


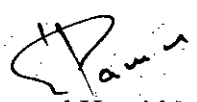


FORM OF ORDER SHEET

Execution Petition No. 208/2017

S.No.	Date of order Proceedings	Order or other proceedings with signature of Judge
1	2	3
1	14.11.2017	<p>The Execution Petition of Mr. Sheeraz submitted to-day by Mr. Javed Ali Ghani 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-	17/11/2017.	<p>This Execution Petition be put up before S. Bench on <u>19/12/17.</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	14.11.2017	<p>Counsel for the petitioner and Asst: AG for respondents present. Notices be issued to the respondents for submission of implementation report. To come up for implementation report on 2501.2018 before S.B.</p> <p style="text-align: right;"> (AHMAD HASSAN) MEMBER</p>
25.01.2018		<p>None present on behalf of petitioner and Mr. Kabir Ullah Khattak, Learned Additional Advocate General for the respondents present. Case called for several times but no one appeared on behalf of the appellant, therefore the present case is dismissed in default. File be consigned to the record room.</p> <p style="text-align: right;"> (Muhammad Hamid Mughal) MEMBER</p>

BEFORE SERVICE TRIBUNAL, K.P.K. PESHAWAR.

Service Appeal

Execution Petition no. 208/17

Sheraz KhanVersus D.I.G. etc.

I N D E X

S.No.	Description of documents	Pages
1.	Application/Petition	1 - 2
2.	Copy of judgment and order dated 9-08-2017	3 - 6
3.	Wakalat Nama	0 - 7

Appellant

Sheraz Khan

through

(Javed Ali Ghani)
Advocate, Peshawar

Cell No. 0313-9407599

BEFORE THE CHAIRMAN KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL, PESHAWAR.

1

Execution Petition no- 208/2017

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 944

Dated 14-11-17

Service Appeal No.65/2015

Sheeraz Khan

Ex-Constable No.153 District NowsheraAppellant

Versus

- 1) Deputy Inspector General of Police, Mardan
- 2) District Police Officer, Nowshera
- 3) Inspector General of Police, KP, Peshawar..... Respondents

APPLICATION FOR IMPLEMENTATION
OF JUDGMENT AND ORDER DATED
09.08.2017 OF THE APPLICANT/
PETITIONER VIDE WHICH THIS HON'BLE
COURT REINSTATE THE APPLICANT
AND SET ASIDE THE ORDER OF
TERMINATION DATED 01.10.2014 AND
28.11.2014 OF THE RESPONDENTS.

Prayer:

On acceptance of this application, the order
dated 09.08.2017 may please be implemented/
executed by directing the respondents in its
letter and spirit whereof from 09.08.2017 with
all back benefits.

Respectfully Sheweth;

- 1) That the appellant/ applicant filed an appeal before this Hon'ble
Tribunal was decided on 09.08.2017 in favour of appellant. (Copy
annexed).

- 2) That the appellant approached the respondents after lapse of quite sufficient time and delivered the judgment and order of this Hon'ble Tribunal for its implementation/ execution.
- 3) That the respondents considered the case of appellant for quite length of time however, no reply or any order in respect to its implementation and reinstatement of applicant was ordered.
- 4) That the applicant time and again approached the respondents for his reinstatement and implementation of the order dated 09.08.2017 of this Hon'ble Tribunal but no reply or order was issued in regard to the implementation of the aforesaid order of this Hon'ble Tribunal.
- 5) That the applicant have no other adequate remedy but to approach this Hon'ble Tribunal in this implementation/ execution petition for the same.

It view of above facts, it is, therefore, humbly prayed that the order dated 09.08.2017 of this Hon'ble Tribunal may please be implemented/ executed with all back benefits from 09.08.2017 till the disposal of instant application.

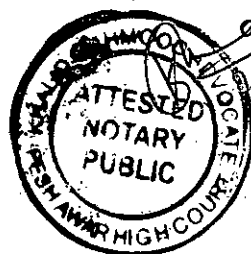
Applicant

Through

Javed Ali Ghani
Advocate, Peshawar.

AFFIDAVIT

I, do hereby affirm and declare on oath that the contents of the appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.



Deponent

Javed Ali Ghani

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KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 1965 /ST

Dated 28 /8 / 2017

To


The District Police Officer,
Government of Khyber Pakhtunkhwa,
Nowshera.

Subject: -

JUDGMENT IN APPEAL NO. 65/2015. MR. SHERAZ KHAN.

I am directed to forward herewith a certified copy of Judgement dated 09.08.2017 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

ner

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

SERVICE APPEAL NO. 65/2015

Date of institution ... 31.12.2014
Date of judgment ... 09.08.2017



Sheraz Khan Ex-Constable No. 153, S/o Mehr Rehman
R/o Jabba Daudzai, District Nowshera.

... (Appellant)

VERSUS

1. Deputy Inspector General of Police, Mardan.
2. District Police Officer Nowshera.
3. Inspector General of Police KPK, Peshawar.

... (Respondents)

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, AGAINST THE ORDER DATED 28.11.2014 (RECEIVED ON 10.12.2014) OF RESPONDENT NO. 1 VIDE WHICH THE DEPARTMENTAL APPEAL OF THE APPELLANT WAS DISMISSED AND AGAINST THE ORDER DATED 01.10.2014 OF RESPONDENT NO. 2 VIDE WHICH THE APPELLANT WAS DISMISSED BY AWARDED MAJOR PUNISHMENT.

Mr. Javed Ali, Advocate.

.. For appellant.

