

E.P. No. 56/2018  
Saif ur Rahman

21.09.2021

Counsel for the petitioner and Mr. Muhammad Adeel Butt, Addl. AG alongwith Sultan Shah, Superintendent for the respondents present.

The execution petition No. 56/2018 previously filed vide order dated 12.04.2019 was got restored on 27.05.2021 through application dated 06.01.2021. The main reason as given in the application for restoration was that the back benefits of the appellant/petitioner has not yet been granted by the respondents. Needless to say that the respondents vide order dated 11.02.2019 reinstated the petitioner into service w.e.f. 03.09.2012 i.e. the date of his removal from service with all back benefits subject to final decision of CPLA already filed in the Apex Court. The main relief of reinstatement has been granted but subject to the decision of CPLA. The order dated 11.02.2019 includes the remedy of back benefits but let the petitioner wait for decision of CPLA. If the judgment of this Tribunal is maintained by August Supreme Court of Pakistan; and the back benefits are not paid to the petitioner voluntarily by the department, he would be at liberty to approach this Tribunal for execution of the reinstatement order as far as back benefits are concerned. For the time-being, this petition is consigned to the record room.

  
Chairman

26.08.2021

Petitioner alongwith his counsel present. Mr. Sultan Shah, Superintendent alongwith Mr. Muhammad Rasheed, Deputy District Attorney for the respondents present.

Learned counsel for the petitioner sought time for arguments. Adjourned. To come up for arguments before the S.B on 21.09.2021.



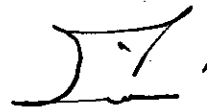
(SALAH-UD-DIN)  
MEMBER (J)

26.08.21

22.03.2021

Petitioner alongwith his counsel and Mr. Riaz Ahmad Paindakheil, Assistant Advocate General alongwith Mr. Zar Muhammad, Assistant for the respondents present.

Learned Assistant Advocate General requested for submission of reply. Adjourned: To come up for reply on 27.05.2021 before S.B.

  
(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

27.05.2021

Counsel for the petitioner and Mr. Noor Zaman Khattak, District Attorney alongwith Hussainullah, Legal Representative for the respondents present.

Instant application is for restoration of Execution Petition No. 56/2018 filed on 12.04.2019. Respondents have not furnish reply to the application. Learned District Attorney has raised no objection on restoration of the execution petition No. 56/2018

The application is, therefore, allowed and Execution Petition No. 56/2018 is restored to its original number. To come up for further proceedings on 14.07.2021 before S.B.

  
Chairman

14.07.2021

Counsel for the Petitioner and Mr. Muhammad Adeel Butt, Addl. AG alongwith Sultan Shah, Assistant for the respondents present.



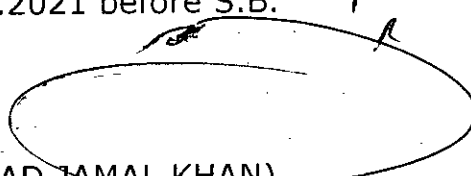
Representative has furnished joint parawise comments on behalf of respondents No. 1 to 4. Copy handed over to learned counsel for the petitioner. He seeks time to go through the same. To come up for further proceedings on 26.08.2021 before S.B.

  
Chairman

FORM OF ORDER SHEET

Court of \_\_\_\_\_

Restoration Application No. 18 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1-	06.01.2021	<p>The Restoration Application submitted by Mr. Saif Ur Rehman through Mr. Kamran Jamal 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> <p>2-</p> <p>This Restoration Application be put up before S Bench on <u>29/01/21</u>....</p> <p style="text-align: right;"> CHAIRMAN</p>
29.01.2021		<p>Mr. Kamran Jamal Khan, Advocate, for petitioner is present. Notices be issued to the respondents for implementation report for 22.03.2021 before S.B.</p> <p style="text-align: right;"> (MUHAMMAD JAMAL KHAN) MEMBER (JUDICIAL)</p>

E.P 56/18

12.04.2019

Petitioner with counsel and Addl. AG for the respondents present.

