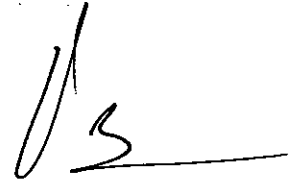


28.10.2016

Petitioner with counsel and Addl. AG alongwith Salman, HC for the respondents present. Respondents have not concluded the de-novo inquiry within stipulated period 45 days as directed vide judgment dated 13.11.2015. Hence the respondents are once again directed to conclude inquiry within a span of 30 days and submit report positively on or before the date fixed. To come up for implementation report/further proceedings on 02.12.2016 before S.B.




(MUHAMMAD AAMIR NAZIR)
Member

02.12.2016

Petitioner with counsel and Assistant AG alongwith Salman Khan, H.C for the respondents present. Submitted copy of order dated 16.11.2016 vide which the enquiry has been concluded and petitioner compulsorily retired from service. Learned counsel for the petitioner informed the Tribunal that the petitioner wants to re-agitate the matter before competent forum.

Since the implementation stood finalized, File be consigned to the record room.



Chairman

ANNOUNCED

02.12.2016

02.12.16


10.06.2016

Petitioner with counsel and Mr. Tahir Hussain, Constable alongwith Addl: AG for respondents present. Learned counsel for the petitioner stated that the respondents may be directed to produce the service book and promotion record of petitioner. The respondents are directed to produce service book of the petitioner alongwith record pertaining to promotion of junior to him. To come up for such record and arguments on 29.07.2016 before S.B.


MEMBER

29.07.2016

Petitioner with counsel, and Mr. Ghulam Hussain, DSP (Legal) for the respondents present. Representative of the respondents requested for adjournment. Representative of the respondents is once again directed to produce service book of the petitioner and record pertaining to promotion of the petitioner as well as junior to him. To come up for such record and arguments on 2.09.2016 before S.B. The restraint order shall continue.


Chairman

02.09.2016

Petitioner with counsel and Mr. Falak Nawaz, DSP alongwith Mr. Usman Ghani Sr. GP for respondents present. Service Book record of the petitioner produced but the record pertaining to the promotion of the petitioner as well as senior to him were not produced and in this respect the representative of the respondents seeks ^{further time. Rests on} ~~adjournment~~ is directed to submit requisite record positively by next date. To come up for further proceedings on 28.10.2016 before S.B. The restrain order shall continue.

Member

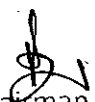
11.02.2016

Counsel for the petitioner and Mr. Ihsanullah, ASI alongwith Addl: A.G for respondents present. Requested for adjournment. To come up for implementation report on 25.3.2016 before S.B. The restraint order shall continue.


Chairman

25.03.2016

Petitioner with counsel and Mr. Falak Nawaz, DSP (legal) alongwith Assistant AG for respondents present. Reply submitted. To come up for arguments on application on 29.4.2016 before S.B. The restraint order shall continue.


Chairman

29.4.2016




Petitioner with counsel and Mr. Falak Nawaz, DSP (Legal) alongwith Addl. AG for the respondents present. Reply submitted. To come up for arguments on 10.06.2016 before S.B. The restraint order shall continue.


Chairman

FORM OF ORDER SHEET

Court of _____

Execution Petition No. 10/2016

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	26.1.2016	<p>The Execution Petition submitted by Mr. Amin Khan through Mr. Riazwanullah 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-	28-1-16	<p>This Execution Petition be put up before S. Bench on <u>11-2-16</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	29.01.2016	<p>Petitioner with counsel present. Submitted application for restraining the respondents from passing any adverse order against the petitioner. Notice of the said application be issued for the date already fixed i.e 11.2.2016 before S.B. Till then final order shall not be passed.</p> <p style="text-align: right;"> Chairman</p>

**BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

Execution Petition No. 10 /2016

1. Amin Khan, Sub Inspector R/O Gara Tajik, Warsak Road Peshawar.

PETITIONER

VERSUS

1. The Provincial Police Officer, Government of Khyber Pakhtunkhwa & others.

RESPONDENTS

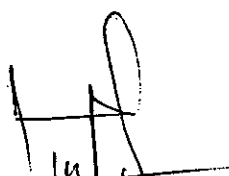
I N D E X

S.No	Particulars	Annexure	Pages #
1	Execution Petition	—	1-4
2	Affidavit	—	5
3	Copy of judgment of this Hon'ble Tribunal dated 13-11-2015	"A"	6-17
4	Copy of application dated 23-11-2015	"B"	18
5	Copy of posting order	"C"	19
6	Vakalatnama	—	—


Petitioner

Through

Dated: 26-1-2016


Rizwanullah
M.A. LL.B
Advocate High Court, Peshawar

**BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

Execution Petition No. 10 /2016

**A.W.P. Province
Service Tribunal**

Diary No. 61

Date 26-1-16

1. Amin Khan, Sub Inspector, R/O Gara Tajik, Warsak Road Peshawar.

PETITIONER

VERSUS

1. The Provincial Police Officer, Government of Khyber Pakhtunkhwa, Peshawar.
2. The Deputy Inspector General of Police, Headquarters Khyber Pakhtunkhwa, Peshawar.
3. The Commandant FRP, Peshawar.

RESPONDENTS

**APPLICATION UNDER SECTION
7 (2) (D) OF THE KHYBER
PAKHTUNKHWA SERVICE
TRIBUNAL ACT, 1974 FOR
EXECUTION OF ORDER DATED
13-11-2015 PASSED BY THIS
HON'BLE TRIBUNAL IN
SERVICE APPEAL NO. 1369/2014.**

RESPECTFULLY SHEWETH,

Short facts giving rise to the present execution application are as under:-

1. That the petitioner joined the service of Police Department as Constable in the year 1985 and then rose up to the post of Sub-Inspector on account of his dedication, devotion and commitment to his job. He had 29 years unblemished service record to his credit.