Mr. Ziaullah, Deputy District Attorney

.. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI

.. MEMBER (JUDICIAL)

MR. MUHAMMAD HAMID MUGHAL

.. MEMBER (JUDICIAL)

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER:- This appeal has been filed under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 01.10.2014 whereby the appellant was dismissed from service as well as against the order dated 28.11.2014 whereby his departmental appeal was also rejected.

2. Facts of the case as per memo of the appeal are that the appellant was appointed in Police Department as Constable on 27.08.2010 and was performing his duty to the satisfaction of the superior. However, during his service he was removed from service

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal

M. Amin
9.8.2017



absence vide order dated 01.10.2014 for the reason that he was absent from duty since 12.06.2014 to 11.08.2014 for about two months. He also filed departmental appeal but the same was also dismissed hence the present service appeal. (5)

3. The respondents were summoned who contested the appeal by filing written reply/comments.

4. Learned counsel for the appellant contended that the respondents has removed the appellant from service vide order dated 01.10.2014 for the reason that he was absent from duty from 12.06.2014 to 11.08.2014. It was further contended that as per impugned order statement of allegation and charge sheet was framed on 18.06.2014 therefore, the disciplinary proceedings was initiated against him just after five days. It was further contended that infact the appellant was seriously ill and the medical officer also issued prescription and advised him for bed rest and the photo copy of the said prescription and advise of the doctor is available on record. It was further contended that respondent No. 3 District Police Officer Nowshera has also treated the absence period of the appellant as leave without pay. It was further contended that the respondents have imposed major penalty by dismissing him from service, therefore, the same is illegal and is not commensurate with his alleged absence period, therefore, prayed for acceptance of appeal.

5. On the other hand, learned Deputy District Attorney Mr. Ziaullah opposed the contention of learned counsel for the appellant and contended that the appellant was willfully absent from duty for a period of two months and thereafter charge and statement of allegation was served upon him and proper inquiry was conducted and thereafter he was rightly dismissed from service. It was further contended that the appellant has not denied the absence from duty nor he has justified the same, therefore, the respondents have rightly dismissed him from service and prayed for dismissal of appeal.

6. We have heard the arguments on both side and gone through the record available on file.

7. Perusal of the record reveals that as per impugned order the appellant was dismissed from service mainly for the reasons that he was absent from 12.06.2014 to 12.08.2014 for a period of two months but as per impugned order statement of allegations and charge sheet

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

M. Amin
9.8.2017

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was framed on 18.06.2014 meaning thereby that after six days of alleged absence departmental proceeding was initiated against him. Moreover, the competent authority has also treated his period of absence as leave without pay therefore, he has regularized his absence period. Though a proper inquiry was conducted against the appellant but the punishment imposed by the respondents upon the appellant of dismissal from service is harsh and is not in commensurate with the alleged absence period, therefore, we are constrained to partially accept the appeal and modify/convert the major punishment of dismissal from service into reduction of three stages in time scale for a period of three years and the period during which the appellant remained absent as well as the period during which the appellant remained out of service shall be treated as leave of kind due. Parties are left to bear their own costs. File be consigned to the record room.



ANNOUNCED
09.08.2017

*Sd/- M. Amin Khan Kundi,
Member*

Certified to be true copy
BY AN ORDER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

*Sd/- M. Hamid Mughal,
Member*

Date of Presentation of Application 28-8-17
 Number of Words 1200
 Copying Fee 8-
 Urgent ✓
 Total 10-
 Name of Copyist [Signature]
 Date of Completion of Copy 28-8-17
 Date of Delivery of Copy 28-8-17

		12998
ایڈوکیٹ: بار کونسل ایسوسی ایشن نمبر: رابطہ نمبر: 03139407596	پشاور بار ایسوسی ایشن، خیبر پختونخوا	

بعدالت جناب: *محمد رفیق میری کی طرف سے*

منجانب: <i>محمد رفیق میری</i>	دعویٰ:
شہداء: <i>میرا خضر</i>	علت نمبر:
بنام: <i>بنام</i>	مورخہ:
ڈی جی ڈی: <i>ڈی جی ڈی</i>	جرم:
	تھانہ:

بابت تحریر آئکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب میں کارروائی منسلقہ
 آن مقام کے لیے محمد رفیق میری کے ذریعے محمد رفیق میری کو ذیل مقررہ

کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو
 راضی نامہ کرنے و تقریر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق
 زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز
 دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
 کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب
 مقرر شدہ کو وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا
 دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ 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 تاکہ سند رہے

المرقوم: *محمد رفیق میری*

المقام: *محمد رفیق میری*

کے لیے منظور ہے۔

1729158017/6.3


OFFICE OF THE
DISTRICT POLICE OFFICER,
NOWSHERA

Tel No. 0923-9220102 & Fax No. 0923-9220103
Email Dpo_nowshera@pki@yahoo.com

ORDER

In compliance with the order passed by the Khyber Pakhtunkhwa, Service Tribunal, Peshawar dated 09-08-2017, in service appeal No. 65/2015, filed by Ex-Constable Shiraz No. 153 against the order of dismissal dated 01-10-2014 vide Order Book No. 1242, Constable Shiraz is hereby reinstated into service and his major punishment of dismissal is converted into major punishment of reduction of 03 stages in time scale for a period of 03 years. However, period during which the appellant remained absent and the intervening period is hereby treated as leave of the kind due.

OB No. 2066
Dated 22/12 /2017


District Police Officer,
Nowshera.

No. LC 254-57 /PA, dated Nowshera the 26/12 /2017.

Copy for information and necessary action to the:-

1. Pay Officer.
2. Establishment Clerk.
- ✓ 3. OHC.
4. FMC.