

E.P. No. 127/2017
Fazal Dad vs Police Dept.

21.03.2018

Petitioner with counsel present. Mr. Kabir Ullah Khattak, learned Additional Advocate General along with representative of the respondents present. Petitioner has submitted the present execution petition for the implementation of judgment dated 25.04.2017 of this Tribunal passed in appeal bearing No.1021/2015.

Arguments heard. File perused.

Perusal of the judgment of this Tribunal mentioned above as well as para 2 of the present execution petition would show that this Tribunal has directed the respondent department that the appellant be granted anti dated confirmation as Sub Inspector w.e.f 30.07.2010 i.e the date on which his junior colleagues were confirmed.

Learned AAG referred to copy of notification No.22666 dated 08.12.2017 issued by CCPO Peshawar whereby confirmation of petitioner has been revised w.e.f 30.07.2010 instead of 13.09.2012. In the stated circumstances this Tribunal is of the considered view that judgment of this Tribunal mentioned has been implemented. During the course of arguments of the appellant, it transpired that during the pendency of the service appeal/execution petition i.e during the round of litigation the colleagues of the appellant have been further promoted to the next higher posts. Learned counsel for the petitioner pleaded that the petitioner should have also been further promoted from the dates his junior colleagues were promoted to the higher posts. Since in the present execution petition, the issue of implementation of the judgment dated 25.04.2017 is before this Tribunal, as such the petitioner may adopt proper remedy before the competent forum for the redressal of his other grievances in accordance with law.

As sequel to above the present execution petition be consigned to the record room having been satisfied.


MEMBER

21.12.2017

Today has been declared holiday for Judicial Officers. Therefore the case is adjourned. To come up for the same on 07.02.2018.


READER

10.01.2018

Counsel for the petitioner has submitted an application for early fixation of execution petition. Application is accepted. The case be fixed on 24.01.2018 and notice be also issued to the respondents for the date fixed.


(Muhammad Amin Khan Kundi)
Member


24.01.2018

Learned counsel for the petitioner present. Mr. Kabir Ullah Khattak, Learned Additional Advocate General along with representative of the department present and seeks adjournment to furnish relevant documents. Adjourned. To come up for further proceedings/arguments on 28.02.2018 before S.B


(Muhammad Hamid Mughal)
MEMBER

28.02.2018

Counsel for the petitioner and Addl: AG alongwith Mr Arshad Zaman, S.I for respondents present. Wakalat Nama on behalf of the petitioner submitted. Counsel for the petitioner seeks adjournment. Adjourned. To come up for further proceedings on 21.03.2018 before S.B.


(Ahmad Hassan)
Member (E)

27.10.2017

Counsel for the petitioner and Addl:AG alongwith Mr. Aziz Shah, H.C for respondents present. As the respondents have not filed CPLA in the Supreme Court of Pakistan against the judgment of this Tribunal dated 25.04.2017, hence the same has attained finality. The appellatant is required to be confirmed as S.I w.e.f 30.07.2010. However, the respondents are delaying the case on one pretext or the other. Learned AAG assured that order would be produced on the next date of hearing and requested for adjournment. To come up for further proceedings on 10.11.2017 before S.B.


(AHMAD HASSAN)
MEMBER

10.11.2017

Petitioner with counsel and Mr. Usman Ghani, District Attorney alongwith Mr. Aziz Shah, Reader for respondents present. Representative of the respondents informed that the respondents were busy in Chehlum duties so revised implementation report could not be submitted in time and assured that the same would be produced on or before the next date of hearing. To come up for further proceedings on 12/12/17 before S.B.


(AHMAD HASSAN)
MEMBER

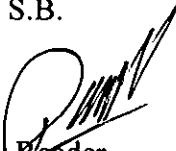
12.12.2017

Petitioner in person and Mr. Kabeerullah Khattak Addl. AG alongwith Aziz Shah, H.C for the respondents present. The representative of the department submitted a copy of notification dated 08.12.2017 whereby the petitioner has been confirmed as S.I w.e.f. 30.07.2010. But the petitioner submitted that the present judgment has not been fully implemented. To come up for arguments on ~~21.12.2017~~ before S.B.


Chairman

22.09.2017

Since 22nd September, 2017 has been declared as Public Holiday on account of 1st Muharram, therefore, the case is adjourned for the same on 06.10.2017 before S.B.