2. That the petitioner was awarded Major Penalty of Compulsory retirement from service in utter violation of law vide order dated 19-8-2014 passed by the Deputy Inspector General of Police, Headquarters, Peshawar.
3. That the petitioner felt aggrieved, filed a departmental appeal against the impugned order but the same was not responded within the statutory period of law. Therefore, he invoked the jurisdiction of this Hon'ble Tribunal by way of filing service appeal No. 1369/2014 praying therein that the impugned order may graciously be set aside and the appellant may kindly be reinstated in service with full back wages and benefits.
4. That this Hon'ble Tribunal vide judgment dated 13-11-2015 accepted the appeal filed by the petitioner, set aside the impugned order and reinstated him in service. However, the respondents were allowed to conduct denovo inquiry while back benefits were subjected to the outcome of the result of the inquiry. It would be advantageous to reproduce herein the relevant portion of the said judgment for facility of reference:-

In the light of the foregoing entire discussion, the Tribunal has no option but to hold that the impugned orders cannot be maintained and liable to be set aside. Though irregularities and illegalities were committed in the process of selection/recruitments is established by the two inquiry committees cited above of the

constables but who did it, how and for what reason and what role was played by appellants in this whole game, we may observe that to sift grain from chaff the department may embark upon denovo proceedings against appellants which should be concluded within a period of 45 days after receipt of this judgment. Back benefits shall be subject to the outcome of the proceedings denovo. Needless to mention that the impugned orders are set aside and appellants are reinstated into service to face proceedings denovo. Parties are left to bear their own costs. File be consigned to the record room.

(Copy of judgment is appended as Annex-A).

5. That the petitioner after obtaining the certified copy of judgment of this Hon'ble Tribunal, requested the Competent Authority for its implementation vide application dated 23-11-2015.

(Copy of application is appended as Annex-B).

6. That the respondents were under statutory obligation to have complied with the said judgment in letter and spirit but they partially implemented it by reinstating the petitioner only and

violated the remaining portion of judgment to conclude the inquiry within 45 days.

(Copy of posting order is appended as Annex-C).

7. That in case of failure to conclude the inquiry within the prescribed time, the petitioner was entitled to receive his back wages and benefits of the interregnum period. But he was not paid the legitimate dues.
8. That the defiant and adamant conduct of the respondents clearly amounts to willful disobedience of the remaining portion of the judgment of this Hon'ble Tribunal and therefore requires to be dealt with iron hands under the relevant provision of law.

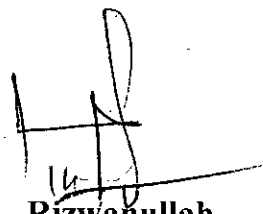
In view of the above narrated facts, it is, therefore, humbly prayed that appropriate proceedings may graciously be initiated against the respondents for disobedience of the remaining portion of the judgment of this Hon'ble Tribunal and they may also be awarded exemplary punishment in accordance with law.

Any other relief deemed proper and just in the circumstances of the case, may also be granted to the petitioner.



Petitioner

Through



Rizwanullah
M.A. LL.B

Advocate High Court, Peshawar

Dated: 26-1-2016

**BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

Execution Petition No. _____/2016

1. Amin Khan, Sub Inspector, R/O Gara Tajik, Warsak Road Peshawar.

PETITIONER

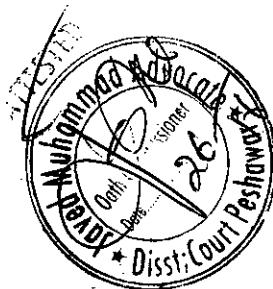
VERSUS

1. The Provincial Police Officer, Government of Khyber Pakhtunkhwa & others.

RESPONDENTS

AFFIDAVIT

I, Amin Khan, Sub Inspector R/O Gara Tajik, Warsak Road Peshawar, do hereby solemnly affirm and declare that the contents of the accompanied execution petition are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Tribunal.



(Signature)

Deponent

Amex-A
CR# 5888/SA (6)

BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR



Service Appeal No. 1369/2014

1404
01-12-2014

Amin Khan, Ex-Sub Inspector
R/O Gara Tajik, Warsak Road Peshawar.

APPELLANT

VERSUS

1. The Provincial Police Officer, Government of Khyber Pakhtunkhwa, Peshawar.
2. The Deputy Inspector General of Police, Headquarters Khyber Pakhtunkhwa, Peshawar.
3. The Commandant FRP, Peshawar.

RESPONDENTS

ATTESTED
Khyber Pakhtunkhwa Service Tribunal
Peshawar

1/12/14

APPEAL UNDER SECTION 4 OF THE
KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT, 1974 AGAINST THE
IMPUGNED ORDER NO . 1522-58/SE-II
DATED 19-8-2014 PASSED BY THE DEPUTY
INSPECTOR GENERAL OF POLICE,
HEADQUARTERS KHYBER PAKHTUNKHWA
WHEREBY THE APPELLANT WAS AWARDED
MAJOR PENALTY OF COMPULSORY
RETIREMENT FROM SERVICE. THE
APPELLANT PREFERRED DEPARTMENTAL
APPEAL BUT THE SAME WAS NOT
RESPONDED WITHIN THE STATUTORY
PERIOD OF LAW.

PRAYER IN APPEAL

SS
A. H. H. H. H. H.
23/11

By accepting this appeal, the impugned order No.1522-58/SE-II dated 19-8-2014 passed by the Deputy Inspector General of Police, Headquarters Khyber Pakhtunkhwa Peshawar, may very graciously be set aside and the appellant may kindly be reinstated in service with full back wages and benefits.

