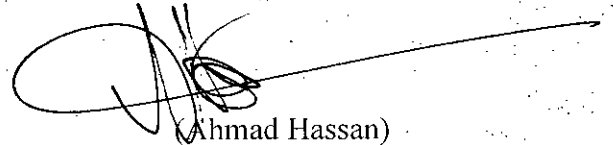


02.08.2019

Counsel for the petitioner and Mr. Usman Ghani,  
District Attorney for respondents present.

On the previous date of hearing, the respondents submitted implementation report as per order dated 14.05.2019, through which grievance of the petitioner stood redressed. The learned counsel for the petitioner expressed satisfaction on the order referred to above. Hence, the present execution petition stands implemented. As such the instant execution petition is hereby disposed of being executed. File be consigned to the record room.

Announced:  
02.08.2019

  
(Ahmad Hassan)  
Member (E)


29.04.2019 Counsel for the petitioner and Addl: AG alongwith Mr. Ishaq Gul, DSP (Legal) for respondents present. Representative of the respondents seeks time to submit implementation report. Granted. Case to come up for further proceedings on 20.06.2019 before S.B.



(Ahmad Hassan)  
Member

20.06.2019

Counsel for the petitioner and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Bilal, Head Constable for the respondents present. Representative of the department submitted implementation report dated 14.05.2019. The same is placed on record. Learned counsel for the petitioner seeks adjournment to examine the same. Adjourned to 02.08.2019 for further proceedings before S.B.

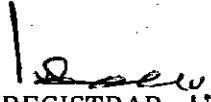





(Muhammad Amin Khan Kundi)  
Member

ASA

FORM OF ORDER SHEET

Execution Petition No. 23/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	17.01.2019	<p>The Execution Petition of Mr. Ishaq Ali submitted to-day by Naila 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 17/1/19</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>
28.03.2019	22.02.2019 HCA	<p>Counsel for the petitioner present.</p> <p>Notice be issued to the respondents for submission of implementation report on 28.03.2019 before S.B.</p> <p style="text-align: right;"> Chairman</p> <p>None present on behalf of the petitioner. Mr. Kabirullah Khattak, Additional AG for the respondents present and seeks adjournment. Adjourned to 29.04.2019 for implementation report before S.B.</p> <p style="text-align: right;"> (MUHAMMAD AMIN KHAN KUNDI) MEMBER</p>

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

Execution petition No. 23 /2019

In

Service Appeal No: 1060/2015

Ex- Police Constable Ishaq Ali

**VERSUS**

Inspector General of Police Khyber Pakhtunkhwa Peshawar  
and Others

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3.	Copy of Judgment		5-8
4.	Wakalat Nama.		9

Dated: 17/01/2019

Through

*Ishaq Ali*  
Petitioner

*Naita Jan*  
Naita Jan

Advocate, High Court  
Peshawar.

D

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

Khyber Pakhtunkhwa  
Service Tribunal

Execution petition No. 23 /2019

Diary No. 98

In

Dated 17-1-2019

Service Appeal No: 1060/2015

Ex- Police Constable Ishaq Ali S/o Yousaf Ali R/o  
Village Usterzai Bala, Tehsil & District Kohat.

.....*Petitioner*

**V**ersus

1. Inspector General of Police Khyber Pakhtunkhwa Peshawar.
2. Additional Inspector General Of Police Khyber Pakhtunkhwa Peshawar.
3. Deputy Inspector General Of Police Kohat.
4. District Police Officer Kohat.

