

08.11.2018


None for the petitioner present.. Due to retirement of the Hon'ble Chairman the Service Tribunal is incomplete. Tour to Camp Court Swat has been cancelled. To come up for the same on 07.01.2019 at camp court Swat

01  
  
Reader

07.01.2019

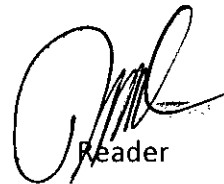
Clerk of the counsel for the petitioner present. Mr. Sultan Shah, Assistant alongwith Mr. Mian Amir Qadir, District Attorney for the respondents present. Representative of the respondents submitted implementation report which is placed on file. Clerk of counsel for the petitioner stated that the grievance of the petitioner has been redressed, therefore, requested for withdrawal of the instant execution petition. Accordingly, the present execution petition is dismissed as withdrawn. File be consigned to the record room.

Announced:  
07.01.2019

  
(Muhammad Amin Khan Kundi)  
Member  
Camp Court Swat

07.08.2018

Clerk to counsel for the petitioner and Sutan Shah Assistant for the respondents present. Due to summer vacations, the case is adjourned. To come up for the same on ~~09.08~~ 2018 at camp court Swat.



Reader

02.10.2018

Counsel for the petitioner present. Mr. Sultan Shah, Assistant alongwith Mr. Usman Ghani, District Attorney present. Representative of the respondents assured that implementation report would be submitted positively on the next date of hearing. His request is accepted. In case implementation report is not submitted on the next date of hearing then coercive measure in the shape of attachment of salary would be initiated against the respondents. Granted. To come up for implementation report on 08.11.2018 before the S.B at camp court, Swat.



Member  
Camp Court Swat

**GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
DATED PESHAWAR, THE 10th DECEMBER 2018**

**NOTIFICATION**

**NO. SOE-EV/ESAD/11-28/2018.** In pursuance of the order of the Supreme Court of Pakistan dated 03.10.2017 in case No. 224/2009 titled "Abdus Salam DO(F&P) Torghar versus Government of Khyber Pakhtunkhwa, the Competent Authority is pleased to withdraw this department's notification No. SOE-EV/ESAD/11-28/2015 dated 09.12.2015 whereby the major penalty of "Reduction to a lower grade in time scale for two years" was imposed upon Mr. Naseer Ahmad (35-17 official of P&D) former DO(F&P) Torghar, subject to the final decision of Supreme Court of Pakistan on the pending CPLA filed by the Provincial Government in this instance.

**CHIEF SECRETARY  
GOVERNMENT OF KHYBER PAKHTUNKHWA**

**Encl. No. 2.**


Forwarded to the:-

- Additional Chief Secretary, P&D Department
- Principal Secretary to Governor, Khyber Pakhtunkhwa
- Principal Secretary to Chief Minister, Khyber Pakhtunkhwa
- Commissioner, Peshawar
- Chief General, Khyber Pakhtunkhwa
- Commissioner, Torghar
- Chief Secretary, Khyber Pakhtunkhwa, Service Tribunal, Peshawar
- Deputy Commissioner, Torghar
- Public Information, Khyber Pakhtunkhwa
- Secretary, Khyber Pakhtunkhwa
- Establishment / PS to Secretary Administration
- Secretary, P&D S. Esd., SOI Secret., SOI HR.
- Secretary, P&D
- Secretary, Press Release

**CHIEF SECRETARY  
SECTION OFFICER**

02.04.2018

Clerk of counsel for the appellant and Mr. Usman Ghani, District Attorney for the respondents present. Implementation report not submitted. Last chance is given for implementation report. To come up for implementation report on 07.05.2018. before S.B at camp court, Swat.

  
Chairman  
Camp court, Swat


09.05.2018

Due to retirement of the Hon'ble Chairman, the Tribunal become non-functional. To come up for the same on 02.07.2018 before the S.B at camp court, Swat.

  
Reader

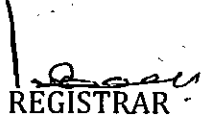


02.07.2018

Learned counsel for the petitioner present. Mr. Usman Ghani learned District Attorney present. No one present on behalf of respondent department. Notice be issued to the respondents for 07.08.2018. Adjourned. To come up for implementation report otherwise for reply on the date fixed before S.B at camp court Swat.