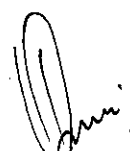
Learned counsel for the petitioner states that a conditional reinstatement order has been issued in favour of petitioner, therefore, at present he does not want to proceed further with the execution of judgment. The execution is, therefore, consigned to record. The petitioner may have the proceedings restored in case any portion of his grievance remained un-redressed.

  
Chairman

25.1.2019 Counsel for the petitioner and Addl. AG alongwith Nahid Gul, Assistant for the respondents present.

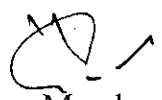
Representative of the respondents states that the case for reinstatement of petitioner was put up to Secretary Administration Department on 24.01.2019 which would complete its process in few days.

Adjourned to 12.2.2019 for submission of implementation report before S.B.

  
Chairman

12.02.2019

Learned counsel for the petitioner present. Sultan Shah Assistant representative of the respondent department present and submitted conditional reinstatement order of the petitioner which is placed on file. Adjourn. To come up for further proceedings on 07.03.2019 before S.B.

  
Member

07.03.2019

Petitioner in person present. Mr. Kabirulah Khattak learned Additional Advocate General for the respondents present. Petitioner request for adjournment as his counsel is not attendance. Adjourned. To come up for further proceeding on 12.04.2019 before S.B.

  
(Muhammad Amin Khan Kundi  
Member

E.P No. 56/2018

13.12.2018

Petitioner alongwith his counsel present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Muhammad Anwar, Section Officer for the respondents present. Implementation report not submitted. Representative of the department requested for further time. Last chance is granted to the respondents for filing of implementation report. Adjourned. To come up for implementation report on 22.01.2019 before S.B.

  
Muhammad Amin Khan Kundi  
Member

22.01.2019

Learned counsel for the petitioner and Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Sultan Shah Assistant present. Implementation report not submitted. Representative of the respondent department seeks adjournment to furnish implementation report. Granted. To come up for further proceedings/implementation report on 25.01.2019 before S.B.



Member


31.07.2018

Petitioner Mr. Saif Ur Rehman, in person alongwith his counsel Syed Noman Ali Bukhari, Advocate present. Mr. Sultan Shah, Supdt alongwith Mr. Kabirullah Khattak, Addl: AG for respondents present. The latter made a request for adjournment on the ground that CPLA has been filed in the august Supreme Court of Pakistan, however, no stay or restraining order has been passed. As such, the respondents are directed to submit implementation report on 06.09.2018 before S.B.

  
Chairman


06.09.2018

Petitioner alongwith his counsel present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Sultan Shah, Assistant for the respondents present. Implementation report not submitted. Learned Additional AG requested for further adjournment. Adjourned. To come up for implementation report on 26.10.2018 before D.B.

  
(Muhammad Amin Khan Kundi)  
Member

26.10.2018

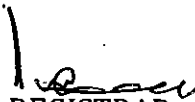



Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 13.12.2018.

  
Reader



FORM OF ORDER SHEET

Execution Petition No. 56/2018

S.No.	Date of order Proceedings	Order or other proceedings with signature of Judge
1	2	3
1	27.02.2018	<p>The Execution Petition of Mr. Saif-ur-Rehman submitted to-day by Syed Noman Ali Shah 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-	01/03/18.	<p>This Execution Petition be put up before S. Bench on- <u>12/03/18.</u></p> <p style="text-align: right;"> CHAIRMAN</p>
12.03.2018		<p>Learned counsel for the petitioner present. Notice of the present execution petition to the respondent department for 09.05.2018 and to come up for implementation report/parawise comments on the date fixed.</p> <p style="text-align: center;"> (Muhammad Hamid Mughal) Member</p>
	09.05.2018	<p>The Tribunal is non functional due to retirement of the Honorable Chairman. Therefore, the case is adjourned. To come up for the same on <u>31.07.2018</u> before S.B.</p> <p style="text-align: right;"> Reader</p>

**BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR.**

Execution Petition No. 56 /2018  
In Service Appeal No.613/2013

Saif-Ur-Rehman S/o Muhammad Farid,  
R/o Quarter no P6, Irrigation Colony,  
Warsak Road, Peshawar.

