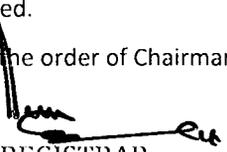


Form- A  
FORM OF ORDER SHEET

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

Execution Petition No. 540/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	13.09.2022	<p>The execution petition of Mr. Amir Ali submitted today by Mr. Muhammad Arif Jan 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  REGISTRAR</p>

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE**

**TRIBUNAL, PESHAWAR**

IN Re:

*E.P. No. 540/2022*

S.Appeal No.15902/2020

Amir Ali.....Petitioner/appellant

VERSUS

District Police Officer and others.....Respondents

**INDEX**

S.No	Description of Documents	Annex	Pages
1.	Grounds of application with affidavit		1-2
2.	Copy of Judgment dated 25-07-2022	A	3-09
3.	Wakalat Nama		10

**Petitioner/Appellant**

Through

*M.A.J.*  
Muhammad Arif Jan  
Advocate Peshawar

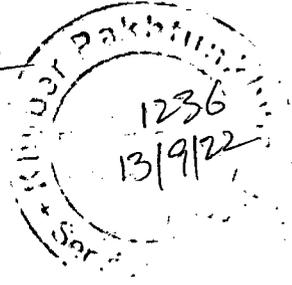
**BEFORE THE KHYBER PAKHTUNKHWA SERVICE**

**TRIBUNAL, PESHAWAR**

*Execution Petition No 540/22*

IN Re:

S.Appeal No.15902/2020



Amir Ali Ex-Constable No-1180 District Police, Nowshera  
presently at khoyshegi District, Nowshera

.....Petitioner/Appellant

Versus

1. District Police Officer Nowshera.
2. Regional Police Officer, Mardan.
3. Provincial Police Officer Khyber Pakhtunkhwa, Peshawar.
4. Assistant Superintendant of Police (Inquiry Officer) Circle  
Cantt, Nowshera.

.....Respondents

**APPLICATION FOR IMPLEMENTATION OF  
JUDGMENT DATED 25-07-2022 OF THIS  
HON'BLE TRIBUNAL.**

**Respectfully Sheweth,**

Applicant humbly submits as under:-

1. That this Hon'ble Tribunal passed judgment dated 25-07-2022 by accepting the appeal of the appellant reinstated him into his services with all back benefits. (Copy of Judgment is attached as Annex-A).
2. That the petitioner himself provided the attested copy of the judgment dated above to the respondents concerned well within time, but the respondents are badly failed to honor the same and to issue compliance order, hence the present petition.
3. That the clear cut directions been made in the judgment passed by this Hon'ble Tribunal, wherein appellant is reinstated into his service, whereas the disinterest of respondents is even establish from the non-provision of the reinstatement order nor implemented and honor the judgment in favour of

(2)

appellant till date, hence invites consideration of this Hon'ble Tribunal.

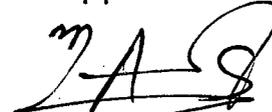
4. That the respondents are duty bound to abide by law and to honor the judgment of this Hon'ble Court in its later and spirit, but even then and despite to clear direction, the respondents intentionally avoiding to implement the same for no any good reason or the reason best known to them.
5. That the judgment mentioned above also attained finality as no any further appeal has been filed before the august Supreme Court of Pakistan against the appellant.
6. That appellant now approaches this Hon'ble Tribunal for implementation of judgment of this Hon'ble Tribunal.

It is, therefore, humbly requested to please direct respondents to implement the judgment dated 25-07-2022 of this Hon'ble Tribunal without any further delay reason and justification.

Dated 09-09-2022

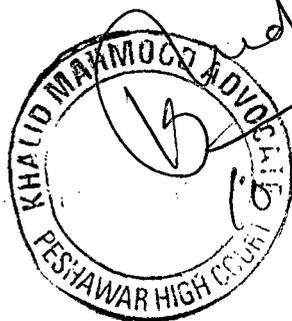
  
Petitioner/appellant

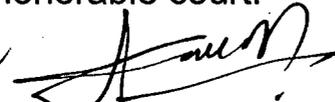
Through

  
**Muhammad Arif Jan**  
Advocate High Court

## AFFIDAVIT

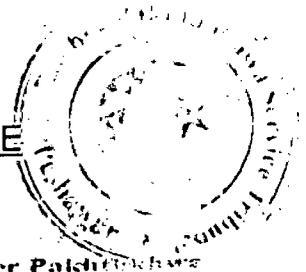
I do hereby affirm and declare as per instructions of my clients that the contents of this **Application** are true and correct and nothing has been concealed from this honorable court.



