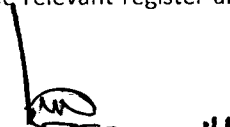
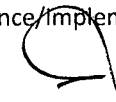



Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 359/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	20.06.2022	<p>The execution petition of Mr. Atta-ur-Rehman submitted today by Roaeda Khan 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	<u>22.6.2022</u>	<p>This execution petition be put up before Single Bench at Peshawar on <u>30-06-2022</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>
30.06.2022	<i>Notice issued for 12/08/22</i>	<p>Learned counsel for the petitioner present. Mr. Kabir Ullah Khattak, Additional AG present.</p> <p>Notices be issued to respondents for submission of implementation report. To up for implementation report on 12.08.2022 before S.B.</p> <p style="text-align: right;"> (Fareeha Paul) Member (E)</p>

The Implementation application of Mr. Atta-ur-Rehman son of Said Rehman Constable of District Dir Lower received today by post on 02.06.2022 is incomplete on the following scores which is returned to the counsel for the applicant for completion and resubmission within 15 days.

- 1- Judgment attached with the appeal is incomplete and unattested.
- 2- One more copy/set of the application along with annexures i.e. complete in all respect may also be submitted with the application.

No. 1214 /S.T,

Dt. 02/6 /2022


**REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.**

Roeda Khan Adv. Peshawar

*objection has been
removed*



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Execution Petition No. 359 /2022

In Service Appeal: 1074/2017

Atta Ur Rehman S/o Said Rehman Constable at District Lower
Dir R/o Village Palosadag Tehsil Munda District Lower Dir.

Appellant/Petitioner

VERSUS

- (1) District Police Officer District Lower Dir.
- (2) Regional Police Office Malakand Division.
- (3) Inspector General of Police KPK.
- (4) Deputy Inspector General of Police Malakand Division
Swat.

Respondents

Index

S.No.	Description of documents	Annexure	Pages
1.	Copy of petition		1-2.
2.	Copy of Judgment	A	3-5
3.	Wakalat Nama		

Dated 01/06/2022

طيس الهمين

Appellant/Petitioners

Through



Rooeda Khan
Advocate High Court,
Peshawar.

(11)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Execution Petition No. 359 /2022

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 133

In Service Appeal: 1074/2017

Dated 01-6-2022

Atta Ur Rehman S/o Said Rehman Constable at District Lower
Dir R/o Village Palosadag Tehsil Munda District Lower Dir.

Appellant/Petitioner

VERSUS

- (1) District Police Officer District Lower Dir.
- (2) Regional Police Office Malakand Division.
- (3) Inspector General of Police KPK.
- (4) Deputy Inspector General of Police Malakand Division
Swat.

Respondents

.....

EXECUTION PETITION FOR DIRECTING THE
RESPONDENTS TO IMPLEMENT THE
JUDGMENT DATED: 28/01/2022 OF THIS
HONOURABLE TRIBUNAL IN LETTER AND
SPIRIT.

.....

Respectfully Sheweth:

1. That the appellant/Petitioners filed Service Appeal No. 1074/2017 before this Hon' able Tribunal which has been accepted by this Hon' able Tribunal vide Judgment dated 28/01/2022. (Copy of Judgment is annexed as Annexure-A).

- (2)
2. That the Petitioners after getting of the attested copy approached the respondents several times for implementation of the above mentioned Judgment. However they using delaying and reluctant to implement the Judgment of this Hon' able Tribunal.
 3. That the Petitioners has no other option but to file the instant petition for implementation of the Judgment of this Hon' able Tribunal.
 4. That the respondent Department is bound to obey the order of this Hon' able Tribunal by implementing the said Judgment.

It is therefore requested that on acceptance of this Petition the respondents may kindly be directed to implement the Judgment of this Hon' able Tribunal.

Dated 01/06/2022

(Signature)
Appellant/Petitioners

Through

(Signature)
Reeda Khan
Advocate High Court Peshawar

AFFIDAVIT

I, Atta Ur Rehman S/o Said Rehman Constable at District Lower Dir R/o Village Palosadag Tehsil Munda District Lower Dir do here by solemnly affirm and declare on oath that all the contents of the above petition are true and correct to the best of my knowledge and belief and nothing has been misstated or concealed from this Hon' able Tribunal.



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 1074 /2017

Atta Ur Rehman S/O Said Rehman
 Ex-Constable at District Lower Dir
 R/O Village Palosadag Tehsil Munda District Lower Dir.

1075
 15/9/2017

PETITIONER

VERSUS

- ✓1. District Police Distt. Lower Dir
- ✓2. Regional Police Officer Malakand Division
- ✓3. Inspector General of Police Khyber Pakhtunkhwa
4. Deputy Inspector General of Police, Malakand Division Swat

RESPONDENTS

APPEAL UNDER SECTION 04 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER OF INSPECTOR GENERAL OF POLICE DATED MARCH 15, 2017 (APPELLATE AUTHORITY) WHERE BY THE DEPARTMENT APPEAL OF THE APPELLANT WAS DISMISSED/REJECTED. AND AGAINST THE ORDER OF RPO DATED 28-01-2016 AND DPO DATED 10-07-2015 PRAYER IN APPEAL.

