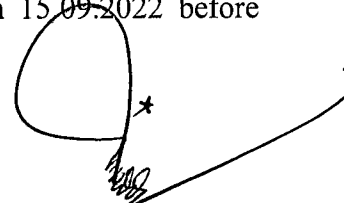


22.07.2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Implementation report not submitted. Learned Additional Advocate General seeks time to contact the respondents for submission implementation report. Adjourned. To come up for implementation report on 15.09.2022 before S.B.

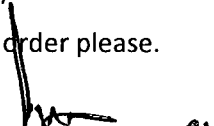

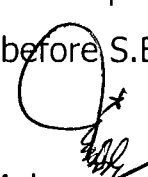


(Mian Muhammad)
Member (E)

Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 131/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	02.03.2022	<p>The execution petition of Mst. Gul Meena submitted today by Mr. SaadUllah Khan Marwat Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p> REGISTRAR</p>
2-	<p>5th 22-10-20 13-1-22.</p>	<p>This execution petition be put up before to Single Bench at Peshawar on <u>18-05-2022</u>. Original file be requisite. Notices to the appellant and his counsel be also issued for the date fixed.</p> <p> CHAIRMAN</p>
	18.05.2022	<p>Learned counsel for the petitioner present.</p> <p>Notice of the present execution petition be issued to the respondents for submission of implementation report. To come up for implementation report on 22.07.2022 before S.B.</p> <p> (Mian Muhammad) Member (E)</p>

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

Execution Petition No. 131/2022

Misc Pett: No. 131 /2022

Gul Meena

versus

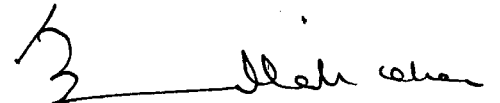
Superintendent & Others

I N D E X

S.#	Description of Documents	Annex	Page
1.	Memo of Misc Petition		1-2
2.	Copy of Appeal dated 16-09-2019	"A"	3-5
3.	Copy of Judgment dated 12-11-2021	"B"	6-10
4.	Compliance letter dated 14-02-2022	"C"	11

Applicant

Through



(Saadullah Khan Marwat)

Advocate

21-A Nasir Mension,

Shoba Bazar, Peshawar.

Ph: 0300-5872676

Dated: 01-03-2022

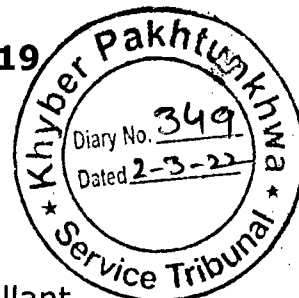
BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

Misc Pett: No. _____ /2022

Execcection Petition No. 131/2022

IN

S.A. No. 1182/2019



Gul Meena D/O Ghulam Abbas,
R/O Moh: Zargaran, Bara Gate,
LHC, Police Line, Peshawar Appellant

VERSUS

1. Superintendent of Police,
Hqs: Peshawar.
2. Capital City Police Officer,
Peshawar.
3. Provincial Police Officer,
Peshawar. Respondents

**APPLICATION FOR IMPLEMENTATION OF THE
JUDGMENT DATED 12-11-2021 OF THE HON'BLE
TRIBUNAL, PESHAWAR:**

Respectfully Sheweth:

1. That on 16-09-2019, applicant filed Service Appeal before this hon'ble Tribunal for reinstatement in service. (Copy as annex "A")
2. That the said appeal came up for hearing on 12-11-2021 and then the hon'ble Tribunal was pleased to hold that:-

"The impugned orders dated 13-08-2015 and 18-04-2019 are set aside and the appellant is re-instated in service with all back benefits". (Copy as annex "B")
3. That on 14-02-2022 applicant remitted the same to respondents for compliance but so for no favorable action was taken there and then and the judgment of the hon'ble Tribunal was put in a waste box. (Copy as annex "C")

4. That the respondents are not complying with the judgment of the hon'ble Tribunal in letter and spirit and flouts the same with disregard, so are liable to be proceeded against the Contempt of Court Law for punishment.

