





Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. _____ 125/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	23.02.2022	<p>The execution petition of Mr. Anwar Zeb submitted today by 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</p>
2-	13.05.2022	<p>This execution petition be put up before to Single Bench at Peshawar on <u>13.05.2022</u>. Original file be requisite. Notices to the appellant and his counsel be also issued for the date fixed.</p> <p style="text-align: right;"> CHAIRMAN</p> <p>Learned counsel for the petitioner and seeks adjournment. Adjourned. To come up for further proceedings on 28.06.2022 before S.B.</p> <p style="text-align: right;"> Chairman</p>
3-	18.06.2022	<p>Learned counsel for the petitioner present. Mr. Kabir Ullah Khattak, Additional Advocate General present.</p> <p>Learned AAG seeks time for submission of implementation report. Request accepted. To come up for implementation report before S.B on 16.08.2022 before S.B.</p> <p style="text-align: right;"> (Fareeha Paul) Member (F)</p>

Noted
by Council
Peshawar
13/05/2022

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Execution petition No/25/2022

In

Service Appeal No: 785/2018

Anwar Zeb



Versus

I.G.P KPK Peshawar & Others

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Dated: 16/02/2022


Petitioner
Through 
Naila Jan
Advocate, High Court
Peshawar

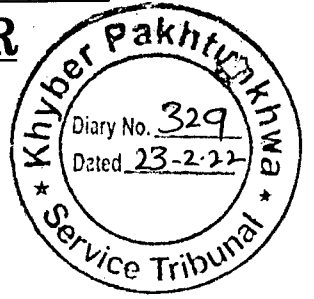
①

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Execution petition No. 125/2022

In

Service Appeal No: 785/2018



Mr Anwar Zeb, Constable No: 3118, Police Lines,
Peshawar

.....Petitioner

Versus

1. Inspector General of Police, Khyber Pakhtunkhwa,
Peshawar.
2. Capital City Police Officer, Peshawar.
3. Superintendant of Police, Headquarters,
Peshawar.

.....Respondents

EXECUTION PETITION FOR
IMPLEMENTATION OF THE
JUDGMENT OF THIS HON'BLE
TRIBUNAL IN APPEAL No.
785/2018 DECIDED ON
10/01/2022

Respectfully Sheweth,

1. That the above mention appeal was decided by this Hon'ble Tribunal vide Judgment dated 10/01/2022. (Copy of the judgment is annexed as annexure "A")
2. That the relevant portion of the judgment is reproduced "*In view of the situation the instant appeal is accepted. The impugned orders 13/12/2017, 31/01/2018 and 15/05/2018 are set aside and the Appellant is reinstated in service with all back benefits. Parties are left to bear*

2

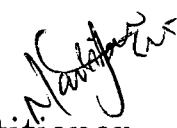
their own costs. File be consigned to record room”.

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: 23/02/2022

Through


Petitioner


Naila Jan

Advocate, High Court
Peshawar

AFFIDAVIT:-

I, Mr Anwar Zeb, Constable No: 3118, Police Lines, Peshawar, 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.


Deponent



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**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

Execution petition No. ____/2022

In

Service Appeal No: 785/2018

Anwar Zeb

Versus

I.G.P KPK Peshawar & Others

ADDRESSES OF PARTIES

PETITIONER

Mr Anwar Zeb, Constable No: 3118, Police Lines,
Peshawar

RESPONDENTS

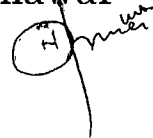
1. Inspector General of Police, Khyber Pakhtunkhwa,
Peshawar.
2. Capital City Police Officer, Peshawar.
3. Superintendant of Police, Headquarters,
Peshawar.

Dated: 23/02/2022

Petitioner

Through

Naila Jan
Advocate, High Court
Peshawar



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Amir A

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

Khyber Pakhtunkhwa
Service Tribunal

APPEAL NO. 785 / 2018

Diary No. 1038

Dated 8-6-2018

Mr. Anwar Zeb, Constable No.3118,
Police Lines, Peshawar.....

APPELLANT

VERSUS



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

RESPONDENTS

**APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA
SERVICIE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED
ORDER DATED 13.12.2017 WHEREBY THE APPELLANT HAS
BEEN REMOVED FROM SERVICE AND AGAINST THE
APPELLATE ORDER DATED 15.05.2018 WHEREBY THE
DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN
REJECTED ON NO GOOD GROUNDS**

PRAYER:

That on acceptance of this appeal the impugned orders dated 13.12.2017, 31.1.2018 and 15.05.2018 may very kindly be set aside and the appellant may be re-instated into service with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

**R/SHEWETH:
ON FACTS:**

1- That appellant was the employee of the respondent Department and has served as constable the respondents for quite considerable time efficiently and up to the entire satisfaction of his superiors.

