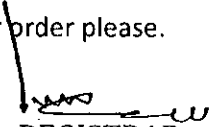




Form- A  
FORM OF ORDER SHEET

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

Execution Petition No. 48/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	18.01.2022	<p>The execution petition of Mr. Zaheen Shah submitted today by Mr. Shahid Qayum Khattak Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR -</p> <p>This execution petition be put up before S. Bench at Peshawar on <u>18/02/2022</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> <p>Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 18.04.2022 for the same as before.</p> <p style="text-align: right;"> Reader</p>
2-	18.02.2022	

18.04.2022

Learned counsel for the petitioner present. Notice be issued to the respondents for the date fixed. To come up for implementation report on 21.06.2022 before S.B. Original file be also requisitioned.

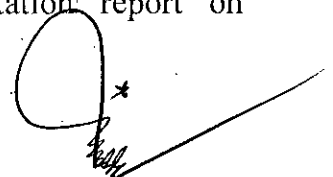


Chairman

21.06.2022

Learned counsel for the petitioner present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Implementation report not submitted. Learned Additional Advocate General seeks time to contact the respondents for submission of implementation report. Adjourned. To come up for implementation report on 04.08.2022 before S.B.



(Mian Muhammad)  
Member (E)

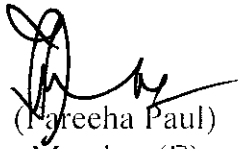
04.08.2022

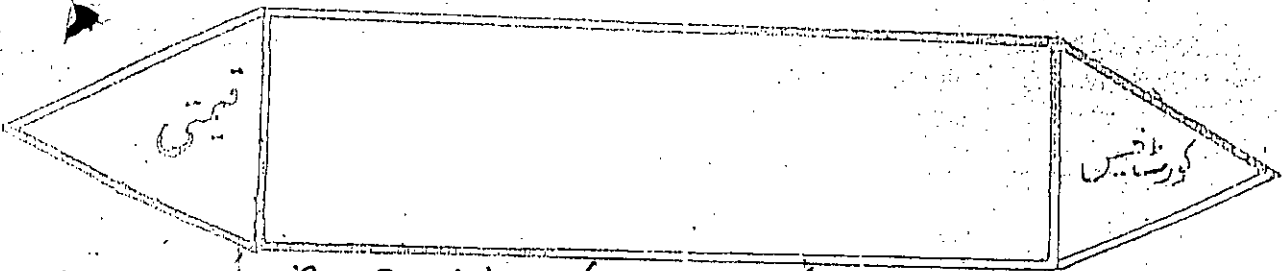
Petitioner alongwith counsel present. Mr. Kabir Ullah Khattak, Additional Advocate General alongwith Arif Saleem, Stenographer for respondents present.

Representative of the respondent department submitted Office order No. 6809-10/SRC dated 27.07.2022 which is placed on file, through which the petitioner has been reinstated in service with immediate effect conditionally subject to the outcome of CPLA.

In view of the above, instant petition is disposed off. File be consigned to record room.

Announced  
04.08.2022

  
(Preeti Paul)  
Member (E)



### پھر الٹ جہاں سروں کو سول صبر اکتواوا

میں ڈگری دار ڈگری مندرجہ ذیل کی اجسرا کے واسطے درخواست حسب آدرش ۲۱ قائمہ عمل منسلک دیوانہ سٹاٹوٹ کی پورست

1	پشیر	1387/2020
2	پشیر	Zalveem Shau (Degree holder) N3
3	پشیر	(i) Provincial Police Officer (ii) Regional Police Officer (iii) District Police Officer (iv) Govt of JKP through Chief Secretary, Peshawar
4	پشیر	09/12/2021
5	پشیر	No
6	پشیر	No
7	پشیر	No
8	پشیر	(i) Re-instatement in Service (ii) Back Benefit of Service
9	پشیر	No
10	پشیر	Judgment debtors (i) Attachment of Salary (ii) By Arrest

جناب عالی

نفسد لیت شری خان  
(Judgment debtors)

Zahim Jaha

BEFORE THE SERVICE TRIBUNAL, KPK PESHAWAR

Execution Petition no. 48/2022

In reference to Service Appeal No. 1387 of 2020

Zaheen Shah .....applicant

Versus

Provincial Police Officer/ IGP etc.....Respondents

I N D E X

S.No	Description of the Documents	Annexs	Pages
1.	Execution Form		A
2.	Application with Affidavit		1-2
3.	Copy of appeal	"A"	3-7
4.	Copy of judgment	"B"	8-11
5.	Copy of Application	"C"	9
6.	Wakalat Nama		10



