

28.08.2019

Counsel for the petitioner and Addl. AG alongwith Asghar Ali, H.C for the respondents present.

Learned AAG requests for further time to submit implementation report by the respondents. Adjourned to 25.09.2019 on which date the requisite report shall positively be furnished.

Chairman



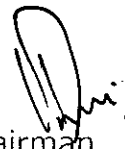
25.09.2019

Counsel for the petitioner and Addl. AG alongwith Asghar Ali, H.C for the respondents present.

The representative of the respondents has produced copy of order dated 26.08.2019 whereby the petitioner has been reinstated into service by conversion of punishment of dismissal into reduction of pay by three stages while the intervening period is treated as leave without pay. His pay has been fixed at the rate of Rs. 14650/- PM to which the petitioner may have reservations.



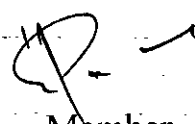
In view of the order, instant proceedings are consigned to record. The petitioner may apply for restoration of the proceedings in case any relief ancillary to the judgment dated 10.04.2019 remained unsatisfied.

Chairman



**Form- A**  
**FORM OF ORDER SHEET**

Court of \_\_\_\_\_  
Execution Petition No. 208/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	08.5.2019	<p>The execution petition of Mr. Kifayatullah submitted today by Naila Jan 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 21/5/19</p>
2-	09/05/19	<p>This execution petition be put up before S. Bench on <u>24/05/19</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	23.05.2019	<p>Learned counsel for the petitioner present. Notice of the present execution petition be issued to the respondents for implementation report/comments. To come up for implementation report/parawise comments on 04.07.2019 before S.B.</p> <p style="text-align: right;"> Member</p>

04.07.2019

Counsel for the appellant and Addl. AG alongwith  
Yaquub Khan, H.C for the respondents present.

Representative of the respondents requested for  
time. To come up for implementation report on 28.08.2019  
before S.B.

  
Member

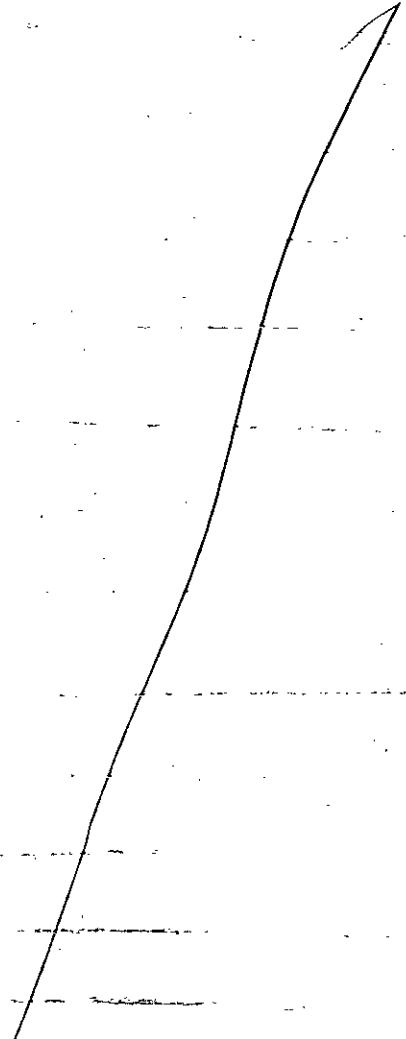
28.08.2019

Counsel for the petitioner and Addl. AG alongwith  
~~Muhammad Saleem~~ <sup>Asghar Ali, HC</sup> Statistical Officer for the respondents  
present.

Learned AAG requests for further time to submit  
implementation report by the respondents. Adjourned to  
25.09.2019 on which date the requisite report shall positively be  
furnished.

Chairman

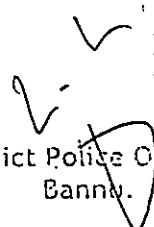
*Printed on Fresh Page*



ORDER:

In compliance with the Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar Judgment dated 10.04.2019 in the Service Appeal No.984/2018 and AIG Legal, CPO Peshawar letter No. 3327/Legal, dated 05.07.2019, Ex-Constable Kifayat Ullah No. 524 is re-instated into service and his Major Punishment of Dismissal dated 29.03.2018 is hereby converted into reduction of pay by three stages for five years. The intervening period is treated as leave without pay. Therefore, his Pay is fixed @ Rs. 14650/P.M with immediate effect.

