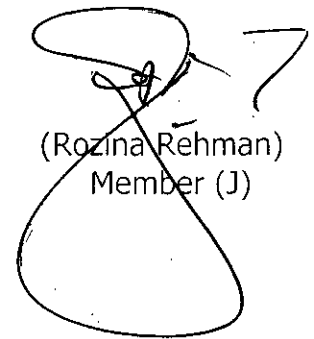


20.01.2021

Petitioner present through counsel.

Noor Zaman Khattak learned District Attorney present. Zafar Ullah Khan Inspector representative of D.P.O present and produced copy of order passed by the Apex Court whereby Leave to Appeal was granted and operation of the impugned judgment dated 21.05.2019 was suspended.

In view of the above, instant petition stands adjourned sine die till the decision by the Apex Court. The petitioner would be at liberty to seek its restoration after the decision by the Apex Court. File be consigned to the record room.



(Rozina Rehman)  
Member (J)

07.10.2020

Petitioner in person and Addl. AG for the respondents present.

On the last date a detailed order was issued by this Tribunal. Despite, the needful has not been done till date. In the circumstances, respondent No. 3 shall be put on notice for personal appearance on 02.12.2020 alongwith relevant record.

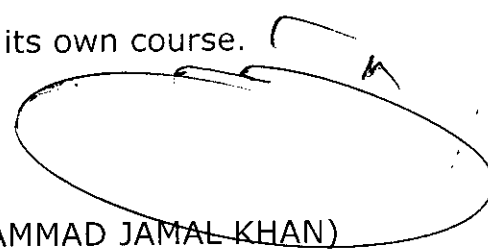
  
Chairman

02.12.2020

Petitioner in person alongwith his counsel are present. Mr. Kabirullah Khattak, Additional Advocate General and Mr. Younas Khan, ASI, for the respondents are also present.

Representative of the department furnished copy of application for early hearing of CPLA filed before the Hon'ble Supreme Court of Pakistan by the respondents. Application is placed on file.

Vide previous order sheet dated 07.10.2020 respondent No. 3 was issued notice for personal appearance for today however, respondent is not present today, therefore, final notice be issued to respondent No. 3 for personal appearance on 20.01.2021 otherwise the law shall take its own course.

  
(MUHAMMAD JAMAL KHAN)  
MEMBER (JUDICIAL)

EP 282/19

03.09.2020

Petitioner with counsel and Addl. AG alongwith Javed Iqbal, Inspector for the respondents present.

The representative of respondents has produced copy of order dated 19.05.2020, whereby, the petitioner has been reinstated into service but without back benefits and also conditional to the outcome of CPLA.

On the other hand, through the judgment the appeal of petitioner was allowed as prayed for in the memorandum. The prayer part of the appeal contained the following:-


*"In view of the above, it is most humbly requested that by accepting this appeal the impugned dismissal orders dated 25.01.2017 and refusal order dated 09.03.2017, may kindly be set aside and the respondent department may be directed to re-instate the appellant in service with all the benefits of continuous service.*

*Any other relief deemed appropriate may also be granted."*

It is crystal clear that disallowing back benefits to the petitioner and his reinstatement in service w.e.f. 19.05.2020 is in disregard to the judgment of this Tribunal. The respondents had also failed to bring forth any order/judgment of the Apex Court suspending the operation of judgment under implementation or setting it aside altogether.

In the circumstances, the respondents are obligated to allow back benefits and reinstatement of petitioner from the date he was dismissed from service. The needful shall be done forthwith and a fresh order be issued before the next date of hearing, failing which, punitive action will be initiated against the defaulting official(s) in accordance with law.

Adjourned for the purpose to 07.10.2020 before S.B.

  
Chairman

08.07.2020

Petitioner with counsel present.

Mr. Usman Ghani learned District Attorney for the respondents present.

It was on 28.01.2020 when the respondents were directed by this Tribunal to submit conditional order regarding implementation of judgment of this Tribunal subject to the outcome of decision of the August Supreme Court of Pakistan but till today, no report was submitted. Notice be issued to all the respondents with strict direction to submit conditional order and make sure presence of officer not below Grade-17, for 03.09.2020 before S:B.



Member (J)

28.01.2020

Petitioner in person present. Javid Iqbal Inspector representative of the respondent department present and submitted reply. Allegedly the respondents have challenged the judgment of this Tribunal under implementation before august Supreme Court of Pakistan by filing CPLA. The respondents are directed to issue conditional order in relation to implementation of judgment of this Tribunal subject to the outcome of decision of august Supreme Court of Pakistan in CPLA. Adjourn. To come up for further proceedings/implementation report on 10.03.2020 before S.B.

  
Member

10.03.2020

Petitioner alongwith his counsel and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Javed Iqbal, Inspector for the respondents present. Learned Additional AG seeks further time to furnish implementation report. Adjourned to 14.04.2020 for implementation report before S.B.

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

14.04.2020

Due to public holiday on account of COVID-19, the case is adjourned to 08.07.2020 for the same. To come up for the same as before S.B.

  
Reader

07.10.2019

Petitioner in person and Addl. AG alongwith Samin Iqbal, Inspector for the respondents present.

The representative of respondents requests for some more time to furnish the implementation report. Instant proceedings are adjourned to 04.11.2019 on which date the requisite report shall positively be submitted.

  
Chairman

04.11.2019

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

Learned AAG undertakes to instruct the respondents for furnishing the implementation report on next date of hearing. Adjourned to 16.12.2019 before S.B.

Order accordingly.

  
Chairman

16.12.2019

Petitioner in person and Addl. AG for the respondents present.

Once again no representative of respondents is available today to apprise the Tribunal regarding proceedings towards implementation. Notice be issued to respondents for submission of implementation report on next date of hearing.

Adjourned to 28.01.2020 before S.B.



