

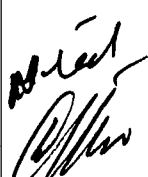
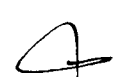



Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. _____ 319 /2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	02.06.2022	<p>The execution petition of Mr. Umar Hayat submitted today by Mr. Naila Jan 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 <i>21/6/2022</i></p>
2-	<p><i>14-6-2022</i></p> <p> <i>14/6/22</i></p> <p>20th June, 2022</p> <p> <i>18/7/22</i></p>	<p>This execution petition be put up before Single Bench at Peshawar on <u><i>20-6-2022</i></u>. Original file be requisitioned. AAG has noted the next date. The respondents be issued notices to submit compliance/implementation report on the date fixed.</p> <p style="text-align: right;"> CHAIRMAN</p> <p>Counsel for the petitioner present. Mr. Kabirullah Khattak, Addl: AG for respondents present.</p> <p>Respondents are directed through the learned Addl: AG to submit implementation report on or before the next date. To come up for implementation report on 10.08.2022 before S.B.</p> <p style="text-align: right;"></p> <p style="text-align: right;">(Kalim Arshad Khan) Chairman</p>

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Execution petition No. 319 /2022

In

Service Appeal No: 1110/2019

Umar Hayat,

Versus

Regional Police Officer Kohat Region, Kohat and others

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Dated: 02/06/2022

Through

Hayat
Petitioner

Naila Jan

Advocate, High Court
Peshawar

H. Jan

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Execution petition No. 319 /2022

In

Service Appeal No: 1110/2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 135

Dated 02/6/2022

Umar Hayat, Ex-LHC S/o Syed Badshah R/o
Mohallah Tor Chapari, Banda, Kohat.

.....Petitioner

Versus

1. Regional Police Officer Kohat Region, Kohat.
2. District Police Officer, Kohat.

.....Respondents

EXECUTION PETITION FOR
IMPLEMENTATION OF THE
JUDGMENT OF THIS HON'BLE
TRIBUNAL IN APPEAL No.
1110/2019 DECIDED ON
05/04/2022

Respectfully Sheweth,

1. That the above mention appeal was decided by
this Hon'ble Tribunal vide Judgment dated

05/04/2022 (Copy of the judgment is annexed as annexure "A")

2. That the relevant portion of the judgment is reproduced "*Therefore, on allowing this appeal we convert the major punishment of dismissal from service into minor penalty of censure under Rule 4_a) (a) (ii) of the Police Rules, 1975. The appellant is reinstated in service with the consequential benefits. The intervening period be treated as leave of the kind. We direct that costs shall abide by the result of this appeal. Consign. Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal this 05th day of April 2022.*"

3. That the Petitioner after getting of the attested copy of same approached the Respondents several time for implementation of the above mention judgment. However they are using delaying tactics and reluctant to implement the judgment of this Hon'ble Tribunal.

4. That the Petitioner has no other option but to file the instant petition implementation of the judgment of this Hon'ble Tribunal.

5. That there is nothing which may prevent this Hon'ble Tribunal from implementing of its own judgment.

It is, therefore, requested that on acceptance of this petition the Respondents may directed to implement the judgment of this Hon'ble Tribunal by reinstating the Petitioner with all back benefits.

Dated: 02/06/2022

Hayat
Petitioner
Through
Naila Jan
&
Huma Khan
Advocates, High Court
Peshawar

AFFIDAVIT:-

I, Umar Hayat, Ex-LHC S/o Syed Badshah R/o Mohallah Tor Chapari, Banda, Kohat, do hereby solemnly affirm and declare on oath that all the contents of above application are true and correct to the best of my knowledge and belief and nothing has been misstated or concealed from this Hon'ble Court.

Hayat
Deponent



62-6-22 ✓

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Execution petition No. _____/2022

In

Service Appeal No: 1110/2019

Umar Hayat,

Versus

Regional Police Officer Kohat Region, Kohat and others

ADDRESSES OF PARTIES

PETITIONER

Umar Hayat, Ex-LHC S/o Syed Badshah R/o
Mohallah Tor Chapari, Banda, Kohat.

