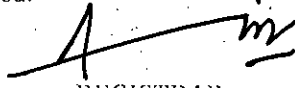


Form- A

FORM OF ORDER SHEET

Court of _____

Execution Petition No. 465/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	12.08.2022	<p>The execution petition of Mr. Faiz Ullah submitted today by Mr. Manzoor Bashir Tangi Advocate may be entered in the relevant register. This execution petition be put up before Single Bench at Peshawar on <u>15-08-2022</u>. Original file be requisitioned.</p> <p style="text-align: right;"> REGISTRAR</p>

**BEFORE THE HONBLE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR**

C.M No. 465 /2022
In
Service Appeal No.1378/2018

Faiz Ullah.....**Petitioner**

Versus

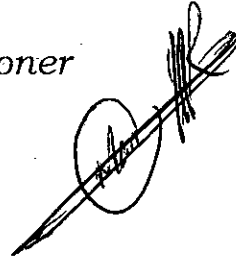
Inspector General of Police KPK, Peshawar and another
.....**Respondents**

I N D E X

S#	Description of Documents	Annex	Pages
1.	Application for Execution		1-2
2.	Affidavit		3
3.	Copy of judgment and order		4-8
4.	Wakalatnama		9

Petitioner

Through



Manzoor Bashir Tangi
Advocate, High Court
Peshawar
Cell#0333-2747070

Dated: 12.08.2022

1

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 986

Dated 12/08/2022

BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.1378/2018

Faizullah s/o MohibUllah (Ex-constable No.1210) R/O Tehsil Tangi,
,DistrictCharsadda

.....(Applicant/Appellant)

VERSUS

1. Inspector General of Police ,Khyberpakhtunkhwa CPO ,Peshawar.

2. District Police Officer ,DistrictCharsadda

.....(Respondents)

**APPLICATION FOR EXECUTION/IMPLEMENTATION OF THE ORDER AND
JUDGMENT DATED 11/05/2022 PASSED BY THIS HON'BLE TRIBUNAL
IN SERVICE APPEAL NO.1378/2018.**

RESPECTFULLY SHEWETH :

1. That the petitioner had earlier filed a service appeal No.1378/2018 for the redressal of his grievances which was decided by this Hon'ble tribunal vide order dated 11/05/2022 in favor of the appellant .

(Copy of order dated 11/05/2022 is attached as annexure "A")

2. That applicant /appellant approached to the respondents time and again for implementation of the order of this Hon'ble tribunal but of no avail.

3. That in this very order dated 11/05/2022 this Hon'ble tribunal observed that "the termination order dated is set aside and the appellant is reinstated in service from the date of his dismissal ".

2

4. That the respondents has failed to comply with order of this Hon'ble Tribunal and are reluctant to act accordingly.

5. That any other ground may be raised at the time of arguments with the permission of this Hon'ble court.

It is therefore most humbly prayed that on acceptance of this application, the respondents may be directed to execute /implement the order of this Hon'ble Tribunal dated 11/05/2022 in service appeal No.1378/2018 in the best interest of justice.

Applicant/Appellant

Through

Manzoor Bashir Tangi

Dated : 12/8/2022



(3)

**BEFORE THE HON'BLE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR**

C.M No. _____/2022

In

Service Appeal No.1378/2018

Faiz Ullah.....**Petitioner**

Versus

Inspector General of Police KPK, Peshawar and another
.....**Respondents**

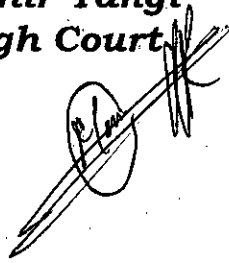
AFFIDAVIT

I, Faiz Ullah S/O Mohib Ullah (Ex-Constable No.1210) R/O Tehsil Tangi District Charsadda, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

DEPONENT
CNIC#_17102-1299728-1
Cell#_0300-3016293

Identified by

Manzoor Bashir Tangi
Advocate, High Court
Peshawar



(3)

(4)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR.