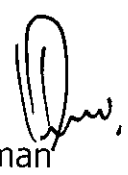
  
Chairman

*AGY Reports*

# FORM OF ORDER SHEET

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

Execution Petition No. 282/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	23/07/2019	<p style="text-align: center;">The Execution Petition submitted by Muhammad Zaman may be entered in the relevant Register and put up to the Court for proper order please.</p> <div style="text-align: right;">                       REGISTRAR                 </div> <p style="text-align: center;">This Execution Petition be put up before S. Bench on <u>12-9-2019</u></p> <div style="text-align: right;">                       CHAIRMAN                 </div>
2-	12.09.2019	<p>Counsel for the petitioner present.</p> <p>Notices to respondents be issued for submission of implementation report on 07.10.2019 before S.B.</p> <div style="text-align: right;">                       Chairman                 </div>

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

Petition No. 282 / 2019  
in  
Service Appeal No. 284 / 2017

Muhammad Zaman,  
Ex-Constable No. 598,,  
Laki District Police, Laki Marwat Khyber Pakhtunkhwa

..... Petitioner

**V E R S U S**

1. Inspector General of Police,  
Government of Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Bannu Region, Bannu.
3. District Police Officer, Laki Marwat.

..... Respondents

**I N D E X**

S.No	Particulars	Annexure	Dates	Pages
1	Memo of Petition			1-2
2	Judgment		21-05-2019	3-9
3	Vakalatnama			10

  
**(Ansar Ullah Khan)**  
Advocate, High Court Peshawar

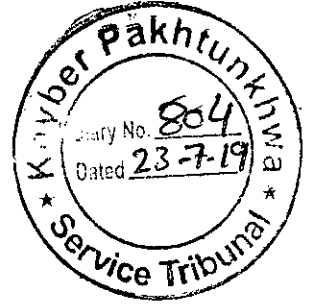
Date:- 21 July 2019



①

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

Petition No. 282 / 2019  
in  
Service Appeal No. 284 / 2017



Muhammad Zaman,  
Ex-Constable No. 598,,  
Laki District Police, Laki Marwat Khyber Pakhtunkhwa

..... Petitioner

**VERSUS**

1. Inspector General of Police,  
Government of Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Bannu Region, Bannu.
3. District Police Officer, Laki Marwat. .... Respondents

=====  
**PETITION FOR IMPLIMENTATION OF DECISION DATED 21-05-2019**  
=====

**Respectfully Sheweth**


1. The petitioner had filed a service appeal 284 / 2017 before this Hon'ble Tribunal as under;
  - (a) By accepting this appeal and setting aside the impugned dismissal order dated 25-01-2017 and impugned order dated 09-03-2017, whereby the departmental appeal of the appellant was refused.
  - (b) directing the respondent department to re-instate the appellant in service with all the benefits of continuous service.
2. The Hon'ble Tribunal vide judgment and order dated 21-05-2019 had directed the respondents as under;
  6. For what has been discussed above, we consider it appropriate to allow the appeal as prayed for in its memorandum. Order accordingly.

Announced:  
18-12-2017

(Copy annexed)


3. The department was required to reinstate the petitioner in service in accordance with the judgment and order of this Tribunal dated 21-05-2019, which has not been done till date. Hence the present petition.

It is, therefore, most humbly requested that by accepting this petition, the Respondent Department may be implement the judgment dated 21-05-2019 by reinstating the petitioner in service with all the back / consequential benefits.

  
Petitioner,


Through,

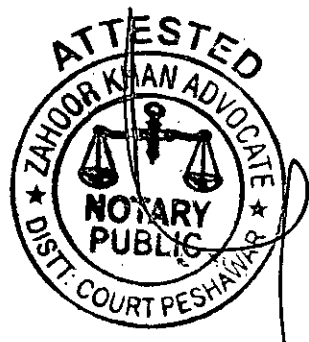
Peshawar, dated  
21 July, 2019

  
(Ansar Ullah Khan)  
Advocate

**Affidavit**

I, the petitioner, state on Oath that contents of the above petition are true and correct to the best of my knowledge and belief, and nothing has been kept concealed from this Hon'ble Tribunal.

  
DEPONENT



23 JUL 2019

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



Service Appeal No. 284 /2017

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 292

Dated 28/3/2017

Muhammad Zaman,  
Ex-Constable No. 598,,  
Laki District Police, Laki Marwat Khyber Pakhtunkhwa

..... Appellant

**Versus**

1. Inspector General of Police,  
Government of Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Bannu Region, Bannu.
3. District Police Officer, Laki Marwat..

..... Respondents

=====

**SERVICE APPEAL U/S 4 OF NWFP SERVICE TRIBUNAL ACT, 1974,  
AGAINST THE APPELLANT'S DISMISSAL FROM HIS SERVICE VIDE  
ORDER DATED 25-01-2017(ANNEX-A) AND ORDER DATED 09-03-2017,  
WHEREBY DEPARTMENTAL APPEAL OF THE APPELLANT WAS  
REFUSED (ANNEX-B).**

=====

**"Prayer"**

**ATTESTED**  
Filed today  
*[Signature]*  
Registrar  
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

- (a) By accepting this appeal and setting aside the impugned dismissal order dated 25-01-2017 and impugned order dated 09-03-2017, whereby the departmental appeal of the appellant was refused.
- (b) directing the respondent department to re-instate the appellant in service with all the benefits of continuous service.

=====

Respectfully Sheweth,

1. The appellant was initially appointed as Constable on 27-05-2007 and has been serving the department honestly and diligently to the utmost satisfaction of his superiors.
2. That while serving as Constable at Laki Marwat, a false and frivolous FIR No. 1207 dated 02-10-2016 P.S Bahana Marri Peshawar u/s 15/17AA was registered against him. The appellant was arrested and was then released on bail vide order dated 07-10-2016 by the learned Judge-I / JSC. (Copies annexed "C" & "D")

4

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 284/2017

Date of Institution ... 28.03.2017

Date of Decision ... 21.05.2019



Muhammad Zaman, Ex-Constable No. 598, District Police Lakki Marwat.  
... (Appellant)

VERSUS

The Inspector General of Police, Government of Khyber Pakhtunkhwa, Peshawar  
and two others. ... (Respondents)

Present.

Mr. Muhammad Zafar Tahirkheli,  
Advocate. ... For appellant

Mr. Muhammad Riaz Paindakhel,  
Asstt. Advocate General ... For respondents.