Sr. No.	Date of order/ proceedings	Order or other proceedings with signature of Judge/ Magistrate
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1.	13.11.2015	<p style="text-align: center;">KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.</p> <p>1. Service Appeal No. 1340/2014, Shakeel Ahmad, (Mr. Muhammad Asif Yousafzai, & Mr. Rizwanullah, Advocates)</p> <p>2. Service Appeal No. 1369/2014, Amin Khan, (Mr. Rizwanullah, Advocate)</p> <p>3. Service Appeal No. 1370/2014, Noor Muhammad (Mr. Rizwanullah, Advocate) Versus the Provincial Police Officer, KPK, Peshawar etc. (Mr. Usman Ghani Marwat, Sr.G.P).</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p><u>PIR BAKHSH SHAH, MEMBER.-</u> Appellants with their respective counsel (M/S. Muhammad Asif Yousafzai & Rizwanullah, Advocates), Mr. Usman Ghani, Senior Government Pleader with Falak Nawaz, DSP (Legal) for the respondents present.</p> <p>2. In August, 2013 a number of Constables were recruited in the FRP, Khyber Pakhtunkhwa Police. At the relevant time appellant Shakeel Ahmad was Inspector in FRP whereas appellant Amin Khan, Sub Inspector was a Reader to Deputy Commandant FRP namely Younis Javed Mirza. Charges against these appellants Shakeel Ahmad and Amin Khan as per the charge sheets are as follows:-</p> <ol style="list-style-type: none"> 1. That you in connivance with your officer facilitated the illegal process of recruitment of 378 candidates. 2. That you also assisted in recruitment of 169 candidates recruited by un-notified committee and
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ATTESTED

KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR

3. That with your ulterior motive also processed transfer of 37 Constables to FRP/Kohat for allotment of Constabulary Numbers.

3. Appellant Noor Muhammad was also Sub Inspector who was working as OSI FRP, Kohat with Mr. Hashmat Ali Zaidi who was Acting Superintendent of Police. The following charges were leveled against appellant per charge sheet on record:-

1. That you in connivance with your officer facilitated the illegal process of recruitment of 28 candidates in FRP recruitment, 2013.
2. That you deliberately knowingly assisted the officer in above recruitment which was made after the committee recruitment and
3. That with your connivance candidate having domicile of other districts were also recruited.

4. After a fact finding enquiry, followed by issuance of charge sheet and statement of allegations, a regular departmental enquiry was conducted by a committee comprising of the following officers:-

1. Mr. Muhammad Saeed, PSP Regional Police Officer, Mardan.
2. Mr. Muhammad Ali, PSP, DPO Abbottabad and
3. Mr. Abdur Rashid, DPO Bannu.

According to the department, the process of recruitment were illegal and irregular mainly for the following reasons:-

1. That one of the Members of selection committee namely Younis Javed Mirza performed in his dual capacity as S.P and Deputy Commandant, FRP which committee was without Secretary.
2. That recruitment was meant for the entire province for

ATTESTED

Khayal
Sardar
Wazir
Kohat
District
Police
Office

which purpose, separate selection committees were constituted for separate regions, however, the selection committees for Peshawar also enlisted a lot of constables for other regions.

3. That while committing irregularities in advertisements, schedule etc. the concerned personnel also failed to produce record to the enquiry committee.

Consequently, appellant Amin Khan and Noor Muhammad were compulsorily retired from service vide impugned orders dated 19.08.2014 against which orders their departmental appeals also proved unsuccessful which were rejected by the Provincial Police Officer vide his order dated 03.2.2015. Similarly, appellant Shakeel Ahmad was also compulsorily retired by Addl. I.G of Police (Headquarters) vide his order dated 21.08.2014 and his departmental appeal was also disposed of (rejected) by the same office converting his appeal into review petition. Hence above separate appeals of the appellants before this Tribunal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 which are proposed to be decided by this single judgment. We propose, to dispose off all the appeals by this single judgment.

5. Arguments heard and record perused.
6. The learned counsel for the appellants submitted that the appellants were neither members of the selection committee nor competent to constitute the selection committees and further that none of the appellants is a signatory on the merit list or the appointment orders of the recruitees, therefore, they have been

ATTESTED

BY
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

unlawfully and illegally proceeded against and punished. That they were punished in order to make them escape goat for the defaulting officers at the helm of affairs. It was further submitted that the appellants were not let to cross examine the witnesses, nor served with show cause notice nor given opportunity of personal hearing and thus they were deprived of their right of defence. It was next submitted that findings of the enquiry committee is based on no evidence but based on surmises & conjectures recommended penalty on baseless grounds that the appellants were corrupt, ill reputed, lived a life style beyond their ostensible means which allegations are not subject matter of the charge sheet and thus findings of the committee are totally unlawful, unfounded and wrong. It was also submitted for appellant Shakeel Ahmad that his appeal was wrongly converted into review petition and decided by the same office who had imposed penalty in his original order, thus he was deprived of his right of appeal. To conclude the arguments for the appellants, the learned counsel submitted that the impugned orders are not maintainable in the eyes of law. In the course of arguments, learned counsel for the appellants also assisted the Tribunal to go through the material on record, particularly reports of the fact finding and regular enquiries and also referred to the following decisions of the august Superior Courts:-

1. 1989-SCMR-1690,
2. 1997-SCMR-343,
3. 2004-PLC(C.S)957,
4. 2006-SCMR-1641,
5. 2009-SCMR-605, and
6. 2009-PLC(C.S)161.

It was summed up that as the impugned orders are unlawful, therefore, the same may be set aside and the appellants may be reinstated into service with all back benefits.

7. These appeals were resisted by learned Senior Government Pleader (Mr. Usman Ghani) who stated that the process of irregular and illegal recruitment of so many constables established on record which recruitment processes were associated and facilitated by the appellants with the concerned officers for their ulterior motives and extraneous considerations and as both enquiry reports are based on facts and evidence, hence the enquiry committee has rightly recommended appellants for imposition of major penalty. He further submitted that full opportunity of defence and personal hearing was given to the appellants and as the appellants were punished after due process of law and after observing all the codal formalities, therefore, the appeals may be dismissed.

8. That irregularity and illegality was committed in the process of selection and recruitment of the constables is evident from record particularly report of the fact finding enquiry. The appellants were nominated for disciplinary proceedings in that report.