.....*Respondents*

**EXECUTION PETITION FOR**  
**IMPLEMENTATION OF THE**  
**JUDGMENT OF THIS HON'BLE**  
**TRIBUNAL IN APPEAL No.**  
**1060/2015 DECIDED ON**  
**28/08/2018**

**Respectfully Sheweth,**

1. That the above mention appeal was decided by  
this Hon'ble Tribunal vide Judgment dated

2

28/08/2018. (Copy of the judgment is annexed as annexure "A")

2. That the relevant portion of the judgment is reproduced, as such the impugned order is illegal therefore, we accept the appeal, set aside the impugned order and reinstate the appellant in service. However, respondent-department is directed to conduct de-novo inquiry in accordance with prescribed law and rules within a period of 90 days from the date of receipt of this judgment. The issue of back benefits shall be subject to the outcome of de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

3. That the Petitioner after getting of the attested copy of same approached the Respondent several time for implementation of the above mention judgment. However they are using delaying tactics and reluctant to implement the judgment of this Hon'ble Tribunal.

3

4. That the Petitioner has no other option but to file the instant petition implementation of the judgment of this Hon'ble Tribunal

5. That there is nothing which may prevent this Hon'ble Tribunal from implementing of its own judgment.

*It is, therefore, requested that on acceptance of this petition the Respondents may directed to implement the judgment of this Hon'ble Tribunal by reinstating the Petitioner with all back benefits.*

Dated: 17/01/2019

Ishaq Ali  
Petitioner  
Through  
Naila Jan  
Advocate, High Court  
Peshawar

**AFFIDAVIT:-**

I, Ishaq Ali S/o Yousaf Ali R/o Village Usterzai Bala, Tehsil & District Kohat, do hereby solemnly affirm and declare on oath that all the contents of above application are true and correct to the best of my knowledge and belief and nothing has been misstated or concealed from this Hon'ble Court.

**ATTESTED**  
IRFAN ULLAH ADVOCATE  
NOTARY PUBLIC

Ishaq Ali  
Deponent

4)

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

Execution petition No. \_\_\_\_\_/2019

In

Service Appeal No: 1060/2015

Ex- Police Constable Ishaq Ali

**VERSUS**

Inspector General of Police Khyber Pakhtunkhwa Peshawar  
and Others

**ADDRESSES OF PARTIES**

***PETITIONER***

Ex- Police Constable Ishaq Ali S/o Yousaf Ali R/o Village  
Usterzai Bala, Tehsil & District Kohat.

**RESPONDENTS**

1. Inspector General of Police Khyber Pakhtunkhwa Peshawar.
2. Additional Inspector General Of Police Khyber Pakhtunkhwa Peshawar.
3. Deputy Inspector General Of Police Kohat.
4. District Police Officer Kohat.

Dated: 17/01/2019

Through

*Ishaq Ali*  
Petitioner

*Naila Jan*

Advocate, High Court  
Peshawar



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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

**SERVICE APPEAL NO. 1060/2015**

Date of institution ... 06.08.2015  
Date of judgment ... 28.08.2018



Ex-Police Constable Ishaq Ali S/o Yousaf Ali  
R/o Village Usterzai Bala, Tehsil & District Kohat.

... (Appellant)

**VERSUS**

1. Inspector General of Police KPK Peshawar and two others.

... (Respondents)

SERVICE APPEAL UNDER SECTION-4 OF THE KHYBER  
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST  
THE ORDER OF RESPONDENT NO. 3 BEARING NO. O.N  
NO. 70 DATED 15.01.2014 AND RESPONDENT NO. 2 DATED  
20.08.2014 WHEREIN THE APPELLANT WAS REMOVED  
FROM SERVICE AND APPEAL OF APPELLANT WAS  
DISMISSED BY RESPONDENTS ON 13.03.2015.

Mr. Syed Mudasir Pirzada, Advocate.

.. For appellant.

Mr. Kabirullah Khattak, Additional Advocate General

.. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI

.. MEMBER (JUDICIAL)

MR. AHMAD HASSAN

.. MEMBER (EXECUTIVE)

**ATTESTED**

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: -

Learned

counsel for the appellants present. Mr. Kabirullah Khattak, Additional Advocate

General alongwith Mr. Arif Saleem, ASI for the respondents also present.

Arguments heard and record perused.