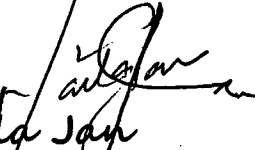
RESPONDENTS

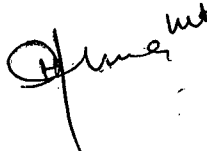
1. Regional Police Officer Kohat Region, Kohat.
2. District Police Officer, Kohat.

Dated: 02/06/2022

Through


Petitioner


Naila Jan
Advocate, High Court
Peshawar



(5)

Annexure "A"



**BEFORE THE HONBLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR**

In Re S.A. 1110 /2019

Diary No. 12/16

Dated 30/8/2019

Umar Hayat Ex-LHC S/o Syed Badshah R/o
Mohallah Tor Chapari, Banda, Kohat

-----**(Appellant)**

VERSUS

1. Regional Police Officer Kohat Region, Kohat.
2. District Police Officer Kohat.

-----**(Respondents).**

**APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICES TRIBUNAL
ACT -1974 AGAINST THE IMPUGNED
ORDER NO: 7329/EC, DATED 17/08/2019
OF THE REGIONAL POLICE OFFICER
KOHAT REGION, WHEREBY
DEPARTMENTAL APPEAL AGAINST
THE IMPUGNED ORDER DATED
24/05/2019 OF THE DISTRICT POLICE
OFFICER KOHAT, WHEREBY THE
APPELLANT HAS BEEN DISMISSED
FROM SERVICE, WAS DISMISSED AND
TURNED DOWN IN CLASSICALLY
CURSORY AND WHIMSICAL MANNER.**


Filed to-day

Registrar
30/8/19

Respectfully Sheweth:

1. That the appellant is a law abiding citizen and hails from a respectable family of District Kohat.

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Services Tribunal
Peshawar



**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.**

Service Appeal No. 1110/2019

BEFORE: MR. KALIM ARSHAD KHAN, ... CHAIRMAN
MR. MIAN MUHAMMAD, ... MEMBER(E)

Mr. Umar Hayat, Ex-LHC son of Syed Badshah R/O Mohallah Tor Chaari Banda, Kohat..... (Appellant)

Versus

- 1. Regional Police Officer, Kohat Region, Kohat and
- 2. District Police Officer, Kohat.....(Respondents)

Mr. Javed Iqbal Gulbela, Advocate ... For appellant

Mr. Kabirullah Khattak, Addl. Advocate General ... For respondents.

 Date of Institution.....30.08.2019
 Date of Hearing.....04.04.2022
 Date of Decision.....05.04.2022

JUDGMENT.

KALIM ARSHAD KHAN CHAIRMAN.- The appellant Umar Hayat Ex-LHC has filed the instant appeal against the order dated 24.05.2019 of the District Police Officer, Kohat, whereby, he was dismissed from service and against the order dated 17.08.2019 of Regional Police Officer, Kohat Region Kohat, whereby his departmental appeal was rejected.

2. As per the appeal, the appellant was appointed in the Police Department and had served for more than twenty years with devotion; that the appellant remained posted as DFC at the Police Station Jungle Khel Kohat for some time alongwith another DFC Namely Muhammad Sabeel; that during the trial of one case, titled "The State Vs. Nawab Khan" pending before the Court of learned

Additional Sessions Judge-II Kohat; that vide order No. 09, dated 22.03.2019, the learned Judge not only attached salary of the appellant but also the DIG Kohat Range and DPO Kohat were directed to take necessary action against the

ATTESTED

[Signature]
 Khyber Pakhtunkhwa Service Tribunal
 Peshawar

[Signature]

(7)

appellant. That a show cause notice was issued to the appellant which was replied by him. That he was dismissed from service vide impugned office order dated 27.05.2019. Feeling aggrieved, he moved a departmental appeal which was also rejected on 17.08.2019, hence, the present appeal.