MR. HAMID FAROOQ DURRANI, ... CHAIRMAN  
MR. HUSSAIN SHAH, ... MEMBER

**ATTESTED**

JUDGMENT

HAMID FAROOQ DURRANI, CHAIRMAN:-

**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

The facts, as gatherable from memorandum of appeal, are that the appellant was appointed as Constable in the Police Department of Khyber Pakhtunkhwa on 27.05.2007. During his posting at Lakki Marwat an FIR was recorded vide No. 1207 dated 02.10.2016 at P.S Bhana Mari Peshawar u/s 15/17-AA. In the reported crime it was alleged that the appellant was transporting a huge number of arms and ammunition while was intercepted by the local police. The incriminating articles comprising 40 pistols 30 bore, Kalashnikov rifles and 24000 live rounds etc. were recovered from the vehicle driven by the appellant who was arrested on the spot. Departmental proceedings were initiated and charge sheet coupled with statement of allegations dated 19.10.2016 was served upon the appellant. A written reply

was submitted by him, however, the proceedings continued and DSP Headquarters Lakki Marwat was appointed as Enquiry Officer. The report of enquiry was submitted on 21.12.2016 which was followed by a final show cause notice dated 09.01.2017. The appellant replied to the show cause notice as well, however, it was not found satisfactory and order dated 24.01.2017 was passed by DPO Lakki Marwat/respondent No. 3, against the appellant. He was awarded major punishment of dismissal from service from the date of his suspension. A departmental appeal was preferred by the appellant which was filed on 09.03.2017 by the Regional Police Officer, Bannu Region, Bannu/respondent No. 2, hence the appeal in hand.

2. We have heard learned counsel for the appellant as well as learned Asstt. A.G on behalf of the respondents and have also gone through the available record.

It was the argument of learned counsel for the appellant that the impugned order dated 24.01.2017 was itself void having been given retrospective effect, therefore, the same was not sustainable. He further contended that the criminal trial ensuing FIR dated 02.10.2016 began before the court of competent jurisdiction and resulted in acquittal of the appellant on 15.11.2018. Due to the said fact, the basis of allegations against the appellant was dislodged, therefore too, he could not have been punished departmentally. The learned counsel relied on judgments reported as 1998-SCMR-1993 and 1998 PLC(C.S) 1430.

Learned Asstt. A.G on the other hand, referred to the contents of FIR and argued that the appellant was arrested on the spot alongwith huge consignment of arms and ammunitions which was sufficient evidence to connect him with the offence alleged against him. He further referred to the

ATTESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar



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reply of appellant, submitted with respect to statement of allegations and charge sheet, and contended that he had admitted his presence in the incriminating vehicle. In the circumstances the impugned order was rightly passed against the appellant. Learned AAG referred to the judgment reported as 2006-SCMR-554 and stated that the acquittal of appellant from criminal case was not sufficient for his exoneration in the departmental proceedings.

3. Before proceeding further it shall be useful to reproduce hereunder the allegations as contained in the relevant statement as well as the charge sheet dated 19.10.2016:-

- "1. That he Constable Muhammad Zaman No. 598 has been charged in criminal case vide FIR No. 1207 dated 02.10.2016 u/s 15-AA/17-AA P.S Bhana Mari Peshawar and arrested on the spot as evident from the source report received from Addl. Inspector General of Police, Special Branch, Khyber Pakhtunkhwa Peshawar vide his letter No. 29285-87/ID dated 03.10.2016.
2. That his Motor Car bearing registration No. 3155/LXZ has been taken in to possession by Peshawar Police & during checking 8 Kalashnikovs, 45 Nos. Pistols, 24000 Rounds and 10 Magazine were recovered from the said vehicle.
3. This all speaks amounts to norms of a discipline force and make him liable to be punished under Police Rules- 1975."

ATTESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

The contents of allegations against the appellant clearly suggest that the departmental proceedings were founded upon an offence recorded against the appellant through FIR No. 1207 dated 02.10.2016. Upon completion of investigation the matter of criminal case was brought before the learned Addl. Sessions Judge-VIII Peshawar, a Court of competent jurisdiction, on 16.09.2017. In the meanwhile, the appellant was released on bail. The record shows that the proceedings before the learned trial Court continued till 15.11.2018, on which date, the appellant was acquitted under section 265-K Cr.PC. The reason prevailing before the learned Court for acquittal was mainly that the prosecution

11/11/18

witnesses did not appear before the Court despite repeated summonses. Upon earning acquittal in his favour the appellant acquired certain valuable rights. He was to be considered to have committed no offence under the law of the land. Besides, the substratum of departmental proceedings against the appellant was gone with the acquittal.

In the above context it is worthy to note that by now the Apex Court had ruled through various judgments that the standards of proof in departmental proceedings against civil servant are distinct than those required in a criminal case. It is also well settled that the departmental proceedings against an accused civil servant can be undertaken independent of criminal proceedings/ trial against a civil servant. In the case in hand, however, during the departmental proceedings no evidence worth the name could surface which could be regarded to have connected the appellant with the offence noted in the FIR or the allegations contained in the departmental proceedings.

**ATTESTED**

**EXAMINER**  
**Khyber Pakhtunkhwa**  
**Service Tribunal,**  
**Peshawar**

4. Adverting to the contents of impugned order dated 24.01.2017, we find that the award of major penalty to the appellant was based on the enquiry report submitted by DSP Headquarter, Lakki Marwat. While referring to the report the competent authority had noted in the impugned order that the enquiry officer held the appellant to be guilty of joining hands with smugglers of arms/ammunitions involved in anti-social activities. That, the enquiry officer further recommended him for awarding major punishment. Seeing the impugned order in juxtaposition to the referred enquiry report dated 20.12.2017, it transpired that the report was either misinterpreted or misconceived by the competent authority. It was nowhere recorded in the report that the appellant had joined hands with smugglers of arms and ammunitions. It was further categorically noted in the report that the case

*[Handwritten signature]*

⑧

against the appellant was still pending before the Court, therefore, either the appellant may be awarded major punishment or the proceedings be kept pending till decision of the trial court. It is also worth-noting that in the concluding part of the enquiry report it was recorded by the enquiry officer that in the light of record and submissions he reached the conclusion that the accused could have informed his superiors regarding his illness but he did not do so. In the said part of the report relating to the recovery of incriminating arms and ammunition only the contents of FIR were reproduced. It was also noted that the appellant was released from jail on 07.10.2016 and had appeared in the Police Station Naurang for duty on 24.10.2016. It, therefore, cannot be held that in the enquiry liability of appellant was established.