  
DEPONENT

(3)

Amex-A



BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL, PESHAWAR

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 16438

Dated 14/12/2020

Service Appeal No. 15909/2020

Amir Ali Khan Ex-Constable No-1180 District Police  
Nowshera presently at S/o Sheraz R/o Khoyshegi Bala  
District, Nowshera.

.....Appellant

VERSUS

- 1) District Police Officer, Nowshera.
- 2) Regional Police Officer, Mardan.
- 3) Provincial Police Officer Khyber Pakhtunkhwa,  
Peshawar.
- 4) Assistant Superintendent of Police (Inquiry officer)  
circle Cantt, Nowshera.

.....Respondents

Filed to-day  
Registrar

**SERVICE APPEAL U/S 4 OF THE  
KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL ACT, 1974 AGAINST THE  
ORDER DATED 02-10-2020 PASSED BY  
RESPONDENT NO-1, AGAINST WHICH  
THE DEPARTMENTAL APPEAL  
PREFERRED AND THE SAME WAS TOO  
REJECTED BY THE RESPONDENT NO-2  
MAINTAINING THE DISMISSAL ORDER  
OF THE APPELLANT.**

ORDER  
25.07.2022

Learned counsel for the appellant present. Mr. Muhamma Riaz Khan Paindakhel, Assistant Advocate General for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, placed on file of Service Appeal bearing No. 15901/2020 titled "Naeem Khan Versus District Police Officer, Nowshera and three others", the appeal in hand is allowed by setting-aside the impugned order and the appellant is reinstated in service with all back benefits. Parties are left to bear their own cost. File be consigned to the record room.

ANNOUNCED  
25.07.2022



(KALIM ARSHAD KHAN)  
CHAIRMAN



(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

09/09/22

09/09/22

09/09/22

09/09/22

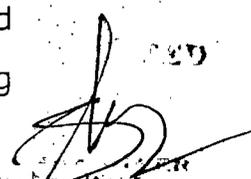


appellants, therefore, it appears astonishing as to how he came to the conclusion that the appellants were guilty of the allegations leveled against them; that on same set of allegations, case FIR No. 278 dated 10.09.2020 under section 118-B Police Act, 2017 was registered against the appellants at Police Station Akbarpura, however they have been acquitted in the same by the competent court of law. Reliance was placed on 2008 SCMR 1369, 2003 SCMR 215, 2015 PLC (C.S) 381 and 2006 SCMR 1641.

5. On the other hand, learned Assistant Advocate General for the respondents has contended that the appellants had shown cowardice by decamping from the spot by leaving the SHO alone, which resulted in death of Lady Constable Safia as well as causing of injuries to Mst. Neelam Farid; that a regular inquiry was conducted in the matter by providing ample opportunity of self defense to the appellants but they have been unable to produce anything in their defense; that final show-causes notices were also issued to the appellants and they were provided opportunity of personal hearing; that the appellants were well aware of the facts that they were deployed for providing security to Mst. Neelam Farid but they displayed cowardice and ran away from the spot, which act of the appellants has brought bad name to the Police Department.

6. We have heard arguments of learned counsel for parties and have perused the record.

7. A perusal of the record would show that Mst. Neelam and Lady Constable Mst. Safia were sisters of the accused, who were involved in case FIR 112 dated 11.04.2020 registered under Sections 302/324/34 PPC Police Station Akbarpura, Nowshera. On the other hand, one Nazar Muhammad was also serving as Police Constable and belonged to the complainant party of the above mentioned criminal case. It is also evident from the inquiry report that the houses of both the parties were located in the same street. The inquiry officer has categorically mentioned in his report that Abdul Latif ASI Incharge Police Post Wapda Colony had reached the spot earlier, who saw that the accused Nazar Muhammad alongwith other family members including