It is, therefore, most humbly requested that the judgment dated 12-11-2021 of the hon'ble Tribunal be complied with hence forthwith.

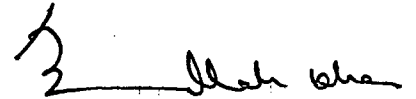
OR

In the alternate, respondents be proceeded for contempt of court and they be punished in accordance with Law.



Applicant

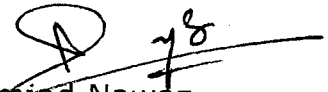
Through



Saadullah Khan Marwat



Arbab Saif-ul-Kamal

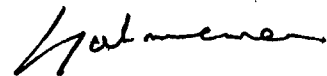


Anjad Nawaz
Advocates

Dated: 01-03-2022

AFFIDAVIT

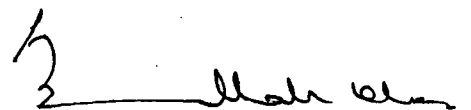
I, Gul Meena D/O Ghulam Abbas, R/O Moh: Zargaran, Bara Gate Peshawar, LHC Police Line Peshawar (Appellant), do hereby solemnly affirm and declare that contents of **Implementation Petition** are true and correct to the best of my knowledge and belief



DEPONENT

CERTIFICATE:

As per instructions of my client, no such like Implementation Petition has earlier been filed by the appellant before this Hon'ble Tribunal.



ADVOCATE

A 3



BEFORE KPK SERVICE TRIBUNAL PESHAWAR

S. A No. 1182 /2019

Gul Meena D/O Ghulam Abbas
R/o Moh: Zargaran, Bara Gate,
Ex-LHC, Police Line, Peshawar. Appellant

**Hyber Pakhtukhwa
Service Tribunal**

Diary No. 1256

Dated 16/9/2019

VERSUS

1. Superintendent of Police,
Headquarter Peshawar.
2. Capital City Police Officer,
Peshawar.
3. Provincial Police Officer,
KP, Peshawar. Respondents

◁<=>◁<=>◁<=>◁<=>◁

**APPEAL U/S 4 OF SERVICE TRIBUNAL ACT,
1974 AGAINST O.B NO 1359 DATED 18-04-
2019 OF R. NO. 01, WHEREBY ORDER
DATED 13-08-2015, DISMISSING
APPELLANT FROM SERVICE WAS UPHELD**

Filed to-day
[Signature]
Registrar
16/9/19

Re-submitted to -day **FOR NO LEGAL REASON.**
and filed.

◁<=>◁<=>◁<=>◁<=>◁

[Signature]
Registrar 16/9/19

Respectfully Sheweth;

1. That appellant was enlisted as constable on 09-12-2009 in Police Department. She was selected for training at PTC Hangu in the year 2012-13 and was declared best cadet for her performance. She also qualified lower course training in the year 2014.

[Handwritten signature]

ATTESTED
[Signature]
EXAMINER
Service Tribunal
Peshawar

2. That on frivolous complaint of Mst. Neelam Ismail, appellant was dismissed from service by R. No. 01 on 13-08-2015. (Copy as annex "A")
3. That on 21-08-2015, appellant submitted representation before R. No. 02 for reinstatement in service which was rejected on 03-11-2015. (Copies as annex "B" & "C")
4. That on 17-11-2015, appellant preferred Appeal No. 1285/2015 before KP Service Tribunal which came up for hearing on 25-1-2019 and then the hon'ble Tribunal was pleased to accept the same, setting aside the said order with direction to the department to conduct De-Novo enquiry as per the mandate of Law with in a period of 90 days. (Copy as annex "D" & "E")
5. That thereafter, appellant was served with Charge Sheet which was replied and the denied the allegations on 08-03-2019. (Copies as annex "F" & "G")
6. That on 13-03-2019, appellant submitted application to the authority for change of the Inquiry Officer, having no confidence over the same but without any action. (Copy as annex "H")
7. That so called enquiry was conducted without affording opportunity of cross examination as pointed out in the judgment to appellant and self made report was finalized by the Inquiry Officer, but no copy of the same was supplied to appellant.
8. That appellant was served with Final Show Cause Notice on 04-04-2019, which was replied on 11-04-2019 in the aforesaid manner by denying the charges. (Copies as annex "I" & "J")
9. That again on 18-04-2019, appellant was awarded with major penalty of dismissal from service vide O.B No. 3077 dated 13-08-2015. (Copy as annex "K")
10. That on 17-05-2019, appellant submitted departmental appeal before R. No. 02 which met dead response till date. (Copy as annex "L")

Hence this appeal, inter alia, on the following Grounds.