2. Brief facts of the case as per present service appeal are that the appellant was serving in Police Department as Constable. During service he was removed from service by the competent authority vide impugned order dated 15.01.2014 on the allegation that he was involved/arrested in case FIR No.138 dated

**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

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22.05.2013 under sections 9C CNSA P.S Usterzai. The appellant filed departmental appeal (undated) which was rejected vide order dated 13.08.2014. The appellant filed revision petition on 20.01.2015 which was rejected on 13.03.2015 hence, the present service appeal.

3. Respondents were summoned who contested the appeal by filing written reply/comments.

4. Learned counsel for the appellants contended that the appellant was serving in Police Department. It was further contended that the appellant was removed from service on the allegation that he was involved in the aforesaid criminal case. It was further contended that respondent-department was required to wait for departmental proceedings against the appellant till the decision of the aforesaid criminal case but the respondent-department has removed the appellant before the conclusion of the criminal case. It was further contended that the appellant was also acquitted from the charges leveled against him in the aforesaid criminal case by the competent authority vide detailed judgment dated 11.06.2014. It was further contended that the complainant of the aforesaid case has some personal grudges with the appellant therefore, the appellant was involved in the aforesaid criminal case malafidely. It was further contended that the impugned order of removal from service of the appellant was passed by the competent authority retrospectively therefore, the same is also void. It was further contended that as per statement of allegation Muhammad Kashif Aslam ASP Saddar Kohat was appointed as inquiry officer by the competent authority but the inquiry has been concluded by the Ihsanullah Khan, SDPO Kohat for the reason best known to the respondent-department. It was further contended that it has been mentioned in the inquiry report that the inquiry was entrusted to the undersigned i.e Ihsanullah, SDPO Kohat for completion but there is nothing on the record to show that for which reason the inquiry was handed over to the

*M. Amin*  
28.8.2018

**ATTESTED**

*[Signature]*  
EXAMINED  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Ihsanullah, SDPO Kohat and the same was not completed by the inquiry officer appointed by the competent authority. It was further contended that neither proper inquiry was conducted nor opportunity of cross examination and defence was provided to the appellant nor any charge sheet and statement of allegation was served on the appellant as the appellant at the time of departmental proceeding was in jail therefore, it was contended that the appellant was condemned unheard. It was further contended that no limitation run against the void order therefore, the whole proceeding is illegal and liable to be set-aside and prayed for acceptance of appeal.

5. On the other hand, learned Additional Advocate General for the respondents opposed the contention of learned counsel for the appellant and contended that the appellant was involved in narcotics cases. It was further contended that huge quantity of narcotics was recovered from his possession. It was further contended that a regular inquiry was conducted and the appellant was also provided opportunity of hearing therefore, the competent authority has rightly removed the appellant from service on the basis of departmental inquiry.

6. Perusal of the record reveals that the appellant was serving in Police Department. The record further reveals that the appellant was involved/arrested in the aforesaid criminal case and on the basis of aforesaid criminal case departmental proceeding was initiated against the appellant. The record further reveals that Muhammad Kashif Aslam, ASP Saddar Kohat was appointed as inquiry officer by the competent authority as revealed from the statement of allegation but for the reason best known to the respondent-department he had not completed the said inquiry rather handed over <sup>Mr</sup> the same to Mr. Ihsanullah, SDPO Kohat for completion of the same as indicated from the inquiry report which has rendered the inquiry proceeding illegal and liable to be set-aside. Furthermore, the appellant was removed from service vide order dated

ATTESTED

EXAMINED  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

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15.01.2014 retrospectively therefore, the impugned order was also not passed in accordance with law and rules. As such the impugned order is illegal therefore, we accept the appeal, set-aside the impugned order and reinstate the appellant in service. However, respondent-department is directed to conduct de-novo inquiry in accordance with prescribed law and rules within a period of 90 days from the date of receipt of this judgment. The issue of back benefits shall be subject to the outcome of de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

