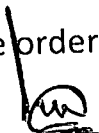


Form- A  
FORM OF ORDER SHEET

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

Execution Petition No. 645/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	27.10.2022	<p>The execution petition of Mr. Zakir Hussain submitted today by post through Mr. Muhammad Abdullah Baloch Advocate. It is fixed for implementation report before touring Single Bench at D.I.Khan 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  REGISTRAR, <sup>clb</sup></p>

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

Execution Petition No. 645 OF 2022

AAQ

**Zakir Hussain**  
**Versus**  
**Govt. of Khyber Pakhtunkhwa etc**

**EXECUTION PETITION**

**INDEX**

S.N o	Particulars of the Documents	Annexur e	Page
1)	Grounds of Execution petition with affidavits	-	1-2
2)	Copy of service appeal along with judgment dated 25/11/2021	A	3-8
3)	Copy of application dairy No. 3266 dated 12/04/2022	B	9-11
4)	Wakalatnama	-	12

October 26, 2022

**Humble Petitioner**

Z xy

**Zakir Hussain**  
**Through Counsel**

26/10  
**Muhammad Abdullah Baloch**  
**Advocate High Court**

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

Execution Petition No. 645 OF 2022

**Zakir Hussain**

**Versus**

**Govt. of Khyber Pakhtunkhwa etc**

**EXECUTION PETITION**

**INDEX**

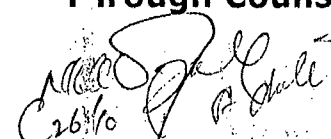
S.No	Particulars of the Documents	Annexure	Page
1)	Grounds of Execution petition with affidavits	-	1-2
2)	Copy of service appeal along with judgment dated 25/11/2021	A	3-8
3)	Copy of application dairy No. 3266 dated 12/04/2022	B	9-11
4)	Wakalatnama	-	12

October 26, 2022

Humble Petitioner



**Zakir Hussain  
Through Counsel**

  
**Muhammad Abdullah Baloch**  
Advocate High Court

(1)

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

Execution Petition NO. \_\_\_\_\_ OF 2022

**Zakir Hussain** son of Ghulam Bashir r/o village Haji Mora,  
Dera Ismail Khan. Constable No. 7645 FRP Dera Ismail  
Khan.

(Petitioner)

**Versus**

1. Govt. of Khyber Pakhtunkhwa through Secretary Home  
Department KPK Peshawar.
2. Commandant Frontier Reserve Police, Khyber  
Pakhtunkhwa Peshawar.
3. Superintendent of Police FRP Dera Ismail Khan.

(Respondents)

**EXECUTION PETITION**

That the petitioner hereby applies for execution of the Judgment  
herein below as follows:

1	Appeal No.	Service Appeal No. <b>525/2013</b>
2	Name of Parties	<b>Zakir Hussain</b> son of Ghulam Bashir r/o village Haji Mora, Dera Ismail Khan  <b>Versus</b>  1. Govt. of Khyber Pakhtunkhwa through Secretary Home Department KPK Peshawar. 2. Commandant Frontier Reserve Police, Khyber Pakhtunkhwa Peshawar. 3. Superintendent of Police FRP Dera Ismail Khan.
2	Date of Judgment	25/11/2021
3	Whether any Appeal preferred from Department	Nil
4	Previously execution petition is filled or not	No

5	Relief granted in the judgment	This Honourable Tribunal was pleased to accept the appeal with following wordings, "For what has gone above, the appeal in hand is accepted. Consequently, the impugned orders are set aside and appellant is reinstated into service with back benefits".
6	Amount of Costs, if any	Nil
7	Against whom to be executed	<b>Respondents</b>
8	Mode in which the assistance of the court if required	The respondents may kindly be directed to reinstate the service of petition as per judgment dated 25/11/2021.

It is therefore, humbly prayed that the instant petition may kindly be accepted.

**Humble Petitioner**

*Zakir Hussain*

**Zakir Hussain  
Through Counsel**

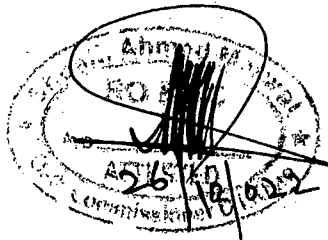
*Muhammad Abdullah Baloch*

**Muhammad Abdullah Baloch  
Advocate High Court**

26 October \_\_, 2022

**Affidavit:**

I, the petitioner, do hereby solemnly affirm and declared on Oath that all the contents of the petition are true and correct to the best of my knowledge and belief and no other petition on the same subject matter was filed earlier.



