

14.10.2021

Petitioner in person present. Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Fayaz, H.C for respondents present.

Implementation report not submitted. Representative of the respondents seeks time to submit implementation report on the next date. Granted. To come up for further proceedings before the S.B on 13.12.2021.


(MIAN MUHAMMAD)
MEMBER (E)

13.12.2021

Petitioner in person present. Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Fayaz, H.C for respondents present.

Learned AAG produced copy of order dated 29.09.2021 which is placed on file. Petitioner requested for withdrawal of the instant execution petition and does not want to further pursue his case, therefore, the instant execution petition is hereby withdrawn being executed. File be consigned to the record room.

Announced:
13.12.2021


(Mian Muhammad)
Member (E)




by approval on 29.04.2009 but formal sanction order was not issued. Subsequently he was retired from service on 01.08.2009. According to Rule 14 of Civil Servants Revised Leave Rules, 1981, a civil servant is entitled for grant of LPR for 365 days. Rule 20 of the ibid rules provides for encashment of LPR. So as, where a civil servant opts not to avail the LPR admissible to him under Rule 14, he shall be allowed leave salary for the period for which LPR is admissible subject to maximum of 365 days. When petitioner was asked whether he was paid any sum in lieu of leave encashment, he answered in negative. If so, it seems that the leave encashment in favour of the petitioner was withheld may be due to the confusion that he had applied for LPR. However, it is an admitted position that despite approval of the LPR he could not avail the same and was retired on 01.08.2009 after approval of the LPR on 29.04.2009 awaiting the formal sanction order. Irrespective of the fact that the petitioner had applied for LPR but when he could not avail the same for the reason beyond his control, he had become entitled to leave encashment within the meaning of Rule 20 of Revised Leave Rules, 1981. If the department has so far not made payment of LPR to the petitioner, they are directed to make payment of due sum in lieu of encashment to the petitioner. To come up for implementation report on 14.10.2021 before S.B. Copy of this order shall be issued to the respondents in the main appeal.


Chairman

FORM OF ORDER SHEET

Court of _____

Execution Petition No. 114 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	07.06.2021	<p>The Execution Petition of Mr. Liaqat Ali resubmitted by him 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-		<p>This Execution Petition be put up before S. Bench on <u>02/07/21</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	02.07.2021	<p>Notices be issued to petitioner as well as respondents. To come up for implementation report on 12.08.2021 before S.B.</p> <p style="text-align: right;"> Chairman</p>
	12.08.2021	<p>Petitioner in person and Mr. Kabirullah Khattak, Addl AG alongwith Fayaz H.C for the respondents present.</p> <p>According to the judgment dated 04.05.2017 in Service Appeal No. 615/2013 at credit of the petitioner, it is there in the said judgment that case for grant of LPR to the petitioner then appellatant was processed followed</p>

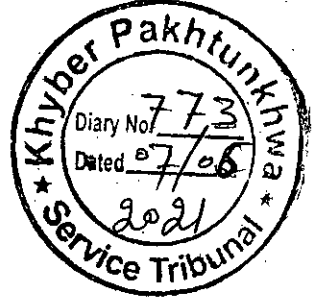
بعدالت جناب چیئر مین صاحب سروسز ٹریبونل خیبر پختونخواہ پشاور

سروس اپیل نمبر 615 سال 2013
احمد علی 11/6/2021

لیاقت علی نمبر 155-Ex-155 کنسٹیبل محکمہ پولیس نوشہرہ

بنام حکومت خیبر پختونخواہ

بوساطت انسپکٹر جنرل پولیس وغیرہ



عنوان:- درخواست برآمد عمل درآمد بہ فیصلہ سروس ٹریبونل مورخہ 4 مئی 2017 لف ہے۔

جناب عالی!

سائل حسب ذیل عرض رساں ہے۔

- 1- یہ کہ عدالت حضور نے سائل کے حق میں مذکورہ فیصلہ صادر فرمایا تھا۔
 - 2- یہ کہ سائل نے کئی بار افسران بالا کو درخواستیں کیں کہ مذکورہ فیصلہ پر عمل درآمد فرمائی جاویں لیکن معاملہ ابھی تک جوں کاتوں ہے۔
 - 3- یہ کہ مجبور ہو کر عدالت حضور میں درخواست دینا پڑا۔
- لہذا عدالت حضور سے درخواست ہے کہ متعلقہ محکمہ کے افسران بالا مذکورہ فیصلہ پر عمل درآمد کرنے کا حکم صادر فرماویں۔

المرقوم: 7 جون 2021

لیاقت علی نمبر 155-EX-HC

ولد فضل کریم سکنہ بہلولہ پایان

تحصیل و ضلع چارسدہ

BEFORE THE CHAIRMAN SERVICE TRIBUNAL, KHYBER PESHAWAR.



