

## ORDER

Ex-Constable Shehreyar No.508/2189 was awarded major punishment of removal from service by the then SP HQrs vide OB No.1314 dated 21.04.2014 on the charges of absence from duty w.e.f 08.02.2013 to 23.05.2013 & 24.05.2013 to 24.01.2014 (11-months & 14-days).

In this regard he was filed departmental appeal before appellate authority against above punishment orders which was rejected/filed by the then CCPO, Peshawar vide No.1382-87/PA dated 04.07.2014.

Ex-Constable Shehreyar No.508/2189 has produced court Judgment, wherein the court of Hon'able Service Tribunal ordered that **"the judgment order dated 08.01.2018 partially accepted his appeal and modifying/converting major penalty of dismissal from service to withholding of three (03) annual increments for a period of 03-years. The absence and intervening period shall be treated as leave of the kind due."**

In light of the Court Judgment, DSP Legal opinion & kind approval of SSP Coordination, Ex-Constable Shehreyar No.508/2189 is hereby conditionally re-instated in service & punishment order of dismissal is modified & converted into withholding of three annual increments for a period of 03-years with immediate effect. Hence, intervening period i.e period of absence & out of service is treated as leave of the kind due subject to the decision of CPLA which is still subjudice in the Apex Court.

  
SUPERINTENDENT OF POLICE  
HEADQUARTERS, PESHAWAR

OB. NO. 1933 / Dated 17/6 /2019

No. 1203-09 /PA/SP/dated Peshawar the 17/6 /2019

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

- ✓ Capital City Police Officer, Peshawar.
- ✓ DSP/HQrs, Peshawar / *DSP-legal.*
- ✓ Pay Office,
- ✓ OASI, CRC & FMC along-with complete departmental file.
- ✓ Officials concerned.

08.08.2019

Counsel for the petitioner and Mr. Muhammad Riaz Khan Painsdakhel, Assistant A.G. alongwith Muhammad Razaq, H.C for the respondents present.

In view of order dated 17.06.2019 issued by Superintendent of Police Headquarter Peshawar vide O.B No. 1933 learned counsel for the petitioner requests for consignment of instant proceedings to the record room. Order accordingly.

The petitioner may, however, apply for restoration of the proceedings in case any portion of the relief granted to him by the Tribunal remained unsatisfied.



Chairman

06.05.2019

Counsel for the petitioner and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Muhammad Raziq, Head Constable for the respondents present. Implementation report not submitted despite last opportunity. Learned Additional AG seeks further adjournment. Another last opportunity is granted for filing of implementation report. Adjourned to 24.06.2019 for implementation report before S.B.



(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

24.06.2019

Counsel for the petitioner present. Addl: AG alongwith Mr. Abdur Raziq, H.C for respondents present. Representative of the respondents submitted implementation report which is placed on file. A copy of the same was also handed over to the learned counsel for the petitioner. Case to come up for further proceedings on 08.08.2019 before S.B.



(Ahmad Hassan)  
Member

REFERENCE ATTACHED


It is submitted that Ex-Constable Shehreyar No.508/2189 had filed Service Appeal No. 973/2014 in the Hon'able Service Tribunal Khyber Pakhtunkhwa Peshawar against the punishment order of dismissal from service by SP/HQrs: Peshawar vide OB No. 1314 dated 24.05.2013. The appellatant then filed departmental appeal which after due consideration was filed/rejected Vide order No.1382-87 /PA dated 04.07.2014.

The Hon'able Service Tribunal Peshawar vide judgment order dated 08.01.2018 partially accepted his appeal and modifying/converting major penalty of dismissal from service to withholding of three (03) annual increments for a period of 03 years. The absence and intervening period shall be treated as leave of the kind due.

On procurement of judgment order dated 08.01.2018 the police department filed CPLA before the Supreme Court of Pakistan against the said judgment order dated 08.01.2018.

So the appellatant filed execution petition No. 118/2018 for implementation of the judgment order dated 08.01.2018 passed by the Service Tribunal Peshawar. The execution petition was contested and argued by the Govt: Pleader, but the Hon'able Member of Service Tribunal ordered that **"last opportunity granted for production of the same, failing which coercive measures would be adopted against them. To come up for further proceedings on 06.05.2019 before S.B"**. (Copy of order sheet is attached)

It is therefore requested, that Judgment of the Service Tribunal may be implemented conditionally as CPLA before the Apex Court has already been filed which is still subjudice.

