

30.05.2019

Nemo for the petitioner and Addl. AG alongwith Mr. Attaur Rahman, Inspector (Legal) for the respondents present.

Learned AAG referred to the order dated 22.03.2018 issued by DPO Mardan and contended that the same was in line with the judgment under execution. The petitioner was, therefore, not left with any grievance at present.

The contents of order referred to by learned AAG suggest that the petitioner was conditionally reinstated into service due to pendency of CPLA before the Apex Court and the period of his absence till 07.02.2017 was treated as leave without pay, while the period thereafter was treated as spent on duty. Reading the contents of order in juxtaposition to para-9 of the judgment under implementation, it becomes clear that the order dated 22.03.2018 has been issued in accordance with judgment under execution. The proceedings in hand are, therefore, consigned having been completed. The petitioner may apply for restoration of instant proceedings in case any portion of relief granted to him remained unsatisfied.

Chairman



E.P No. 88/2018

11.12.2018

Petitioner in person present. Mr. Atta-ur-Rehman, S.I (Legal) alongwith Mr. Kabirullah Khattak, Additional AG for the respondents present. Petitioner requested for adjournment on the ground that his counsel is not available today. Adjourned. To come up for further proceedings on 24.01.2019 before S.B.


Muhammad Amin Khan Kundi
Member

24.01.2019

None present on behalf of the petitioner. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Atta-ur-Rehman, S.I (Legal) for the respondents present. Notice be issued to petitioner and his counsel for attendance for 12.03.2019 before S.B.


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

12.03.2019

Counsel for the petitioner present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Muhammad Arif, Superintendent for the respondents present and submitted implementation report. Copy of the same is placed on record. Learned counsel for the appellant seeks adjourned to examine the same. Adjourned to 18.04.2019 for further proceedings before S.B.


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

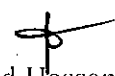
18.04.2019

DBA is on strike. Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Atta ur Rehman Inspector present. Adjourn. To come up for further proceedings on 30.05.2019 before S.B


Member

17.07.2018

None for the petitioner present. Mr. Atta-Ur-Rehman, SI alongwith Mr. Sardar Shoukat Hayat, Adll: AG for respondents present. Representative of the respondents submitted conditional reinstatement order of the petitioner dated 21.03.2018 which is placed on file. Adjourned. To come up for further proceedings on 30.08.2018 before S.B.


(Ahmad Hassan)
Member

30.08.2018

Neither petitioner nor his counsel present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Atta-ur-Rehman, S.I (legal) for the respondents present. Notice be issued to petitioner and his counsel for attendance for 24.10.2018 before S.B.


(Ahmad Hassan)
Member

24.10.2018

Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 11.12.2018.


Reader

FORM OF ORDER SHEET

Execution Petition No. 88/2018

S.No.	Date of order Proceedings	Order or other proceedings with signature of Judge
1	2	3
1	21.03.2018	<p>The Execution Petition of Mr. Ishtiaq submitted to-day by Mr. Muhammad Adam 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;"><i>[Signature]</i> REGISTRAR</p>
2	21/03/18,	<p>This Execution Petition be put up before S. Bench on <u>02/04/18.</u></p> <p style="text-align: right;"><i>MA</i> MEMBER</p>
02.04.2018		<p>None for the petitioner present. Addl: AG for respondents present. Adjourned. To come up for implementation report on 20.04.2018 before S.B.</p> <p style="text-align: right;"><i>[Signature]</i> (Ahmad Hassan) Member</p>
20.04.2018		<p>Counsel for the petitioner present. Mr. Kabirullah Khattak, Additional AG for the respondents also present. Representative of the department is not in attendance therefore, notice be issued to the respondents with the direction to direct the representative to attend the court. Adjourned. To come up for implementation report on 17.07.2018 before S.B.</p> <p style="text-align: right;"><i>MA</i> (Muhammad Amin Khan Kundi) Member</p>

BEFORE THE PROVINCIAL SERVICE TRIBUNAL, PESHAWAR

Execution Petition No. 88 /2018
Appeal No. 1168 /2014. Decided on 17.06.2016.

