

01.07.2020

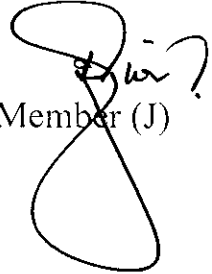
Counsel for the petitioner present.

Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Abbas Inspector for the respondents present.

At the very outset representative of respondents submitted implementation report/office order vide which a conditional order was passed subject to the outcome of CPLA pending in the August Supreme Court of Pakistan.

In the light of above mentioned order, learned counsel for the petitioner requested for sine die adjournment of the present execution petition.

In the light of written request of learned counsel for petitioner and conditional order by the respondents instant execution proceedings stand adjourned sine die. However, the petitioner would be at liberty to seek restoration after the decision by the August Supreme Court of Pakistan. File be consigned to the record room.


Member (J)

16.01.2020

Nemo for petitioner. Addl. AG alongwith Abdur Rahman, DSP (Legal) for the respondents present.

Representative of the respondents states that due to change in the office of Inspector General of Police Khyber Pakhtunkhwa, the matter of implementation has been slightly delayed. He, therefore, requests for adjournment in order to submit the requisite implementation report positively on next date of hearing.

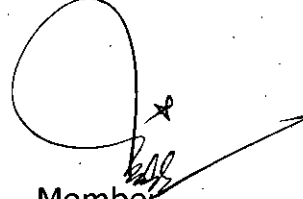
Adjourned to 02.03.2020 before S.B.



Chairman

02.03.2020

None for the petitioner present. Addl: AG alongwith Mr. Muhammad Abbas, Inspector for respondents present. Representative of the respondents submitted copy of implementation report which is placed on file. Notices be issued to the petitioner and his counsel. 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

01.11.2019

Counsel for the petitioner and Addl. AG alongwith Anis Khan, Inspector (Legal) for the respondents present.

The representative states that a CPLA has been submitted before the Apex Court against the judgment under implementation wherein a date of hearing is yet to be fixed.

The respondents are required to submit the implementation report on next date of hearing in case the judgment under implementation is not suspended nor set aside till then.

Adjourned to 05.12.2019 before S.B.



Chairman

05.12.2019

Counsel for the petitioner and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Raees Khan, Inspector (Legal) for the respondents present.

The representative of the respondents has produced copy of letter dated 04.11.2019 sent by DPO Shangla to the IGP Khyber Pakhtunkhwa for implementation of the judgment. He states that response to the letter is still awaited.

The proceedings in hand are adjourned to 16.01.2020 on which date the implementation report shall positively be submitted. Failing which, punitive proceedings will be undertaken against the defaulting official(s) in accordance with law.






Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 339/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	13.09.2019	<p>The execution petition of Mr. Ajmal Khan submitted today by Mr. Noor Muhammad Khattak 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-	04.10.2019	<p>This execution petition be put up before S. Bench on <u>04/10/19.</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p>Counsel for the petitioner present. Nemo for the respondents.</p> <p>Notices be issued to respondents for submission of compliance report for 01.11.2019 before S.B.</p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Implementation Petition No. 339 /2019

In

Appeal No.99/2017

AJMAL KHAN

VS

POLICE DEPTT:

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE NO.
1-	Memo of petition	1- 2.
2-	Affidavit	3.
3-	Judgment	A	4- 7.
4-	Vakalat nama	8.

PETITIONER/APPLICANT

THROUGH:

NOOR MOHAMMAD KHATTAK
ADVOCATE

MOBILE NO.0345-9383141

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Implementation Petition No. 339 /2019
In
Appeal No.99/2017



Mr. Ajmal Khan, Sub-Inspector No. 786/M,
Malakand Region, presently posted in District Shangla.

..... **APPELLANT**

VERSUS

- 1- The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
- 2- The Deputy Inspector General of Police, Malakand Region, at Saidu Sharif Swat.

..... **RESPONDENTS**

IMPLEMENTATION PETITION FOR DIRECTING
THE RESPONDENTS TO OBEY THE JUDGMENT
DATED 30.01.2019 IN LETTER AND SPIRIT

R/SHEWETH:

- 1- That the petitioner filed Service appeal bearing No. 99/2017 before this august Service Tribunal for confirmation in the Rank of Assistant Sub Inspector from the dated of his joining i.e. 03.02.2011 instead 02.02.2014 and for restoration of the officiating promotion of the petitioner in the Rank of Sub Inspector.
- 2- That the appeal of petitioner was finally heard by this august Tribunal on 30.01.2019 and was decided in favor of the petitioner vide judgment dated 30.01.2019 with the view that ***"In the circumstances of case in hand and in the light of above noted judgments we have no option but to allow the appeal in hand as prayed for in its memorandum"***. Copy of the judgment is attached as annexure..... **A.**
- 3- That after obtaining attested copy of the judgment dated 30.01.2019 the petitioner submitted the same before the respondents for his claim but the respondent Department is not willing to obey the judgment and till date the respondents have not been redressed the said grievances of the petitioner.