  
DSP/Legal,  
CCP, Peshawar.

w/SP H-Qrs :

01.03.2019

Petitioner in person present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Muhammad Raziq, Head Constable for the respondents present. Implementation report not submitted. Learned Additional AG requested for further adjournment. Adjourned to 03.04.2019 for implementation report before S.B.

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

03.04.2019

Counsel for the petitioner present. Addl: AG alongwith Mr. Muhammad Raziq, H.C for respondents present.

Despite directions in the previous order sheet, respondents are reluctant to produce provisional implementation order. Last opportunity granted for production of the same, failing which coercive measures would be adopted against them. Case to come up for further proceedings on 06.05.2019 before S.B.

  
(Ahmad Hassan)  
Member

06.12.2018

Petitioner alongwith counsel and Addl. AG alongwith Bashir Khan DSP (Legal) for the respondents present.

Representative of the respondents states that a CPLA has been preferred before the apex court against the judgment under implementation.

As he is not in possession of any order of suspension of the judgment under execution, the respondents are directed to implement the judgment and submit report on 22.1.2019 before S.B.



Chairman

22.01.2019


Petitioner in person and Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Abdul Raziq H.C present. Learned AAG seeks adjournment to furnish conditional implementation report and further stated that the respondent department has filed CPLA against the judgment in question ~~and~~ Adjourn. To come up for further proceedings/conditional implementation report/parawise comments on 01.03.2019 before S.B.



Member

04.09.2018

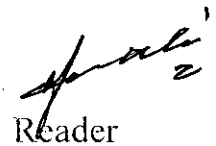
Petitioner with counsel and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Muhammad-Raziq, Head Constable for the respondents present. Implementation report not submitted. Learned Additional AG requested for further adjournment. Adjourned. To come up for implementation report on 22.10.2018 before S.B.



(Muhammad Amin Khan Kundi)  
Member

22.10.2018

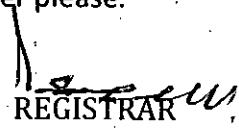



Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 06.12.2018.



Reader

FORM OF ORDER SHEET

Execution Petition No. 111/2018

S.No.	Date of order Proceedings	Order or other proceedings with signature of Judge
1	2	3
1	10.04.2018	<p>The Execution Petition of Mr. Shehryar submitted to-day by Mr. Noor Muhammad Khattak 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-	11/04/18.	<p>This Execution Petition be put up before S. Bench on <u>26/04/18.</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	26.04.2018	<p>Clerk of the counsel for appellant present. 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>19.07.2018</u> before S.B.</p> <p style="text-align: right;"> Reader</p>
19.07.2018		<p>Counsel for the appellant present. Mr. Sardar Shoukat Hayat, Addl: AG for respondents present. Notices be issued to the respondents for submission of implementation report. To come up for further proceedings on 04.09.2018 before S.B.</p> <p style="text-align: right;"> (Ahmad Hassan) Member</p>



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

Implementation Petition No. 111 /2018

In

Appeal No.973/2014

**SHEHRYAR**

**VS**

**POLICE DEPTT:**

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<b>S.NO.</b>	<b>DOCUMENTS</b>	<b>ANNEXURE</b>	<b>PAGE NO.</b>
1-	Memo of petition	.....	1- 2.
2-	Affidavit	.....	3.
3-	Judgment	<b>A</b>	4- 6.
4-	Vakalat nama	.....	7.

**PETITIONER/APPLICANT**

**THROUGH:**

  
**NOOR MOHAMMAD KHATTAK**  
**ADVOCATE**

**MOBILE NO.0345-9383141**

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

Implementation Petition No. \_\_\_\_\_/2018

In

Appeal No.973/2014

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 400

Dated 10/04/2018

Mr. Shehryar, Constable No.5008/2189,  
Police Lines, Peshawar.

.....PETITIONER

**VERSUS**

- 1- The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
- 2- The Capital City Police Officer, Peshawar.
- 3- The Superintendent of Police, Headquarters, Peshawar.

