04.12.2018

Attorney alongwith Mr. Raees Khan Inspector present. Representative of the respondents submitted transfer/posting order dated 30.08.2018 and stated that in the light of the said order the judgment in question has been implemented. Case called several times but none appeared on behalf of petitioner. It appears that the petitioner has lost his interest in the present petition. Consequently the present petition be consigned to the record room being not pressed. No order as to costs.

Member Camp Court, Swat

ANNOUNCED. 04.12.2018

04.07.2018

Petitioner Anwar Khan in person present. Mr. Usman Ghani, District Attorney for the respondents present.

The petitioner contends that order passed by this Tribunal has not been implemented by the respondent No. 3 as transfer order has not been withdrawn so far. As such comments bne sought from respondent No. 3 with further direction to submit implementation report as well as 03.09.2018 before S.B at camp court, Swat.

Chairman Camp court, Swat.

03.09.2018

Mr. Aftab Ullah, son of the petitioner on behalf of the Petitioner present. Mr. Usman Ghani, District Attorney for respondents present. Case to come up for comments of respondent no.3 and implementation report on 05.10.2018 before S.B at camp court Swat.

(AHMAD HASSAN) MEMBER

05.11.2018

Due to retirement of th€aHobColortShearman Service Tribunal is incomplete. Tour to Camp Court Swat has been cancelled. To come up for the same on 04.12.2018 at camp court Swat.

Report

FORM OF ORDER SHEET

Execution Petition No._

94/2018

S.No.	Date of order Proceedings	Order or other proceedings with signature of Judge
1	2	3
1	27.03.2018	The Execution Petition of Mr. Anwar Khan submitted to-day by Mr. Abdul Saboor Advocate may be entered in the relevant Register and
 		put up to the Court for proper order please.
		REGISTRAR
2- ,	30-3-18	This Execution Petition be put up before Touring S. Bench at
•. !		Swat on 1805-04-18
		RECISTRAR
05.04	2018	Counsel for the petitioner present. Notice be issued to
	. 1	the respondents. To come up for implementation report on
		09.05.2018 before S.B at Camp Court, Swat.
		Λ,
		Chairman Camp court, Swat
		Cump vour, brut
09.	05.2018	The Tribunal is non-functional due to retirement of the
		Worthy Chairman. To come up for the same on 04.07.2018
		before the S.B at camp court, Swat.
	*	
		Reader
. '		
•		

BEFORE THE HONOURABLE CHAIRMAN KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR CAMP COURT AT GULKADA SAIDU SHARIF SWAT.

Execution Petition No. 94/2018	
C.O.C: No/201	
In	•
Service Appeal No. 783 of 2016.	•
Anwar Khan	(Appellant
	·····(rippetium

VERSUS

Chief Secretary and others..... (Respondents/Contemnors)

INDEX

S. #	Description of Documents	Pages	Annexure
1.	Application	1 – 5	
2.	Affidavit	. 6	
3.	Certificate	7	
4.	Copy of Service Appeal	8 - 15	"A"
5.	Copy of Order dated 31.01.2018	16 - 18	"B"
6.	Copy of Receipt	19.	"C"
7.	Wakalat Nama	20	

Appellant

Through

Mian Abdul Saboor Advocate

High Court.
District Shangla at Alpuri.
Cell 03249171737.

BEFORE THE HONOURABLE CHAIRMAN KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR CAMP COURT AT GULKADA SAIDU SHARIF SWAT.

C.O.C		Service Tribunal Diary No. 339 Dates 27/03/20
Anwa	ar Khan son of Bakhtiar Mian	·
R/o	Haji Abad, Lilowanai Tehsil Alpuri Distri	ct Shangla.
•••••	(Appellant)
·	VERSUS	
(1)	Chief Secretary, Govt: of Khyber Pal Peshawar.	khtunkhwa,
(2)	Inspector General of Police, Khyber Pal	khtunkhwa,
	Peshawar.	
(3)	Deputy Inspector General of Police, Malak	and Range,
•	Saidu Sharief Swat.	
(4)	Superintendent of Police, District Shangla, at	Alpuri.
(5)	Riaz, Deputy Superintendent of Police, Ci	rcle Alpuri
	District Shangla.	
	(Res	pondents)

APPLICATION TO,

1) Execute/implement order dated 31.01.2018 in the above mentioned title case whereby the service appeal of the petitioner was excepted and the

transfer of the petitioner from district Shangla to district Dir Lowe was set aside

2). Initiate contempt proceedings under article 204 of the constitution of the Islamic Republic of Pakistan 1973 read with contempt Act 1974 amended act 2005/2003 for initiating contempt proceedings against respondents No. 3 and 4 /contemnors for not complying the orders/ directions of this Honourable court in service appeal No. 783 of 2016 knowingly and deliberately.

