

05.06.2018

Petitioner in person and Learned Additional Advocate General present. Petitioner submitted application for withdrawal of the present execution petition on the ground that the grievance of the appellant has been redressed. Consequently the present execution petition is dismissed as withdrawn. No order as to costs. File be consigned to the record room.

ANNOUNCED
05.06.2018



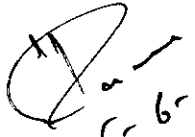
Member

FORM OF ORDER SHEET

Execution Petition No. 70/2018

| S.No. | Date of order Proceedings | Order or other proceedings with signature of Judge |
|------------|--|---|
| 1 | 2 | 3 |
| 1 | 09.03.2018 | <p>The Execution Petition of Mr. Jahangir submitted to-day 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;"><i>[Signature]</i> REGISTRAR 2/3/18</p> |
| 2- | 12/03/18. | <p>This Execution Petition be put up before S. Bench on- <u>26/03/18.</u></p> <p style="text-align: right;"><i>[Signature]</i> MEMBER</p> |
| 26.03.2018 | <p style="text-align: center;"><i>[Signature]</i> NICE NO. 16101-8085467-9</p> | <p>Petitioner with counsel present. Notice be issued to the respondents for implementation report for 05.06.2018 before S.B.</p> <p style="text-align: right;"><i>[Signature]</i> (Muhammad Amin Khan Kundi) Member</p> |

Before the HP Service Tribunal Petitioner

Janger vs Police  5-6-2018

S/A No: 70/2018

Subject: Application for withdrawal

R/Skill: Petitioner/Applicant Submitt as under.

I that the above mention title appeal is pending before this honorable Tribunal and today the date is fixed for hearing.

2 That grievances of the appellant/petitioner has been redress. In view of request for withdrawal of the instant appeal.

So, it is therefore requested that the appeal may kindly be withdrawn as prayed for.

Petitioner

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

IN Re: *Execution Petition No. 70/18*

S.Appeal No.617/2015

Jehangir, Ex-Constable No.495.....Appellant

Versus

The Provincial Police Officer, KPK and others

...Respondents

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Jehangir
Applicant-in-Person

Jehangir
Jehangir

Ex-Constable No.495,
S/o Sher Muhammad,
R/o Village Gujrat,
Mardan

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

IN Re:

Execution petition no. 7/2018

Khyber Pakhtunkhwa
Service Tribunal

S.Appeal No.617/2015

Diary No. 275

Dated 09/03/2018

Jehangir, Ex-Constable No.495.....Appellant

Versus

The Provincial Police Officer, KPK and others

...Respondents

**APPLICATION FOR IMPLEMENTATION
OF JUDGMENT DATED 06.02.2018 OF
THIS HON'BLE TRIBUNAL**

Sir,

Applicant humbly submits as under:-

1. That applicant filed titled Service Appeal No.617/2018 before this hon'ble Tribunal with the prayer that **"the impugned appellate order dated 24.11.2014 passed by respondent No.2 and the original order dated 24.10.2014, passed by respondent No.3 may graciously be set-aside and appellant be reinstated into service with ball back benefits"**
2. That appeal of the applicant came up for hearing on 06.02.2018, and this Hon'ble Tribunal was pleased to allow the appeal of the applicant with the following order:-

"the instant appeal is partially accepted and the punishment of dismissal from service of appellant is converted into withholding of two annual increments for two years. The intervening period shall be treated as extra-ordinary leave without pay"

(Copy of order/ judgment dated 06.02.2018 is Annex "A")

3. That after announcement of judgment dated 06.02.20148, the applicant send the attested copy of the said judgment to the respondents fort its implementation.
4. That since announcement of judgment/ order dated 06.02.2018, the same has not been implemented, despite several request of the applicant, but in vain.
5. That omission of respondents to act upon the order of this Hon'ble Tribunal speaks of the fact that respondents has undermined the authority of this Hon'ble Tribunal and have not moved even an inch for implementation of the same.
6. That this omission/ act of respondents squarely falls within the ambit of contempt of court as respondents have conveniently ignored the time frame provided by this Tribunal Court.

It is therefore, humbly requested to please direct respondents to implement the judgment dated 06.02.2018 in its letter and spirit

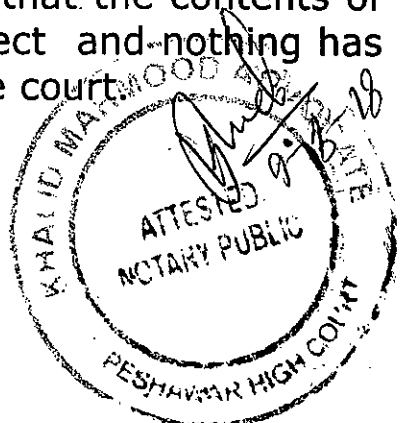
[Signature]
Applicant-in-Person

[Signature]
Through

Jehangir
Ex-Constable No.495,
S/o Sher Muhammad,
R/o Village Gujrat,
Mardan

AFFIDAVIT

I, do hereby affirm and declare as per instructions of my clients that the contents of this **Application** are true and correct and nothing has been concealed from this honorable court.



