

13.06.2019

Mr. Asad Iqbal advocate on behalf of Mr. Taimur Kahn advocate counsel for the appellant and Mr. Kabirullah Khattak AAG alongwith Mr. Ihsan Ullah Head Constable for the respondents present.

The representative of respondent has provided a copy of order dated 18.03.2018, whereby, the petitioner has been reinstated in service subject to the outcome of CPLA filed by respondents. It is verbally informed that the petitioner has started performing his duties at District Tank.

In the circumstance, instant execution proceedings are consigned. The petitioner may apply for restoration of the proceedings in case any part of relief granted in his favour remained unsatisfied.


Chairman

ANNOUNCED
13.06.2019

07.02.2019

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

Representative of respondents states that a CPLA has been preferred before the Apex Court against the judgment under execution in which no date of hearing has been fixed so far.


The respondents shall produce on the next date any order of Apex Court suspending or setting aside the judgment under execution, as the case may be, else the implementation report in the matter.

Adjourned to 21.3.2019 before S.B.


Chairman


21.03.2019

Nemo for the petitioner. Mr. Kabirullah Khattak learned Addl; AG for the respondents present. Due to general strike of the bar, the case is adjourned. To come up for further proceeding on 24.04.2019 before S.B.


Member




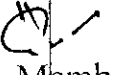
24.04.2019

Counsel for the petitioner and Mr. Usman Ghani, District Attorney for respondents present. No one on behalf of respondents was present. It appears that delaying tactics are being used to prolong the execution petition unnecessarily. This Tribunal is constrained to issue warrants of attachment of salary of respondent no.2 and 3 so as to compel them to submit implementation report. Case to come up for further proceedings on 13.06.2019 before S.B.


(Ahmad Hassan)
Member

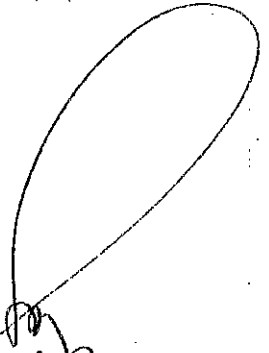
Form- A
FORM OF ORDER SHEET

Court of _____
Execution Petition No. _ 303/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	27.09.2018	<p>The execution petition of Mr. Nasir Iqbal submitted 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-	28-9-18	<p>This execution petition be put before S. Bench on <u>2-11-2018</u></p> <p style="text-align: right;"> CHAIRMAN</p>
20.11.2018 02.11.2018		<p>Learned counsel for the petitioner present. Notice of the present execution petition be issued to the respondents for 07.12.2018. Therefore, the case is adjourned to the date fixed before on 20.12.2018.</p> <p style="text-align: right;"> READER</p>
20.12.2018		<p>Learned counsel for the petitioner present. Notice of the present execution petition be issued to the respondents for 07.02.2019. To come up for further proceedings on the date fixed before S.B</p> <p style="text-align: right;"> Member</p>

ORDER

In pursuance with the directions of Inspector General of Police Khyber Pakhtunkhwa, Peshawar issued vide CPO letter No. CPO Memo No. 1167/Legal, date 11.03.2019, the decision of Khyber Pakhtunkhwa Service Tribunal Peshawar dated 12.07.2018 in service appeal No. 282/2012 is hereby implemented, Ex-constable Nasir Iqbal No. 1657 of FRP Kohat Range is hereby re-instated in service on provisional basis, subject to outcome of CPLA lodged by the department against the above mentioned judgment.


**Commandant,
Frontier Reserve Police,
Khyber Pakhtunkhwa, Peshawar.**

No. 96/10 / SI Legal, dated Peshawar the 18 / 03 / 2018.

Copy of above is forwarded for information & n/action to the SP FRP Kohat Range, Kohat, with further directions that he shall be detailed for recruit course in next term and in failure departmental action shall be taken against him.

①

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

Khyber Pakhtunkhwa
Service Tribunal

Execution petition No. 303 /2018
In Service Appeal No.282/2012

Diary No. 1668

Dated 27-9-18

Nasir Iqbal, Ex- Constable,
District Karak.