Service Appeal No. 1210/2018

Faiz Ullah S/o Mohib Ullah (Ex-Constable No. 1210) R/o
Tehsil Tangi, District Charsadda.....(Appellant)

VERSUS

- 1. Inspector General of Police, Khyber Pakhtunkhwa, DPO Peshawar
- 2. District Police Officer, District Charsadda.....(Respondents)

APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT
1974, AGAINST THE ORDER DATED
16/10/2018 PASSED BY DPO, CHARSAJDA
AND FOR RE-INSTATEMENT OF APPELLANT,
WITH ALL BACK BENEFIT.

01/11/18

Prayer:

On acceptance of this Service Appeal, the impugned termination order dated 16/10/2018 passed by DPO, Charsadda (Respondent No. 2) may kindly be set aside and the appellant may kindly be reinstate in service with all back benefits

2/10/19

arqjastab

(4) (5)

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.**



Service Appeal No.1378/2018

BEFORE: **MR. KALIM ARSHAD KHAN, ... CHAIRMAN**
MISS. FAREEHA PAUL, ... MEMBER(E)

**Faizullah S/O Mohib Ullah (Ex-Constable No. 1210) R/O Tehsil
Tangi, District Charsadda.(Appellant)**

Versus

1. **Inspector General of Police, Khyber Pakhtunkhwa CPO, Peshawar.**
2. **District Police Officer, District Charsadda..... (Respondents)**

Mr. Aftab Khan,	...	For appellant.
Advocate	...	
Respondents.	...	Not represented.

Date of Institution.....01.11.2018
 Date of Hearing.....10.05.2022
 Date of Decision.....11.05.2022

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN. Through the instant service appeal, the appellant Faiz Ullah has challenged order dated 16.10.2018, whereby his review petition, against order dated 06.02.2018 of his dismissal from service, was rejected.

2. The facts gathered from the file of this appeal, are that the appellant was appointed as Constable in Police Department in the year, 1993 and was serving with dedication; that on 22.01.2018, show cause notice was issued to him for his willful absence from duty since 29.01.2017; that the appellant submitted detailed reply to the show cause notice through Superintendent, Central Jail, Adyala Rawalpindi; that respondent No. 2 did not consider the

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

5

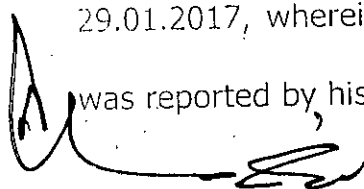
6

reply of the appellant satisfactory and vide order dated 06.02.2018, major penalty of dismissal from service was imposed upon him, that feeling aggrieved, the appellant filed departmental appeal/representation before respondent No. 1 on 16.08.2018 which was rejected on 16.10.2018, hence the present appeal.

3. After admission of appeal for full hearing, the respondents were put on notice who put appearance and submitted their joint reply/parawise comments. They contended that the appellant while posted as Gunner with Mr. Farooq Azam Khan, Ex-DIG of Police, was found missing from the area and remained absent w.e.f. 29.01.2017. A preliminary enquiry was conducted through DSP Legal Charsadda. During the course of enquiry, it revealed that appellant was involved in a criminal case vide FIR No. 664, dated 16.02.2014 u/s 365-A/363-PPC P.S Saddar Beroni Rawalpindi and was confined at Adyala Jail Rawalpindi. His reply to the show cause notice was received, however, it was found unsatisfactory and after fulfillment of all codal formalities, he was dismissed from service on 06.02.2018. It was further contended by the respondents that mere release on bail does not mean acquittal of the appellant from the charge.

4. We have heard arguments of learned counsel for the appellant and perused the record.


5. It appears from the record that the appellant was dismissed from service because of his alleged absence since 29.01.2017 but annexure-E attached with the appeal is an extract from the Daily Diary No. 17 dated 29.01.2017, wherein report of alleged kidnapping/abduction of the appellant was reported by his son. Later on, the appellant was found detained in Adyala


