18.06.2020

Nemo for the petitioner present. Addl: AG for respondents present. On the last date of hearing the matter was adjourned on the strength of Reader note. The office shall, therefore, issue notices to the petitioner and his counsel. To come up for further proceedings on 04.08.2020 before S.B.

MEMBER

04.08.2020

None present on behalf of the parties, therefore, notices be issued to both the parities for 17.09.2020 before S/B.

(MIAN MUHAMMAD) MEMBER (E)

17.09.2020

Petitioner with counsel and Addl. AG for the respondents present.

Former has provided copy of order dated 08.01.2019, whereby, petitioner has been reinstated into service provisionally and his major penalty of dismissal from service has been modified into withholding of two annual increments for a period of two years. The documents are made part of the record. The petitioner, in the circumstances, does not want to process the execution proceedings in hand any further.

Consigned to record room.

Chairman

20.11.2019

Counsel for the petitioner and Addl. AG for the respondents present.

Learned counsel for petitioner requests for adjournment in order to seek fresh instructions in favour of petitioner.

Adjourned to 30.12.2019 before S.B.

Chairman

30.12.2019

Nemo for parties.

Adjourned to 12.02.2020 for further proceedings before S.B

Chairman

12.02.2020

None present on behalf of the petitioner. Mr. Usman Ghani, District Attorney for the respondents present. Notice be issued to petitioner for attendance for 25.03.2020 before S.B.

(MUHAMMAD AMIN KHAN KUNDI) MEMBER

25.03.2020

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

24.09.2019

Petitioner alongwith counsel and Addl. AG alongwith Fayaz, H.C for the respondents present.

The representative of respondents have produced copy of order dated 12.09.2019 whereby the petitioner has been reinstated into service provisionally w.e.f. 12.03.2018.

Adjourned to 21.10.2019 for further proceedings.

Chairman

, 21.10.2019

Petitioner in person present. Mr. Zia Ullah learned Deputy District Attorney for the respondents present.

Petitioner states that he has applied to the departmental authorities for the release of salaries w.e.f the date of judgment under implementation. The application is yet to be processed, therefore, requests for adjournment.

Adjourned to 20.11.2019 before S.B.

Chairman

ORDER

In compliance with the order passed by the Khyber Pakhtunkhwa. Service Tribunal vide Dated 12.03.2018 in service appeal No. 472/2015 and direction of competent authority, Central Police Office letter No. 127/Legal dated 07.01.2019 Ex-Constable Dost Muhammad No. 771 is hereby re-instated into service provisionally with immediate effect as his major penalty of dismissal from service is modified and converted into withholding of 02 annual increments for a period of 02 years subject to the outcome of CPLA pending before the Apex Court of Pakistan.

