EP 241/17

09.04.2019

Petitioner in person and Addl. AG alongwith Habib Khan, Inspector (Legal) for the appellant present.

In pursuance to order dated 09.01.2019, the representative of respondents has produced corrigendum dated 28.01.2019 through which the reinstatement order of petitioner has been made effective from the date of dismissal i.e. 10.05.2016.The appellant has affirmed his joining of duty.

In the circumstances the execution proceedings in hand appear to have reached logical conclusion. The same are, therefore, consigned. The petitioner shall, however, be at liberty to have the proceedings restored in case any portion of his grievance remained un-satisfied.

Chairmar

ANNOUNCED 09.04.2019 09.01.2019

Counsel for petitioner and Addl. AG alongwith Habib Khan Inspector legal for the respondents present.

Learned counsel for the petitioner states that the order passed by respondents on 24.04.2018, though requires reinstatement of petitioner but with immediate effect and conditional to the outcome of proceedings in CPLA at the Apex Court. For the time being the petitioner does not grudge the said condition, however, the reinstatement with immediate effect i.e. 24.04.2018 is not in line with the judgment of this Tribunal under implementation as the order impugned therein requiring dismissal of appellant from service set at naught. In his view. was the petitioner/appellant should have been reinstated from the date the order impugned in the appeal was passed i.e. 10.05.2016.

Prima facie, the order of reinstatement dated 24.04.2018 is erroneous to the extent of its applicability with immediate effect. The representative of respondents shall produce corrigendum/correct order on the next date wherein the error is removed in accordance with judgment under implementation. To come up on 04.03.2019 before S.B

Chairman

04.03.2019

Learned counsel for the petitioner present and seeks adjournment. Adjourn. To come up for further proceedings on 09.04.2019 before S.B

Member

E.P No. 241/2017

04.10.2018

Petitioner in person present. Mr. Ziaullah, Deputy District Attorney alongwith Mr. Farman Gul, S.I for the respondents present. Implementation report submitted, which is placed on record. Petitioner requested for adjournment to examine the same. Adjourned. To come up for further proceedings on 20.11.2018 before S.B.

> (Muhammad Amin Khan Kundi) Member

20.11.2018

Counsel for the petitioner present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Farmani Gul, S.I for the respondents present. Respondent-department has submitted implementation report on the previous date. Today learned counsel for the petitioner expressed that he has objection on the same therefore, to come up for objection petition and arguments on the same on 09.01.2019 before S.B.

provide a second and a second dear of Muhammad Amin Khan Kundi a casolod at 05 80 25 no store of the Members

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Petitioner with counsel and Addl. AG alongwith Farmani 29.03.2018 Give the Gul, S.I for the respondents present. Requested for adjournment. Last opportunity is given for implementation Brand Bra report. To come up for implementation report on 02.05.2018 before S.B. 💈

Such Se. Petitioner in person, and Mr. Kabirullah Khattak, Additional AG for the respondents present. The Tribunal is non-functional due to retirement of our Hon'ble Chairman. Therefore, the case is adjourned. To come up for same on 24.07.2018.

24.07.2018

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02.05.2018

٠.:

Learned counsel for the petitioner and Mr. Muhammad Jan learned Deputy District Attorney present. Learned counsel for the petitioner seeks adjournment. Adjourned. To come up for implementation report on 29.08.2018 before S.B

Member

29.08.2018

Counsel for the petitioner and Mr. Kabirullah Khattak, Additional AG for the respondents present. Implementation report not submitted. Learned Additional AG seeks further adjournment. Adjourned. To come up for implementation report on 04.10.2018 before S.B.

(Muhammad Amin Khan Kundi) Member

FORM OF ORDER SHEET

. . .

Execution Petition No. 241/2017 S.No. Date of order Order or other proceedings with signature of Judge Proceedings 2 1 3 18.12.2017 The Execution Petition of Mr. Adnan Gul submitted to-day by Mr. 1 Taimur Ali Khan Advocate may be entered in the relevant Register and put up to the Court for proper order please. . I S 3 4 REGISTRAR IRLININ 22/12/17. This Execution Petition be put up before S. Bench on-2-29/12/17. 1 29.12.2017 Clerk of the counsel for the petitioner present and Adl: AG present. Notice be issued to the respondents for implementation report positively, on 20.02.2018 before S.B. 4 (han) Member (E) 的。如何都不知道。 Counsel for the petitioner present and Mr. 20.02.2018 Muhammad Jan, DDA alongwith Bashir S.I (Legal) for . . . official respondents present. Implementation report not , · i submitted. Representative of the respondent department is directed to submit implementation report on the next date of C. at. hearing. To, come up for implementation report on Section of the ン29.03.2018 before S.B. $z \in \{\infty, \gamma\}$ and the second states of the second ę – in the second of the second se and the second second for setting the second for setting the second the second s