11/5/22

ATTESTED

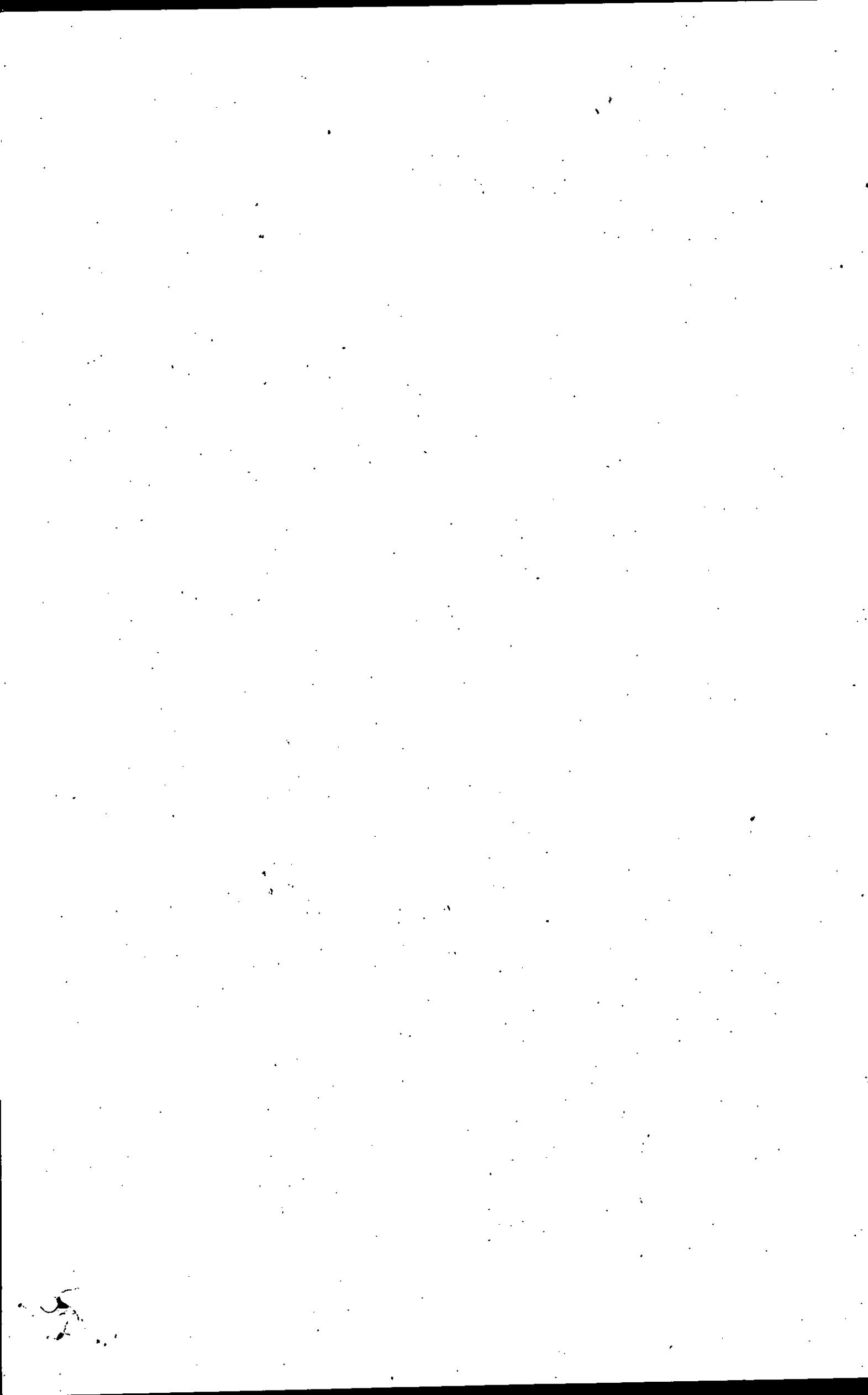
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Jail at Rawalpindi in case FIR No. 664 dated 16.10.2014 u/s 365-A/302/201-PPC P.S Saddar Beroni, District Rawalpindi and was released on bail on 02.05.2018. The record also reflects that the appellant had sent an application to the District Police Officer, Charsadda through the Superintendent, Central Jail Adyala Rawalpindi explaining that he was arrested in the above case. On his release from the jail, he submitted departmental appeal on 16.08.2018 requesting for his reinstatement from the date of his alleged abduction but his appeal was turned down vide order No. 4044/18, dated 16.10.2018. During the course of arguments, learned counsel for the appellant produced certified copy of an order dated 25.08.2018 alongwith statement of one Muhammad Yousaf Haroon son of Ali Bahadar Khan exonerating the appellant from the criminal charge but the order passed by the Honourable trial court shows that the case was instead adjourned sine-die till the recovery of abductee if alive or otherwise. Therefore, it cannot be said that the appellant has been acquitted in the said criminal case. Be that as it may, mere involvement of a person in a criminal offence is also not sufficient to hold him guilty unless he is ultimately convicted and that too in a case or matter which could be said to be the misconduct under the relevant rules. Therefore, the punishment awarded to the appellant seems premature and on allowing this appeal we set aside the order of dismissal as well as that passed by the PPO on appeal of the appellant and direct his reinstatement in service from the date of his dismissal. The period of absence of the appellant shall be treated as leave of the kind due. Needless to say that in case the appellant is found guilty and convicted in the criminal case, the relevant Conduct Rules shall follow. Consign.


