHC Abdur Rauf No. 387
13.	LHC Riaz Khan No. 401
15.	FC Jalal Khan No. 404
17.	FC Farid Ullah No. 406
19.	FC Muhammad Akbar No. 192

S.No	Name & No.
2.	LHC Asmat Ullah No. 396
4.	FC Fida Muhammad No. 397
6.	LHC Irfan Ullah No. 425
8.	LHC Muhammad Nadir No. 838
10.	LHC Kifayat Ullah No. 857
12.	FC Muzamil Shah No. 787
14.	LHC Amin Ullah No. 848
16.	LHC Shah Ullah No. 1035
18.	LHC Noor Tiyaz No. 870
20.	LHC Junaid Khan No. 901

7. District Lakki

S.No	Name & No.
1.	LHC Farooq No. 429
3.	FC Sherceen Jan No. 431
5.	LHC Salah-ud-Din No. 764
7.	LHC Anwar Ullah No. 771
9.	LHC Asghar Ali No. 776

S.No	Name & No.
2.	FC Ahmad Jan No. 430
4.	LHC Sharif Ullah No. 805
6.	FC Said Amin No. 809
8.	FC Khan Zaman No. 810

(SADIQ BALUCH) PSP
AIG/Establishment

For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
14.10.2019

No. 10/27-36 /E-IV dated Peshawar the 15/10/2019

Copy of above is forwarded for information and necessary action to the:-

1. Capital City Police Officer, Peshawar.
2. Dy. Commandant Elite Force Khyber Pakhtunkhwa w/r to this office letter No. 14714/EF, dated: 30.09.2019.
3. District Police Officers, Mardan, Nowshera, Charsadda, Kohat, Karak, Bannu & Lakki Marwat

Ri, Acct, SRC, EC, OP, W, Gowden

td
15/10

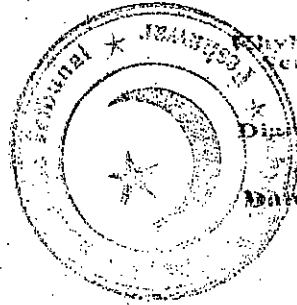
No. 7599
15-10-19

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Execution petition No. 151 /2018

In

Service Appeal No: 774/2016



Attaullah Ex-Constable No. 512 Elite Force, R/o
Village and P.O Masho Khel, P/S Badhber District
Peshawar.

.....Petitioner

Versus

1. The Provincial Police Officer, Khyber Pakhtunkhwa Peshawar.
2. Additional Inspector General of Police Commandant Elite Fore, Khyber Pakhtunkhwa Peshawar.
3. Deputy Commandant, Elite Force, Khyber Pakhtunkhwa, Peshawar.

.....Respondents

Certified to be true copy


Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

EXECUTION PETITION FOR
DIRECTING THE RESPONDENT
TO IMPLEMENT THE JUDGMENT
OF THIS HON'BLE TRIBUNAL IN
LETTER AND SPIRIT

08.1.2019

Petitioner in person and Addl. AG alongwith Riaz Khan,
Inspector for the respondents present.



The representative of the respondents has produced copy of order dated 01.03.2019 bearing 188-93/EF, dated 03.01.2019 which is placed on file. By virtue of that order the petitioner has been reinstated into service in compliance with the judgment under execution though conditionally and provisionally subject to the outcome of CPLA.

It seems, prima-facie, that judgment of the Tribunal passed in Appeal No. 774/2016 stands implemented. The petitioner also states at the bar that he has joined duty. The execution proceedings in hand are, therefore, consigned to record room. The petitioner shall be at liberty to apply for its restoration in case any part of his grievance remained un-redressed, but in accordance with the judgment.

[Signature]
Chairman

ANNOUNCED
08.01.2019

Certified to be true copy
[Signature]
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 21/1/19
Number of Vols 6
Copying Fee 6
Urgent 2
Total 8
Name of Copyist
Date of Copying 21/1/19
Date of Delivery of Copy 21/1/19

انفارمیشن رپورٹ

عنوان: سروس اپیل نمبر 774/17 عطاء اللہ بنام کمانڈرنٹ ایلٹ فورس

جناب عالی۔

معروض خدمت ہوں کہ عطاء اللہ نمبر 512 محکمہ پولیس سے برخاست ہوا تھا جس نے اس حکم کے خلاف سروس ٹریبونل میں اپیل دائر کی۔ جس پر مورخہ: 04.04.2018 کو بحث ہو کر اس کی اپیل منظور ہوئی۔

تجمنٹ کا پی ہمراہ لف ہے۔

انفارمیشن رپورٹ گزارش ہے۔

انسیکرٹری جنرل ایلٹ فورس

E.C
26/4

PK/FMC

dot up enquiry file 21

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27/4/18

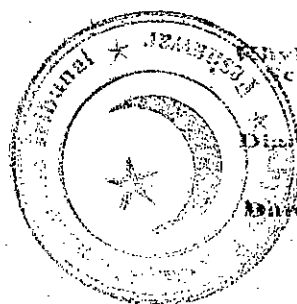
D.No. 3371
28/4/18
Commandant Elite Force

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Execution petition No. 151 /2018

In

Service Appeal No: 774/2016



Attaullah Ex-Constable No. 512 Elite Force, R/o
Village and P.O Masho Khel, P/S Badhber District
Peshawar.