The record also suggests that during the entire departmental proceedings against the appellant only the statements of Sharifullah IHC and Islam Noor ASI of P.S Naurang were recorded. Both the statements were regarding the absence of appellant from duty, therefore, could not be regarded, by any standards, to have substantiated the connectivity of the appellant with the alleged offence.

**ATTESTED**

**EXAMINER**  
**Khyber Pakhtunkhwa**  
**Service Tribunal,**  
**Peshawar**

5. There is yet another aspect of the matter in hand. As per the allegations the incriminating arms and ammunitions were recovered from a Motor Car bearing Registration No. 3155-LXZ owned by the appellant. In the said context the order of the Addl. Sessions Judge-I, Peshawar dated 02.11.2016 is worth perusal whereby one Ismail Khan son of Khanan Khan was returned the vehicle against surety bonds. The respondents did not make any effort to bring on record the nexus of appellant with incriminating vehicle as its owner. It is also a fact that during the departmental proceedings the enquiry officer did not prefer to collect documents connecting the appellant with the allegations despite the



9

fact that the recovery of arms and ammunitions was allegedly effected by the Police Department itself. Even a copy of the recovery memo was not made available to the Tribunal alongwith reply of the respondents or otherwise.

6. For what has been discussed above we consider it appropriate to allow the appeal as prayed for in its memorandum. Order accordingly.

Parties are left to bear their respective costs. File be consigned to the record room.

Certified to be true copy




EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

(HUSSAIN SHAH)  
MEMBER

(HAMID FAROOQ DURRANI)  
CHAIRMAN

ANNOUNCED  
21.05.2019

Date of Presentation of Application	27-5-2018
Number of Words	2800 -
Copying Fee	18 -
Urgent	2 -
Total	20 -
Name of Copyist	Jaw
Date of Completion of Copy	27-5-2018
Date of Delivery of Copy	27-5-2018

قیمت 50 روپے	23074	  
ایڈوکیٹ: محمد ظفر ملامر علی بار کونسل/ایسوسی ایشن نمبر: 77664-10 رابطہ نمبر: 0300-9597670		
پشاور بار ایسوسی ایشن، خیبر پختونخواہ		

بعدالت جناب: محمد ظفر ملامر علی

منجانب: ایڈووکیٹ	دعویٰ: <u>284/197</u>
	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:
محمد زمان بنام آئی جی ملکہ	
<b>باعث تحریر آنگہ</b>	

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ آن مقام سندھ ہائی کورٹ کیلئے محمد ظفر ملامر علی، ایڈووکیٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کمال اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت 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 اور بصورت ضرورت مقدمہ مذکورہ 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 وہی جملہ مذکورہ با اختیارات 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 یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: 2019-07-23

الع  
 بد  
 الع  
 واہ شد  
 الع  
 بد  
 الع  
 مقام

نوٹ: اس وکالت نامہ کی فوٹو کاپی ناقابل قبول ہوگی۔

Attached by  
 Accepted  
 07/07/19

**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR**

**Execution Petition No. 282/2019**

**In**

**Appeal No.284/2017**

Muhammad Zaman No.598 Ex-Constable,  
District Police, Lakki Marwat.

(Appellant)

**VERSUS**

- 1) Provincial Police Officer KPK Peshawar.
- 2) Regional Police Officer Bannu Region, Bannu
- 3) District Police Officer Lakki Marwat

(Respondents)

**REPLY BY RESPONDENT NO. 1,2 & 3**

Respectfully Sheweth:

**OBJECTIONS**

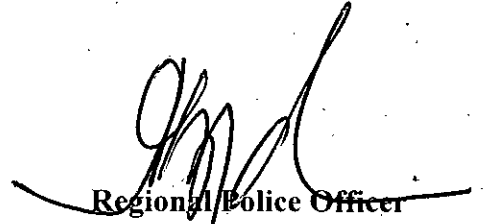
1. The Honorable Service Tribunal KPK Peshawar allowed the prayer filed by the petitioner vide judgment dated 21-05-2019, however the respondents follow the rules and regulations in this regard by sending the judgment to Law department CPO Peshawar for getting legal opinion vide this office Memo No.4344/Legal dated 12-06-2019. After perusal of the judgment the scrutiny Committee of Law department approved the case for lodging CPLA before the Apex Court of Pakistan vide CPO Peshawar letter No.3678/Legal dated 22/07/2019, accordingly the respondent department filed CPLA before the Supreme Court of Pakistan. ( Photocopy of letters as Annex A, B & C)
2. Correct as explained in above Para.
3. The respondents challenged the judgment of Service Tribunal Peshawar by filing CPLA before the Supreme Court of Pakistan, which is under process and the hearing date has not been fixed so far before the court concerned.

**Prayer:**

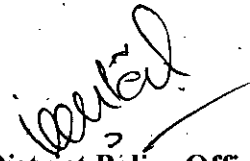
Keeping in view of the above facts and circumstances, it is humbly prayed that execution petition against the respondents may kindly be dismissed.



**Inspector General of Police  
Khyber Pakhtunkhwa  
(Respondent No. 1)**



**Regional Police Officer  
Bannu Region, Bannu  
(Respondent No. 2)**



**District Police Officer  
Lakki Marwat  
(Respondent No. 3)**

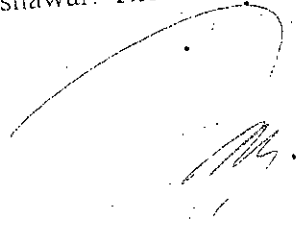
Annex "A"

OFFICE OF THE INSPECTOR GENERAL OF POLICE KPK, PESHAWAR.

