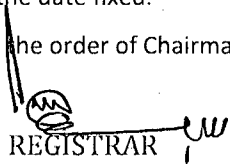


Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 571/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	23.09.2022	<p>The execution petition of Mr. Muhammad Nawaz submitted today by Mr. Muhammad Saeed Khattak 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: right;"> REGISTRAR</p>

SCANNED
KPST
Peshawar

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR.

Execution Petition No. 571 /2022

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1624

Dated 23/9/2022

Muhammad Nawaz Ex-Constable No. 394 R/o Qadri Banda,
District Hangu.....(Petitioner)

VERSUS

1. Deputy Inspector General of Police, Kohat Region, Kohat.
2. District Police Officer, Hangu.....(Respondents)

EXECUTION/ IMPLEMENTATION OF THE
JUDGMENT DATED 06/07/2022 IN SERVICE
APPEAL NO. 3530/2021.

Respectfully Sheweth:

1. That the titled Service Appeal was pending adjudication before this Hon'ble Tribunal which was allowed vide judgment dated 06/07/2022 in the following terms:

“in view of the above discussion, the appeal in hand is accepted by setting aside the impugned orders and the appellant is reinstated in service with all back benefits”

(Copy of the judgment is attached).

2. That after passing of the above mentioned judgment, the petitioner is continuously visiting the offices of the respondents concerned, but he is always returned back on one pretext or the other.
3. That lastly few days back when the petitioner requested for implementation of the judgment, he was told that they are not satisfied from the judgment of this Hon'ble Tribunal and the same is to be challenged before the august Supreme Court of Pakistan, till then the petitioner cannot be reinstated nor any back benefit can be granted.
4. That when the judgment is neither suspended nor set aside by the august Supreme Court, till then the respondents are legally bound to implement the same in letter and Spirit.
5. That, if the respondents are still reluctant to do the needful, then they may dealt with in accordance with law.
6. That any other ground can also be taken during the arguments with permission of this Hon'ble Tribunal.

It is, therefore, most humbly prayed that the respondents may strictly be directed to implement the judgment dated 06/07/2022 in letter and spirit and in case of their failure strict action under the law may be taken against them.

Petitioner

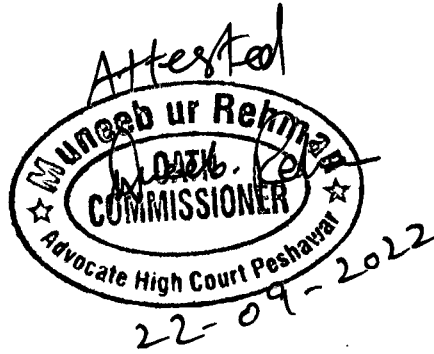
Through

Dated: 22/09/2022

Muhammad Saeed Khattak
Muhammad Saeed Khattak
 Advocate High Court,
 Peshawar.

VERIFICATION:

Verified on oath that contents of this petition are true and correct to the best of my knowledge and belief and nothing has been concealed or kept secret from this Tribunal intentionally or deliberately.



M. Saeed Khattak
DEPONENT

(4)



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 3530

Date: 15/3/2021

Service Appeal No. 3530 /2021

Muhammad Nawaz Ex-Constable No. 394 R/o Qadri Banda,
District Hangu.....(Appellant)

VERSUS

1. Deputy Inspector General of Police, Kohat Region, Kohat.
2. District Police Officer, Hangu.....(Respondents)

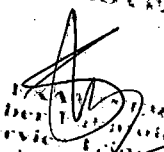
APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT
1974 AGAINST THE IMPUGNED ORDER
DATED 30/12/2020 PASSED BY
RESPONDENT NO. 1 . WHEREBY
DEPARTMENTAL APPEAL AGAINST
DISMISSAL ORDER DATED 29/10/2020
(IMPUGNED THEREIN) WAS REJECTED.

Prayer in appeal:

On acceptance of this Service Appeal, both the impugned orders may very graciously be set aside and the appellant may kindly be reinstated on the post with all back benefits.

