

02.09.2021

Petitioner alongwith his counsel present. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Mr. Fazal Ghafoor, SI for respondents present.

Representative of the respondents submitted implementation order of reinstatement which is placed on file. Learned counsel for the petitioner stated that the judgement of this Tribunal dated 02.08.2019 in his service appeal No.406/2018 is implemented in true letter and spirit and grievance of the petitioner has been redressed. As the petitioner does not want to further pursue his case, therefore, the instant execution petition is hereby disposed of being executed. File be consigned to the record room.

Announced:
02.09.2021


(Mian Muhammad)
Member (E)



OFFICE OF THE
DISTRICT POLICE OFFICER
DIR LOWER

No. _____ /EC, dated: _____ 2021

IMPLEMENTATION ORDER OF RE-INSTATEMENT

As per direction of CPO Peshawar vide letter No.5609/Legal, dated 18-06-2021 in the light of the direction of Honorable Service Tribunal for implementation vide order dated 03-06-2021 in Execution Petition No.418/2019, was issued vide this office OB No.801, dated 15-07-2021. As per report of SI Legal, "on 26-07-2021 the implementation report was filed before the Service Tribunal but the Honorable Service Tribunal raised objection over the order issued in favour of appellant and directed that re-instatement order of FC Shahkirullah shall be issued from the date of judgment of Service Tribunal i.e from 02-08-2019 instead of 15-07-2021".

Therefore, as per report of SI Legal, as well as Service Tribunal Khyber Pakhtunkhwa, Peshawar directions for implementation vide order dated 26-07-2021, Ex-Constable Shakir Ullah No.2216, is hereby re-instated into service from the date of Service Tribunal Judgment i.e from 02-08-2019 instead of 15-07-2021 conditionally subject to the outcome of CPLA and penalty of dismissal from service modified/converted into major punishment of reduction in lower stage in time scale for a period of two years. The intervening period is treated as leave without pay.

(IRFAN ULLAH KHAN) PSP
District Police Officer
Dir Lower

OB No. 929

Dated 20-8-2021

NO. 12147-52 /EC, dated Timergara the 20-08 /2021.

Copies submitted for favour of information and necessary action with reference to this office Order Endst: No.10249-54/EC, dated 15-07-2021 to the :-

- 1- Regional Police Officer, Malakand at Saidu Sharif, Swat.
- 2- AIG Legal Khyber Pakhtunkhwa, Peshawar with reference to his office Memo: No.5609/Legal, dated 18-06-2021.
- 3- District Account Officer, Dir Lower.
- 4- SI Legal Dir Lower.
- 5- Pay Officer DPO Office Dir Lower.
- 6- OHC DPO Office Dir Lower.

03.06.2021

Petitioner with counsel and Mr. Muhammad Adeel Butt, Addl. AG alongwith Shujaat Ali, H.C for the respondents present.

This Execution Petition was filed on 13.11.2019 but the respondents are still clueless about the result of CPLA filed against the judgment under implementation. The respondents are directed to issue an order towards implementation of the judgment subject to the decision of CPLA, and implementation report be submitted on next date positively. Adjourned to 26.07.2021 before the S.B.

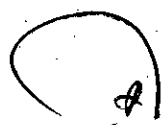

Chairman

26.07.2021

Petitioner in person present.

Muhammad Adeel Butt learned Additional Advocate General alongwith Shujaat Ali H.C for respondents present.

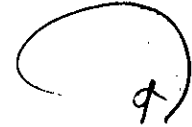
A request for short adjournment was made on behalf of the respondents, therefore, case is adjourned to 02.09.2021 with direction to submit implementation report, before S.B.


(Rozina Rehman)
Member (J)

08.12.2020 Petitioner present through counsel.

Kabir Ullah Khattak learned Additional Advocate General alongwith Zewar Khan Inspector for respondents present.

Representative seeks time to produce implementation report. Last chance is given. To come up for implementation report on 28.01.2021 before S.B.