D.W. F. P. No. 615
Date: 21-4-2013

Appeal NO. 615 /2013.

Miaqat Ali Ex. Head Constable NO. 155, District Office, Charsadda

Presently R/O Village Bahloola, Tehsil and District Charsadda. Appellant

Versus.

1. The Govt: of KPK, Peshawar. *Through: D. C. P. P. K. Peshawar*
2. The C.C.P.O. Peshawar.
3. The DPO, Charsadda.
4. The DPO, Nowshera..... Respondents

Appeal to this effect that the respondents be directed to pay the L.P.R. amount to the appellant as per pay Roll of the Department already allowed by respondent NO. 2 through letter NO: 6252/EC-1 dated Peshawar the 6-05-2009 in favour of the appellant.

Respectfully Sheweth:-

1. That the appellant was appointed as Constable in Police Department on 01 January 1984 in the year. Dated 20.04.2009 the appellant submitted an application to District Police Officer respondent NO. 3 under which request for L.P.R. was made ~~was~~ by the appellant. Second application on 28/04/2009 was submitted for the said request of L.P.R. (Copy attached).

That both the applications of the appellant were proceed by respondent NO. 3 and were sent to the office of respondent NO. 2 for onward proceedings.

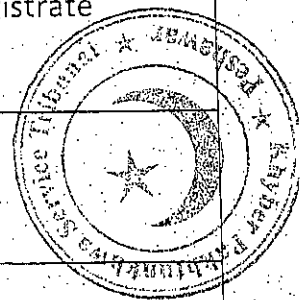
ac-submitted to ~~the~~ and filed.

11/4/2013

21/4/13

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar



Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	04.05.2017	<p style="text-align: center;"><u>BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR</u></p> <p style="text-align: center;">Service Appeal No. 615/2013</p> <p style="text-align: center;">Mr. Liaqat Ali, Ex-Head Constable Versus Govt: of Khyber Pakhtunkhwa through I.G.P. Peshawar and others.</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>AHMAD HASSAN, MEMBER:-</u> Counsel for the appellant and Mr. Ziaullah, Government Pleader for respondents present.</p> <p>2. Mr. Liaqat Ali, Ex-Head Constable, hereinafter referred to as the appellant has preferred the instant appeal under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 06.05.2009.</p> <p>3. Brief facts of the case giving rise to the instant appeal are that the appellant joined the Police Department as Constable on 05.01.1984. Through an letter dated 20.04.2009 and 28.04.2009 his application was forwarded by the CCPO Peshawar to District Police Charsadda on 06.05.2009. The case was processed by the respondent and 365 days L.P.R was sanctioned w.e.f 29.04.2009 but formal order was not issued by the respondents. However, the appellant was retired from service on 01.08.2009 on reaching age of superannuation vide order dated 27.07.2009. He preferred departmental appeal which was not decided within the stipulated period, hence the instant service appeal on 01.04.2013.</p>

ATTESTED

[Signature]

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

4. Learned Counsel for the appellant argued that he applied for grant of L.P.R in time vide application dated 20.04.2009 and 28.04.2009. The word "pension" was not mentioned in the original applications but was added through tampering/manipulation. His case was processed on file by the respondent and approval was accorded on 29.04.2009 but formal sanction order was not issued. Subsequently on reaching the age of superannuation he was retired from service on 01.08.2009. Due to negligence of the respondents the appellant suffered financial loss to the tune 2,53,704. According to Leave Rule-18 of Revised Leave Rules, 1980, ordinarily, L.P.R shall not be refused.

5. Learned Counsel for the respondents argued that the appellant had submitted application for grant of L.P.R to the District Police Officer, Charsadda thereafter he was transferred from Charsadda to District Nowshera on 05.05.2009. Respondent No. 4 after observing all codal formalities issued retirement order of the appellant vide order dated 27.07.2009 which is now a closed and past transaction. The appeal being devoid of any merit be dismissed.