May please your lordship.

The main facts giving rise to the instant application are arrayed as under: -

- 1. That petitioners filed service appeal No. 783 of 2016 before this honourable court, soliciting the order of this August court challenging the transfer order of the petitioner dated 20.04.2016 whereby the petitioner was transferred from district Shangla to district Dir Lower. (Copy of the service appeal is attached as annexure "A")
- 2. That the service appeal was fix before this Honourable court/service tribunal. On 31.01.2018 this Honourable

court was pleased to accept the service appeal of the appellant and the transfer order of the respondents from district Shangla to district Dir lower was set aside.

(Copy of Order dated 31.01 2018 is attached as annexure "B")

- That appellant after obtaining the attested copies of the order of this Honourable court/ Chairman Service Tribunal, personally visited the office of respondent No. 3 on dated 21.03.2018 to intimate him about the orders of this Honourable court/Chairman Service Tribunal. The respondent No. 3 refused to meet the petitioners and to receive the orders of this Honourable court/Chairman Service Tribunal, the appellant asked respondent No. 3.
- 4. That the appellant previously send the order of this Honourable court through TCS courier service respondent No. 3 while the said order was delivered to the rest of the respondent by hand. But they are reluctant to obey the said order.

(Copy/receipt of TSC Service is attached as annexure "C")

5. That according to the decision of this Honourale court/Chairman Service Tribunal the respondent No. 3 received the attested copies of the said order and he was

bound to comply the said order but the respondent No. 3/contemnor has not made any compliance till now, hence the acts of respondent No. 3 falls with the ambit of contempt of court and is liable to be proceeded legally.

- 6. That respondent No. 3/contemnor were asked/requested again & again to comply the orders/directions of this honourable court in its true letter and spirit but all in van.
- 7. That this Honourable court/Chairman Service Tribunal has the power and authority to implement its order by proceeding legally by executing the said order.
- 8. The acts of the respondents/contemnors fall within the ambit of contempt of court of this Honourable court/Chairman Service Tribunal and is able to penalized in an exemplary manner so as to maintain the supremacy of law, justice and honour of the courts of the country.

It is therefore, most humbly prayed that by accepting this application the:

 The respondents must be directed to obey the order of this Honourable Court/Chairman Service Tribunal to re transfer petitioner from Dir Lower to district Shangla.

- 2. Respondent/contemnor graciously be preceded under the law deliberate, illegal his unlawful act by initiating contempt of court proceeding against him and shall be convicted in an exemplary way so that such government official should be taken into task and supremacy of law, justice and respect of this Honourable court/Chairman Service Tribunal shall be maintained.
- 3. Any other order/direction/ relief which this August court may deem fit according to the original service appeal may also be granted.

Appellant

Through

Mian Abdul Saboor Advocate

High Court.

District Shangla at Alpuri.

Cell 03249171737.

BEFORE THE HONOURABLE CHAIRMAN KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR CAMP COURT AT GULKADA SAIDU SHARIF SWAT.

In :		
Service Appeal No. 783 of 2016.		
	•	•
A		
Anwar Khan		(Appellant
		and the second s

VERSUS

Chief Secretary and others......(Respondents/Contemnors)

AFFIDAVIT

I Mr. Anwar Khan S/o Bakhtiar R/o Haji Abad Lilownai Tehsil Alpuri District Shangle do hereby solemnly affirm and declare on oath that contents application according are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hounourable Court.

DEPONENT

Ahmad Dlon

Anwar Khan.(Appellant) CNIC No. 15501-2251122-1

BEFORE THE HONOURABLE CHAIRMAN KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR CAMP COURT AT GULKADA SAIDU SHARIF SWAT.

Execution Petition/	·. ·
C.O.C: No/201	
In	
Service Appeal No. 783 of 2016.	· · · · · · · · · · · · · · · · · · ·
Anwar Khan	(Appellant)
· .	
VERS	SUS
Chief Secretary and others	(Resnandents/Conformers)

<u>CERTIFICATE</u>

As per instructions of my client, it is certified that no such like **contempt of court petition** has earlier been filed by the petitioners before this Honourable Court.

Advocate

Abdul Saboor Advocate

BEFORE THE JUDGE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA AT PESHAWAR.