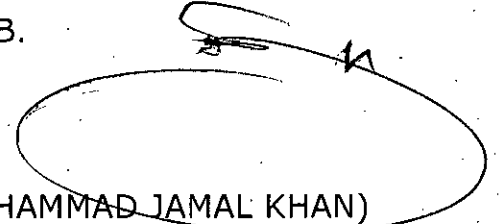


(Rozina Rehman)
Member (J)

28.01.2021

Nemo for the petitioner. Mr. Kabirullah Khattak, Additional Advocate General for the respondent is present.

Due to paucity of time, proceeding in the instant execution petition could not be conducted, therefore, adjourned to 30.03.2021 before S.B.



(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

30.03.2021

Nemo for the petitioner. Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Zewar Khan, Inspector (Legal) and Mr. Fazle Gahfoor, ASI for the respondents present.

Notice be issued to petitioner as well as his counsel for prosecution for 03.06.2021 before S.B.

*Noted
20/5/21*




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

01.07.2020

Nemo for the petitioner.

Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Zewar Khan S.I for the respondents present.

Notice be issued to petitioner and his counsel with direction to the respondents to produce implementation report on 19.08.2020 before S.B.

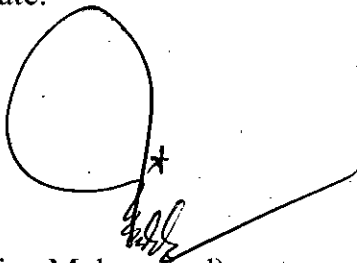

Member (J)

19.08.2020

Counsel for the petitioner present. Addl: AG alongwith Zewar Khan, SI for respondents present.

Representative of the respondents seeks time to produce implementation report on the next date.

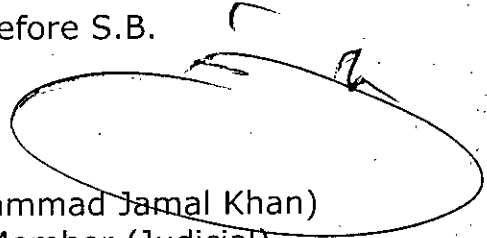
Adjourned to ~~21~~ 21.10.2020 before S.B.


(Mian Muhammad)
Member(E)

21.10.2020

Mr. Kabirullah Khattak, Additional Advocate General alongwith representative of the department Mr. Zewar Khan, S.I are present.

Since the Members of the High Court as well as of the District Bar Association Peshawar are observing strike today, therefore, the case is adjourned to 08.12.2020 on which date to come up for implementation report before S.B.


(Muhammad Jamal Khan)
Member (Judicial)

16.01.2020

Nemo for petitioner. Addl. AG for the respondents present.

The requisite notices have been issued to the respondents despite no one is in attendance to represent them today. Learned AAG present before the Tribunal in connection with other cases accepts notice of instant proceedings and undertakes to facilitate the appearance of respondents on next date of hearing.

Adjourned to 03.03.2020 before S.B.



Chairman

03.03.2020

Counsel for the petitioner present. Addl: AG alongwith Mr. Shujat Ali, H.C for respondents present. Representative of the respondents states that the CPLA No. 657-P/2019 has been preferred before the apex court, wherein date of hearing is yet to be fixed. Respondents are directed to produce implementation report on the next date of hearing. Adjourned. To come up for further proceedings on 09.04.2020 before S.B.



Member

09.04.2020

Due to public holiday on account of COVID-19, the case is adjourned to 01.07.2020 for the same. To come up for the same as before S.B.

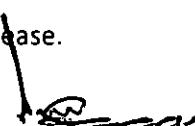




Reader

Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 418/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	13.11.2019	<p>The execution petition of Mr. Shakir Ullah submitted today by Mr. Taimur Ali Khan Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR 13/11/19</p>
2-	14/11/19.	<p>This execution petition be put up before S. Bench on <u>06/12/19.</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	06.12.2019	<p>Counsel for the petitioner present. Addl: AG for respondents present. Notices be issued to the respondents for submission of implementation report. To come up for further proceedings on 16.01.2020 before S.B.</p> <p style="text-align: right;"> (Ahmad Hassan) Member</p>

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

Execution petition No. 418 /2019
In Service Appeal No.406/2018



Shakir Ullah, Ex- Constable No.2216
Police Station Khazana, Dir Lower.

