

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Execution Petition No. 451/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	03.08.2022	<p>The execution petition of Lakhta Mir submitted today by Mr. Taimur Ali Khan Advocate may be entered in the relevant register. This execution petition be put up before Single Bench at Peshawar on _____ . Original file be requisitioned.</p> <p style="text-align: right;">REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR

Execution Petition No. 451/2022  
In Service Appeal No.07/2014

Lakhta Mir

V/S


Police Department

-----  
**INDEX**

S.NO.	DOCUMENTS	ANNEXURE	PAGE
01.	Memo of Execution Petition	-----	01-02
02.	Copy of judgment dated 09.12.2021	-----	03-09
03.	Vakalat Nama	-----	10

THROUGH:

**PETITIONER**

  
(TAIMUR ALI KHAN)  
ADVOCATE HIGH COURT  
PESHAWAR

CELL: 03339390916

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.

Execution Petition No. \_\_\_\_\_/2022  
In Service Appeal No.07/2014

Mr. Lakhta Mir, Head Constable No.850,  
Capital City Police, Peshawar.

PETITIONER

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Capital City Police Officer, Peshawar.
3. The Superintendent of Police, Headquarters, Peshawar.

RESPONDENTS

.....  
**EXECUTION PETITION FOR DIRECTING THE  
RESPONDENTS TO IMPLEMENT THE  
JUDGMENT DATED 19.12.2021 OF THIS  
HONOURABLE TRIBUNAL IN LETTER AND  
SPIRIT.**  
.....

RESPECTFULLY SHEWETH:

1. That the petitioner has filed service appeal No.07/2014 in the Honorable Tribunal against the appellate order dated 04.12.2013, whereby the penalty of removal from service of the petitioner was has was converted into compulsory retirement.
2. The said appeal was heard by this Honourable Service Tribunal on 09.12.2021. The Honorable Service Tribunal converted the compulsory retirement from service of the petitioner into regular retirement holding him entitles for retiring pension and other pensionary benefits under the rules on the subject by disposing the appeal of the appellant accordingly. (Copy of judgment dated 09.12.2021 is attached as Annexure-A)

3. That the Honorable Tribunal converted the penalty of the petitioner from compulsory retirement to regular retirement in its judgment dated 09.12.2021, but till date the penalty of compulsory retirement of the petitioner was not converted into regular retirement by taking action on the judgment dated 09.12.2021 of this Honorable Tribunal.
4. That in-action and not fulfilling formal requirements by the respondents after passing the judgment of this Honourable Service Tribunal, is totally illegal amount to disobedience and Contempt of Court.
5. That the judgment is still in the field and has not been suspended or set aside by the Supreme Court of Pakistan, therefore, the department is legally bound to obey the judgment dated 09.12.2021 of this Honorable Service Tribunal in letter and spirit.
6. That the petitioner has having no other remedy except to file this execution petition for implementation of judgment dated 09.12.2021 of this Honorable Tribunal.

It is, therefore, most humbly prayed that the respondents may kindly be directed to implement the judgment dated 09.12.2021 of this Honorable Service Tribunal in letter and spirit. Any other remedy, which this august Service Tribunal deems fit and appropriate that, may also be awarded in favour of petitioner.

THROUGH:

PETITIONER  
Lakhta Mir

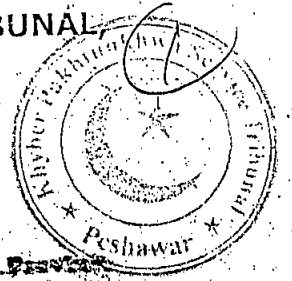
(TAIMUR ALI KHAN)  
ADVOCATE HIGH COURT  
PESHAWAR

AFFIDAVIT

It is affirmed and declared that the contents of the execution petition are true and correct to the best of my knowledge and belief.

  
DEPONENT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR.



Appeal No. 07 /2013/

Mr. Lakhta Mir, Head Constable No.850,  
Capital City Police, Peshawar.

~~Mr. Lakhta Mir~~  
~~Head Constable No. 850~~  
~~Capital City Police, Peshawar~~  
19  
08/11/14

APPELLANT

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa,  
Peshawar.
2. The Capital City Police Officer, K.P. Peshawar.
- ✓ 3. The S.P. Headquarters, Peshawar.

RESPONDENTS

.....

APPEAL UNDER SECTION-4 OF THE KHYBER  
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974  
AGAINST THE APPELLATE ORDER DATED  
04.12.2013 WHEREBY THE PENALTY OF REMOVAL  
FROM SERVICE HAS BEEN CONVERTED INTO  
COMPULSORY RETIREMENT.

.....