Petitioner

Through



Shahid Qayum Khattak  
Advocate Supreme Court  
of Pakistan  
Cell No. 0333-9195776

①

**BEFORE THE SERVICE TRIBUNAL, KPK PESHAWAR**

In reference to Service Appeal No. 1387 of 2020

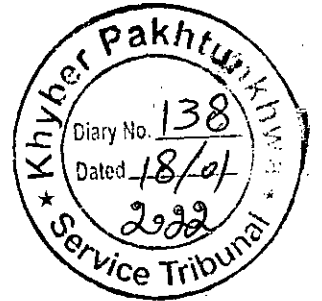
*Execution petition no. 48/2022*

Zaheen Shah S/o Rasool Shah , Ex-LHC No. 36

Operation Staff Kohat..... Applicant

Versus

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



.....Respondents

APPLICATION FOR DIRECTING RESPONDENTS TO  
IMPLEMENT THE ORDER AND JUDGMENT DATED  
09/12/2021 OF THIS HON'BLE TRIBUNAL IN THE ABOVE  
NOTED APPEAL

Respectfully Sheweth;

Applicant humbly submits as under;

1. That the above noted appeal has been decided by this Hon'ble Tribunal on 09/12/2021 in favour of applicant.
2. That the appeal of the applicant has been accepted and applicant has been reinstated in service with all back benefits.
3. That applicant time and again approaches the respondents for implementation of this Tribunal Order but in vain.
4. That now the applicant has no other option but to approach this Hon'ble Tribunal for the implementation of this Tribunal order dated 09 /12 /2021.
5. That there is no bar in filling of this application and the application is well within time. The respondent are time and

(2)

again assuring applicant that they are processing the case of the applicant but so far no progress has been made hence, the present execution petition before this Hon'ble Tribunal.

It is, therefore, most humbly prayed that by accepting this application respondents may please be directed to implement order of this Hon'ble Tribunal dated 09/12/2021 and to punish the respondents for the defiance of this Hon'ble Tribunal Order dated 09/12/2021.

*Zaheer Shah*

Applicant

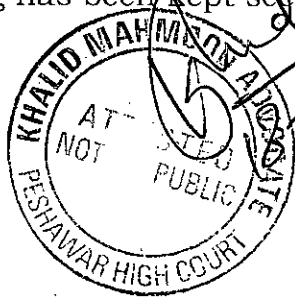
Through

*Shahid Qayum Khattak*

Shahid Qayum Khattak  
Advocate, Supreme Court  
of Pakistan

AFFIDAVIT

I Zaheer Shah S/o Rasool Shah , Ex-LHC No. 36 Operation Staff Kohat, do hereby solemnly affirm and declare on oath that the content of the accompanying petition are true and correct to the best of my knowledge and belief and nothing has been kept secrete from this honorable court



*Zaheer Shah*  
Deponent

BEFORE THE SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No. 1387/2020

Zaheen Shah ..... Appellant

Versus

Provincial Police Officer and others ..... Respondents

INDEX

S.No.	Description of Documents	Annex	Pages
1.	Memo of appeal with affidavit		1-4
2.	Address of the parties		5
3.	Copy of Charge Sheet and Reply	A- A-I	6-8
4.	Copy of SCN & Reply	B- B-I	9-10
5.	Copy of Impugned order dated 08/11/2019	C	11-12
6.	Copy of Departmental Appeal	D	13-16
7.	Copy of impugned order dated 03/03/2020	E	17
8.	Wakalat Nama		18

Zaheen Shah  
Appellant

Through

Shahid Qayum Khattak  
Advocate Supreme Court  
of Pakistan  
Mob No. 0333-9195776

Dated: 08 /03/2020

Appellant Deposited  
Security & Process Fee  
5/16  
Rs 600/-

ATTESTED



(104)

BEFORE THE SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No. 1387 /2020

Zaheen Shah S/o Rasool Shah , Ex-LHC No. 36

Operation Staff Kohat..... Appellant

Versus

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

..... Respondents

APPEAL UNDER SECTION 4 OF SERVICE TRIBUNAL ACT, 1974  
AGAINST THE ORDER DATED 08/11/2019 PASSED BY  
RESPONDENT NO. 3 BY WHICH THE APPELLANT HAS BEEN  
AWARDED MAJOR PUNISHMENT OF DISMISSAL FROM SERVICE  
AND AGAINST THE ORDER DATED 03/03/2020 PASSED BY  
RESPONDENT NO. 2 VIDE WHICH THE DEPARTMENTAL  
REPRESENTATION/ APPEAL FILED BY APPELLANT HAS BEEN  
REJECTED

PRAYER

On accepting this service appeal, the impugned orders dated  
08/11/2019 and order dated 03/03/2020 may graciously be  
set aside by declaring it illegal, unlawful, without authority,  
based on mala fide, void abinitio and thus not sustainable in  
the eyes of law and appellant is entitled for reinstatement in  
service with all back benefits of pay and service

Respectfully Sheweth;

1. That appellant joined police department and was posted as LHC in  
operation staff of Kohat Police and has rendered satisfactory  
service in the Department and performed his duties with full zeal  
and enthusiasm.