PETITIONER

VERSUS

1. The Provincial Police Officer, KP, Peshawar.
2. The Regional Police Officer, Malakand Region, at Saida Sharif Swat.
3. The District Police Officer, Dir Lower.

RESPONDENTS

.....
**EXECUTION PETITION FOR DIRECTING THE
RESPONDENTS TO IMPLEMENT THE
JUDGMENT DATED 02.08.2019 OF THIS
HONOURABLE SERVICE TRIBUNAL IN
LETTER AND SPIRIT.**
.....

RESPECTFULLY SHEWETH:



1. That the petitioner has filed an appeal bearing No.406/2018 in this august Service Tribunal against the order dated 26.02.2018, whereby the revision of the appellant under Rule 11-A of Police Rules 1975 amended in 2014 against the order dated 03.05.2016 of the RPO Malakand has been rejected for no good grounds, wherein the RPO Malakand upheld the order dated 19.02.2016 of the DPO Dir Lower.
2. That the said appeal was finally heard on 02.08.2019 and the Honourable Tribunal was kind enough to partially accept the appeal, set aside the impugned orders dated 19.02.2016 and 03.05.2016 and major penalty of dismissal from was modified/converted into major punishment of reduction to lower stage in time scale for a period of two years. service (Copy of judgment dated 02.08.2019 is attached as Annexure-A)

3. That since the announcement of the judgment, the petitioner has waited for more than three months, but the respondents has not taken action on the judgment dated 02.08.2019 till date.
4. That in-action and not fulfilling formal requirements by the respondents after passing the judgment of this august Service Tribunal, is totally illegal amount to disobedience and Contempt of Court.
5. That the judgment is still in the field and has not been suspended or set aside by the Supreme Court of Pakistan, therefore, the respondents are legally bound to implement the judgment of this Honourable Service Tribunal in letter and spirit.
6. That the petitioner has having no other remedy except to file this execution petition for Implementation of judgment dated 02.08.2019 of this august Service Tribunal.

It is, therefore, most humbly prayed that the respondents may be directed to implement the judgment dated 02.08.2019 of this august Service Tribunal in letter and spirit. Any other remedy, which this august Service Tribunal deems fit and appropriate may also be awarded in favour of petitioner.


ABDUL WAHID
ADVOCATE

THROUGH:

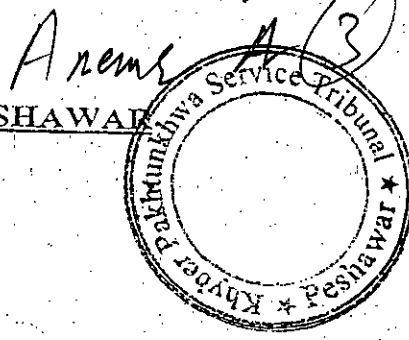
PETITIONER

(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT,

(ASAD MAHMOOD)
ADVOCATE HIGH COURT

AFFIDAVIT:

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


DEPONENT

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR



APPEAL NO. 406/2018

Khyber Pakhtunkhwa Service Tribunal

Diary No. 437

Date: 21-3-2018

Shakirullah, Ex- Constable, No.2216,
Police Station Khazana, Dir Lower.

(APPELLANT)

VERSUS

1. The Provincial Police Officer, KPK, Peshawar.
2. The Regional Police officer, Malakand Region, at Saidu Sharif Swat.
3. The District Police Officer Dir Lower.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 26.02.2018, WHEREBY THE REVISION OF THE APPELLANT UNDER RULE 11-A OF POLICE RULES 1975 AMENDED IN 2014 AGAINST THE ORDER DATED 03.05.2016 OF THE RPO MALAKAND HAS BEEN REJECTED FOR NO GROUNDS WHEREIN THE RPO MALAKAND UPHELD THE ORDER DATED 19.02.2016 OF THE DPO DIR LOWER.