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 234

Date 27/02/2018

**PETITIONER**

VERSUS

1. The Govt: of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. The Govt: of Khyber Pakhtunkhwa through Secretary Administration Peshawar.
3. Deputy Secretary (ADMN) Administration Department Peshawar.
4. Section Officer (ADMN) Administration Deptt: Peshawar.

**RESPONDENTS**

.....

**EXECUTION PETITION FOR DIRECTING THE  
RESPONDENTS TO IMPLEMENT THE  
JUDGMENT DATED: 28.11.2017 OF THIS  
HONOURABLE TRIBUNAL IN LETTER AND  
SPIRIT.**

.....

**RESPECTFULLY SHEWETH:**

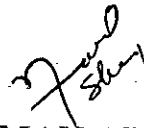
1. That the applicant/appellant filed Service Appeal No. 613/2013 in this august Tribunal against the order dated 03.09.2012 and 01.03.2013 whereby the appellant has been removed from the service.
2. That the said appeal was finally heard by the Honorable Tribunal on 28.11.2017 and the Honorable Tribunal was kind enough to accept the appeal and reinstated the appellant into service. **(Copy of judgment is attached as Annexure-A).**
3. That the appellant also submitted arrival report for implementation of judgment but respondents were totally failed in taking any action regarded the Hon'able Tribunal Judgment dated 28.11.2017. **(Copy of arrival report is attached as Annexure-B)**

4. That in-action and not fulfilling formal requirements by the respondent 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 respondents are legally bound to pass formal appropriate order.
6. That the petitioner has having no other remedy to file this Execution Petition.

It is, therefore, most humbly prayed that the respondents may be directed to obey the judgment dated 28.11.2017 of this august Tribunal in letter and spirit and reinstated the appellant into service with all back and consequential benefits. Any other remedy, which this august Tribunal deems fit and appropriate that, may also be awarded in favor of applicant/petitioner.

  
**APPLICANT/PETITIONER**  
Saif-Ur-Rehman

**THROUGH:**

  
**(SYED NOMAN ALI BUKHARI)**  
**ADVOCATE, PESHAWAR.**

**AFFIDAVIT:**

It is affirmed and declared that the contents of the above Execution Petition are true and correct to the best of my knowledge and belief and nothing has been concealed from the Hon'able Tribunal.

**ATTESTED**  
Oath Commissioner  
Zahoor  
Distt: Peshawar

**25 APR 2017**

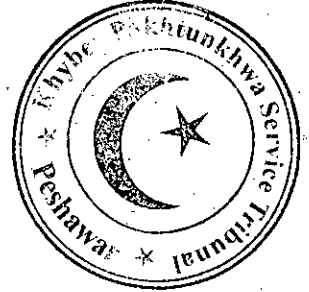
  
**DEPONENT**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 613/2013

Date of Institution ... 08.04.2013

Date of Decision ... 28.11.2017



Saif-Ur-Rehman S/o Muhammad Farid, R/O Quarter no P6 Irrigation Colony  
Warsak Road, Peshawar. ... (Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Secretariat  
Peshawar and 3 others.  
... (Respondents)

MR. RIZWAN ULLAH, ... For appellant  
Advocate

MR. MUHAMMAD JAN, ... For respondents.  
Deputy District Attorney,

MR. NIAZ MUHAMMAD KHAN, ... CHAIRMAN  
MR. AHMAD HASSAN, ... MEMBER

JUDGMENT

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

ATTESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

**FACTS**

2. The appellant was awarded major penalty of removal from service on 03.9.2012 and according to the appellant he received the same on 07.02.2013 against which he filed departmental appeal on 09.02.2013 which was rejected on 01.03.2013.

**ARGUMENTS.**

3. The learned counsel for the appellant argued that the period of absence as alleged by the department i.e 09.06.2011 to 06.08.2011 fell in the period when the Khyber Pakhtunkhwa Civil Servants Removal from Service (Special Powers) Ordinance-2000 was in vogue but the impugned order has been passed under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011. That the whole proceedings are therefore, without authority and *coram non-judice*. In this regard he relied upon the judgment reported as 2007 SCMR 229. He further argued that no limitation shall run in such order which are void being *coram non-judice*. He further argued that the appellant was awarded major penalty but no proper enquiry was conducted. He next contended that the charge against the accused was not of the nature which warranted the imposition of penalty.