Ishtiaq VS The Police Deptt; and others

INDEX

S.No.	Description of Documents	Annexure	Pages	
			From	To
1.	Execution Application With Affidavit.	----	01	02
2.	Copy Of Judgement.	"A"	03	06
3.	Arrival Report.	"B"	07	---
4.	Wakalat Nama.	----	08	---
Total: -			08.	

Dated:- 08.03.2018.

Appellant

M. Ishtiaq
(Ishtiaq)

Through:

M. Adam Khan
Muhammad Adam Khan
Advocate High Court
at District Courts Mardan.

BEFORE THE PROVINCIAL SERVICE TRIBUNAL, PESHAWAR

Execution Petition No. 88 /2018.
Appeal No. 1168 -/2014. Decided on 17.06.2016.

Ishtiaq (Ex-Constable No.1463, District Police Mardan). R/o Village Sawal Dher Tehsil & District Mardan.

(Appellant).

VERSUS

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 317

Dated 21/03/2018

1. **The District Police Officer , Mardan.**
2. **The Inspector General of Police, K.P.K,Peshawar.**


(Respondents).

**EXECUTION APPLICATION IN RESPECT OF SERVICE APPEAL NO.1168/2014
DECIDED ON 09.01.2018 TITLED "ISHTIAQ VERSUS DISTRICT POLICE OFFICER
AND OTHERS".**

FACTS:

1. That the Applicant was dismissed from service by the DPO/Respondent No.1, vide order dated 19-06-2014 which was challenged before this Honourable Tribunal in Appeal No. 1168/2014.
2. That vide Judgement dated 09-01-2018, this Hon'ble Tribunal accepted the appeal and reinstated the applicant.

(Copy of Judgment Annexure:- "A").

3. That the Applicant reported his arrival for duty to the DPO/ Respondent No.1, on 16-01-2018 with the copy of judgement in question. **(Copy Annexure:- "B").**
4. That inspite of lapse of sufficient period, the Respondent No.1 has not implemented the judgement / order referred to above, rather  is reluctant to implement the same.

It is prayed that the Respondent No. 1, may be directed to implement the judgement / order in letter and spirit, with costs.

Dated:- 08/03/2018.

Applicant

M. Ishtiaq
(Ishtiaq)

Through:-

Amir
Muhammad Adam Khan
Advocate High Court
at District Courts Mardan.

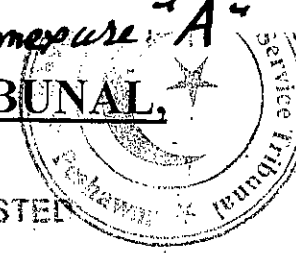
AFFIDAVIT

I, Ishtiaq/ the Appellant, do hereby stated on solemn affirmation that the contents of the above Execution application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Tribunal.

Deponent: M. Ishtiaq
(Ishtiaq)

ATTESTED
Muhammad Farooq Khan Advocate
& Cashier
District Court Mardan
08/03/2018

**BEFORE THE PROVINCIAL SERVICE TRIBUNAL,
PESHAWAR**



Appeal No. 1168 / 2014.

ATTESTED
[Signature]
ADAM KHAN

Ishtiaq, (Ex-Constable No. 1463, District Police Mardat) R/o Village Sawal Dher Tehsil & District Mardan.

(Appellant)

VERSUS

1. The District Police Officer Mardan.
2. The Deputy Inspector General of Police, Mardan Region-I, Mardan.

(Respondents)

[Handwritten notes and stamps]
120
23/9

APPEAL UNDER SECTION-4 OF THE SERVICE TRIBUNAL ACT, 1974
AGAINST THE ORDER OF THE DPO / RESPONDENT No. 1,
CONTAINED IN O.B No. 1430 DATED 19-06-2014 (ENDORSED ON 20-06-
2014), WHEREBY APPELLANT IS DISMISSED FROM SERVICE AND
APPEAL THEREFROM REJECTED BY THE DIG / RESPONDENT No. 2
VIDE LETTER No. 5684 / ES DATED 25-08-2014.

