

16.1.2019 Counsel for the petitioner and Addl. AG alongwith
Abdur Rahman, DSP (Legal) for the respondents present.

Learned AAG has produced copy of order dated 11.01.2018 passed by AIG (Establishment) for Inspector General of Police, Khyber Pakhtunkhwa Peshawar and stated that the petitioner has been reinstated into service provisionally and conditionally subject to the outcome of CPLA. The same is placed on file.

Learned counsel for the petitioner states that he would have no objection to the consignment of instant proceedings to the record room.

In view of the above, the execution proceedings in hand are consigned being completed. The petitioner may apply for its restoration in case any part of relief granted to him remained unsatisfied.

Chairman



ANNOUNCED

16.01.2019



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

No. 121-301, Dated Peshawar the 11-01 2018.

ORDER

This order is to dispose of departmental appeal of Ex-Constable Sudhair Khan No. 02 in accordance with the Services Tribunal judgment dated 07.08.2018 announced on Service Appeal No. 173/2016 whereby the Services Tribunal accepted the appeal of the appellant.

The department has field CPLA against the judgment dated 07.08.2018.

In order to ensure compliance with the judgment of the Honorable Service Tribunal Khyber Pakhtunkhwa, the appellant is hereby reinstated into service provisionally and conditionally subject to outcome of CPLA.

(SADIQ BALOCH)PSP

AIG/Establishment,

For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

Endst: No. & date even:-

Copy of above is forwarded to the:-

1. Deputy Inspector General of Police, HQrs: KP, Peshawar.
2. PSO to IGP/Khyber Pakhtunkhwa, Peshawar.
3. PRO to IGP/Khyber Pakhtunkhwa, Peshawar.
4. Office Sudpt: E-I, CPO Peshawar, 05-E-IV, CPO.
5. PA to DIG/HQrs: CPO.
6. PA to Addl: IGP/HQrs: CPO.
7. PA to AIG/Establishment CPO.
8. Accountant CPO.
9. Central Registrary CPO.
10. UOP file.

05.12.2018

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

Representative of the respondents states at the bar that a CPLA against the judgment under implementation has been submitted before the august Supreme Court.

Adjourned to 16.01.2019 for submission of implementation report or copy of order of apex court requiring suspension of judgment under implementation ~~or the implementation report~~, as the case may be.



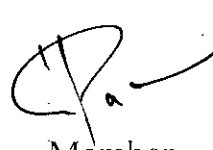
Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Execution Petition No. 342/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	28.09.2018	<p>The execution petition of Mr. Sudhair Khan submitted by Mr. Yasir Saleem 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-	1-10-2018	<p>This execution petition be put before S. Bench on <u>19-10-2018</u></p> <p style="text-align: right;"> MEMBER</p>
	9.10.2018	<p>Clerk to counsel for the petitioner present. Notice of the present execution petition be issued to the respondents for 05.12.2018. To come up for further proceedings on the date fixed before S.B.</p> <p style="text-align: right;"> Member</p>

BEFORE THE KHYBER PAKHTUNKWA
SERVICE TRIBUNAL PESHAWAR

Execution Petition no. 342/18

In the matter of
Appeal No. 173/2016
Decided on 07.08.2018

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1117

Dated 28-9-18

Sudhair Khan Ex-Constable No.02 Accounts Branch CPO peshawar.

...(Applicant)

VERSUS

1. Provincial Police Officer Khyber Pakhtunkhwa Peshawar.
2. Additional Inspector General of Police, Head Quarters Khyber Pakhtunkhwa Peshawar.
3. Deputy Inspector General of Police, Head Quarters Khyber Pakhtunkhwa Peshawar.

...(Respondents)

Application for the implementation of the Judgment and Order dated 07.08.2018 of this Honourable Tribunal in its true letter and spirit.

