


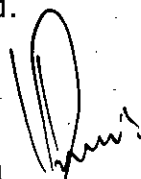
12.04.2019

Petitioner with counsel and Addl. AG alongwith Fayaz Khan, H.C for the respondents present.

The representative of respondents has produced copy of order dated 18.12.2018 passed by the District Police Officer Nowshera,  placed on record, whereby the punishment of petitioner has been modified/converted into stoppage of one increment without cumulative effect.

The order appears to be in line with the decision made in the judgment under execution. The proceedings in hand are, therefore, consigned.

Chairman



FORM OF ORDER SHEET

Execution Petition No. 28/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	16.01.2019	<p>The Execution Petition of Mr. Naseem Ullah submitted to-day by Mr. Muhammad Arif Jan 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 16/1/19</p>
2-	18-1-19	<p>This Execution Petition be put up before S. Bench on <u>22-2-19</u>.</p> <p style="text-align: right;">CHAIRMAN</p>
	22.02.2019	<p>Learned counsel for the petitioner present. Notice of the present execution petition be issued to the respondents for 19.03.2019. To come up for implementation report on the date fixed before S.B.</p> <p style="text-align: right;">Member</p>
	19.03.2019	<p>Petitioner in person present. Mr. Kabirullah Khattak leaned Addl; AG alongwith Mr. Fayyaz Head Constable for the respondents present. Petitioner seeks adjournment as his counsel is not in attendance. Adjourn. To come up for further proceedings on 12.04.2019 before S.B.</p> <p style="text-align: right;">(Hussain Shah) Member</p>

BEFORE THE HON'BLE SERVICE TRIBUNAL K.P. PESHAWAR

Execution petition no. 28/2019

**Khyber Pakhtunkhwa
Service Tribunal**

Misc Application No 12019

Diary No. 91

IN

Dated 16-1-2019

Service Appeal No- 418/2017

Naseemullah Constable -182

Police Dept Distt .NowsheraPetitioner

VERSUS

1. District Police Officer Nowshera
2. Deputy Inspector General of Police Mardan Region -1, Mardan
3. Provincial Police Officer Khyber Pakhtunkhwa Peshawar

.....**Respondents**

**PETITION FOR IMPLEMENTATION OF THE JUDGMENT DATED
12-10-2018 PASSED BY THIS HON'BLE TRIBUNAL IN THE
TITLED APPEAL.**

Respectfully Sheweth:

1. That this Hon'ble Tribunal was pleased and partially accepted the appeal of the petitioner vide order/judgment dated 12-10-2018. The facts of the case have been fully narrated in the titled appeal. (Copies of memo of appeal and judgment are attached as ANNEX-A & B respectively).
2. That the aforesaid judgment was transmitted to the respondents for compliance and after waiting for sufficient time and approaches to the concerned, but no action whatsoever been taken till date.
3. That it has come to the knowledge of the petitioner that neither the department is going to file petition before the Apex Supreme Court of Pakistan nor the judgment of this Hon'ble Tribunal is still complied which is violation of laid down rules and regulations governing the subject matter.
4. That the respondents are flouting the judgment of this Hon'ble Tribunal with disregard by not complying with the same, so they are committing contempt of court too.

5. That the respondents are duty bound to honor the Judgment letter in spirit and without any further delay reason and justification but in the present case the respondent are not ready to honor the Judgment of this Hon'ble Tribunal hence the present petition.
6. That any other ground which has not been mentioned may also be permitted to rise at the time of hearing.

It is, therefore, most humbly prayed that on acceptance of the instant petition the respondent may very graciously be directed to implement the order/judgment dated 12-10-2018 of this Hon'ble Tribunal in letter in spirit without any further delay, reason and justification.