FACTS:

1. That Appellant was appointed as Constable in the police department at Mardan on 25-05-2007.
2. That the mother of Appellant was seriously ill and she was hospitalized in Surgical "A" Unit of the DHQ Hospital Mardan, firstly from 03-09-2010 to 25-09-2010 and again from 20-12-2010 to 18-01-2011. Since, there was no other male person in the house. The Appellant had to look after, his ailing mother in the hospital and availed leave during the aforesaid period. (Copies of discharge slips are attached as Annexure "A B")
3. That the DPO / Respondent No. 1 served the Appellant with the show cause notice on the allegation of absence from duty under section 10 of the KPK Removal from Service (Special Power) ordinance - 2000, the Appellant was compelled by the office of the DPO / Respondent No. 1 to write his reply there and then and took back the show cause notice in original with the defense reply, not allowing the Appellant to obtain the copies thereof for his record.
4. That the DPO / Respondent No. 1 awarded the Appellant with the punishment of dismissal from service vide order dated 15-04-2011, which was challenged in this

[Handwritten signature]
23/9/14

ATTESTED

[Handwritten signature]

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

Service Appeal No. 1168/2014

Date of Institution... 23.09.2014

Date of decision... 09.01.2018



Ishtiaq (Ex-Constable No. 1463, District Police Mardan) R/O Village Sawal Dher, Tehsil and District Mardan. ... (Appellant)

Versus

1. The District Police Officer, Mardan and another. ... (Respondents)

Mr. Adam Khan, Advocate. ... For appellant.

Mr. Muhammad Jan, Deputy District Attorney ... For respondents.

MR. NIAZ MUHAMMAD KHAN, MR. GUL ZEB KHAN, ... CHAIRMAN MEMBER


JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: - Arguments of the learned counsel for the parties heard and record perused.

FACTS

2. The appellant was dismissed from service due to his absence against which he approached this Tribunal in first round and this Tribunal vide judgment dated 07.02.2014 reinstated the appellant with the direction to the department to hold denovo proceedings within a period of two months. The department then proceeded against the appellant denovo and again dismissed him on 19.06.2014. Against this order, the appellant filed departmental appeal (undated). This departmental appeal was rejected on 25.08.2014 and thereafter, the appellant filed the present service appeal on 23.09.2014.

ATTESTED


Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

ARGUMENTS

3. The learned counsel for the appellant argued that the denovo proceedings were not completed within stipulated period of two months as per the directions of this Tribunal. That even in denovo proceedings no charge sheet was issued to the appellant. That no copy of the enquiry report was given to the appellant nor final show cause notice was given to him.

4. On the other hand, the learned Deputy District Attorney argued that the appellant was served with charge sheet and statement of allegations on 29.05.2014. That there was no need of any final show cause notice or copy of the enquiry report under the Khyber Pakhtunkhwa Police Rules, 1975. That enquiry was conducted in accordance with law. That the appellant did not question the enquiry proceedings nor he raised the objection of non-issuance of charge sheet/statement of allegations in the departmental appeal.

CONCLUSION

5. The appellant categorically mentioned in ground-C of his memo of appeal that no charge sheet was issued to him. In written reply the department did not mention that any charge sheet and statement of allegations were issued to the appellant. The departmental representative wanted to produce the charge sheet and statement of allegations today in the Tribunal. But this Tribunal has not taken into consideration the charge sheet because it was never annexed with the reply of the respondents nor in the reply the same was mentioned. The very impugned order also does not speak about issuance of charge sheet. The only fact mentioned by the authority was that the enquiry officer summoned the appellant and completed his enquiry. Similarly, in the appellate order, there is also mention of summoning of the appellant by the enquiry officer. There is no mention of charge sheet etc. Non-

Handwritten marks and scribbles on the left margin.