9. The appellant Shakeel Ahmad was Inspector in FRP, appellant Amin Khan as Reader to the Deputy Commandant, both subordinate to the Deputy Commandant Younis Javed

ATTESTED
KINGDOM OF SAUDI ARABIA
Ministry of Justice
Riyadh

Mirza whereas appellant Noor Muhammad as OSI was working with Acting S.P Hashmat Ali Zaidi. Charge sheet and statement of allegations to appellants Amin Khan and Noor Muhammad were issued by the D.I.G of Police (Headquarters), Khyber Pakhtunkhwa, Peshawar. Their statement of allegations are also available on their respective appeals according to which regular enquiry committee constituted against them, comprised of M/S D.I.G Muhammad Saeed Wazir, Regional Police Officer, Mardan, SSP Muhammad Ali, District Police Officer, Abbottabad and S.P Abdul Rashid, Deputy Commandant, FRP. There is no statement of allegations in case of appellant Shakeel Ahmad before us as to who was the enquiry committee against him. However, enquiry report submitted against all appellants has been submitted by the committee headed by Mr. Muhammad Saeed, RPO, Mardan signed alongwith only Muhammad Ali, District Police Officer, Abbottabad. This report was not signed by the third Member Abdul Rashid. For change in the enquiry committee there is no order on record. We have thoroughly gone through the report of the fact finding enquiry in which there is nothing to show as to how, where and when appellants rendered unlawful assistance and facilitated and connived with the concerned officers hence we are unable to conclude that sans, their official duty with the concerned officers, they also rendered any illegal assistance. To make the point further clear, we would like to reproduce the very discussion and findings of the regular enquiry regarding the appellants one by one, to show that no evidence was collected

ATTESTED
Khyber Pakhtunkhwa
Peshawar

by this committee also.

About Inspector Shakeel:-

Inspector Shakeel was serving as Reserve Inspector during the period that the instant recruitment in FRP, Headquarters took place. He is charged in proceedings which are reproduced in Section-4 of this report. He has denied the allegations and charges leveled against him. A probe was made through different sources regarding his role in recruitment and his general reputation and conduct while serving in FRP. It has transpired that Inspector Shakeel in the capacity of R.I, FRP, Headquarters was very influential and he was a central figure in the irregularities committed during the instant recruitment. Further reliance is made on the statement of Mr. Younis Javed as stated in part 7 of this report. He has a reputation of a corrupt officer who allegedly lives beyond his ostensible means. It has also been learnt through reliable sources that he has amassed wealth and assets. However, the same was not probed into as it was beyond the mandate of this Inquiry Committee. Moreover, this entire scandal revolves around his name. On condition of anonymity the committee was told by many sources of his involvement in corrupt practices in the recruitment process. He is recommended for major punishment.

About Amin Khan, S.I

Amin Khan, S.I was serving as Reader to Deputy Commandant FRP. During discreet probe it was revealed that he has been the dealing hand and collected money from candidates. He is recommended for major punishment.

About Noor Muhammad SI/PC

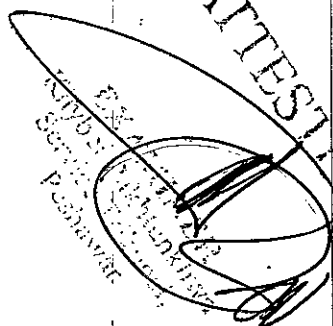
He was serving as OSI FRP, Kohat. The charges leveled against him could not be proved. However, it is pertinent to mention that he enjoys the reputation of a corrupt officer who allegedly is living much beyond his ostensible means. During discreet probe it was revealed that he has made fortunes in former recruitments but since it is not in the mandate of this inquiry committee to investigate about the assets and property of these officers, hence the same was not probed into. He is recommended for major punishment.

10. Undoubtedly, this report has also not collected evidence against the appellants and has relied upon their

information through discreet enquiry, indirect perception of ill reputation of corruption and living a life beyond their ostensible means which are also not subject of the charge sheet against them. A focused perusal of the regular enquiry would show that the same is like more a fact finding enquiry than a regular enquiry against the appellants. The report of the regular enquiry convey as if it did not focus on the charge sheets framed against the appellants and has uttered contradictory stances when statement of Younis Javed Mirza against Inspector Shakeel Ahmad was found wrong but later on relied upon.

11. The above discussion in view, this cannot be denied that appellants Shakeel Ahmad and Amin Khan were in the subordination of Younis Javed Mirza, Deputy Commandant FRP, who has signed the merit list of the candidates and has also signed on the appointment letters, so is the case of appellant Noor Muhammad who was subordinate to Hashmat Ali Zaidi. Being subordinate to Younis Javed Mirza, and Hashmat Ali Zaidi, the appellants were legally bound to render all legal and official assistance to their bosses. None of the committees whether fact finding or the regular, has taken pains to bifurcate the lawful & official assistance of the appellant from their unlawful and malafide corrupt assistance, hence this Tribunal is unable to draw a distinctive line between the two in the process of these selections/recruitments. Consequently, the Tribunal is constrained to observe that for the lack of solid evidentiary materials on record, we cannot infer that the

ATTESTED



assistance rendered by the appellants was unlawful, irregular, prompted by malafide and extraneous consideration. In our view, the CPO should have constituted a regular enquiry under the headship of a non police authority with the professional assistance of the police officers.

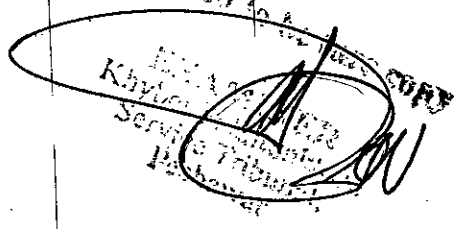
12. Perusal of the original impugned order shows that no opportunity of final show cause notice or personal hearing has been provided to the appellants. Similarly the impugned order of the appellate authority dated 3.2.2015 shows that he concluded that the appellants are corrupt and lived a life beyond their known means of substance and has further held that the same is established on record. We are afraid that the Tribunal cannot agree with this findings of the appellate authority as we have already stated in this judgment that no evidence of corruption of the appellant has been collected by the enquiry committee and further that the same was not the charges in the charge sheet against the appellants. It was also pointed out during the course of arguments that Younis Javed Mirza has been only demoted to the rank of DSP. The appellants, have, on the other hand, been compulsorily retired. Similarly, Hashmat Ali Zaidi was found innocent like appellant Noor Muhammad who was also found innocent and exonerated by the committee but he was also awarded punishment by the competent authority.

