

Form- A  
FORM OF ORDER SHEET

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

Execution Petition No. 479 /2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	23.08.2022	<p style="text-align: center;">The execution petition of Mr. Sana Ullah submitted today by Syed Roman Badshah Advocate. It is fixed for implementation report before Single Bench at Peshawar on _____. 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;">By the order of Chairman</p> <p style="text-align: center;"><b>REGISTRAR</b></p>

(1)

BEFORE THE SERVICE TRIBUNAL KHYBER  
PAKHTUNKHWAPESHAWAR

Execution Petition No. 479/2022, In Service appeal no. 1500 of 2018

Sanan Ullah S/o Muhammad Yaqoob R/o Baram Khel, Shnawa Gudi Khel  
Tehsil Takht-e-Nasrati, District Karak.....Decree Holder/Petitioner

Versus

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 1064

Dated 23/8/2022

1. Provincial Police Officer/ Inspector General of Police  
Khyber Pakhtunkhwa, Peshawar
2. Commandant FRP, Khyber Pakhtunkhwa Peshawar.
3. Superintendent of Police, FRP Kohat, region Kohat.
4. Government of Khyber Pakhtunkhwa through  
Chief Secretary, Peshawar

.....Judgment Debtor/Respondent

PETITION FOR DIRECTING THE RESPONDENT TO IMPLEMENT THE  
JUDGMENT AND ORDER DATED 17/05/2022 OF THIS HONORABLE  
TRIBUNAL, IN THE ABOVE NOTED APPEAL.

Respectfully Sheweth;

Applicant humbly submits as under

1. That the above noted appeal has been decided on 17/05/2022, by this honorable tribunal in favor of the petitioner.
2. That the appeal of the petitioner has been accepted and the petitioner has been reinstated in service with all back benefits. (Copy of the judgment is attached as annexure-A)
3. That the petitioner has approached time and again to the respondent to implement the judgment of this honorable tribunal but the respondent deaf eared, the application of the petitioner. (Application is Attached As Annexure -B)

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4. That now the petitioner has no other remedy but to approach this Hon'ble tribunal for the implementation of this tribunal order dated 17/05/2022.
5. That there is no bar in filing of this petition, and this petition is well within time.

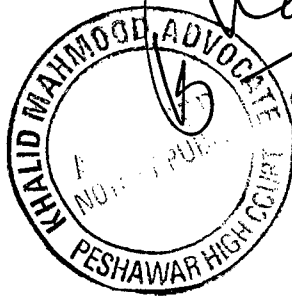
It is therefore most humbly prayed that upon acceptance of this petition, the respondents may please be directed to implement the order and judgment of this Hon'ble tribunal Dated 17/05/2022, and to punish the respondents for defiance of this Hon'ble tribunal order dated 17/05/2022.

Through

*Sanan Ullah*  
Petitioner  
*Syed Roman Shah*  
Syed Roman Shah  
Advocate High Court  
*P Perin*

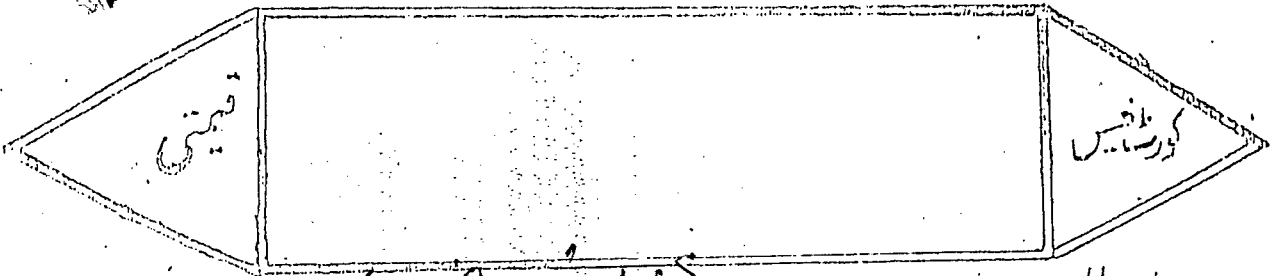
AFFIDIVIT

I Sanan Ullah S/o Muhammad Yaqoob R/o Baram Khel, Shnawa Gudi Khel Tehsil Takht-e- Nasrati, District Karak, do hereby solemnly affirm and declare on oath that the contents of the above petition is true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable tribunal.



*Sanan Ullah*  
Deponent

(A)



# فیصلہ امتحان مدرسہ دارالعلوم دیوبند کے طلبہ کے لئے

میں ڈگری دارالعلوم مندرجہ ذیل کی اجسٹریٹڈ اسکول کے درخواست حسب آئینہ قواعد و ضوابط دیوانہ دارالعلوم دیوبند کے تحت

1	ممبر امتحان	Appeal No. 500/2018.	Sama Ullah vs Decree holder
2	نام لکھیں	① PD O / 1GP ② Commandant FRP ③ SP. FRP Relant. ④ Government of KP through Chief Secretary	Judgment debtors
3	تاریخ ڈگری	17/05/2022	
4	آئی ایم اے ایف ایف ایف	NIL	
5	پہلے آئی ایم اے ایف ایف ایف	NO.	
6	دوسرا آئی ایم اے ایف ایف ایف	NO.	
7	تیسرا آئی ایم اے ایف ایف ایف	Re-instatement in service with all back benefits.	
8	چوتھا آئی ایم اے ایف ایف ایف	NO.	
9	پنجم آئی ایم اے ایف ایف ایف	Judgment debtors.	
10	ششم آئی ایم اے ایف ایف ایف	-> By Arrest -> By Stoppage of Salary -> By attachment of property.	

جناب عالی

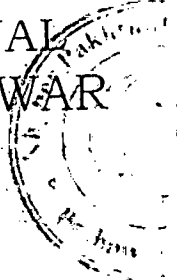
Sam Ullah

تصدیق شدہ دستخط  
مفتی محمد رفیع صاحب

(19) (3)

BEFORE THE SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No. 1500 /2018



Sana Ullah S/o Muhammad Yaqoob R/o Baram Khel, Shnwa  
Gudi Khel Tehsil Takht-e-Nasrati District, Karak ..... Appellant

Versus

1765

18-12-2018

1. Provincial Police Officer/ Inspector General of Police  
Khyber Pakhtunkhwa, Peshawar
2. Commandant FRP, Khyber Pakhtunkhwa, Peshawar
3. Superintendent of Police, FRP, Kohat Range, Kohat
4. Government of Khyber Pakhtunkhwa through  
Chief Secretary, Peshawar

..... Respondents

APPEAL UNDER SECTION 4 OF SERVICE TRIBUNAL ACT, 1974  
AGAINST THE ORDER DATED 11/09/2018 PASSED BY  
RESPONDENT NO. 3 BY WHICH MAJOR PENALTY OF  
"DISMISSAL FROM SERVICE", AND HIS ABSENCE PERIOD OF 07  
DAYS IS TREATED AS ABSENCE FROM DUTY WITHOUT PAY,  
HAS BEEN AWARDED TO THE APPELLANT AND AGAINST THE  
ORDER 20/11/2018 PASSED BY RESPONDENT NO. 2 WHEREIN  
THE REPRESENTATION/ DEPARTMENTAL APPEAL FILED BY  
APPELLANT HAS BEEN REJECTED.

Filed by  
18/12/18  
Registrar

PRAYER

By accepting this service appeal, the punishment awarded to the  
appellant through impugned orders dated 11/09/2018 and  
20/11/2018 may graciously be set aside by declaring it illegal,  
void, unlawful, without authority, based on mala fide, void abinitio  
and thus not sustainable and the appellant is entitled for  
reinstatement with all back benefits of pay and service.

*[Handwritten signature]*

Re-submitted to day  
and filed.  
18/12/18  
Registrar

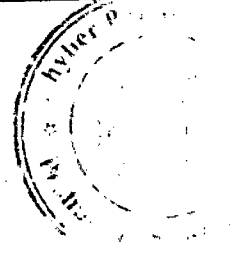
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(4)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 1500/2018

Date of Institution ... 18.12.2018  
Date of Decision ... 17.05.2022



Sana Ullah S/O Muhammad Yaqoob R/O Baram Khel, Shnwa  
Gudi Khel Tehsil Takhti-e-Nasrati District Karak.

... (Appellant)

**VERSUS**

Provincial Police Officer/Inspector General of Police Khyber  
Pakhtunkhwa, Peshawar and three others.

... (Respondents)

Shahid Qayum Khattak,  
Advocate

... For appellant.

Kabir Ullah Khattak,  
Additional Advocate General

... For respondents.

Salah-Ud-Din  
Rozina Rehman

... Member (J)  
... Member (J)

**JUDGMENT**

**ROZINA REHMAN, MEMBER (J):** The appellant has invoked the  
jurisdiction of this Tribunal through above titled appeal with the prayer  
as copied below:

“By accepting this service appeal, the punishment  
awarded to the appellant through impugned orders  
dated 11.09.2018 and 20.11.2018 may graciously be  
set aside by declaring it illegal, void, unlawful,  
without authority, based on malafide, void ab-initio  
and thus not sustainable and the appellant is  
entitled for reinstatement with all back benefits of  
pay and service.”

*[Handwritten signature]*  
**ATTESTED**

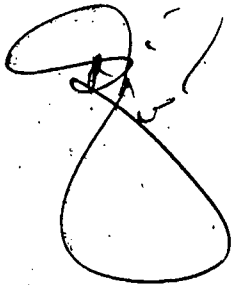
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2. Brief facts of the case are that appellant was serving as Constable in FRP Platoon No.122 deployed at District Kohat. It was on 29.07.2018 when one Momin was arrested vide case FIR No.446 for having 4 Kg of Charas who allegedly named appellant as an accused, therefore, the appellant was also arrested on the same day by the local police. He was served with a charge sheet alongwith statement of allegations which was properly replied but the same was not taken into consideration and appellant was dismissed from service on 11.09.2018. He filed departmental appeal which was dismissed, hence, the present service appeal.

3. We have heard Shahid Qayum Khattak Advocate learned counsel for appellant and Kabir Ullah Khattak, learned Additional Advocate General for respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Shahid Qayum Khattak Advocate learned counsel appearing on behalf of appellant, inter-alia, submitted that the impugned orders are illegal, unlawful, without authority, hence the same are liable to be set aside being based on surmises and conjectures. It was submitted that the reply to the charge sheet submitted by the appellant was not taken into consideration and that proper procedure was not adopted. It was contended that no show cause notice was issued to the appellant and that no proper regular inquiry was conducted in order to scrutinize the conduct of the appellant with reference to the charges. The learned counsel further contended that the appellant was falsely implicated in case FIR No.446 merely on the statement of an accused person and that the appellant was neither apprehended on spot nor any incriminating article was recovered from his immediate possession.



ATTESTED

EXAMINER  
Service



ATTESTED

Lastly, it was submitted that no proper opportunity of personal hearing was provided to the appellant and he was condemned unheard; that the appellant was on duty at the relevant time of alleged occurrence and was arrested on the same day and the moment he was released from jail, he resumed his duty, therefore the absence period of seven days was beyond his control as he was confined in judicial lockup but this aspect of the case was ignored by the respondents.

5. Conversely, learned AAG contended that appellant had developed links with drug paddler namely Momin who was arrested by the local police with 4 Kg of Charas who disclosed before the Police party to have been brought the recovered Charas for the present appellant, therefore, appellant was arrested and proper case vide FIR No.446 was registered. He submitted that he was properly issued charge sheet with statement of allegations and Inquiry Officer was nominated to conduct inquiry against him and that after fulfillment of all codal formalities, he was dismissed from service by the competent authority.

6. From the record it is evident that appellant Sana Ullah was charge sheeted for having committed the following acts/omission:

“As reported vide FRP Lines Kohat DD No.03 dated 29.07.2018, you have been charged/arrested vide case FIR No.446 dated 29.07.2018 U/S 9-C CNSA P.S Cantt. District Kohat for dealing with Narcotics as is evident from contents of said FIR because accused Momin, after recovery of 4Kg Chars, disclosed before the SHO that he was taking the recovered Chars to you (Sana Ullah).

**ATTESTED**

**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

*[Handwritten signature]*  
**ATTESTED**

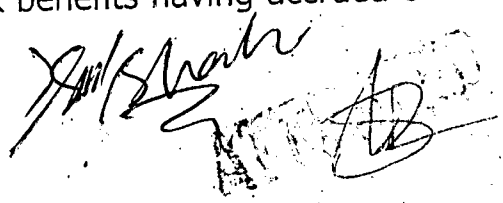
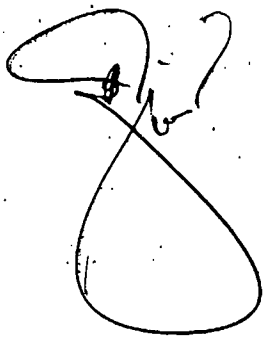


②

may be said to be dishonorable. Involvement of the appellant in the criminal case was also a ground on which he had been dismissed from service and the said ground had subsequently disappeared through his acquittal, making him re-emerge as a fit and proper person entitled to continue his service. His links with law breaking persons were not brought on record and the inquiry report is silent in this regard.

7. It is established from the record that charges of his involvement in the criminal case ultimately culminated in honorable acquittal of the appellant by the competent court of Law. In this respect we have sought guidance from 1988 PLC (CS) 179, 2003 SCMR 215 and PLD 2010 Supreme Court, 695 and judgments rendered by this Tribunal in Service Appeal No.1380/2014 titled Ilam Nawaz Vs. Police Department; Service Appeal No.616/2017 titled Mumtaz Ali Vs. Police Department; Service Appeal No.863/2018 titled Fateh-ur-Rehman Vs. Police Department; Service Appeal No.1065/2019 titled Naveed Gul Vs. Police Department and Service Appeal No.12098/2020 titled Ali Imran Vs. Police Department.

8. For what has been gone above, the appeal at hand is accepted. Consequently, the impugned order of imposition of penalty with disciplinary proceedings wherefrom it resulted, are set aside; and the appellant is reinstated into service from the date of dismissal from service with all back benefits. The concerned respondent, on receipt of copy of this judgment, shall issue the order of appellant's reinstatement with all back benefits having accrued or accruable from



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the date of his dismissal from service. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.  
17.05.2022

(Salah-ud-Din)  
Member (J)

(Rozina Rehman)  
Member (J)

**Certified to be true copy**

**EXAMINER**  
**Khyber Pakhtunkhwa**  
**Service Tribunal**  
**Peshawar**

Date of Presentation of Application 03/06/22

Number of Words 2800

Copying Fee 30/-

Urgency 30/5/22

Date of the original copy 08/06/22

Date of Delivery of Copy 08/06/22

صیغہ عدالتی

تہذا دیکھا جاتا ہے کہ سب سے پہلے جو جج  
عدالتی 17/05 کو سرحد میں ٹریبونل نے نوٹری پر عملدرآمد  
کے ساتھ ہی جج کے (Judgment) کا پیغام لیا ہے

انہذا ایسا ہے کہ سب سے پہلے  
ٹریبونل کے فیصلے کے مطابق نوٹری پر عملدرآمد  
کے ساتھ ہی جج کے حکم کو دور (D.O.)

الو اللہ  
سب سے پہلے Ex میں سنا دیا ہے FRP کے ساتھ ہی

Ph. No. 0345 9869452

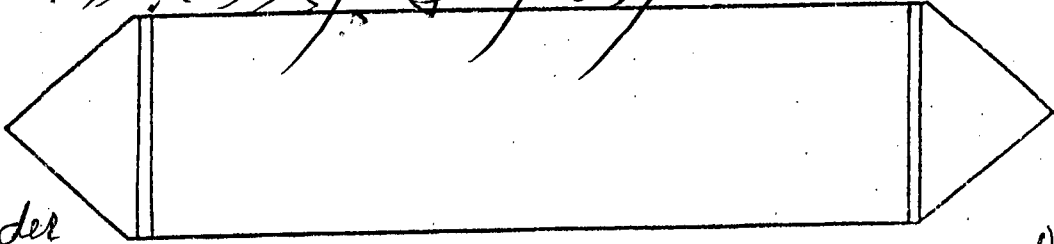
Si legal

For legal action as per  
Law/Rules.

17-08-2020  
Dy Comdant FRP KP

Attested  
ATTESTED

# بعدالت سرسرا مندرجہ عنوان متعلقہ



Degree holder

سید محمد علی شاہ  
بنام حکومت و عدلیہ

مقدمہ 2018  
دعویٰ 1500  
جرم

## باعث تحریر آئندہ

اپنی طرف سے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی کا جواب دہی و کمال کارروائی متعلقہ  
آن مقام کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کمال کارروائی کا کمال اختیار دیا گیا۔ نیز  
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثتہ 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 برادگی اور منسوخی  
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور  
کے کمال 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 کبھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ  
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جائہ التوائے مقدمہ کے سبب سے وہ ہوگا۔  
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 سند ہے۔

Sama ulaba  
Jama ulaba SPO Mahamand  
Ho. Behram Khel, Shreva Gurdh Ichel  
Teh & Karanle

المرقوم 23  
ماہ 08 2022  
واہ العبد  
بمقام  
شمارہ  
کے لئے منظور ہے۔

Handwritten signatures and stamps at the bottom of the document.