Filed by
Registrar
21/3/18

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 26.02.2017, 03.05.2016 AND 19.02.2016 MAY BE SET ASIDE AND THE APPELLANT MAY BE REINSTATED INTO SERVICE WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT, MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

Attested

ATTESTED

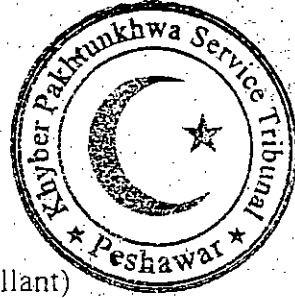
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 406/2018

Date of Institution ... 21.03.2018

Date of Decision ... 02.08.2019



Shakirullah, Ex-Constable, No.2216, Police Station, Khazana, Dir Lower.
... (Appellant)

VERSUS

The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and two others.
... (Respondents)

MR. TAIMUR ALI KHAN,
Advocate

--- For appellant.

MR. USMAN GHANI,
District Attorney

--- For respondents.

MR. AHMAD HASSAN,
MR. MUHAMMAD HAMID MUGHAL

--- MEMBER (Executive)
--- MEMBER (Judicial)

JUDGMENT


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

ARGUMENTS

62. Learned counsel for the appellant argued that he joined the Police Department as Constable in 2010 and performed duty efficiently. He found a cheque and went to the bank for encashment. However, account holder was called by the Manager of Bank of Khyber and the matter was reported to the respondents. Disciplinary proceedings were initiated and upon culmination major penalty of dismissal from service was imposed on him vide impugned order dated 19.02.2016. He filed an undated departmental appeal which was dismissed on 03.05.2016 followed by an undated review petition which was regretted vide order dated

ATTESTED

Attested


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar



5

26.02.2018 being barred by time. Learned counsel for the appellant further argued that chance of defense was denied to the appellant thus condemned unheard. An application for condonation of delay has also been submitted.

03. Learned District Attorney argued that the appellant tried to draw cash by stealing cheque book of Constable Khalil ur Rehman and was caught red-handed. Thereafter, disciplinary proceedings were initiated against the appellant and finally major penalty of dismissal from service was awarded to him. The present case was time barred thus not worth consideration.

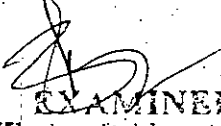
CONCLUSION

4. Mr. Kalil ur Rehman, constable had maintained PLS A/C no. 10488005 in Bank of Khyber, Timergara Branch. The appellant tried to cash a cheque to the tune of Rs. 20000/- from his account through fraudulent means. The respondents took cognizance of the issue and started action against the appellant, which culminated in his dismissal from service vide impugned order dated 19.02.2016.

5. We tend to agree with the pleadings of the learned District Attorney that present service appeal was barred by time, therefore, was not maintainable in its present form. Though, involvement of the appellant in illegal drawl of money from the account of Mr. Khalil ur Rehman, Constable has been proved during the course of enquiry but after having gone through the entire record, we observed that the matter was timely detected by the Manager of Bank of Khyber. Resultantly, attempt of drawl of money was foiled. Therefore, no damage was done to the party concerned. Furthermore, a petty amount of Rs. 20000/- was involved. In these circumstances, prima-facie penalty awarded to the appellant was not in accordance

Attested

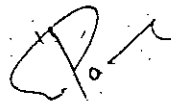
ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

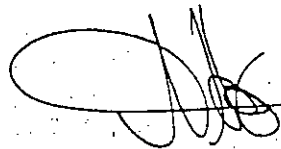
6

with the quantum of guilt and appeared to be very harsh. Punishments are always used as deterrence and with a view to reform the delinquent officials. An employee having rendered more than six years regular service was not treated according to law and rules. In order to ensure substantial justice there is strong justification for modification of penalty referred to above. Technicalities like limitation are to be jealously guarded on case to case basis. The judge is in a better position to evaluate its repercussions, including strict application of the proposition. It should in no way hamper the process of administration of justice. We have minutely touched all aspects of the present service appeal and reached the conclusion that only viable option was decision strictly on merit so as to meet the ends of justice.