Reader

06.10.2017

Counsel for the petitioner present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Aziz Shah, Reader for the respondents also present. Written reply on behalf of respondents submitted. Learned counsel for the petitioner requested for adjournment. Adjourned. To come up for further proceedings on 13.10.2017 before S.B.



(Muhammad Amin Khan Kundi)
Member

13.10.2017





Petitioner with counsel and Addl:AG alongwith Mr. Aziz Shah, H.C for respondent present. Learned counsel for the petitioner submitted Wakalat Nama as well as written reply on implementation report. To come up for further proceedings on 27.10.2017 before S.B.



(AHMAD HASSAN)
MEMBER

FORM OF ORDER SHEET

Execution Petition No. 127/2017

S.No.	Date of order Proceedings	Order or other proceedings with signature of Judge
1	2	3
1	17.07.2017	<p>The Execution Petition of Mr. Fazal Dad submitted to-day by Roeeda 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-	18/7/17	<p>This Execution Petition be put up before S. Bench on - <u>02-08-2017</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	02.08.2017	<p>Counsel for the petitioner present. Notice be issued to the respondents for implementation report for 25.08.2017 before S.B.</p> <p style="text-align: right;"> (Muhammad Amin Khan Kundi) Member</p>
	25.08.2017	<p>Counsel for the petitioner present. Mr. Aziz Shah, Reader alongwith Mr. Muhammad Adeel Butt, Additional AG for the respondents also present. Implementation report not submitted. Learned Additional AG requested for further adjournment. Adjourned. To come up for implementation report on 29.08.2017 29.08.2017 before S.B.</p> <p style="text-align: right;"> (Muhammad Amin Khan Kundi) Member</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Executive Petition No. 127 /2107

In Service Appeal No. 1021 /2015

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 570

Dated 14-7-17

Fazal Dad No P/181 acting DSP, Police Department presently posted at C.M Secretariat Peshawar

.....*Petitioner*

VERSUS

1. Provincial Police Officer Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer Peshawar.

.....*Respondents*

**EXECUTION PETITION FOR DIRECTING THE
RESPONDENTS TO IMPLEMENT THE
JUDGMENT OF THIS HON'BLE TRIBUNAL
IN LETTER AND SPIRIT**

Respectfully Sheweth,

1. That the applicant/appellant filed Service Appeal No.1021/015 in this August Tribunal against the order dated 10/08/2015; where the respondents/departments refused to ante date confirmation of the appellant as Sub Inspector w.e.f 30-07-2010.
2. That this Hon'ble tribunal was pleased to accept the appeal of the appellant and set aside the impugned order dated 10/08/2015 and directed that the appellant be granted ante date confirmation as Sub-Inspector w.e.f 30-07-2010 i.e the order on which his Junior Colleagues were confirmed.


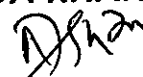
3. That the appellant submitted the judgment/order dated 25/04/2017 to the respondent/department.
4. That the respondent/department is legally bound to implement the judgment ^{of} and this Hon'ble Tribunal in its true sense.
5. That the petitioner has no remedy except to file this execution petition.

It is, therefore, most humbly prayed that the respondents may be directed to implement the judgment of this Hon'ble Tribunal in letter and spirit.

Dated: 12/07/2017


DSP
Applicant

Through


ROEEDA KHAN
& 
AFSHAN MANZOOR
Advocates Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Executive Petition No. _____/2107

In Service Appeal No. _____/2017

Fazal Dad

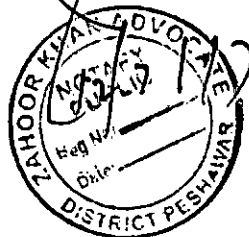
VERSUS

The Government of Khyber Pakhtunkhwa through Chief Secretary Govt.
KPK and others

Affidavit

I, Fazal Dad No P/181 acting DSP, Police Department presently posted at C.M Secretariat Peshawar, do hereby solemnly affirm and declare on oath that all the contents of the instant Execution Petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

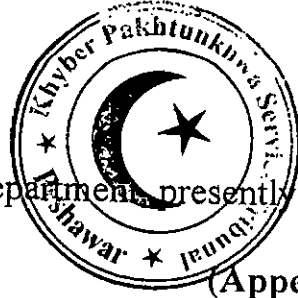
²
2
DSP
Deponent



**BEFORE THE KHYBER PAKHTUNKWA
SERVICE TRIBUNAL PESHAWAR**

W. P. Peshawar
Service Tribunal
Distry No. 1012
Dated 28-8-2015

Appeal No. 1021/2015



Fazal Dad, No.P/181 Acting DSP, Police Department, presently posted at CM Secretariat, Peshawar.