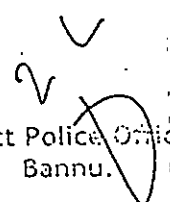
OS No. 899  
Dated: 26.08 /2019.


  
District Police Officer,  
Bannu.

No. 13891-96 /EC dated Bannu, the 26 / 08 /2019.

Copy of above is submitted for favor of information to:

1. The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar with his office Memo: No. 3327/Legal, dated 05.07.2019.
2. Reader, Pay officer, SRC, OHC, Line Officer Bannu, for information and necessary action.

  
District Police Officer,  
Bannu.

DSP / HGA  
PL2 PIS  


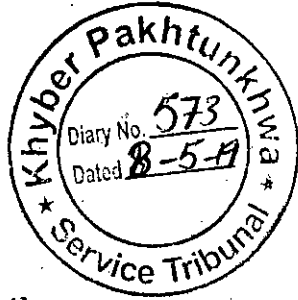
D

**BEFORE THE HONBLE KHYBER PAKHTUNKHWA  
SERVICES TRIBUNAL PESHAWAR**

*Execution Petition NO. 208/2019*

In Re S.A \_\_\_\_\_/2019

Kifayat Ullah S/O Sarfaraz Khan R/O Khojari Babar Tehsil  
and District Bannu Ex-Constable NO.524.



-----(*Appellant*)

**VERSUS**

1. The Inspector General of Police Khyber Pakhtunkhwa Peshawar.
2. Additional Inspector General of Police establishment Khyber Pakhtunkhwa.
3. Regional Police Officer Bannu.
4. District Police Officer Bannu.

-----(*Respondents*).

**EXECUTION PETITION  
FOR IMPLEMENTATION  
OF THE JUDGMENT OF  
THIS HON'BLE TRIBUNAL  
IN APPEAL No. 984/2018  
DECIDED ON 10/04/2019**

**Respectfully Sheweth,**

1. That the above mention appeal was decided by this Hon'ble Tribunal vide Judgment dated 10/04/2019. (Copy of the judgment is annexed as annexure "A")
2. That the relevant portion of the judgment is reproduced "*penalty imposed by the*

*competent authority has not taken into consideration the same. Moreover, the appellant also belong to a poor family therefore, penalty imposed by the Competent authority appear to be harsh. As such, we partially accept the appeal, modify the impugned order and convert the major penalty of dismissal from service into reduction of pay in three stages for five years. Resultantly the appellant is reinstated in service. The intervening period is treated as leave without pay. Parties are left to bear their own costs. File be consigned to the record room”.*

3. That the Petitioner after getting of the attested copy of same approached the Respondents several time for implementation of the above mention judgment. However they are using delaying tactics and reluctant to implement the judgment of this Hon'ble Tribunal.
4. That the Petitioner has no other option but to file the instant petition implementation of the judgment of this Hon'ble Tribunal.

5. That there is nothing which may prevent this Hon'ble Tribunal from implementing of its own judgment.

*It is, therefore, requested that on acceptance of this execution petition the Respondents may kindly be directed to implement the judgment of this Hon'ble Tribunal by reinstating the Petitioner with all back benefits.*

Petitioner  
Through *Naila Jan & Huma Khan*  
Naila Jan & Huma Khan  
Advocate, High Court  
Peshawar

Dated: 08/05/2019

**AFFIDAVIT:-**

I, Kifayat Ullah S/O Sarfaraz Khan R/O Khojari Babar Tehsil and District Bannu Ex-Constable NO.524, do hereby solemnly affirm and declare on oath that all the contents of above **application** are true and correct to the best of my knowledge and belief and nothing has been misstated or concealed from this Hon'ble Court.