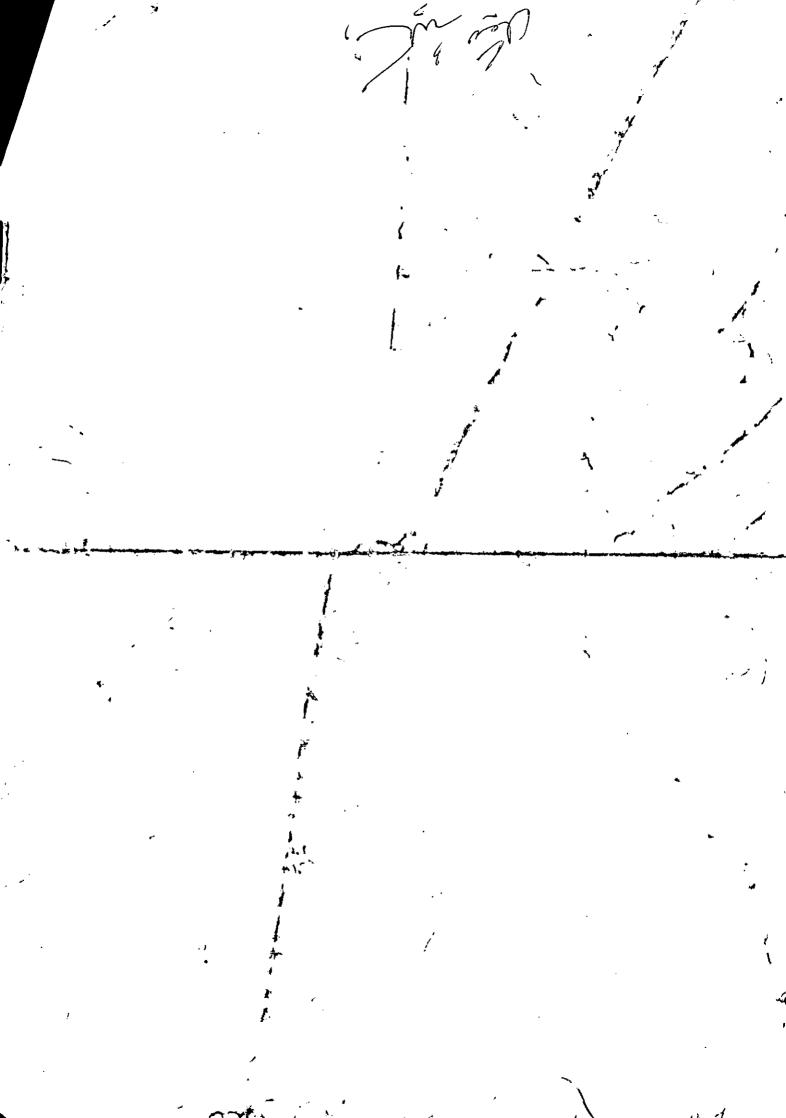
OB No. 30

Dated 3/0/ /2019

District Police Officer, Nowshera

No. 80 - 84 /PA, dated Nowshera, the 07.01 /2019.

- 1. Inspector Legal.
- 2. Pay Officer.
- 3. Establishment Clerk.
- 4. OHC
- .5. FMC



MULTIPLE EMPLOYEE ENTRY

.....Dated Page No

OFFICE OF THE DISTRICT POLICE OFFICER NOWSHERA

FOR THE MONTH OF /0 /2019

Period:

DDO CODE

(Cost Centre) NR-4218 Description: Constable (9 Months & 26 days)

EMPLOYEE DETAILS						ERAL DATA · HANGE	i	HANGE IN ITS/DEDUCT ONS			
Employee Number		· ·		!	ield ID	New Contents	Wage Type	AMOUNT Rupees	Stop Salary	Effect Date	Remarks
50 / 200) -			*	-	Basic Pay	5801	180165/4			
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						W. Allow: C.R Allow:	5070 5079	1420 170	,		Pay for the above mentioned period may please be passed
		Deduction	-			Risk Allow:	5879	2960/+F 34825/+1	5.		
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				!		AR-2018 AR-2019	5322 5336	18616 / +	1 2		<u> </u>

POLICE DEPARTMNET

NOWSHERA DISTRICT

ORDER

In compliance with the subsequent order passed by the knyher Pakhtunkhwa Service Tribunal vide dated 27.08.2019 in execution petition No. 61/18 Ex-Constable Dost Muhammad No. 771 is hereby re-instated into service provisionally with effect from 12.03.2018, subject to the outcome of CPLA pending before the Apex Court of Pakistan, as his major penalty of dismissal frem service is modified and converted into withholding of 02 annual increments for a period of 02 years.

OB No. 998 Dated 12/9 /2019

District Police Officer.

No. 42 98-9302/PA, dated Nowshera, the 11.09 /2019.

- 1. Inspector Legal.
- 2. Pay Officer.
- 3. Establishment Clerk.
- 4. OHC
- 5. FMC



OFFICE OF THE DISTRICT POLICE OFFICER, NOWSHERA

2019

Tel No. 0923-9220102 & Fax No. 0923-9220103 Email Dpo_nowsherakpk@yahoo.com

ORDER

In compliance of the judgement order of Honorable Services Tribunal, KP, Peshawar dated 12-03-2018, followed vide letter AIG Legal, KP, Peshawar Office Endst No. 127/Legal, dated 07-01-2019. FC **Dost Mohammad** No. 771 has been re-instated in service and allotted constabulary number 799.

O.B No. 48

Dated /0 / 0 / /2019

District Police Officer, Nowshera

No. <u>40 – 44</u> /OHC, dated Nowshera the <u>09/01</u>/20(9.

Copy to the:

- 1 DAO, Nowshera.
- 2 Accountant Nowshera.
- 3 / EC.
- 4 FMC.
- 5 GHC.

with effect from 1-12......19

letter No FD (PRC 1-1/2014 Pated 14-7-2011

- DPOINGWEBOLE

03.07.2019

Petitioner alongwith his counsel and Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Requested for adjournment. Adjourned to 27.08.2019 for further proceedings before S.B.