Respectfully Submitted:

1. That the above noted service appeal was pending adjudication in this Honourable Tribunal and was decided vide judgment and order dated 07.08.2018.
2. That vide judgment and order dated 07.08.2018, this Honourable Tribunal while accepted appeal of the appellant in the following terms:

“.....Therefore the purpose of safe administration of justice the major penalty of removal from service appears to be harsh. As such we partially accept the appeal and convert major penalty of removal from service into compulsory retirement from the date of issuance of impugned order i.e. w.e.f 10.02.2012. The absence period be treated as unauthorized absence without pay.....”

(Copy of the Judgment and order dated 07.08.2018, is Attached)

3. That the judgment of this Honourable Tribunal was duly communicated to the respondents, however the respondents have not yet been responded to the applicant.

4. That the respondents have not yet implemented the judgment and order dated 07.08.2018 of the Honorable Tribunal in its letter and spirit. They are legally bound to implement the judgment of this Honourable Tribunal in its true letter and spirit without any further delay.

It is, therefore, prayed that on acceptance of this application the respondents may please be directed to implement the judgment and order dated 07.08.2018 of this Honourable Tribunal in its true letter and spirit.

Applicant/Appellant

Through

YASIR SALEEM

JAWAD-UR-REHMAN

Advocates, Peshawar

AFFIDAVIT

I, do hereby solemnly affirm and declare on oath that the contents of the above implementation petition are true and correct to the best of my knowledge and belief and that nothing has been kept back or concealed from this Honourable Tribunal.

e/mue
Deponent

Service Appeal No. 173/2016

07.08.2018

Date of Decision

29.02.2016

Date of Institution



Sudhair Khan Ex-Constable No. 02 Accounts Branch CPO Peshawar.

(Appellant)

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Additional Inspector General of Police/ Head Quarters Khyber Pakhtunkhwa Peshawar.
3. Deputy Inspector General of Police/ Head Quarters Khyber Pakhtunkhwa Peshawar.

... (Respondents)

APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974, AGAINST THE ORDER DATED 10.02.2016 WHERE BY THE APPELLANT HAS BEEN AWARDED MAJOR PUNISHMENT OF REMOVAL FROM SERVICE AGAINST WHICH HIS DEPARTMENTAL APPEAL HAS ALSO BEEN REJECTED VIDE ORDER DATED 29.01.2016 COMMUNICATED TO THE APPELLANT ON 05.02.2016

Mr. Yasir Saleem Advocate

Mr. Muhammad Jan, Deputy District Attorney

... For Appellant

... For Respondents

MR. MUHAMMAD AMIN KHAN KUNDI
MR. MUHAMMAD HAMID MUGHAL

MEMBER (JUDICIAL)
MEMBER (JUDICIAL)

JUDGMENT

MUHAMMAD AMIN KUNDI, MEMBER: Learned counsel for the

appellant and Mr. Muhammad Jan, Deputy District Attorney for the official

respondents also present. Arguments heard and record perused

ALTESTED

EXAMINED
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

2. Brief fact of the case as per present appeal, are that the appellant was serving in police department as Constable. During service he was imposed major penalty of removal from service Vide Order dated 10.02.2012 on the allegation of absence the appellant filed departmental appeal, which was rejected on 29.01.2016 hence the present service appeal on 29.02.2016

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

4. Counsel for the appellant contended that the appellant was serving in Police department it was further contended that during service the appellant applied for Ex-Pakistan Leave for a period of two years and the appellant was verbally assured that his leave may be sanctioned. It was further contended that the appellant was never informed regarding departmental proceeding. It was further contended that the appellant has more than fifteen (15) years service in his credit but the appellant was imposed major penalty of removal from service and his on aforesaid service was not considered by the respondent. It was further contended that the impugned penalty of removal from service is very harsh. Therefore prayed for lenient view of compulsory retirement.