Au

GROUNDS

- a. That in the judgment dated 25-01-2019. the hon'ble Tribunal directed the department to conduct regular enquiry, i-e framing of Charge Sheet, Statement of Allegations, opportunity of cross examination, show cause notice, personal hearing and defence with in a period on 90 days but the said directions were not honored as is evident from the enquiry proceedings.
- b. That appellant requested the department to provide her complete enquiry proceedings to submit comprehensive reply to the Final Show Cause notice but refused.
- c. That appellant submitted application to the authority to change the Inquiry Officer, being biased, but no heed was paid to her request, so the impugned order is of no legal effect.
- d. That in the judgment order dated 13-08-2015 was set aside, so the authority was legally bound to issue fresh order, if any, but not to uphold former order dated 13-08-2015.
- e. That in the enquiry proceedings, the IO misbehaved appellant time and again and was not treated a normal defaulter, so the conduct of the Inquiry Officer was enemical towards her and was malafide.

It is therefore most humbly requested that order dated 13-08-2015 and 18-04-2019 of the respondents be set aside and appellant be reinstated in service with all consequential benefits.

[Handwritten signature]

Appellant

Through

[Handwritten signature]

(Saad Ullah Khan Marwat)

Dated. 14-09-2019

[Handwritten signature]
Amjad Nawaz,
Advocates.

[Handwritten signature]

B 6

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1182/2019

Date of Institution ... 16.09.2019

Date of Decision ... 12.11.2021



Gul Meena D/O Ghulam Abbas R/o Moh: Zargaran, Bara Gate, Ex-LHC, Police Line, Peshawar. ... (Appellant)

VERSUS

Superintendent of Police, Headquarter Peshawar and two others. ... (Respondents)

Mr. Arbab Saiful Kamal
Advocate ... For Appellant

Mr. Javed Ullah,
Assistant Advocate General ... For Respondents

SALAH-UD-DIN ... **MEMBER (JUDICIAL)**
ATIQU-UR-REHMAN WAZIR ... **MEMBER (EXECUTIVE)**

JUDGMENT

ATIQU-UR-REHMAN WAZIR MEMBER (E):- Brief facts of the

case are that the appellant was enlisted as constable on 09-12-2009 in Police Department. During the course of her service, the appellant was proceeded against and dismissed from service vide order dated 13-08-2015. After exhausting departmental remedies, the appellant filed Service Appeal No. 1285/2015, which was partially accepted vide judgment dated 25-01-2019 with direction to respondents to conduct de-novo proceedings in accordance with law within a period of ninety days. As a result of de-novo proceedings, the appellant was again dismissed from service vide order dated 18-04-2019 by up-holding the previous dismissal order dated 13-08-2015, against which the appellant filed departmental

Atiq

ATTESTED

[Signature]
Secretary
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

appeal dated 17-05-2019, which was not responded, hence the instant service appeal with prayers that the impugned orders dated 13-08-2015 and 18-04-2019 may be set aside and the appellant may be re-instated in service with all consequential benefits.

02. Learned counsel for the appellant has contended that this honorable Tribunal vide judgment dated 25-01-2019 had clearly directed the respondents to conduct regular inquiry i.e. framing of charge sheet/statement of allegations, opportunity of cross-examination, show cause notice, personal hearing within a period of ninety days, but such directions were not honored as is evident from the inquiry proceedings; that inspite of repeated requests, copy of the inquiry report and other relevant material were not handed over to the appellant, which however, were mandatory for submission of comprehensive reply; that the appellant submitted application for change of inquiry officer, being biased, but no heed was paid on her request and the proceedings continued unabated; that behavior of the inquiry officer with the appellant was insulting and the appellant was treated discriminately being a female constable; that conduct of the inquiry officer was hostile towards her, hence the proceedings undertaken under his supervision is biased and is of no legal effect.