  
Member  
Camp court, Swat

FORM OF ORDER SHEET

Execution Petition No. 52/2018

| S.No.      | Date of order Proceedings | Order or other proceedings with signature of Judge.  |
|------------|---------------------------|--|
| 1          | 2                         | 3  |
| 1          | 15.02.2018                | <p>The Execution Petition of Mr. Naseer Ahmad submitted to-day by Mr. Aziz-ur-Rehman Advocate may be entered in the relevant Register and put up to the Court for proper order please.</p> <p style="text-align: right;"><br/>REGISTRAR</p>   |
| 2          | 26-2-18                   | <p>This Execution Petition be put up before Touring S. Bench at Swat on <u>05-03-18</u></p> <p style="text-align: right;"><br/>CHAIRMAN</p>  |
| 05.03.2018 |                           | <p>Clerk to counsel for the Petitioner and Addl. AG for the respondents present. Implementation report not submitted. Requested for adjournment. Adjourned. To come up for implementation report on 02.04.2018 before S.B at camp court Swat</p> <p style="text-align: right;"><br/>Chairman<br/>Camp court, Swat</p> |

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR

Execution Petition No. 51 of 2018

Naseer Ahmad District Officer Finance District Torghar

...Petitioner

VERSUS

The Government of Khyber Pakhtunkhwa through Secretary Establishment,  
Peshawar and Others.

...Respondents

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Petitioner Through

Aziz-ur-Rahman

Advocate Swat

Office: Khan Plaza, Gulshone Chowk,  
Mingora Swat, Cell 0333 929 7746

Dated: 12-02-2018

①

BEFORE THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR

Execution Petition No. 51 of 2018

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 186

Date 15/02/2018

Naseer Ahmad District Officer Finance District Torghar

...Petitioner

VERSUS

1. The Government of Khyber Pakhtunkhwa through Secretary Establishment, Peshawar
2. The Chief Secretary Government of Khyber Pakhtunkhwa, Peshawar, Competent Authority.
3. The Chief Minister Khyber Pakhtunkhwa, Appellate Authority.

...Respondents

EXECUTION PETITION FOR THE  
IMPLEMENTATION OF THE  
JUDGMENT DATED 03-10-2017 OF THIS  
HONOURABLE TRIBUNAL.

---

Respectfully Sheweth:

- i. That the petitioner filed a service appeal before this honourable tribunal for the redressal of his grievances, which was decided vide judgment dated 03-10-2017. Copy of the judgment is enclosed as Annexure "A".

- ii. That vide the judgment this honourable tribunal was gracious enough to set aside the order impugned for the detailed reason given in the judgment.
- iii. That now since the delivery of the judgment till date the respondents are not implementing the judgment and are resorting to delaying tactics to the utter detriment of the petitioner.
- iv. That the petitioner has suffered allot and is made to suffer causing the petitioner irreparable loss and also his service prospects are being pushed into oblivion, despite the fact that the impugned order of penalty has been set aside by this honourable tribunal.
- v. That the respondents are also making themselves liable to be prosecuted for contempt as well for not implementing the orders of this honourable tribunal.
- vi. That in the best interest of justice and to safeguard the valuable rights of the petitioners this honourable tribunal must implement its judgment.

It is, therefore, very respectfully prayed that on acceptance of this petition the judgment dated 03-10-2017 of this honourable tribunal may very kindly be implemented in letter and spirit and its benefits be forwarded / granted to the petitioner.



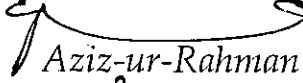
3

Any other mode implementation deemed proper may also very kindly be adopted.

 Petitioner

Naseer Ahmad

Through Counsels,

 Aziz-ur-Rahman

 Imdad Ullah

Advocates Swat

4

BEFORE THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR

Execution Petition No. \_\_\_\_\_ of 2018

Naseer Ahmad District Officer Finance District *Torshar*

...Petitioner

**VERSUS**

The Government of Khyber Pakhtunkhwa through  
Secretary Establishment, Peshawar and Others.

...Respondents

AFFIDAVIT

It is solemnly stated on Oath that all the contents of  
this execution petition are true and correct to the best of  
my knowledge and belief and nothing has either been  
misstated or kept concealed before this Honourable  
Tribunal.