(Appellant)

VERSUS

1. Provincial Police Officer, Khyber Pakhtunkhwa Peshawar.
2. Capital City Police Officer, Peshawar.

(Respondents)

Service Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the refusal of the respondents to ante date the confirmation of the appellant as Sub Inspector w.e.f 30.07.2010, i.e when his colleagues were confirmed and assigned seniority in List F, against which his Departmental Appeal was lastly regretted vide letter dated on 10.08.2015.

Prayer in Appeal:

On acceptance of this appeal the impugned order of rejection dated 10.08.2015, may please be set aside and the respondents may please be directed to ante date confirmation of the appellant as Sub Inspector w.e.f 30.07.2010, i.e the date when his colleagues / juniors to him were confirmed as Sub Inspectors and he may also b allowed his due seniority in List F with all back benefits / consequential benefits.

Respectfully submitted:

1. That the appellant was initially appointed as Constable in the Police Department in the year 1986, during the course of his service he gained promotions. He was promoted as Head Constable in 1996, as ASI in the year 2005, as Sub Inspector in the year 2008, and lastly promoted as Inspector in the year 2013. Ever since his appointment the appellant performed his duties as assigned to him with full devotion and honesty and there was no complaint whatsoever regarding his performance. *(Copies of the orders of Promotions are attached as Annexure A)*

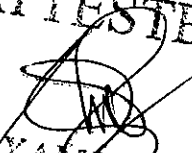
ATTESTED

EXAMINED
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

2. That appellant has at his credit clean and exemplary service record, his services were always appreciated.
3. That it is pertinent to mention here that the appellant was though promoted as officiating Sub Inspector vide notification dated 21.04.2008, however he was confirmed as Sub Inspector on 13.09.2012, while his colleagues / juniors were confirmed as such on 30.07.2010 & were assigned seniority in the list F from the accordingly. *(Copies of the order dated 30.7.2010 & Seniority list, are attached as Annexure B & C)*
4. That the appellant submitted different applications for his confirmation as Sub Inspector and assigning due seniority to him, however he remained deprived on the ground that he has not been posted as SHO, independent Incharge of police station for one year. *(Copies of the applications are attached as Annexure D)*
5. That lastly the appellant filed departmental appeal, which was placed before the DPC, comments were also called from the concerned quarter, it is pertinent to mention here that favourable comments were filed, however lastly the appeal was regretted vide order dated 10.08.2015: *(Copies of the departmental appeal, comments dated 06.01.2015 & 06.02.2015, letter dated 18.02.2015 and regret order dated 10.08.2015 are attached as Annexure E, F, G H I & J)*
- 6.
7. That the appellant prays for the acceptance of his appeal inter alia on the following grounds:-

Grounds of Appeal:

- A. That the appellant has not been treated in accordance with law and hence his rights secured and guaranteed under the Constitution of 1973 were badly violated,
- B. That in accordance with law the respondents were required to have processed the case of promotion of the appellant also, however it was refused, thus the appellant has been deprived of his vested right of consideration for promotion,
- C. That the mandatory provisions of Section 9 of Khyber Pakhtunkhwa (then NWFP) Civil Servant Act, 1973 read with Khyber Pakhtunkhwa (then NWFP) Civil Servant (Appointment, Promotions and Transfer) Rules, 1989 and enabling instructions contained in the ESTA Code, read with Police Rules, 1934 have not been adhered to by the respondents thus he has been deprived of his legal and due rights.

ATTESTED

EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal,
 Peshawar

- D. That posting as SHO/ Independent Incharge of the Police Station is not the prerogative of the appellant, rather this authority vest in the CCPO to post him SHO in order to qualify for confirmation as SI and than be considered him for promotion to the rank of Inspector, similarly there is nothing on record that the appellant has disobeyed any order of his appointment as SHO, therefore when there is no fault on his part for being posted on such post, how can he be denied the consideration for promotion/ confirmation on this score.
- E. That even the appellant time and again requested that he may be posted SHO, however, he was denied posting as SHO for the reasons best known to the respondents, while his other colleagues were allowed posting as SHO, thus the appellant has been discriminated.
- F. That the appellant has been discriminated against, as similar placed working with the appellant was allowed confirmation from 2010, but it was refused illegally to the appellant.
- G. That the appellant seeks the permission of this Honourable Court to rely on additional grounds at the hearing of this appeal.