On the other hand, the learned Deputy District Attorney argued that the departmental appeal was time barred, therefore, the present service appeal is also time barred. That no application for condonation of delay has been submitted by the appellant before the departmental appellate authority. That the proceedings were in accordance with law. That the department has rightly invoked rule-9 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011.

**ATTESTED**

**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

**CONCLUSION.**

5. Admittedly the period of absence fell in the era when the Khyber Pakhtunkhwa Civil Servants Removal from Service (Special Powers) Ordinance-2000 was in vogue but the impugned order has been passed under the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules 2011. The whole proceedings are without any authority and are void. No limitation shall run in such situation.

6. Secondly, no proceedings under rule-9 were completed as there is no proof of advertisement in the news paper which is requirement of rule-9 except prototype copy meant for publication in the news paper.

7. As a sequel to the above discussion, the appeal is accepted and the appellant is reinstated in service. Parties are left to bear their own costs. File be consigned to the record room.

(NIAZ MUHAMMAD KHAN)  
CHAIRMAN

(AHMAD HASSAN)  
MEMBER

Certified to be true copy  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

**ANNOUNCED**  
28.11.2017

Date of Presentation of Application 30-11-2017  
Number of Words 1200  
Copying Fee 8-00  
Urgent 2-00  
Total 10-00  
Name of Copyiest [Signature]  
Date of Completion of Copy 30-11-2017  
Date of Delivery of Copy 30-11-2017

To,

The Section Officer (General),  
Administration Department, KPK

4/12/17

Subject:- **ARRIVAL REPORT.**

Dear Sir,

in compliance with Service Tribunal Judgment I Mr. Saif-ur-Rehman S/o Muhammad Farid is hereby submit my arrival report for duty today on 04-12-2017 F.N.

سایف الرحمن

Saif-ur-Rehman

Naib Qasid

**VAKALAT NAMA**

NO. \_\_\_\_\_/2018

IN THE COURT OF K.P.O. 12 Service Tribunal, Peshawar.

Saif-Ur-Rahman

(Appellant)  
(Petitioner)  
(Plaintiff)

VERSUS

Govt of K. P. O. 12

(Respondent)  
(Defendant)

I/We, Saif-Ur-Rahman (Petitioner/Applicant)

Do hereby appoint and constitute **Syed Noman Ali Bukhari 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 \_\_\_\_\_/2018

Saif-Ur-Rahman  
(CLIENT)

ACCEPTED

Syed Noman Ali Bukhari  
**SYED NOMAN ALI BUKHARI**  
Advocate, Peshawar.





GOVERNMENT OF KHYBER PAKHTUNKHWA  
ADMINISTRATION DEPARTMENT

Dated Peshawar the 11-02-2019

**ORDER.**


**No.E&A(AD)02(598)2009.** In pursuance of Judgment dated 28-11-2017 of Khyber Pakhtunkhwa Service Tribunal in *Service Appeal No.613 / 13* titled *Mr. Saifur Rehman, Naib Qasid, versus Govt; of Khyber Pakhtunkhwa* read-with subsequent order sheet dated 13-12-2018 in *Execution Petition No.56 / 2018*, the competent authority has been pleased to re-instate **Mr. Saifur Rehman**, Naib Qasid, into the service w.e.f 03-09-2012 i.e from the date of removal-from-service with all back benefits subject to final decision of CPLA already filed in Apex Court.

**DEPUTY SECRETARY (ADMN)**

**ENST OF EVEN NO & DATE.**

A copy is forwarded to :-

- 1) Accountant General, Khyber Pakhtunkhwa
- 2) Registrar Service Tribunal , Khyber Pakhtunkhwa
- 3) Estate Officer , Administration Department.
- 4) Superintendent (Accounts) Administration Department.
- 5) PS to Secretary Administration Department.
- 6) PS to Add; Secretary (Admn-I) Administration Department..
- 7) PA to Deputy Secretary (Admn) Admn Deptt;
- 8) Officials concerned
- 9) Personal files.