Servi	ice Appeal. No/2016
Anw	ar Khan son of Bakhtiar Mian
	Haji Abad, Lilowanai Tehsil Alpuri District Shangla(Petitioner)
	VERSUS
(1)	Chief Secretary, Govt: of Khyber Pakhtunkhwa, Peshawar.
(2)	Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
(3)	Deputy Inspector General of Police, Malakand Range, Saidu Sharief Swat.
(4)	Superintendent of Police, District Shangla, at Alpuri.
(5)	Riaz, Deputy Superintendent of Police, Circle Alpuri District
	Chample (Donor Lot)

APPEAL UNDER SECTION 04 OF THE SERVICE TRIBUNAL ACT AGAINST THE ORDER NO. 3667-68/E DATED 20.4.2016 WHEREBY THE APPELLANT/PETITIONER WAS ILLEGALLY TRANSFERRED FROM DISTRICT SHANGLA TO DISTRICT DIR LOWER.

Respectfully Sheweth:

1. That the petitioner is the bonafide resident of District Shangla.

(Copies of CNIC is attached as annexure "A")

2. That the petitioner was appointed as constable on 02.01.1984 in the M. T Staff as driver and latter on the petitioner also completed his ring route course in the same year.

(Copy of service card is annexed marked as "B")

3. That the petitioner has same land disputes with some of his close relatives in this respect the petitioner made some complaints for legal action to the police officials and also presented an application under section 22-A in the court of District & Session Judge/Zilla Qazi, Shangla.

(Copy of application is annexed herewith marked as "C")

- 4. That feeling aggrieved the police official transferred the petitioner from district Shangla to Dir Lower (Copy of transfer order No. 3667-68/E dated 20.04.2016 attached herewith as annexure "D")
- 5. That one of the son of petitioner named Mr. Najeeb Ullah filed a writ petition in the court of Honourable Peshawar

High Court for the appointment on police sons quota which was admitted but respondent No. 02 denied to appoint him and Mr. Najeebullah approached the Honourable High court again filled a writ petition and in a writ petition No. 547 is still pending.

(Copy of writ petition is attached as annexure "E")

- 6. That on dated 20.04.2016 petitioner was transferred to district Dir Lower from Shangla on the base of inquiry report submitted by respondent No. 06.
- 7. That the petitioner does not know about the said inquiry because no opportunity / show cause notice was given to petitioner appellant.
- 8. That the petitioner has been condemned unheard, neither the petitioner/ Appellant was called to attend the proceedings of inquiry, nor any opportunity was given to cross examine the witnesses who deposed against appellant.
- 9. That the petitioner was proceeded illegally in order to deprive him of an expected promotion due to personal grudges of the department concerned.

- 10. That the appellant filed a departmental presentation well within time but till now, the same has not been decided. (Copy of presentation/application is annexed herewith as annexure "F")
- 11. That at present petitioner is on top in seniority list in district Shangla in the M. T. staff and the respondents are desirous to accommodate and promote one of his junior named Rozimand driver 145/HC.

That one ASI Mr. Muhibul Haq who is senior in the MT Staff than petitioner has now completed his tenure and soon he will leave police department of district Shangla.

- 13. That the petitioner next in ranking deserve to be promoted in accordance with seniority list of MT Staff.

 (Copy of seniority list is attached as annexure "G")
- 14. That the petitioner belongs to the lower subordinate rank of police and deserve to be transfer to his native district.
- 15. That the petitioner applied for the attested copies of relevant record, but the concerned quarter denied to furnish attested copies of the concerned record but he

was denied. (Copy of application for copies of Inquiry is annexure "H")

16. That being aggrieved and dissatisfied the petitioner seeking the indulgence of this Honourable court inter alia on the following grounds: -

GROUNDS: -

- A. Because the impugned order dated 20.4.2016 is against law, facts, norms of justice and material on record and more for not tenable.
- B. Because no show cause notice was served to the petitioner/appellant, which is against the rule of law.
- C. Because the petitioner/appellant is not charged for any miss conduct, but the inquiry officer nominated him in his inquiry report illegally.
- D. Because no regular inquiry was conducted against the appellant which is violation of law & principle of justice.
- E. Because according to the decision of Supreme Court it is incumpent inquiry officer to give reasons specifically for involving & convicting someone.

- F. Because the petitioner was condemned un-herd and has not been treated in accordance with law & rules.
- G. Because the petitioner seeks the permission to advance other grounds and proof at the time of hearing.
- H. Because the petitioner/appellant is direct victim of the high up of police office and deserve to be dealt with in according to law.
- I. Because the petitioner was transferred from District Shangla to Dir Lower on dated and he was directed to leave Shangla on the same day, Nagalmad was also chalked in this regard to leave the station on the same day.