Respectfully Sheweth:

1. That the appellant is resident of District Hangu KPK, who was appointed as constable in police force on 01/11/2017.

REGISTER

Khyber Pakhtunkhwa
Service Tribunal

5

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR.

Service Appeal No. 3530/2021

Date of Institution ... 15.03.2021

Date of Decision ... 06.07.2022



Muhammad Nawaz Ex-Constable No. 394, R/O Qadri Banda
District Hangu. ... (Appellant)

VERSUS

Deputy Inspector General of Police, Kohat Region, Kohat and one
other. ... (Respondents)

MR. MUHAMMAD SAEED KHATTAK,
Advocate

--- For appellant.

MR. RIAZ AHMAD PAINDAKHEL,
Assistant Advocate General

--- For respondents.

MR. SALAH-UD-DIN
MR. MIAN MUHAMMAD

--- MEMBER (JUDICIAL)
--- MEMBER (EXECUTIVE)

JUDGMENT:

SALAH-UD-DIN, MEMBER:- Briefly stated the facts necessary for disposal of the instant service appeal are that the appellant while posted in Anti-Narcotic Squad, was proceeded against on the allegations of absence from duty as well as his involvement in case FIR No. 341 dated 21.08.2020 under Section 302 PPC registered at Police Station Thall District Hangu. On conclusion of the inquiry, major penalty of dismissal from service was imposed upon the appellant vide impugned order dated 19.10.2020 passed by District Police Officer Hangu. The same was challenged by the appellant

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

through filing of departmental appeal, which was rejected vide order dated 30.12.2020, hence the instant service appeal.

2. Respondents contested the appeal by way of submitting para-wise comments, wherein they refuted the stance taken by the appellant in his appeal.

3. Learned counsel for the appellant has contended that the appellant had not remained willfully absent from duty for a single day; that the appellant remained absent from duty only for the period during which he remained confined in jail on account of his arrest in the concerned criminal case; that the appellant was not directly charged in the criminal case and was subsequently charged for ulterior motives; that the inquiry officer had not at all given any findings that the appellant was found guilty of the charges leveled against him but even then, competent Authority awarded him major penalty of dismissal from service; that one of the allegation leveled against the appellant was his involvement in the criminal case, however the appellant has already been acquitted by the competent court of law in the concerned criminal case; that the impugned orders being wrong and illegal are liable to be set-aside and the appellant is entitled to be reinstated in service with all back benefits.

4. On the other hand, learned Assistant Advocate General for the respondents has contended that the appellant had willfully remained absent from duty and was also involved in a murder case, therefore, departmental action was taken against the appellant; that all legal and codal formalities were complied with in the inquiry proceedings and the appellant was provided opportunity of self defense as well as personal hearing; that the appellant remained unable to produce any cogent evidence in rebuttal of the allegations leveled against him; that the departmental appeal of the appellant was rejected vide order dated 30.12.2020, therefore, he was required to have filed service appeal within 30 days, however the appellant filed the instant service appeal on 15.03.2021, which is badly time barred; that the impugned orders have

ATTORNEY
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

been passed in accordance with law, therefore, the same may be kept intact and the appeal in hand may be dismissed with costs.

5. Arguments heard and record perused.

6. According to the record, the appellant was granted 23 hours permission on 21.08.2020, by SDPO City Hangu and he was required to return for his duty on 22.08.2020. In the meanwhile, case FIR No. 341 dated 21.08.2020 under Section 302 PPC Police Station Thall was registered regarding the murder of one Khalid Rehman. The appellant was arrested on 22.08.2020 due to suspicion and was challaned to the court for providing security under Section 107/151 Cr.PC in connection with the concerned murder case. The appellant was thus unable to appear for his duty on 22.08.2020 as he was in custody. Admittedly, the appellant was suspended on 27.08.2020 on account of his involvement in the concerned criminal case. Charge sheet as well as statement of allegations were issued to the appellant on 03.09.2020. The appellant submitted reply to the charge sheet and remained associated with the inquiry proceedings. The pre-arrest bail of the appellant was recalled and he was arrested on 17.09.2020. The appellant then remained in custody and was released on bail on 30.09.2020.