ATTESTED  
[Signature]

2. That respondent No. 3 initiated disciplinary proceeding against appellant and issue charge sheet and statement of allegation on 26/09/2019 which was properly replied.  
( Copy attached as Annexure "A" & "A-I")
3. That thereafter final show cause notice has been issued to the appellant on 09/10/2019 which was also properly replied by appellant. ( Copy attached as Annexure "B" & "B-I")
4. That respondent No. 3 passed an order bearing OB No. 1431 dated 08/11/2019 vide which the major punishment of dismissal from service has been awarded to appellant without collecting any evidence against him. (Copy of impugned order is attached as Annexure "C")
5. That appellant filed departmental appeal /representation ( same may please be treated part and parcel of this appeal ) against the impugned order before respondent No. 2 on 27/11/2019 who vide order dated 03/03/2020 rejected the same without complying codal formalities . ( Copy of appeal and impugned order are attached as Annexure "D" and "E")
6. That now appellant feeling aggrieved from the above orders hence, filling this appeal on the following amongst other grounds inter alia

GROUNDS:

- a. That both the impugned orders of the respondents are illegal, unlawful, without authority, based on mala fide intention, against the nature justice, violative of the Constitution and Service Law and equally with out jurisdiction, hence the same is liable to be set aside in the best interest of justice.
- b. That both the impugned orders passed by respondent are very much harsh, without any evidence based on surmises & conjectures and is equally against the principle of natural justice.
- c. That during enquiry proceeding non from the general public was examined in support of the charges leveled against appellant nor proper opportunity of hearing has been provided to appellant. No allegation mentioned above are practiced by the

*[Handwritten Signature]*  
**ATTESTED**

appellant nor proved against him through any cogent reason or evidence.

- d. That appellant was neither intimated nor informed by any source of medium regarding enquiry proceedings for any disciplinary action which shows bias on the part of quarter concern.
- e. That the inquiry officer failed to collect any evidence in support of the charges. No one was examined as witness in presence of appellant nor appellant was confronted with any documentary or other kind of evidence on the basis of which the impugned order was passed.
- f. That the biasness of the respondents are very much proved from the fact that while awarding the impugned major punishment the enquiry report has not been give to the appellant which is very much necessary as per 1991 PLC CS 706 & 1991 PLC 584.
- g. That while awarding the impugned order the respondent not bother to take that appellant is honest and dedicated and leave no stone unturned to discharge his duties.
- h. That the impugned orders has been passed in violation of law and rules of disciplinary proceedings and principles of natural justice. The authority wrongly and malafidly based the impugned orders with out giving any reason with proof whatsoever, therefore the impugned order is bad in law.
- i. That both the impugned orders are self,contradictory and with out the support and backing of any concrete evidence and admissible evidence.
- j. That respondent No. 2 has not decided the departmental appeal / representation in accordance to the rules and regulation which clearly shows mala fide intention thus, has no sanctity in the eyes of law thus the act of respondent No. 2 and 3 is totally based on male fide intention which clearly shows discrimination and undue victimization.

ATTESTED  
*[Signature]*  
3

It is, therefore, most humbly prayed that on accepting this service appeal, the impugned orders dated 08/11/2019 and order dated 03/03/2020 may graciously be set aside by declaring it illegal, unlawful, without authority, based on mala fide, void abinitio, and thus not sustainable in the eyes of law and appellant is entitled for reinstatement in service with all back benefits of pay and service.

Any other relief not specifically prayed for but deem appropriate in the circumstances of the case may also be granted.

Zahid Shah  
Appellant

Through

Shahid Qayum Khattak  
Advocate Supreme Court  
of Pakistan

Dated: 08/03/2020

Certified that as per instruction of my client no such appeal has been filed before this Hon'ble Forum.