ON ACCEPTANCE OF THIS APPEAL, THIS HONORABLE TRIBUNAL MAY VERY GRACIOUSLY BE PLEASED TO SET ASIDE THE IMPUGNED ORDER DATED 15-03-2017, RPO ORDER DATED 28-01-2016 AND DPO ORDER DATED 10-07-15 AND THE APPELLANT MAY VERY GRACIOUSLY BE REINSTATED INTO THE SERVICE FROM THE DATED 10-07-15 WITH ALL SERVICE BENEFITS.

Respectfully submitted as under:

1. That the appellant was appointed as Constable on dated 26-07-2007 by the Respondents was assigned the duties in Village Palosa Dag Plice Station Munda District Dir Lower.
 [Copy of appointment letter is annexure A]

2. That the appellant served the department with commitment and always remained on duty at various stations in the time when terrorism in Malakand division was at peak and the Government of Pakistan was

Resubmitted to-day
 and filed.
 Registrar

(4)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1074/2017

Date of Institution ... 15.09.2017

Date of Decision ... 28.01.2022



Atta Ur Rehman S/o Said Rehman Ex-Constable at District Lower Dir R/o Village Palosadag Tehsil Munda District Lower Dir.

... (Appellant)

VERSUS

District Police Distt: Lower Dir and others.

... (Respondents)

Appellant

In Person

Muhammad Adeel Butt,
Additional Advocate General

For respondents

AHMAD SULTAN TAREEN ...
ATIQ-UR-REHMAN WAZIR ...

CHAIRMAN
MEMBER (EXECUTIVE)

JUDGMENT

ATIQ-UR-REHMAN WAZIR MEMBER (E):-

Brief facts of the

case are that the appellant while serving as Constable in Police Department was proceeded against on the charges of absence from duty and was ultimately dismissed from service vide order dated 10-07-2015. Feeling aggrieved, the appellant filed departmental appeal, which was accepted in terms that penalty of dismissal was converted into removal from service vide order dated 28-01-2016. The appellant filed revision petition, which was also rejected vide order dated 09-03-2017, hence the instant service appeal with prayers that the impugned order dated 10-07-2015, 28-01-2016 and 09-03-2017 may be set aside and the appellant may be re-instated in service with all back benefits.

(SIGNED)

MEMBER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

02. Appellant has contended that he has been proceeded against in absentia, without affording him appropriate opportunity of defense, which is illegal, unlawful and contrary to norms of natural justice; that his absence was not willful, but due to illness of his father and absence on medical grounds does not constitute gross misconduct; that the illness of his father was well in the knowledge of the respondents, but such stance of the appellant was not taken into consideration, which was arbitrary in nature; that it is settled principle of law that regular inquiry is must before imposition of major penalty of dismissal from service; that his absence period was treated as leave without pay, hence there remains no ground to further penalize the appellant.

03. Learned Additional Advocate General for the respondents has contended that the appellant is a habitual absentee and always remained absent from duty on the pretext of illness of his father; that prior to this, the appellant was discharged from service in probation period, but was re-instated upon his departmental appeal; that short service record of the appellant is full of entries regarding willful absence; that the appellant was required to seek leave or permission from his seniors and bring the matter timely in the notice of his seniors, but he failed to do so; that the appellant has rightly been penalized as he is least interested in his job.

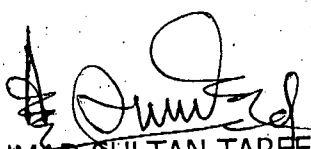
04. We have heard both the parties and have perused the record.

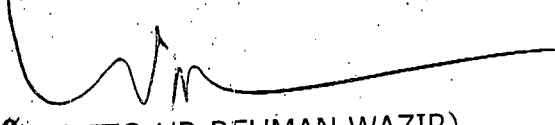
05. Placed before us is case of a police constable, who alongwith many other police personnel had deserted their jobs in the wake of insurgency. Police department had constituted a committee for cases of desertion and taking humanitarian view, re-instated such personnel into service in large number. Even this tribunal has already granted relief in similar nature cases on the principle of consistency. Appellant was one among those, who was re-instated into service vide order dated 10-08-2011 by the police department. The appellant resumed his duty and served for another three years, when he was again dismissed from

service on the issue of absence from duty and his dismissal later on was converted into removal from service. It is un-disputed that the appellant remained absent from duty, but stance of illness of his father, which has been debated in the inquiry report as well as in comments of the respondents, which shows some weight in stance of the appellant, which could be taken in favor of the appellant. Coupled with this are dents in the departmental proceedings, which has not been conducted as per mandate of law, as the appellant in case of willful absence was required to be proceeded under general law i.e. Rule-9 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011. Regular inquiry is also must before imposition of major punishment of dismissal from service, which also was not conducted. So much so that the impugned order of dismissal is also not in order. The impugned order would suggest that the appellant was proceeded against on the ground of absence for the mentioned period, however the authority has treated the mentioned period as leave without pay, as such the very ground, on the basis of which the appellant was proceeded against, has vanished away and on this score alone, the impugned order is liable to be set aside. Wisdom in this respect derived from the judgment of the august supreme court of Pakistan, reported as 2006 SCMR 434 and 2012 TD (Services) 348.