7.8.14

5. On the other hand learned Deputy District Attorney opposed on the contention of the learned counsel for the appellant and contended that the appellant was serving in police department. It was further contended that the appellant remained absent from duty. It was further contended that proper inquiry was conducted against the appellant and the inquiry

ATTESTED

[Signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

[Signature]

officer has recommended major penalty of removal from service, therefore the competent authority has rightly imposed major penalty of removal from service and prayed for dismissal of appeal.

6. Perused of the record reveals that the appellant was serving in Police department, the record further reveals that the appellant remained absent from duty during service and proceeded abroad. Therefore departmental proceeding was initiated against him and he was imposed major penalty of removal from service. Admittedly the appellant has more than 15 years service in his credit but the respondent department has not considered the aforesaid service of the appellant at the time of impugned order. Therefore the purpose of safe administration of justice the major penalty of removal from service appears to be harsh. As such we partially accept the appeal and convert major penalty of removal from service into compulsory retirement from the date of issuance of impugned order i.e. w.e.f. 10.02.2012. The absence period be treated as unauthorized absence without pay. Parties are left to bear their own costs. File be consigned to the record room after completion.

ANNOUNCED

07.08.2018

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

(MUHAMMAD HAMID MUGHAL)
MEMBER

(MUHAMMAD AMIN KUNDI)
MEMBER

Date of Presentation of Application	12.02
Number of Words	8.00
Copying Fee	2.00
Urgent	10.00
Total	
Name of Copyist	04-09-18
Date of Completion of Copy	04-09-18
Date of Delivery of Copy	

POWER OF ATTORNEY

In the Court of Khyber Pakhtunkhwa Service Tribunal Peshawar
Sudheer Khan

} For
} Plaintiff
} Appellant
} Petitioner
} Complainant

VERSUS

To P.P.O and others

} Defendant
} Respondent
} Accused
}

Appeal/Revision/Suit/Application/Petition/Case No. _____ of _____

Fixed for _____

I/We, the undersigned, do hereby nominate and appoint

YASIR SALEEM ADVOCATE HIGH COURT &

JAWAD UR REHMAN ADVOCATE my true and lawful attorney, for me in my same and on my behalf to appear at Peshawar to appear, plead, act and answer in the above Court or any Court to which the business is transferred in the above matter and is agreed to sign and file petitions. An appeal, statements, accounts, exhibits. Compromises or other documents whatsoever, in connection with the said matter or any matter arising there from and also to apply for and receive all documents or copies of documents, depositions etc, and to apply for and issue summons and other writs or sub-poena and to apply for and get issued and arrest, attachment or other executions, warrants or order and to conduct any proceeding that may arise there out; and to apply for and receive payment of any or all sums or submit for the above matter to arbitration, and to employ any other Legal Practitioner authorizing him to exercise the power and authorizes hereby conferred on the Advocate wherever he may think fit to do so, any other lawyer may be appointed by my said counsel to conduct the case who shall have the same powers.

AND to all acts legally necessary to manage and conduct the said case in all respects, whether herein specified or not, as may be proper and expedient.

AND I/we hereby agree to ratify and confirm all lawful acts done on my/our behalf under or by virtue of this power or of the usual practice in such matter.

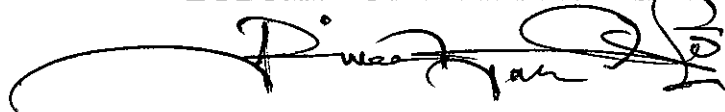
PROVIDED always, that I/we undertake at time of calling of the case by the Court/my authorized agent shall inform the Advocate and make him appear in Court, if the case may be dismissed in default, if it be proceeded ex-parte the said counsel shall not be held responsible for the same. All costs awarded in favour shall be the right of the counsel or his nominee, and if awarded against shall be payable by me/us

IN WITNESS whereof I/we have hereto signed at _____
the _____ day to _____ the year _____

Executant/Executants _____

Accepted subject to the terms regarding fee _____

YASIR SALEEM ADVOCATE



JAWAD-UR-REHMAN ADVOCATE