(Copy of Naqalmad of dated 22.04.2016 is attached here with marked as annexure "I")

- J. Because the action and inaction on part of respondents is unwarranted by law.
- K. Because the in action on part of respondents is against legitimate expectation.
- L. Because the respondents by their acts has violated rules framed in KPK Civil Servant (Appointment, Promotion & transfer rules, 1989)

- M. Because the respondents by their conduct of illegally transferring petitioner to prevent him from promotion has violated the principle of natural justice.
 - N. Any other ground not specifically prayed for in the body of instant writ petition shall be argued at the time of arguments.

It is therefore, most humbly prayed that on acceptance of the service appeal this honourable court may be pleased direct respondents to:-

- 1) Transfer petitioner form District Dir Lower back-to district Shangla.
- 2) To consider petitioner for promotion in accordance with the merit list prepared on this basis of appointment in district Shangla.



3) Any other remedy deemed appropriate in the circumstances of the case and specifically prayed for.

PETITIONER

Through counsel

Dated: _____.08.2016.

Mian Abdul Saboor Advocate

High Court.

District Shangla Courts Shangla. Cell 03249171737.

CERTIFICATE:

As per instructions of my clients, it is certified that no such like Service Appeal has earlier been filed by the petitioner before this Honourable Court.

ADVOCATE

LIST OF BOOKS:

- 1. Constitution of Islamic Republic of Pakistan 1973.
- 2. NWFP/KPK civil servant (appointment, promotion and transfer rules 1989).
- 3. Case Law according to need.

BEFORE THE JUDGE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA AT PESHAWAR.

YBER

Service Appeal. No. 783/2016

Mhyber Pakkinkhina Service Tribanal

Diagr. 150, 798

08/8

Anwar Khan son of Bakhtiar Mian

R/o Haji Abad, Lilowanai Tehsil Alpuri District Shangla.

.....(Petitioner)

VERSUS

- (1) Chief Secretary, Govt: of Khyber Pakhtunkhwa, Peshawar.
- (2) Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
- (3) Deputy Inspector General of Police, Malakand Range, Saidu Sharief Swat.
- (4) Superintendent of Police, District Shangla, at Alpuri.
- (5) Riaz, Deputy Superintendent of Police, Circle Alpuri District Shangla.......................(Respondents)

Registrar 78/16

APPEAL UNDER SECTION 04 OF THE SERVICE TRIBUNAL ACT AGAINST THE ORDER NO. 3667-68/E DATED 20.4.2016 WHEREBY THE APPELLANT/PETITIONER WAS ILLEGALLY TRANSFERRED FROM DISTRICT SHANGLA TO DISTRICT DIR

LOWER.

ATTESTED)

Kny ber bawai

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, CAMP COURT SWAT

Service Appeal No.783/2016

Date of Institution...

02.08.2016

Date of decision...

31.1.2018



Anwar Khan son of Bakhtiar Mian, R/O Haji Abad Lilowanai Tehsil Alpuri District (Appellant) Shangla.

Versus

Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar and 4 others. ... (Respondents)

MIAN ABDUL SABOOR,

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

The appellant was transferred from Shangla to Dir on 20.04.2016 against 2. which he filed departmental appeal on 03.05.2016 which was not responded to and thereafter he filed the present service appeal on 02.08.2016.

ARGUMENTS

The learned counsel for the appellant argued that the transfer could not 3. be made as a punishment. That the impugned order was liable to be set aside.

4. On the other hand, the learned Deputy District Attorney argued that no departmental appeal was preferred by the appellant because it was not available on the official record. That transfer could be made under the administrative ground.

CONCLUSION

- 5. The objection of non-filing of departmental appeal was raised by the learned Deputy District Attorney on 07.12.2017. The departmental appeal is available on the file, however, the objection was that the same was received by the Registrar on 03.05.2016 and the post of Registrar is not available in the office of the Inspector General of Police. As per record the post of Registrar is available in the office of Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
- 6. As a sequel to the above discussion, 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.