06. In view of the situation mentioned above and keeping in view the principle of consistency, we are inclined to partially accept the instant appeal by converting the major penalty of removal from service into minor penalty of stoppage of increments for two years. The intervening period is treated as leave without pay. Parties are left to bear their own costs. File be consigned to record room.

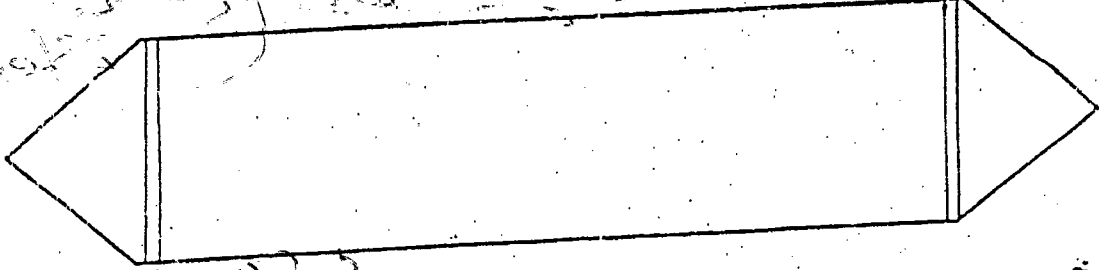
ANNOUNCED
28.01.2022


(AHMAD SULTAN TAREEN)
CHAIRMAN


(ATIQ-UR-REHMAN WAZIR)
MEMBER (E)

Verified to be true copy
Khyber Pakhtunkhwa
Service Tribunal

بعدالت



سورخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکے

مقدمہ مشدرجہ عنوان بالا میں اپنی طرف سے واسطے پیردی و جواب دہی وکل کارروائی متعلقہ

آن مقام کیلئے ~~مقرر~~ 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 ثالتہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ار عرضی دعویٰ اور درخواست ہر قسم کی تصدیق زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیردی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیردی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور 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 بھی وہی جملہ مذکورہ بااختیارات حاصل ہوں گے اور اس کا ساختہ پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانب 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 پیردی مذکور کریں۔ لہذا وکالت نامہ لکھدیا کہ سند ہے۔

المرقوم _____ ماہ _____ 20 _____

بمقام _____

کے لئے منظور ہے۔

Handwritten signature and notes in Urdu, including the word 'مقام' (Makam) and some illegible scribbles.

"B"

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

No.

Regd
 Appeal No. E.P. No. 359 of 20 22

Atta us Rehman Appellant/Petitioner

Versus

D. P. O. Lower Dist Respondent

Respondent No. 1

Notice to: —

Distt. Police Officer Distt. Lower Dis

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 30/6/2022 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 23rd

Day of June 20 22

for Implementation Report.

[Signature]
 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.

Appeal No. E.P. No. 359 of 2022

Atta ur Rehman Appellant/Petitioner

Versus

D.P.O Lower Dir Respondent

Respondent No. 2

Notice to: Regional Police Office Malakand Division

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 30/6/2022 at 8.00 A.M. If you wish to urge anything against the appellants/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 EP 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 25th

Day of June 20 22

for Implementation Report.

[Signature]
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, P.B
PESHAWAR.

No.

Appeal No. E.P. No. 359 of 20 22

Atta ul Rehman Appellant/Petitioner

Versus

D.P.O Lower Dir Respondent

Respondent No. 4

Notice to:

Deputy Inspector General of Police
Malakand Division Swat.

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.....30/6/2022.....at 8.00 A.M. If you wish to urge anything against the appellants/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 along with 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.....23th.....

Day of.....June.....20 22

for Implementation
Report.

[Signature]
 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, S.B
 PESHAWAR.

No.

Appeal No. E.P. No. 359 of 20 22
Atta ur Rehman Appellant/Petitioner
 Versus
D-P-O Lower Dir Respondent

Respondent No. 3

Notice to: —

~~Inspector General of Police~~
Inspector General of Police
KPK Peshawar.

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 30/6/2022 at 8.00 A.M. If you wish to urge anything against the appellants/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 ~~appeal~~ ^{E.P} 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 23th Day of June 20 22

for Implementation
Report
24-6-22

[Signature]
 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.

"A"

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

No.

EP No. 319

SB

APPEAL NO..... of 2022.

Atta- U- Rehman

Appellant/Petitioner

Versus

DPO District Lower Dir.

RESPONDENT(S)

Respondent (3)

Inspector General of Police
Peshawar

Notice to Appellant/Petitioner

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 12/05/2022 at 9:00 am

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

For Implementation
Regd.

[Signature]

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Copy of EP
already sent