


FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 689/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	26.09.2023	<p>The implementation petition of Mr. Muhammad Riaz submitted today by Mr. Saadullah Khan Marwat Advocate. It is fixed for implementation report before Single Bench at Peshawar on <u>28-09-2023</u>. Original file be requisitioned. AAG has noted the next date.</p> <p>By the order of Chairman  REGISTRAR</p>

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

Execution Petition no. 689/23

Misc Pett: No. _____ /2023

IN

S.A. No. 2082/2019

Muhammad Riaz

versus

Superintendent & Others

I N D E X

S.#	Description of Documents	Annex	Page
1.	Memo of Misc Petition		1-3
2.	Copy of Appeal dated 12-12-2019	"A"	4-6
3.	Copy of Judgment dated 14-09-2022	"B"	7-9
4.	Order dated 04-01-2022	"C"	10

Applicant

Through

3 *Saadullah Khan*

(Saadullah Khan Marwat)

Advocate

21-A Nasir Mension,

Shoba Bazar, Peshawar.

Ph: 0300-5872676

Dated: 22-09-2023

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR*Execution Petition No 699/23*

Misc Pett: No. _____ /2023

IN

S.A. No. 2082/2019

Muhammad Riaz S/O Ghulam Rabbani,
 Constable, Belt No. 6561, FRP, Bannu
 Range Bannu Applicant

Khyber Pakhtunkhwa
Service TribunalDiary No. 7910Dated 26-09-23**VERSUS**

1. Superintendent of Police,
FRP, Bannu Range Bannu.
2. Commandant FRP, KP,
Peshawar.
3. Provincial Police Officer, KP,
Peshawar. Respondents

**APPLICATION FOR IMPLEMENTATION OF THE
 JUDGMENT DATED 14-09-2022 OF THE HON'BLE
 TRIBUNAL, PESHAWAR:**

Respectfully Sheweth:

1. That on 12-12-2019, applicant filed Service Appeal before this hon'ble Tribunal to restore increment from the date of stoppage. (Copy as annex "A")
2. That the said appeal came up for hearing on 14-09-2022 and then the hon'ble Tribunal was pleased to hold that:-

"The appeal in hand is allowed. The impugned penalty awarded to the appellant stands set aside and one increment of the appellant stands restored with all back benefits". (Copy as annex "B")

3. That in pursuance of the said judgment, one annual increment is restored with all back benefits but subject to the outcome of CPLA pending in the apex court of Pakistan. (Copy as annex "C")
4. That till date no single penny was paid to appellant meaning thereby that the judgment of the hon'ble Tribunal was not complied in letter and spirit.

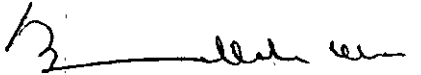
It is, therefore, most humbly requested that the judgment dated 14-09-2022 of the hon'ble Tribunal be complied with hence forthwith.

OR


In the alternate, respondents be proceeded for contempt of court and they be punished in accordance with Law.


Applicant

Through


Saadullah Khan Marwat


Arbab Saif-ul-Kamal


Amjad Nawaz
Advocates

Dated: 22-09-2023

AFFIDAVIT

I, Muhammad Riaz S/O Ghulam Rabbani, Constable Belt No. 6561, FRP, Bannu Range Bannu (Applicant), do hereby solemnly affirm and declare that contents of **Implementation Petition** are true and correct to the best of my knowledge and belief.



M Riaz
DEPONENT

CERTIFICATE:

As per instructions of my client, no such like Implementation Petition has earlier been filed by the appellant before this Hon'ble Tribunal.

[Signature]
ADVOCATE

A 4

BEFORE KPK SERVICE TRIBUNAL PESHAWAR

S.A No. _____/2019

Muhammad Riaz S/O Ghulam Rabbani,
B. No. 6561, Constable FRP, Bannu
Range, Bannu Appellant

VERSUS

1. Superintendent of Police,
FRP Bannu Range Bannu.
2. Commandant FRP, KP,
Peshawar.
3. Provincial Police Officer,
KP, Peshawar. Respondents