11/5722

ATTESTED

EXAMINER
Khyber Pakhtkhwa
Service Tribunal
Peshawar



(7)

(8)

6. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 11th day of May, 2022.



[Signature]

(KALIM ARSHAD KHAN)
Chairman

[Signature]

(FAREEHA PAUL)
Member (E)

Certified to be true copy

~~EXAMINED~~
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 30/5/22

Number of Wards 1600

Copying Fee 18/-

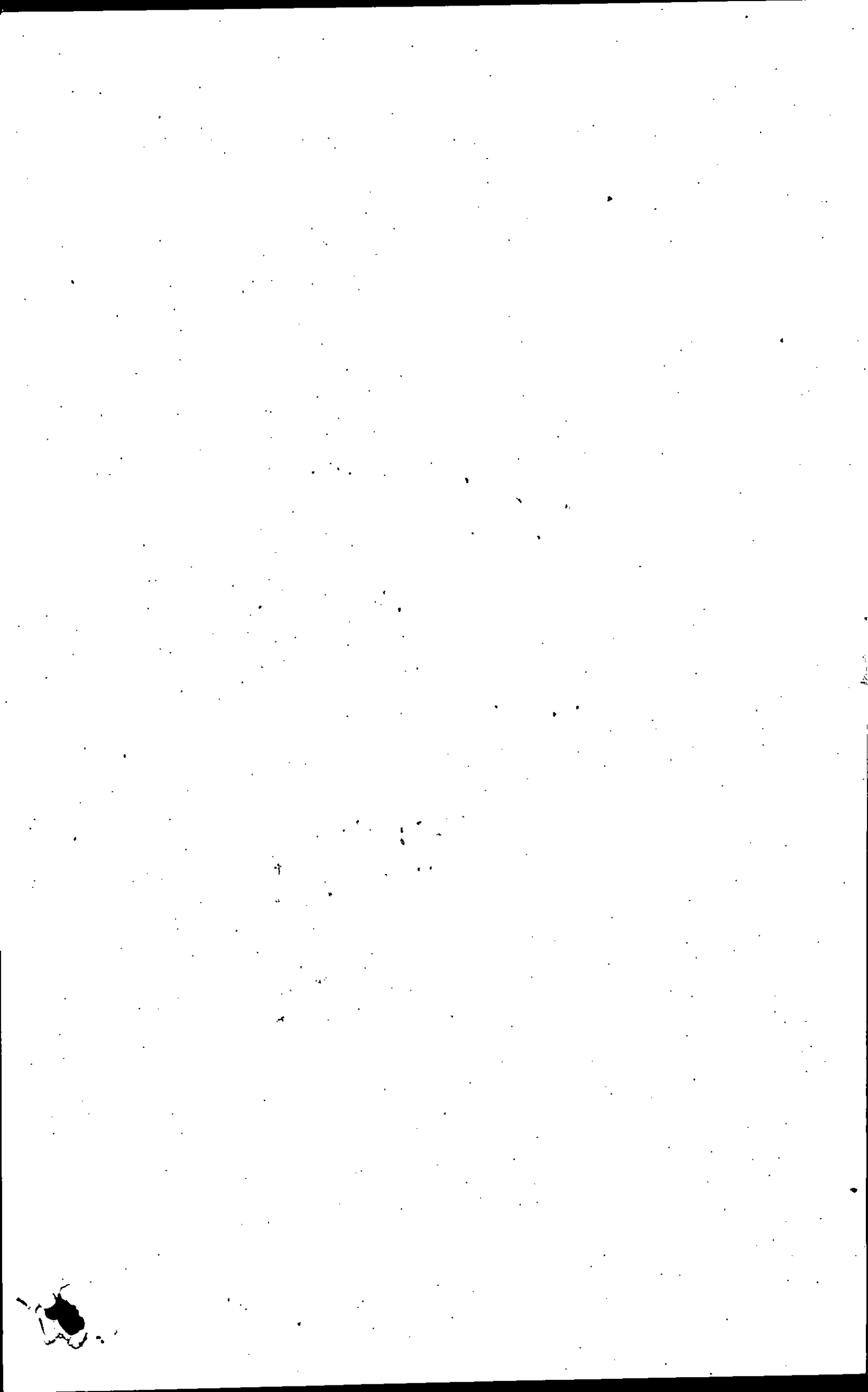
Urgent 4/-

Total 22/-

Name of Cop _____

Date of Compl. of Copy 30/5/22

Date of Delivery of Copy 30/5/22



(8)

(9)

11541			
ایڈوکیٹ: منظور منگلی	پشاور بار ایسوسی ایشن، خیبر پختونخواہ		
بار کونسل ایسوسی ایشن نمبر: 17-8254			
رابطہ نمبر: 0333-2747070			

بعدالت جناب: خیبر پختونخواہ سروس ٹریڈینگز و سٹورز

منجانب:	دعویٰ:
	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:

باعت تحریر آگہ

مستند کا نام لکھیں
 منجانب سے
 منجانب سے
 منجانب سے
 منجانب سے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ
 آن مقام شامیہ منظور منگلی ایڈوکیٹ کو وکیل مقرر
 کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کمال اختیار ہوگا، نیز وکیل صاحب کو
 راضی نامہ کرنے و تقریر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست ازہر قسم کی تصدیق
 زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یک طرفہ 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 منجانب سے تعلقہ کے لئے تقرر کا اختیار ہوگا، اور صاحب
 مقرر شدہ کو وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختر منظور و قبول ہوگا
 دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیش 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: 22/08/2023

مقام شامیہ کے لیے منظور ہے۔

نوٹ: اس وکالت نامہ کی فونو کاپی ناقابل قبول ہوگی۔