6. As a sequel to the above, the instant appeal is partially accepted, impugned order dated 19.02.2016 and 03.05.2016 are set aside and major penalty of dismissal is modified/converted into major punishment of reduction in lower stage in time scale for a period of two years. The intervening period may be treated as leave without pay. Parties are left to bear their own costs. File be consigned to the record room.



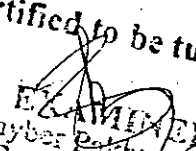
(MUHAMMAD HAMID MUGHAL)
MEMBER



(AHMAD HASSAN)
MEMBER

Attested

ANNOUNCED
02:08.2019

Certified to be true copy

Examiner
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Appeal 21-08-19
Number of Words 1600
Copying Fee 20-00
Urgent 4-00
Total 24-00
Name of Copyist [Signature]
Date of Completion of Copy 21-08-19
Date of Delivery of Copy 21-08-19

قیمت
50 روپے

31843



ایڈوکیٹ: جمشید خان
بار کونسل ایسوسی ایشن نمبر:
رابطہ نمبر:

پشاور بار ایسوسی ایشن، خیبر پختونخوا

بعدالت جناب: سر جسٹس گلشن

منجانب: شاکر اللہ	دعویٰ:
	علت نمبر:
شاکر اللہ بنام محکمہ پولیس	مورخہ:
	جرم:
	تھانہ:

باعت تحریر آگے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ سرکار
آن مقام کیسٹ نمبر کے لیے جمشید خان راہ سرد محمد اور سرد الواحم کو وکیل مقرر
کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کمال اختیار ہوگا، نیز وکیل صاحب کو
راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلاف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق
زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری کی طرف 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
کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب
مقرر شدہ کو وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پر داخست 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 وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

PESHAWAR BAR ASSOCIATION
KHYBER PAKHTUNKHWA

المرقوم:

Attested
Accepted

مقام کے لیے منظور ہے۔
نوٹ: اس حکالت نامہ کی فونو کاپی ناقابل قبول ہوتی۔
شاکر اللہ



OFFICE OF THE
DISTRICT POLICE OFFICER,
LOWER DIR

Ph#.0945-9250005 Fax#.09459250049
E-Mail: dpo.dirlower@gmail.com.

To: The Assistant Inspector General of Police,
Legal Khyber Pakhtunkhwa Peshawar.

No: 8476 /LB, dated Timérgara the 17 1 07 /2020

Subject: EXECUTION PETITION NO 418/2019 IN SERVICE APPEAL NO. 406/2018 TITLED AS EX- FC SHAKIR ULLAH VS KP AND OTHERS.

Memo:

Kindly refer to your office Letter No. 35/LB, dated 21.04.2020 on the subject cited above

It is submitted that Ex FC Shakir Ullah No. 2216 of this district police was dismissed from service on account of thieving cheque book of his another colleague constable and tries to withdraw cash through the said cheque book. He filed Service Appeal No. 406/2018 and on 02.08.2019, his appeal was partially accepted. The department filed CPLA No. 657-P/2019 before the Supreme Court of Pakistan, but no date has been fixed, till now. Correspondence has already been made with your office for early hearing vide this office letter No. 35/LB, dated 21.04.2020.

The appellant filed Execution Petition No. 418/2019 and on 01.07.2020, the honorable Service Tribunal Khyber Pakhtunkhawa Peshawar directed to produce implementation report on 19-08-2020. (Copy of order sheet is enclosed.)


(District Police Officer,
Dir Lower.