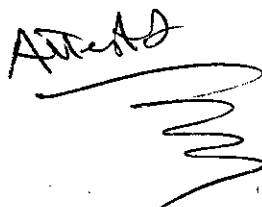
⇔<=>⇔<=>⇔<=>⇔<=>⇔


APPEAL U/S 4 OF SERVICE TRIBUNAL ACT, 1974
AGAINST OB. NO. 599, DATED 27-08-2009 OF R. NO.
01 WHEREBY THREE PUNISHMENTS ON ONE AND THE
SAME CAUSE WAS IMPOSED UPON APPELLANT
REGARDING 190 DAYS ABSENCE OR OFFICE ORDER
NO. 6361 / EC DATED 16-09-2010 OF R. NO. 02
WHEREBY REPRESENTATION OF APPELLANT WAS
REJECTED FOR NO LEGAL REASON OR REVISION
PETITION NO. 3565 DATED 07-10-2019 OF R. NO. 03
WHEREBY THE SAME WAS REJECTED:

⇔<=>⇔<=>⇔<=>⇔<=>⇔

Respectfully Sheweth;

1 That appellant was appointed as constable on 26-07-2017 in the
Frontier Reserve Police (FRP) Bannu Range, Bannu.

Attested


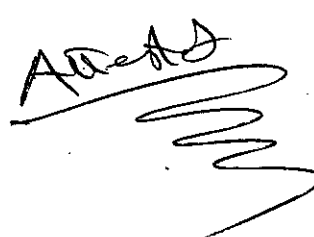
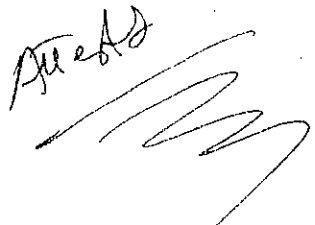


2. That appellant was served with Show Cause Notice regarding absence from duty of 190 days which was replied and denied the same.
3. That Final Report was submitted to the authority wherein three (03) punishments were imposed by R. No. 01 on 27-08-2009 by treating absence period of 190 days as leave without pay, fine of Rs. 1000/ and stoppage of one increment affecting future service of his career. (Copies as annex "A")
4. That appellant submitted departmental appeal before R. No. 02 for setting aside of the said punishments which was rejected on 16-09-2010 for no legal reason. (Copy as annex "B")
5. That on 27-09-2019, appellant submitted Revision Petition before R. No. 03 which was rejected on 07-10-2019. (Copies as annex "C"& "D")
6. That the said orders were not supplied to appellant, so on 14-11-2019, he submitted application to the authority to provide copy of the same which was allowed on the same date. (Copy as annex "E")

Hence this appeal, inter alia, on the following grounds:

G R O U N D S:

- a. That appellant was awarded with triple punishments which are against the law on the subject.
- b. That in the Final Report, Show Cause Notice, and reply thereto was mentioned but were made of no avail to appellant.
- c. That no enquiry as per the mandate of law was conducted and appellant was not provided opportunity of self-defense, so the impugned orders are of no legal effect.
- d. That on one and the same cause, three punishments mentioned above were imposed upon the appellant which are against the norms of law.

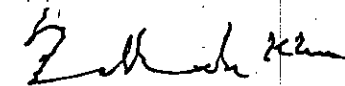
Attest

Attest


- e. That absence from duty was neither willful nor intentional but the mother of appellant was seriously ill, so he attended her for treatment.
- f. That no time limit was fixed for stoppage of increment but stopped the same for ever which are not justified in any legal manner.
- g. That impugned orders are not per the mandate of law, so are based on malafide.

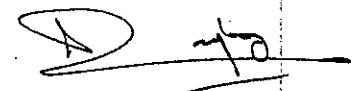
It is, therefore, most humbly prayed that on acceptance of appeal, the impugned office orders dated 27-08-2009, 16-09-2010 and 07-10-2019 of the respondents be set aside and the increments be restored from the date of stoppage, with such other relief as may be deemed proper and just in circumstances of the case.


Appellant

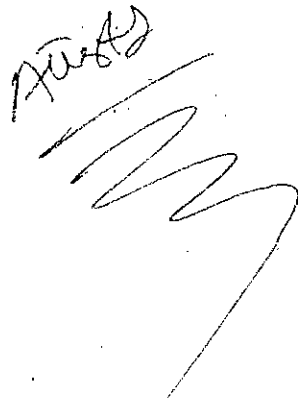
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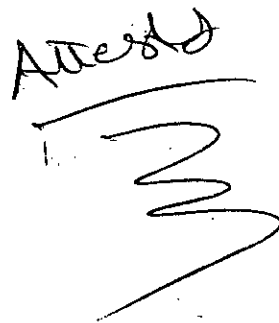

Saadullah Khan Marwat


Arbab Saif-ul-Kamal


Amjad Nawaz
Advocates.