**BEFORE THE HON'BLE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR**

C.M No. 465 / 2022
In
Service Appeal No.1378/2018

Faiz Ullah.....**Petitioner**

Versus

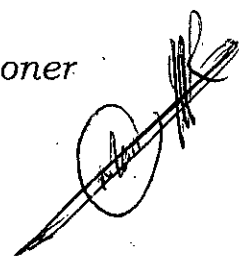
Inspector General of Police KPK, Peshawar and another
.....**Respondents**

I N D E X

S#	Description of Documents	Annex	Pages
1.	Application for Execution		1-2
2.	Affidavit		3
3.	Copy of judgment and order		4-8
4.	Wakalatnama		9

Petitioner

Through


Manzoor Bashir Tangi
Advocate, High Court
Peshawar
Cell# 0333-2747070

Dated: 12.08.2022

(1)

BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.1378/2018

Faizullah s/o MohibUllah (Ex-constable No.1210) R/O Tehsil Tangi,
DistrictCharsadda

.....(Applicant/Appellant)

VERSUS

1. Inspector General of Police ,Khyberpakhtunkhwa CPO ,Peshawar.

2. District Police Officer ,DistrictCharsadda

.....(Respondents)

**APPLICATION FOR EXECUTION/IMPLEMENTATION OF THE ORDER AND
JUDGMENT DATED 11/05/2022 PASSED BY THIS HON'BLE TRIBUNAL
IN SERVICE APPEAL NO.1378/2018.**

RESPECTFULLY SHEWETH :

1. That the petitioner had earlier filed a service appeal No.1378/2018 for the redressal of his grievances which was decided by this Hon'ble tribunal vide order dated 11/05/2022 in favor of the appellant .

(Copy of order dated 11/05/2022 is attached as annexure "A")

2. That applicant /appellant approached to the respondents time and again for implementation of the order of this Hon'ble tribunal but of no avail.

3. That in this very order dated 11/05/2022 this Hon'ble tribunal observed that "the termination order dated is set aside and the appellant is reinstated in service from the date of his dismissal " .