.....*Petitioner*

Versus

1. The Provincial Police Officer, Khyber Pakhtunkhwa Peshawar.
2. Additional Inspector General of Police Commandant Elite Fore, Khyber Pakhtunkhwa Peshawar.
3. Deputy Commandant, Elite Force, Khyber Pakhtunkhwa, Peshawar.

.....Respondents

EXECUTION PETITION FOR
DIRECTING THE RESPONDENT
TO IMPLEMENT THE JUDGMENT
OF THIS HON'BLE TRIBUNAL IN
LETTER AND SPIRIT

Certified to be true copy


Officer
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

08.1.2019

Petitioner in person and Addl. AG alongwith Riaz Khan, Inspector for the respondents present.



The representative of the respondents has produced copy of order dated 01.03.2019 bearing 188-93/EF, dated 03.01.2019 which is placed on file. By virtue of that order the petitioner has been reinstated into service in compliance with the judgment under execution though conditionally and provisionally subject to the outcome of CPLA.

It seems, prima-facie, that judgment of the Tribunal passed in Appeal No. 774/2016 stands implemented. The petitioner also states at the bar that he has joined duty. The execution proceedings in hand are, therefore, consigned to record room. The petitioner shall be at liberty to apply for its restoration in case any part of his grievance remained un-redressed, but in accordance with the judgment.

[Signature]
Chairman

ANNOUNCED
08.01.2019

Certified to be true copy
[Signature]
Kyber Peshawar
Service Tribunal,
Peshawar

Date of Presentation of Application 21/1/19
Number of Words 600
Copying Fee 6
Urgent 2
Total 8
Name of Applicant [Signature]
Date of Copying 21/1/19
Date of Delivery of Copy 21/1/19



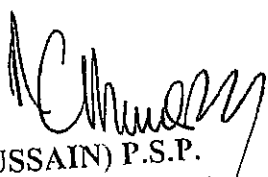
Office of the Commandant
Elite Force Khyber Pakhtunkhwa Peshawar

Dated: 03/01/2019

No. _____ /EF

ORDER

In light of Judgment of Service Tribunal Khyber Pakhtunkhwa, dated 13.04.2016, and legal opinion of AIG/Legal vide letter No. 5006/legal, dated 31.12.2018, Ex-Constable Attaullah No. 512 of this unit is hereby re-instated into service conditionally and provisionally subject to the outcome of CPLA till further order with immediate effect.


(MUHAMMAD HUSSAIN) P.S.P.
Deputy Commandant
Elite Force Khyber Pakhtunkhwa Peshawar

No. 188-93 /EF

Copy of above is forwarded for information and necessary action to the:-

1. Superintendent of Police, Elite Force, HQrs: Peshawar.
2. Accountant, of Elite Force Pakhtunkhwa Peshawar.
3. RI, Elite Force Khyber Pakhtunkhwa Peshawar:
4. SRC/OHC/FMC, Elite Force Khyber Pakhtunkhwa Peshawar. 50 Pages

R-14/FMC
All

پولیس صوبہ سرحد فارم نمبر ۳۳

فارم نمبر ۱۲-۲۸
رجسٹر نمبر (۲۱)

پولیس KPIK روزنامی چھان بینہ ایلیٹ اینڈ کورسٹر

ضلع پشاور

08:00 بجے سرور جمعہ المبارک تاریخ 16-1-04 لغایت 08:00 بجے بروز جمعہ تاریخ 05-01-19

مارنگ رپورٹ

تفصیل	سب انسپکٹران	اسٹنٹ سب انسپکٹران	ہیڈ کنسٹیبلان	لیس ہیڈ کنسٹیبلان	کنسٹیبلان	سوار ہیڈ کنسٹیبلان	سوار کنسٹیبلان	کیفیت
ان موجودہ کئی صبح	01	04	04		33	صاحب عالی		
	-	02	04		35	انڈرسٹینڈنگ		
	-	-	-		09	مراد ملا		
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مہران	01	05	08		79			