3. After admission of the appeal, reply was sought from the respondents, which was accordingly submitted, wherein it was contended that the appellant had earned in-different service record with numerous bad entries, found ill-reputed as charged in case FIR No.705 dated 01.05.2019 u/s 371-A/B PPC Police Station MRS Kohat. That the appellant was directed by the court of Additional Sessions Judge-II, Kohat for execution of non-bailable warrants against PWs in case FIR No.101 dated 07.03.2017 u/s 9-C CNSA Police Station Jungle Khel, Kohat but the appellant willfully disobeyed the lawful order of the competent court. That the act of appellant caused delay in conclusion of the prosecution case and the court vide order No.9 dated 22.03.2019 had directed the respondents for necessary action against the appellant. That a show cause notice was served upon the appellant and on completion of proceedings, he was awarded punishment on the above ground and his previous conduct as charged in a moral turpitude offence and earning bad name to Police Department.

4. We have heard the learned counsel for the appellant and learned Additional Advocate General for the Respondents.

5. It was urged by the learned counsel for the appellant reiterating the grounds taken in the appeal and submitted that the appellant was wrongly awarded major penalty. He prayed for acceptance of this appeal and reinstatement of the appellant.

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

6. Conversely the learned Additional Advocate General opposed the arguments and submitted that the charge against the appellant stood established and he has appropriately been penalized.

7. The appellant was proceeded against departmentally on the basis of order sheet dated 22.03.2019 of learned Addl. Sessions Judge-II, Kohat which order sheet is reproduced as under:-

"Azhar Ali, Dy.PP for the State present. Accused absconding.PW, Qismat Khan, SHO present and examined as PW.5. Remaining PWs absent. Against them, even the process not properly served by the processing agency. In the circumstances, salary of DFC, Umar Hayat is hereby attached. Copy of this order sheet again be sent to the offices of the Worthy DIG, Kohat Range, Kohat and the DPO, Kohat for necessary action against the DFC concerned. Fresh NBW-A be issued against the remaining PWs and the prosecution is directed to produce its evidence by next date of hearing. Put up for prosecution evidence, for..."

8. The show cause notice under Rule 5(3) of the Khyber Pakhtunkhwa, Police Rules, 1975 (Amendment 2014) showed that the evidence of the appellant was required as PW by court of learned Additional Sessions Judge-II Kohat in Case No. FIR No.101 dated 07.03.2017 U/S-9-C of the CNSA Police Station Jungle Kohat but despite repeated summons/warrants he did not appear before the Court. The court vide order dated 22.03.2019, took serious action that the appellant willfully disobeyed order of the court and also amounting to misconduct. The impugned order is shown to have been issued on 17.05.2019 which also reve

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CLERK
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR

Handwritten signature and date: 05/5/22

that evidence of the appellant was required as PW by court of learned Additional Sessions Judge-II, Kohat but despite repeated summons/warrants, he deliberately did not appear before the court. In addition to the above, it was mentioned in the dismissal order that the DPO Kohat had gone through the record which he found indifferent. It was added that the accused official earned 28 bad entries in his whole service. He was charged in Case FIR No.705 dated 01.05.2019 U/S 371-AB PS MRS as accused No. 1 for running brothel House or supporting the same, hence the appellant was declared the black mole on the image of Khyber-Pakhtunkhwa Police.(The underlining is ours) While exercising the powers conferred under Section 5(2) of Khyber Pakhtunkhwa Police Rules, 1975, the general proceedings were dispensed with and punishment of dismissal was imposed on the appellant.

9. It is to be observed at this juncture that the above underlined portion was not part of the show cause notice rather an unjustified addition in the dismissal order, which, as the record shows, was even not earlier confronted with the appellant.

10. When we go through Rule 5 sub rule-2 of Police Rules, 1975, it would reveal that an official can be awarded "*one of the minor punishments*" while the DPO Kohat in exercise of powers under Rule 5(2) "*could not award major punishment of dismissal from service*". Similarly, the show cause notice as well as impugned order both show that the evidence of the appellant was required by the learned Additional Sessions Judge-II Kohat and additional grounds taken by the DPO in the dismissal order that the appellant had 28 bad entries in his whole service and was also charged in a case FIR No. 705 dated 01.05.2019 u/s 371-AB PS MRS as accused No. 2, were also not in the show cause notice. In this particular case initiated on the order sheet of learned Additional Sessions Judge-II Kohat there was no reference of the case registered under Section 371-AB

ATTESTED
 MINISTER
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

[Handwritten signature]
 6/5/19

PPC nor is there any evidence to be recorded in the case registered under Section 9-C of the CNSA, wherein the court of learned Additional Sessions Judge-II, Kohat had attached the salary of the appellant and the matter was sent to the DIG and the DPO Kohat for necessary action against the appellant.