13. In the light of the foregoing entire discussion, the Tribunal has no option but to hold that the impugned orders

cannot be maintained and liable to be set aside. Though irregularities and illegalities were committed in the process of selection/recruitments is established by the two enquiry committees cited above of the constables but who did it, how and for what reason and what role was played by appellants in this whole game, we may observe that to sift grain from chaff the department may embark upon denovo proceedings against appellants which should be concluded within a period of 45 days after receipt of this judgment. Back benefits shall be subject to the outcome of the proceedings denovo. Needless to mention that the impugned orders are set aside and appellants are reinstated into service to face proceedings denovo. Parties are left to bear their own costs. File be consigned to the record room.

Edy Pir Bahadur Shah, member
Edy Akbar Latif, member

ANNOUNCED
 13.11.2015.

Certified to be a true and correct copy


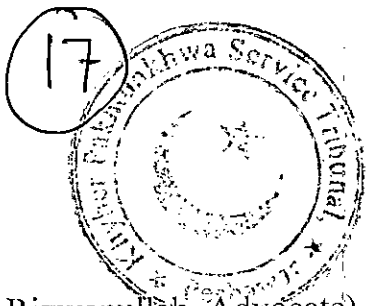
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1369/2014, Amin Khan



13.11.2015

Appellant with counsel (Mr. Rizwanullah, Advocate) and Sr. Government Pleader (Mr. Usman Ghani) with Falak Nawaz, DSP (Legal) for the respondents present. Arguments heard and record perused. Vide our detailed judgment of to-day in connected appeal No. 1340/2014, titled " Shakeel Ahmad Versus Provincial Police Officer, KPK Peshawar etc.", this appeal is also disposed off as per detailed judgment. Parties are left to bear their own costs. File be consigned to the record.

ANNOUNCE
13.11.2015

Certified to be true copy
Khyber Pakhtunkhwa Service Tribunal
Peshawar

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Annex-B

(18)

Respected Sir,

I was compulsory retired from service vide DIG/Headquarters, Khyber Pakhtunkhwa Peshawar order No. 1522-58/SE-II, dated 19.08.2014.

Vide Service Tribunal Khyber Pakhtunkhwa judgment dated 13.11.2015, set aside the order of compulsory retirement (attested copy of judgment is attached).

I submit my arrival report as per judgment.

Dated: 23.11.2015

(Signature)

(Amin Khan)
Sub Inspector,
CPO Peshawar

23/11/2015

Registrar

S. S. Khan
P. P. Khan

P. P. Khan
23/11/15

plz process

(Signature)
23/11/15

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR.

Execution Petition No. 10/2016

IN

Service Appeal No. 1369/2014

Amin Khan..... (Petitioner)

VERSUS

Provincial Police Officer and others (Respondents)

Subject:- IMPLEMENTATION REPORT

Respondent very humbly submits implementation report as follows:-

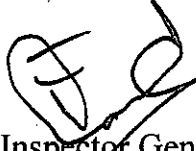
1. That petitioner was compulsorily retired from service and he after exhausting departmental remedies filed Service Appeal No. 1369/2014 which was accepted vide order dated 13.11.2015 wherein the respondent department was directed to conduct de-novo enquiry proceedings.
2. That the judgment was compiled on 23.11.2015 and respondents implemented the judgment soon after its receipt vides order No. S/5652/15 dated 27.11.2015. Copy of the order is enclosed as Annexure-A.
3. That an enquiry committee comprising Regional Police Officer Kohat and Superintendent of Police of Enquiry & Inspection CPO, Peshawar was constituted for de-novo enquiry proceedings with directions to complete the proceedings within stipulated period of 45 days.
4. That later on Deputy Inspector General of Police Kohat Region Kohat, pointed out that he was member of the preliminary enquiry committee in the instant departmental proceedings therefore, assigning the task of de-novo regular enquiry proceedings to his office was against the law and rules on the subject matter.
5. That respondent in order to ensure fair and transparent proceedings issued fresh order No. S/5759 dated 03.12.2015 wherein the Regional Police Officer, Kohat was replaced by Regional Police Officer Bannu. Copy enclosed as Annexure-B.

6. The enquiry report was received vide letter No. 128/E&I dated 12.01.2016 and final show cause notice was issued to petitioner on 27.01.2016 and he submitted reply in response to the final show cause notice on 01.02.2016. Petitioner was summoned for personal hearing on 10.02.2016 and he produced order of this Honorable Tribunal dated 29.01.2016 wherein the respondents were directed not to issue final order in the instant departmental proceedings against the petitioner.

7. That the respondents implemented the judgment by issuing reinstatement in service order dated 27.11.2015 of petitioner and he was summoned for personal hearing on 10.02.2016 after receipt of his reply submitted in response to the Final Show Cause notice and he produced order of this Honorable Tribunal with directions to stop issuance of final order.

In view of the position explained above, the respondent has implemented the judgment of the Service Tribunal by issuing reinstatement in service order of petitioner and constitution of committee for de-novo enquiry, issuance of Final Show Cause notice to petitioner and summoning him for personal hearing but the petitioner approached this Honorable Tribunal for stopping departmental proceedings. Therefore, petitioner has wrongly approached this Honorable Tribunal as the judgment of the Tribunal has already been executed.

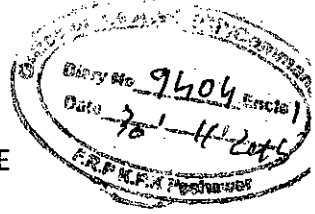
It is therefore requested that the execution petition may be filed and order passed in the application for interim relief may be recalled and respondent may be allowed to pass final order in the de-novo departmental proceedings initiated against petitioner.


Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.
(Respondent No.1)

Annexure: A



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
Central Police Office, Peshawar



No. 45652/15

dated Peshawar, the 27/11/2015.