(MUHAMMAD AMIN KHAN KUNDI) MEMBER

27.08.2019

Petitioner in person and Mr. Usman Ghani, District Attorney alongwith Fayaz Khan, H.C for the respondents present.

The order dated 07.01.2019 requires reinstatement of the petitioner in service provisionally with immediate effect while, on the other hand, the judgment under implementation was passed on 12.03.2018 setting aside the impugned order of dismissal of service of petitioner and converting the major punishment into withholding of two annual increments for two years. His absence period was treated as leave without pay.

In the circumstances, the order dated 07.01.2019 does not appear to be strictly in line with the judgment of the Tribunal. The respondents are, therefore, required to produce an amended/modified order of reinstatement of petitioner on next date of hearing.

Adjourned to 24.09.2019 before S.B.

Chairman

16.04.2019

Petitioner with counsel present. Mr. Muhammad Jan learned Deputy District Attorney alongwith Wisal Inspector present and submitted coopy of office order dated 07.01.2019 whereby the petitioner has been reinstated into service provisionally subject to the outcome of CPLA pending before august Supreme Court of Pakistan. Adjournment requested. Adjourn. To come up for further proceedings on 23.05.2019 before S.B.

Member

23.05.2019

Petitioner in person present. Mr. Usman Ghani learned District Attorney present and stated that CPLA has already been filed before august Supreme Court of Pakistan against the judgment of this Tribunal. Adjournment requested. Adjourn To come up for further proceedings on 03.07.2019 before S.B.

Member

10.12.2018

None present on behalf of the petitioner. Notice be issued to both the parties for 23.01.2019 before S.B.

Muhammad Amin Khan Kundi Member

23.01.2019 Clerk to counsel for the petitioner present and seeks adjournment as learned counsel for the petitioner is not in attendance. Adjourn. To come up for further proceedings on 08.03.2019 before S.B

Member

08.03.2019

Petitioner in person present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Wisal, Inspector (Legal) for the respondents present. Representative of the department submitted implementation report. Petitioner seeks adjournment to examine the implementation report. Adjourned to 16.04.2019 for further proceedings before S.B.

(Muhammad Amin Khan Kundi) Member

Form- A FORM OF ORDER SHEET

Court of		•		
Execution Petition No	361/2018		-	

	Executio	n Petition No 361/2018
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	06.10.2018	The execution petition of Mr. Dost Muhammad submitted b Syed Aziz-ud-Din Kakakhei Advocate may be entered in the relevan
		register and put up to the Court for proper order please.
		REGISTRAR
	9-10-10	This avagution notition he nut before C. Banch on
2-	9-10-18	This execution petition be put before S. Bench on $\frac{23-16-18}{2}$.
		CHAIRMAN
22	0.2040	
23	10.2018	Due to retirement of Hon'ble Chairman,
	the	tribunal is defunct. Therefore, the case is
	adj	ourned. To come up on 10.12.2018
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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

Execution / COC No.______/2018
Imp./ Execution/ COC No._____/2018
IN
Appeal No. 472/2015

Dost MuhammadPetitione

VERSUS

The Provincial Police Officer, KPK & othersRespondents

INDEX

S.No	Description of Documents	Annex	Pages
1.	Petition		1-3
2.	Affidavit		4
3.	Copy of the judgment dated 12/03/2018	" A"	5 -%
4.	Wakalat Nama		8 9

Petitioner

Through

Syed Aziz ud Din Kakakhel (Nowshera) Advocate, High court

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Jan / Francisco / COCK 10	Khykan Pokhtukht
Imp./ Execution/ COC No/20	310
IN	Dr. Jones
Appeal No. 472/2015	Danate
Dost Muhammad Ex-Constable No. 771, Dist	trict Police Nowshera
R/o Dheri Kati Khel District Nowshera	•
***************************************	Petitioner
VERSUS	•

- 1. The Provincial Police Officer, Khyber Pakhtunkhwa Peshawar
- Deputy Inspector General of Police, Mardan Region-I Mardan
- 3. District Police Officer, Nowshera......Respondents

Application for the implementation/execution of appeal No. 472/2015 instituted on 22/05/2015 and decided on 15/03/2018 read with section 3/4 of contempt of court.

Respectfully Sheweth:

1. That the petitioner filed an appeal No. 472/2015 seeking reinstatement of his services on 22/05/2015 before this Hon'ble Tribunal which has been decided on 13/05/2018.