*Naseer Ahmad*  
Deponent  
Naseer Ahmad

Identified By:

*Imdad Ullah*  
Imdad Ullah  
Advocate Swat

**ATTESTED**  
*Wajid All Shah*  
WAJID ALL SHAH ADVOCATE  
District Courts Swat  
No. 25/Date... 12-9  
OATH COMMISSIONER

(5)

BEFORE THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR

Execution Petition No. \_\_\_\_\_ of 2018

Naseer Ahmad District Officer Finance District *Torghhar*  
...Petitioner

VERSUS

The Government of Khyber Pakhtunkhwa through  
Secretary Establishment, Peshawar and Others.

...Respondents

ADDRESSES OF THE PARTIES

Petitioner:

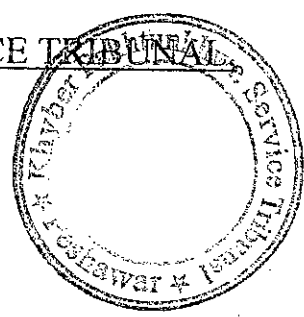
Naseer Ahmad District Officer Finance District *Torghhar*

Respondents:

1. The Government of Khyber Pakhtunkhwa through  
Secretary Establishment, Peshawar
2. The Chief Secretary Government of Khyber  
Pakhtunkhwa, Peshawar, Competent Authority.
3. The Chief Minister Khyber Pakhtunkhwa,  
Appellate Authority.

Petitioner  
Through Counsel,  
*Imdad*  
Imdad Ullah  
Advocate Swat

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
CAMP COURT SWAT



Service Appeal No. 236/2016

Date of Institution... 15.03.2016

Date of decision... 03.10.2017

Naseer Ahinad District Officer Finance & Planning, District Torghar.  
... (Appellant)

Versus

1. Government of Khyber Pakhtunkhwa through Secretary Establishment Peshawar and others.  
... (Respondents)

MR. IMDADULLAH,  
Advocate ... For appellant.

MR. MUHAMMAD ZUBAIR,  
District Attorney ... For respondents.

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

JUDGMENT

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

FACTS

2. The impugned order was passed against the appellant on 09.12.2015 wherein he was reduced to a lower stage in time scale for two years which is a major penalty. Against this impugned order, the appellant filed departmental appeal on 04.01.2016 which was rejected on 18.02.2016. Thereafter the present service appeal filed by the appellant on 15.03.2016.

**ATTESTED**  
*[Signature]*  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Camp Court, Swat

**Attested**  
*[Signature]*  
Advocate

3. The appellant was issued charge sheet on 21.06.2015 alongwith statement of allegations. The enquiry officer dropped four allegations out of five and held the appellant guilty of allegation No. 1 only.

ARGUMENTS

4. The learned counsel for the appellant argued that the enquiry officer conducted the enquiry not in accordance with law and rules. That he visited the concerned district on a particular day in absence of the appellant and he interviewed some officers of the department as witnesses without affording any chance of cross examination to the appellant. That no record of those interviews in black & white is available with the enquiry findings. That no chance of defence was afforded to the appellant. That the allegation No. 1 is regarding the habitual absence of the appellant from duty and also his failure to attend meetings held in P&D Department. That the enquiry officer in his findings on allegation No. 1 has held the appellant absent from duty on certain dates but has not taken into consideration the defence of the appellant like application for leave; the attendance sheet in a meeting dated 13.3.2015 and the like.

5. On the other hand, the learned Deputy District Attorney argued that the enquiry was properly conducted. That the appellant was heard in person by the enquiry officer as well as the authority.