ATTESTED

Signature
Khyber Pakhtunkhwa
Service Tribunal,
Dera Ismail Khan

mentioning of charge sheet or statement of allegations in the departmental appeal by the appellant would not be fatal for his present appeal and it could not be presumed that non-mentioning of the same in the departmental appeal could stop the appellant from agitating his legal right at this stage. This Tribunal in a number of cases has decided that issuance of final show cause notice alongwith copy of enquiry report is mandatory in the Khyber Pakhtunkhwa Police Rules, 1975. One such judgment is dated 23.11.2017 in service appeal No. 1074/2012 entitled "Saqib Gul Vs. District Police Officer, Mansehra and others"

6. As a consequence of the above discussion, the present appeal is accepted, and the appellant is reinstated in service and the period of his absence till 07.02.2014 is to be treated as leave without pay and the period thereafter shall be presumed to be period spent on duty. However, the financial benefits shall be subject to the rules on the subject including gainful employment etc. to be determined by the department. Parties are left to bear their own costs. File be consigned to the record room.

Announced
09.01.2018

Self-Niaz Muhammad Khan,
Chairman

Certified to be true copy
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Self-Gulzeb Khan,
Member

Date of Presentation of Application	12-01-2018
Number of Words	1600
Copying Fee	10.00
Urgent	2.00
Total	12.00
Name of Copyist	
Date of Completion	12-01-2018
Date of Delivery of Copy	12-01-2018

To

The DPO,
Mardan.

ATTESTED
ADAM KHAN
ADAM KHAN

Subject: Annual Report and implementation of judgment of the Service Tribunal in Appeal no. 1160/2014 dated 09.01.2018.

Sir,

It is requested that I was posted as constable in Police Line Mardan, I was dismissed from service on 19.6.2014.

I approached the service Tribunal against the said dismissal in Appeal no. 1160/2014, which was accepted on 09.01.2018 and I was re-instated in service with back service benefits, to be determined by the Department under the direction, mentioned in the judgment. Copy attached.

I do hereby resumed my duty.

Dt 16.01.2018

Yours obediently,
(Shahbaz) *Shahbaz*
Constable no. 1463
Mardan.

Address: Village Sawalcher,
Mardan.

VAKALAT NAMA

In the Court of Provincial Service Tribunal Peshawar

Execution Petition/Appell No. _____ of 2018

Ishtiaq

(Petitioner) ✓
(Plaintiff)
(Appellant)

VERSUS

The Police Deptt. etc

(Respondent)
(Defendant)

I/We Ishtiaq the
above noted Petitioner do

hereby appoint and constitute **Muhammad Adam Khan, Advocate Mardan** as
Counsel in subject proceedings and authorize him to appear, plead etc. compromise, withdraw or
refer to arbitration for me/us, as my/our Advocate in the above noted matter, without any liability
for his default and with the authority to engage/appoint any other Advocate/Counsel at my/our
behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated: 07.03.2018.

M. Ishtiaq
(Signature of Client)

MUHAMMAD ADAM KHAN
Advocate
District Courts, Mardan.

Adam
Accepted

MUHAMMAD ADAM KHAN
B.A LLB Advocate
High Court Mardan



OFFICE OF THE
DISTRICT POLICE OFFICER
MARDAN


Tel: 0937-9230109
Fax: 0937-9230111
Email: dpo_mardan@yahoo.com
Facebook: District Police Mardan
Twitter: @dpomardan

ORDER.