W/W

03. Learned Assistant Advocate General for the respondents has contended that in light of judgment of this Tribunal, the appellant was issued show cause notice/statement of allegations and de-novo proceedings were initiated against her; that proper opportunity of defense was afforded to the appellant and after completion of de-novo proceedings, she was issued final show cause notice; that the appellant was heard in person by the competent authority but she failed to defend her cause; that the inquiry proceedings were conducted in accordance with law and the charges leveled against the appellant proved beyond any shadow of doubt; that the appellant failed to produce any plausible grounds in her defense, hence was awarded major punishment of dismissal from service.

ATTESTED

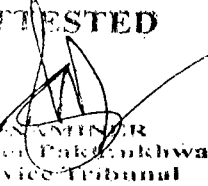
Secretary
Jammu & Kashmir
Service Tribunal
Peshawar

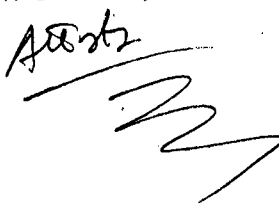
Attested
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04. We have heard learned counsel for the parties and have perused the record.

05. Record reveals that the appellant was appointed as Constable in 09-12-2009. During the course, she was selected for training at Police Training College (PTC) Hangu for the year 2012-13, which she completed with distinction. She was again selected for lower course during 2014 and again she qualified the same course and the appellant afterwards served in various stations. Brief background of the case is that the allegations leveled against the appellant pertains to the years 2012-13. It was in 2015, when a lady, Mst. Neelam had lodged a complaint to the Provincial Police Officer containing the allegations as leveled against the appellant in charge sheet/statement of allegations and as per record, the appellant and Mst. Neelam had personal grudge with each other on the issue of editing pictures of the appellant and making it viral on social media by Mst. Neelam as well as illegally misusing official card of the appellant, upon which the appellant dragged Mst. Neelam to FIA, where Mst. Neelam and her husband were proceeded against under the law. Record is silent as to what happened to such case, but Mst. Neelam revengefully lodged a complaint against her with allegations as contained in the charge sheet/statement of allegations. Upon such complaint, the appellant was summarily proceeded against and was dismissed from service vide order dated 13-08-2015 without adopting legal procedure. This tribunal vides judgment dated 25-01-2019, had set aside her dismissal order and directed the respondents to conduct de-novo proceedings in accordance with law. The respondents without re-instating the appellant, conducted de-novo proceedings. The charges framed against the appellant were that the appellant while undergoing training at PTC Hangu during 2012-13, had shared her own obscene picture and video with friends on internet and that she participated in a showbiz programme in 2012 in violation of rules. The charges so leveled against the appellant were factual in essence, which cannot be proved without conducting

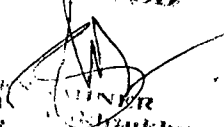
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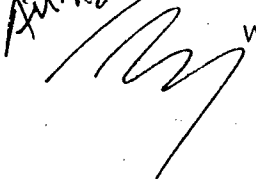

 MEMBER
 Civil, Pakhtunkhwa
 Service Tribunal
 Peshawar


 [Signature]