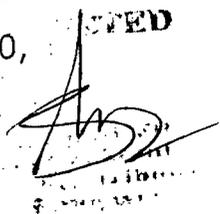
  
2020  
Assistant Advocate General  
of the Tribunal  
Islamabad

8

women were present there and had warned him to stay away as they were having plan to take to task Lady Constable Safia; that as the SHO as well as Mst. Neelam and Lady Constable Safia had not yet reached the spot, therefore, Abdul Latif ASI informed the SHO through cell phone about the whole scenario and nefarious designs of the accused party. The inquiry officer has opined that after getting the knowledge about nefarious designs and aggressive mood of the accused party, it was fault of the SHO that he came to the spot alongwith Mst. Neelam and Lady Constable Safia. While going through the inquiry report, it can be observed that in back drop of blood feud enmity between the parties, the matter of shifting of household articles of Mst. Neelam from her house was sensitive in nature, therefore, it required taking of proper security measures but the matter was dealt with in a casual manner, which resulted in ~~consequence~~ the unfortunate incident

8. The question as to whether the appellants had remained present on the spot or had run away upon starting of firing, is factual in nature and the same could have been properly resolved after recording of statements of the witnesses, who were present on the spot at the relevant time. The inquiry officer has, however not bothered to record statement of any of the eye witnesses and conducted the inquiry proceedings in a perfunctory manner. It is not understandable as to how the inquiry officer came to the conclusion that the charges leveled against the appellants were proved, when he had not at all recorded statement of any of the eye witnesses in support of the allegations leveled against the appellant. The findings of the inquiry officer against the appellants thus could not be taken into consideration for awarding major penalty to the appellants. Moreover, on the same set of allegations, case FIR No. 278 dated 10.09.2020 under section 118-B Police Act, 2017 was registered against the appellants at Police Station Akbarpura District Nowshera and they have been acquitted in the same by the competent court of law vide judgment dated 27.07.2021.

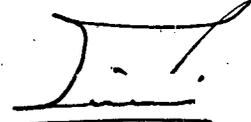
9. In view of the above discussion, the appeal in hand as well as connected Service Appeals bearing Nos. 15902/2020,

STED  
  
 12/10/2021  
 12/10/2021

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15903/2020, 15904/2020, 15905/2020, 15906/2020, 15907/2020, are allowed by setting-aside the impugned orders and the appellants are reinstated in service with all back benefits. Parties are left to bear their own cost. File be consigned to the record room.

ANNOUNCED  
25.07.2022



(SALAH-UD-DIN)  
MEMBER (JUDICIAL)



(KALIM ARSHAD KHAN)  
CHAIRMAN



2022  
22/-  
4/-  
26/-  
09/09/22  
09/09/22  
09/09/22

10

# WAKALATNAMA

**BEFORE THE HONBLE** KPK SCOTIS Tribunal Peshawar

Amir Ali

Plaintiff(s)  
Petitioner(s)  
Complainant(s)

VERSUS

District Police Officer

Defendant(s)  
Respondent(s)  
Accused(s)

By this, power-of-attorney I/we the said Petitioner in the above case, do hereby constitute and appoint **MUHAMMAD ARIF JAN** Advocate as my attorney for me/us in my/our name and on my/our behalf to appear, plead, give statement, verify, administer oath and do all lawful act and things in connection with the said case on my/our behalf or with the execution of any decree or order passed in the case in my/our favour/ against which I/we shall be entitled or permitted to do myself/ourselves, and, in particular, shall be entitled to withdraw or compromise the case or refer it to arbitration or to agree to abide by the special oath of any person and to withdraw and receive documents and money from the Court or the opposite party and to sign proper receipts and discharges for the same and to engage and appoint any other pleader or pay him as his fee irrespective of my/our success or failure in case, provided that, if the case is heard at anyplace other than the usual place of sitting of the Court the pleader shall not bound to attend except on my agreeing to pay him a special fee to be settled between us.

Signature of Client

Amir Ali  
Amir Ali (Client)

Accepted. MAJ

Muhammad Arif Jan  
Advocate High Court  
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G.T Road, Hashtnagri Stop,  
Peshawar City.  
CNIC No.17201-2275748-7  
Bc No.10-6663  
Cell: 0333-2212213