Announced  
28-08-2018




Sd/- M. Amin Khan Ferozi  
Member

Sd/- Ahmad Hassan  
Member

**Certified to be true copy**

*[Signature]*  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Date of Presentation of Application 03-10-18  
 Number of Words 1600  
 Copying Fee 10-00  
 Urgent 2-00  
 Total 12-00  
 Name of Copy [Signature]  
 Date of Completion of Copy 03-10-18  
 Date of Delivery of Copy 03-10-18

قیمت 50 روپے	1477			
ایڈوکیٹ: <u>Naila Jan</u>		پشاور بار ایسوسی ایشن، خیبر پختونخواہ		
بار کونسل / ایسوسی ایشن نمبر:				
رابطہ نمبر: <u>0312921471</u>				

بعدالت جناب: Kp Service Tribunal Peshawar

مخانب: <u>petitioner</u>	دعوی: <u>Execution</u>
<u>Ishaq Ali</u>	علت نمبر: <u>E.P. No. 23/2019</u>
بنام <u>Police</u>	مورخہ:
	جرم:
	تھانہ:

**باعث تحریر آگے**

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ آن مقام Peshawar کیلئے Hussain Naila Jan, Huma Khan کو 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 کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ 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 تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پرداختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جاندا تو ائے 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

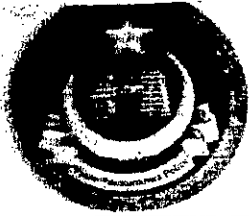
المرقوم: 14/1/2019

بدا گواہ شد بدا  
مقام Peshawar کے لیے منظور ہے۔

Accepted by Naila Jan  
Hussain

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

Ishaq Ali  
Ishaq Ali Ex Counselor



OFFICE OF THE  
DISTRICT POLICE OFFICER,  
KOHAT  
Tel: 0922-9260116 Fax 9260125

## ORDER

This order will dispose of de-novo departmental proceedings against Constable Ishaq Ali No. 820/113 of this District Police under the ~~Khyber~~ Pakhtunkhwa, Police Rules, 1975 (amendment 2014).

Brief facts of the proceedings are that the accused official while posted at Police Post Merai was charged/arrested in narcotics case, vide FIR No. 138 dated 22.05.2013 U/S 9 CCNSA PS Usterzai. The accused official was proceeded with departmentally on the above charge, which resultant into his dismissal from service vide order dated 15.01.2014. After availing departmental forums, the accused official filed service appeal against impugned order, which was accepted with the directions to conduct denovo enquiry against the appellant by providing him proper opportunity of defense under the law / rules.

In compliance with the Judgment of Service Tribunal dated 28.08.2018, denovo departmental proceedings initiated after approval. The ASP Saddar Kohat was appointed as enquiry officer by the competent authorities. Charge Sheet alongwith statement of allegations issued to the accused official. The accused official was associated with the proceedings and afforded ample opportunity of defense by E.O. The accused official was held guilty of the charges vide finding of the enquiry officer.

Final Show Cause Notice alongwith copy of enquiry finding was served upon the accused official. Reply received unsatisfactory, without any plausible explanation.

Therefore, the accused official was called in Orderly Room, held on 07.05.2019 and heard in person, but he failed to submit any explanation to his gross professional misconduct.

Record gone through, which indicates that the accused official had committed the above misconduct. The service record of the accused official also found indifferent.

In view of the above and available record, I agreed with the finding of enquiry officer, therefore, in exercise of powers conferred upon me under the rules *ibid* I, Capt. @ Wahid Mehmood, District Police Officer, Kohat impose a major punishment of reduction from higher stage to lower stage in the same time scale of pay for the period of 03 years on accused constable Ishaq Ali No. 820/113. He is reinstated in service, The intervening period is treated as leave without pay on the principle "no work, no pay" and pay is hereby released.

Announced  
07.05.2019

DISTRICT POLICE OFFICER,  
KOHAT

OB No. 533  
Date 14-5-2019

No. 6100-021 PA dated Kohat the 14-5- 2019.

Copy of above is forwarded for information and necessary action to the Reader, Pay officer, SRC and OHC.