PETITIONER

VERSUS

1. The Commandant FRP, KPK, Peshawar.
2. The Deputy Commandant FRP, KPK, Peshawar.
3. The Superintendent of Police, FRP, Kohat Range, Kohat.

RESPONDENTS

.....

**EXECUTION PETITION FOR DIRECTING THE
RESPONDENTS TO IMPLEMENT THE
JUDGMENT DATED 12.07.2018 OF THIS
HONOURABLE SERVICE TRIBUNAL IN
LETTER AND SPIRIT.**



.....

RESPECTFULLY SHEWETH:

1. That the petitioner has filed an appeal bearing No.282/2012 in this august Service Tribunal against the impugned order dated 21.01.2012, whereby the departmental appeal of the petitioner has been rejected against the order 21.11.2011, wherein the petitioner was removed from service for no good grounds.
2. That the said appeal was finally heard on 12.07.2018 and the Honourable Tribunal was kind enough to accept the appeal, set aside the impugned order and reinstate the petitioner. **(Copy of judgment dated 12.07.2018 is attached as Annexure-A)**
3. That since the announcement of the judgment, the petitioner has waited for more than two months, but the respondents has not taken action on the judgment dated 12.07.2018 till date.

4. 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.
5. 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.
6. That the petitioner has having no other remedy except to file this execution petition for Implementation of judgment dated 12.07.2018 of this august Service Tribunal.

It is, therefore, most humbly prayed that the respondents may be directed to implement the judgment dated 12.07.2018 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.

ATTESTED




 DEPONENT

9-12

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

SERVICE APPEAL NO. 282/2012

Date of institution ... 28.12.2012
Date of judgment ... 12.07.2018



Nasir Iqbal, Ex-Constable, No. 1657
District Karak.

... (Appellant)

VERSUS

1. The Commandant FRP, KPK Peshawar.
2. The Deputy Commandant FRP, KPK, Peshawar.
3. The Superintendent of Police, FRP, Kohat Range, Kohat.

... (Respondents)

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 21.01.2012 RECEIVED BY THE APPELLANT ON DATED 15.11.2016 DURING THE PROCEEDING OF SERVICE APPEAL NO. 282/2012, HAS BEEN REJECTED AGAINST THE ORDER DATED 21.11.2011, WHEREIN THE APPELLANT WAS REMOVED FROM SERVICE UNDER RSO-2000 FOR NO GOOD GROUNDS.

Mr. M. Asif Yousafzai, Advocate.
Mr. Muhammad Jan, Deputy District Attorney

.. For appellant.
.. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI
MR. MUHAMMAD HAMID MUGHAL

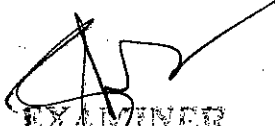
.. MEMBER (JUDICIAL)
.. MEMBER (JUDICIAL)

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - Learned

counsel for the appellant present. Mr. Muhammad Jan, Deputy District Attorney for the respondents also present. Arguments heard and record perused.

ATTESTED

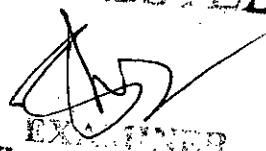

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

(4)

2. Brief facts of the case as per present service appeal are that the appellant was enlisted in Frontier Reserve Police (FRP) in the year 2010 as Constable and deputed to RTW, Mansehra for recruit course in the year 2011. That during the course the appellant became ill on various occasions which facts was brought before the authority but the appellant was marked absent. That the appellant was removed from service by the competent authority vide order dated 21.11.2011. The appellant filed departmental appeal on 09.12.2011 which was rejected on 21.01.2012 and received to the appellant on 25.01.2012 hence the present service appeal on 28.02.2012.

3. Learned counsel for the appellant contended that the appellant was deputed to RTW Mansehra for recruit course in the year 2011 but the appellant became serious ill therefore the said facts was brought into the notice of high ups but despite that the appellant was shown absent and ultimately the appellant was removed from service vide order dated 21.11.2011. It was further contended that the appellant also filed departmental appeal within time but the same was also rejected. It was further contended that the absence of the appellant was beyond his control due to illness and the appellant has also annexed medical prescription in support of his illness therefore, the absence of the appellant was not deliberately. It was further contended that absence period of the appellant was also for a short period and neither proper inquiry was conducted nor opportunity of personal hearing was provided to the appellant therefore, the impugned order of removal from service is illegal and liable to be set-aside.