[Signature]
DEPONENT

(3)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 617 /2015

Jehangir,
Ex-Constable No.495,
S/o Sher Muhammad,
R/o Village Gujrat Mardan



K.W.P PROVINCE
Service Tribunal
No. 617
Dated 24-11-2015

Appellant

VERSUS

1. The Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer,
Mardan Region, Mardan.
3. The District Police Officer,
District Mardan

Respondents

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED APPELLATE ORDER DATED 24.11.2014 PASSED BY RESPONDENT NO.2 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT, AGAINST THE IMPUGNED ORDER DATED 24.10.2014 PASSED BY RESPONDENT NO.3 WHEREBY APPELLANT WAS DISMISSED FROM SERVICE, WAS UNLAWFULLY REJECTED.

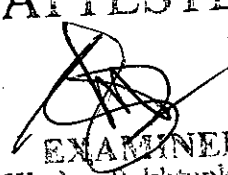
PRAYER:

On acceptance of the instant appeal, the impugned appellate order dated 24.11.2014 passed by Respondent No.2 and the original order dated 24.10.2014, passed by Respondent No.3 may graciously be set aside and appellant be reinstated into service with all back benefits.

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:-

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Submitted to day
admitted.


Registrar

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| Sr. No | Date of order/proceedings | Order or other proceedings with signature of Judge or Magistrate |
|--------|---------------------------|--|
| 1 | 2 | 3 |

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No. 617/2015

Date of Institution ... 04.06.2015
Date of Decision ... 06.02.2018

Jehangir S/O Sher Muhammad,
Ex-Constable No. 495,
R/O Village Gujrat Mardan.

Appellant

Versus

The Provincial Police Officer Khyber Pakhtunkhwa, Peshawar &
02 others.

Respondents

Mr. Khalid Rahman,
Advocate --- For appellant.

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

MR. GUL ZEB KHAN --- MEMBER
MR. MUHAMMAD HAMID MUGHAL --- MEMBER


06.02.2018

JUDGMENT

GUL ZEB KHAN, MEMBER: - Learned counsel for the appellant present and Mr. Muhammad Jan, DDA alongwith Mr. Atta-ur-Rahman, S.I (Legal) for official respondent present.

2. The appellant has filed the present appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 wherein he has impugned the office order dated 24.10.2014 passed by respondent No. 3,

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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whereby the appellant was dismissed from service on the ground of absence from duty and the absence period was counted as leave without pay. The appellant has also made impugned the office order dated 24.11.2014, whereby his departmental appeal was rejected.

3. Learned counsel for the appellant argued that the impugned order of dismissal of service is illegal and void. That the impugned order was issued without observing the codal formalities. That the impugned order is also harsh. Further argued that vide the impugned order, the competent authority has also regularized the absence period of appellant as leave without pay hence the impugned order of dismissal from service is not tenable in the eyes of law, hence liable to be set aside.

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4. On the other hand learned District Attorney while opposing the present appeal argued that the appellant remained willfully absent without any application or permission and codal formalities were also completed, as such the impugned order doesn't warrant any interference.

5. We have heard arguments of the learned counsel for the appellant and learned Deputy District Attorney for the respondents and have gone through the record available on file.

6. Perusal of the concluding Para of the impugned order dated 24.10.2014 would show that the competent authority (respondent No. 3), while awarding the major punishment of dismissal from service on the charge of absence from duties, has also treated the period of absence of appellant as leave without pay.

7. It is not disputed that the appellant remained absent without

ATTESTED

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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permission, however the stance of the appellant is that the cause for his absence was his sickness (typhoid). In these circumstances the impugned punishment order appears to be harsh one and do not commensurate with the lapse/guilt on the part of the appellant and as such the present appeal is partially accepted and the punishment of dismissal from service of the appellant is converted into withholding of two annual increments for two years. The intervening period shall be treated as extra-ordinary leave without pay. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

06.02.2018

Mughal

(Muhammad Hamid Mughal)

MEMBER

Gul Zeb Khan

(Gul Zeb Khan)

MEMBER

Certified to be true copy

BY *[Signature]*
Khayal Ahmad Akhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 08-02-2018

Number of Words 1600

Copying Fee 10.00

Urgent -

Total 10.00

Name of Copyist [Signature]

Date of Completion of Copy 06-03-18

Date of Delivery of Copy 06-03-18