2

4. That the respondents has failed to comply with order of this Hon'ble Tribunal and are reluctant to act accordingly.

5. That any other ground may be raised at the time of arguments with the permission of this Hon'ble court:

It is therefore most humbly prayed that on acceptance of this application, the respondents may be directed to execute /implement the order of this Hon'ble Tribunal dated 11/05/2022 in service appeal No.1378/2018 in the best interest of justice.

Applicant/Appellant

Through

Manzoor Bashir Tangi

Dated:



3

**BEFORE THE HON'BLE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR**

C.M No. _____/2022
In
Service Appeal No.1378/2018


Faiz Ullah.....**Petitioner**

Versus

Inspector General of Police KPK, Peshawar and another
.....**Respondents**

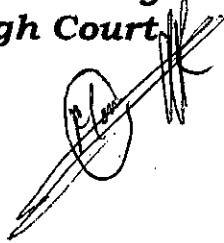
AFFIDAVIT

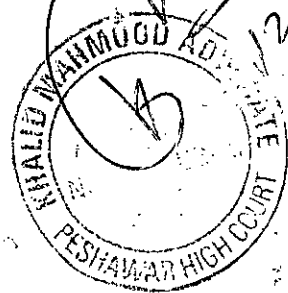
I, Faiz Ullah S/O Mohib Ullah (Ex-Constable No.1210) R/O Tehsil Tangi District Charsadda, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.


DEPONENT
CNIC#_17102-1299728-1
Cell#_0300-3016293

Identified by

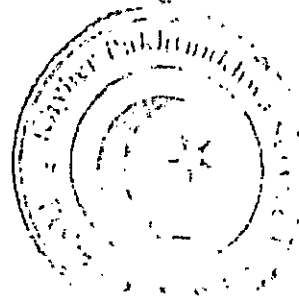
Manzoor Bashir Tangi
Advocate, High Court,
Peshawar





2-8-22

(B) (9)
BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR.



Service Appeal No. 1210/18

Fauz Ullah S/o Mohib Ullah (Ex-Constable No. 1210) P.O.
Tehsil Tappa, District Charsadda (Appellant)

VERSUS

1. Inspector General of Police, Khyber, Pakhtunkhwa, CPD
Peshawar
2. District Police Officer, District Charsadda, (Respondents)

APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT
1974, AGAINST THE ORDER DATED
16/10/2018 PASSED BY DPO, CHARADDA
AND FOR RE-INSTATEMENT OF APPELLANT,
WITH ALL BACK BENEFIT.

01/11/18

Prayer:

On acceptance of this Service Appeal, the
impugned termination order dated 16/10/2018
passed by DPO, Charsadda (Respondent No. 2) may
kindly be set aside and the appellant may kindly be
reinstated in service with all back benefits

2/11/18

arjestr

(4) (5)

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.**



Service Appeal No.1378/2018

BEFORE: **MR. KALIM ARSHAD KHAN, ... CHAIRMAN**
MISS. FAREEHA PAUL, ... MEMBER(E)

**Faizullah S/O Mohib Ullah (Ex-Constable No. 1210) R/O Tehsil
Tangi, District Charsadda.(Appellant)**

Versus

1. **Inspector General of Police, Khyber Pakhtunkhwa CPO, Peshawar.**
2. **District Police Officer, District Charsadda..... (Respondents)**

Mr. Aftab Khan,
Advocate
Respondents.

For appellant.

Not represented.

Date of Institution.....01.11.2018
Date of Hearing.....10.05.2022
Date of Decision.....11.05.2022.

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN. Through the instant service appeal, the appellant Faiz Ullah has challenged order dated 16.10.2018, whereby his review petition, against order dated 06.02.2018 of his dismissal from service, was rejected.

2. The facts gathered from the file of this appeal, are that the appellant was appointed as Constable in Police Department in the year, 1993 and was serving with dedication; that on 22.01.2018, show cause notice was issued to him for his willful absence from duty since 29.01.2017; that the appellant submitted detailed reply to the show cause notice through Superintendent, Central Jail, Adyala Rawalpindi; that respondent No. 2 did not consider the

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

(D)

(6)

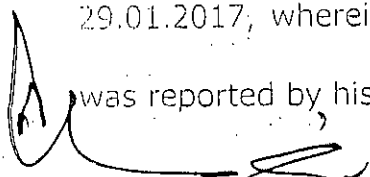
reply of the appellant satisfactory and vide order dated 06.02.2018, major penalty of dismissal from service was imposed upon him, that feeling aggrieved, the appellant filed departmental appeal/representation before respondent No. 1 on 16.08.2018 which was rejected on 16.10.2018, hence the present appeal.