(attested Copy of the judgment is attached herewith)

That thereafter the judgment of this Hon'ble Tribunal has 2. been served upon the respondent but till date they did not implement/executed of the judgment of this Hon'ble tribunal in litter and spirit, hence, the petitioner feeling aggrieved from the act of respondent, Hon'ble approached this tribunal seeking implementation/execution of the judgment of this Hon'ble tribunal alongwith initiating contempt of court proceeding as the respondent totally failed to obey the judgment of this Hon'ble tribunal which amount contempt of court with the following grounds inter alia.

GROUNDS:

- A. That already the order of respondents were declared void, thus, the respondents are legally bound to implement/execute the judgment of this Hon'ble tribunal in litter and sprit while refusal is amount contempt of court, hence they are liable to be proceeded.
- B. That there is no any status quo order of the Hon'ble Supreme court of Pakistan in respect of the judgment passed by this Hon'ble Tribunal.
- C. That in case the judgment of this Hon'ble Tribunal passed in favour of petitioner has not been implemented or executed the petitioner would be suffer irreparable loss.

- D. That this Hon'ble Tribunal has the power to implement/execute the judgment passed by this Hon'ble Tribunal as well to initiate contempt of court proceeding in case of violation by the parties, hence, the present petitioner.
- E. That on permission other grounds and facts may also be brought in the knowledge of this Hon'ble Tribunal at the time of arguing of the instant petition.

It is, therefore, most humbly prayed that on acceptance of this petition, the respondents may please be directed to implement/execute the judgment of this Hon'ble Tribunal in appeal No. 472/2015 passed on 12/03/2018 against them in litter and spirit and respondents may also be treated under contempt of court to draw the real conclusion of case or as this Hon'ble Tribunal deem it proper.

Any other relief if this Hon'ble Tribunal deem it proper may also be awarded in favour of petitioner against respondent.

Petitioner

Through

Syed Aziz ud Din Kakakhel (Nowshera) Advocate, High court

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Imp./ Execution/ COC No) .	/2018	
IN			
Appeal No. 472/2015	• .		
		•	
Dost Muhammad	••••••	•••••	Petitioner

VERSUS

The Provincial Police Officer, KPK & othersRespondents

AFFIDAVIT

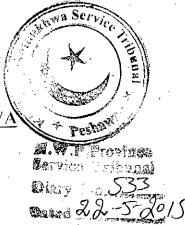
I, Dost Muhammad Ex-Constable No. 771, District Police Nowshera R/o Dheri Kati Khel District Nowshera, do hereby solemnly affirm and declare that as per instructions of my client, the contents of the accompanying **petition** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.



DEPONENT Dll....d-



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR



Appeal No. 472/2015

Dost Muhammad Ex-Constable No. 771, District Police Nowshera R/O Dheri Kati Kheel District Nowshera.

(Appellant)

VERSUS

- 1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
- 2. Deputy Inspector General of Police, Mardan Region- I, Mardan.
- 3. District Police Officer, Nowshera.

(Respondents)

ATTESTED

Keryles Paldrankhwa
Service Triounal,
Peshawar

the to det

Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the order dated 13.03.2015, whereby the appellant has been awarded major punishment of <u>Dismissal from service</u>, against which his Departmental Appeal has also been rejected vide order dated 04.05.2015, communicated to the appellant on 08.05.2015.

Prayer in Appeal: -

On acceptance of this appeal both impugned orders dated 13.03.2015, and 04.05.2014, may please be set-aside and the appellant may please be re-instated in service with full back wages and benefits of service.

Respectfully Submitted:

- 1. That the appellant was enlisted as Constable in the District Police Nowshera in the year 1998, ever since his enlistment the appellant performed his duties as assigned with great zeal and devotion and there was no complaint whatsoever regarding his performance.
- 2. That while post at Police Lines Nowshera, in November 2014, the appellant got scriously ill, therefore he could not join his duty, however he telephonically informed his department about his illness.

Anux A

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL. PESHAWAR

SERVICE APPEAL NO. 472/2015

Date of institution ... 22.05.2015

Date of judgment ... 12.03.2018



Dost Muhammad Ex-Constable No. 771, District Police Nowshera R/O Dheri Kati Kheel District Nowshera.

(Appellant)

VERSUS -

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.