خواص رپورٹ

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لقینب اللہ علیہ السلام لیکھنؤ اور انڈیا سے وفات فرمادے سے والدین آجے۔

عبدالغفور صاحب قریب ۰۹:۱۵ سے ۰۹:۰۱ اور ۱۱:۰۰ قریب کلکتہ میں قریب ۰۹:۰۰ سے ۰۸:۳۰ تک
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عربی

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عربی
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2003 S C M R 228

[Supreme Court of Pakistan]

Present: Syed Deedar Hussain Shah and Tanvir Ahmed Khan, JJ

Syeed NIAZ HUSSAIN SHAH BUKHARI, TECHNICIAN (PROCESS)---Petitioner
versus

OIL AND GAS DEVELOPMENT CORPORATION LIMITED through. Chd
Head Office, Islamabad---Respondent

OGDC

Civil Petition For. Leave to Appeal No-51 of 2002, decided on 11th September, 2002.

(On appeal from judgment dated 2-11-2001 passed by the Federal service Tribunal
Appeal No. 1076(R)CE of 2000)

abad. in

(a) Civil service--

---Pay, entitlement to---When there is no work, there is in no pay.

(b) Civil service-

--- Salary, refund of---Civil servant after obtaining stay order against his transfer
continue his duties at original place, where he was paid salary for about three ye
deducted from salary of civil servant the amount paid to him as salary for the
remained absent from duty---Service Tribunal dismissed appeal of civil servant
servant had not performed his duties either at original place or at transferred pla
entitled to salary---Period for which refund of salary was effected from civil serva
for which, he had not worked---When there was no work, there was no pay---Rec
been effected from civil servant---Impugned judgment was not open to exception
jurisdictional error or misconstruction of facts and law---No substantial question
importance as envisaged under Art. 212(3) of the Constitution was made out-
discussed petition for leave to appeal in circumstances---Constitution of Pakistan (1

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t. 212(3)

Sadiq Muhammad Warraich, Advocate Supreme Court and Ejaz Mu
Advocate-on-Record (absent) for Petitioner.

d Khan,

Sardar Muhammad Aslam, Dy. A.G. and M.S. Khattak, Advocateai-Record for Resp

Date of hearing: 11th September, 2002.

JUDGMENT

SYED DEEDAR HUSSAIN SHAH, J.---Petitioner seeks leave to appeal agains

dgment of

Signature
Diet Education Officer
(Male) Swat

Federal Service Tribunal, Islamabad (hereinafter referred to as the Tribunal) passed in Appeal No. 1076(R)CE of 2000 dated 2-11-2001, whereby appeal filed by the petitioner was dismissed.

2. Briefly stated that facts of the case are that on 4-7-1994, the petitioner was transferred from Missa Kiswal to Peer Koh. He felt that transfer order so issued was mala fide and he was punished being the Union Official of the respondent Corporation, therefore, he approached the NIRC for restraining the order under Regulation 32 of NIRC Procedure and Functions and Regulations, 1974 and a stay order against his transfer to Peer Koh was granted and he was allowed to continue and perform his duties at Missa Kiswal and also paid his salary that after about 3 years the respondent started deductions from the salary of the petitioner i.e. the amount which had been paid to him as salary, during the period he worked at Missa Kiswal on the strength of the stay order of NIRC.

3. Feeling aggrieved, the petitioner approached the Tribunal by way of appeal, which was dismissed. Hence, this petition.

4. We have heard Ch. Sadiq Mohammad Warriach, learned counsel for the petitioner, who, inter alia, contended that that petitioner's absence from duty from 2-7-1994 to 8-8-1994 and 5-10-1994 to 10-9-1996 was wrongly treated as Extra Ordinary Leave (EOL) and the Office Memorandum dated 13-2-1999 issued by the respondent/Head Office may be cancelled; that the Tribunal had not exercised its jurisdiction fairly and the recovery/deduction of the amount already drawn by the petitioner from the respondent is unwarranted.

5. Sardar Muhammad Aslam, learned Dy.A.G. vehemently controverted the contention of the learned counsel for the petitioner and pointed out that no doubt NIRC issued an injunction to the petitioner but the same was re-called by the Tribunal on 18-8-1996. He has also referred to the appeal of the petitioner which is at page 57 of the paper book, in which he has stated as under:

"I had reported for duty at Pirkoh Gas Field. Therefore, regularizing the period of stay, ordered by the Court as E.O.L is injustice with me."

