

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL, PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Execution Petition No. 702/2022 in Service Appeal No. 10011/2020

Diary No. 6558

Abdul Qadeer(Appellant)

Dated 18/07/23

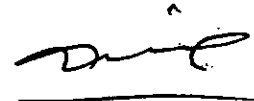
Versus

Provincial Police Officer, Khyber Pakhtunkhwa etc.....(Respondents)

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Respondent through



DSP/ Legal,
CPO, Peshawar.

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR

Execution Petition No. 702/2022 in Service Appeal No. 10011/2020

Abdul Qadeer(Appellant)

Versus

Provincial Police Officer, Khyber Pakhtunkhwa etc.....(Respondents)

Subject: **OBJECTION PETITION ON JUDGMENT 20.07.2022**

The facts pertaining to objection petition are as under:-

1. That, The appellant filed Service Appeal No. 10011/2020 in the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar with the following prayers:-

“On acceptance of instant Service Appeal, orders dated 14.03.2019, 26.11.2019, 28.11.2019 & 11.08.2020 of respondents may graciously be set aside and appellant be reinstated in service from the date of dismissal with all consequential service back benefits”.

2. That during pendency of Service Appeal, the appellant died and the Hon'ble Service Tribunal Camp Court, Abbottabad vide its Judgment dated 20.07.2022, dispose of the appeal in the following terms;

“Consequently, the impugned orders stand set aside and the appeal in hand is allowed as prayed for.

Before parting, we deem it necessary to expound for removal of difficulties in giving effect to operative part of the judgment that due to death of the appellant during pendency of appeal, his posthumous reinstatement in service will be ordered and he will be treated to have died, during service”.

3. That, the legal heirs of the appellant has filed Execution Petition No. 702/2022 before the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Camp Court, Abbottabad wherein the Hon'ble Tribunal has directed to produce suspension order from the august Supreme Court or conditional implementation order of the appellant.
4. That, the question to be addressed here is, **“Can a Police officer be reinstated into service after he has died?”**
5. That In this regard, it is stated that Muhammad Ashfaq, a Junior Clerk in the office of Deputy Commissioner, Sargodha was dismissed from service vide order dated 21.06.1986. He challenged it before the appellate authority i.e. the Commissioner, Sargodha Division who allowed his appeal and Muhammad Ashfaq was reinstated. The said order was assailed before the Board of Revenue which, vide its order dated 29.12.1990, restored the order of Deputy Commissioner, Sargodha. Consequently, Muhammad Ashfaq filed appeal before the Punjab Service Tribunal at Lahore during which the pendency he died and upon the statement of his learned counsel, the Chairman of the Tribunal, vide order dated 20.08.1991, disposed of the appeal as having abated. Legal heirs of Muhammad Ashfaq filed the application CM NO. 600 of 2004 for restoration of appeal and recalling of order dated 20.08.1991 together with an application for condonation of delay. The learned Chairman of the Tribunal after hearing the parties found that he has no power to review the order in the application filed after lapse of thirteen years and dismissed the application, vide judgment dated 01.12.2004. Widow of Muhammad Ashfaq (deceased) filed appeal against the judgment ibid before the august Supreme Court of Pakistan. The Hon'ble Supreme Court of Pakistan vide its judgment reported in **PLD 2008 SC 703** titled Muhammad Ashfaq Vs Member Board of Revenue, Punjab Lahore and another, dismissing the petition of the widow of Muhammad Ashfaq (deceased) had upheld the judgment of the Punjab Service Tribunal, Lahore passed in CM No. 600 of 2004 vide which the learned Tribunal had abated the petition during which pendency the appellant had died. The august Supreme Court vide its judgment had also referred to the following para of **1991 SCMR 1192**.

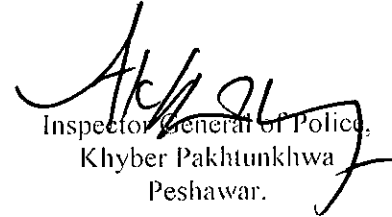
“A Right to appeal under the Service Tribunal Act, 1973 has been given to a Civil Servant aggrieved by any final order whether original or appellate made by departmental authority in respect of any of the terms and conditions of service. The

appellant's admittedly are the legal heirs of the deceased Civil Servant and there being no provision in the Service Tribunal Act, 1973 to provide any remedy to the successors-in-interest of Civil Servant, the learned Tribunal, in our view, was correct and holding that the appeal before it stood abated and the same is hereby maintained".

6. That, by drawing guidance from the orders of the Courts at Para 5 in the instant objection petition, it is found that the learned Khyber Pakhtunkhwa Service Tribunal, Camp Court, Abbottabad, despite being informed of the death of the appellant during pendency of the appeal, has not abated the Service Appeal and instead has accepted the appeal vide its judgment dated 20.07.2022.

PRAYERS

Therefore, keeping in view the above facts and circumstances, Department is determined to comply with Hon'ble Tribunal orders in true letter and spirit. As the appellant died during the pendency of his service appeal, therefore, Hon'ble Tribunal is humbly requested to issue appropriate orders in the instant Execution Petition, please.


Inspector General of Police,
Khyber Pakhtunkhwa
Peshawar.

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TRIBUNAL, PESHAWAR**

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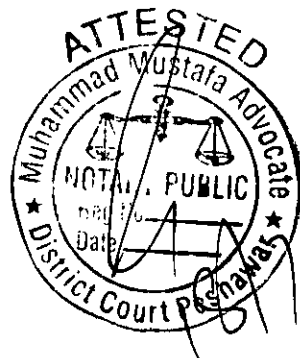
AFFIDAVIT

I, Tariq Umar DSP/ Legal, CPO do hereby solemnly affirm on oath that the contents of accompanying Objection Petition on behalf of Respondent i.e. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar is correct to the best my knowledge and belief. Nothing has been concealed from this Honorable Tribunal.

*it is further stated on oath that in this appeal the
answering respondents have not been
shown on facts nor their defence
has been struck off.*

DEPONENT

[Signature]
(TARIQ UMAR)
DSP/ Legal, CPO
17301-4997553-7
0333-8878882



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TRIBUNAL, PESHAWAR**

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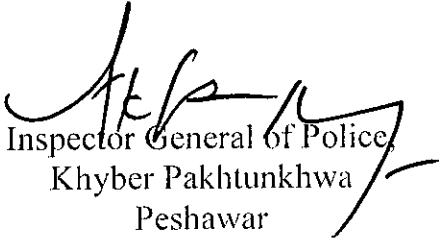
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AUTHORITY LETTER

Mr. Tariq Umar DSP/ Legal, CPO, Peshawar is authorized to submit CM application in above captioned Service Appeal on behalf of undersigned in Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar.


Inspector General of Police
Khyber Pakhtunkhwa
Peshawar