No. 3678 /Legal Dated Peshawar the, 22/07 /2019.

Copy of the letter received from Law Department and decision of the Scrutiny Committee is endorsed to District Police Officer, Lakki Marwat. The Scrutiny Committee approved the case for lodging CPLA. The relevant record may be produced before the Advocate on record Supreme Court of Pakistan at the office of the Advocate General, Khyber Pakhtunkwa Peshawar. The matter may be treated urgent as time limit is involved.

Agenda Item No 06.

  
For/SP Court & Litigation  
CPO Peshawar.



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

Aux: B

No. 3201 / Legal dated Peshawar, the 01 / 10 / 2019

To: - The Secretary  
Government of Khyber Pakhtunkhwa,  
Home & TAs Department, Peshawar.

3362  
05-7-19

Attention Section Officer (Courts)

Subject:- LODGING OF CPLA BEFORE SUPREME COURT OF PAKISTAN  
AGAINST THE JUDGMENT OF KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL JUDGMENT DATED 21.05.2019, SERVICE  
APPEAL NO. 284/2017 TITLED MUHAMMAD ZAMAN EX  
CONSTABLE VS INSPECTOR GENERAL OF POLICE, KHYBER  
PAKHTUNKHWA AND OTHERS.

Memo:-

District Police Officer, Lakki Marwat has placed request vide his office memo No. 4344/ Legal dated 12.06.2019, for lodging CPLA against the judgment cited as subject.

He has reported that the appellant was appointed as Constable in Police Department of KPK on 27.05.2007. During his posting at Lakki Marwat an FIR was recorded vide No. 1207 dated 02.10.2016 at P.S. Bhana Mari Peshawar u/s 15/17-AA. In the reported, crime it was alleged that the appellant was transporting a huge number of arms and ammunition while was intercepted by the local police. The incriminating articles comprising 40 pistols 30 bore, Kalashnikov rifles and 24000 live rounds etc. were recovered from the vehicle driven by the appellant who was arrested on the spot. Departmental proceedings were initiated and charge sheet coupled with statement of allegations dated 19.10.2016 was served upon the appellant. A written reply was submitted by him, however, the proceedings continued and Deputy Superintendent of Police Headquarters, Lakki Marwat was appointed as Enquiry Officer. The report of enquiry was submitted on 21.12.2016 which was followed by a final show cause notice dated 09.01.2017. The appellant replied to the show cause notice as well, however, it was not found satisfactory and order dated 24.01.2017 was passed by District Police Officer, Lakki Marwat/ respondent No. 3, against the appellant. He was awarded major punishment of dismissal from service from the date of his suspension. A departmental appeal was preferred by the appellant which was filed on 09.03.2017 by the Regional Police Officer, Bannu Region, Bannu/ respondent No. 2, hence the appeal in hand.

For what has been discussed above we consider it appropriate to allow the appeal as prayed for in its memorandum. Order accordingly.

B  
1111

It is therefore, requested that Law Department may be approached for lodging CPLA before Supreme Court of Pakistan against the judgment of Service Tribunal.

Enclosure: Copy of Judgment, orders and Working Papers:

For SP/Court & Litigation,  
CPO, Peshawar.

No 32.02.03 /Legal.

Copy of the above is forwarded to the:-

1. District Police Officer Lakki Marwat with reference to his memo quoted above.
2. Section Officer (Lit) Government of Khyber Pakhtunkhwa Law and Parliamentary Affairs department alongwith Working Paper and Judgment is enclosed please.

For SP/Court & Litigation,  
CPO, Peshawar.

*Inspetor Legit*

*For Peshawar*

District Police Officer  
Lakki Marwat

*Seen*

*Legal*

*Insp: Legit*

*Lakki Marwat*

Anx: "C"  
56  
4. (84)

**POWER OF ATTORNEY  
IN THE SUPREME COURT OF PAKISTAN  
(APPELLATE JURISDICTION)**

C.P.L.A. No. \_\_\_\_\_ /2019

Govt. of Khyber Pakhtunkhwa, and others

PETITIONER(S)

VERSUS

Muhammad Zaman

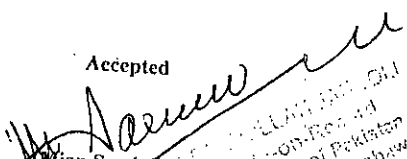
RESPONDENT(S)

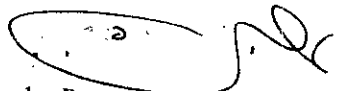
I (we) Petitioner/Govt. of KPK in the above suit/Appeal/Petition/Reference, do hereby appoint and constitute Mian Saadullah Jandoli, Advocate-on-Record, Supreme Court, for Govt. of Khyber Pakhtunkhwa the Attorney for the aforesaid appellant [ or plaintiff(s) or Petitioner(s) or Respondent (s) or defendant (s) or opposite party] to commence and prosecute (or to appear and defend this action/appeal/suit/petition/reference on my/our behalf and all proceeding that may be taken in respect on any application connected with the same including proceeding in taxation and application for review, to draw and deposit money, to file and take back documents, to accept the process of the Court, to appoint and instruct counsel, to represent the aforesaid appellant [ or plaintiff (s) or petitioner(s) or respondent (s) or defendant (s) or opposite party] in the above matter and to do all things incidental to such acting for the aforesaid appellant [or plaintiff (s) or petitioner(s) or respondent (s) or defendant (s) or opposite party]. The aforesaid appellant [or plaintiff (s) or petitioner(s) or respondent (s) or defendant (s) or opposite party] agree (s) to ratify all acts done by the aforesaid Advocate-on-Record in pursuance of this authority

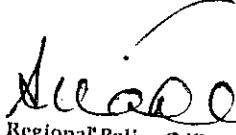
In witness whereof I/we do hereunto set my/our hand (s) this day of

Accepted

Signed with Official seal stamp


  
Mian Saadullah Jandoli  
Advocate-on-Record  
Supreme Court of Pakistan  
(for KPK) Advocate-General's  
Office KPK, High Court Building, Peshawar.  
Office Tel. # 091-9210312, 9210119

  
1- Provincial Police Officer,  
Khyber Pakhtunkhwa, Peshawar


  
2- Regional Police Officer,  
Bannu Region, Bannu

Provincial Police Officer,  
Khyber Pakhtunkhwa, Peshawar.

