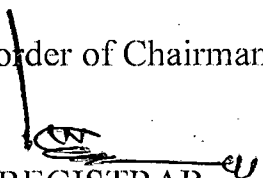


Form- A

## FORM OF ORDER SHEET

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

Case No.- 1511/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	20/10/2022	<p>The appeal of Mr. Qudrat Ullah resubmitted today by Mr. Mansoor Salam Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____.</p> <p>Notices be issued to appellant and his counsel for the date fixed.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

The appeal of Mr. Qudratullah Ex-Constable No. 161 Police post main Gate Judiciary Complex Lakki Marwat received today i.e. on 14.10.2022 is incomplete on the following score which is returned to the counsel for the appellants for completion and resubmission within 15 days.

- 1- Appeal has not been flagged/marked with annexures marks.
- 2- Annexures of the appeal may be attested.
- 3- Copy of show cause notice and reply to show cause notice are not attached with the appeal which may be placed on it.
- 4- Four more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 2836 /S.T,

Dt. 17/10 /2022



REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Mansoor Salam Adv. Pesh.

All objections has properly been rectified & removed. and case file has resubmitted for placing before Hon'ble Service Tribunal on 20-10-2022.

Advocate Mansoor Salam  
Counsel for Appellant.

Mansoor Salam

20/10/22.

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

SERVICE APPEAL NO. 1511 /2022

Qudrat Ullah

V/S

Police Deptt:

**INDEX**

S. No.	Documents	Annexure	P. No.
01.	Memo of appeal	-----	1-4
02.	Affidavit	-----	5
03.	Copies of Charge Sheet, Statement of Allegations & Reply	A,B&C	6,7,8
04.	Copy of Final Show Cause Notice	D, D-1	9,10
05.	Copy of Impugned Order of DPO dated 01.08.2022	E	11
06.	Copy of Departmental Appeal	F	12
07.	Copy of the Impugned Rejection Order of RPO dated 12.09.2022	G	13
07.	Wakalat Nama		

قدرت اللہ  
APPELLANT

THROUGH:

(MANSOOR SALAM)  
ADVOCATE HIGH COURT  
PESHAWAR

*Salam*

①

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

SERVICE APPEAL NO. \_\_\_\_\_/2022

Qudrat Ullah Ex-Constable No.161  
Police Post main Gate Judicial Complex, Lakki Marwat.

(APPELLANT)

VERSUS

1. The Regional Police Officer, Bannu Region Lakki Marwat.
2. The District Police Officer, Lakki Marwat.

(RESPONDENTS)

**APPEAL UNDER SECTION 4 OF THE KHYBER**  
**PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974**  
**AGAINST THE ORDER DATED 01.08.2022, WHEREBY THE**  
**APPELLANT WAS DISMISSED FROM SERVICE, AND**  
**AGAINST THE ORDER DATED 12.09.2022, WHEREBY THE**  
**DEPARTMENTAL APPEAL OF THE APPELLANT WAS**  
**REJECTED WITH NO GOOD REASONS/GROUNDS.**

**PRAYER:**

**THAT THE ACCEPTANCE OF THIS APPEAL, THE ORDER**  
**DATED 01.08.2022 AND 12.09.2022 MAY KINDLY BE SET**  
**ASIDE AND THE APPELLANT MAY BE REINSTATED**  
**INTO HIS SERVICE WITH ALL BACK AND**  
**CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY**  
**WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND**  
**PROPER MAY ALSO BE AWARDED IN FAVOUR OF**  
**APPELLANT.**

**RESPECTFULLY SUBMITTED;**

**FACTS:**

1. That the appellant has appointed in the respondent department in the year 2007 and was performing his duty with great devotion and honesty, whatsoever, assigned to him and no complaint or adverse remarks has been filed or passed against him regarding his performance.