On his application office submitted summary to the Chief Personnel Officer of the respondent/Corporation, which reads as under:

"(70) Reference para-180/N, it is submitted that as per message No.MK.1331 dated 26-11-1999 (PR244/Cor.) O.M.(F), Missa Kiswal, Mr. Niaz Hussain Shah was relieved from Missa Kiswal Oil Field, for Pirkoh Gas Field. He neither reported at Pirkoh nor at Missa Kiswal Oil Field, after getting stay order from NIRC. O.K.(F), Missa Kiswal Oil Field, did not confirm whether he performed any official duty during his stay (off & on) at Missa Kiswal. Mr. Niaz Hussain neither claimed any field benefit like messing/D.A. and Rota facilities nor paid by the Location Incharge due to his non-performance of any duty.

"(71) In view of above, if approved by Manager (Personnel), his request may be regretted in the light of earlier decision as per para. 141-A, please."

The perusal of the above document shows that the petitioner did not perform his usual duties and was not entitled to salary as claimed by him.

6. Sardar Muhammad Aslam, learned Dy.A.G. further pointed out that recovery was already been

Dist. Education Officer
(Male) Swabi

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directed from the petitioner and that Office Memorandum referred to hereinabove was entirely in accordance with the O.G.D.C. Service Regulations, 1974. It was also pointed out by him that the petitioner in due course of service has already been promoted, to his Managerial post.

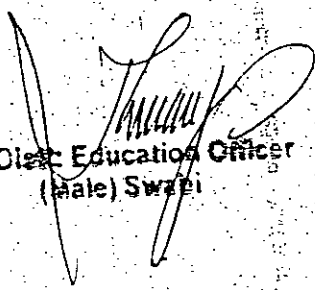
7. We have considered the arguments of the learned counsel for the parties and have carefully examined the record, which shows that the period for which recovery of refund of the salary was effected from the petitioner was the period for which he did not work. By now, it is settled law that when there is no work there is no pay. The petitioner did not perform his duties as mentioned hereinabove and recovery was rightly effected from him; thereafter he was promoted to the post of Manager. The impugned judgment is entirely based on proper appreciation of the material available with the Tribunal. We further find that there is no jurisdictional error or misconstruction of facts and law. The impugned judgment is not open to exception.

8. Moreover, a substantial question of law of public importance, as envisaged under Article 212(3) of the Constitution, is not made out.

9. For the facts, circumstances and reasons stated hereinabove, we are of the considered opinion that this petition is without merit and substance, which is hereby dismissed and leave to appeal declined.

S.A.K/N-100/S

Petition dismissed.


Dist. Education Officer
(Male) Swat

2017 S C M R 965

absconder
penalty
10

[Supreme Court of Pakistan]

Present: Sh. Azmat Saeed and Faisal Arab, JJ

FEDERATION OF PAKISTAN through Secretary Ministry of Defence and another—
Petitioners

Versus

BASHIR AHMED, SBA IN MES, MINISTRY OF DEFENCE, GE(ARMY), NOWSHERA—
Respondent

Civil Petition No. 935 of 2015, decided on 18th April, 2017.

(On appeal against the judgment dated 24.03.2015 passed by the Federal Service Tribunal, Islamabad in Appeal No.745(P)CS-2013)

Civil service—

—Continuous absence from duty—Major penalty of compulsory retirement—Respondent was serving in the Military Engineering Services, Ministry of Defence—During service respondent was nominated as an accused in a murder case and an FIR was lodged against him—Respondent remained absent from duty without any authorization from the day the FIR was registered against him—Show-cause notice and opportunity of personal hearing was provided to respondent but he failed to appear before the Authorized Officer—Major penalty of compulsory retirement was imposed on the respondent on account of his continuous absence from duty—Service Tribunal had held that on account of murder charges and the enmity with the complainant party, his absence was justified, thus, the major penalty of compulsory retirement was converted into minor penalty of withholding of three increments with reinstatement back in service—Legality—Case record showed that during the period of absence, no attempt was made on behalf of the respondent to apply for leave—Criminal case came to an end and respondent was acquitted on account of compromise reached with the complainant party, nevertheless before reaching the compromise, he was not in custody but remained an absconder and only surrendered before the law after the compromise was reached with the victim's family members—To seek condonation of absence during his absconson would amount to putting premium on such act—In the present case, if reason provided by respondent was made a ground for condonation of absence, then in every case where the civil servant was involved in a criminal case and absconded, his absence from duty would have to be condoned—Act of absconson or being a fugitive from law could not be regarded as a reasonable ground to explain absence—Impugned judgment of Service Tribunal was set aside and departmental action of imposition of major penalty of compulsory retirement was restored—Appeal was allowed accordingly.

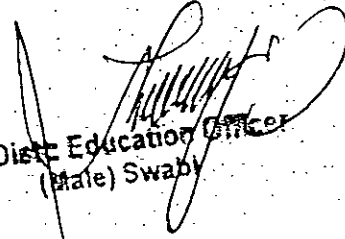
Central Board of Revenue v. Shafiq Muhammad 2008 SCMR 1666 distinguished.