..... RESPONDENTS

**IMPLEMENTATION PETITION FOR DIRECTING**  
**THE RESPONDENTS TO OBEY THE JUDGMENT IN**  
**LETTER AND SPIRIT**

**R/SHEWETH:**

- 1- That the petitioner filed Service appeal bearing No. 973/2014 before this august Service Tribunal for his reinstatement on the post Constable.
- 2- That the appeal of the petitioner was finally heard by this august Tribunal on 08.01.2018 and was decided in favor of the petitioner vide judgment dated 08.01.2018 with the view that ***"Consequently this Tribunal partially allows the present appeal by modifying/converting major penalty of dismissal from service to withholding of three (03) annual increments for a period of three (03) years. The absence and intervening period shall be treated as leave of the kind due"***. Copy of the judgment is attached as annexure..... **A.**
- 3- That after obtaining copy of the judgment the petitioner applied to the Department for his claim but the respondent Department is not willing to obey the judgment and till date the respondents have not been allowed/issued back benefits to the appellant.

- 4- That the petitioner has no other remedy but to file this implementation petition.

It is therefore, most humbly prayed that on acceptance of this implementation petition the respondents may be directed to implement the judgment dated 08.01.2018 in letter and spirit. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the petitioner.

**PETITIONER**

*S. Khari*

**SHEHRYAR**

**THROUGH:**

*N.M.K.*  
**NOOR MOHAMMAD KHATTAK**

**&**

**MUHAMMAD MAAZ MADNI  
ADVOCATE**

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

Implementation Petition No. \_\_\_\_\_/2018  
In  
Appeal No.973/2014

**SHEHRYAR**

**VS**

**POLICE DEPTT:**

**AFFIDAVIT**

I Noor Mohammad Khattak Advocate on the instructions and on behalf of the petitioner do hereby solemnly affirm that the contents of this implementation petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.



  
**NOOR MOHAMMAD KHATTTAK**  
**ADVOCATE**

A - 4



Sr. No	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	08.01.2018	<p align="center"><b><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u></b></p> <p align="center">Appeal No. 973/2014</p> <p>Date of Institution ... 23.07.2014 Date of Decision ... 08.01.2018</p> <p>Mr. Shehryar, Ex. Constable No.5008/2189, Police Lines Peshawar.</p> <p align="center">Versus</p> <ol style="list-style-type: none"> <li>The Inspector General of Police Khyber Pakhtunkhwa, Peshawar.</li> <li>The Capital City Police Officer, Peshawar.</li> <li>The Superintendent of Police, Headquarters, Peshawar.</li> </ol> <p align="center"><b><u>JUDGMENT</u></b></p> <p align="center"><b><u>MUHAMMAD HAMID MUGHAL, MEMBER.</u></b></p> <p>Learned counsel for the appellant and Mr. Kabir Ullah Khattak; Learned Additional Advocate General on behalf of the respondents present.</p> <p>2. The appellant has filed the present appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act. 1974 against the respondents and made impugned the order dated 21.04.2014 whereby he was dismissed from service</p>

Handwritten signature/initials on the left margin.

**ATTESTED**

Handwritten signature and stamp of the Khyber Pakhtunkhwa Service Tribunal, Peshawar.

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on the ground of absence from duty. The appellant has also challenged the order dated 04.07.2014 whereby the departmental appeal of the appellant was rejected.


3. Learned counsel for the appellant argued that the appellant remained absent from the duty for the reason beyond his control as he was seriously ill and the respondents have not considered this fact rather passed the severe penalty of dismissal from service. Further argued that the impugned order of punishment was passed without adhering to the legal requirements/codal formalities. Further argued that the impugned penalty is harsh and does not commensurate with the lapse on the part of the appellant.

4. As against that learned AAG while opposing the present appeal argued that the appellant remained absent from duty without prior application and permission and was dismissed from service after the fulfillment of legal requirements.

5. Argument heard. File perused.

6. It is not disputed that the appellant remained absent from duty and after going through the record this Tribunal also observed that the impugned orders were passed upon

ATTESTED

  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Dawir

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the fulfillment of legal formalities. However keeping in view the stance of the appellant that because of serious illness he was unable to attend to his duties, the punishment in the shape of dismissal from service found harsh and the safe administration of justice would justify the modification in the impugned penalty.