ORDER

This order is passed in compliance with the consolidated judgment of Khyber Pakhtunkhwa, Service Tribunal, Peshawar dated 13.11.2015 passed in Service Appeals No. 1340/2014, 1369/2014 and 1370/2014 filed by Shakil Ahmed Ex-Inspector (FRP) Amin Khan Ex-SI (FRP) and Noor Muhammad Ex-SI (FRP) respectively against their compulsory retirement from service orders.

All the three appellants were proceeded against departmentally on charges of facilitating and conniving irregular recruitment in FRP and the departmental proceedings culminated in passing the orders of their compulsory retirement from service and their departmental appeal/review petition were also rejected.

The Service Tribunal remanded the case to the department for de-novo departmental proceedings. The Tribunal observed that admittedly commission of irregularities in the recruitment in FRP in the year 2013, is established during facts finding and regular enquiry but who did it, how and for what reasons and what role was played by appellants in this whole game.

In view of the above, all the three appellants are reinstated in service for the purpose of de-novo enquiry proceedings and enquiry committee comprising the following officers is constituted for conducting de-novo enquiry proceedings against all the three appellants.

1. Dr. Istiaq Ahmed Marwat (Regional Police Officer, Kohat) (Chairman)
2. Mian Naseeb Jan (superintendent of Police Enquiry CPO) (Member)

The enquiry committee shall complete the proceedings within 25 days as the Service Tribunal has prescribed 45 days period of completion of the enquiry proceedings. The enquiry committee shall provide full chance of hearing and defense to the accused officer and shall conduct enquiry in the light of observation contained in the judgment of Service Tribunal.

Sd/-
NASIR KHAN DURRANI
Inspector General of Police,
Khyber Pakhtunkhwa,

Peshawar

No. 5/5853-59/15 dated Peshawar, the 127.11/2015.

Copy of the above is forwarded to the:-

1. The chairman and member of the committee.
2. Commandant Frontier Reserve Police Khyber Pakhtunkhwa, Peshawar with reference to his office memo No. 9784/SI Legal dated 25.11.2015.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar
4. Superintendent of Police Kohat.
5. AIG/Legal CPO, Peshawar.
6. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.

SI Legal

Muhammad Alam Shinwari
DIG/HQrs:

For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar

COMMANDANT
Frontier Reserve Police
Khyber Pakhtunkhwa
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR.

Execution Petition No. 10/2016

IN

Service Appeal No. 1369/2014

Amin Khan..... (Petitioner)

VERSUS

Provincial Police Officer and others (Respondents)

Subject:- IMPLEMENTATION REPORT

Respondent very humbly submits implementation report as follows:-

1. That petitioner was compulsorily retired from service and he after exhausting departmental remedies filed Service Appeal No. 1369/2014 which was accepted vide order dated **13.11.2015** wherein the respondent department was directed to conduct de-novo enquiry proceedings.
2. That the judgment was compiled on **23.11.2015** and respondents implemented the judgment soon after its receipt vides order No. S/5652/15 dated **27.11.2015**. Copy of the order is enclosed as **Annexure-A**.
3. That an enquiry committee comprising Regional Police Officer Kohat and Superintendent of Police of Enquiry & Inspection CPO, Peshawar was constituted for de-novo enquiry proceedings with directions to complete the proceedings within stipulated period of 45 days.
4. That later on Deputy Inspector General of Police Kohat Region Kohat, pointed out that he was member of the preliminary enquiry committee in the instant departmental proceedings therefore, assigning the task of de-novo regular enquiry proceedings to his office was against the law and rules on the subject matter.
5. That respondent in order to ensure fair and transparent proceedings issued fresh order No. S/5759 dated **03.12.2015** wherein the Regional Police Officer, Kohat was replaced by Regional Police Officer Bannu. Copy enclosed as **Annexure-B**.

6. The enquiry report was received vide letter No. 128/E&I dated 12.01.2016 and final show cause notice was issued to petitioner on 27.01.2016 and he submitted reply in response to the final show cause notice on 01.02.2016. Petitioner was summoned for personal hearing on 10.02.2016 and he produced order of this Honorable Tribunal dated 29.01.2016 wherein the respondents were directed not to issue final order in the instant departmental proceedings against the petitioner.
7. That the respondents implemented the judgment by issuing reinstatement in service order dated 27.11.2015 of petitioner and he was summoned for personal hearing on 10.02.2016 after receipt of his reply submitted in response to the Final Show Cause notice and he produced order of this Honorable Tribunal with directions to stop issuance of final order.

In view of the position explained above, the respondent has implemented the judgment of the Service Tribunal by issuing reinstatement in service order of petitioner and constitution of committee for de-novo enquiry, issuance of Final Show Cause notice to petitioner and summoning him for personal hearing but the petitioner approached this Honorable Tribunal for stopping departmental proceedings. Therefore, petitioner has wrongly approached this Honorable Tribunal as the judgment of the Tribunal has already been executed.

It is therefore requested that the execution petition may be filed and order passed in the application for interim relief may be recalled and respondent may be allowed to pass final order in the de-novo departmental proceedings initiated against petitioner.

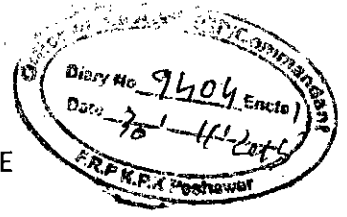


Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.
(Respondent No.1)

Annexure: A ✓



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
Central Police Office, Peshawar



No. 45652/15

dated Peshawar, the 27/11/2015.

ORDER

This order is passed in compliance with the consolidated judgment of Khyber Pakhtunkhwa, Service Tribunal, Peshawar dated 13.11.2015 passed in Service Appeals No. 1340/2014, 1369/2014 and 1370/2014 filed by Shakil Ahmed Ex-Inspector (FRP) Amin Khan Ex-SI (FRP) and Noor Muhammad Ex-SI (FRP) respectively against their compulsory retirement from service orders.

All the three appellants were proceeded against departmentally on charges of facilitating and conniving irregular recruitment in FRP and the departmental proceedings culminated in passing the orders of their compulsory retirement from service and their departmental appeal/review petition were also rejected.