Syed Nayyab Hassan Gardezi, Assistant Attorney General and Qari Abdul Rasheed, Advocate-on-Record (Absent) for Petitioners.

Muhammad Shoaib Shaheen, Advocate Supreme Court and Ahmed Nawaz Ch., Advocate-on-Record for Respondent.

Date of hearing: 18th April, 2017.

JUDGMENT


Distt Education Officer
(Male) Swabi

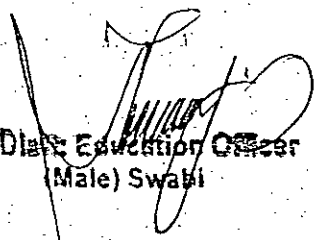
gement

FAISAL ARAB, J.—The respondent was appointed as SBA in MES, Ministry of Defence in the year 1990. On 20.06.2010 he was nominated as an accused in a murder case registered vide FIR No.335/2010 under sections 302/34, P.P.C. at Police Station Azakhel, District Nowshera. He remained absent without any authorization from the day the FIR was registered against him. Between 27.06.2010 to 01.09.2010, he was issued five letters calling upon him to resume duty but he failed to do so. On account of his absence, disciplinary proceedings were initiated against him on 26.10.2010. He was then served with show cause notice on 25.04.2011, to which he failed to respond. Ultimately, major penalty of compulsory retirement was recommended on 15.09.2011. The respondent was then given an opportunity of personal hearing but he failed to appear, hence the Authorized Officer imposed major penalty vide order dated 31.01.2012 on account of his continuous absence from duty. The respondent belatedly filed departmental appeal on 03.07.2012 which was considered to be barred by time. The respondent then filed appeal before the Service Tribunal on the ground that he was not given the opportunity of hearing. The Tribunal while disposing of the appeal vide order dated 02.07.2013 directed the petitioner to hear the respondent's departmental appeal afresh and decide within 30 days. After hearing the respondent, the departmental appeal was rejected on 11.10.2013, whereafter he again preferred appeal before the Service Tribunal on 08.11.2013. Before the Tribunal, it was admitted by respondent's Advocate that after the registration, the respondent went underground as he could not live a normal life on account of his involvement in a criminal case and thus remained absent from duty. With regard to the disciplinary proceedings, the Service Tribunal held that on account of murder charges and the enmity with the complainant party, his absence was justified. The Service Tribunal thus converted the major penalty of compulsory retirement into minor penalty of withholding of three increments and reinstated him back in service. Against such decision, present petition for leave to appeal has been preferred. Notice was issued to the respondent.

2. Learned counsel for the petitioners contended that it is an admitted position that the respondent absented himself from 20.06.2010 onwards without seeking leave of absence from the department. The letters calling upon him to resume duty as well as show cause notice delivered at his known address were also not responded to, hence, the department was left with no other option but to initiate disciplinary proceedings. Learned counsel further submitted that the Authorized Officer in fact showed leniency by not dismissing the respondent from service and only imposed a penalty of compulsory retirement, which would still entitle him to receive pensionary benefits for the term that he served from 1990 until he was compulsorily retired on 31.01.2012.

3. Learned counsel for the respondent, on the other hand, contended that the respondent was involved in a murder case on 20.06.2010 and was finally acquitted on 20.09.2012, hence, his absence was not willful, therefore, imposition of major penalty was too harsh. He submitted that at best a minor penalty could have been imposed and the Service Tribunal after taking into consideration all this rightly converted major penalty into minor penalty. In support of his contention he relied upon the case of Central Board of Revenue v. Shafiq Muhammad (2008 SCMR 1666). He also submitted that even otherwise no case of public importance as envisaged under Article 212(3) of the Constitution is made out and this petition may be dismissed on this score alone.

4. It has come on the record that during the period of absence, no attempt was made on behalf of the respondent to apply for leave. The respondent's counsel himself stated before the Tribunal that the reason for his absence was that he went underground being involved in a murder case and it was only on the basis of a compromise with the victim's relatives that he was acquitted in September, 2012. Though the criminal case came to an end in September, 2012 and he was acquitted on account of compromise reached with the complainant party, nevertheless before reaching the compromise, he was not in custody but remained an absconder and only surrendered before the law after the


