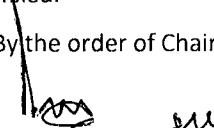


Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 573/2022

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. Nazir Ullah submitted today by Syed Roman Shah 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>By the order of Chairman</p> <p> REGISTRAR</p>

SCANNED
KPST
Peshawar

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR.

CM No:- _____/2022

In

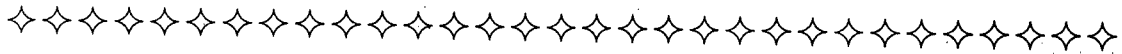
Service Appeal No:- **8491/2020**

Nazir Ullah S/o Noor Jamal R/o Sai Kot Tehsil
Takht-e-Nasrati District Karak

..... Petitioner/Decree Holder

Versus

1. Provincial Police officer/ inspector General of Police Khyber Pakhtunkhwa Peshawar.
 2. Region Police Officer Kohat Region Kohat.
 3. District Police Officer Karak.
 4. Government of Khyber Pakhtunkhwa through Chief Secretary Peshawar.
- Respondents/Judgment Debtor



EXECUTION PETITION FOR
IMPLEMENTATION OF THE VIDE
ORDER/JUDMGENT DATED 14/07/2022
OF THIS HONOURABLE TRIBUNAL IN
APPEAL NO 8491/2020.

Respectfully Sheweth:-


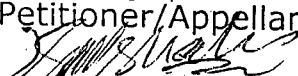
1. *That the above titled Service Appeal was pending before this Honourable Tribunal, which was disposed off vide judgment/order dated 14/07/2022. (Copy of judgment is attached as annexure "A").*

2. That in the said judgment this Honourable Tribunal hold that petitioner/appellant be re-instated in service with all his back benefits
3. That this Honourable Tribunal issued copies of the said judgment to the respondents as well the petitioner/appellant submitted the same to the respondents within time, but the respondents did not comply with the directions of this Honourable Tribunal. (Copy of application is attached as annexure "B")
4. That now the petitioner wants implementation of above mentioned judgment through this honourable tribunal hence this petition.

It is, therefore, most humbly prayed that on acceptance of this Execution Petition, the order/judgment dated 14/07/2022 may kindly be implemented in letter and spirit.

Dated:- 23/09/2022

Through:-


Petitioner/Appellant

Syed Roman Shah
&


Khalil Ullah
Advocates, Peshawar.



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

CM No:- _____/2022

In

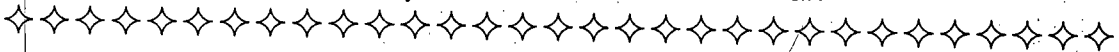
Service Appeal No:- 8491/2020

Nazir Ullah S/o Noor Jamal R/o Sai Kot Tehsil
Takht-e-Nasrati District Karak

..... Petitioner/Decree Holder

Versus

Provincial Police officer/ inspector General of
Police Khyber Pakhtunkhwa Peshawar.

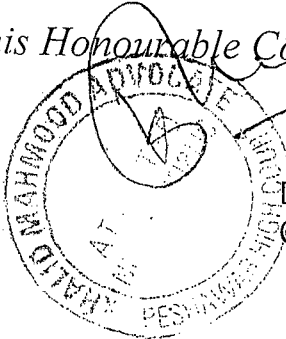


AFFIDAVIT

I, Nazir Ullah S/o Noor Jamal R/o Sai Kot Tehsil
Takht-e-Nasrati District Karak, do hereby solemnly
affirm and declare on oath that the contents of this
accompanying Execution Petition are true and correct to
the best of my knowledge and belief and nothing has been
concealed from this Honourable Court.

Identified by

Syed Roman Shah
Syed Roman Shah
Advocate, Peshawar.



DEPONENT

CNIC No:- 14202-9337424-3

(7) (4) Annex A

**BEFORE THE SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA PESHAWAR**

Service Appeal No. /2020

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 7361

Dated 24-07-2020

Nazir Ullah S/o Noor Jamal R/o Sai Kot,
Tehsil Takht-e-Nasrati District, Karak

Appellant

Versus

1. Provincial Police Officer/ Inspector General of Police
Khyber Pakhtunkhwa, Peshawar
2. The Regional Police Officer, Kohat Region, Kohat
3. District Police Officer, Karak.
4. Government of Khyber Pakhtunkhwa through
Chief Secretary, Peshawar

Respondents

APPEAL UNDER SECTION 4 OF SERVICE TRIBUNAL ACT, 1974
AGAINST THE ORDER DATED 30/04/2020 PASSED BY
RESPONDENT NO. 3 BY WHICH MAJOR PUNISHMENT OF
DISMISSAL FROM SERVICE WITH IMMEDIATE EFFECT HAS
BEEN AWARDED TO THE APPELLANT AND AGAINST THE ORDER
DATED 25/06/2020 ISSUED ON 06/07/2020 VIDE WHICH THE
REPRESENTATION/ DEPARTMENTAL APPEAL OF THE
APPELLANT FILED ON 11/05/2020 HAS BEEN REJECTED.