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

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ettes is more	Execution Petition No. $\frac{241}{7}$	2017 Khyber Servic	Pakhtukhwa e Tribunal
	In Service Appeal No.718/2016	Diary N	ic 1092
R/O Shahi Bala. M	instable No.258; ecitorad and for the motor	Sanc Dated-	18/12/201
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	VERSUS		
2. The Cap	vincial Police officer, KPK, Peshawa ital City Police Officer, Peshawar or Superintendent of Police, Traffic,	;	
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1. That the petitioner has filed service appeal No. 718/2016 against the orders dated 13.06.2016, whereby the departmental appeal of the appellant against the order dated 10.05.2016 wherein, penalty of dismissal from service has been imposed upon appellant has been rejected for no good grounds.

2. The appeal was finally heard by this august Tribunal on 30.10.2017 and the august Tribunal was kind enough to accept the appeal and reinstate the appellant into service. (Copy of judgment dated 30.310.2017 is attached as Annexure-A)

3. That the appellant filed application for the implementation of judgment of this august Tribunal and waited for more than one months to implement the judgment dated 30.10.2017 of this

<u>BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.</u>

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ADNAN GUL, Ex- Constable No. 258,

R/O Shahi Bala Mohallah Selean

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(APPELLANT) a second a straight of the er des gên la VERSUS

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1. The Provincial Police Officer, KPK, Peshawar.

2. The Capital City Police, Officer, Peshiwi? Course for the second of the 3. The Senior Superintendent of Police, Traffic, Peshawar. The Senior Superintendent of Police, Traffic, Peshawar. (RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNAL ACT, 1974 AGAINST THE ODER DATED 13.06.2016, WHEREBY THE DEPARTMENT APPEAL OF THE APPELLANT AGAINST THE ORDER CATED 10.05.2016, WHEREIN, PENALTY OF DISMOSAL TROM SERVICE HAS BEEN IMPOSED UPON APPELLANT HAS BEEN REJECTED FOR NO GROUNDS.

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THAT ON THE ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDER DATED 10.05.2016 AND 13.06.2016 MAY BE SET ASIDE AND THE APPELLANT MAY BE REINSTATED IN TO SERVICE WITH FIEdto-day ALL SACK AND CUNSEQUENTIAL BENEFITS. ANY OTHER EXAMPLE MARKED HAS AND AND AND AND AND AND AND APPROPRIATE IN CIRCUMSTANCES, MAY ALSO BE AWARDED IN FAYOUR OF APPELLANT.

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

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(RESPONDENTS)

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APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNAL ACT, 1974 AGAINST THE ODER DATED 13.06.2016, WHEREBY THE DEPARTMENT APPEAL OF THE APPELLANT AGAINST THE ORDER CATED 10.05.2016, WHEREIN, PENALTY OF DISMESAL FROM SERVICE HAS BEEN IMPOSED UPON APPELLANT HAS BEEN REJECTED FOR NO GROUNDS.

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THAT ON THE ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDER DATED 10.05.2016 AND 13.06.2016 MAY BE SET ASIDE AND THE APPELLANT MAY BE REINSTATED IN TO SERVICE WITH OC:C-CIDY ALL JACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REFLECT MINCHARS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE IN CIRCUMSTANCES, MAY ALSO BE AWARDED IN 91 FAYOUR OF APPELLANT.

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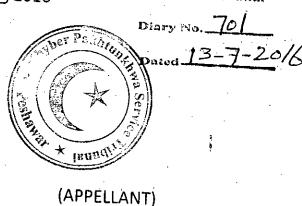
BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

APPEAL NO. 118 /2016

ADNAN GUL, Ex- Constable No. 258,

R/O Shahi Bala Mohallah Saidan

Distt & Teh; Peshawar.



VERSUS

- 1. The Provincial Police Officer, KPK, Peshawar.
- 2. The Capital City Police, Officer, Peshawar.
- 3. The Senior Superintendent of Police, Traffic, Peshawar.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNAL ACT, 1974 AGAINST THE ODER DATED 13.06.2016, WHEREBY THE DEPARTMENT APPEAL OF THE APPELLANT AGAINST THE ORDER DATED 10.05.2016, WHEREIN, PENALTY OF DISMISSAL FROM SERVICE HAS BEEN IMPOSED UPON APPELLANT HAS BEEN REJECTED FOR NO GROUNDS.