The Service Tribunal remanded the case to the department for de-novo departmental proceedings. The Tribunal observed that admittedly commission of irregularities in the recruitment in FRP in the year 2013, is established during facts finding and regular enquiry but who did it, how and for what reasons and what role was played by appellants in this whole game.

In view of the above, all the three appellants are reinstated in service for the purpose of de-novo enquiry proceedings and enquiry committee comprising the following officers is constituted for conducting de-novo enquiry proceedings against all the three appellants.

1. Dr. Istiaq Ahmed Marwat (Regional Police Officer, Kohat) (Chairman)
2. Mian Naseeb Jan (superintendent of Police Enquiry CPO) (Member)

The enquiry committee shall complete the proceedings within 25 days as the Service Tribunal has prescribed 45 days period of completion of the enquiry proceedings. The enquiry committee shall provide full chance of hearing and defense to the accused officer and shall conduct enquiry in the light of observation contained in the judgment of Service Tribunal.

Sd/-
NASIR KHAN DURRANI
Inspector General of Police,
Khyber Pakhtunkhwa,

Peshawar

No. 5853-59/15 dated Peshawar, the 27.11/2015.

Copy of the above is forwarded to the:-

1. The chairman and member of the committee.
2. Commandant Frontier Reserve Police Khyber Pakhtunkhwa, Peshawar with reference to his office memo No. 9784/SI Legal dated 25.11.2015.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar
4. Superintendent of Police Kohat.
5. AIG/Legal CPO, Peshawar.
6. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.

SI Legal

Muhammad Alam Shinwari
DIG/HQrs:

For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar

COMMANDANT
Frontier Reserve Police
Khyber Pakhtunkhwa
Peshawar



Annexure: B

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
Central Police Office, Peshawar

No. S/5759 / , Dated Peshawar the 03/12/2015

ORDER

In continuation of this office order No. S/5652/15, dated 27.11.2015.

A new panel of the following officers is hereby replaced to conduct
Denovo proceeding against Inspector Shakil Ahmad alongwith others:-

1. Mr. Muhammad Tahir,
RPO/Bannu
2. Mian Naseeb Jan,
SP/ E & I, CPO

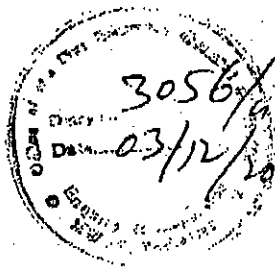
Sd/-

NASIR KHAN DURRANI
Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar

No. S/5760-67/15,

Copy of above w/r to this office order endst: No. S/5653-59/15, dated
27.11.2015 is forwarded to the:-

1. RPO/Bannu and RPO Kohat.
2. Commandant, FRP, Khyber Pakhtunkhwa, Peshawar.
3. SP/E & I CPO.
4. PSO to IGP/Khyber Pakhtunkhwa, Peshawar.
5. Supdt: of Police, Kohat.
6. AIG/Legal CPO, Peshawar.
7. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.



(MUHAMMAD ALAM SHINWARI)
DIG/HQrs:

For Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.

POLICE TRAINING SCHOOL, N.-W.F.P.

SECTION COMMANDERS' COURSE.

Progress Sheet.

RESULT

Handwritten signature

Name: *221*
 Education: *10th*
 District of enlistment: *پشاور*
 Course commenced: *1-88* Course concluded: *20-3-88*

Principal,
P.T.S., N.-W.F.P.

EXAMINATIONS.

REPORTS BY STAFF

Subjects	Possible	Obtained	C.D.I.
Drill	50	33	C.D.I.
Legal Training	50	32	
Exercises	20	13	R. I.
Duties	30	19	
Training (Care of Arms)	30	19	
Classification	30	17	
Drill	50	42	
Control Order	30	35	
Training and Tactical Scheme	50	18	
General Knowledge	20	13	
Shooting	30	18	
Shooting	30	12	
Grand Total	500	313	

Leadership: *Good*
 Smartness: *Good*
 Initiative: *Good*
 Conduct

ASSAULT COURSE.

Time—
 (Allowed) *M - 9*
 Points—
W - 5
 Remarks
62.06%

HEALTH.

HOSPITAL SHEET.

MEASUREMENT

Cause of admission	Date of admission	Date of discharge	Days spent in Hospital		Weight (lbs.)	Height (inches)	Chest	
							Mo.	In.
/	/	/	/	On joining	125	5-8	34	36
				On leaving	125	5-8	34	36 1/2

PRINCIPAL'S REPORT AND GENERAL REMARKS

Passing

Handwritten signature

Principal,
Police Training School,
North-West Frontier Province.

PLATOON COMMANDER'S COURSE.

Progress Sheet.

Result. *3rd III*

771..... Name.. **MOHD. AMIN**
 1968..... Education *10th*
 of residence... **PESHAWAR**
 of enrolment... **PESHAWAR**
 commenced... **30-6-96**
 concluded... **30-9-96**

Principal,
Police Training School,
Hangu.

EXAMINATION

Subjects.	Possible marks	Marks Obtained	Report by Staff.
Band Drill	50	31	Leadership... <i>Good</i>
Physical Training	50	31	CDI. Smartness... <i>Good</i>
Field Exercise	50	14	Initiative... <i>Good</i>
Guard Duty	30	22	R. I. Conduct.....
Weapon Training Care of Arms	30	18	
First Aid	50	-	Assault Course
Language Classification	100	58	Time
Band Drill	50	34	Allowed <i>M-9</i>
W. I. Code Fire Control Order	30	18	Points
Field Training and Tactical Scheme	50	31	Remarks <i>W-6</i>
General Knowledge	50	14	
W. T. Aiming	30	19	
W. T. Firing	30	18	
Night Firing	-	-	
TOTAL	520	309	63.06 / 0

HEALTH

HOSPITAL SHEET

MEASUREMENT

Cause of admission	Date of admission	Date of Discharge	Days Spent in Hospital	Weight Lbs.	Height Inches	Chest	
						Max.	Min.
				63 kg	5-6 1/2	34	36
				63 kg	5-6 1/2		

PRINCIPAL'S REPORT AND GENERAL REMARKS

[Signature]
 Commandant
 Police Training College
 Hangu
 Police Training School, Hangu.