*Kifayat Ullah*  
Deponent

*08-05-19*  
**ATTESTED**  
IRFAN ULLAH  
NOTARY PUBLIC

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**BEFORE THE HONBLE KHYBER PAKHTUNKHWA  
SERVICES TRIBUNAL PESHAWAR**

In Re S.A \_\_\_\_\_/2019

Kifayat Ullah

**VERSUS**

The Inspector General of Police Khyber Pakhtunkhwa  
Peshawar and others

**ADDRESSES OF PARTIES**

**APPELLANT.**

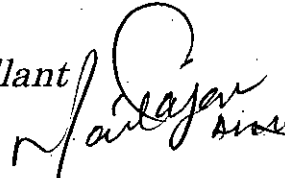
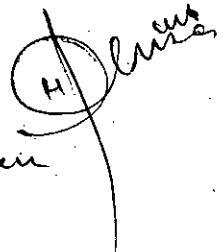
Kifayat Ullah S/O Sarfaraz Khan R/O Khojari Babar Tehsil  
and District Bannu Ex-Constable NO.524.

**RESPONDENTS:**

1. The Inspector General of Police Khyber Pakhtunkhwa Peshawar.
2. Additional Inspector General of Police establishment Khyber Pakhtunkhwa.
3. Regional Police Officer Bannu.
4. District Police Officer Bannu.

Dated: 08/05/2019

Through

Appellant   
Naila Jan & Huma Khan  
Advocate High Court  
Peshawar. 



(5) (1)



BEFORE THE HONBLE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR

Khyber Pakhtunkhwa Service Tribunal

In Re S.A. 984 /2018

Diary No. 1726

Dated 04-08-2018

Kifayat Ullah S/O Sarfaraz Khan R/O Khojari Babar Tehsil and District Bannu Ex-Constable NO.524.

-----*(Appellant)*

VERSUS

1. The Inspector General of Police Khyber Pakhtunkhwa Peshawar.
2. Additional Inspector General of Police establishment Khyber Pakhtunkhwa.
3. Regional Police Officer Bannu.
4. District Police Officer Bannu.

-----*(Respondents)*

APPEAL U/S 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 974 AGAINST THE

Filed to-day IMPUGNED ORDER DATED 29/03/2018 WHEREBY  
THE APPELLANT WAS AWARDED MAJOR  
PUNISHMENT OF DISMISSAL FROM SERVICE AND  
APPELLATE ORDER DATED 11/05/2018 WHEREBY  
DEPARTMENT APPEAL OF THE APPELLANT WAS  
REJECTED AND ORDER DATED 16/07/2018  
WHEREBY REVISION UNDER RULE 11A OF  
KHYBER PAKHTUNKHWA POLICE RULE 1975 HAS  
BEEN REJECTED

Registrar  
 11/2/18  
 Resubmitted to-day  
 9/8/18

PRAYER:

ON ACCEPTANCE OF THIS APPEAL THE  
IMPUGNED ORDERS DATED 29/03/2018, ORDER

**ATTESTED**

Registrar  
 Khyber Pakhtunkhwa Service Tribunal  
 Peshawar

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

**SERVICE APPEAL NO. 984/2018**

Date of institution ... 04.08.2018

Date of judgment ... 10.04.2019



Kifayat Ullah S/o Sarfaraz Khan Ex-Constable No. 524  
R/o Khojari Babar Tehsil and District Bannu.

(Appellant)

**VERSUS**

1. The Inspector General of Police Khyber Pakhtunkhwa Peshawar.
2. Additional Inspector General of Police Establishment Khyber Pakhtunkhwa.
3. Regional Police Officer Bannu.
4. District Police Officer Bannu.

(Respondents)

APPEAL UNDER SECTION-4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 29.03.2018 WHEREBY THE APPELLANT WAS AWARDED MAJOR PUNISHMENT OF DISMISSAL FROM SERVICE AND APPELLATE ORDER DATED 11.05.2018 WHEREBY DEPARTMENTAL APPEAL OF THE APPELLANT WAS REJECTED AND ORDER DATED 16.07.2018 WHEREBY REVISION UNDER RULE-11-A OF KHYBER PAKHTUNKHWA POLICE RULE 1975 HAS BEEN REJECTED.