  
SECTION OFFICER (ADMN)  
11/2/19

بکھنور انور جناب چیمبر مین سروس ٹریبونل پشاور

ایڈمنسٹریشن سول سیکٹریٹ پشاور

بنام

اجراء: سیف الرحمن

آئندہ پیشی: 22/01/2019

عنوان: درخواست برائے حصولی انصاف و تعمیل حکم ٹریبونل مورخہ 28/11/2017 جس کی رو سے سائل کو نوکری پر بحال کر دیا گیا لیکن تا حال محکمہ ہڈانے عدالت کے حکم کی تعمیل نہ کی ہے اور سائل کو روٹنگ سٹون بنا دیا گیا ہے۔

جناب عالی!

سائل حسب ذیل عرض رساں ہے۔

- (1) یہ کہ سائل جو کہ نائب قاصد کی ڈیوٹی پر تعینات تھا کو ABSENCE کی وجہ سے نوکری سے نکال باہر کیا گیا۔
  - (2) یہ کہ مورخہ 28/11/2017 کو معزز ٹریبونل نے سائل کو بحال کر دیا۔
  - (3) یہ کہ پچھلے ڈیڑھ سال سے سائل عدالت کے آرڈر کی IMPLIMENTATION کرانے کے لیے محکمہ کے چکر کاٹ رہا ہے اور اجراء بھی دائر کر رکھی ہے جس سے محکمہ ہڈا کا نمائندہ آکر محض تاریخ تبدیل کر دیتا ہے۔
  - (4) یہ کہ اب مزید برآں محکمہ نے سائل کو سرکاری مکان خالی کرانے کا نوٹس بھی دیدیا ہے۔ جناب عالی کیا محکمہ اتنا POWERFULL ہے کہ معزز عدالت کے حکم کی کوئی پرواہ نہ ہے اور جب سائل محکمہ جاتا ہے اپنے CASE کی معلومات کرنے تو اُسکا مذاق اڑایا جاتا ہے کہ عدالت کا حکم اُن کے لیے کوئی معنی نہیں رکھتا
- جناب عالی اعدالت حضور کے واضح حکم کے ہوتے ہوئے بھی میں انصاف کے حصول کے لیے دھکے کھا رہا ہوں۔ میرے گھر کے معاشی حالات ابتر ہیں اور مجھے اب کوئی صورت نظر نہیں آتی کہ خودکشی کر لوں کیونکہ جہاں عدالت کے حکم کا احترام نہیں تو وہاں کیا انصاف کی توقع رکھنا۔

بہت مجبوری میں آپ صاحبان سے اپنی فریاد پیش کر کے انصاف کی امید رکھتا ہوں کہ محکمہ ہڈا پر عدالت کے حکم کی تعمیل فرمائی جائے

العبد

سیف الرحمن ولد محمد فرید ساکن کواٹر نمبر IP6 ایریکیشن کالونی ورسک روڈ پشاور

شناختی کارڈ-7-9082443-37405

کاپی برائے خبر گیری:

(1) رجسٹرار سپریم کورٹ آف پاکستان اسلام آباد

(2) رجسٹرار ہائی کورٹ پشاور

(3) چیف سیکٹری حکومت خیبر پختون خواہ پشاور

(4) سیکٹری ایڈمنسٹریشن حکومت خیبر پختون خواہ سول سیکٹریٹ پشاور

Put up to the court with  
relevant Executive Petition.

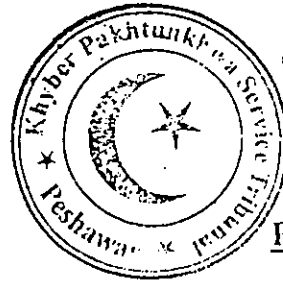
Neeraj

8/1/19.

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR.

Execution Petition No. 56 /2018  
In Service Appeal No.613/2013

Saif-Ur-Rehman S/o Muhammad Farid,  
R/o Quarter no P6, Irrigation Colony,  
Warsak Road, Peshawar.



Khyber Pakhtunkhwa  
Service Tribunal  
234  
27/02/2

PETITIONER

VERSUS

1. The Govt. of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. The Govt. of Khyber Pakhtunkhwa through Secretary Administration, Peshawar.
3. Deputy Secretary (ADMN) Administration Department Peshawar.
4. Section Officer (ADMN) Administration Deptt: Peshawar.