2- That during service father of the appellant got seriously ill and no one was available for his look after during the said illness. That for the said purpose the appellant moved an application for leave to look after his father but no reply was received, wherein the appellant having no other choice left for home without availing leave. Copies of the medical prescriptions are attached as annexure..... **A.**

3- That during the said illness father of the appellant has been died on 20.6.2017. That after death of his father the appellant visited the concerned quarter to submit his arrival report but in response the

2/6/18
R/SHEWETH:

A

3

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 785/2018

Date of Institution ... 08.06.2018
Date of Decision ... 10.01.2022



Mr. Anwar Zeh, constable No. 3118, Police Lines, Peshawar.
... (Appellant)

VERSUS

The inspector General of Police, Khyber Pakhtunkhwa, Peshawar and two others.
... (Respondents)

Noor Muhammad Khattak,
Advocate ... For Appellant

Muhammad Adeel Butt,
Additional Advocate General ... For respondents

AHMAD SULTAN TAREEN ... **CHAIRMAN**
ATIQ-UR-REHMAN WAZIR ... **MEMBER (EXECUTIVE)**

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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 removed from service vide order dated 13-12-2017. Feeling aggrieved, the appellant filed departmental appeal, which was rejected vide order dated 31-01-2018. The appellant filed revision petition, which was rejected vide order dated 15-05-2018, hence the instant service appeal with prayers that the impugned orders dated 13-12-2017, 31-01-2018 and 15-05-2018 may be set aside and the appellant may be re-instated in service with all back benefits.

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ATTACHED
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Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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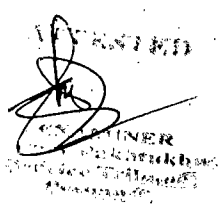
02. Learned counsel for the appellant has contended that the impugned orders are against law, fact and norms of natural justice, therefore not tenable and liable to be set aside; that the appellant has not been treated in accordance with law, as such the respondents violated Article-4 and 25 of the Constitution; that no charge sheet/statement of allegation and showcause notice has been served upon the appellant before imposition of major penalty; that the appellant was kept deprived of the appropriate opportunity of defense, as no regular inquiry was conducted against the appellant; that absence of the appellant was not willful but due to compelling reasons; that the impugned order dated 13-12-2017 is void ab initio on the score that the same has been issued by an incompetent authority.

03. Learned counsel for the respondents has contended that the appellant was a habitual absentee and has earned 48 bad entries and 5 minor punishments in his short service; that the appellant willfully absented himself from lawful duty without permission of the competent authority and to this effect charge sheet/statement of allegations was served upon the appellant and inquiry officer was appointed, who conducted proper inquiry; that the inquiry officer repeatedly summoned the appellant but he did not turn up; that the inquiry officer found the appellant to be an unwilling worker; that the charges of deliberate absence stood proved against him, hence he was awarded with major punishment of removal from service.

04. We have heard learned counsel for the parties and have perused the record.

05. Record reveals that the appellant was proceeded against on the charges of absence and to this effect, charge sheet/statement of allegations are available on record, but it could not be ascertained from record as to whether the same were actually served upon the appellant. Similarly, show cause notice has also not

AC


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37

been served upon the appellant. The inquiry so conducted also would show that the appellant was not associated with proceedings of the inquiry and such inquiry cannot be termed as a regular inquiry. We have also observed 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. 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.

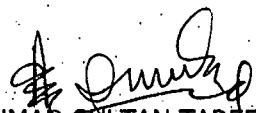
06. The Supreme Court of Pakistan in its judgment reported in 2008 SCMR 1369 has held that in case of imposing major penalty, the principles of natural justice required that a regular inquiry was to be conducted in the matter and opportunity of defense and personal hearing was to be provided to the civil servant proceeded against, otherwise civil servant would be condemned unheard and major penalty of dismissal from service would be imposed upon him without adopting the required mandatory procedure, resulting in manifest injustice. Obviously the appellant was not associated with the process of disciplinary proceedings and was condemned unheard. We have observed that absence of the appellant was neither so long nor willful, but he availed such leave due to compelling reasons of illness of his father, who died during the course, whereas the appellant had submitted medical prescriptions of his father. Even otherwise, absence on medical grounds without permission of the competent authority could not be considered an act of gross misconduct entailing major penalty of dismissal from service, but the respondents did not consider his case on compassionate ground and was dismissed in an arbitrary manner, which was not warranted. Reliance is placed on 2008 SCMR 214.

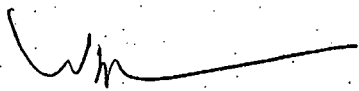
ATTESTED


ATTORNEY
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

07. In view of the situation, the instant appeal is accepted. The impugned orders dated 13-12-2017, 31-01-2018 and 15-05-2018 are set aside and the appellant is re-instated in service with all back benefits. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
10.01.2022


(AHMAD SULTAN TARBEN)
CHAIRMAN


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

Certified to be true copy

EXCISE OFFICER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 26/01/2022
Number of Words 2000
Copying Fee 22/-
Urgent 4/-
Total 26/-
Name of Consultant -
Date of Completion of Copy 26/01/22
Date of Delivery of Copy 26/01/22



قیمت
50 روپے

112647



ایڈوکیٹ: Naila Jan
بار کونسل / ایسوسی ایشن نمبر: BC 13-4172
رابطہ نمبر: 0312-9215471

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب:

Petitioner	مخانب:	Execution	دعوی:
	الوزیر		علت نمبر:
			مورخہ:
			جرم:
			تھانہ:

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ

آن مقام لیتا اور ایڈوکیٹ نائلہ جان ایڈوکیٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز ذیل صاحب کو راضی نامہ کرنے و تقریر ثالث و فیصلہ بر حلف 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 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 کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہر کام کے لئے اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ با اختیار حاصل ہوں گے اور ان کا ساختہ پر داخستہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانب اتوائے 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

المقام لیتا اور
21/02/2025
PESHAWAR BAR ASSOCIATION
PESHAWAR

المقام لیتا اور کے لیے منظور ہے۔

Attested and
accepted by

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