- 4- That the petitioner has no other remedy but to file this implementation petition.

It is therefore, most humbly prayed that on acceptance of this implementation petition the respondents may be directed to implement the judgment dated 30.01.2019 in letter and spirit. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the petitioner.

PETITIONER


AJMAL KHAN

THROUGH:


NOOR MOHAMMAD KHATTAK

&

MIR ZAMAN SAFI
ADVOCATES

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Implementation Petition No. _____/2019

In

Appeal No.99/2017

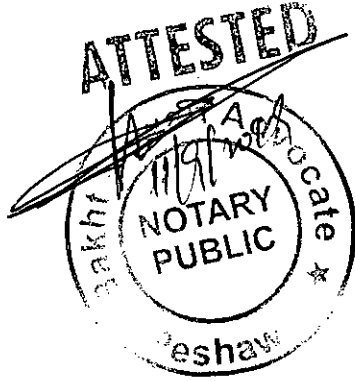
AJMAL KHAN

VS

POLICE DEPTT:

AFFIDAVIT

I Noor Mohammad Khattak, Advocate on behalf of the petitioner, do hereby solemnly affirm that the contents of this **implementation petition** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.




NOOR MOHAMMAD KHATTAK
ADVOCATE

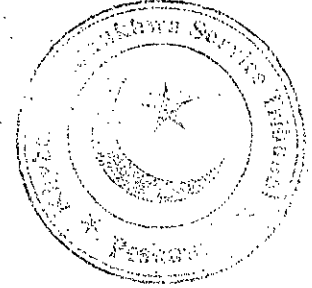
A-4

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. 99/2017

Date of Institution ... 30.01.2017

Date of Decision ... 30.01.2019



Ajmal Khan, Assistant Sub-Inspector No. 786/ Mr. Muhammad Jan, Deputy District Attorney, Malakand Region, presently posted at PTC Hangu.
... (Appellant)

VERSUS

The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar and another.
... (Respondents)

Present.

Mr. Noor Muhammad Khattak,
Advocate.

... For appellant

Mr. Ziaullah,
Deputy District Attorney

... For respondents.

MR. HAMID FAROOQ DURRANI,
MR. HUSSAIN SHAH,

... CHAIRMAN
... MEMBER(E)

JUDGMENT

HAMID FAROOQ DURRANI, CHAIRMAN:-

1. Instant appeal is directed against the order dated 11.04.2016 and 16.11.2016 circulated on 12.01.2017. Through the former, promotion order of appellant as Officiating Sub-Inspector dated 25.01.2015 was withdrawn while through the latter his departmental appeal was rejected.

ATTESTED

ATTESTED

MEMBER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

5

2. It is the case of appellant that he joined respondent department as constable at Malakand Division and was later promoted to the rank of Head Constable. During the course of service the appellant was promoted to the rank of Officiating ASI w.e.f. 03.02.2011 vide order dated 28.05.2011. Subsequently, the name of appellant was inserted in List-E and he was confirmed in the rank of ASI from the date of joining i.e. 03.02.2011. The said order was made through notification dated 16.03.2015. On 25.01.2016 the appellant, alongwith others, was recommended for Officiating promotion to the rank of Sub Inspector, however, on 11.04.2016 the confirmation of appellant as ASI and his admission to List-E was revised and the order dated 25.01.2016 was withdrawn. The appellant, feeling aggrieved from the impugned order preferred departmental appeal which could not find favour and was rejected, hence the appeal in hand.

3. We have heard learned counsel for the appellant and learned Deputy District Attorney on behalf of the respondents and have also gone through the available record with their assistance.

It was mainly contended by the learned counsel that the treatment meted out to the appellant was based on discrimination and in clear violation of law. The principle of locus-poenitentiae was also disregarded by the respondents while passing the impugned order. The appellant was not given any opportunity of personal hearing before issuing the impugned order dated 11.04.2016. Learned counsel produced copy of judgment passed in appeal No. 872/2015 by this Tribunal on 03.04.2018 alongwith

ATTESTED

[Signature]

VAKALATNAMA

Before the KP Service Tribunal, Peshawar

_____ OF 2019

Ajmal Khan

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Police Department

(RESPONDENT)
(DEFENDANT)

I/We *Ajmal Khan*

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. ____/____/2019



CLIENT


ACCEPTED
NOOR MOHAMMAD KHATTAK

KAMRAN KHAN


MIR ZAMAN SAFI
ADVOCATES

OFFICE:
Flat No.3, Upper Floor,
Islamia Club Building, Khyber Bazar,
Peshawar City.
Mobile No.0345-9383141

Faxed to 0919223456
Faxed on 4/11/19
Signature of Fax Operator
District Shangla.

