

Raja Sadaqat

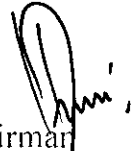
06.12.2018

Counsel for petitioner and Addl AG alongwith Ihsanullah, ASI for the respondents present.

Representative of respondents has produced copy of order dated 10.09.2018 and states that the petitioner has since been reinstated and joined duties at Abbottabad.

Learned counsel for petitioner did not oppose consignment of record as grievance of petitioner appears to have been redressed.

Order accordingly. File be consigned, however, it may be restored for further proceedings in case any portion of relief granted to petitioner has remained unsatisfied.


Chairman

ANNOUNCED

06.12.2018

21.06.2018

Counsel for the petitioner and Addl: Ag for respondents present. Implementation report not submitted. Requested for adjournment. Fresh notices be issued to the respondents for submission of implementation report on 02.08.2018 before S.B.



(Ahmad Hassan)
Member

02.08.2018

M/S Taimur Ali Khan, Advocate and Asad Mehmood, Advocate counsel for the petitioner present. Mr. Ihsanullah, ASI alongwith Mr. Kabirullah Khattak, Addl: AG for respondents present and stated that the department has filed CPLA in the august Supreme Court. However, absence of any stay order, the respondents are directed to produce condition implementation order on 10.09.2018 before S.B.



Chairman

10.09.2018

Mr. Taimur Ali Khan, Advocate counsel for the petitioner present. Mr. Kabirullah Khattak, Addl: AG for respondents present. Respondents are directed to produce conditional implementation order on 22.10.2018 before S.B.



Chairman



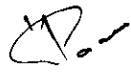
22-10-18

*Due to retirement of Honorable Chairman
the Tribunal is non functional therefore
the case is adjourned to come up for the
same on 6/12/18*

Redden

FORM OF ORDER SHEET

Execution Petition No. 76/2018

S.No.	Date of order Proceedings	Order or other proceedings with signature of Judge
1	2	3
1	14.03.2018	<p>The Execution Petition of MR. Rajja Sadaqat submitted to-day by Mr. Taimur Ali 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;"> REGISTRAR</p>
2	15/03/18.	<p>This Execution Petition be put up before S. Bench on- <u>27/03/18</u>.</p> <p style="text-align: right;"> MEMBER</p>
27.03.2018		<p>Petitioner with counsel present. Notice of the present execution petition be issued to the respondents for implementation report and reply. To come up for implementation report and reply on 21.06.2018 before S.B</p> <p style="text-align: right;"> Member</p> <p style="text-align: right; font-style: italic;">27-3-18</p> <p style="font-style: italic; transform: rotate(180deg);"> Due to the absence of Advocate of Respondent in the Court the Court is satisfied that the execution petition is ready for implementation. </p>

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.**

Execution Petition No. 76 /2018
In Service Appeal No.542/2014

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 292

Dated 14/03/2018

Raja Sadaqat, Ex-Constable No.5824,
District Police Haripur.

PETITIONER

VERSUS

1. The Provincial Police officer, KPK, Peshawar.
2. The Additional I.G/Commandant FRP, KPK, Peshawar.
3. The SSP, FRP Hazara Region, Abbottabad.

RESPONDENTS

.....
**EXECUTION PETITION FOR DIRECTING THE
RESPONDENTS TO IMPLEMENT THE
JUDGMENT DATED 01.01.2018 OF THIS
HONOURABLE TRIBUNAL IN LETTER AND
SPIRIT.**
.....

RESPECTFULLY SHEWETH:

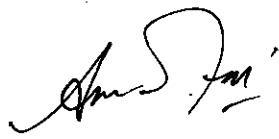

1. That the petitioner has filed service appeal No. 542/2014 against the orders dated 17.03.2014 whereby the departmental appeal of the appellant against the order dated 10.12.2013 has been rejected for no grounds.
2. The appeal was finally heard by the this august Tribunal on 01.01.2018 and the august Tribunal was kind enough to partially accept the appeal and convert the penalty of dismissal from service into stoppage/withholding of two increments for a period of two years. **(Copy of judgment dated 01.01.2018 is attached as Annexure-A)**
3. That since the announcement of the judgment, the petitioner waited for more than two months to implement judgment dated 01.01.2018 of this Honourable Tribunal, but the departmental authority did not take any action on the judgment dated 01.01.2018.

4. That in-action and not fulfilling formal requirements by the department after passing the judgment of this august Tribunal, is totally illegal amount to disobedience and Contempt of Court.
5. That the judgment is still in the field and has not been suspended or set aside by the Supreme Court of Pakistan, therefore, the department is legally bound to obey the judgment dated 01.01.2018 of this Honourable Tribunal in letter and spirit.
6. That the petitioner has having no other remedy except to file this execution petition.

It is, therefore, most humbly prayed that the department may be directed to implement the judgment dated 01.01.2018 of this august Tribunal in letter and spirit. Any other remedy, which this august Tribunal deems fit and appropriate that, may also be awarded in favour of petitioner.

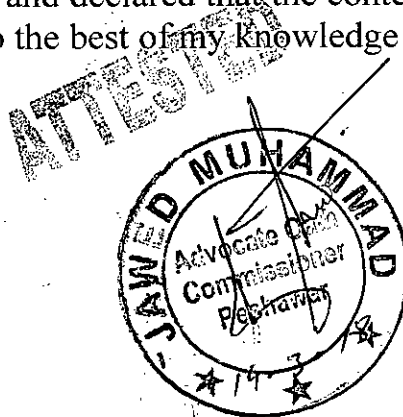
PETITIONER

THROUGH:


(M. ASIF YOUSAFZAI)
ADVOCATE SUPREME COURT
& 
(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT

AFFIDAVIT:

It is affirmed and declared that the contents of the execution petition are true and correct to the best of my knowledge and belief.