Petitioner



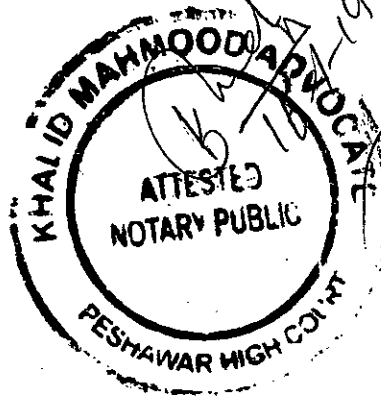
Through

Muhammad Arif Jan

Advocate Peshawar

Affidavit

I, Naseemullah Constable -182 Police Dept Distt .Nowshera do hereby solemnly affirm and declare that the contents of the petition are true and correct.




DEPONENT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No: 418/2017

Date of Institution: 03/05/2017

Date of Decision: 12/10/2018



Naseemullah, Constable-182/PC, Police Department District Nowshera (Appellant)

VERSUS

District Police Officer Nowshera and 2 others (Respondents)

Mr. Muhammad Aijaz Khan Advocate For appellant

Mr. Muhammad Jan Deputy District Attorney For respondents

MR AHMAD HASSAN MEMBER (Executive)
MR MUHAMMAD AMIN KHAN KUNDI MEMBER (Judicial)

JUDGMENT

AHMAD HASSAN, MEMBER

This judgment shall dispose of the instant service appeal as well as connected service appeal no 417/2017 titled Talib Jan as similar question of law and facts are involved therein.

ATTESTED Arguments of the learned counsel for the parties heard and record perused.

EXAMINER OF FACTS
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

The brief facts are that the appellant was dismissed from service vide order dated 12/12/2014. However, this Service Tribunal accepted his appeal and reinstated the appellant in service along with directions to conduct de-novo inquiry. The major punishment of reduction in time scale for a period of three years was imposed on

order was passed on these recommendations. At that juncture the DIG Enquiry and Inspection illegally and unlawfully intervened ⁱⁿ the matter and termed the enquiry as defective. He gave directions for re-enquiry through Mr. Jehanzeb Khan, SP's investigation and on the basis of that major punishment was awarded to the appellant. The DIG was not the competent authority in this case. His orders were patently illegal and subsequent action was nullity in the eyes of law. It was travesty of justice. No show cause notice was served before awarding major penalty. These illegalities are sufficient to vitiate the entire disciplinary proceedings.

7. As a sequel to the above, the appeal is partially accepted and major penalty is modified/converted into stoppage of one increment for a period of one year without cumulative effect. Parties are left to bear their own costs. File be consigned to the record room.



SD/

(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

SD/
(MUMTAS HASSAN)
MEMBER

ANNOUNCED
12-10-2018

Certified to be true copy
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 25-10-18
 Number of Words 1200
 Copying Fee 8.00
 Urgent 2.00
 Total 10.00
 Name of Copyist [Signature]
 Date of Copying of Document 25/10/18
 Date of Delivery of Copy 25/10/18

WAKALATNAMA

IN The KP Service Tribunal Peshawar

Naseemullah (Petitioner)
(Plaintiff)
(Applicant)
(Complainant)
(Decree Holder)

VERSUS

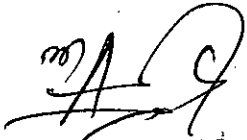
DPO & others (Respondent)
(Defendant)
(Accused)
(Judgment Debtor)

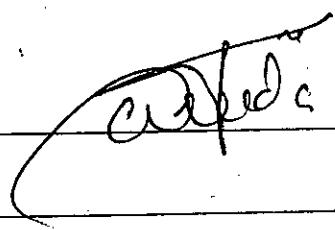
Case _____

I/Wd, Naseemullah do hereby appoint and constitute **Muhammad Arif Jan Advocate** High Court, Peshawar, to appear. Plead, act, compromise, withdraw or refer to arbitration to me/ us as my/ our Counsel in the above noted matter, without any liability for their default and with the authority to engage/ appoint any other Advocate/ Counsel at my/ our matter.