2. Deputy Inspector General of Police, Mardan Region-I, Mardan.

3. District Police Officer, Nowshera.

(Respondents)

 THE_{-} SECTION-4 OF APPEAL UNDER SERVICE TRIBUNAL <u>PAKHTUNKHWA</u> AGAINST THE ORDER DATED 13.03.2015, WHEREBY THE APPELLANT HAS BEEN AWARDED MAJOR PUNISHMENT OF DISMISSAL FROM SERVICE, AGAINST WHICH HIS DEPARTMENTAL APPEAL HAS ALSO BEEN REJECTED VIDE ORDER DATED 04.05.2015, COMMUNICATED TO THE APPELLANT ON 08.05.2015.

Mr. Yasir Saleem, Advocate.

For appellant.

Mr. Riaz Ahmed Painda Kheil, Assistant Advocate General

For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI MR. MUHAMMAD HAMID MUGHAL

MEMBER (JUDICIAL) MEMBER (JUDICIAL)

ATTESTED

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: -

Learned counselice Tribunal.

for the appellant present. Mr. Riaz Ahmed Painda Kheil, Assistant Advocate General for the respondents also present. Arguments heard and record perused.

Brief facts of the case as per appeal are that the appellant was serving in 2. Police Department and during service he was imposed major penalty of dismissal from service by the competent authority vide order dated 13.03.2015 on the allegation of his absence from duty without any leave/permission of the competent authority. The appellant filed departmental appeal (undated) but the same was also dismissed on 04.05.2015 hence, the present service appeal on 22.05.2015.

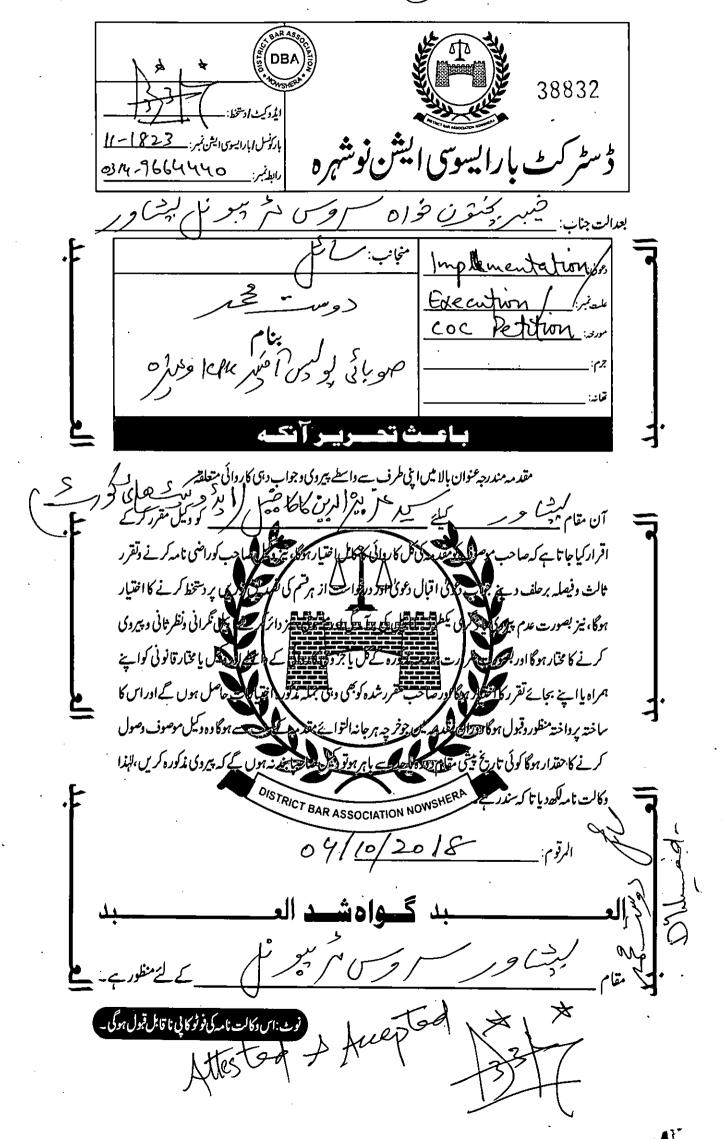
- 3. Respondents were summoned who contested the appeal by filing written reply/comments.
- Learned counsel for the appellant contended that the appellant was serving in Police Department. It was further contended that the appellant was dismissed from service on the allegation of absence from duty but neither proper inquiry was conducted nor any absence notice was issued by the respondents at his home address. It was further contended that only a showcause notice (undated) was issued to the appellant wherein it was stated that the appellant was absent from duty with effect from 21.11.2014. It was further contended that in the impugned dismissal order it was mentioned that the showcause notice was issued on 09.12.2014 meaning thereby that his absence was less than one month therefore, the punishment of dismissal from service is not in commensurate with the charge and is very harsh. It was further contended that the appellant was dismissed from service from the date of absence i.e retrospectively therefore, the impugned order is void and the appellant has sixteen years service in his credit. It was also contended that the appellant was ill and due to illness he was unable to attend the duty therefore, requested for acceptance of the appeal.
- 5. On the other hand, learned Assistant Advocate General for the respondents opposed the contention of learned counsel for the appellant and contended that the appellant was absent from duty without any leave/permission of the competent authority. It was further contended that there are sufficient