Dated. 11-12-2019





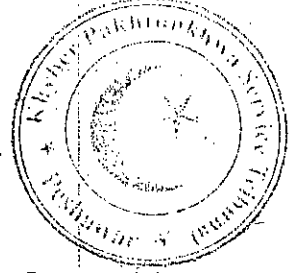
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BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR

Service Appeal No. 2082/2019

Date of Institution ... 12.12.2019

Date of Decision ... 14.09.2022



Muhammad Riaz S/O Ghulam Rabbani, B. No. 6561, Constable FRP,
Bannu Range, Bannu. ... (Appellant)

VERSUS

Superintendent of Police, FRP Bannu Range Bannu and two others.

... (Respondents)

MR. ARBAB SAIF-UL-KAMAL
Advocate

For appellant.

MR. ASIF MASOOD ALI SHAH,
Deputy District Attorney

For respondents.

MR. SALAH-UD-DIN
MR. MIAN MUHAMMAD

MEMBER (JUDICIAL)
MEMBER (EXECUTIVE)

JUDGMENT:

SALAH-UD-DIN, MEMBER:- Precise facts of the instant service appeal are that disciplinary action was taken against the appellant on the allegations of absence from duty for a split period of 190 days. Vide order bearing OB No. 959 dated 27.08.2009, the appellant was awarded punishment of stoppage of one increment as well as fine of Rs. 1000/- while the absence period was treated as leave without pay. The departmental appeal as well as revision petition of the appellant were also declined. The appellant has now filed the instant service appeal for redressal of his grievance.

2. Notices were issued to the respondents, who submitted their comments, wherein they refuted the assertions raised by the appellant in his appeal.

3. Learned counsel for the appellant has contended that the absence of the appellant from duty was not willful, rather the same was due to severe illness of mother of the appellant, which

ATTESTED
[Signature]
[Stamp]

[Signature]

[Signature]

plea was taken by the appellant in his reply to the show-cause notice issued to him, however the same was not at all considered by the competent Authority; that on one hand the appellant was awarded punishment of fine, while on the other hand he was further, awarded punishment of stoppage of one increment with cumulative effect; that the competent Authority has itself considered the period of absence from duty as leave without pay, therefore, awarding punishment to the appellant was not legally justified. Reliance was placed on unreported judgment dated 09.10.2020 passed by worthy Apex court in Civil Petition No. 549-P of 2014 titled "Additional IGP/Commandant FRP, Government of KPK Peshawar etc versus Adnan".

4. On the other hand, learned Deputy District Attorney for the respondents has contended that the appellant had willfully remained absent from duty for a period of about six months, therefore, he has rightly been awarded the impugned penalty; that the revision petition of the appellant was badly time barred, therefore, the appeal in hand is not maintainable and is liable to be dismissed on this score alone.

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

6. A perusal of the record would show that show-cause notice was issued to the appellant only on the allegation of his absence from duty without any sanctioned leave or permission of the competent Authority. The competent Authority while passing the impugned order i.e 27.08.2009 has itself treated the period of absence from duty as leave without pay and has thus regularized the same, therefore, there was no legal justification in awarding penalty to the appellant. Reliance in this respect is placed on unreported judgment dated 09.10.2020 passed by worthy Apex court in Civil Petition No. 549-P of 2014 titled "Additional IGP/Commandant FRP, Government of KPK Peshawar etc versus Adnan". So far as the question of limitation is concerned, the issue being one of financial nature would not be hit by the bar of limitation.