*Zakir Hussain*

**Deponent**

1210123844241

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.



Appeal no. *5483* of 2013.

Zakir Hussian S/O Ghulam Basshir R/O Haji Mora  
D.I.Khan Constable No.7645 FRP D.I.Khan.

VERSUS

Home

*483*  
*22/2/13*

1. Govt; of KPK through Secretary, Peshawar.
2. Commandant frontier Reserve Police KPK Peshawar.
3. Superintendent of Police District Frontier Reserve Police D.I.Khan.

APPEAL AGAINST ILLEGAL AND MALAFIDE TERMINATION ORDERS DATED 19-07-2011 FROM SERVICE ON THE BACK OF APPELLANT.

That the brief facts of the case are as under:

- 1- That appellat being eligible and qualified was appointed as Constable after due process of law.
- 2- That after taking the charge, the appellat performed his official duties regularly and to the satisfaction of there superior. During the period of service the appellat remained up to the mark and no irregularity of appellat was reported.
- 3- That on the basis of political victimization, inquiry a case FIR No. 121 Dated 22-04-2011 under Section 324/452 PPC was register an police station Gomal University in which appellat arrested on the same day. In the absence of appellat from service, charge sheet was issued by respondent no 3 on the basis of alleged FIR. The respondent no 3 with out informing the appellat appointed Gulmanan khan-line officer FRP D.I.Khan as inquiry officer. who also knowing the fact that appellat is in judicial lockup, conducted alleged and submit final report before respondent no 3. The respondent no 3 issued final

*DA = 5/11/12*  
*22/2/13*

*Answer*

*22/2/13*

re-submitted to ~~the~~  
and filed:

*12/3/13*

ATTESTED

*AD*  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

(4)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
(CAMP COURT D.I.KHAN)



Appeal No.525 of 2013

Date of Institution ... 22/02/2013

Date of Decision ... 25/11/2021

Zakir Hussain S/o GHulam Bashir R/O Haji Mora D.I.Khan, Constable  
No. 7645 FRP D.I.Khan ... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary and others  
...(Respondents)

Present.

Mr. Muhammad Ismail Alizai,  
Advocate

... For appellant.

Mr. NOOR ZAMAN KHATTAK,  
District Attorney,

... For respondents.

MR AHMAD SULTAN TAREEN  
MR. SALAH-UD-DIN,

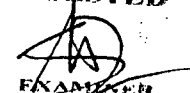
... CHAIRMAN  
... MEMBER(J)

JUDGMENT

AHMAD SULTAN TAREEN, CHAIRMAN:-The appellant named  
above invoked the jurisdiction of this Tribunal through service appeal  
described above in the heading with the prayer as follows:-

"On acceptance of instant appeal this honourable Court  
may be pleased to declare that the order dated  
19/07/2011 and 27/10/2011 issued in the absence and  
back of appellant were illegal void and of no legal effect  
and respondents may pleased be directed to reinstate  
the appellant with all back benefits"

ATTESTED

  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

(5)

2. Facts of the appeal in short are that the appellant was appointed as Constable; that after taking charge, the appellant performed his official duties regularly; that on the basis of political victimization, a criminal case vide FIR No. 121 dated 22.04.2011 under section 324/452 PPC was registered in Police Station Gomal University in which he was arrested on the same day; that in his absence, a charge sheet was issued by the respondent No. 3; that despite the fact that he was in judicial lockup, an inquiry was conducted and enquiry report was submitted to respondent No. 3, who issued final show cause notice to the appellant; that by taking *ex-parte* action against the appellant, major penalty of removal from service was imposed upon him; that the appellant after his acquittal in the said criminal case, filed an appeal dated 05/04/2012 before the respondent No. 2 but the same was not disposed of, hence this appeal.

*Qureshi*

3. After admission of appeal for regular hearing, notices were issued to the respondents and they after entering into proceedings, submitted written reply with several legal and factual objections with the request for dismissal of appeal with cost.