It is therefore prayed that on acceptance of this appeal the impugned order dated 10.08.2015, may please be set aside and the respondents may please be directed to anti dated confirmation of the appellant as Sub Inspector w.ef 30.07.2010, i.e the date when his colleagues / juniors to him were confirmed as Sub Inspectors and he may also b allowed seniority in List F with all back/ consequential benefits.

Certified to be true copy
EMRAN NER
 Khyber Pakhtunkhwa
 Service Tribunal,
 Peshawar

Through

Appellant

IJAZ ANWAR
 Advocate, Peshawar
 &

SAJID AMIN
 Advocate, Peshawar

Date of Presentation of Application 12-07-2017
 Number of Words 1200
 Copying Fee 800
 Urgent —
 Total 800
 Name of Applicant M.M.D.
 Date of Completion of Copy 13-7-17
 Date of Delivery of Copy 13-7-17

Date of
order/
proceedings

2

Order or other proceedings with signature of
Magistrate

3



BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR

Appeal No. 1021/2015

Fazal Dad Versus Provincial Police Officer, Khyber
Pakhtunkhwa Peshawar and another.

JUDGMENT

MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:-

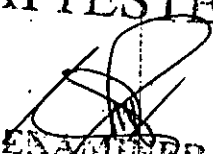
25.04.2017

Counsel for the appellant (Mr. Muhammad Asif Yousafzai, Advocate) and Mr. Muhammad Jan, Government Pleader alongwith Aziz Shah, Head Constable for respondents present. Fresh Wakalatnama submitted by learned counsel for the appellant.

2. Mr. Fazal Dad hereinafter referred to as the appellant has preferred the instant service appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against final order dated 10.08.2015 vide which his departmental appeal for ante-date confirmation as Sub Inspector w.e.f. 30.07.2010 was regretted and hence the instant service appeal on 28.08.2015

3. Brief facts of the case of the appellant are that the appellant was initially appointed as Constable in the year 1986 and then promoted as Head Constable in the year, 1996 and as ASI in the year 2005 and then as S.I in the year 2008 and there-

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

was not maintainable as the same was not within time. In support of his arguments he has placed reliance on judgment of august Supreme Court of Pakistan passed in Civil Petition No. 566/2012 titled "Tariq Habib Khan and others versus the Provincial Police Officer, Khyber Pakhtunkhwa Peshawar and others"

6. We have heard arguments of learned counsel for the parties and perused the record.

7. The impugned final order was passed on 10.08.2015 while the appeal in hand was preferred on 28.08.2015 as such we hold that the appeal is within time. So far as the issue relating to confirmation of the appellant as Sub Inspector w.e.f. 30.07.2010 is concerned the same hold ground as it was not within the authority of the appellant to post himself as SHO of an independent Police Station. Had the relevant authority posted the appellant as SHO and had the appellant failed to perform as SHO despite such posting then the appellant would have not been found entitled to the relief claimed. Since the omission is on the part of the respondents as such the appellant cannot be deprived of his right to ante-date confirmation as Sub Inspector w.e.f. 30.07.2010 i.e. the date on which his colleagues were confirmed.

8. For the above mentioned reasons we are constrained to accept the present appeal and set aside the impugned order

ATTESTED


EXAMINER

Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

dated 10.08.2015 and direct that the appellant be granted ante-date confirmation as Sub Inspector w.e.f. 30.07.2010 i.e the date on which his junior colleagues were confirmed. Parties are left to bear their own costs. File be consigned to the record room.

