

E.P. No. 219/19, Alamzeb vs Govt

02.09.2019

Counsel for the petitioner and Mr. Usman Ghani District Attorney alongwith Fayaz Khan H.C for the respondents present.

The representative of respondents states that an application for early hearing has been moved before the Apex Court on 22.08.2019, however, the CPLA has not yet been fixed for hearing.

On the next date of hearing the respondents shall either produce any order of Apex Court requiring suspension of judgment under implementation or its setting aside altogether or the implementation *report*.

Adjourned to 30.09.2019 before S.B.

  
Chairman

30.09.2019

Petitioner in person and Addl. AG alongwith Fayaz Khan, Reader for the respondents present.

The representative of the respondents has produced copy of order dated 16.09.2019 passed by the Apex Court whereby, inter-alia, the operation of judgment under implementation has been suspended.

In the circumstances the proceedings in hand are consigned to record. The petitioner may apply for restoration after decision of appeal by the Apex Court.

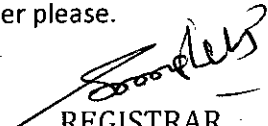
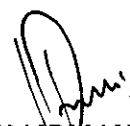


Chairman 

Form- A

FORM OF ORDER SHEET

Court of \_\_\_\_\_

Execution Petition No. 219/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	20.5.2019	<p>The execution petition of Mr. Alam Zeb 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</p>
2-	21/05/19.	<p>This execution petition be put up before S. Bench on <u>14/06/19</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
14.06.2019		<p>None present on behalf of the petitioner. Notice be issued to the respondents as well as petitioner for 12.07.2019 before S.B.</p> <p style="text-align: right;"> (MUHAMMAD AMIN KHAN KUNDI) MEMBER</p>
12.07.2019		<p>Counsel for the petitioner and Addl: AG alongwith Mr. Wisal, Inspector for respondents present. Implementation report not submitted. Representative of the respondents seeks time to submit the same. Case to come up for further proceedings on 02.09.2019 before S.B.</p> <p style="text-align: right;"> (Ahmad Hassan) Member</p>

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



Execution petition No. 219 /2019  
In Service Appeal No.641/2016

Alam Zeb S/O Farid Gul R/O Mohalla Afzal Abad Nowshera City,  
Tehsil & District Nowshera.

**PETITIONER**

**VERSUS**

1. Government of Khyber Pakhtunkhwa through Chief secretary Khyber Pakhtunkhwa.
2. The Provincial Police officer, (IGP) Khyber Pakhtunkhwa, Peshawar.
3. Deputy Inspector General of Police, Mardan Region, Mardan.
4. District Police Officer, Nowshera.

**RESPONDENTS**


.....  
**EXECUTION PETITION FOR DIRECTING THE  
RESPONDENTS TO IMPLEMENT THE  
JUDGMENT DATED 09.01.2019 OF THIS  
HONOURABLE SERVICE TRIBUNAL IN  
LETTER AND SPIRIT.**  
.....

**RESPECTFULLY SHEWETH:**

1. That the petitioner has filed an appeal bearing No.641/2016 in this august Service Tribunal against the impugned order dated 17.03.2015 whereby the petitioner was dismissed from service and against the order dated 05.06.2015, whereby the departmental appeal of the petitioner has been rejected.
2. That the said appeal was finally heard on 09.01.2019 and the Honourable Tribunal was kind enough to partially accept the appeal and penalty of dismissal from service was modified and converted into stoppage of three (03) annual increments for five (05) years and the petitioner was reinstated into service. **(Copy of judgment dated 09.01.2019 is attached as Annexure-A)**



- A
3. That the petitioner has also filed application for reinstatement in the light of judgment dated 09.01.2019 of this Honourable Tribunal, but the respondents did not reinstate the petitioner till date.
  4. That since the announcement of the judgment, the petitioner has waited for more than four (04), but the respondents has not taken action on the judgment dated 09.01.2019 till date.
  5. 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.
  6. 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.
  7. That the petitioner has having no other remedy except to file this execution petition for Implementation of judgment dated 09.01.2019 of this august Service Tribunal.

It is, therefore, most humbly prayed that the respondents may be directed to implement the judgment dated 09.01.2019 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.

**PETITIONER**  
THROUGH:   
**(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**



Sr. No	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
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1	2	3
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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Appeal No. 641/2016

Date of Institution ... 10.06.2016  
Date of Decision ... 09.01.2019

Alam Zeb S/o Farid Gul Resident of Mohalla Afzal Abad  
Nowshera City, Tehsil & District Nowshera.

-----Appellant

1. Govt. of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa.
2. The Provincial Police Officer, (Inspector General of Police) Khyber Pakhtunkhwa Peshawar.
3. Deputy Inspector General of Police Mardan Region Mardan I Mardan.
4. District Police Officer, Nowshera.