7. Consequently this Tribunal partially allows the present appeal by modifying/converting major penalty of dismissal from service to withholding of three (03) annual increments for a period of three (03) years. The absence and intervening period shall be treated as leave of the kind due. Parties are left to bear their own costs. File be consigned to the record room.

Announced  
08.01.2018 *sd/ M. Hameed Mughal*  
Member

Certified to be a true copy  
KIRAN  
Secretary  
Peshawar

*sd/ Ahmad Hassan*  
Member

Date of Presentation of ..... 06-02-18  
Number of Pages ..... 125  
Copying Fee ..... 8-0  
Urgent ..... 2-0  
Total ..... 10-0  
Name of Clerk .....  
Date of Copying ..... 06-02-18  
Date of Delivery of ..... 06-02-18

**VAKALATNAMA**

IN THE COURT OF KPK Service Tribunal Peshawar

OF 2018

Shehryar

(APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

**VERSUS**

Police Department

(RESPONDENT)  
(DEFENDANT)

I/We Shehryar

Do hereby appoint and constitute **MUHAMMAD MAAZ MADNI, 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 cost. 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.

Dated. 06 / 04 / 2018

S. Khair

CLIENT

N

ACCEPTED

**NOOR MOHAMMAD KHATTAK**

M

**MUHAMMAD MAAZ MADNI**  
ADVOCATES

OFFICE:

Room No.1, Upper Floor,  
Islamia Club Building, Khyber Bazar,  
Peshawar City.

Phone: 091-2211391

Mobile No.0345-9090737, 03339-9313113



1- 10

**POWER OF ATTORNEY**  
**IN THE SUPREME COURT OF PAKISTAN**  
**(APPELLATE JURISDICTION)**

**CPLA. No. /2018**

Govt. of KPK

PETITIONER(S)

VERSUS

Mr. Shehryar

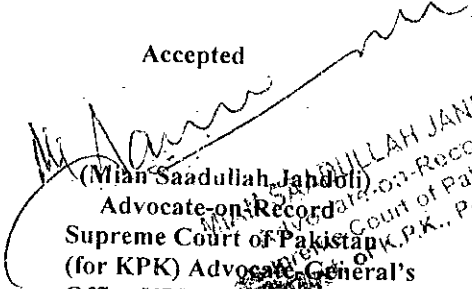
RESPONDENTS


**I (we) Petitioner/Govt. of KPK** in the above suit/Appeal/Petition/Reference, do hereby appoint and constitute **Mian Saadullah Jandoli**, Advocate-on-Record, Supreme Court, for Govt. of Khyber Pakhtunkhwa the Attorney for the aforesaid appellant [ or plaintiff(s) or Petitioner(s) or Respondent (s) or defendant (s) or opposite party] to commence and prosecute (or to appear and defend this action/appeal/suit/petition/reference on my/our behalf and all proceeding that may be taken in respect on any application connected with the same including proceeding in taxation and application for review, to draw and deposit money, to file and take back documents, to accept the process of the Court, to appoint and instruct counsel, to represent the aforesaid appellant [ or plaintiff (s) or petitioner(s) or respondent (s) or defendant (s) or opposite party] in the above matter and to do all things incidental to such acting for the aforesaid appellant [or plaintiff (s) or petitioner(s) or respondent (s)-or defendant (s) or opposite party]. The aforesaid appellant [or plaintiff (s) or petitioner(s) or respondent (s) or defendant (s) or opposite party] agree (s) to ratify all acts done by the aforesaid Advocate-on-Record in pursuance of this authority

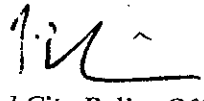
In witness whereof I/we do hereunto set my/our hand (s) this day of


Accepted

Signed with Official seal stamp

  
**(Mian Saadullah Jandoli)**  
**Advocate-on-Record**  
**Supreme Court of Pakistan**  
**(for KPK) Advocate General's**  
**Office KPK, High Court Building, Peshawar.**  
**Office Tel. # 091-9210312, 9210119**

1-   
**Provincial Police Officer,**  
**Khyber Pakhtunkhwa, Peshawar.**  
Provincial Police Officer,  
Khyber Pakhtunkhwa, Peshawar.

2-   
**Capital City Police Officer,**  
**Peshawar.**

3-   
**Superintendent of Police Headquarters**  
**Peshawar**  
**Superintendent of Police**  
**HQrs: CCP Peshawar**