08.12.2017

Counsel for the petitioner present. Mr. Usman Ghani, DDA for official respondent and submitted implementation report dated 08.11.2017. Learned counsel for the petitioner stated at the bar that petitioner is fully satisfied on the said order. Therefore the present execution petition is hereby disposed off. File be consigned to the record room.

\* <u>ANNOUNCED</u> 08.12.2017

9.40.40

(Gul Zeb Khan) Member (E) Counsel for the petitioner present. Mr. Muhammad Razziq, Head Constable alongwith Mr. Muhammad Adeel Butt, Additional AG for the respondents also present. Implementation report not submitted by the respondents. Learned Additional AG requested for further adjournment. Adjourned. To come up for implementation report on 29.09.2017 before S.B.

(Muhammad Amin Khan Kundi) Member

29.09.2017

Learned Assistant Advocate General and representative of respondent department present, seeks adjournment. Adjourned. To come up for 20.10.2017 before S.B.

Member (Judicial)

20.10.2017

Counsel for the petitioner present. Mr. Kabir along with Ullah Khattak, Additional Advocate General Aziz Shah, Reader for the respondents present. The representative department is directed to produce conditional order on or before the next date of hearing. To come up for implementation report on 08.12.2017 before S.B.

(Gul Zeb Khan) Member (E)

Doposed of

Execution Petition No. 78/2017

, bite.		·			
S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate			
1	2	3			
1	03/05.2017	The Execution Petition of Mr. Waqar Ahmad submitted to-day			
	11:	by Mr. Javed Iqbal Gulbela Advocate may be entered in the re			
	` •	Register and put up to the Court for proper order please.			
	·	REGISTRAR			
2-	415/17	This Execution Petition be put up before S. Bench on $-9-5-17$ .			
	, .	CHARMAN			
	08.05.2017	Counsel for the petitioner present. Notice be issued to the			
		respondents. To come up for implementation report on 07.07.			
		2017 before S.B.			
		Chailman			
	07.07.2017	Ms. Rooida, Advocate counsel for the petitioner present and			
	07.07.2017	submitted her Wakalatnama. The same is placed on record. Mr. Aziz			
		Shah, Reader alongwith Mr. Kabirullah Khattak, Assistant AG for the			
		respondents also present. Learned Assistant AG requested for			
		adjournment. Adjourned. To come up for implementation report on			
		04.08.2017 before S.B.			
:		(Muhammad Amin Khan Kundi) Member			

# IN THE HON'BLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA **PESHAWAR**

Execution Petition NO. 78/2017

		/
In the C.M No.	÷	-/2017
<del>-</del>		

In.

S.A No.<u>424/2015</u>

### Waqar Ahmad Ex-Sepoy

#### **VERSUS**

#### I.G. Police & others

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3	Wakalat Nama		6

Dated: 03/05/2017

Petitioner / Appellant

Through

JAVED IQBAL GULBELA Advocate High Court

Peshawar.

# IN THE HON'BLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

Execution Petition No. 78/2017

In the C.M No/	2017	7
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In

S.A No.424/2015

Whyber Pakhtukhwa Service Tribunal

Diary No. 353

Dated 3-5-17

# Waqar Ahmad Ex-Sepoy

#### **VERSUS**

I.G. Police & others

# APPLICATION FOR IMPLEMENTATION OF THE JUDGMENT AND ORDER DATED 28/03/2017 PASSED IN S.A.NO.424/2015.

## Respectfully Sheweth,

- 1. That the petitioner /appellant had filed a S.A.No.424/2015 which was allowed by this Hon'ble Tribunal vide judgment and order dated 28/03/2017. (Copies of S.A. and judgment dated 28/03/2017 are annexed as Annexure "A" & "B" respectively)
- 2. That the petitioner/appellant took the attested copy to the respondents, but till now has not implemented the judgment dated 28/03/2017.

Registrar

3. That act of non-implementating the judgment of this Hon'ble Tribunal, constrained the petitioner/appellant to move the instant petition.

It is therefore, most humbly prayed that on acceptance of the instant petition, the respondents be directed to implement the judgment and order dated 28/03/2017 in S.A.No.424/2015 in its true spirit and further prayed that the responsible respondents be punished accordingly for this loathsome attitude and approach towards the reverend judgment and order of this Hon'ble Tribunal.

Dated: 03/05/2017

Petitioner Appellant

Through

JAVED TOBAL GULBELA

Advocate High Court

. Peshawar

Affidavit

I, Waqar Ahmad Ex-Sepoy, Belt No.3785, R/o Ashab Baba Peshawar, do hereby solemnly affirm and declare on oath that all the contents of the instant application are true and correct to the best of my knowledge and belief and nothing has been concealed or misstated from this Hon'ble Court.

Deponent

# BEFORE THE HON'BLE KHYBER PAKHTUNKHW SERVICE TRIBUNAL PESHAWAR

Service Appeal 424 /2015

Sorvice Tribunal
Diary No 15-2015

Waqar Ahmad Ex-Spepay, having belt No.3785, R/o
Ashab Baba Peshawar.

.....Appellant

#### **VERSUS**

- 1. Inspector General of Police Khyber Pakhtunkhwa Peshawar.
- 2. Chief Capital of Police, Officer Peshawar.
- 3. Senior Superintendent of Police, Hayatabad Peshawar.
- 4. Superintendent of Police, Head Quarter, Peshawar.
- 5. Deputy Superintendent of Police, Head Quarter Peshawar.

.....Respondents

TIS POIT.

APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICE
TRIBUNAL ACT-1974, FOR SETTING
ASIDE THE IMPUGNED ORDER
DATED 17-04-2015 OF THE LEANED
RESPONDENT NO.1 WHEREBY
DEPARTMENTAL APPEAL OF THE
APPELLANT WAS DISMISSED IN A
CURSORY MANNER

Ke-submitted to-day

Respectfully Sheweth,

1. That the Appellant is a naturally born citizen of the Islamic Republic of Pakistan and hails from District Peshawar.

AFTE STE

(4)

Saturdan Na

Date of order/ proceedings

2

Order or other proceedings with signature of Judge or Magistrate

3

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 424/2015

Waqar Ahmad Versus Inspector General of Police Khyber Pakhtunkhwa, Peshawar and 4 others.

#### JUDGMENT

# MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:-

28.03.2017

Counsel for the appellant and Mr. Kabeerullah Khattak,

Assit. Advocate General alongwith Aziz Shah, H.C for respondents present.

- 2. Waqar Ahmad hereinafter referred to as the appellant has preferred the instant service appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against impugned order dated 06.06.2014 vide which he was dismissed from service and the period of alleged absence was treated as leave without pay and where gainst his departmental appeal dated 10.06.2014 and departmental representation also rejected vide order dated 25.08.2014 and 17.04.2015 respectively and hence the instant service appeal on 07.05.2015.
  - 3. Brief facts of the case of the appellant are that while serving as police personal he was found absent from duty and vide original order dated 06.06.2014 dismissed from service and period of his absence was treated as leave without pay.

ATTESTED

ATTESTED

Nylver Particulation

Service England,

Peshawar



- 4. We have heard arguments of learned counsel for the parties and perused the record.
- 5. It is evident from the vary order passed by the competent authority and impugned before us that the absence period of the appellant was treated as leave without pay. In such eventuality the orders of dismissal from service of the appellant was not warranted as such an act on the part of the competent authority fall within the ambit of double jeopardy. Similar view was taken by this Tribunal in judgment dated 17,06.2016 in Service Appeal No. 1200/2014 titled "Azizur Rahman Versus Deputy Inspector General of Police, Mardan Region-I. Mardan and another".
- 6. For the above mentioned reasons we accept the present appeal and set aside the impugned order to the extent of dismissal of appellant from service and, as a consequence thereof, reinstate him in service by treating his period of absence from service w.c.f. the date of dismissal till date, as leave of the kind due. Parties are left to bear their own costs. File be consigned to the record room.

Hunounced 28.03.2017 Sof M. AZIN Khan Afrill, Chairman

To copy

SHAA Amir Khan

Date of Presentation of Application 03 - 04-20/

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eshawar

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Date of Complection of Conv. 3-04-

63-04-)017

Fig. 22 Fig. 12

دعوي له مقدرمه مندرجه بالاعنوان اين طرف سے واسطے پير صاحب موصوف کوا طلاع و بے کرحا ضرعدالت کرونگا، اگرپیثی پرمن مظهر حاضر نه ہوااورمقد مه میری غیر حاضری کی سی طور برمیرے برخلاف ہو گیا تو صاحب موصوف اس کے سی طرح ذیمہ دارنہ ہو نگے۔ نیز و کیل صاحہ مقام کچہری کی کسی اورجگہ یا کچہری کےمقرر ہاوقات ہے پہلے یا پیچیے یا بروزنعطیل پیروی کرنے کے ذمہ دار نہ ہو نگلے مقد مه علاوہ صدر مقام کچہری کے سی اور جگہ ہاعت ہونے یا بروز تعطیل یا کچہری کے اوقات کے آگے بیچھے پیش ہونے پر من مظہر کوکوئی نقصان پینچے تو اس کے ذمہ داریااس کے واسطے کسی معاوضہ کے اداکر نے یا مختارا نہ واپس کرنے کے بھی ذ مه دارنه هو نگے به مجھے کوکل ساخته بر داخته صاحب موصوف مثل کرده ذات خو دمنظور وقبول هوگا۔اور صا حب موصوف کوعرضی دعویٰ و جواب دعویٰ اور درخواست ا جرائے ڈگری ونظر ثانی اپیل ونگرانی ہرتنم کی درخواست پر دستخط و تقدیق کرنے کا بھی اختیار ہوگا اور کسی علم یا ڈگری کے اجراء کرانے اور ہوشم کے روپیدوصول کرنے اور رسید دینے اور داخل کرنے اور ہرتتم کے بیان دینے اور سپر وٹالثی وراضی نامہ فیصلہ برخلاف کرنے اقبال دعویٰ دینے کا بھی اختیار ہوگا۔اور بصورت اپیل وبرآیدگی مقدمه پامنسوخی دُگری بکطرفه درخواست حکم امتناعی یا قرقی پاگرفتاری قبل ازاجراء دُگری بھی موصوف كوبشرطاوا ئيگى عليحده مختارانه پيروي كااختيار هوگا\_اوربصورت ضرورت صاحب موصوف كوجهي اختيار هوگايا مقدمه مذكوره يا اس کے سی جزوکی کاروائی کے واسطے یا بصورت اپیل ، پیل کے واسطے دوسرے وکیل یا بیرسٹر کو بجائے اپنے یا اپنے ہمراہ مقرر کریں اورا بسے مشیر قانون کے ہرا مردہی اور ویسے ہی اختیارات حاصل ہونگے جیسے کےصاحب موصوف کو حاصل ہیں۔اورد وران مقدمہ میں جو پچھ ہر چانہالتو اء پڑے گا۔اورصاحب موصوف کاحق ہوگا۔اگروکیل صاحب موصوف کو یوری فیس تاریخ پیشی سے پہلے اواند کرونگا تو صاحب موصوف کو پوراا ختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اورالی صورت میں میرا کوئی مطالبہ کسی قتم کا صاحب موصوف کے برخلاف نہیں ہوگا۔لہذا مختار نا مہلکھ دیا