*Muhammad Amin*  
10.04.2019

Miss. Naila Jan, Advocate.

Mr. Usman Ghani, District Attorney

For appellant.

For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI

MR. MUHAMMAD HAMID MUGHAL

MEMBER (JUDICIAL)

MEMBER (JUDICIAL)

**JUDGMENT**

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - Appellant

alongwith counsel present. Mr. Usman Ghani, District Attorney alongwith Mr. Yaqoob Khan, Head Constable for the respondents present. Arguments heard and record perused.

2. Brief facts of the case as per present service appeal are that the appellant was serving in Police Department. He was imposed major penalty of dismissal

**ATTESTED**

*[Signature]*  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal

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from service vide order dated 29.03.2018 on the allegation that he committed gross misconduct by perpetrating the act under section 420/463/468/471/474/193/211/2019 PPC as evident from case vide FIR No. 183 dated 28.04.2016 PS Kakki. The appellant filed departmental appeal (undated) which was rejected on 11.05.2018 thereafter, the appellant filed revision petition undated which was rejected on 16.07.2018 hence, the present service appeal on 04.08.2018.

3. Respondents were summoned who contested the appeal by filing of written reply/comments.

4. Learned counsel for the appellant contended that the appellant was serving in Police Department. It was further contended that the appellant was imposed major penalty of dismissal from service by the competent authority on the allegation that on 12.11.2015 the concerned SHO PS Kakki recovered a Kalashnikov from the brother of the appellant namely Hafizullah and FIR No. 236 dated 12.11.2015 under section 15-A.A Police Station Kakki was registered against the said Hafizullah brother of the appellant but the appellant produced one factious license of Kalashnikov in the name of Samiullah brother of the appellant and also posed himself in the court as Samiullah and on the basis of which the case property i.e Kalashnikov was returned to the appellant after furnishing of surety bond endorsed by two witnesses on the basis of which case vide FIR No. 183 dated 28.04.2016 under sections 420/463/468/470/471/474/193/211/2019 police station Kakki was also registered against Samiullah. Later on appellant and other were also involved in the said criminal case. It was further contended that the appellant was having 10 years service in his credit as revealed from the order of departmental authority but the respondent department has not considered the aforesaid service of the

*M. Amin*  
10.4.2019

ATTESTED

  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

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appellant while dismissing him from service. It was further contended that the appellant was also hon'ble acquitted in the aforesaid criminal case by the competent court vide judgment dated 15.03.2018 while the other absconding accused were acquitted in <sup>absentia</sup> ~~essential~~ in the said judgment available on the record.

It was further contended that departmental inquiry was conducted against the appellant but the inquiry officer has not recorded the statement of any witnesses in the inquiry proceeding to prove that the factious/bogus license was produced by appellant or Samiullah, therefore, inquiry proceeding was also not conducted in accordance with law. It was further contended that the appellant belong to poor family and the punishment awarded to the appellant is very harsh and prayed for lenient view.

5. On the other hand, learned District Attorney for the respondents opposed the contention of learned counsel for the appellant and contended that the appellant was serving in Police Department. It was further contended that the appellant was imposed major penalty of dismissal from service after fulfilling all the codal formalities and the inquiry officer also found the appellant guilty therefore, the competent authority has rightly imposed major penalty and prayed for dismissal of appeal.