 District Education Officer
 (Male) Swabi

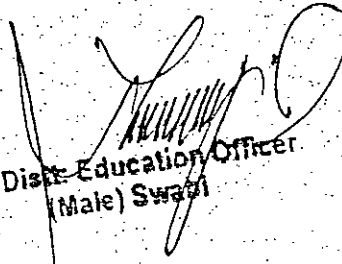
ment

compromise was reached with the victim's family members. To seek condonation of absence during his absconsion would amount to putting premium on such act. If this is made a ground for condonation of absence, then in every case where the civil servant is involved in a criminal case and absconds, his absence from duty would have to be condoned. The act of absconsion or being a fugitive from law cannot be regarded as a reasonable ground to explain absence. Even where a person is innocent, absconsion amounts to showing mistrust in the judicial system. Learned counsel for the respondent was asked to show as to whether in any case, this Court has condoned the absconsion and the departmental action was set aside, he was unable to satisfy this Court on this point. In the circumstances, the case relied upon by the respondent's counsel is of no help to the case of the respondent as it has no relevance in the facts and circumstances of this case.

5. For what has been discussed above, we convert this petition into appeal, allow it, set aside the impugned judgment and restore the departmental action of imposition of major penalty of compulsory retirement.

MWA/F-5/SC

Appeal allowed.


Distt. Education Officer
(Male) Swazi

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. 4122-26 /ST

Dated 28 / 12 / 2020

To

1. The Provincial Police Officer,
Government of Khyber Pakhtunkhwa,
Peshawar.
2. Additional Inspector General, Commandant Elite Force,
Government of Khyber Pakhtunkhwa,
Peshawar.
3. Deputy Commandant Elite Force,
Government of Khyber Pakhtunkhwa,
Peshawar.
4. Budget Officer Police, Police Line,
Government of Khyber Pakhtunkhwa,
Peshawar.
5. Accountant General,
Government of Khyber Pakhtunkhwa,
Peshawar.

SUBJECT: - ORDER IN EXECUTION NO. 428/2019 MR. ATTA ULLAH.

I am directed to forward herewith a certified copy of order dated 09.12.2020 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.



Office of the Commandant
Elite Force Khyber Pakhtunkhwa, Peshawar

No. 729-35 /EF.

Dated 26/12/2021

ORDER

In compliance with Judgment of Khyber Pakhtunkhwa Services Tribunal, Peshawar dated 04.04.2018, implementation No. 428 of 2019 in service appeal No. 774/2016 and AIG/legal opinion vide letter No. 132/Legal, dated 11.01.2021 FC Aita Ullah No. 512/EF has been conditionally and provisionally granted salaries for the interim period subject to the outcome of CPLA.

However, he will be signed an affidavit as if the outcome of CPLA comes in favor of Department then he will deposit the same back benefits to the Department.

(ZAIBULLAH KHAN) P.S.P.

Deputy Commandant

Elite Force Khyber Pakhtunkhwa Peshawar

No. /EF.

Copy of above is forward for information and necessary action to the:-

1. The Chairman, Khyber Pakhtunkhwa, Services Tribunal vide judgment dated quoted above.
2. AIG/Legal, CPO, Peshawar w/r to his letter under reference.
3. Superintendent of Police, HQrs: Elite Force, Peshawar.
4. Accountant, Elite Force Khyber Pakhtunkhwa Peshawar with the directions to sign an affidavit with the above named official accordingly.
5. S.R.C/FMC/ OHC, Elite Force Khyber Pakhtunkhwa Peshawar.



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Office of the Commandant
Elite Force Khyber Pakhtunkhwa, Peshawar

No. 12P-SS/11

Dated 26/07/2021

ORDER

In compliance with Judgment of Khyber Pakhtunkhwa Services Tribunal, Peshawar dated 04/04/2018, implementation No. 428 of 2019 in service appeal No. 774/2016 and AIG's opinion vide letter No. 132/legil. dated 11/01/2021 FC Atta Ullah No. 512/L.P. has been conditionally and provisionally granted salaries for the interim period subject to the outcome of C.P.A.

However, he will be signed an affidavit as if the outcome of C.P.A. comes in favor of Department then he will deposit the same back benefits to the Department.

(ZABULLAH KHAN) P.S.P.
Deputy Commandant
Elite Force Khyber Pakhtunkhwa Peshawar

No. /EF.

Copy of above is forward for information and necessary action to the:-

1. The Chairman, Khyber Pakhtunkhwa, Services Tribunal vide judgment dated quoted above.
2. AIG/Legal, CPO, Peshawar w/r to his letter under reference.
3. Superintendent of Police, HQrs: Elite Force, Peshawar
4. Accountant, Elite Force Khyber Pakhtunkhwa Peshawar with the directions to sign an affidavit with the above named official accordingly.
5. S.R.C/FMC/OHC, Elite Force Khyber Pakhtunkhwa Peshawar.