CONCLUSION

The charge sheet which contains 5 allegations and allegation No. 1 is general in nature not mentioning specific dates of absence from duty of the appellant nor the dates of meetings have been mentioned. This non mentioning of specific dates has put the appellant in disadvantageous position to defend himself. Needless to discuss other four allegations as the enquiry officer has exonerated the appellant qua the other four allegations. In the very statement of allegations the competent authority had directed

Y. S. Srinivasan  
Advocate  
Mysore Court, Mysore


ATTESTED  
[Signature]

Attested  
[Signature]  
Advocate

the enquiry officer and a well conversant representative of the department to join proceedings on the date, time and place fixed by the enquiry officer. It is not apparent from the record whether the appellant was given the notice of any proceedings as mentioned above. The enquiry report mentioned that the enquiry officer visited the concerned district on 28.7.2015 but neither the appellant nor the departmental representative accompanied him as was directed by the authority and it was also a legal requirement. Mere interviewing witnesses is not permissible under the rules. If a departmental enquiry is conducted by recording the statements of witnesses then full opportunity to the appellant should have been given to cross examine those witnesses. Through cross examining the accused can defend himself by bringing the truth out of the mouth of the witnesses who are deposing. Failure to cross examine the witnesses tantamounts to denial of defence to the appellant which is fatal to the enquiry proceedings. The personal hearing as afforded by the enquiry officer to the appellant is written to be 2.7.2015 which is much before the date on which the enquiry officer examined the witnesses in the concerned district. Such hearing is of no value. It has also not been mentioned in the enquiry report that the appellant was given chance to produce witnesses in his favour which means that he was not afforded positive chance of producing witnesses.

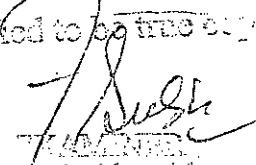
7. As a result thereof the present appeal is accepted and the impugned order is set aside.. Parties are left to bear their own costs. File be consigned to the record room.

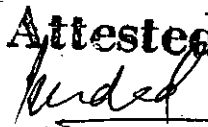
  
 (Gul Zeb Khan)  
 Member

  
 (Niaz Muhammad Khan)  
 Chairman  
 Camp Court, Swat

ANNOUNCED  
 03.10.2017

*Handwritten notes:*  
 1200  
 8-00  
 2-00  
 10-00  
 4-10-17

Certified to be true  
  
 Advocate  
 Camp Court, Swat

**Attested**  
  
 Advocate

In the matter of:-

Naseer Ahmed

Appellant/Petitioner

VERSUS

The Court k.p. through  
Chief Secretary & Others

Respondents

KNOWN ALL to whom these present shall come that I/we, the undersigned appoint

**AZIZ-UR-RAHMAN and IMDAD ULLAH**

Advocates High Court

To be the advocate for the Petitioner in the above mentioned case to do all the following acts, deeds and things or any one of them, that is to say:-

- ❖ To acts, appear and plead in the above mentioned case in this court or any other Court in which the same may be tried or heard in the first instance or in appeal or review or revision or execution or at any other stage of its progress until its final decision.
- ❖ To present pleadings, appeals, cross objections or petitions for execution review, revision, withdrawal, compromise or other petition or affidavits or other documents as shall be deemed necessary or advisable for the prosecution of the said case in all its stages.
- ❖ To withdraw or compromise the said or submit to arbitration any difference or dispute that shall arise touching or in any manner relating to the said case.
- ❖ To receive money and grant receipts therefore, and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case.
- ❖ To employ any other Legal Practitioner authorizing him to exercise the power and authorities hereby conferred on the Advocate wherever he may think fit to do so.
- ❖ I understand that the services of aforesaid lawyer are hired irrespective of the outcome of the case.

And I/We hereby agreed to ratify whatever the advocate or his substitute shall to do in the said premises.

And I/We hereby agree not to hold the Advocate or his substitute responsible for the result of the said case in consequences of his absence from the Court when the said case is called up for hearing.

And I/We hereby agree that in the event of the whole or any part of the fee agreed by me/us to be paid to the Advocate remaining unpaid, the Advocate shall be entitled to withdraw from the prosecution of the case until the same is paid.

IN THE WITNESS WHEREOF I/WE hereunto set my/our hand(s) to these present the contents of which have been explained to and understood by me/us, this 12 day of 02 2018.

(Signature or thumb impression)

(Signature or thumb impression)

(Signature or thumb impression)

Accepted subject to terms regarding fees

(AZIZ-UR-RAHMAN)

Advocate High Court

Office: Khan Plaza, Gulshone Chowk  
G.T. Road Mingora, District Swat.  
Cell No. 0300 907 0671

(IMDAD ULLAH)

Advocate High Court

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G.T. Road, Mingora, District Swat  
Cell No. 0333 929 7746