a regular inquiry and the de-novo inquiry conducted so far cannot be termed as a regular inquiry, as the inquiry officer has skipped the mandatory provision to afford opportunity to the appellant to cross-examine witnesses. The Supreme Court of Pakistan in its judgment reported as 2008 SCMR 1369 have 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, 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 ⁱⁿ justice. Main task of the inquiry officer was to prove such allegations with solid evidence, but the inquiry officer badly failed to prove such allegations. Since such allegations were mainly based upon the complaint of Mst Neelam, but in order to ascertain its authenticity, such allegations were neither verified/proved in the previous proceedings, nor conducted a forensic test of such pictures and videos in the de-novo proceedings, rather the complainant, Mst Neelam, who was main perpetrator of the case, had declined to join de-novo proceedings before the inquiry officer, rather refused to record her statement. The inquiry officer instead recorded statements of seven such women police constables/ women police officers, with whom she served as a colleague or under whom she served for some time but the statements so recorded are irrelevant to the effect that the employees whose statement had been recorded are neither witness to the occurrence nor having any concern with the case. The only witness was the complainant, Mst Neelam and the disputed pictures/videos. The main complainant, Mst Neelam, was required to be cross-examined by the appellant, but the inquiry officer failed to bring her to the table, thus skipping a mandatory step in the disciplinary proceedings, therefore action of authority in awarding major penalty of removal from service, in circumstances, was in sheer violation of principles of natural justice. Reliance is placed on 2011 PLC (CS) 387. The correct course would have been to verify such pictures and videos through forensic test, which however was not done by the respondents and which was not warranted as in the age of

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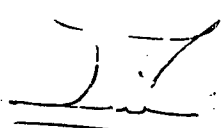
ATTESTED

 ATTESTOR
 M. A. H. Khan
 District Magistrate
 District Muzaffargarh

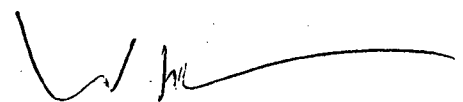
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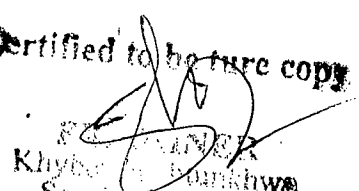
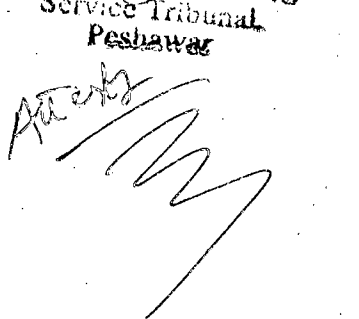
technology, pictures and videos can easily be edited, but the inquiry officer failed to prove as to whether such pictures/videos were original or edited and who had made such material viral on internet. In order to justify their stance, the respondents had projected the appellant with a tainted past, whereas on the strength of PLJ 2005 Tr.C (Services) 107 and PLJ 2016 Tr.C. (Services) 324, it cannot be made a ground for awarding penalty to a government servant. We have noted that de-novo proceedings were conducted only to the extent of fulfillment of legal formalities, but the charges so leveled were not proved, rather the respondents were bent upon removing the appellant from service on mere allegations, which however was not warranted. We are of the considered opinion that the appellant has not been treated in accordance with law and she has been unlawfully dismissed from service without proving any of the charge leveled against her.

06. In view of the foregoing discussion, the impugned orders dated 13-08-2015 and 18-04-2019 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
12.11.2021


(SALAH-UD-DIN)
MEMBER (J)


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

Certified to be true copy

MEMBER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar


Date of Presentation of Application 30/11/21
Number of Words 26/100
Copies 26/-
Urgent 26/-
Total 26/-
Name _____
Date of 21/12/21
Date of Delivery of Copy 21/12/21

To

1. Superintendent of Police,
Headquarter Peshawar.
2. Capital City Police Officer,
Peshawar.
3. Provincial Police Officer, KP,
Peshawar.

Subject: - COMPLIANCE OF JUDGMENT DATED 12-11-2021 OF THE HON'BLE SERVICE TRIBUNAL, PASSED IN SERVICE APPEAL NO. 1182/2019 IN LETTER AND SPIRIT.

Respected Sir,

Please comply with the judgment dated 12-11-2021 of the Hon'ble Service Tribunal, KP, Peshawar passed in the said Service Appeal in letter and spirit and obliged. (Certified copy attached)

More so, my this letter be also treated as my arrival report.