6. Perusal of the record reveals that the appellant was serving in Police Department. He was imposed major penalty of dismissal from service by the competent authority on the aforesaid allegation on the basis of which the criminal case vide FIR No. 183 dated 28.04.2016 under sections 420/463/468/470/471/474/193/211/2019 police station Kakki was also registered against Samiullah but later on appellant <sup>and</sup> ~~was~~ others were involved in the said case. The record further reveals that the appellant was acquitted by the competent authority in the aforesaid case vide judgment dated 15.03.2018 while

ATTESTED

DEPUTY COMMISSIONER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

*M. J. Khan*  
10.9.2019

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the absconding accused were acquitted in absentia in the said judgment. The record further reveals that the appellant was having more than ten years service in his credit at the time of dismissal from service but the competent authority has not taken into consideration the same. Moreover, the appellant also belong to a poor family therefore, penalty imposed by the competent authority appear to be harsh. As such, we partially accept the appeal, modify the impugned order and convert the major penalty of dismissal from service into reduction of pay in three stages for five years. Resultantly the appellant is reinstated in service. The intervening period is treated as leave without pay. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
10.04.2019

*Muhammad Amin*  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

*M. H. Mughal*

(MUHAMMAD HAMID MUGHAL)  
MEMBER

**Certified to be true copy**  
*[Signature]*  
Kh. M. Amin  
Service Tribunal  
Peshawar

Date of Presentation of Appeal: 22-4-19  
 Number of Words: 2000  
 Copying Fee: 12-00  
 Urgent: 2-00  
 Total: 14-00  
 Name of Copyist: [Signature]  
 Date of Completion of Copy: 22-4-19  
 Date of Delivery of Copy: 22-4-19

# وکالت نامہ

بعدالت لایف سروس ٹائمنڈ پشاور

کنڈ کٹھ نام

815/2018

تاریخ

petition

منجانب

## باعث تحریر آنکہ

مقدمہ مندرجہ بالا عنوان میں اپنی طرف سے واسطے پیروی و جوابدہی بمقام لایف سروس ٹائمنڈ کے لئے

## نانکہ جان ایڈوکیٹ ہائی کورٹ

کو بدین شرط وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختیار خاص روز بروز عدالت حاضر ہوتا رہوں گا۔ اور یوقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دیکر حاضر عدالت کروں گا اگر پیشی پر من مظهر حاضر نہ ہو اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور میرے برخلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام کچہری کے کسی اور جگہ سماعت ہونے یا بروز تعطیل یا کچہری کے کسی اور جگہ سماعت ہونے یا بروز تعطیل یا کچہری کے اوقات کے آگے پیچھے پیش ہونے پر من مظهر کو کوئی نقصان پہنچنے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا اختیار نامہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل ساختہ پرواختہ صاحب موصوف مثل کردہ ذات خود منظور قبول ہوگا۔ اور صاحب موصوف کو عرضی دعویٰ و جواب دعویٰ اور درخواست اجراء کے ذمہ و نظر ثانی اپیل و گمرانی ہر قسم کی درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا۔ اور کسی حکم یا ڈگری کے اجراء کرنے اور ہر قسم کارروپیہ وصول کرنے اور رسید دینے اور داخل کرنے اور ہر قسم کے بیان دینے اور سپرد وراثت و رضی نامہ کو فیصلہ برخلاف کرنے، اقبال دعویٰ دینے کا بھی اختیار ہوگا۔ اور بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم امتناعی یا ترقی یا گرفتاری قتل از اجراء ڈگری بھی موصوف کو بشرط ادا ہوگی۔ طبعہ مختیار نامہ پیروی کا اختیار ہوگا۔ اور بصورت ضرورت صاحب موصوف کو بھی اختیار ہوگا یا مقدمہ مذکورہ یا اس کے کسی جزو کی کارروئی کے واسطے یا بصورت اپیل، اقبال کے واسطے کسی دوسرے وکیل یا پیرسٹر کو بجائے اپنے یا اپنے ہمراہ مقرر کریں۔ اور ایسے مشیر قانون کو ہر امر میں وہی اور ویسے ہی اختیارات حاصل ہوں گے۔ جیسے کہ صاحب موصوف کو حاصل ہیں اور پہلے ادا نہ کروں گا۔ تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔ لہذا یہ مختیار نامہ لکھ دیا تاکہ سند رہے مورخہ 815/2018۔ مضمون مختیار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا اور منظور ہے۔

ATTESTED & ACCEPTED

Nalajou  
Rite

ناقلمہ جان ایڈوکیٹ پشاور ہائی کورٹ پشاور

Alifayalullah