PRAYER:

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THAT ON THE ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDER DATED 10.05.2016 AND 13.06.2016 MAY BE SET ASIDE AND THE APPELLANT MAY BE REINSTATED IN TO SERVICE WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE IN CIRCUMSTANCES, MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.



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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUAL, PESHAWAR

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Appeal No. 718/2016

Date of Institution ... 13.07.2016

Date of Decision ... 3010.2017

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Adnan Gul, Ex-Constable No. 258, R/O Shahi Bala Mohallah Saidan District and Tehsil and Peshawar. ... (Appellant)

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and 2 others. ... (Respondents)

MR. FARMANULLAH KHALIL, Advocate

MR. MUHAMMAD JAN, Deputy District Attorney,

MR. NIAZ MUHAMMAD KHAN, MR. MUHAMMAD AMIN KUNDI,

JUDGMENT

<u>NIAZ MUTHAMMAD KHAN, CHAIRMAN.-</u> learned counsel for the parties heard and record perused.

FACTS

2. The appellant was dismissed from service due to absence from service on 10.05.2016. The departmental appeal was rejected on 13.06.2016. Thereafter, he filed the present service appeal on 13.07.2016.

For respondents.

For appellant

CHAIRMAN ATTESTED MEMBER Kingle Takenethwa Service Tolunal, Peshawar

Arguments of the

6. In view of the above discussion, the appeal is accepted and the appellant is reinstated in service. The intervening period shall be treated as leave of the kind due. Parties are left to bear their own costs. File be consigned to the record room.

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUAL, PESHAWAR

Appeal No. 718/2016

Date of Institution ... 13.07.2016

Date of Decision ... 3010.2017

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Adnan Gul, Ex-Constable No. 258, R/O Shahi Bala Mohallah Saidan District and Tehsil and Peshawar. ... (Appellant)

<u>VERSUS</u>

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and 2 others. ... (Respondents)

MR. FARMANULLAH KHALIL, Advocate

MR. MUHAMMAD JAN, Deputy District Attorney,

MR. NIAZ MUHAMMAD KHAN, MR. MUHAMMAD AMIN KUNDI,

JUDGMENT

NIAZ MUIHAMMAD KHAN, CHAIRMAN.-

learned counsel for the parties heard and record perused.

FACTS

2. The appellant was dismissed from service due to absence from service on 10.05.2016. The departmental appeal was rejected on 13.06.2016. Thereafter, he filed the present service appeal on 13.07.2016.

For respondents.

For appellant

CHAIRMANATTESTED MEMBER VER Fairmakhwa Service focunal, Peshawar Arguments of the

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ARGUMENTS.

3. The learned counsel for the appellant argued that the appellant was charged only for one day absence. That the very charge sheet is illegal because the appellant was sanctioned one day leave. That the original order imposing penalty of dismissal was mainly based on habitual absence of the appellant.

4. On the other hand, the learned Deputy District Attorney argued that the appellant is a habitual absentee and the enquiry was conducted and he was rightly dismissed from service.

CONCLUSION.

legalized.

5. In the original order dated 10.05.2016 the factum of one day casual leave has been mentioned. In the said order, the plea of the appellant regarding sanction of leave is also mentioned and that his departure could not be mentioned in the daily diary. But the authority had dismissed him from service not due to his one day absence but due to his habitual absence and bad entries in his service record. It is beyond understanding that how an official who was mainly charged due to absence without leave could be punished for his bad entries in record and his habitual absence when it was proved that he proceeded after sanction of leave for one day. Secondly the authority has himself converted his absence as leave without pay and in view of the judgment reported as 2006-SCMR-434, the absence has been



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6. In view of the above discussion, the appeal is accepted and the appellant is reinstated in service. The intervening period shall be treated as leave of the kind due. Parties are left to bear their own costs. File be consigned to the record room.