7. In view of the above discussion, the appeal in hand is allowed. The impugned penalty awarded to the appellant stands

ATTENDED

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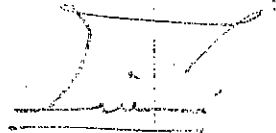
set-aside and one increment of the appellant stands restored with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

14.09.2022



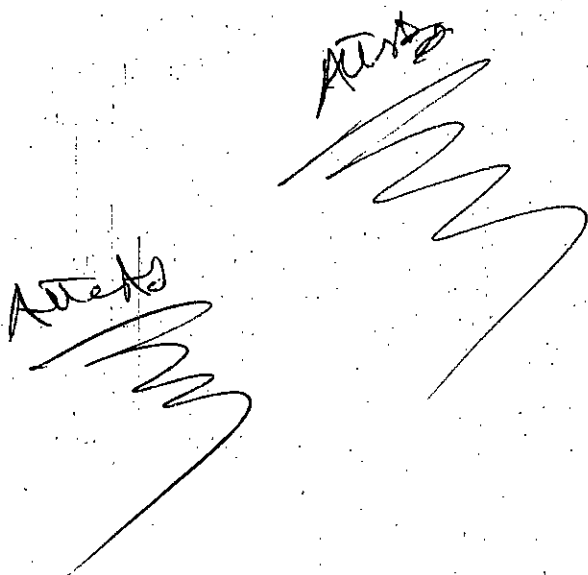
(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

Certified to be true copy
EXAMINER
K. M. Fakhtunissa
Service Tribunal
Faisalabad

Date of Presentation of Application 05/10/22
 Number of Words 1660
 Copying Fee 18/-
 Urgent 18/-
 Total 18/-
 Date of Completion of Copy 20/10/22
 Date of Delivery of Copy 20/10/22



C 10



OFFICE OF THE COMMANDANT
FRONTIER RESERVE POLICE
KHYBER PAKHTUNKHWA, PESHAWAR
Ph: No. 091-9214114 Fax No. 091-9212602

No. 156 ISI Legal, dated 04/01/2023

ORDER

In pursuance to the Execution petition No. 713/2022, the Judgment of Honorable Service Tribunal Khyber Pakhtunkhwa, Peshawar dated 14.09.2022, in Service Appeal No. 2082/2019, is hereby implemented. One annual increment in respect of constable Muhammad Riaz No. 6561 of FRP Bannu Range is hereby restored with all back benefits on conditional and provisional basis, subject to outcome of CPLA, pending in the Apex Court of Pakistan.

Commandant
Frontier Reserve Police
Khyber Pakhtunkhwa, Peshawar

Endst; No. & Date Even:-

Copy of the above is forwarded for information & further necessary action to the SP FRP Bannu Range, Bannu. His service record alongwith D-file sent herewith.

بعد التّجارب سروس طرہ پوریل صورتہ سندہ پٹنہ اور

متجانب اہلالت

محمد ریاضی نامہ

دعویٰ اپیل Execution

باعتبار تکریمہ استیگہ

مستند سندہ جو عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی دیکل کاروائی متعلقہ آل مقام اپنا اور
 کیسے استعانت اڈانس خفان سرورتنے ایڈوکیٹ ہائی کورٹ کو دیکل مسترد کر کے اقرار کیا جاتا ہے کہ صاحب
 مدعوت کو مقدمہ کی کُل کاروائی کا کابل اختیار ہوگا نیز وکیل صاحب کو کرنے راضی نامہ و اقرار ثالث و تیسرا برتلاف
 دینے جواب دہی اور اقبال دعویٰ اور لہجہ و ڈگری کرنے اجراء اور دعویٰ چیک و روپیہ اور بعضی دعویٰ اور درخواست
 ہر قسم کی تقدیر اور اس پر دستخط کرنے کا اختیار ہوگا نیز لہجہ و عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی
 اور مستثنیٰ نیز دائر کرنے اپیل نگران و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ بنا کر
 کے کُل یا جزوی کاروائی کے واسطے اور وکیل یا مستند قانونی کو اپنے ہمراہ یا اپنی بجائے تفرک کا اختیار ہوگا
 اور صاحب مقدمہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پرواختہ منظور
 قبول ہوگا اور دوران مقدمہ یہ جو شرحہ و پر جانہ التوا مقدمہ کے سبب ہوگا اس کے مستحق وکیل صاحب
 مدعوت ہوں گے نیز بقایا و فرسہ کی وصولی کرنے کا بھی اختیار ہوگا اگر کوئی تاخیر پیشی مقام مدورہ
 پر ہو یا مد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکور کریں۔
 لہذا وکالت نامہ رکھ دیا کہ سند ہے۔

الرقوم 22-23-2009

القید القید القید

11
ارباب سنیہ اہلالت
ایڈوکیٹ

محمد ریاضی
سندہ التماس خفان
ایڈوکیٹ

M. Riaz
محمد ریاضی

محمد نواز
ایڈوکیٹ