7. While going through the report submitted by the inquiry officer, we have observed that the inquiry officer has not at all given any findings that the appellant was guilty of the charges leveled against him. In absence of any findings of the inquiry officer, holding the appellant guilty of the charges leveled against him, it is not understandable as to how the appellant was awarded major penalty of dismissal from service by the competent Authority. The appellant has already been acquitted in the concerned criminal case vide judgment dated 06.04.2021 passed by the competent court of law. In view of acquittal of the appellant, the very charge leveled against the appellant on the basis of his involvement in the criminal case, has vanished away. Nothing is available on the record, which

ATTESTED

ATTESTER
Khalid Hussain
Service Tribunal
Faisalabad

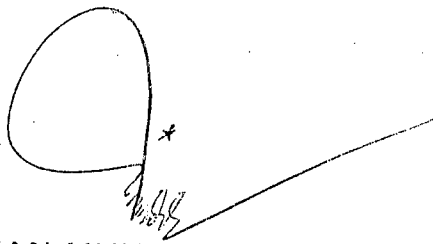
could show that acquittal of the appellant has been challenged through filing of appeal before the higher forum.

8. The appellant was suspended on 27.08.2020 and he was entitled to his pay, allowances and other benefits in accordance with Fundamental Rule-53. The competent Authority, vide impugned order dated 19.10.2020, has however dismissed the appellant from service with effect from 27.08.2020 i.e the date of his suspension. The appellant has thus been awarded the impugned penalty with retrospective effect, rendering the impugned order dated 19.10.2020 as void ab-initio.

9. So far as the question of limitation is concerned, the same had already been decided at the time of preliminary hearing by holding that in view of Section 30 of the Khyber Pakhtunkhwa Epidemic Control and Emergency Relief Act, 2020 the appeal in hand was not hit by bar of limitation.

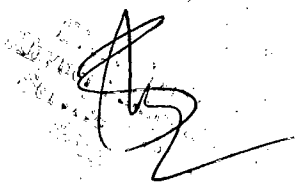
10. In view of the above discussion, the appeal in hand is accepted by setting-aside the impugned orders and the appellant is reinstated in service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
06.07.2022



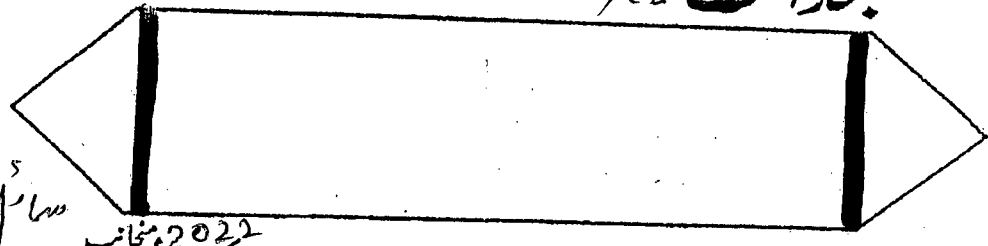
(SALAH-UD-DIN)
MEMBER (JUDICIAL)

(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)



Stamp and Photocopy Charges	07-07-22
Number of Words	2000
Copying Fee	22/-
Stamp	
Total	22/-
Stamp not affixed	
Date of stamping	04-08-22
Stamp of authority on a copy	04-08-22

بعدالت خیر بخون خواہ سے اس میں ٹریبونل سائبر



2022ء پنجاب سائل

حجر لوانر بنام 514 ولیم

موزخہ
مقدمہ
دعوی
جرم

باعث تحریر آنک

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی و کل کاروائی متعلقہ آن مقام سائبر کیلئے حجر سعید خٹک اور اولاد مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک دروپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق ذرائع پر دستخط کرانے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری کی طرف یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پروا ختم منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جائے 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 سندر ہے۔

المرقوم 23 ماہ 2022

(Signature)

بمقام سائبر کے لئے منظور ہے۔

(Signature)

(Signature)

BC-11-1889

ishaq photostate (HCP)

Email = SaeedKhattak04@gmail.com
Contact # 03336272753.