2. That the appellant was posted as constable at Police post main gate judicial complex Lakki Marwat, where an incident of murder took place inside judicial complex Lakki Marwat vide FIR No. 206 dated 25.06.2022 u/s 302,324,34 PPC PS Gazni Khel for which the appellant has been held liable for gross misconduct, inefficiency and negligence for not proper body search of accused/murderer.
3. That on the same date of incident, the appellant was issued a charged sheet and statements of allegations vide dated 25.06.2022 wherein appellant was held liable for misconduct, inefficiency and lethargic conduct, which was duly replied within specified time of 07 days by the appellant denying all the charges and allegations that has been leveled against the appellant. **(Copies of Charge Sheet & Statement of Allegations & Reply are Annexure-A, B&C).**
4. That one sided departmental inquiry was conducted by the inquiry officer against the appellant and as a result appellant has been held responsible for committing the act of gross misconduct, negligence & inefficiency, by which the appellant has been issued a final Show Cause Notice, vide dated 19.07.2022. **(Copy of Final Show Cause Notice as Annexure-D)**
5. That after issuing final show cause notice, the appellant has been dismissed from service vide order dated 01.08.2022, without affording an opportunity of personal hearing and condemned unheard by violating natural justice. **(Copy of Impugned Order dated 01.08.2022 as Annexure-E)**
6. That feeling aggrieved from impugned order of DPO Lakki Marwat. The appellant filed departmental appeal vide dated 15.08.2022 to the office of RPO Bannu, against the dismissal order dated 01.08.2022. **(Copy of Departmental Appeal is attached as Annexure-G)**
7. That the departmental appeal of the appellant was rejected on 12.09.2022, however the rejection order dated 12.09.2022 does not communicated to the appellant in person, more so on 16.09.2022 the appellant went to the office of respondent No.2 to know about the fate of his departmental appeal on which the officials of the office of respondent No.2 inform the appellant that his departmental appeal has been rejected on 12.09.2022, but office received the rejection order on 14.09.2022 bearing dairy No.4556 and handed over rejection order to the appellant on 16.09.2022.

③

8. That the appellant has no other remedy except to file the instant service appeal in this Hon'ble Tribunal on the following grounds amongst others.

**GROUND:**

- A. That the impugned orders dated 01.08.2022, 12.09.2029 and are against the law, facts, norms of justice and material on record, therefore, not tenable and liable to be set aside.
- B. That inquiry conducted against the appellant was not according to the prescribed procedure as neither the appellant was properly heard nor the CCTV cameras visuals as evidence were associated with the inquiry proceeding, which is sheer violation of law and rules and as such the impugned orders are liable to be set aside on this ground alone.
- C. That no opportunity of defense was provided to the appellant during inquiry proceeding, which is violation of Article-10A of the Constitution of Pakistan.
- D. That the inquiry officer wholly resting on the discussion of concerned IO of the case, because neither a lady constable was associated in inquiry proceedings nor the visuals of CCTV cameras has been made part of the inquiry proceedings, which is gross violation of facts and evidences.
- E. That the appellant being a constable was posted to take body search of male whereas the female litigants' body search was the responsibility is of lady constable, in judicial complex which were entering via the main gate/walk through gate of the judicial complex however the inquiry officer conducted inquiry in violation of procedure given in KP Police E&D Rules 1975.
- F. That it is pertinent to mention here that appellant in his departmental appeal and in reply of charge sheets has brought the attention of officers for the reasons of security laps but neither attention has been given nor even considered, and appellant has straight away dismissed from service.
- G. That it is cherished principle of law that where law required the things to be done in particular manner, the same is to be done in that manner and not otherwise.

(4)

H. That the law and courts of the country have always encouraged and preferred that rules are to be followed and have deplored, discoursed and depreciated any violation or variation therein.

I. That neither witness were examined on oath which was obligatory for inquiry officer who has to perform quasi-judicial function nor chance of cross examination have given and not comply with legal procedure. Departmental inquiry mostly resting on accused/murderer statements before police and conducted the formal inquiry just to fill in the blanks.

J. That it is settled principle of law that no person could be condemned unheard but in the said case the appellant has been condemned unheard and no prior chance of defense or hearing was provided to the appellant while dismissed from service.

K. That from all prospective, the impugned order is wrong and void and is liable to be set aside and the appellant has been reinstated into his service with all back and consequential benefits.