DEPONENT

A



BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

SERVICE APPEAL NO. 542/2014

Date of institution ... 17.04.2014

Date of judgment ... 01.01.2018

Raja Sadaqat Ex-Constable No. 4824,
District Police Haripur.

... (Appellant)

VERSUS

1. The provincial Police Officer, KPK, Peshawar.
2. The Addl: IG/Commandant Frontier Reserve Police, KPK, Peshawar.
3. The SSP, FRP Hazara Region, Abbottabad.

... (Respondents)

APPEAL UNDER SECTION-4 OF KPK SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 17.03.2014, WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT AGAINST THE ORDER DATED 10.12.2013 HAS BEEN REJECTED FOR NO GROUNDS.

Mr. M. Asif Yousafzai, Advocate.

.. For appellant.

Mr. Muhammad Jan, Deputy District Attorney

.. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI
MR. AHMAD HASSAN

.. MEMBER (JUDICIAL)
.. MEMBER (EXECUTIVE)

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - Counsel for the appellant. Mr. Muhammad Jan, Deputy District Attorney alongwith Mr. Ihsanullah, ASI for the respondents also present. Arguments heard and record perused.


ATTESTED

MEMBER (EXECUTIVE)
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar


ATTESTED

2. Brief facts of the present service appeal are that the appellant was serving in Police Department as Constable. He was dismissed from service on the allegation of his absence from duty vide order dated 10.12.2013. The appellant also filed departmental appeal but the same was also rejected on 17.03.2014 hence, the present service appeal on 17.04.2014.
3. Learned counsel for the appellant contended that the appellant was serving in Police Department as Constable. It was further contended that neither the appellant was served with charge sheet nor proper inquiry was conducted. It was further contended that the dismissal of the appellant from service on the allegation of absence from duty is very harsh as the appellant was ill therefore, he was unable to attend the duty and prayed for acceptance of the present service appeal.
4. On the other hand, learned Deputy District Attorney for the respondents opposed the contention of learned counsel for the appellant and contended that the appellant was serving in Police Department but he remained absent from duty without permission of the higher authority. It was further contended that a proper inquiry was conducted and thereafter the appellant was rightly dismissed from service and prayed for dismissal of appeal.
5. Perusal of the record reveals that the impugned order was passed on 10.12.2013 by the competent authority on the allegation of his absence from duty with effect from 06.10.2013. The record further reveals that the appellant was dismissed from service with effect from the date of his absence i.e 06.10.2013 therefore, the impugned order being retrospective is illegal and

ATTESTED



MEMBER
Khyber Pakhtunkhwa
Service Tribunal,

ATTESTED


void ab-initio. Furthermore, according to the available record the appellant was directed to report in Platoon No. 100 Kohistan but he failed to report in Kohaistan and remained absent with effect from 06.10.2013 while the impugned order of dismissal of the appellant was passed by the competent authority vide order dated 10.12.2013 meaning thereby that the appellant remained absent from duty for a period of two months and four days therefore, the penalty of dismissal from service appear to be harsh. As such we partially accept the appeal and convert the penalty of dismissal from service into stoppage/withholding of two increments for a period of two years. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
01.01.2018

11
Sd/- M. Amin Khan Kundli
Member

Sd/- Ahmad Hassan
Member

Certified to be true copy
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 10-01-2018
 Number of Words 1200
 Copying Fee 8-00
 Urgent -
 Total 8-00
 Name of Copyist [Signature]
 Date of Completion of Copy 15-01-2018
 Date of Delivery of Copy 15-01-2018

ATTESTED
[Signature]

VAKALAT NAMA

NO. _____/20

IN THE COURT OF Secorce Tribunal Peshawar

Raja Sadqat (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Police Deptt. (Respondent)
(Defendant)

I/We Raja Sadqat

Do hereby appoint and constitute **M.Asif Yousafzai, Advocate, Peshawar,** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/20

راجہ سداقت
(CLIENT)

ACCEPTED

M. ASIF YOUSAFZAI
Advocate

TAIMUR ALI KHAN
Advocate

M. ASIF YOUSAFZAI
Advocate High Court,
Peshawar.

OFFICE:

Room No.1, Upper Floor,
Islamia Club Building,
Khyber Bazar Peshawar.
Ph.091-2211391-
0333-9103240

ORDER

As per directions of Inspector General of Police Khyber Pakhtunkhwa, Peshawar issued vide CPO Memo No. 2745/Legal, dated 04.09.2018, the decision of Khyber Pakhtunkhwa, Service Tribunal, Peshawar dated 01.01.2018 in service appeal No.1542/2014 is hereby implemented. Ex- constable Raja Sadaqat No. 4824 of FRP Hazara Range is hereby re-instated in service on conditional basis till the decision of CPLA and the penalty of his dismissal from service is converted into stoppage/withholding of two annual increments.


a/c **Commandant,**
Frontier Reserve Police, etc
Khyber Pakhtunkhwa, Peshawar.

No. 9/36-37 SI Legal, dated Peshawar the 16 / 09/2018.

Copy of above is forwarded for information & n/action to the:-

- 1- The SP FRP Hazara Range Abbottabad. His s. record and D file sent here
- 2- Constable Raja Sadaqat No. 4824 of FRP Hazara Range.