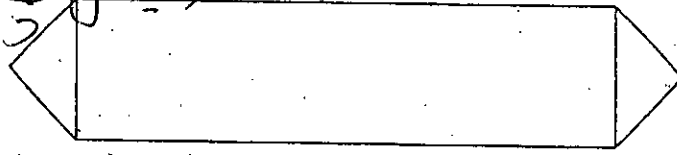
Announced
25.04.2017
Sd/- M. Azim Khan Afridi,
Chairman

Sd/- M. Amin Khan Kundli,
Member

Certified to be true copy
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 12-07-2017
Number of Words 1600
Copying Fee 10.00
Urgent —
Total 10.00
Name of Copyist [Signature]
Date of Completion of Copy 13-7-17
Date of Delivery of Copy 13-7-17

بعدالت مروس ترا بیونیل در



مورخہ

مقدمہ

دعویٰ

جرم

2 مخانب

فصل در بنام لیس depart

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام اور کیلئے روئیدہ، اہمیتاں ایڈوکیٹس

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زر میں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت 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۔ از بصورت ضرورت
مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے
تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے
اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانبہ التوائے مقدمہ کے
سبب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں
گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

2017ء

جولائی

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المرقوم

العبد گواہ العبد

کے لئے منظور ہے۔

جی اور

مقام

"B"

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.**

No.

Appeal No..... E.P. 127 of 20 17.

..... Fazal Dad Appellant/Petitioner
Versus

..... Provincial Police Office Respondent
Respondent No..... 1

Notice to: — Provincial Police Office KPK

WHEREAS ~~an appeal/petition~~ Relinquished under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on..... 25/8/2017 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No..... dated.....

Given under my hand and the seal of this Court, at Peshawar this..... 24

Day of..... August 20 17

[Handwritten signature]

[Handwritten signature]
Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

“B”

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

No.

Appeal No. E.P. 127 of 20 17

Fazal Durrani Appellant/Petitioner
Versus

Provincial Police Officers Respondent

Respondent No. 2

Notice to: Capital + City Police Officers.

Peshawar

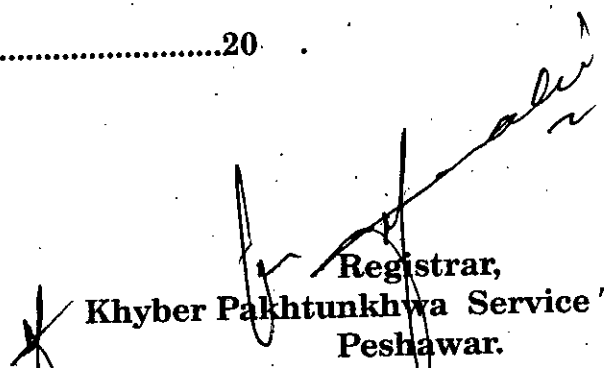
WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on.....at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this.....

Day of.....20 .


Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

- Note:
1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
 2. Always quote Case No. While making any correspondence.

POLICE DEPTT:

CCP, PESHAWAR.

FOR PUBLICATION IN THE KHYBER PAKHTUNKHWA, POLICE GAZETTE PART-II,
ORDERS BY THE CAPITAL CITY POLICE OFFICER KHYBER PAKHTUNKHWA, PESHAWAR.

NOTIFICATION.

Dated 8/12/2017.

No. 22666 /EC-I, REVISED CONFIRMATION IN THE RANK OF SI:- In pursuance of the order passed by the Honourable Service Tribunal Khyber Pakhtunkhwa, Peshawar dated 14-07-2017 and opinion of DSP/Legal, Peshawar, the confirmation of SI now Acting DSP/Fazal Dad No. P/181 of Capital City Police, Peshawar is hereby revised w.e from 30-07-2010 instead of 13-09-2012.

NO

1930 LB
8/12/2017

No. 22667-73 /EC-I,

[Signature]
CAPITAL CITY POLICE OFFICER,
PESHAWAR

Copy of above is forwarded for information and necessary action to the:-

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. Addl: Inspector General of Police, Investigation Khyber Pakhtunkhwa, Peshawar, alongwith two spare copies for Publication, KPK, Gazette Notification part-II.
3. SSP/Operations, Peshawar.
4. Chief Security Officer, CM Secretariat KPK, Peshawar.
5. ✓ DSP/Legal, Peshawar w/r to his office reference No. 1749/LB, dated 09-11-2017.
6. EC-II & AS.

[Signature]
12-12-17



**BEFORE THE HON'ABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR.**

Execution Petition No.127/2017.

Fazal Dad acting DSP Police Line PeshawarPetitioner.

Versus

- 1) Inspector General of Police KPK Peshawar.
- 2) Capital City Police Officer, Peshawar.....Respondents.