Attested & Accepted

CLIENT/S


Muhammad Arif Jan
Advocate, High Court, Peshawar.
Office No. 6, 1st Floor
Pabbi Medical Centre, G.T. Road
Peshawar.
Mobile: 0333-2212213



ORDER

In compliance with the order passed by the Khyber Pakhtunkhwa Service Tribunal vide Dated 12.10.2018 in service appeal No. 418/2017, the major punishment order vide this office OB No. 454 dated 10.03.2017 whereby constable Nasceemullah No. 182 was awarded punishment of time scale for a period of 03 years is hereby modified/converted into stoppage of one (01) increment without cumulative effect.

OB No. 1455

Dated 18/12 /2018

District Police Officer,
Nowshera

No. 8974-76 /PA, dated Nowshera, the 18.12 /2018.

Copy for information and necessary action to the:

1. Pay Officer.
2. Establishment Clerk.
3. FMC

ORDER

In compliance with the order passed by the Khyber Pakhtunkhwa Service Tribunal vide Dated 12.10.2018 in service appeal No. 418/2017, the major punishment order vide this office OB No. 454 dated 10.03.2017 whereby constable Naseemullah No. 182 was awarded punishment of time scale for a period of 03 years is hereby modified/converted into stoppage of one (01) increment without cumulative effect.

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Dated 18/12 /2018

-sd-

District Police Officer,
Nowshera

No. 8974-76 /PA, dated Nowshera, the 18.12 /2018.

Copy for information and necessary action to the:-

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2. Establishment Clerk.
3. FMC

ORDER

in compliance with the order passed by the Khyber Pakhtunkhwa Service Tribunal vide Dated 12.10.2014 in case No. 118/2017. The punishment order vide this office OB No. 454 dated 10.03.2017 whereby constable Naseemullah No. 182 was awarded punishment of time scale for a period of 03 years and hereby modified/converted into stoppage of one (01) increment without cumulative effect.

OB No. 1455

Dated 18/12/2018

District Police Officer
Nowshera

No. 8974-76 /PA, dated Nowshera, 18.12.2018

Copy for information and necessary action to the:

1. Pay Officer.
2. Establishment Clerk
3. FMC

BEFORE THE HON'BLE SERVICE TRIBUNAL K.P PESHAWAR

E.P. No. 28/2019

Misc Application No /2019

IN

Service Appeal No- 418/2017

Naseemullah Constable -182

Police Dept Distt NowsheraPetitioner

VERSUS

1. District Police Officer Nowshera
2. Deputy Inspector General of Police Mardan Region -1, Mardan
3. Provincial Police Officer Khyber Pakhtunkhwa Peshawar

.....**Respondents**

**PETITION FOR IMPLEMENTATION OF THE JUDGMENT DATED
12-10-2018 PASSED BY THIS HON'BLE TRIBUNAL IN THE
TITLED APPEAL.**

Respectfully Sheweth;

1. That this Hon'ble Tribunal was pleased and partially accepted the appeal of the petitioner vide order/judgment dated 12-10-2018. The facts of the case have been fully narrated in the titled appeal. (Copies of memo of appeal and judgment are attached as ANNEX-A & B)
2. That the aforesaid judgment was transmitted to the respondents for compliance and after waiting for sufficient time and approaches to the concerned, but no action whatsoever been taken till date.
3. That it has come to the knowledge of the petitioner that neither the department is going to file petition before the Apex Supreme Court of Pakistan nor the judgment of this Hon'ble Tribunal is still complied which is violation of laid down rules and regulations governing the subject matter.
4. That the respondents are flouting the judgment of this Hon'ble Tribunal with disregard by not complying with the same, so they are committing contempt of court too.

5. That the respondents are duty bound to honor the Judgment letter in spirit and without any further delay reason and justification but in the present case the respondent are not ready to honor the Judgment of this Hon'ble Tribunal hence the present petition.
6. That any other ground which has not been mentioned may also be permitted to rise at the time of hearing.

It is, therefore, most humbly prayed that on acceptance of the instant petition the respondent may very graciously be directed to implement the order/judgment dated 12-10-2018 of this Hon'ble Tribunal in letter in spirit without any further delay, reason and justification.

Petitioner

Through

Muhammad Arif Jan
Advocate Peshawar

Affidavit

I, Naseemullah Constable -182 Police Dept Distt .Nowshera do hereby solemnly affirm and declare that the contents of the petition are true and correct.