From: District Police Officer
Shangla

To: The Inspector General of Police
Khyber Pakhtunkhwa Peshawar

SHO. Ajmal
Khan

No. 5826 /Legal, dated the Alpuri 04 /11 /2019.

Subject: CA NO.339/2019 MR. AJMAL KHAN SI NO.786/M
VERSES IGP ETC.

Respected Sir,

It is submitted that the subject appeal has been decided against the Government/Police Department on 30-01-019 the Department has filed CPLA in the August Supreme Court of Pakistan.

Now the Honorable Khyber Pakhtunkhwa services tribunal has directed file implementation report or suspension order before 05-12-2019. (Copy of order sheet dated 01-11-2019 is attached herewith for ready reference).

You are therefore, requested to kindly issue necessary instruction for implementation of the decision so that necessary report is submitted before the tribunal Court on the date fixed.

Encl:(01)


District Police Officer
Shangla



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

No. 5526 /Legal dated Peshawar, the 13 /11 /2018.

To: - The Secretary,
Government of Khyber Pakhtunkhwa,
Home & Tribal Affairs Department.
Attention Section Officer (Courts)

Subject:- FILING OF APPLICATION FOR EARLY HEARING BEFORE THE HONORABLE SUPREME COURT OF PAKISTAN IN' CPLA TITLED AJMAL KHAN SERVICE APPEAL No. 99/2017 VERSUS PROVINCIAL POLICE OFFICER KHYBER PAKHTUNKHWA PESHAWAR AND OTHERS.

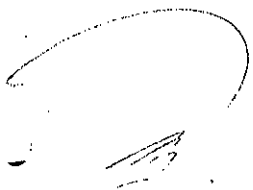
Memo:-

District Police Officer, Shangla has placed request vide his office memo No. 5826/Legal dated 04.11.2019, for lodging of early hearing against the Judgment cited as subject

He is reported that the instant appeal is directed against the order dated 11.04.2016 and 16.11.2016 circulated on 12.01.2017. Through the former promotion order of appellant as officiating Sub Inspector dated 25.01.2015 was withdrawn while through the latter his departmental appeal was rejected.


In the circumstances of case in hand and in the light of above noted judgments we have no option but to allow the appeal in hand as prayed for in its memorandum. Order accordingly.

It is therefore, requested that Law Department may be approached for onward approaching Advocate on record of Supreme Court at Peshawar for lodging early hearing application of the CPLA and for suspension of the judgment.


For/SP Court & Litigation
CPO Peshawar.

No. 5507-08 /Legal.

- Copy of the above is forwarded to the:-
1. District Police Officer, Shangla with reference to his memo quoted above.
 2. Section Officer (Lit) Government of Khyber Pakhtunkhwa Law and Parliamentary Affairs department alongwith Working Paper and Judgment is enclosed please.


For/SP Court & Litigation
CPO Peshawar.

16707/18



**GOVERNMENT OF KHYBER PAKHTUNKHWA,
HOME & TRIBAL AFFAIRS DEPARTMENT.**
PHONE: 091-9210032 FAX # 9210201.

No.SO(Courts)/HC/3-1/2018
Dated Peshawar, the 15th November, 2019

To

The Secretary to Govt. of Khyber Pakhtunkhwa,
Law, Parliamentary Affairs & HR Department,
Peshawar.

Subject: -

**FILING OF APPLICATION FOR EARLY HEARING BEFORE THE
HONORABLE SUPREME COURT OF PAKISTAN IN CPLA TITLED AJAMIL
KHAN SERVICE APPEAL NO. 99/2017 VERSUS PROVINCIAL POLICE
OFFICER KHYBER PAKHTUNKHWA PESHAWAR AND OTHERS.**

Dear Sir,

I am directed to refer to the subject noted above and to annex herewith a self-explanatory letter No.5506/Legal, dated 13.11.2019, received from SP Court & Litigation, Central Police Office, Khyber Pakhtunkhwa, Peshawar, for necessary action/appraisal, please.

Yours faithfully,

Section Officer (Courts)

Encl: As above.

Copy to.

- 1) The SP Court & Litigation, Central Police Office, Khyber Pakhtunkhwa, Peshawar: w/r to his letter mentioned above.
- 2) PS to Secretary Home, Khyber Pakhtunkhwa.