PRAYER

Writable-day

Registrar
24/7/2020

By accepting this service appeal, the punishment awarded to the
appellant through impugned orders dated 30/04/2020 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 in
service with all back benefits of pay and service.

Respectfully Sheweth;

1. That appellant was serving in the police department as constable
and has rendered satisfactory service in the Department and
performed his duties with full zeal and enthusiasm.

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR.

Service Appeal No. 8491/2020

Date of Institution ... 24.07.2020

Date of Decision ... 14.07.2022



Nazir Ullah S/O Noor Jamal, R/O Sai Kot, Tehsil Takht-e-Nasrati
District Karak. ... (Appellant)

VERSUS

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

MR. SHAHID QAYUM KHATTAK,
Advocate --- For appellant.

MR. NASEER-UD-DIN SHAH,
Assistant Advocate General --- For respondents.

MR. SALAH-UD-DIN --- MEMBER (JUDICIAL)
MS. ROZINA REHMAN --- MEMBER (JUDICIAL)

JUDGMENT:

SALAH-UD-DIN, MEMBER:- Precisely stated the facts giving rise to filing of the instant service appeal are that disciplinary action was taken against the appellant on the allegations of his involvement in case FIR No. 134 dated 08.03.2020 under section 302 PPC registered at Police Station Latamber District Karak. On conclusion of the inquiry, the appellant was awarded major punishment of dismissal from service vide impugned order dated 30.04.2020. The departmental appeal of the appellant was also rejected vide order dated 25.06.2020. The appellant has now approached

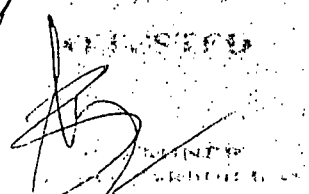
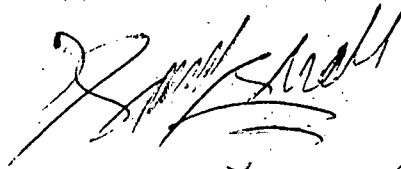
2 (6)

this Tribunal through instant appeal for redressal of his grievance.

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

3. Learned counsel for the appellant has contended that the inquiry officer had not rendered any finding regarding guilt of the appellant and had recommended that the inquiry proceedings against the appellant may be kept pending till final decision of the criminal case but even then, major penalty of dismissal from service was wrongly and illegally awarded to the appellant; that the inquiry proceedings were conducted in clear violation of mandatory provisions of Khyber Pakhtunkhwa Police Rules, 1975; that neither any final show cause notice was issued to the appellant nor he was afforded any opportunity of personal hearing, therefore, the impugned orders are not sustainable in the eye of law; that disciplinary action was taken against the appellant on the allegation of his involvement in criminal case, however he has been acquitted in the same, therefore, competent Authority was not justified in awarding penalty to the appellant. Reliance was placed on PLD 2010 Supreme Court 695 and judgment dated 17.05.2022 passed by this Tribunal in Service Appeal No. 1500/2018 titled "Sanaullah Versus Provincial Police Officer Khyber Pakhtunkhwa Peshawar and three others".

4. On the other hand, learned Assistant Advocate General for the respondents has contended that the appellant was directly charged for committing *Qatl-e-amd* of his father and the allegation leveled against the appellant stood proved in a regular inquiry; that a regular inquiry was conducted against the appellant by complying all legal and codal formalities; that criminal as well as departmental proceedings are distinct in nature and mere acquittal of the appellant would not entitle him for exoneration in the departmental proceedings; that the appellant was not acquitted on

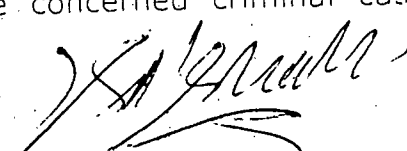
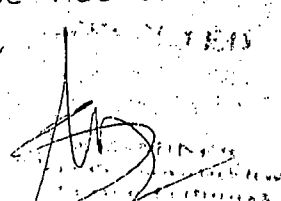


merit, rather he was acquitted on the basis of compromise, therefore, his acquittal would not make him entitled to exoneration in the departmental proceedings; that the appellant being a member of a disciplined force was charged for the murder of his own father, therefore, he has rightly been dismissed from service. Reliance was placed on 2020 SCMR 1708.