11. The learned Additional Sessions Judge-II had himself taken a coercive measure by attaching the salary of the appellant and his alleged act was also not supported by any other evidence which could show his alleged misconduct thereby awarding him major punishment of dismissal from service. There is nothing said by the authority about the negligence of the appellant in executing the process of the court, or who marked that to the appellant or for that matter when/whether the process of the court was received by the appellant and against which witness etc, was there any sufficient time for the appellant to execute the process of the court are the questions which do not have answers and without any justified material, in the slipshod manner the DPO hastily proceeded against the appellant and while reaching a wrong conclusion, dismissed the appellant from the service. It appears that the DPO has not considered and evaluated the reply of the appellant given by him in response to the show cause notice, wherein he categorically submitted that he had served the process of the court and the witnesses got their statements recorded and the court passed/disposed of the case under Section 512 CrPC, therefore, at the most it was sluggishness of the appellant and for which awarding the major punishment of dismissal from service does not commensurate with the quantum of his guilt.

12. Therefore, on allowing this appeal we convert the major punishment of dismissal from service into minor penalty of censure under Rule 4(1)(a)(ii) of the Police Rules, 1975. The appellant is reinstated in service, with the consequential benefits. The intervening period be treated as leave of the kind. We direct that costs shall abide by the result of this appeal. Consign.

8

ATTESTED

EXAMINER
Khyber-Pakhtunkhwa
Service Tribunal
Peshawar

Handwritten signature and date: 21/5/22

13. Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal this 05th day of April, 2022.

(Handwritten signature)

(KALIM ARSHAD KHAN)
Chairman

(Handwritten signature)

(MIAN MUHAMMAD)
Member (E)



Certified to be true copy

(Handwritten signature)
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 05/04/22

Number of Words 2400

Copying Fee 26/-

Urgent —

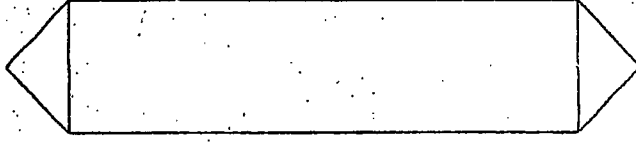
Total 26/-

Name of Copyist —

Date of Completion of Copy 20/4/22

Date of Delivery of Copy 20/4/22

بعدالت جناب KP سٹریٹیجی اور سٹریٹیجی لیسٹاور



Reti time 2022 منجانب

عمر حیات بنام

لوپس

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مقدمہ

دعویٰ

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باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام لیسٹاور کے لیے ٹائلہ جان اینڈ صحیحان مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یا یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پر داخیت منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب یا چند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

عمر حیات (Reti + one)

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2022

25 جون

الرقوم

العبد العبد العبد

کے لئے منظور ہے۔

مقام لیسٹاور

Attested and
accepted by

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“B”

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

No. SB
Regd Appeal No. E.P. No. 319 of 20 22
Umar Hayat Appellant/Petitioner
 Versus
RPO Kohat Respondent
 Respondent No. (1)

Notice to: — RPO Kohat

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on.....20/06/2022.....at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of E.P. appeal is attached. Copy of appeal has already been sent to you vide this
 office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar, this.....11.....
 Day of.....June.....20 22

(For Impl-ment-ation Report)

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
 2. Always quote Case No. While making any correspondence.

“B”

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.**

No.

SB

Appeal No. E.P.No. 319 of 2022

Recd

Umar Hayat Appellant/Petitioner

Versus

RPO Kohat Respondent

Respondent No. (2)

Notice to: — DPO Kohat

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on.....20/06/2022.....at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of ^{E.P.} ~~appeal~~ is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this.....16.....
Day of.....June.....2022.

For Impl-ment-tion Report

**Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.**

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.