L. That the appellant seeks permission of this Hon'ble Tribunal to advance others grounds and proofs at the time of hearing/arguments.

It is, therefore most humbly prayed that the appeal of the appellant may be accepted as prayed for.

قدرت اللہ  
APPELLANT

Qudrat Ullah Ex-Constable

THROUGH:

  
(MANSOOR SALAM)  
ADVOCATE HIGH COURT  
PESHAWAR

**CERTIFICATE:**

It is certified that no other similar service appeal between the parties has been filed earlier.

DEPONENT

5

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

SERVICE APPEAL NO. \_\_\_\_\_/2022

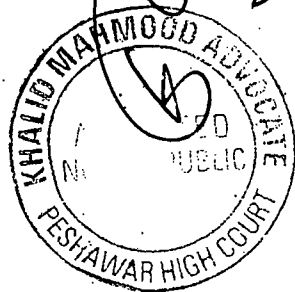
Qudrat Ullah

V/S

Police Deptt:

**AFFIDAVIT**

I, Qudrat Ullah Ex-Constable No.161 Police Post main Gate Judicial Complex, Lakki Marwat (Appellant) do hereby affirm and declare that the contents of this service appeal are true and correct and nothing has been concealed from this august Court.



10-10-22  
DEPONENT

Qudrat Ullah  
(APPELLANT)

CNIC:11201-4261071-1

Cell# 0313-0096997



OFFICE OF THE DISTRICT POLICE OFFICER, LAKKI MARWAT.

No. 488 /PA

Dated: 25/06/2022.

Annex "A"

6

DISCIPLINARY ACTION UNDER KPK POLICE RULES - 1975.

I, Zia ud Din Ahmed PSP, District Police Officer, Lakki Marwat as competent authority am of the opinion that FC Qudrat Ullah No. 161 posted at Judicial Complex Lakki Marwat has rendered himself liable to be proceeded against as he committed the following acts/commission which fall within the meaning of Section-02 (iii) of KPK Police Rules 1975.

STATEMENT OF ALLEGATIONS.

1. That on 25.06.2022 his negligence and not proper body searching an incident of murder took place in Judicial Complex Lakki Marwat vide FIR No.206 dated 25.06.2022 us 302/324/34 PPC PS Ghazni Khel.
2. This speaks his gross misconduct, inefficiency and lethargic conduct on his part and liable to be punished under Police Rule-1975.

For the purpose of securitizing the conduct of the said official with reference to the above allegations DSP H.R.K. is appointed as Enquiry Officer for further thorough probe into the matter.

The Enquiry Officer shall conduct proceedings in accordance with provision of Police Rules 1975 and shall provide reasonable opportunity of defense and hearing to the accused official. record its finding and make within twenty five (25) days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused officer.

The accused officer shall join the proceedings on the date, time and place fixed by the Enquiry Officer.

  
District Police Officer  
Lakki Marwat

OFFICE OF THE DISTRICT POLICE OFFICER, LAKKI MARWAT.

No. 488-89 /SRC. dated Lakki Marwat the 25/06 /2022.

Copy of above is submitted to:-

1. DSP H.R.K. for initiating proceedings against the accused officer under Police Rules 1975.
2. FC Qudrat Ullah No 161 with the directions to appear before the Enquiry Officer on the date time and place fixed by the enquiry officer for the purpose of enquiry proceedings.

\*\*\*\*\*

Annex. B.

7

**CHARGE SHEET UNDER NWFP POLICE RULES 1975.**

I, Zia ud Din Ahmed PSP, District Police Officer, Lakki Marwat as competent authority hereby charge FC Qudrat Ullah No. 161 posted at judicial udicial Complex Lakki Marwat as follow:-

1. That on 25.06.2022 your negligence and not proper body searching an incident of murder took place in Judicial Complex Lakki Marwat vide FIR No.206 dated 25.06.2022 u/s 302/324/34 PPC PS Ghazni Khel.
2. This speaks your gross misconduct, inefficiency and lethargic conduct on his part and liable to be punished under Police Rule-1975.
3. By reason of the above, you appear to be guilty or misconduct under section - 02 (iii) of the KPK Police Rules 1975 and has rendered yourself liable to all or any of the penalties as specified in section - 04 (i) and & b of the said rules.
4. You are therefore directed to submit your written defense **within seven days (7)** of the receipt of this Charge Sheet to the Enquiry Officer.
5. Your written defense if any, should reach to the enquiry officer within the specified period. failing which, it shall be presumed that you have no defense to put-in and in that case. an ex-parte action shall follow against you.
6. Intimate whether you desired to be heard in persons.