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

6. A perusal of the record would show that disciplinary action was taken against the appellant on the allegations of his involvement in case FIR No. 134 dated 08.03.2020 under section 302 PPC registered at Police Station Latamber District Karak. While going through the impugned order dated 30.04.2020 passed by the then District Police Officer Karak, it is evident that the inquiry officer had recommended that the inquiry proceedings against the appellant may be kept pending till the final decision of the criminal case. Nothing has been mentioned in the aforementioned order that the inquiry officer had given any findings that the appellant was guilty of the charge leveled against him but even then the appellant was dismissed from service. No final show cause notice was issued to the appellant and he was not even provided any opportunity of personal hearing, which fact has created material dent in the inquiry proceedings.

7. Departmental Authority had taken disciplinary action against the appellant on the allegation of his involvement in case FIR No. 134 dated 08.03.2020 under section 302 PPC registered at Police Station Latamber District Karak. The legal heirs of the deceased had appeared before the court and their joint statement was recorded regarding compromise, wherein they have categorically stated that they were satisfied regarding innocence of the appellant, therefore, they have pardoned him in the name of almighty Allah by waving the rights available to them under the law. The appellant has been acquitted in the concerned criminal case vide order

8

dated 04.12.2020 passed by the then learned Sessions Judge Karak. The appellant has been acquitted on the basis of compromise, however it is by now well settled that every acquittal is honourable. In view of acquittal of the appellant, the very charge, on the basis of which the appellant was proceeded against, has vanished away. The impugned orders are thus not sustainable in the eye of law and are liable to be set-aside.

8. Consequently, the appeal in hand is allowed 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 co. signed to the record room.

ANNOUNCED
14.07.2022

(SALAH-UD-DIN)
MEMBER (JUDICIAL)

(ROZINA REHMAN)
MEMBER (JUDICIAL)

EX-10
Khyber Pakhtunkhwa
Sessions Tribunal
Peshawar

COPIES	18/7/22
COPIES	22/7
COPIES	22/7
COPIES	05/8/22
COPIES	05/8/22

خبر فاجہ ڈسٹرکٹ پولیس اسٹیشن ہاؤس

فاجہ

درخواست بمبارد جمال سروس رٹ

گزارش ہے کہ من سائن کو اسٹیشن ہاؤس پر حادثہ کیا گیا ہے
سائن سروس جمال رٹ کے لیے عدالت فاجہ سروس ڈیپارٹمنٹ
میں دہلی دائر کیا گیا۔

فاجہ والدہ عدالت فاجہ سروس ڈیپارٹمنٹ ہاؤس نے عدالت ۱۴/۱۱/۲۰۲۱
سائن کے حق میں کیا ہے

اس لیے عدالت درخواست اس کے لیے ہے کہ وہ ہمارے پاس
من سائن کو توڑ کر جمال رٹ کا حکم جاری کیا جائے۔
شکر رہوں گا۔

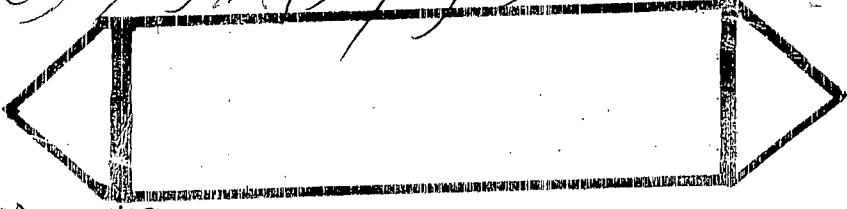
درخواست خدایا تو عدالتی فیصلہ ہے۔

حسن نواز شیخ
مقرر

Ex: سید نور احمد ولد نور جمال سروس
الکراچی

9023759-03440344

بعد الت سردسز ستر استوول خورء نكو احواء



Petitioner
مذکر اللہ بنام
لوہیت وغیرہ

موزخ
مقدمہ
دکوی
جرم

باعث تخریر آنک

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے بیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام کے اتر کر کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
مقرر کر کے اتر کر 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 پر حلف دینے جو اب وہی اور اقبال دعوی اور
بمسورت ڈگری کرنے اجراء اور سولی چیک و روپیہ اور عرشی دعوی اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز مسورت عدم بیروی یا ڈگری یکطرفہ یا ایچ کی برآمدگی اور منسوخ
نیز دائر کرنے ایچ عمرانی و نظر ثانی و بیروی 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 یا اختیارات حاصل ہوں گے اور اس کا ساختہ
پرداختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو ترقی پیدا ہو جائے تو اسے مقدمہ کے سبب سے وہ ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا عدلیہ سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ بیروی
مذکور کریں۔ لہذا اذکالت نامہ لکھ دیا کہ سند رہے۔

مذکورہ بالا کے مطابق
مذکورہ بالا کے مطابق
مذکورہ بالا کے مطابق

الرقوم 23 09 2022

Accepted
Accepted

Signature
Signature

شمار کے لئے منظور ہے۔