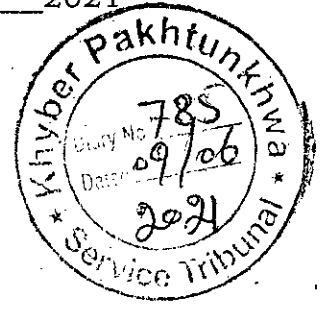
Ph: 9214461
Fax: 9220406

REGISTERED
No. C.P. 396,560-P/2018 - SCJ
SUPREME COURT OF PAKISTAN

Islamabad, dated 04-06-2021

From The Registrar,
Supreme Court of Pakistan,
Islamabad.

To The Registrar,
K.P.K. Service Tribunal,
Peshawar.



Subject: CIVIL PETITION NOS. 396-P AND 560-P OF 2018

Attaullah

(in C.P.396-P/2018)

Provincial Police Officer, Khyber Pakhtunkhwa Peshawar & others

(in C.P.560-P/2018)

Versus

The Provincial Police Officer, K.P. Peshawar and others

(in C.P.396-P/2018)

Attaullah

(in C.P.560-P/2018)

On appeal from the Order/Judgment of the K.P.K. Service Tribunal, Peshawar dated 04/04/2018 in Appeal.774/2016

Dear Sir,

I am directed to enclose herewith a certified copy of the Order of this Court dated 04/05/2021 **dismissing** the above cited cases in the terms stated therein for information and further necessary action.

Please acknowledge receipt of this letter along with its enclosure immediately.

Encl: Order:

Yours faithfully,

(MUHAMMAD MUJAHID MEHMOOD)
ASSISTANT REGISTRAR (IMP)
FCR REGISTRAR

45/21

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:
MR. JUSTICE GULZAR AHMED, HCJ
MR. JUSTICE MAZHAR ALAM KHAN MIANKHEL

Civil Petitions No.396-P and 560-P/2018
(Against the judgment dated 04.04.2018 passed by
the Khyber Pakhtunkhwa Service Tribunal in Service
Appeal No.774/16)

Attaullah (In CP.396-P/18)

Provincial Police Officer, Khyber Pakhtunkhwa
Peshawar & others (In CP.560-P/18)

...Petitioners

VERSUS

The Provincial Police Officer, K.P. Peshawar and others
(In CP.396-P/18)

Attaullah (In CP.560-P/18)

...Respondents

For the petitioners: Mr. M. Tariq Khan Kakar, ASC
(In CP.396-P/18)
Mr. Zahid Yousaf Qureshi, Addl.A.G
Mr. Niaz Muhammad, DSP (Legal)
(In CP.560-P/18)

For the respondents: N.R.

Date of hearing: 4.5.2021

ORDER

GULZAR AHMED, CJ.-

Civil Petition No.396-P/2018: We have heard the learned counsel for the petitioner. The petitioner was issued charge sheet and statement of allegation pursuant to which a regular inquiry was conducted against him. He was dismissed from service vide order dated 05.05.2011. His departmental appeal was rejected on 12.07.2011 upon which he filed a service appeal No.1457/2011 which was remanded to the appellate authority for deciding the

ATTESTED

Court Associate
Supreme Court of Pakistan
Islamabad

departmental appeal afresh. The departmental appeal of the petitioner was again rejected by the departmental authority vide its order dated 09.06.2016 pursuant to which the petitioner again filed a service appeal before KP Service Tribunal. The learned Tribunal after hearing the learned counsel for the parties passed the impugned judgment by which while noting as a fact that the charge against the petitioner not only stood proved in the inquiry but he also admitted the same. However, the Tribunal noted that penalty imposed upon the petitioner to be harsh and thus modified the same into withholding of two annual increments for a period of two years and while re-instating him in service the period intervening between the original dismissal order dated 05.05.2011 and the judgment of the Tribunal was treated to be an extra ordinary leave without pay.

2. Learned counsel for the petitioner contends that the fact of stealing the golden necklace by the petitioner was not established in the inquiry. We note that this very fact stood admitted by the petitioner in the inquiry and such is noted in the evidence at page 23/A of the record. In any case the very fact that the necklace was in the hands of the petitioner is not disputed by the counsel for the petitioner before us. The Tribunal has dealt with the matter and has given its judgment which does not require any interference by us in the present petition. The same is, therefore, dismissed and leave refused.

Civil Petition No.560-P/2018: This petition is barred by 38 days. An application (C.M.A. No.1163-P/2018) for condonation of delay has been filed in which apparently no reason whatsoever is given for delayed filing of the petition nor any affidavit in its support has been filed. The filing of the petition appears to have been delayed deliberately in order to benefit the respondent. The

ATTESTED



Court Associate
Supreme Court of Pakistan
Islamabad

petitioner should look into the matter itself and deal with the officials who are responsible in delayed filing of the present petition. No sufficient cause has been shown in the application nor each day of delay has been explained. The application is meritorious which is dismissed. The petition is dismissed as time barred.