**PRAYER:**

That on acceptance of this appeal, the order  
dated 04.12.2013 may be set aside and the  
appellant may be reinstated into service with  
all back benefits and also by setting aside  
removal from service order. Any other  
remedy which this august Tribunal deems fit  
and appropriate that may also be awarded  
in favour of appellant.

*Dec*  
*2/11/14*

**RESPECTFULLY SHEWETH:**

1. That the appellant joined the Police Force in the year  
1987 and lastly the appellant was working as Head  
Constable. Copy of I.D. Card is attached as  
Annexure-A.

ATTESTED  
BY CLERK

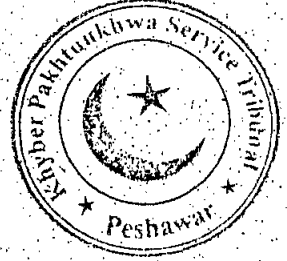
*[Signature]*  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.

Appeal No.07 of 2014

Date of Institution ... 02/01/2014

Date of Decision ... 09/12/2021



Lakhta Mir, Head Constable No. 850 Capital City Police Peshawar  
(Appellant)

VERSUS

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

Present.

Mr. Numan Ali Bukhari,  
Advocate

... For appellant.

Mr. Noor Zamanm,  
District Attorney,

... For respondents.

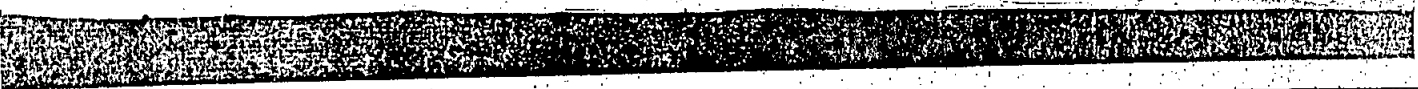
MR AHMAD SULTAN TAREEN  
MR. SALAH-UD-DIN,

... CHAIRMAN  
... MEMBER(J)

JUDGMENT

AHMAD SULTAN TAREEN, CHAIRMAN:-The appellant named  
above invoked the jurisdiction of this Tribunal with the prayer as  
copied below:-

"On acceptance of instant appeal, the order dated  
04/12/2013 may be set aside and the appellant may be  
reinstated into service with all back benefits and also by



setting aside removal from service order. Any other remedy which this august Tribunal deems fit and appropriate that may also be awarded in favour of appellant"

2. Brief facts are that the appellant joined the police force in the year 1987 and lastly he was working as Head Constable when he was charged in two different FIRs; that due to threats to his life, he remained absconder, but was arrested and then bailed out by the competent Court; that due to his involvement in criminal cases, the appellant was also suspended from service on 22/06/2012 but despite that an ex-parte action was taken against him and was dismissed from service on 10/12/2012; that no action was taken on departmental appeal filed by the appellant, hence, instant appeal on 02.01.2014.

3. After admission of the appeal for regular hearing, the respondents were given notices. They after attending the proceedings through representative have filed their written reply, raising several factual and legal objections, refuting the claim of the appellant and asserted for dismissal of appeal with cost.

4. We have heard the arguments and perused the record.

5. Learned counsel for the appellant argued that the impugned orders dated 10.12.2012 and 04.12.2013 are against the law, facts norms of justice and material on record; that the appellant being civil servant was proceeded against under the Police Rules 1975 and not

under E&D Rules, 2011, therefore, the whole proceedings were liable to be struck down on this score alone; that the absence period of the appellant has already been treated as leave without pay; therefore, there remained no grounds to penalize the appellant and requested that the appeal may be accepted as prayed for.

6. In rebuttal, learned District Attorney argued that the punishment awarded to the appellant was in accordance with law, rules and he was rightly proceeded under Police Disciplinary Rules 1975. He further argued that vide No.4775/PA dated 25.06.2012 charge sheet was issued to appellant. He next argued that the appellant was also heard in person in orderly room on 29.11.2013, statement of allegations were made known to him but the appellant failed to appear before the inquiry officer; that final show cause notice was issued and served upon the appellant as evident from the impugned orders; that appellant was a habitual absentee from his lawful duty and was also previously dismissed from service vide OB No.2928 dated 17.7.1990. Hence, the penalty awarded to the appellant is in accordance with law/rules and requested that the appeal may kindly be dismissed with cost.

7. The appellant has submitted an affidavit that he commenced his service on 25.08.1987. The affidavit is placed on file. Arguments have been heard and record has been perused.