In compliance of the judgment/order dated 09.01.2018 passed by the Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar in Service Appeal No.1168/2014 titled **Ex-Constable Muhammad Ishtiaq No. 1463 Vs DPO Mardan & Others**, Ex-Constable Muhammad Ishtiaq No. 1463 has been conditionally re-instated into service and the period of his absence till 07.02.2017 is treated as leave without pay while the period thereafter is treated as period spent on duty. However the financial benefits shall be subject to the rules on the subject including gainful employment etc to be determined by the department and on provision/ furnishing bond regarding return of the amount paid in the shape of salaries if CPLA is accepted by the August Apex supreme court of Pakistan. This order is being passed by the undersigned after seeking guidance in case of the same nature from the office of AIG Legal CPO Peshawar vide his office letter No. 1543/Legal dated 30.05.2016.

OB No 670

Date 27/07 2018.


District Police Officer,
Mardan

No. 2954-SB /EC, dated Mardan the, 27 07, 2018.

Copy forwarded to the:

1. DSP HQrs: Mardan.
2. Insp: Legal Mardan.
3. Pay Officer.



OFFICE OF THE
DISTRICT POLICE OFFICER
MARDAN


Tel: 0937-9230109
Fax: 0937-9230111
Email: dpo_mardan@yahoo.com
Facebook: District Police Mardan
Twitter: @dpomardan

ORDER.

In compliance of the judgment/order dated 09.01.2018 passed by the Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar in Service Appeal No.1168/2014 titled **Ex-Constable Muhammad Ishtiaq No. 1463 Vs DPO Mardan & Others**, Ex-Constable Muhammad Ishtiaq No. 1463 has been conditionally re-instated into service and the period of his absence till 07.02.2017 is treated as leave without pay while the period thereafter is treated as period spent on duty. However the financial benefits shall be subject to the rules on the subject including gainful employment etc to be determined by the department and on provision/ furnishing bond regarding return of the amount paid in the shape of salaries if CPLA is accepted by the August Apex supreme court of Pakistan. This order is being passed by the undersigned after seeking guidance in case of the same nature from the office of AIG Legal CPO Peshawar vide his office letter No. 1543/Legal dated 30.05.2016.

OB No 570

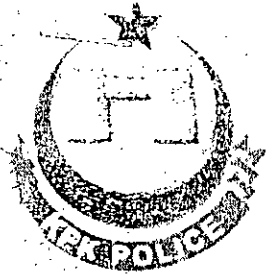
Date 21-03 2018.


District Police Officer,
Mardan *slc*

No. 9954-56 /EC, dated Mardan the, 22-03-2018.

Copy forwarded to the:

1. DSP HQrs: Mardan.
- ✓ 2. Insp: Legal Mardan.
3. Pay Officer.



OFFICE OF THE
DISTRICT POLICE OFFICER
MARDAN


Tel: 0937-9230109
Fax: 0937-9230111
Email: dpo_mardan@yahoo.com
Facebook: District Police Mardan
Twitter: @dpo_mardan

ORDER.

In compliance of the judgment/order dated 09.01.2018 passed by the Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar in Service Appeal No.1168/2014 titled **Ex-Constable Muhammad Ishtiaq No. 1463 Vs DPO Mardan & Others**, Ex-Constable Muhammad Ishtiaq No. 1463 has been conditionally re-instated into service and the period of his absence till 07.02.2017 is treated as leave without pay while the period thereafter is treated as period spent on duty. However the financial benefits shall be subject to the rules on the subject including gainful employment etc to be determined by the department and on provision/ furnishing bond regarding return of the amount paid in the shape of salaries if CPLA is accepted by the August Apex supreme court of Pakistan. This order is being passed by the undersigned after seeking guidance in case of the same nature from the office of AIG Legal CPO Peshawar vide his office letter No. 1543/Legal dated 30.05.2016.

OB No. 644

Date 27-07-2018.


District Police Officer,
Mardan

No. 9954-56 /EC, dated Mardan the, 27 /07/2018.

Copy forwarded to the:

1. DSP HQrs: Mardan.
2. Insp: Legal Mardan.
3. Pay Officer.