[Handwritten Urdu notes]
 51/COY-Commandant
 30/9/96

PROGRESS SHEET OF WEAPON TRAINING COURSE AT POLICE TRAINING SCHOOL, HANGU.

Consty. No. > 21 Rank Name District

From 1.1.87 To 2.3.87

B. B.

1. Bren Gun Instruction.	50	29
2. Bren Gun Firing Long Range.	III	73
3. Rifle Arms Instruction	25	16
4. Rifle Aiming	25	16
5. Rifle Firing.	25	15
6. Sten Gun	30	18
7. Rifle Long Range.	80	49
8. Sten Gun Firing Short Range.	100	-

9. Revolver Instruction.	24	15
10. Revolver Short Range Firing.	50	-
11. 2" Martar Instruction.	25	15
12. 2" Martar Instruction	30	17
13. Bayonet.	30	18
14. Fire Control Order.	30	18
	635	299
	485	

III class passed

1. Capable to train a G. P. independently.....
2. Capable to train a G. P. under supervision.....
3. Capable to train a Sqd. independently.....
4. Capable to train a Sqd. under supervision.....
5. Unlikely to become an Instructor.....

1. Knoweldge.....: *Good*.....
2. Instr. ability..... *Good*.....
3. Handling..... *Good*.....
4. Control..... *Good*.....
5. Turn out..... *Good*.....

General Remarks.

Passed

Travis Hand
Principal,
Police Training School,
Hangu.

14. COMMENTARY ENTRIES

Serial No.

Weapon Training Course.

Passed the weapon training

course for the term ending 20/3/82

for ssp/pt

OR No. 257
dt 19/5/82

sect. Commander course.

passed the sect. Commander course held

at P/S/Hongu letter no 3691-3701

at 26/5/82 for the term ending 20/3/82

OR No. 277
dt 9/6/82

for ssp/pt

Granted a ce class III by ssp/pt
for his good duty with cash reward

OR No. 3501

dt: 17.9.90

for ssp/pt

Granted a ce class III by ssp/pt
for his good duty with cash reward

OR No. 311
dt 21.1.91

for ssp/pt

14. COMMEMORATORY ENTRIES—contd.

Granted acc. class III by S.P. Felgauer
 for his good duty with Cdn. Rewards Rs. 200/-
 A.B.N. 2952
 9.8.7-93

PLATOON COMMANDER (contd.)

Passed Platoon command course for the
 term ending No 20-9-96 de.
 5173
 12.7-1996
 For S.P. 12.5.96

Grants of A.C.C. class II B.Y.C. 1996
 For his good work with command
 12.5.1996
 A.B.P. 2624
 19-11-2000
 C.C.P.



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
Central Police Office, Peshawar

No. S/7456-66/16, Dated Peshawar the 16/11/2016.

ORDER

This order is passed in departmental proceedings initiated against Noor Muhammad SI/PC (herein after referred to as accused officer) the then OSI/FRP Kohat. Facts forming the background of the departmental proceedings are as under:-

That accused officer was compulsorily retired from service vide order No. 1559-94/SE-II, dated 19.08.2014 of this office and his departmental appeal was also rejected, thereafter, he filed Service Appeal No. 1370/2014 which was accepted vide order dated 13.11.2015, and case was remanded to the department for de-novo enquiry proceedings. The accused officer was re-instated in service in view of the judgment of the Service Tribunal and enquiry committee was comprise of Regional Police Officer, Bannu and SP/E&I CPO Peshawar was constituted for conducting de-novo enquiry proceedings.

The enquiry committee submitted finding report and held the accused officer guilty of the charges leveled in the charge sheet. Final Show Cause Notice was issued to accused officer vide No. S/732/16, dated 27.01.2016. He was summoned for personal hearing but he produced status quo order issued by the Service Tribunal, therefore, the proceedings were kept pending.

On 28.10.2016, the Service Tribunal vacated the stay order therefore, the accused officer was summoned on 02.11.2016 and heard in person in detail. The inquiry file gone through. Perusal of the record reveals that accused officer while posted as OSI/FRP Kohat facilitated irregular recruitment in FRP and accused officer failed to defend the charges during inquiry proceedings and personal hearing. According to the inquiry officer the accused officer has failed to comply with Police Rules 12.40. Furthermore, according to the earlier inquiry reports accused officer was involved in corruption and corrupt practices.

Though the charge is grave in nature yet in view of long service of about 28 years at the credit of accused officer penalty of compulsory retirement from service is imposed on accused officer. The intervening period i.e the date when he was initially compulsorily retired from service and the date when he was re-instated in service is considered as leave of the kind due.

(MUHAMMAD ALAM SHINWARI)
DIG/HQrs:

For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

Endst: No. & date even

Copy of the above is forwarded to the:

1. Commandant, FRP, Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer, Peshawar.
3. District Police Officer, Karak.
4. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
5. PRO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
6. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
7. PA to AIG/Establishment CPO, Peshawar.
8. Office Supdt: E-II, E-IV CPO Peshawar.
9. Central Registrar, CPO.

VAKALATNAMA

BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Execution Petition
Service Appeal No. _____ /2016

Amin Khan

APPELLANT / PETITIONER

VERSUS

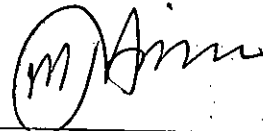
The Provincial Police Officer etc

RESPONDENTS

I Amin Khan, do hereby appoint Rizwanullah, Advocate, Peshawar to appear, plead, act, compromise, withdraw or refer to arbitration for me as my 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 costs.

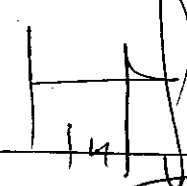
I authorize the said Advocate to deposit, withdraw and receive on my behalf all sums and amounts payable or deposited on my account in the above noted matter. The Advocate/Counsel is also at liberty to leave my case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me.

Dated: 26-1 /2016



CLIENT

Approved & Accepted



MR. RIZWANULLAH
Advocate High Court