RESPONDENTS

.....  
EXECUTION PETITION FOR DIRECTING THE  
RESPONDENTS TO IMPLEMENT THE  
JUDGMENT DATED: 28.11.2017 OF THIS  
HONOURABLE TRIBUNAL IN LETTER AND  
SPIRIT.  
.....

E.P No. 56/2018

13.12.2018

Petitioner alongwith his counsel present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Muhammad Anwar, Section Officer for the respondents present. Implementation report not submitted. Representative of the department requested for further time. Last chance is granted to the respondents for filing of implementation report. Adjourned. To come up for implementation report on 22.01.2019 before S.B.

*M.A.K.*  
Muhammad Amin Khan Kundi  
Member

Certified to be true copy  
E.P. No. 56/2018  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of execution of copy	18-12-18
Number of copies	450
Copying Fee	2
Urgent	6
Total	
Name of Copied	
Date of Copying of Copy	18-12-18
Date of Delivery of Copy	18-12-18

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. 613/2013

Date of Institution ... 08.04.2013

Date of Decision ... 28.11.2017



Sait-Ur-Rehman S/o Muhammad Farid, R/O Quarter no P6 Irrigation Colony  
Warsak Road, Peshawar. ... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary, Secretariat  
Peshawar and 3 others.  
... (Respondents)

MR. RIZWAN ULLAH,  
Advocate

... For appellant

MR. MUHAMMAD JAN,  
Deputy District Attorney,

... For respondents.

MR. NIAZ MUHAMMAD KHAN,  
MR. AHMAD HASSAN,

CHAIRMAN  
MEMBER

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN.-

Arguments of the

learned counsel for the parties heard and record perused.

ATTESTED

Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

### FACTS

2. The appellant was awarded major penalty of removal from service on 03.9.2012 and according to the appellant he received the same on 07.02.2013 against which he filed departmental appeal on 09.02.2013 which was rejected on 01.03.2013.

### ARGUMENTS.

3. The learned counsel for the appellant argued that the period of absence as alleged by the department i.e 09.06.2011 to 06.08.2011 fell in the period when the Khyber Pakhtunkhwa Civil Servants Removal from Service (Special Powers) Ordinance-2000 was in vogue but the impugned order has been passed under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011. That the whole proceedings are therefore, without authority and *coram non-judice*. In this regard he relied upon the judgment reported as 2007-SCMR 229. He further argued that no limitation shall run in such order which are void being *coram non-judice*. He further argued that the appellant was awarded major penalty but no proper enquiry was conducted. He next contended that the charge against the accused was not of the nature which warranted the imposition of penalty.

APPROVED  
 On the other hand, the learned Deputy District Attorney argued that the departmental appeal was time barred, therefore, the present service appeal is also time barred. That no application for condonation of delay has been submitted by the appellant before the departmental appellate authority. That the proceedings were in accordance with law. That the department has rightly invoked rule-9 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011.

CONCLUSION.

5. Admittedly the period of absence fell in the era when the Khyber Pakhtunkhwa Civil Servants Removal from Service (Special Powers) Ordinance-2000 was in vogue but the impugned order has been passed under the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules 2011. The whole proceedings are without any authority and are void. No limitation shall run in such situation.

6. Secondly, no proceedings under rule-9 were completed as there is no proof of advertisement in the news paper which is requirement of rule-9 except prototype copy meant for publication in the news paper.

7. As a sequel to the above discussion, the appeal is accepted and the appellant is reinstated in service. Parties are left to bear their own costs. File be consigned to the record room.