4. On the other hand, learned Deputy District Attorney for the respondents opposed the contention of learned counsel for the appellant and contended that the appellant was deputed for basic recruit course at


ATTESTED

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Service Tribunal,
Peshawar

(5)

Mansehra but the appellant remained absent from training programme. It was further contended that the appellant remained absent at various occasions without permission of the higher authority. It was further contended that all the codal formalities of regular inquiry was conducted therefore, the competent authority has rightly imposed major penalty of removal from service upon the appellant and prayed for dismissal of appeal.

5. Perusal of the record reveals that the appellant was recruited in Frontier Reserve Police (FRP) and was deputed for recruit course in Mansehra but the appellant remained absent from recruit course and ultimately he was removed from service vide order dated 21.11.2011 on the allegation of his total absence of 52 days. The record further reveals that the impugned order dated 21.11.2011 was passed by the competent authority retrospectively i.e from the date of 12.10.2011 therefore, the same is void. The record also reveals that the competent authority has also treated the absence period of the appellant as leave without pay vide impugned order dated 21.11.2011. the record further reveals that the appellant has also claimed throughout in departmental appeal as well as in service appeal that the appellant became ill and due to illness he could not attend the duty and the absence of the appellant was not deliberately but was beyond his control. The record further reveals that in support of his illness the appellant has also annexed medical prescription with the memorandum of appeal which also suggest that the plea of the appellant regarding illness was genuine. Therefore, the impugned removal order of the appellant from service is illegal and liable to be set-aside. As such we accept the appeal, set-aside the impugned order and reinstate the appellant. However, it is not disputed that the police constables are required to go through and qualify the recruit

ATTESTED

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Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

training course. Therefore, in case, the appellant still remain unable to qualify the same after reinstatement than department may proceed against him. The absence period of the appellant as well as intervening period of appellant be treated as leave without pay. Parties are left to bear their own costs. File be consigned to the record room.

Announced
12-07-2018

Sd/- M. Amin Kundi

Member

Sd/- M. Hamid Nizhal

Member

Certified to be true copy
Khalid
Service Tribunal,
Peshawar

Date of Presentation of Application	24-9-18
Number of Sheets	1600
Copying Fee	10/-
Urgent	2/-
Total	12/-
Name of Clerk	[Signature]
Date of Receipt	24-9-18
Date of Delivery	24-9-18

بعدالت

سروس ٹریبونل پشاور

نامہ اقبال 2، منجانب
نامہ اقبال بنام محکمہ پولیس

مورخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی دیکھ کر دائی متعلقہ
آن مقام پشاور کیلئے پہور علی خان ایڈووکیٹ، اسم مجھ ایڈووکیٹ

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 ثالت ہ فیصلہ بر حلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء در صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری کی طرف یا اپیل کی برادگی اور منسوخی
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار 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 بالا اختیارات حاصل ہوں گے اور اس کا ساختہ
پر داختم منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانب 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 لکھ دیا کہ سند ہے۔

Attested
&
Accepted

الرقوم _____ ماہ _____ 20

وادی _____

کے لئے منظور ہے۔

بمقام

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

No. 1020-21/ST

Dated 24-5- / 2019

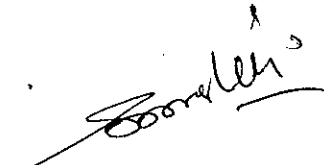
To

1. The Deputy Commandant FRP,
Government of Khyber Pakhtunkhwa,
Peshawar.
2. Superintendent of Police, FRP,
Government of Khyber Pakhtunkhwa,
Kohat Range Kohat.

Subject: - ORDER IN EXECUTION PETITION NO. 303/2018, MR. NASIR IQBAL.

I am directed to forward herewith a certified copy of order dated 22.04.2019 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

O/c.

✓ (1) Commandant FRP Peshawar ✓
✓ (2) Superintendent of Police FRP Kohat Range Kohat


24/5/2019

24-5-2019