No. 490 / Dated Lakki Marwat the 25/06/2022.

*Zia ud Din Ahmed*  
District Police Officer  
Lakki Marwat

ضابطہ ملے :-  
 جو الر حوالہ ڈیپلٹمنٹ آف ایڈمنسٹریشن نوٹس  
 488-89/SRC  
 25.6.22

معرضہ ہوا۔ کہ

1. روز و قوم ہونے کے بعد کو من سہایل بمعہ ڈیپلٹمنٹ آف ایڈمنسٹریشن جو ڈیپلٹمنٹ آف ایڈمنسٹریشن کے سین آئیٹ اور ڈیپلٹمنٹ آف ایڈمنسٹریشن کے ساتھ موجود رہتا ہے۔
  2. من سہایل کے بمعہ ڈیپلٹمنٹ آف ایڈمنسٹریشن کے اپنی ڈیپلٹمنٹ آف ایڈمنسٹریشن اور جانفشانی سے انجام دیا ہے۔
  3. من سہایل نے اور ڈیپلٹمنٹ آف ایڈمنسٹریشن کے ساتھ کسی سرکاری نوکری کے لئے تلاش کی گئی ہے اور داخلہ کی اجازت نہیں ہے۔
  4. ماسوا کے ملازمین کے ساتھ ڈیپلٹمنٹ آف ایڈمنسٹریشن کے ساتھ داخلہ کی اجازت نہیں دیا ہے۔
- بیان یہ امر کہ ایڈمنسٹریشن اور من سہایل کے ساتھ داخلہ کی اجازت نہیں دیا ہے۔ کہ
- وقوع ہونے سے قبل ڈیپلٹمنٹ آف ایڈمنسٹریشن کے ساتھ داخلہ کی اجازت نہیں دیا ہے۔
5. ڈیپلٹمنٹ آف ایڈمنسٹریشن کے ساتھ داخلہ کی اجازت نہیں دیا ہے۔ کہ
  6. ان وقتوں کے دوران ڈیپلٹمنٹ آف ایڈمنسٹریشن کے ساتھ داخلہ کی اجازت نہیں دیا ہے۔ کہ



Annex "D"

(9)

OFFICE OF THE  
DISTRICT POLICE OFFICER  
LAKKI MARWAT

No. 9405 /SRC

Dated 19/07 /2022

FINAL SHOW CAUSE NOTICE

You Constable Qudrat Ullah No. 161 while posted at main gate Judicial Complex Lakki Marwat are guilty of acts of omission and commission as detailed below:-

1. That on 25.06.2022 your negligence and not proper body searching an incident of murder took place in Judicial Complex Lakki Marwat vide FIR No.206 dated 25.06.2022 u/s 302/324/34 PPC PS Ghazni Khel.
2. This speaks your gross misconduct, inefficiency and lethargic conduct on your part and liable to be punished under Police Rule-1975.
3. In this regard, charge sheet based upon summary of allegations was issued and DSP/Hqr: Lakki Marwat was appointed as Inquiry Officer. The Inquiry Officer after conducting proper departmental enquiry submitted his finding report and you were found guilty of the misconduct and also recommended for major punishment.
4. NOW THEREFORE, I, Zia ud Din Ahmed PSP, District Police Officer Lakki Marwat call upon you through this Final Show Cause Notice within three (03) days of the receipt of this Final Show Notice that as to why you should not be awarded a major punishment including dismissal from Service as provided under KPK Police Rules, 1975. Also state whether you want to be heard in person.
5. In case your reply is not received within stipulated period without sufficient reasons, it shall be presumed that you have no defense to offer and the undersigned would be at liberty to pass on ex-parte action against you.