Regional Police Officer  
Bannu Region, Bannu

  
3- District Police Officer,  
Lakki Marwat.  
District Police Officer  
Lakki Marwat

Power of Attorney Handed  
over to AOR Section on  
29/8/2019

  
Javed Iqbal Inspector



**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR**

**Execution Petition No. 282/2019**

In

**Appeal No.284/2017**

Muhammad Zaman No.598 Ex-Constable,  
District Police, Lakki Marwat.

(Appellant)

**VERSUS**

- 1) Provincial Police Officer KPK Peshawar.
- 2) Regional Police Officer Bannu Region, Bannu
- 3) District Police Officer Lakki Marwat

(Respondents)

**REPLY BY RESPONDENT NO. 1,2 & 3**

Respectfully Sheweth:

**OBJECTIONS**

1. The Honorable Service Tribunal KPK Peshawar allowed the prayer filed by the petitioner vide judgment dated 21-05-2019, however the respondents follow the rules and regulations in this regard by sending the judgment to Law department CPO Peshawar for getting legal opinion vide this office Memo No.4344/Legal dated 12-06-2019. After perusal of the judgment the scrutiny Committee of Law department approved the case for lodging CPLA before the Apex Court of Pakistan vide CPO Peshawar letter No.3678/Legal dated 22/07/2019, accordingly the respondent department filed CPLA before the Supreme Court of Pakistan. ( Photocopy of letters as Annex A, B & C)
2. Correct as explained in above Para.
3. The respondents challenged the judgment of Service Tribunal Peshawar by filing CPLA before the Supreme Court of Pakistan, which is under process and the hearing date has not been fixed so far before the court concerned.

**Prayer:**

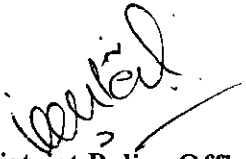
Keeping in view of the above facts and circumstances, it is humbly prayed that execution petition against the respondents may kindly be dismissed.



**Inspector General of Police  
Khyber Pakhtunkhwa  
(Respondent No. 1)**



**Regional Police Officer  
Bannu Region, Bannu  
(Respondent No. 2)**



**District Police Officer  
Lakki Marwat  
(Respondent No. 3)**


Annex "A"

OFFICE OF THE INSPECTOR GENERAL OF POLICE KPK, PESHAWAR.

No. 3678 /Legal Dated Peshawar the 22/07 /2019.

Copy of the letter received from Law Department and decision of the Scrutiny Committee is endorsed to District Police Officer, Lakki Marwat. The Scrutiny Committee approved the case for lodging CPLA. The relevant record may be produced before the Advocate on record Supreme Court of Pakistan at the office of the Advocate General, Khyber Pakhtunkwa Peshawar. The matter may be treated urgent as time limit is involved.

Agenda Item No 06.

  
For/SP Court & Litigation  
CPO Peshawar.

Attested  
verified

District Police Officer  
Lakki Marwat



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

Aux: B

No. 5207 / Legal dated Peshawar, the 01 / 07 / 2019

To: - The Secretary  
Government of Khyber Pakhtunkhwa,  
Home & TAs Department, Peshawar.

Attention Section Officer (Courts)

Subject:- LODGING OF CPLA BEFORE SUPREME COURT OF PAKISTAN  
AGAINST THE JUDGMENT OF KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL JUDGMENT DATED 21.05.2019, SERVICE  
APPEAL NO. 284/2017 TITLED MUHAMMAD ZAMAN EX  
CONSTABLE VS INSPECTOR GENERAL OF POLICE KHYBER  
PAKHTUNKHWA AND OTHERS.

Memo:-

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He has reported that the appellant was appointed as Constable in Police Department of KPK on 27.05.2007. During his posting at Lakki Marwat an FIR was recorded vide No. 1207 dated 02.10.2016 at P.S Bhana Mari Peshawar u/s 15/17-AA. In the reported, crime it was alleged that the appellant was transporting a huge number of arms and ammunition while was intercepted by the local police. The incriminating articles comprising 40 pistols 30 bore, Kalashnikov rifles and 24000 live rounds etc. were recovered from the vehicle driven by the appellant who was arrested on the spot. Departmental proceedings were initiated and charge sheet coupled with statement of allegations dated 19.10.2016 was served upon the appellant. A written reply was submitted by him, however, the proceedings continued and Deputy Superintendent of Police Headquarters, Lakki Marwat was appointed as Enquiry Officer. The report of enquiry was submitted on 21.12.2016 which was followed by a final show cause notice dated 09.01.2017. The appellant replied to the show cause notice as well, however, it was not found satisfactory and order dated 24.01.2017 was passed by District Police Officer, Lakki Marwat/ respondent No. 3, against the appellant. He was awarded major punishment of dismissal from service from the date of his suspension. A departmental appeal was preferred by the appellant which was filed on 09.03.2017 by the Regional Police Officer, Bannu Region, Bannu/ respondent No. 2, hence the appeal in hand.

For what has been discussed above we consider it appropriate to allow the appeal as prayed for in its memorandum. Order accordingly.

Attested  
District Police Officer

*A*

B

It is therefore, requested that Law Department may be approached for lodging CPLA before Supreme Court of Pakistan against the judgment of Service Tribunal.

Enclosure: Copy of Judgment, orders and Working Papers.

For SP/Court & Litigation,  
CPO, Peshawar.

No 32.02.03 /Legal.

Copy of the above is forwarded to the:-

1. District Police Officer Lakki Marwat with reference to his memo quoted above.
2. Section Officer (10) Government of Khyber Pakhtunkhwa Law and Parliamentary Affairs department alongwith Working Paper and Judgment is enclosed please.

For SP/Court & Litigation,  
CPO, Peshawar.