Humble Appellant

Gul Meena
Gul Meena
D/O Ghulam Abbas,
R/O Zargarani Bara
Gate, Peshawar.
Ex-LHC, Police Line,
Peshawar.
Cell No. 0315-6060153

Dated. 14-02-2022

Amir

یوٹھالٹ چٹاپ سسرٹس ٹریڈنگ کمپنی لمیٹڈ

منجانب اہلکار

گل عینہ نام

دعویٰ اہلکار

Implementation
Petition

پاکستان سسرٹس ٹریڈنگ کمپنی

©

©

میں نے مذکورہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی شکل کاروائی متعلقہ آل مقام پشاور
کیسٹ سسرٹس انڈسٹریز کے خلاف درخواستیں ایل و کیٹ، ہائی کورٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب
موصوف کو مقدمہ کی کل کاروائی کا مکمل اختیار ہو گا نیز وکیل صاحب کو کرنے پر رضی نامہ و آفٹر ٹالٹ، وکیل صاحب
میں جواب دہی اور اقبال دعویٰ اور لٹریچر ڈگری کرنے اجراء اور دعویٰ چیک و ریپیئر اور رضی دعویٰ اور درخواست
ہر قسم کی تعلیق اور اس پر دستخط کرنے کا اختیار ہو گا نیز لٹریچر عدم پیروی یا ڈگری کی طرف یا اپیل کی برآمدگی
اور لٹریچر ڈگری کرنے اپیل ٹرانزیشن و لٹریچر پیروی کرنے کا اختیار ہو گا اور لٹریچر ضرورت ضرورت مقدمہ میں
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا انڈسٹریز کو اپنے ہمراہ یا اپنی بجائے لٹریچر کا اختیار ہو گا
اور اس پر مقدمہ شروع کر دینی جائے گا بالا اختیار ہوں گے اور اس کا سامنے پرواہت متعلقہ
تہوں ہو گا و دوران مقدمہ میں جو خرچہ و تر جانہ التوا مقدمہ کے سبب ہو گا اس کے مستحق وکیل صاحب
موصوف ہوں گے نیز لٹریچر و فرسٹ سٹیج کی وصولی کرنے کا بھی اختیار ہو گا اگر کوئی تاریخ پیشی متعلقہ روزہ
پر ہو یا عدت سے باہر ہو تو وکیل صاحب یا ہمارے ہوں گے کہ پیروی مذکور کریں۔
لہذا وکالت نامہ رکھ دیا کہ سند ہے۔

۲۲-۰۳-۰۱

القلم

القلم

القلم

۱۱
ارباب نیفا کمال
ایڈووکیٹ

Mahar
سیدہ الشہداء
ایڈووکیٹ

محمد نواز
ایڈووکیٹ

Gulna

"A"

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

No.

APPEAL No. E.P. No. 131 of 20 22

Gul Meena

Appellant/Petitioner

Versus

Superintendent of Police H.Qs. Peshawar.

RESPONDENT(S)

Respondant No. 2

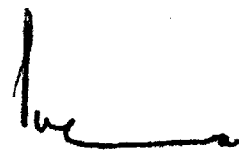
Notice to Appellant/Petitioner

capital city police H.Qs. Peshawar.

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 22/7/22 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 Report



Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

"A"

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

No.

APPEAL No. E.P. No. 131 of 20 22

Gul Moena

Appellant/Petitioner

Versus

Superintendent of Police HQs. Peshawar

RESPONDENT(S)

Respondent No. 1
Notice to Appellant/Petitioner

Superintendent of Police HQs. Peshawar.

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 22/7/22 at Peshawar.

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 Report

[Signature]
Registrar,

Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Received
[Signature]
13/12/22
13/12/22

"A"

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

P.B

No.

APPEAL No. EP No 131 of 20 22

Gul Meena

Appellant/Petitioner

Versus

Superintendent of Police Hqs. Peshawar

RESPONDENT(S)

Respondent No. 3
Notice to Appellant/Petitioner

Provincial Police Officer
Peshawar

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 22/7/22 at Peshawar.

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for Implementation
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[Signature]

Registrar

Khyber Pakhtunkhwa Service Tribunal,
Peshawar.