Islamabad.
Bench-I
4th May, 2021
NOT APPROVED FOR REPORTING
Nasir Khan /-

Nasir Khan 19/5/21

Sd/ CJ

Sd/ J

Certified to be true copy

Court Associate
Supreme Court of Pakistan
Islamabad

Case Title:

Attaullah v. The Provincial Police Officer, K.P. Peshawar and others

Case No:

C.P.396-P/2018

Case Status:

Disposed

Case Institution Date:

14-05-2018

Case Disposal Date:

04-05-2021

AOR/ASC:

Muhammad Tariq Khan (AOR)
Muhammad Tariq Shah (ASC)

History:

Fixation Date	Details	Action
04-05-2021	<u>Bench:</u> REGULAR BENCH - I <u>List:</u> Final Cuase List No. 18 <u>Serial#:</u> 1 <u>Location:</u> Islamabad	Dismissed ✓

1	C.P.396-P/2018 (Service) (Back Benefits/Increment) (S.J.) (Ch.O.)	Attaullah v. The Provincial Police Officer, K.P. Peshawar and others	Mr. Muhammad Tariq Khan, AOR (Pesh) (Enrl#59) Mr. M. Tariq Khan Kakar, ASC (Enrl#4452)
and(2)	C.P.560-P/2018 (Service / Against Reinstatement into Service) (S.J.)	Provincial Police Officer, Khyber Pakhtunkhwa Peshawar & others v. Attaullah	Advocate General, Khyber Pakhtunkhwa Mian Saadullah Jandoli, AOR (Pesh) (Enrl#241)
2	C.P.507-P/2018 (Service / Appointments) (D.B.) (Ch.O.)	Govt of Khyber Pakhtunkhwa through Chief Secretary Peshawar & others v. Muhammad Asif Nawaz & others	Advocate General, Khyber Pakhtunkhwa Mian Saadullah Jandoli, AOR (Pesh) (Enrl#241)
3	C.P.930/2018 (Writ Petition / Service) (Pension) [-] Yahya Afridi, J (D.B.) (C.O.)	ZTBL thr. its President, Head Office, Islamabad and others v. Hamid ul Jalal and others	Mr. M. S. Khattak, AOR (Enrl#178) (Rwp) Mr. Muhammad Shoaib Shaheen, (Ibd) ASC (Enrl#2908) R - Notice
4	C.P.1574-L/2019 (Service) (Withdrawal of Promotion) (S.J.) (Ch.O.) (Video Link)	Ikram Elahi v. Deputy Commissioner, Lahore, etc	Mr. Muhammad Ozair Chughtai, AOR (Enrl#193) Mr. Muhammad Ejaz Jamal, ASC (Lhr) (Enrl#3258)
and(2)	C.P.1575-L/2019 (Service) (Withdrawal of Promotion) (S.J.)	Farooq Ahmad v. Deputy Commissioner, Lahore, etc	Mr. Muhammad Ozair Chughtai, AOR (Enrl#193) Mr. Muhammad Ejaz Jamal, ASC (Lhr) (Enrl#3258)
5	C.P.380-P/2020 (Service/Against Reinstatement into Service) (D.B.) (Ch.O.)	Govt. of KP. through Chief Secretary, Peshawar and others v. Burhan ud Din and another	Advocate General, Khyber Pakhtunkhwa Mian Saadullah Jandoli, AOR (Pesh) (Enrl#241)
6	C.P.736/2021 (Service/Dismissal from Service) (D.B.) (Ch.O.)	Chairman National Accountability Bureau thr. P.G. NAB, Islamabad v. Shakir Ali	Prosecutor General, NAB Mr. Muhammad Sharif Janjua, AORRwp) (Enrl#254)
and(2)	C.P.737/2021 (Service/Dismissal from Service) (D.B.)	Chairman National Accountability Bureau thr. P.G. NAB, Islamabad v. Sarvech Shaikh	Prosecutor General, NAB Mr. Muhammad Sharif Janjua, AORRwp) (Enrl#254)

Wednesday, 05-May-2021

1	C.A.1561/2019 (Service/Against Reinstatement into Service) (S.J.)	Govt of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar & others v. Shafi Ullah (decd.) Thr. LRs.	Advocate General, Khyber Pakhtunkhwa Mian Saadullah Jandoli, AOR (Pesh) (Enrl#241) Mr. Ahmed Nawaz Chaudhry, AOR (Enrl#243) Mr. Zulfikar Khalid Maluka, ASC (Ibd) (Enrl#2752)
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