(Niaa Muhammad Khan)

Chairman

Camp Court, Swat

(Gul Zeb Khan) Member

<u>ANNOUNCED</u> 31.1.2018

	Date of Presentation of Application 09-02-20/8
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BAR COUNCIL

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Place of Practice

District Courts Shangla

16-04-1968

15501-2284719-3

KHYBER PAKITUNKHWA BAR COUNCIL

Advocate High Court bc-10-0127

Date of Issue: 29-06-2014 29-06-2017 Valid upto:





اور کیمیپ کورٹ مقام سیرو گرلف مود - ر <u>ی الپون ابنام الچئیر الیگوره حوات</u>	ا ٹر بہو مل ک ے ماریہ شانگا الد	رمجتو كوا سروس	هر بن در برس الم	٠.
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باعث تحرير آنكه

مقدمه مندرجه عنوان بالا میں اپنی طرف سے پیروی وجواب دہی وکل کاروائی متعلقه آن مقام اليورى اليرن البنام الهكيسر المينكوره سوات كيلي عبد الصبور الدووكيث (بائى كورث) مقرر كرك اقرار کیا جاتا ہے کہ مماحب موصوف کومقدمہ کی کل کاروائی کا کامل اختیار ہوگا نیز وکیل صاحب کوکرنے راضی نامہ وتقرر ثالث وفیهله برحلف دینے جواب دہی ،ا قبال دعویٰ واپسی مقدمہ اور بصورت ڈگری کرنے اجراء اور وصولی چیک روییها ورعرضی وعوی اور درخواشت ہرتیم کی تصدیق زراس بردستخط کرنے کا اختیار ہوگا۔ نیر بصورت عدم پیردی یا زاری کی طرفه یا اپیل کی برآمدگی اورمنسوخی نیز دائر کرنے اپیل ،نگرانیونظر ثانی و پیروی کرنے کا اختیار حاصل ہوگا اوربصورت ضرورت مقدمہ مذکورہ کے کلی یا جزوئ کا دوائی کے واسطے اور وکیل یا مختار قانونی کو ہے ہمراہ یا اپنے ساختہ پر داختہ منظور وقبول ہوگا۔ دوران مقدمہ میں جوخر چہ ہر جاندالتوائے مقدمہ کے سیب سے ہوگا اس کامستحق وکیل صاحب ہوگا۔ نیز بقایا وخرچہ کی وصولی کرنے کا بھی اختیار ہوگا۔اگر کوئی تاریخ بیشی مقام دور پریا جدیے باہر ہوتو وکیل صاحب پابند نہ ہوگا کہ پیروی ندکورہ کریں۔ لہذاو کالت نامیکھفدیا تا کہ سندر ہے۔

by Adul Saboor, advocate

70,6 2018 بمقام الپوری *ایورن ا*بشام ا چکیسر امینگوره سوات کیلئے منظور ہے۔

عبد المصبور ايْدووكيث (بانْ كورٹ) أَبيورى ضلع شانگله اسوات



ICE OFFICER, MALAKAND at saidu sharif swat.

Ph: 0946-9240388 & Fax No. 0946-9240390 Email: digmalakand@yahoo.com

ORDER:

The following Upper /Lower Subordinates appeared before the Undersigned in Orderly Room held in this office on 29/08/2018 their requests accepted and they are hereby transferred /posted to the District/ Unit noted against each their names with immediate effect and till further order:-

S#		Name and No.	From	T-
1.	Insp: M	uhammad Younas No. 538/M	Buner District	To
2.		bar Khan No. M/181	Dir Lower District	Inv: Wing Dir Lower
3.		n Alam No. 737/M	Dir Lower District	Swat District
4.		aqim Shah No. 239/M		Swat District
5.1.		t Zahir Khan No. 207/M	Dir Upper District	Swat District
		ab Gul No. 39/M	Buner, District	
7.	,		Shangla District .	SwatiDistrict
		I Naheed Muhammad	Dir Lower District	Inv: Wing Swat
		em Ullah No. 141	Buner, District	Shangla District
9.		SI Muhammad Alam	Dir Lower District	Swat District
- 1		rikhan Nol 528 ···	Shangla District	Dir. Upper, District,
117	ASI/AIII	lassan No. 1015/M //	Buner District	₄Shangla District
12,		ni Ullah No. 432	Dir Lower District	Dir Upper District
13.	ASI Sae	ed Gul No. 389/M	Swat District	Dir Lower District
14.	HC Ibra	rullah No. 1117	Swat District	Buner District
15.		1uhammad No. 707	Dir Upper District	Swat District .
16.	Driver	ead:Constable Anwar Khan	Dir, Lower, District	"Shangla "District.
17.	LHC Jiha	ngeer No. 876	Dir Lower District	Swat District

SAEED) PSP Police Officer, at Saidu Sharif Swat Salgem**

Dated.

/2018.

Copy for information and necessary action to the:-

1. All District Police Officers, in Malakand Region except Chitral.

2. Heads of Investigation, Swat and Dir Lower.

Service from 4-12-03 10 30-11. ine in red ink their mousehed kirch Mot more then de Ministelland) and fill in in the office.