Advocate

AFFIDAVIT

I, Zaheen Shah S/o Rasool Shah R/o Dhall Bazadi, Kohat, Ex-LHC No. 36 Operation Staff Kohat, do hereby solemnly affirm and declare on Oath that the contents of the above appeal are true and correct, to the best of my knowledge and belief and nothing has been kept secret from this Hon'ble Tribunal.



Zahid Shah  
Deponent

ATTESTED  
Shahid

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

Service Appeal No. 1387/2020

Date of Institution ... 09.03.2020

Date of Decision ... 09.12.2021



Zaheen Shah S/O Rasool Shah, Ex-LHC No. 36 Operation Staff Kohat.

... (Appellant)

VERSUS

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

(Respondents)

MR. SHAHID QAYUM KHATTAK,  
Advocate

For appellant.

MR. MUHAMMAD ADEEL BUTT,  
Additional Advocate General

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 posted as Moharrar in Police Post Sumari Bala was proceeded against on the charges reproduced as below:-

i. You LHC Zaheen Shah No. 36 has arranged a musical program for Notorious Proclaimed offender Anwar Hayat group at Police Post Sumari Bala.

ii. A video of the program was viral in which your presence/illegal activities are shown.

iii. Your this illegal act caused embarrassment, damage the image of Police and proved links/relations with a notorious PO

**ATTESTED**  
*[Signature]*

**ATTESTED**  
*[Signature]*  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

group, wanted to Police in numerous heinous crimes including target killing of 04 Police Officers.

iv. You are previously awarded punishment for illegal/extra departmental activities, but you did not improve yourself."

The appellant submitted reply to the charge sheet. On conclusion of the inquiry, the appellant was awarded major penalty of dismissal from service vide OB No. 1431 dated 08.11.2019. The appellant challenged the order dated 08.11.2019 through filing of departmental appeal, which was also rejected vide order dated 27.02.2020, hence the instant service appeal.

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

3. Learned counsel for the appellant has contended that the appellant is quite innocent and disciplinary action was taken against him for ulterior motive; that the appellant has not at all been confronted with the alleged video on the basis of which, departmental proceedings were taken against him; that the date and time on which the alleged musical program was arranged in the Police Post Sumari Bala have not at all been mentioned in the charge sheet or statement of allegations which by itself makes the entire story as doubtful; that as per the alleged inquiry proceedings, the alleged incident occurred on 06.09.2019 at night time, however the Incharge Police Post remained mum and did not report the alleged incident to his high-ups; that no opportunity of cross-examination of the witnesses was provided to the appellant, which has caused prejudice to the appellant; that the inquiry proceedings were conducted in sheer violation of Khyber Pakhtunkhwa Police Rules, 1975 and the appellant has been condemned unheard. In the last he requested that the impugned orders may be set-aside and the appellant may be reinstated into service with all back benefits.

4. Conversely, learned Additional Advocate General for the respondents has contended that the appellant had arranged

Sum

ATTESTED  
*[Signature]*

ATTESTED  
*[Signature]*  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

musical show for proclaimed offenders belonging to Anwar Hayat Group inside Police Post Sumari Bala and had thus committed grave misconduct; that video of the musical program got viral and on inquiry against the appellant, he was found guilty of the charges leveled against him, therefore, he has rightly been dismissed from service; that proper regular inquiry was conducted against the appellant by observing all legal and codal formalities and there exist no legal lacunae in the inquiry proceedings. In the last he requested that the impugned orders may be kept intact and the appeal in hand may be dismissed with costs.

5. We have heard the arguments of learned counsel for the appellant as well as learned Additional Advocate General for the respondents and have perused the record.

6. A perusal of the record would show that the alleged incident of arranging of musical program inside premises of Police Post Sumari Bala had occurred on 06.09.2019, however the Incharge as well as other officials did not report the matter to their high-ups. It was after issuing of charge sheet to the appellant on 26.09.2019 that a report was registered vide Mad No. 21 dated 28.09.2019, wherein the SHO Police Station Lachi reported that a video showing the musical program arranged inside the Police Post Sumari Bala has been received. Copy of the aforementioned Mad is available on the record. The inquiry officer has not recorded statement of the concerned SHO to affirm that the footage of the appellant could be seen in the concerned video. Statements of Khan Saleem FC/97, Niamat Khan FC/449 and Sher Zaman Ex/3602 have been recorded by the inquiry officer, however no opportunity has been provided to the appellant to cross-examine the said witnesses. The said witnesses were posted in the concerned police post and were allegedly present in the police post at the time of the alleged musical show, however they did not report the matter to their high-ups. The testimony of the said witnesses thus could not be taken into consideration, particularly when the appellant has not been provided any opportunity to cross-examine them. The inquiry

*[Handwritten signature]*

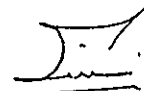
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**ATTESTED**

**ATTESTED**  
*[Handwritten signature]*  
EXAMINER  
Section Panchkula  
Service Tribunal  
Panchkula

officer has not provided opportunity of cross-examination to the appellant, which fact has created material dent in the inquiry proceedings. Moreover, the appellant has not been confronted with the very video, which was made a ground for taking disciplinary action against the appellant. In view of material available on record, the impugned orders are not sustainable in the eye of law and are liable to be set-aside.