*Inspetor Legal*

*Dist. Peshawar*

District Police Officer  
Lakki Marwat

*Seen  
Legal  
Insp: Legal  
Lakki Marwat*

*Attested  
checked*

District Police Officer  
Lakki Marwat

Anx: "C"

04

**POWER OF ATTORNEY  
IN THE SUPREME COURT OF PAKISTAN  
(APPELLATE JURISDICTION)**

C.P.L.A. No. /2019

Govt. of Khyber Pakhtunkhwa, and others

PETITIONER(S)

VERSUS

Muhammad Zaman

RESPONDENT(S)

I (we) Petitioner/Govt. of KPK in the above suit/Appeal/Petition/Reference, do hereby appoint and constitute Mian Saadullah Jandoli, Advocate-on-Record, Supreme Court, for Govt. of Khyber Pakhtunkhwa the Attorney for the aforesaid appellant [ or plaintiff(s) or Petitioner(s) or Respondent (s) or defendant (s) or opposite party] to commence and prosecute (or to appear and defend this action/appeal/suit/petition/reference on my/our behalf and all proceeding that may be taken in respect on any application connected with the same including proceeding in taxation and application for review, to draw and deposit money, to file and take back documents, to accept the process of the Court, to appoint and instruct counsel, to represent the aforesaid appellant [ or plaintiff (s) or petitioner(s) or respondent (s) or defendant (s) or opposite party] in the above matter and to do all things incidental to such acting for the aforesaid appellant [or plaintiff (s) or petitioner(s) or respondent (s) or defendant (s) or opposite party]. The aforesaid appellant [or plaintiff (s) or petitioner(s) or respondent (s) or defendant (s) or opposite party] agree (s) to ratify all acts done by the aforesaid Advocate-on-Record in pursuance of this authority

In witness whereof I/we do hereunto set my/our hand (s) this day of

Accepted

Signed with Official seal stamp

*Mian Saadullah Jandoli*  
Mian Saadullah Jandoli  
Advocate-on-Record  
Supreme Court of Pakistan  
(for KPK) Advocate-General's  
Office KPK, High Court Building, Peshawar.  
Office Tel. # 091-9210312, 9210119

*[Signature]*  
1- Provincial Police Officer,  
Khyber Pakhtunkhwa, Peshawar

*[Signature]*  
2- Regional Police Officer,  
Bardua Region, Bannu

Provincial Police Officer,  
Khyber Pakhtunkhwa, Peshawar.

Regional Police Officer  
Bannu Region, Bannu

*[Signature]*  
3- District Police Officer,  
Lakki Marwat.  
District Police Officer  
Lakki Marwat

Power of Attorney Handed  
over to AOR Section on  
29/8/2019

*[Signature]*  
Javed Iqbal Inspector

Issued on 23-07-2019

*[Signature]*  
Attes Test  
*[Signature]*

Registrar

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 1669-71ST

Dated 15/07/2020

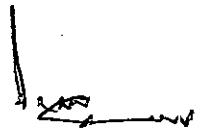
To

1. The Inspector General of Police,  
Government of Khyber Pakhtunkhwa,  
Peshawar.
2. Regional Police Officer, Bannu Region,  
Government of Khyber Pakhtunkhwa,  
Bannu.
3. District Police Officer,  
Government of Khyber Pakhtunkhwa,  
Laki Marwat.

SUBJECT: - PETITION NO. 282/2019, MR. MUHAMMAD ZAMAN.

I am directed to forward herewith a certified copy of order dated 08.07.2020 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR,  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.

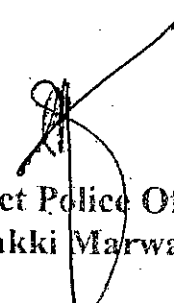
**ORDER**

In compliance of the Honorable Service Tribunal Khyber Pakhtunkhwa, Peshawar judgment dated 21.05.2019 & execution petition No.282/2019 Order Sheet dated 28.01.2020 , Ex-Constable Muhammad Zaman No.598 is hereby re-instated into service without back benefits with effect from 19.05.2020 purely conditionally/ provisionally till the outcome of CPLA.

He is allotted newly Constabulary No. 01.

O.B No. 353 /


Dated 19.5 /2020.

  
District Police Officer,  
Lakki Marwat.

No. / Dated Lakki Marwat /2020.

Copy of above is submitted for favour of information to:-

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer, Bannu Region, Bannu.
3. HC, EC, PO and OHC for necessary action.

  
District Police Officer,  
Lakki Marwat.



**AKHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

No. 2939/ST

Dated 14/10/2020

To


The District Police Officer,  
Government of Khyber Pakhtunkhwa,  
Laki Marwat.

SUBJECT: -

**ORDER IN EXECUTION PETITION NO. 282/2019 MR. MUHAMMAD ZAMAN.**

I am directed to forward herewith a certified copy of order dated 07.10.2020 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

No. 4146/ST

Dated 30/12/2020


To

The District Police Officer,  
Government of Khyber Pakhtunkhwa,  
Laki Marwat.

SUBJECT: - ORDER IN EXECUTION PETITION NO. 282/2019 MR. MUHAMMAD ZAMAN.

I am directed to forward herewith a certified copy of order dated 02.12.2020 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.

56

For Insurance Notices see reverse. Rs. Ps.  
Stamp No. RGL53904916 e of 50  
more than  
the initial weight prescribed in the  
Post Office Guide or on which no  
acknowledgment is due.

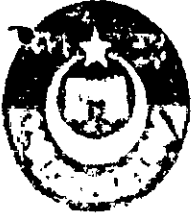
Received a registered\*  
addressed to \_\_\_\_\_ Date-Stamp \_\_\_\_\_

\*Write here "letter", "postcard", "packet" or "parcel"  
Initials of Receiving Officer \_\_\_\_\_ with the word "insured" before it when necessary.

Insured for Rs. (in figures) \_\_\_\_\_ (in words) \_\_\_\_\_

If insured. } Insurance fee Rs. \_\_\_\_\_ Ps. \_\_\_\_\_ (in words) }  
Weight } Kilo  
Grams }

Name and address of sender \_\_\_\_\_



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

No. 5341

Legal

dated the 14/10/2020.