*Zia ud Din Ahmed*  
District Police Officer  
Lakki Marwat

ORDER:

4556  
14-9-22

Annex: 9

13

This order will dispose of departmental appeal preferred by Ex-FC Qudratullah No.161 of District Police Lakki Marwat, wherein he has prayed for setting aside the order of major punishment of "Dismissal from Service", imposed upon him by DPO Lakki Marwat vide OB No.357 dated 01.08.2022 on the following allegations:-

- > That on 25.06.2022, the appellant while posted at main gate for security of Judicial Complex Lakki Marwat, his negligence and not proper body search an incident of murder took place in Judicial Complex Lakki Marwat vide FIR No.206 dated 25.06.2022 u/s 302,324,34 PPC PS Ghazni Khel.

Comments, service record and enquiry papers were received from DPO Lakki Marwat vide his office letter No.10278/EC, dated 19.08.2022. The DPO Lakki Marwat has reported that the appellant was charge sheeted and enquiry papers were marked to DSP/HQ Lakki Marwat for thorough probe into the allegations. The enquiry officer after conducting proper departmental enquiry submitted findings/report stating therein that the appellant being present on duty showing negligence, carelessness and irresponsibility in taking the pistol from the accused. Resultantly, the accused killed his enemy in front of the court of ASJ No.II Lakki hence found guilty of the charge. The appellant was served with Final Show Cause Notice by DPO-Lakki. His reply to the Final Show Cause Notice was found unsatisfactory. The appellant was heard in Orderly Room held by DPO-Lakki, but the appellant failed to prove himself innocent. Therefore, the DPO Lakki Marwat awarded him major punishment of "Dismissal from service" vide O.B No.357 dated 01.08.2022. The appellant was also heard in person in orderly room held in RPO Office Bannu on 01.09.2022 in connection with the instant appeal. However, his plea has not been found convincing.

He failed to perform such an important duty and consequently a litigant was killed in front of the court of ASJ No.II Lakki. His conduct/delinquency has not only embarrassed the district police and earned a bad name for it but also resulted in the loss of a precious life. His attitude towards duty has thus been found to be extremely casual.

Therefore, I, Syed Ashfaq Anwar, FSP, Regional Police Officer, Bannu Region Bannu, in exercise of the powers vested in me under Khyber Pakhtunkhwa Police Rules, 1975 (amended in 2014) hereby endorse the order of DPO Lakki Marwat vide his OB No.357 dated 01.08.2022. His appeal is rejected.

ORDER ANNOUNCED

OB No. 286  
Dated: 12/9/2022

SRE  
For signature  
SH  
219

Regional Police Officer,  
Bannu Region,  
Bannu

# WAKALATNAMA

(POWER OF ATTORNEY)

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

Qudrat Ullah

(Petitioner)  
(Plaintiff)  
(Applicant)  
(Appellant) ✓  
(Complainant)  
(Decree Holder)

**V E R S U S**

Police Deptt:

(Respondent) ✓  
(Defendant)  
(Accused)  
(Judgment Debtor)

I/We Qudrat Ullah s/o Nadar Shah R/O  
Govaka Said Khel, P/O Ghazni Khel Lakki. in the above  
noted Service Appeal. do hereby appoint and constitute  
**Mansoor Salam, Advocate, High Court, Peshawar,** to appear, plead, act,  
compromise, withdraw or refer to arbitration for me/us as my/our Counsels in the  
above noted matter, without any liability for their default and with the authority to  
engage/appoint any other Advocate/Counsel at my/our matter.

I/We authorize the said Advocate(s) to withdraw and receive on my/our behalf all  
sums and amounts payable or deposited in my/our account in the above noted  
matter.

The said advocate(s) is/are not liable / responsible for any act done in good  
intention.

Accepted & Attested

CLIENT(S)

Mansoor Salam  
&

**Taimoor Khan**  
Advocates, High Court,  
Cell No: 0333-9730452