7. In view of the above discussion, the impugned orders are set-aside 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  
09.12.2021

  
(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

  
(AHMAD SULTAN TAREEN)  
CHAIRMAN

Certified to be true copy

EX-AMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of Presentation of Application 09-12-2021  
Number of Words 2000  
Copying Fee 22/-  
Urgent -  
Total 22/-  
Name of Copyist -  
Date of Completion of Copy 04-01-2022  
Date of Delivery of Copy 04-01-2022

ATTESTED  




محضو ر جناب A-1-G صاحب بنگل برايخ پيشاور

جناب عاى!

گزارش پيچائى ہے۔ کہ مسائل کا بحوالہ آڈر نمبر 1510

فونم 09/03/2009 میں سروس پزيمالى کا حکم فونم 09/12/21 کو بعدالت جناب سروس ٹرینوں پيشاور سے جارى ہو چکا ہے۔

لہذا تيزيہ درخواست استند عاى پيچائى ہے۔ کہ مسائل کو دوبارہ سروس پزيمالى کرنے کا مناسب حکم صادر فرمائیں۔ مسائل کا حياث دعاگوں رہے گا۔

عین و آرش ہوگی

الہار میں

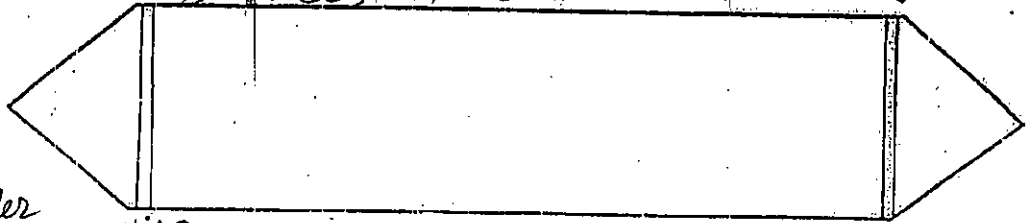
نہین مشاہدہ EXLHG ولد رسول مشاہدہ

36 UNIC-14301-5685423-1

فلم کو پاتہ

ATTESTED

# بعدالت KPI Services Tribunal



Decree holder

2 جناب

Police etc. نام Zabeen Shah

Execution petition

موزخہ  
مقدمہ  
دعویٰ  
نیم

## باعث تحریر آنگہ

مقدمہ جندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دی وکل کاروائی متعلقہ  
 آج مقام صاحب کیلئے سید علی محمد کے لئے سید اہدی علی کے لئے  
 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 دیے جواب دی اور اقبال دعویٰ اور  
 بلاورث ڈگری کرنے اجراء اور صولی چیک و روپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق  
 زرائیں پر دستخط کرنے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی براہگی 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 نیا اپنے بجائے تقرر کا اختیار  
 ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساتھ  
 پر اخذ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جائد التوائے مقدمہ کے سبب سے ہوگا۔  
 کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی  
 مذکور کریں۔ لہذا وکالت نامہ لکھد یا کہ سند ہے۔

Attested by

18 / 01 / 2023

Signature of Zabeen Shah

مقام

POLICE DEPARTMENT

DISTRICT KOHAT

O R D E R

In Compliance with the judgment dated 09.12.2021 passed by Khyber Pakhtunkhwa Service Tribunal Peshawar in service appeal No. 1387/2020 and approval of the competent authority vide letter No. 3290/Legal dated 07.07.2022 Ex-LHC Zaheen Shah No. 36 is hereby reinstated in service with immediate effect conditionally / provisionally subject to the outcome of CPLA filed against the impugned judgment before august Supreme Court of Pakistan.

OB NO 218 /SRC  
Dated 27.7 /2022

(MUHAMMAD SULEMAN) PSP  
District Police Officer,  
Kohat

OFFICE OF THE DISTRICT POLICE OFFICER KOHAT

No 6809-10 /SRC, dated Kohat the 27/7 /2022.

Copy for necessary action to the: -

1. Pay Officer / OHC.
2. Appellant for information.