Written reply on behalf of respondents in Execution proceeding is as under:-

Respectfully Sheweth:-

In response to the execution petition vide No.127/2017 filed by appellant alleging non-implementation of the orders of Hon'able Service Tribunal KPK Peshawar; following reasons are forwarded for consideration please.

- (1) Para No.1 is incorrect. Replying Respondents have never refused to give him anti-date confirmation and he was strictly confirmation in the rank of Sub Inspector on his due place with his colleagues without any discrimination on fulfillment of laid down criteria required for confirmation as S.I.
- (2) Para is incorrect. As explained above appellant has already been confirmed after completion of pre-requisite criteria and his claim for anti-date confirmation is neither justified nor based on reasonable grounds as large number of such like candidates are waiting for confirmation in the rank of S.I for not following illegibly criteria. On giving him anti -date confirmation seniority, a flood gate will be opened and each and every individual will pour application agitating similar requests and thus the mandatory criteria will be proved a futile exercised.
- (3) Para relates to record, hence needs no comments.
- (4) Para is correct to the extent that respondents are bound to obey lawful orders of this Hon'able Tribunal. But the appellant being member of discipline force preferred to serve in offices and hesitated to perform duty in the police station, having no field experience was deferred from confirmation in the rank of S.I in view of Police Rules 13.10(3) and existing standing orders issued from time to time for the purpose of confirmation.
- (5) Para is incorrect. Petitioner is showing wrong picture and concealing the real facts as explained in the above para.

Prayer:-

Keeping in view of the submission, it is humbly prayed that the instant Execution Petition No.127/2017 may kindly be filed with heavy cost.



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



**Capital City Police Officer,
Peshawar.**

**BEFORE THE HON'ABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR.**

Execution Petition No.127/2017.

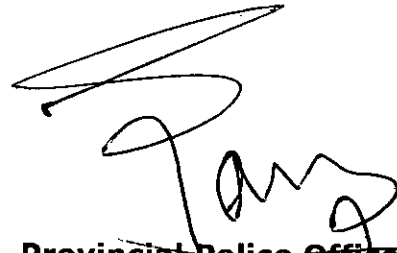
Fazal Dad acting DSP Police Line PeshawarPetitioner.


Versus

- 1) Inspector General of Police KPK Peshawar.
- 2) Capital City Police Officer, Peshawar.....Respondents.

AFFIDAVIT

We respondents No. 1 , & 2 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and nothing has concealed/kept secret from this Honorable Tribunal.


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


**Capital City Police Officer,
Peshawar.**

**BEFORE THE HON'ABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR.**

Execution Petition No.127/2017.

Fazal Dad acting DSP Police Line PeshawarPetitioner.

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



**Capital City Police Officer,
Peshawar.**

**BEFORE THE HON'ABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR.**

Execution Petition No.127/2017.

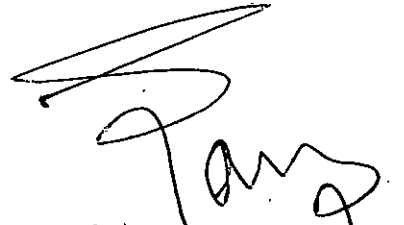
Fazal Dad acting DSP Police Line PeshawarPetitioner.


Versus

- 1) Inspector General of Police KPK Peshawar.
- 2) Capital City Police Officer, Peshawar.....Respondents.

AFFIDAVIT

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


**Capital City Police Officer,
Peshawar.**

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR.

Execution Petition No. 1021/2015
In Service Appeal No. 127/2017

Mr. Fazal Dad

VS

Police Deptt:

.....
OBJECTION ON THE REPLY OF RESPONDENTS.
.....

RESPECTFULLY SHEWETH:

1. Incorrect. The replying respondents refused the anti date confirmation of the petitioner as Sub Inspector with effect from 30.7.2010 which was allowed by this august Tribunal in judgment dated 25.4.2017.
2. Incorrect. The petitioner was not confirmed from his due date i.e 30.7.2010 which was then allowed by this august Tribunal on 25.4.2017 and if the replying respondents aggrieved from the said judgment, they should file CPLA in the Apex Court and should contest the CPLA in proper way but the department did not bother to file CPLA in the Supreme Court of Pakistan and now this is lame excuses for not implementing the judgment of this august Tribunal in true letter and spirit.
3. No comments endorsed by the department that para 3 of the petition is correct.
4. Incorrect. As already replied in above para 2.
5. Incorrect. While para 5 of the petition is correct.