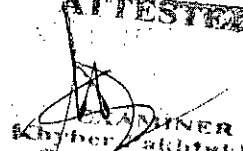
3. After admission of appeal for full hearing, the respondents were put on notice who put appearance and submitted their joint reply/parawise comments. They contended that the appellant while posted as Gunner with Mr. Farooq Azam Khan, Ex-DIG of Police, was found missing from the area and remained absent w.e.f. 29.01.2017. A preliminary enquiry was conducted through DSP Legal Charsadda. During the course of enquiry, it revealed that appellant was involved in a criminal case vide FIR No. 664, dated 16.02.2014 u/s 365-A/363-PPC P.S Saddar Beroni Rawalpindi and was confined at Adyala Jail Rawalpindi. His reply to the show cause notice was received, however, it was found unsatisfactory and after fulfillment of all codal formalities, he was dismissed from service on 06.02.2018. It was further contended by the respondents that mere release on bail does not mean acquittal of the appellant from the charge.

4. We have heard arguments of learned counsel for the appellant and perused the record.

5. It appears from the record that the appellant was dismissed from service because of his alleged absence since 29.01.2017 but annexure-E attached with the appeal is an extract from the Daily Diary No. 17 dated 29.01.2017, wherein report of alleged kidnapping/abduction of the appellant

was reported by his son. Later on, the appellant was found detained in Adyala



11/57 22


ATTESTED

EXAMINER
Kyber Pakhtunkhwa
Service Tribunal
Peshawar

3

7

Jail at Rawalpindi in case FIR No. 664 dated 16.10.2014 u/s 365-A/302/201-PPC P.S Saddar Beroni, District Rawalpindi and was released on bail on 02.05.2018. The record also reflects that the appellant had sent an application to the District Police Officer, Charsadda through the Superintendent, Central Jail Adyala Rawalpindi explaining that he was arrested in the above case. On his release from the jail; he submitted departmental appeal on 16.08.2018 requesting for his reinstatement from the date of his alleged abduction but his appeal was turned down vide order No. 4044/18, dated 16.10.2018. During the course of arguments, learned counsel for the appellant produced certified copy of an order dated 25.08.2018 alongwith statement of one Muhammad Yousaf Haroon son of Ali Bahadar Khan exonerating the appellant from the criminal charge but the order passed by the Honourable trial court shows that the case was instead adjourned sine-die till the recovery of abductee if alive or otherwise. Therefore, it cannot be said that the appellant has been acquitted in the said criminal case. Be that as it may, mere involvement of a person in a criminal offence is also not sufficient to hold him guilty unless he is ultimately convicted and that too in a case or matter which could be said to be the misconduct under the relevant rules. Therefore, the punishment awarded to the appellant seems premature and on allowing this appeal we set aside the order of dismissal as well as that passed by the PPO on appeal of the appellant and direct his reinstatement in service from the date of his dismissal. The period of absence of the appellant shall be treated as leave of the kind due. Needless to say that in case the appellant is found guilty and convicted in the criminal case, the relevant Conduct Rules shall follow. Consign.

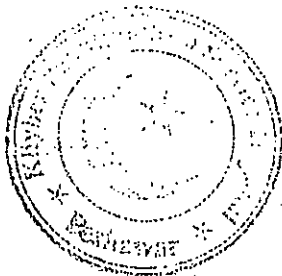

11/5722

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

47

8

6. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 11th day of May, 2022.



[Signature]

(KALIM ARSHAD KHAN)
Chairman

[Signature]

(FAREEHA PAUL)
Member (E)

Certified to be true copy

~~EXAMINED~~
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

~~Date of Presentation of Application~~ 30/5/22

~~Number of Wards~~ 1660

~~Copying Fee~~ 18/-

~~Deposit~~ 4/-

~~Total~~ 22/-

~~Name of Copy~~ _____

~~Date of Completion of Copy~~ 30/5/22

~~Date of Delivery of Copy~~ 30/5/22