To: The Secretary,  
Government of Khyber Pakhtunkhwa,  
Home & TAs Department, Peshawar.

Attention:- (SO Court)

Subject: FILING OF APPLICATION FOR EARLY HEARING BEFORE THE HONORABLE SUPREME COURT OF PAKISTAN IN CASE TITLED INSPECTOR GENERAL OF POLICE KPK ETC VS MUHAMMAD ZAMAN CPLA NO.591-P/2019 IN SERVICE APPEAL NO. 284/2017.

Memo:

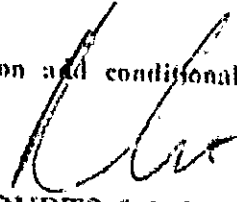
District Police Officer, Lakki Marwat has placed request for early hearing application in subject CPLA vide his office Letter No. 6547 dated 05.10.2020.

Reportedly that Honorable Service Tribunal, KPK Peshawar issued judgment dated 03.09.2020 in Execution Petition No. 282/2019 titled Muhammad Zaman Inspector General of Police, Khyber Pakhtunkhwa, Peshawar and others wherein it was directed that respondents for granting back benefits to the appellant.

It is worth mentioning that Police Department has filed CPLA before Apex Court of Pakistan vide CP No. 591-P/2019 against the impugned judgment but no date hearing has been fixed so far. The above named appellant has already been reinstated in service provisionally and conditionally without giving back benefits subject to outcome of CPLA.

It is, therefore, requested that Law Department/Advocate on Record Supreme Court of Pakistan may kindly be approached to file application for early hearing CPLA and also suspension of judgment dated 21.05.2019, of KP Service Tribunal, Peshawar please.


Enclosures:- Judgment dated 03.09.2020 in Execution Petition and conditional reinstatement order of appellant are enclosed please.

  
SP COURTS & LITIGATION  
For Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar.

No 5317-63 Legal

Copy of the above is forwarded to the:-

1. SO (Judicial), Government of Khyber Pakhtunkhwa, Law, Human Rights, Parliamentary Affairs Department, Peshawar.
2. District Police Officer, Lakki Marwat w.r.t to his office letter quoted above

  
SP COURTS & LITIGATION  
For Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar

IN THE SUPREME COURT OF PAKISTAN  
(APPELLATE JURISDICTION)

6/21  
578  
208

PRESENT:  
MR. JUSTICE GULZAR AHMED, HCJ  
MR. JUSTICE IJAZ UL AHSAN

CIVIL PETITION NO. 591-P OF 2019.  
(Against the judgment dated 21.05.2019 passed  
by the Khyber Pakhtunkhwa Service Tribunal,  
Peshawar in Appeal No.284 of 2017).

Provincial Police Officer, Khyber Pakhtunkhwa,  
Peshawar and others. ...Petitioner(s)

Versus

Muhammad Zaman. ...Respondent(s)

For the Petitioner(s): Mr. Atif Ali Khan, Addl. A. G. KP.  
Mr. Zafarullah Khan, Inspector  
(Legal) Lakki Marwat.

For the Respondent(s): N.R.

Date of Hearing: 11.01.2021.

ORDER

GULZAR AHMED, CJ.- Subject to limitation, leave to appeal is granted to consider *inter alia* whether the Respondent (Muhammad Zaman) who was proceeded departmentally and dismissed from service vide order dated 25.01.2017 could have been reinstated in service merely on the ground of his acquittal on account of default of prosecution in not producing witnesses before the trial Court seized of the matter in a criminal case registered against him vide FIR No.1207 dated 02.10.2016 under Sections 15/17 of Arms Act at Police Station, Bhana Mari, Peshawar wherein 40 pistols 30 bore, Kalashnikov rifle and 24000 live rounds etc were recovered from the vehicle driven by the Respondent and

**ATTESTED**

he was arrested on the spot which charge was proved in the departmental proceedings initiated against him.

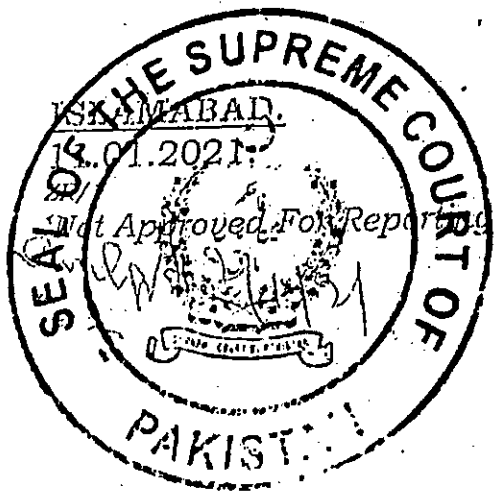
2. Let the appeal stage paper books be prepared on the available record. However, the parties are at liberty to file additional documents if any within a period of one month. As the matter relates to service, the office is directed to fix the same for hearing in Court as early as possible, preferably within a period of three months.

3. In the meanwhile, operation of the impugned judgment dated 21.05.2019 shall remain suspended.

Sd-CJ  
Sd-J

**Certified to be True Copy**

Senior Court Associate  
Supreme Court of Pakistan  
Islamabad



No: 708/21 Civil/Criminal

Date of Presentation: 11-1-21

No of Words: 600

No of Folios: 6

Requisition Fee Rs: 5.00

Conv Fee Rs: 7.75

جناب عالی ..

گذشتہ عیدِ اربعہ صوفیہ ۱۵/۱۰/۲۰۲۰ء کو لندن میں منعقد ہونے والے کانفرنس

مبارک میں حضورِ تعالیٰ کے مبارک فرمان پر DPo کی سربراہی کے

ظہیر علیہ السلام کی سربراہی کے ذریعے پاکستان میں

کیسی جالہ Satary حکم جاری کیا گیا ہے۔ DPo کی سربراہی کے ذریعے

کے ساتھ ساتھ دیگر سرکاری اداروں کے ساتھ ساتھ

کے ساتھ ساتھ دیگر سرکاری اداروں کے ساتھ ساتھ

انجمنِ ظہیر علیہ السلام

۲۰۲۰

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