It is, therefore, most humbly prayed that the execution petition may be accepted as prayed for.

PETITIONER

THROUGH:

M. Asif Yousafzai

**M.ASIF YOUSAFZAI
(ADVOCATE SUPREME COURT)**

Taimur Ali Khan
TAIMUR ALI KHAN

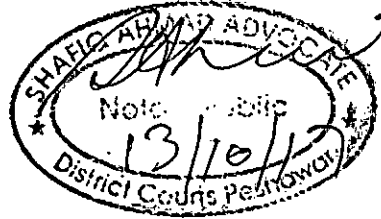
(ADVOCATE HIGH COURT)

AFFIDAVIT:

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

A.
DEPONENT

ATTESTED



BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR.

Execution Petition No. 1021/2015
In Service Appeal No. 127/2017

Mr. Fazal Dad

VS

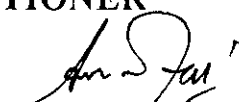

Police Deptt:

.....
OBJECTION ON THE REPLY OF RESPONDENTS.
.....

RESPECTFULLY SHEWETH:

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It is, therefore, most humbly prayed that the execution petition may be accepted as prayed for.

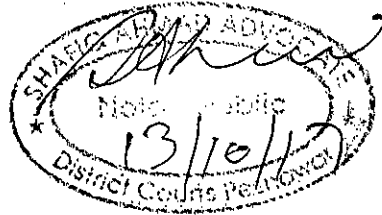
PETITIONER
THROUGH:

M.ASIF YOUSAFZAI
(ADVOCATE SUPREME COURT)

TAIMUR ALI KHAN
(ADVOCATE HIGH COURT)

AFFIDAVIT:

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

A.
DEPONENT

ATTESTED



VAKALAT NAMA

NO. 127 /2017

IN THE COURT OF Service Tribunal Peshawar

Fazal Dad (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Police Deptt. (Respondent)
(Defendant)

I/We, Fazal Dad

Do hereby appoint and constitute **M. Asif Yousafzai, Advocate Supreme Court 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

[Signature]
(CLIENT)

ACCEPTED

[Signature]

M. ASIF YOUSAFZAI
Advocate Supreme Court
Peshawar.

[Signature]
Taimur Ali Khan
Advocate High Court

[Signature]
Syed Nauman Ali Bukhari
Advocate

OFFICE:

Room # FR-8, 4th Floor,
Bilour Plaza, Peshawar,
Cantt: Peshawar
Cell: (0333-9103240)

"B"

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.**

No.

E/petitioner 107/17

Appeal No.....

1021

of 20

15

Appellant/Petitioner

Versus

Respondent

Respondent No.....

Notice to:

*provincial police officer,
KPK, Peshawar*

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on *24-1-2018* at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this.....

Day of.....20

Jan 24-1-2018 instead of 7-2-2018

1776
Registrar,
**Khyber Pakhtunkhwa Service Tribunal,
Peshawar.**

- Note:
1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
 2. Always quote Case No. While making any correspondence.

POLICE DEPTT:

CCP, PESHAWAR.

FOR PUBLICATION IN THE KHYBER PAKHTUNKHWA, POLICE GAZETTE PART-II,
ORDERS BY THE CAPITAL CITY POLICE OFFICER KHYBER PAKHTUNKHWA, PESHAWAR.

NOTIFICATION.

Dated 8/12/2017.

No. 22666 /EC-I, REVISED CONFIRMATION IN THE RANK OF SI:- In pursuance of the order passed by the Honourable Service Tribunal Khyber Pakhtunkhwa, Peshawar dated 14-07-2017 and opinion of DSP/Legal, Peshawar, the confirmation of SI now Acting DSP/Fazal Dad No. P/181 of Capital City Police, Peshawar is hereby revised w.e from 30-07-2010 instead of 13-09-2012.

No. 1930 LB
8/12/2017

No. 22667-73 /EC-I,

J. V.
CAPITAL CITY POLICE OFFICER,
PESHAWAR

Copy of above is forwarded for information and necessary action to the:-

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. Addl: Inspector General of Police, Investigation Khyber Pakhtunkhwa, Peshawar, alongwith two spare copies for Publication, KPK, Gazette Notification part-II.
3. SSP/Operations, Peshawar.
4. Chief Security Officer, CM Secretariat KPK, Peshawar.
5. ✓ DSP/Legal, Peshawar w/r to his office reference No. 1749/LB dated 09-11-2017.
6. EC-II & AS.