*SD/*  
(NIAZ MUHAMMAD KHAN)  
CHAIRMAN

*SD/*  
(AHMAD HASSAN)  
MEMBER

Best copy  
Khyber Pakhtunkhwa  
Services Tribunal,  
Peshawar

ANNOUNCED  
28.11.2017

Date of Perquisition of Application	<u>30-11-2017</u>
Number of Pages	<u>12-00</u>
Copying Fee	<u>8-00</u>
Urgent	<u>2-00</u>
Total	<u>10-00</u>
Name of Applicant	<u>[Signature]</u>
Date of Filing	<u>30-11-2017</u>
Date of Disposal	<u>30-11-2017</u>

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

**EXECUTION PETITION NO.18/21 IN EXECUTION PETITION NO.56/2018**  
**IN SERVICE APPEAL NO:613/2013**

Mr. Saif-Ur-Rehman, Naib Qasid .....(Petitioner)

**Versus**

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. Government of Khyber Pakhtunkhwa through Secretary Administration, Civil Secretariat, Peshawar.
3. Deputy Secretary (Admn) Administration, Civil Secretariat, Peshawar.
4. Section Officer (Admn), Administration Department, Civil Secretariat, Peshawar.

..... (Respondents)

**JOINT PARAWISE COMMENTS**  
**ON BEHALF OF THE RESPONDENT NO.1 to 4**

Respectfully Sheweth,

**PRELIMINARY OBJECTIONS.**

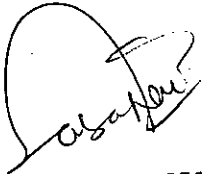
- 1) The petitioner has got no cause of action and locus standi.
- 2) The petition is not maintainable in the present form. As such this Honorable Tribunal has no jurisdiction to entertain the instant petition.
- 3) The petition is not based on facts.
- 4) The petitioner has not come to the Tribunal with clean hands.
- 5) The petition is bad for mis-joinder and non-joinder of necessary parties.
- 6) The petitioner has concealed material facts from this Honorable Tribunal.
- 7) That the petitioner is estopped by his own conduct to file the instant appeal.

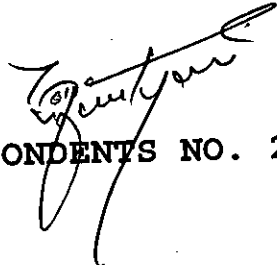
**RESPECTFULLY SUBMITTED:**

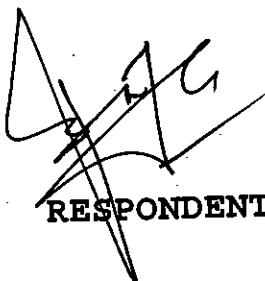
- 1: Pertains to record. No comments.
- 2: Pertains to court. No comments.
- 3: The petitioner has been conditionally re-instated into service (i.e back benefits subjected to outcome of CPLA) on 22-01-2019 (copy annexed as **Annex-I**) in pursuance of the Judgment of the Learned Tribunal. Accordingly, a case was taken up with AG Office, which released the current salary of the petitioner without entertaining his claim for back benefits / arrears. It is worth reiterating here that the Khyber Pakhtunkhwa Service Tribunal's judgment dated 28-11-2017 has been challenged in CPLA before the honorable Supreme Court of Pakistan, which is still sub-judice. Moreover, the respondents are legally and morally bound to give respect to order(s) of the Hon'ble Tribunal.

**PRAYER:**

It is, therefore, respectfully prayed that instant Petition being devoid of merits may graciously be dismissed with costs.

  
RESPONDENT NO. 1

  
RESPONDENTS NO. 2

  
RESPONDENTS NO. 3

  
RESPONDENTS NO. 4



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

CM No. 18/2021

In

Execution Petition no. 56/2018

In Service Appeal No. 613/2013

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 39

Dated 06/01/2021

**Saif-Ur-Rehman Versus Government and others**

**APPLICATION FOR AND ON BEHALF OF  
APPELLANT/PETITIONER FOR THE  
RESTORATION OF THE EXECUTION  
PETITION NO. 56/2018**

Respectfully Sheweth:

1. That the present petition was instituted on 27.02.2018 which was later on sine die by the Order of this Hon'ble Tribunal dated 12.04.2019.
2. That the petitioner/appellant wants to restore the titled execution petition as according to the order of this Hon'ble Tribunal dated 12.04.2019 the appellant was allowed to restore his execution proceedings. The

relevant portion of the judgment dated 12.04.2019 of this Hon'ble Tribunal is reproduced as under:

***“The petitioner may have the proceedings restored in case any portion of his grievance remained un-redressed”***

(Copy of Order dated 12.04.2019 is annexed).