AS/Legal
15/11/19

no 3270/Legal
20-11-19

46-16/19

That the Respondents submitted implementation Report today on 01.07.2020, whereas a judgment passed by this Tribunal has been implemented conditionally subject to the outcome of CPLA pending before the Honorable Supreme Court. Therefore, counsel for the petitioner is under instructions that the present implementation petition may be consigned to the record room, and if the petitioner is further aggrieved from any order of the Respondents, he can approach to this Tribunal.

M. J. 01/07/2020
Mr. Zaman Saeed
Advocate



OFFICE OF THE
REGIONAL POLICE OFFICER, MALAKAND
AT SAIDU SHARIF SWAT.
Ph: 0946-9240388 & Fax No. 0946-9240390
Email: ebmalakandregion@gmail.com

ORDER:

In compliance with judgment dated 30/01/2019 of KPK Service Tribunal in Service appeal No. 99/2017 title Ajmal Khan ASI No. 786 vs IGP, KPK Peshawar and others (against the impugned order issued vide this office Endst: No. 3352-54/E, dated 11/04/2016 and CPO Peshawar Memo: No. 86/CPB, dated 12/01/2017) and Worthy, IGP KPK approval vide CPO Peshawar Memo No. 704/Legal, dated 30/01/2020 received from DPO, Shangla vide his office Memo No. 636/Legal, dated 03/02/2020, confirmation in the rank of ASI and admission to List "I" & promotion as Offg: SI of the appellant officer is hereby revised /restored conditionally and provisionally subject to the outcome of CPLA No. 338-P/2019 pending in the Supreme Court of Pakistan.

His confirmation in the rank of ASI & admission to List "E" and promotion as Offg: SI is hereby modified:-

> Promotion in the rank of ASI according to Standing Order No. 11/87 and 7/2003.	=	03/02/2011
> Date of confirmation in the rank of ASI	=	03/02/2011
> Date of admission to List "E"	=	16/03/2015
> Date of promotion as Offg: SI	=	25/01/2016

EC/Insp: Legal
For compliance
25/2/2020

Regional Police Officer,
Malakand Region Swat
[Signature]

No. 2296-2300 /E,
Dated 24/02 /2020.

Copy for information and necessary action to the:-

1. Worthy, Inspector General of Police, KPK.
2. AIG/Legal, Khyber Pakhtunkhwa Peshawar with reference to CPO Peshawar Memo No. 704/Legal, dated 30/01/2020.
3. Commandant PTC, Hangu.
4. Registrar, Khyber Pakhtunkhwa Service Tribunal Peshawar.
5. District Police Officer, Shangla with the direction to take undertaking from the above name appellant to submit that he will accepted any decision decided in CPLA by the Supreme Court of Pakistan.



OFFICE OF THE
REGIONAL POLICE OFFICER, MALAKAND
AT SAIDU SHARIF SWAT.
Ph: 0946-9240388 & Fax No. 0946-9240390
Email: ebmalakandregion@gmail.com

ORDER:-

(In compliance with judgment dated 30/01/2019 of KPK Service Tribunal in Service appeal No. 99/2017 title Ajmal Khan ASI No. 786 vs IGP, KPK Peshawar and others (against the impugned order issued vide this office Endst: No. 3352-54/E, dated 11/04/2016 and CPO Peshawar Memo: No. 86/C/PB, dated 12/01/2017) and Worthy, IGP KPK approval vide CPO Peshawar Memo No. 704/Legal, dated 30/01/2020 received from DPO, Shangla vide his office Memo No. 636/Legal, dated 03/02/2020, confirmation in the rank of ASI and admission to List "I" & promotion as Offg: SI of the appellant officer is hereby revised /restored conditionally and provisionally subject to the outcome of CPLA No. 338-P/2019 pending in the Supreme Court of Pakistan.

His confirmation in the rank of ASI & admission to List "F" and promotion as Offg: SI is hereby modified:-

➤ Promotion in the rank of ASI according to Standing Order No. 11/87 and 7/2003.	=	03/02/2011
➤ Date of confirmation in the rank of ASI	=	03/02/2011
➤ Date of admission to List "E"	=	16/03/2015
➤ Date of promotion as Offg: SI	=	25/01/2016

EC/Insp: Legal
For compliance
25/2/2020

Regional Police Officer,
Malakand Region Swat

No. 2296-2300 /E,
Dated 24/02 /2020.

Copy for information and necessary action to the:-

1. Worthy, Inspector General of Police, KPK.
2. AIG/Legal, Khyber Pakhtunkhwa Peshawar with reference to CPO Peshawar Memo No. 704/Legal, dated 30/01/2020.
3. Commandant PTC, Hangu.
4. Registrar, Khyber Pakhtunkhwa Service Tribunal Peshawar.
5. District Police Officer, Shangla with the direction to take undertaking from the above name appellant to submit that he will accepted any decision decided in CPLA by the Supreme Court of Pakistan.