To,

The Accountant General
(Complaint Cell)
Khyber Pakhtunkhwa
Peshawar.

Subject:-

- i. Application for implementation of Judgment of honorable Service Tribunal KPK Pakistan.
- ii. Placements at due pay Scale outstanding.

Respected Sir,

We have the honor to request that honorable Service Tribunal KPK Peshawar accepted the appeal to extent of pay protection i.e B-12, already receiving the appellant/undersigned along with the combined teachers of the same case, The Judgment has been implemented in the institutions concerned in letter and words accordingly.

However recently on the eve of mobile audit and pay fixation party at audit/scrutiny of fixation at service books in institutions at Malakand pointed out that AG office as well as finance department KPK should be approached for the exact output and point of view of the court judgment to be recorded in the service recorded of appellants for exact proceedings desired and to serve the extant to pay protection of humble and entitled teachers involved in the demand of the rights of pay fixation at genuine due pay scale received so far.

Therefore it is requested that the case may be highlighted to quarter concerned for further proceedings, so that our due emoluments may be gained and recorded in the service book of undersigned maintained and up-to-dated for the highly national interest of low paid CT Teachers depressing please.

Dated:- 05-11-2014

Yours Obediently

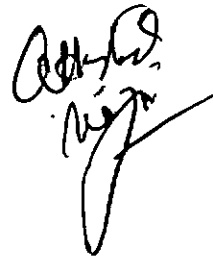
Mr. Umar Khitab, CT, GHS Bazdara Bala



Mr. Shaheen Zeb, CT GHS Mekhband

Mr. Laza Khan, CT, GHS jalala

Mr. Lala Zada CT, GHSS KOT

Mr. Ghulam Rabbi, CT GHS Matkanai



قیمت 50 روپے	 	29018
ایڈوکیٹ: <u>محمد ابراہیم خان</u>	پشاور بار ایسوسی ایشن، خیبر پختونخواہ	
بار کونسل ایسوسی ایشن نمبر: <u>bc-11-2504</u>		
رابطہ نمبر: <u>0333-9559950</u>		

بعدالت جناب:

مخانب: <u>حفیظ داد (پٹنہ)</u>	دعویٰ: <u>Execution petition</u>
<u>حفیظ داد</u>	علت نمبر: <u>Service appeal</u>
<u>19P (PPO)</u>	مورخہ: <u>100: 1021/2015</u>
<u>(اسپانڈرٹ)</u>	جزم: <u>K.P. Service Tribunal</u>
	تھانہ: <u>Peshawar</u>

بامث تحریر آگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی کو جواب دہی کا ہرمانی متعلقہ
 آن مقام پٹنہ کیلئے محمد ابراہیم خان (ہیڈ وکیل) 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 با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا
 دوران مقدمہ میں جو خرچہ ہر جانہ التوائے 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: 28.2.2018



الع بد واہ شد الع بد

مقام کے لیے منظور ہے۔

Mohammad Ibrahim Khan
 Advocate (High Court)
 Flat # 23, 2nd Floor
 Al-Sayyed Plaza, Abdara Chowk
 University Road, Peshawar
 Off: Ph (091) 5842752-5842753

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

صفیہ داد پٹنہ

قیمت 50 روپے	 	24297
ایڈوکیٹ: شہزاد احمد	پشاور بار ایسوسی ایشن، خیبر پختونخواہ	
بار کونسل ایسوسی ایشن نمبر: BC-166620		
رابطہ نمبر: 0301-8889250		

بعدالت جناب: سروس ٹریبونل

مخانب:	دعویٰ: Execution Petition
فضل داد	علت نمبر:
بنام	مورخہ:
پولیس ڈیپارٹمنٹ	جرم:
	تھانہ:

باعث تحریر آئکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ آن مقام لیسٹاور کیلئے شہزاد احمد ایڈوکیٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف 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 کاروائی 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 با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے 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: 28-02-2018

المقام لیسٹاور

کے لیے منظور ہے۔

Accepted by

Shahzad Ahmad
Advocate

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