3. That the back benefits of the appellant have not yet been granted by the respondents, hence appellant wants to restore the above execution petition.

It is, therefore, humbly prayed that the titled execution petition may kindly be restored, in the interest of justice.

Appellant

Through

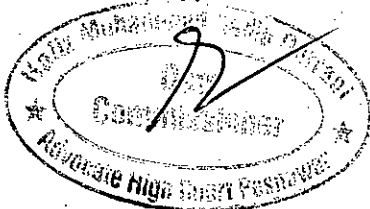
*Kamran Jamal Khan*  
**Kamran Jamal Khan**

*Ayesha Khan*  
**Ayesha Khan**  
Advocates, High Court.

Dated: 06.01.2021

06 JAN 2021

ATTESTED



BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR.

Executive Petition No. 56 /2018  
In Service Appeal No.613/2013

Saif-Ur-Rehman S/o Muhammad Farid,  
R/o Quarter no P6, Irrigation Colony,  
Warsak Road, Peshawar.



Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 234

Date 27/02/2018

**PETITIONER**

VERSUS

1. The Govt: of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. The Govt: of Khyber Pakhtunkhwa through Secretary Administration Peshawar.
3. Deputy Secretary (ADMN) Administration Department Peshawar.
4. Section Officer (ADMN) Administration Deptt: Peshawar.

**RESPONDENTS**

**EXECUTION PETITION FOR DIRECTING THE RESPONDENTS TO IMPLEMENT THE JUDGMENT DATED: 28.11.2017 OF THIS HONOURABLE TRIBUNAL IN LETTER AND SPIRIT.**

E.P 56/18

12.04.2019

Petitioner with counsel and Addl. AG for the respondents present.

Learned counsel for the petitioner states that a conditional reinstatement order has been issued in favour of petitioner, therefore, at present he does not want to proceed further with the execution of judgment. The execution is, therefore, consigned to record. The petitioner may have the proceedings restored in case any portion of his grievance remained un-redressed.

Certified to be true copy

*[Signature]*  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

*[Signature]*  
Chairman

Date of Delivery of Copy: 22/12/2018  
 Date of Copy: 22/12/2018  
 Name: 22/12/2018  
 No. of Pages: 4/6  
 Date of Delivery of Copy: 22/12/2018

قیمت  
50 روپے

71452



ایڈوکیٹ: Kamran Jamal Khan

بار کونسل / ایسوسی ایشن نمبر: BC-16-6851

رابطہ نمبر: 03339341024

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

KP Service Tribunal Peshawar

بعدالت جناب:

Appellant	مخائب:	دعوی:
Saif-ur-Rehman		علت نمبر:
بنام		مورخہ:
Govt		جرم:
		تھانہ:

باعت تحریر آتکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ  
آن مقام Peshawar کیلئے کاہران جمال خان، عالیئہ خان آریڈ وکیل مقرر  
کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو  
راضی نامہ کرہے و تقریر ثالث و فیصلہ برحلف دینے جواب دعوی اقبال دعوی اور درخواست از ہر قسم کی تصدیق  
زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز  
دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی  
کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے بقر کا اختیار ہوگا اور صاحب  
مقرر شدہ کو وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور ان کا ساختہ پر داخلہ منظور و قبول ہوگا  
دوران مقدمہ میں جو خرچہ ہر جانب اتوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے  
باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: 6=01=2021

PESHAWAR BAR ASSOCIATION  
KHAYBER PAKHTUNKHAH

مقام Peshawar کے لیے منظور ہے۔

Kamran Jamal Khan  
KAMRAN JAMAL KHAN  
Advocate.

Ayesha Khan  
Advocate High Court

نوٹ: اس وکالت نامہ کی فوٹو کاپی ناقابل قبول ہوگی۔

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

CM No. 18 /2021

In

Execution Petition no. 56/2018

In Service Appeal No. 613/2013

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Appellant

Through

*Kamran Jamal Khan*  
**Kamran Jamal Khan**

*Ayesha Khan*  
**Ayesha Khan**  
Advocates, High Court.

Affidavit  
It is verified  
That all the  
content of application  
is correct

Dated: 06.01.2021