DEPONENT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. 418/2017

Date of Institution ... 03.05.2017

Date of Decision ... 12.10.2018



Naseemullah, Constable-182/FC Police Department District Nowshera.
... (Appellant)

VERSUS

1. District Police Officer Nowshera and 2 others.
... (Respondents)

Mr. Muhammad Aif Jan,
Advocate --- For appellant.

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

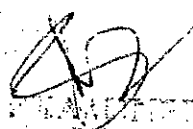
MR. AHMAD HASSAN, --- MEMBER(Executive)
MR. MUHAMMAD AMIN KHAN KUNDI --- MEMBER(Judicial)

JUDGMENT

AHMAD HASSAN, MEMBER.-

This judgment shall dispose of the instant service appeal as well as connected service appeal no. 417/2017 titled Talib Jan as similar question of law and facts are involved therein.

ATTESTED Arguments of the learned counsel for the parties heard and record perused.


MEMBER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

FACTS

The brief facts are that the appellant was dismissed from service vide order dated 12.12.2014. However, this Service Tribunal accepted his appeal and reinstated the appellant in service alongwith directions to conduct de-nova inquiry. The major punishment of reduction in time scale for a period of three years was imposed on

him. He filed departmental appeal on 20.03.2017 which was rejected on 14.04.2017.
hence, the instant service appeal on 20.05.2017

ARGUMENTS


1. Learned counsel for the appellant argued that upon dismissal from service, he filed service appeal no. 190/15 in this Tribunal decided on 09.12.2016 with directions to the respondents to conduct de-novo enquiry. De-novo enquiry was conducted by DSP Headquarters, Nowshera and submitted report. The inquiry officer had recommended that the accused officials may be reinstated in service with back benefits and minor punishment of stoppage of two annual increments without cumulative effect be awarded to the appellant. The competent authority did not agree with these findings and ordered re-inquiry through SP Investigation, Nowshera and thereafter major penalty of reduction in time scale for a period of three years was imposed on him vide impugned order dated 10.03.2017. The DIG was not authorized under the rules to interfere in the disciplinary proceedings and these proceedings had no legal value. Punishment awarded was also very harsh. Impugned order was patently illegal and unlawful. Enquiry was not conducted in the prescribed manner and was full of shortcomings. Allegations leveled against the appellant were not proved during the enquiry proceedings.

2. On the other hand Learned Deputy District Attorney argued that all the codal formalities have been completed before imposition of penalty on the appellant. He

ATTESTED requested that the appeal may be dismissed.

CONCLUSION

We have gone through record and observed the in pursuance of judgment of this Tribunal dated 09.12.2016, de-novo enquiry was conducted by DSP


Deputy District Attorney
Nowshera

order was passed on these recommendations. At that juncture the DIG Enquiry and inspection illegally and unlawfully intervened ⁱⁿ the matter and termed the enquiry as defective. He gave directions for re-enquiry through Mr. Jehanzeb Khan. SP² investigation and on the basis of that major punishment was awarded to the appellant. The DIG was not the competent authority in this case. His orders were patently illegal and subsequent action was nullity in the eyes of law. It was travesty of justice. No show cause notice was served before awarding major penalty. These illegalities are sufficient to vitiate the entire disciplinary proceedings.

7. As a sequel to the above, the appeal is partially accepted and major penalty is modified/converted into stoppage of one increment for a period of one year without cumulative effect. Parties are left to bear their own costs. File be consigned to the record room.

SD/-
 (MUHAMMAD AMIN KHAN KUNDI)
 MEMBER

SD/-
 (MUHAMMAD HASSANI)
 MEMBER

ANNOUNCED
 12.10.2018

Certified copy to copy
[Signature]
 Khatim
 Services Division
 Peshawar

Date of Presentation 25-10-18
 Number 1200
 Copying 8.00
 Us 2.50
 Total 10.00
 Name [Signature]
 Date 25-10-18
 Date 25-10-18