material on record to show that the appellant remained absent from duty therefore, there was no need of proper inquiry and the competent authority was competent to issue show-cause notice under the departmental proceedings therefore, the competent authority has rightly dismissed the appellant from service and prayed for dismissal of the appeal.

appellant has been passed retrospectively therefore, the impugned order is void.

Furthermore, the record also reveals that the appellant was also allegedly absent from duty with effect from 21.11.2014 and he was issued show-cause notice for alleged absence on 09.12.2014 meaning thereby that the absence period of the appellant was less than one month. The record also reveals that the appellant also claimed in the departmental appeal that he was seriously ill and got treatment from doctors meaning thereby that the absence of the appellant was not deliberate. Furthermore, the appellant has also more than sixteen years service in his credit therefore, the major penalty of dismissal from service appear to be hash. As such we partially accept the appeal, set-aside the impugned order and convert the major penalty of dismissal from service withholding of two increments for two years and his absence period as well as the intervening period will be treated as leave without pay. Parties are left to bear their own costs. File be consigned to the record room.

	the intervening period will be treated as leave without p
	and room
	bear their own costs. File be consigned to the record room. ANNOUNCED SAL-M. Armsn Chan Kundl, 12.03.2018 Meansher
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	Date of Presentation of Application 12-03-15
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POLICE DEPARTMNET

NOWSHERA DISTRICT

<u>ORDÉR</u>

In compliance with the order passed by the Khyber Pakhtunkhwa Service Tribunal vide Dated 12.03.2018 in service appeal No. 472/2015 and direction of competent authority, Central Police Office letter No. 127/Legal dated 07.01.2019 Ex-Constable Dost Muhammad No. 771 is hereby re-instated into service provisionally with immediate effect as his major penalty of dismissal from service is modified and converted into withholding of 02 annual increments for a period of 02 years subject to the outcome of CPLA pending before the Apex Court of Pakistan.

OB No. <u>30</u> Dated <u>8/0/</u>/2019

> District Police Officer, Novshera

No. 8c - 84 /PA, dated Nowshera, the 07.01 /2019.

- 1. Inspector Legal.
- 2. Pay Officer.
- 3. Establishment Clerk.
- 4. OHC
- 5. FMC

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ORDER

In compliance with the order passed by the Khyber Pakhtunkhwa. Service Tribunal vide Dated 12.03.2018 in service appeal No. 472/2015 and direction of competent authority, Central Police Office letter No. 127/Legal dated 07.01.2019 Ex-Constable Dost Muhammad No. 771 is hereby re-instated into service provisionally with immediate effect as his major penalty of dismissal from service is modified and converted into withholding of 02 annual increments for a period of 02 years subject to the outcome of CPLA pending before the Apex Court of Pakistan.

OB No. <u>30</u>
Dated <u>8/0/</u>/2019

District Police Officer, Novshera

No. 80 - 84 /PA, dated Nowshera, the 07.01 /2019.

- 1. Inspector Legal.
- 2. Pay Officer.
- 3. Establishment Clerk.
- 4. OHC
- 5. FMC

ORDER

In compliance with the subsequent order passed by the Khyber Pakhtunkhwa Service Tribunal vide dated 27.08.2019 in execution petition No.361/18 Ex-Constable Dost Muhammad No. 771 is hereby re-instated into service provisionally with effect from 12.03.2018, subject to the outcome of CPLA pending before the Apex Court of Pakistan, as his major penalty of dismissal from service is modified and converted into withholding of 02 annual increments for a period of 02 years.

OB No. 998 Dated 12/9/2019

District Police Officer, Newshera

No. 42 98-9302/PA, dated Nowshera, the 11.09 /2019.

- 1. Inspector Legal.
- 2. Pay Officer.
- 3. Establishment Clerk.
- 4. OHC
- 5. FMC