8. What is deducible from the record is that the appellant was serving in the Police Department as Constable No. 850 of CCP



Peshawar. During his service, he was charged in criminal cases registered vide FIR No. 347 dated 13.06.2012 U/S 324/34 PPC and vide FIR No. 348 of even date U/S 324/34/353 PPC of Police Station Tehkal Peshawar. He was proceeded against departmentally under the Khyber Pakhtunkhwa Police Rule, 1975 on account of his involvement in the said cases and absence from duty due to involvement in the criminal cases. In consequence of the disciplinary proceedings, he was dismissed from service vide order dated 10.12.2012. He filed departmental appeal and having no response of the same, he filed Service Appeal No. 236/2013. During pendency of the said appeal in this Tribunal, the penalty of dismissal from service was converted into compulsory retirement from service by the appellate authority on acceptance of pending departmental appeal. So, on application of the appellant for withdrawal of appeal in view of the subsequent development, Service Appeal No. 936/2013 was dismissed as withdrawn vide order dated 26.12.2013 of this Tribunal which is available on record. However, permission was granted to the appellant to seek remedy available to him under the law. In pursuance of the said order, present appeal was filed. Needless to say that the appellant was proceeded against departmentally due to his involvement in criminal cases and this fact is admitted by the respondents in their reply. It is also admitted fact by the respondents that the penalty of dismissal from service was converted into compulsory retirement from service. Certainly, the respondents could

*Sumedha*


APPEALS

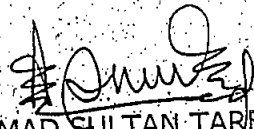
*Sumedha*

not be able to furnish with their reply/comments any documentary proof of conviction of the appellant in criminal cases. In absence of proof of conviction of the appellant, imposition of penalty upon him due to involvement in criminal cases of a personal nature was not legally viable. Therefore, the penalty of dismissal from service originally imposed by the competent authority and then converted into penalty of compulsory retirement by the appellate authority is not tenable. However, having regard to the physical condition of the appellant present before us, we do not deem it appropriate to allow his reinstatement into service. According to our observation and as admitted by the appellant, his partial paralysis involving the state of incapacity to move independently, it will not be in the interest of police department to send him back for service, when he is to be retired ultimately on medical ground because of his said incapacity. Therefore, we keep the retirement intact but not as part of the punishment. The appellant stated in Para-1 of the appeal and affirmed the same by the affidavit submitted by him today as placed on file that he joined the police force in the year 1987. The respondents in their reply to Para-1 made no comments. Therefore, the stance of the appellant as to his starting service in the year 1987 is admitted accordingly. Thus, he has on his credit the service which is more than 25 years entitling him for retiring pension.

9. With the given observations, the compulsory retirement of the appellant is converted into regular retirement holding him entitle for

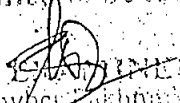
retiring pension and other pensionary benefits under the rules on the subject. Appeal stands disposed of accordingly. Parties are left to their own cost. File be consigned to record room.

  
(SALAH-UD-DIN)  
Member(J)

  
(AHMAD SULTAN TAREEN)  
Chairman

ANNOUNCED  
09.12.2021

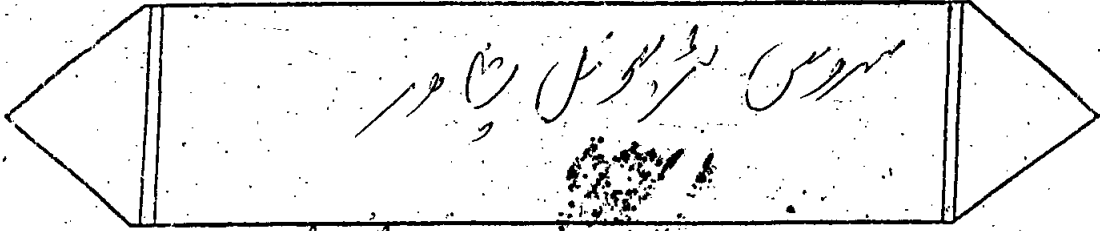
Certified to be true copy

  
ISHTIAQ  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Date of Presentation of Application 26/7/22  
Amount 2800  
Fees 30/-  
Stamp 4/-  
Total 30/-  
Date of Delivery of Copy 01/8/22  
01/8/22



## بعدالت



سروس ریسٹریکشنل سروس  
سروس ریسٹریکشنل سروس

سوزخہ  
مقدمہ  
دعویٰ  
جرم

## باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ  
آن مقام لکھنؤ کیلئے ڈپٹی سیکرٹری (سروس ریسٹریکشنل سروس)  
مقرر 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 تقرر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق  
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی  
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور  
کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ لیا اپنے بجائے تقرر کا اختیار  
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ  
پر داخستہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جائزہ التوائے مقدمہ کے سب سے وہوگا۔  
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی  
مذکور کریں۔ لہذا ادکالت نامہ لکھ دیا کہ مندر ہے۔

Accepted  
Attorney  
[Signature]

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المرقوم

لئے منظور ہے۔

بمقام