Announced St Miaz Muhammad Khan 30-10.2017 St Miaz Muhammad Khan Chaisman Sol M. Amin Khan Kundi, Mancher

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<u>Anne 11 core</u> B/ Finan 11. Constantes Druger i High String Mark Jille to

16448 ايدوكيت: شيم ولكي فجان باركوسل ايسوى ايشن نمبر: پثاوربارایسوی ا**ی**شن، خه الطنمير منجان[:] عم*ر مان کل* د مولیٰ اسل مدنان مل بنام مر المر جرم: يفي ک مقدمه مندرجه عنوان بالاميں اپنی طرف ہے واسطے پیروی وجواب دہی کاروائی متعلقہ آن مقام کر<u>نے اور کیلئے میں مطلح کال امیر کولیل م</u>قرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدہ کی کل کاردائی کا کامل اختبار ہوگا ، نیز وکیل صاحب کو راضی نامه کرنے وتقر رثالث و فیصله بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہرقتم کی تصدیق زریں پر دستخط کرنے کا اختیار ہو گا ، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی ، نیز دائر کرنے ایپل نگرانی ونظر ثانی و پیروی کرنے کا مختار ہو گا اور بصورت ضرورت مقدہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقر رکا اختیار ہوگا اور صاحب مقرر شدہ کو دہتی جملہ مذکورہ با اختبارات حاصل ہو ں کے اور اس کا ساختہ پر داختہ منظور و قبول ہو گا دوران مقدمہ میں جو خرچہ ہر جانبہ التوائے مقدہ 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 تا کہ سند رہے المرقوم مقام <u>ب اس وکالت نامه کی فو ٹو کا پی نا قابل قبول ہوگی .</u>

The Constant Roal 258 Long Egilian Automation and punishment of dispresen main sochus vice is stoffice endst: No. 431-35, PA dated 10.0512015. He und p printed in Service Tribunal Pashawar who set aside the aforesett-primeral operation of the unit and ordered that Gordanske Adnan Gul No. 206 is refinstaled

2. Consequent uses the decision of Honfable SeiVible Tribune Pashawar vice pudgeters areas No. 219/2016, delete 50.10.2015, deleter Adnan Gul No. 1358 Is teneby it tenstated conditionnity on the fatur dening period be treated as leave of the kind due vice international cha QPLA, filed by Police Dory is react in open solid to is decided.

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ORDER.

The Constable Adnan Gul No. 258 who was awarded major punishment of dismissal from service vide this office endst: No. 431-35/PA, dated 10.05.2016. He filed a petition in Service Tribunal Peshawar who set aside the aforesaid punishment order of this unit and ordered that Constable Adnan Gul No. 258 is re-instated.

2. Consequent upon the decision of Hon'able Service Tribunal -Peshawar vide judgment-order No. 718/2016, dated 30.10.2017, Constable Adnan Gul No. 258 is hereby re-instated conditionally and the intervening period be treated as leave of the kind due with immediate effect until the CPLA, filed by Police Department in apex court, is decided.

> SENIOR SUPERINTENDENT OF POLICE, TRAFFIC, PESHAWAR

C

No. 1/80-81/EC, dated Peshawar the 24/04/2018.

Copy for necessary action to the:-

1. SP Hqr: Traffic Peshawar.

2. SRC-II, OSI, PO Traffic Peshawar.

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ORDER.

The Constable Adnan Gul No. 258 who was awarded major punishment of dismissal from service vide this office endst: No. 431-35/PA, dated 10.05.2016. He filed a petition in Service Tribunal Peshawar who set aside the aforesaid punishment order of this unit and ordered that Constable Adnan Gul No. 258 is re-instated.

2. Consequent upon the decision of Hon'able Service Tribunal Peshawar vide judgment order No. 718/2016, dated 30.10.2017, Constable Adnan Gul No. 258 is hereby re-instated conditionally and the intervening period be treated as leave of the kind due with immediate effect until the CPLA, filed by Police Department in apex court, is decided.

> SENIOR SUPERINTENDENT OF POLICE, TRAFFIC, PESHAWAR

Q

No. //80-8//EC, dated Peshawar the 29 /04/2018.

Copy for necessary action to the:--

1. SP Hqr: Traffic Peshawar.

2. SRC-II, OSI, PO Traffic Peshawar.

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CHITE TRAFFIC OFFICER,

A. S. M. A. S. Martin, M. S. Martin, M. M. S. M. D. S. M. S

CORRIGENDUM.

This office order issued vide Endst: No. 1180-81/EC, dated 24.04.2018 wherein Constable Adnan Gul No. 258 was re-instated in service with immediate effect i.e from 24.04.2018. The reinstatement order of aforesaid Constable be considered from the date of dismissal i.e 10.05.2016 as per order issued from the Service Tribunal Peshawar.

TRAFFIC ØFFICER, PESHAWAR

No. 3c8 /EC, dated Peshawar the 38/01/2019

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

SP Hqr: City Traffic Police, Peshawar. 1.

Ì Inspector Legal City Traffic Police, Peshawar.

3. SRC-II, OSI and PO City Traffic Police, Peshawar.