-----Respondents

Mr. Muhammad Hamid Mughal.....Member  
Mr. Hussain Shah.....Member

09.01.2019

JUDGMENT

HUSSAIN SHAH, MEMBER: - Learned counsel for the

appellant and Mr. Muhammad Jan learned Deputy District Attorney on behalf of the respondents present.

2. The appellant served in police department as a constable since year 2009. On the charge of absence from duty for two months and 22 days the respondent No. 4 dismissed the appellant from service on 17.03.2015 w.e.f. 26.12.2014. His departmental appeal against the order of dismissal from service was rejected on 05.06.2015. His appeals to respondent No. 2 was also rejected on the ground that the appellant was habitual absentee as well as on the

**ATTESTED**

**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar



7. As a sequel to above a penalty of dismissal from service is modified and converted into stoppage of three (03) annual increments for five (05) years. Resultantly the appellant is re-instated into service. The absence period and intervening period shall be treated as leave without pay. The present service appeal is partially accepted in the above terms. Parties are left to bear their own costs. File be consigned to the record room.

(Muhammad Hamid Mughal)  
Member

(Hussain Shah)  
Member

ANNOUNCED  
09.01.2019

**Certified to be true copy**

  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Date of Presentation of

Number of Wards

Copying Fee

Urgent

Total

Name of C.O.

Date of Payment

Date of Presentation

1600

10.00

10.00

09-01-19

22-2-19

22-2-19

بعدالت

سروس ٹریڈ ہونل لیکچر

عالمز صیغہ منجانب  
عالمز صیغہ منجانب  
عالمز صیغہ منجانب

مورخہ

مقدمہ

دعویٰ

جرم

## باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ  
آن مقام لیکچر کے لیے، سموریل اور اسد محمود اور سروس  
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز  
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق  
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی  
اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت  
مقدمہ مذکور 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 بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے  
اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے  
سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں  
گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھد یا کہ سندر ہے۔

Attested  
&  
Accepted  
Date

20

ماہ

المرقوم

العبد العبد العبد

کے لئے منظور ہے۔

Signature

مقام



**SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

76119

**PRESENT:**

Mr. Justice Gulzar Ahmed  
Mr. Justice Sajjad Ali Shah  
Mr. Justice Munib Akhtar

**C.P.No.275-P of 2019**

[On appeal against the Judgment dated 09.01.2019 passed by the Khyber Pakhtunkhwa Service Tribunal, in Appeal No.641 of 2016]

**Govt. of KP through Chief Secretary,  
Peshawar & others.**

...Petitioner (s)

**Versus**

**Alamzeb Khan.**

...Respondent(s)

For the Petitioner (s) : Barrister Qasim Wadood, Addl.A.G  
Mr. Ijaz Hussain, Inspector Legal

For the Respondent(s) : N.R.

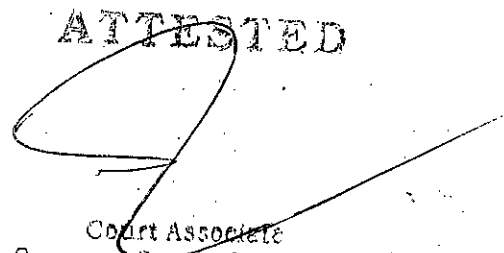
Date of Hearing : 16.09.2019

**ORDER**

**GULZAR AHMED, J.**— It is contended by the learned Additional Advocate General that absence of 2 month 22 days of the respondent was admitted and that justification for such absence raised by him is of sciatica problem, which was never made a ground by him in that neither he has submitted reply to the show-cause notice nor appeared in the enquiry. It is noted before the Service Tribunal that such a ground was raised and the Tribunal modified the penalty of dismissal from service to stoppage of annual three increments for five years. He further contends that such modification of penalty was not justified in view of the clear-cut admission of the respondent, who belonged to a disciplinary post and thus the penalty imposed by the petitioner was legal and justifiable.

2. Leave to appeal is granted to consider, *inter alia*, the above submissions of the learned Addl.A.G. The appeal will be heard on the available record with permission to parties to file additional documents, if any, within a period of one month. As it

**ATTESTED**

  
Court Associate  
Supreme Court of Pakistan  
Islamabad

is a service matter, the office is directed to fix the same immediately after three months.

**CMA No.670-P of 2019**

Meanwhile, operation of the impugned Judgment dated 09.01.2019 shall remain suspended.

Sd/-J

Sd/-J

Sd/-J

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Court Associate  
Supreme Court of Pakistan  
Islamabad



566-P/19

GR No: \_\_\_\_\_ Civil/Criminal

Date of Filing: 17-8-19

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Court Fee Sec: \_\_\_\_\_

Date of Commencement: 24/9/2019

Date of Completion: 20/8/19

Compared by: \_\_\_\_\_

Received by: \_\_\_\_\_