6. Arguments of learned counsel for the parties heard and record perused with their assistance.

7. Having gone through the record, it transpired that the appellant submitted two applications for grant of L.P.R of 365 days w.e.f 29.4.2009, which was duly sanctioned by the respondents on 29.04.2009. However, proper sanction order was not issued. On reaching the age of superannuation, he was retired from service w.e.f 1.8.2009. Moreover the word "pension" was added in his application through tampering /manipulation and also malafide intentions. The appellant was deprived of his legitimate right in accordance with Rule-18 of Revised Leave rules 1980. Resultantly he also suffered recurring financial loss

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

due to negligence of the respondents.

8. In view of the fore-going we are constrained to accept the instant appeal and direct the respondents to grant of L.P.R to the appellant from the due date, alongwith other consequential monetary benefits for which he was otherwise entitled. Parties are left to bear their own costs. File be consigned to the record room.

Announced
04-05-2017 *sd/-Ahmed Hassan,*
Member

Certified true copy
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

sd/-Gulzar Khan,
Member

Date of Presentation of Application 04-05-17
Number of Words 1600
Copying Fee 10/-
Urgent
Total 10/-
Name of Copyist [Signature]
Date of Completion of Copy 11-05-17
Date of Delivery of Copy 11-05-17

**OFFICE OF THE
DISTRICT POLICE OFFICER,
NOWSHERA**

2021

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

ORDER

Head Constable Liaqat Ali No. 155 was allowed to retire on pension with effect from 01-08-2009, after his service verification by DAO Nowshera vide his letter No. DAO/NSR/2009-10/Pension/204, dated 25-07-2009, however, Head Constable Liaqat Ali moved service appeal No. 615/2013 before the Khyber Pakhtunkhwa, Service Tribunal, Peshawar with the prayer that his application for grant of 365 days LPR was allowed by worthy Capital City Police Officer, Peshawar vide No. 6252/EC-I, dated 06.05.2009, but he was not granted LPR rather was retired from service.

The Honourable Tribunal vide judgement dated 04-05-2017, accepted the appeal and directed the respondent to grant LPR to the appellant from the due date alongwith other consequential monetary benefits for which he was otherwise entitled. Against the order of Honourable Tribunal, CPLA has been moved before the august Supreme Court of Pakistan which is pending.

Head Constable Liaqat Ali moved Execution Petition vide No. 114/2021 before the Honourable Tribunal and the Honourable Tribunal vide order dated 12-08-2021, directed to come up for implementation report on 14-10-2021.

Hence, in compliance with the order of Honourable Tribunal, Head Constable Liaqat Ali No. 115 is hereby granted 365 days LPR with effect from 01-08-2009.

This order will be subject to the outcome of CPLA.

OB 997
Dt 29-09-2021

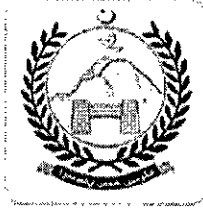
District Police Officer
Nowshera

OFFICE OF THE DISTRICT POLICE OFFICER, NOWSHERA

No 11361-69 /EC, Dated Nowshera the 01-10 /2021.

Copy to the:-

1. Deputy Inspector General of Police, Mardan Region-1 Mardan.
2. Superintendent of Police Investigation Nowshera.
3. DSP HQrs Nowshera.
4. District Account Officer, Nowshera.
5. Accountant.
6. Pension Clerk.
7. OHC.
8. FMC.
9. OHC.



**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No. 1659-62/ST

Dated: 25/08 /2021

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262


To

1. The Inspector General of Police,
Government of Khyber Pakhtunkhwa,
Peshawar .
2. Capital City Police Officer,
Government of Khyber Pakhtunkhwa,
Peshawar.
3. District Police Officer,
Government of Khyber Pakhtunkhwa,
Charsada.
4. District Police Officer,
Government of Khyber Pakhtunkhwa,
Newshehra.

Subject: ORDER IN EXECUTION PETITION NO. 114/2021 MR. LIAQAT ALI.

I am directed to forward herewith a certified copy of order dated 12.08.2021 passed by this Tribunal on the above subject for compliance please.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR