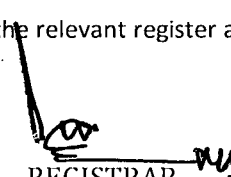




Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 374/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	28.06.2022	<p>The execution petition of Mr. Ahmad Bilour submitted today by Mr. Hamad Hussain Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p> REGISTRAR</p>
2-	<p>5-7-2022 Notices issued for 11/8/22</p>	<p>This execution petition be put up before Single Bench at Peshawar on <u>11-08-2022</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> CHAIRMAN</p>
	11.08.2022	<p>Nemo for petitioner. Mr. Kabir Ullah Khattak, Additional Advocate General alongwith Atta Ur Rehman, Inspector Legal for respondents present.</p> <p>Implementation report not submitted. Learned Additional AG sought time for submission of implementation report. To come up for implementation report on 30.09.2022 before S.B.</p> <p> (Fareeha Paul) Member (E)</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Execution Petition No. 374 /2022
In
Service appeal No 331/2020

Ahmad Bilour Ex Constable No 2186 District officer Mardan
.....petitioner

VERSUS

The Provincial Police Officer KPK etc Peshawar and others.


-----Respondents

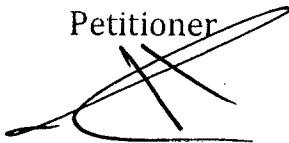
INDEX

S.N	Description of Documents	Annexure	Page
1	Memo of petition		1-2
3	Copy of judgment dated 06/12/2021	A	3-7
5	Copy of application	B	8
6	Power of Attorney		9

Dated : 28 ⁶/₂₂

Through


Petitioner


Hamad Hussain
Advocates High Court Peshawar
Mobile No. 03120952763

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Execution Petition No. 374 /2022
In
Service appeal No 331/2020

Ahmad Bilour Ex Constable No 2186 District officer Mardan
.....petitioner

VERSUS

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 553

Dated 28/6/2022

1. The Provincial Police Officer KPK Peshawar.
2. The Regional police officer Mardan Region
3. The District Police, officer Mardan,

-----Respondents

**PETITION FOR IMPLEMENTATION OF THE ORDER OF
THIS SERVICE TRIBUNAL VIDE SERVICE APPEAL NO
331/2020 DATED 6/12/2021 WHERE BY THIS SERVICE
TRIBUNAL ALLOWED THE SERVICE APPEAL OF THE
PETITIONER AND REINSTATED IN TO SERVICE WITH
ALL BACK BENEFITS.**

RESPECTFULLY SHEWETH,

FACTS:-

- 1 That the petitioner was dismissed in to service vide the impugned officer order dated 05/06/2017.
- 2 That thereafter the petitioner preferred departmental appeal against the same which was filed by the regional police officer Mardan vide order dated 02/05/2019
- 3 That the petitioner then preferred service appeal before this service tribunal in service appeal no 331/2020,
- 4 That on 06/12/2021 this service tribunal accepted the service appeal of the petitioner and setting aside the impugned order and the

②

petitioner is reinstated into service with all back benefits. **(COPY OF JUDGMENTS DATED 06/12/2021 AS ANNEX A)**

- 5 That the petitioner is submitted an application before the concerned police officer for reinstatement of service and submitted the judgment of this service tribunal dated 06/12/2021. **(COPY OF APPLICATION AS ANNEX B)**
- 6 That the respondents department has no order of suspension of the august Supreme Court against the order of this service tribunal in service appeal 331/2020.
- 7 That any other ground may be adduced during the course of argument, the kind permission of this Honorable Tribunal.

It is, therefore, most humbly prayed that the execution petition of the petitioner may kindly be accepted and the respondents department may kindly be directed to implemented the order of this service tribunal vide service appeal 331/2020 dated 06/12/2021 and the petitioner may kindly be re-instated into service with all back benefits.

Any other relief as deemed appropriate in the circumstances of the case not specifically asked for may also be granted to appellant.

Ahmed Bilour
Appellant

Through

Hamad Hussain
Hamad Hussain

Dated: 28/06/2022

Advocates High Court Peshawar

AFFIDAVIT

I, Ahmad Bilour Ex Constable No 2186 District officer Mardan , do hereby solemnly affirm and declare that the contents of the instant appeal is true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.

Ahmad Bilour
DEPONENT

ATTESTED
MUHAMMAD WAHEEM KHAN
ADVOCATE
OATH COMMISSIONER
28/06/2022

(3)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 331 /2020

Ahmad Bilour Ex Constable No 2186 District Police Office Mardam
.....APPELLANT

VERSUS

1. The Provincial Police Officer KPK Peshawar.
2. The Regional Police Officer Mardan Region.
3. The District Police Officer Mardan.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 346

Dated 13-01-2020

----- RESPONDENTS

SERVICE APPEAL UNDER SECTION 4 OF THE
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
ACT, 1974 AGAINST THE IMPUGNED ORDER DATED
5/6/2017 WHEREBY THE APPELLANT WAS
DISMISSED FROM HIS SERVICE,

PRAYER:

ON ACCEPTANCE OF THE INSTANT APPEAL, THE
IMPUGNED OFFICE ORDER DATED 05/06/2017 MAY
GRACIOUSLY BE SET ASIDE AND APPELLANT MAY
ALSO BE REINSTATED IN SERVICE WITH ALL BACK
BENEFITS.

Filed to-day
13/01/2020
Registrar

ANY OTHER ADEQUATE REMEDY WHICH IS NOT
PRAYED BY THE APPELLANT IN FACTS / GROUND
DEEMED FIT MAY ALSO BE GRANTED

RESPECTFULLY SHEWETH,

FACTS:-

1. That appellant was appointed as Constable in police department on dated 24/12/2016. And in his service the appellant performed his duty with great zeal and punctuality.

Attorney
[Signature]

[Signature]

(4)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR.**

Service Appeal No. 331/2020
Date of institution ... 13.01.2020
Date of Decision ... 06.12.2021



Ahmad Bilour, Ex-Constable No. 2186 District Police Office Mardan.
... (Appellant)

VERSUS

The Provincial Police Officer Khyber Pakhtunkhwa Peshawar and
two others.
... (Respondents)

Mr. HAMAD HUSSAIN,
Advocate

--- For appellant.

MR. ASIF MASOOD ALI SHAH,
Deputy District Attorney

--- For respondents.

MR. AHMAD SULTAN TAREEN
MR. SALAH-UD-DIN

--- CHAIRMAN
--- MEMBER (JUDICIAL)

JUDGMENT:

SALAH-UD-DIN, MEMBER:-

Precise facts forming the background of the instant service appeal are that the appellant while serving as Constable, was proceeded against departmentally on the allegations of his absence from duty with effect from 03.03.2017 and on conclusion of the inquiry, he was dismissed from service vide impugned order dated 05.06.2017. The appellant preferred departmental appeal against the same, which was filed by Regional Police Officer Mardan vide order dated 02.05.2019. The appellant then preferred

Altaf-ud-Din
S

[Signature]

(5)

appeal/revision to the Inspector General of Police Khyber Pakhtunkhwa, however the same was not responded, hence the present service appeal.

2. Notices were issued to the respondents, who submitted their comments, wherein they denied the assertions made by the appellant in his appeal.

3. Learned counsel for the appellant has contended that the absence of the appellant was not willful, rather he was arrested by the Law Enforcement Agencies on 28.02.2017 and was ultimately released on 07.03.2019 upon the order dated 27.02.2019 passed by august Peshawar High Court, Mingora Bench (Dar-ul-Qaza) Swat in Writ Petition filed by the appellant; that whole of the proceedings were conducted at the back of the appellant and no opportunity of self defence was provided to the appellant; that the appellant was in custody of Law Enforcement Agencies and several applications were submitted to the Police Authorities for release of the appellant, however instead of making of any effort for release of the appellant, he was proceeded against departmentally and dismissed from service despite the fact that the competent Authority was well in the knowledge of the fact that the appellant was in custody of Law Enforcement Agencies; that the impugned order is void ab-initio and is not hit by law of limitation, however an application for condonation of delay has been filed as an abundant caution; that the impugned order being wrong and illegal is liable to be set-aside and the appellant is entitled to be reinstated in service with all back benefits. Reliance was placed on 1985 SCMR 1178 as well as judgment dated 05.07.2021 passed by this Tribunal in Service Appeal No. 949/2019.

4. On the other hand, learned Deputy District Attorney for the respondents has contended that the appellant had willfully remained absent from duty, therefore, he was proceeded against departmentally and was rightly dismissed from service; that all legal and codal formalities were complied with

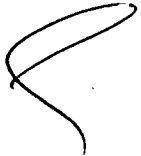
Attached
D


in the inquiry proceedings; that the departmental as well as service appeal of the appellant are time barred, therefore, the appeal in hand is liable to be dismissed with cost.

5. We have heard the arguments of learned counsel for the appellant as well as learned Deputy District Attorney for the respondents and have perused the record.

6. A perusal of the record would show that disciplinary action was taken against the appellant on account of his absence from duty with effect from 03.03.2017. The appellant has alleged that while travelling to his home from PTC Hangu on 28.02.2017, he was taken into custody by the Government Agencies and was then handed over to the Authorities of Bajur Scouts on 01.03.2017; that the appellant then preferred Writ Petition in the august Peshawar High Court, Mingora Bench (Dar-ul-Qaza) Swat, which was allowed vide judgment dated 27.02.2019 and the appellant was thus released from illegal custody. The contention so raised by the appellant is supported by copy of judgment dated 27.02.2019 passed by august Peshawar High Court, Mingora Bench (Dar-ul-Qaza) Swat as well as copies of other documents annexed with the appeal. It is also apparent from the record that the appellant's brother namely Rahim Dad Khan had filed applications to the ASP Takht Bhai District Mardan for release of the appellant from the custody of Government Agencies. All this would indicate that the appellant was in custody of Government Agencies, however the competent Authority initiated disciplinary action against him on the allegations that he remained absent from training without any leave/permission of the competent Authority. In the given circumstances, the absence of the appellant from duty cannot be considered as willful. The proceedings so taken by the competent Authority against the appellant are void ab-initio and the impugned order of dismissal of the appellant is nullity in the eye of law.

7. Consequently, the appeal in hand is allowed by setting-aside the impugned order and the appellant is

Attached



JUDGE

(7)

reinstated in service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
06.12.2021

(SALAH-UD-DIN)
MEMBER (JUDICIAL)

(AHMAD SULTAN TAREEN)
CHAIRMAN

21/12/21

Date of the award: 21/12/21
Number of copies: 2000
Copies: 422/1
Used: 24
Total: —
Date of delivery of copy: 21/12/21
21/12/21



(8)

خدمت جناب DPO صاحب صلح مردان

جناب عالی!

بتاؤ

عنوان - درخواست برائے نفاذ حکم خیر و نفعخواہ سروس ٹریبونل

مؤدیان گزارش کی جاتی ہے

کہ سائل نے اپنے ملازمت کے بحالی کیلئے خیر و نفعخواہ

سروس ٹریبونل پشاور میں اپیل کی۔ آپ عدالت

موصوف نے مجھے 6¹²/₂₀₂₁ پر اپنے ملازمت مع

تمام سابقہ بقایا جات کیساتھ بحال کیا۔ نقل فیصلہ لف ہے

لہذا آپ صاحبان کو درخواست کی جاتی

ہے کہ عدالت مذکورہ کے فیصلے کے مطابق سائل کو

بحال کریں اور عدالت فیصلے کو نافذ کرنے کے احکامات

صادر فرمائیں۔

العارض

فقط زیادہ آداب

آپ کا تابعدار کا نسٹیل احمد بلور ولید حافظ عبادت خان بیلٹ نمبر 2186

316/LB مورخ 23¹²/₂₀₂₁ Dated 27¹²/₂₀₂₁ furnished D.P.O.

(9)

وکالت نامہ

بعدالت صاحب سروس سروریز پرائیویٹ لمیٹڈ
اعلیٰ عدلیہ بنام سروس سروریز پرائیویٹ لمیٹڈ
مخانب: سلاخ تاریخ
علت نمبر: مورخہ: بجرم: تھانہ:

باعث تحریر آنکہ

مقدمہ مندرجہ بالا عنوان میں اپنی طرف سے واسطے پیروی و جوابدہی بمقام حیدر
کے لیے ہے۔

حماد حسین ایڈوکیٹ ہائی کورٹ

کو بدیں شرط وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختیار خاص رو بروئے عدالت حاضر ہوتا ہوں گا اور ہر وقت پکارے جانے مقدمہ
وکیل صاحب موصوف کو اطلاع دیکر حاضر عدالت کرونگا اگر پیشی پر من مظہر حاضر نہ ہو اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور میرے
برخلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام پکھری کے کسی اور جگہ سماعت ہونے یا
بروز تعطیل یا پکھری کے کسی اور جگہ سماعت ہونے یا بروز تعطیل یا پکھری کے اوقات کے آگے پیچھے پیش ہونے پر من مظہر کو کوئی نقصان پہنچے تو اس کے
ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا مختیار نامہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل ساختہ پر داخستہ صاحب
موصوف مثل کردہ ذات خود منظور قبول ہوگا اور صاحب موصوف کو عرضی دعویٰ و جواب دعویٰ اور درخواست اجراء ڈگری و نظر ثانی اپیل و گرانہ
ہر قسم کی درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا۔ اور کسی حکم یا ڈگری کے اجراء کرنے اور ہر قسم کاروبار وصول کرنے اور رسید دینے اور
داخل کرنے اور ہر قسم کے بیان دینے اور سپرد تالی و راضی نامہ کو فیصلہ برخلاف کرنے، اقبال دعویٰ دینے کا بھی اختیار ہوگا۔ اور بصورت اپیل و برآمدگی
مقدمہ یا منسوخی ڈگری یا طرفہ درخواست حکم امتناعی یا قرتی یا گرفتاری قبل از اجراء ڈگری بھی موصوف کو بشرط ادا بیگی علیحدہ مختیار نامہ پیروی کا اختیار
ہوگا۔ اور بصورت ضرورت صاحب موصوف کو بھی اختیار ہوگا یا مقدمہ مذکورہ یا اس کے کسی جزو کی کاروائی کے واسطے یا بصورت اپیل، اپیل کے واسطے
کسی دوسرے وکیل یا پیرسٹر کو بجائے اپنے یا اپنے ہمراہ مقرر کریں نیز ایسے مشیر قانون کو ہر امر میں وہی اور ایسے ہی اختیارات حاصل ہوں گے جیسے کہ
صاحب موصوف کو حاصل ہیں اور پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور ایسی صورت میں میرا کوئی
مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔ لہذا یہ مختیار نامہ لکھ دیتا ہوں کہ سند ہے۔ مورخہ: _____ مضمون مختیار نامہ
سن لیا ہے اور اچھی طرح سمجھ لیا اور منظور ہے۔

ATTESTED & ACCEPTED

حماد حسین ایڈوکیٹ ہائی کورٹ

رابطہ نمبر: 0312952763

Amir
1-1-2018

"A"

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

No.

APPEAL No. E.P. No 374 of 20

Ahmad Bilour

Appellant/Petitioner

Versus

The Provincial Police Officer KPK Peshawar
RESPONDENT(S)

Respondent No. 1
Notice to Appellant/Petitioner

The Provincial Police
Officer KPK Peshawar

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 11/8/22 at 9:00

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.

copy of E.P. Attached
for Implementation
Report

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

2-8-22