4. We have heard the arguments and perused the record

5. Learned counsel for the appellant argued that the appellant was not treated in accordance with law and the action taken against the appellant is based on malafide; that appellant has never been served with any notice for joining the inquiry proceedings; that a

ATTESTED  
  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar



charge sheet was issued by the respondent No. 3 and in absence of the appellant an inquiry was conducted and as per inquiry report the appellant was removed from service; that the appellant was penalized without giving him any opportunity of hearing. While concluding his arguments, learned counsel submitted that impugned order is wrong, erroneous, against the facts and law on the subject and request for acceptance of appeal as prayed for.

6. Learned District Attorney while rebutting the arguments of learned counsel for the appellant stated that the appellant absented himself from his lawful duty without any prior permission or leave; that departmental appeal submitted by the appellant was thoroughly examined and rejected under due course; that the order of the respondents is in accordance with law/rules having regard to gravity of misconduct; that charge sheet alongwith statement of allegations were issued and were served upon the appellant; and after proper inquiry and fulfillment of all the codal formalities, the competent authority removed him from service. While concluding his arguments, Learned District Attorney requested for dismissal of appeal with cost.

*Handwritten signature*

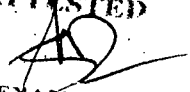
7. According to the charge sheet as well as statement of allegations issued to the appellant; disciplinary action was taken against him on the sole ground of his involvement in Case FIR No. 121 dated 22.04.2011 under Sections 324/412 PPC registered at P.S Gomal University, D.I.Khan. It is however, astonishing that while issuing final show cause notice to the appellant, charge of absence

TESTED  
*Signature*  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

7

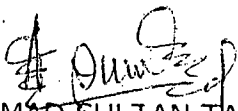
from duty w.e.f. 28.01.2011 was also mentioned therein as one of the charge levelled against the appellant. Moreover, charge sheet as well as statement of allegations were issued to the appellant on 31.05.2011, when he was admittedly in custody at that time. The respondents have mentioned in their comments that charge sheet as well as statement of allegations were served upon uncle of the appellant. It is thus an admitted fact that charge sheet as well as statement of allegations were not served personally upon the appellant. The aforementioned material dents in the enquiry proceedings have rendered the same as nullity in the eye of law. The alleged absence of the appellant from duty was not mentioned as a ground in the charge sheet or statement of allegations, therefore, the competent authority was legally not justified in awarding a penalty to the appellant on the said ground. According to charge sheet as well as statement of allegations, disciplinary proceedings were initiated against the appellant on the ground of his involvement in case FIR No. 121 dated 22.04.2011 U/S 324/452 PPC. The disciplinary action was taken against the appellant under Khyber Pakhtunkhwa Removal from Service (Special Power) Ordinance, 2000 and in view of Section 3-A and Section 4 of the said Ordinance, the competent authority was not justified in awarding penalty to the appellant prior to his conviction in the concerned criminal case. It is an admitted fact that the appellant has been acquitted in the concerned criminal case vide judgment dated 13.03.2012 passed by the then learned Sessions

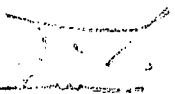
Handwritten signature/initials.

ATTESTED  
  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Judge, D.I.Khan, therefore, the competent authority was not justified in awarding penalty to the appellant on the ground of his involvement in the criminal case. While going through material available on record, we are of the view that the impugned orders are not sustainable in the eye of law and are liable to be set aside.

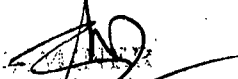
8. For what has gone above, the appeal in hand is accepted. Consequently, the impugned orders are set aside and appellant is reinstated into service with back benefits. Parties are left to bear their own costs. File be consigned to the record room.

  
(AHMAD SULTAN TAREEN)  
Chairman  
(Camp Court, D.I.Khan)

  
(SALAH-UD-DIN)  
Member(J)  
(Camp Court, D.I.Khan)

**ANNOUNCED**  
25.11.2021

**Certified to be true copy**

  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Date of Presentation of Application 29-03-2022  
Number of Words 2400  
Copying Fee 26/-  
Urgent 4/-  
Total 30/-  
Name of Copyist \_\_\_\_\_  
Date of Completion of Copy 29-3-22  
Date of Delivery of Copy 29-3-22

(10)

Annexure "B"

To,

The Commandant,  
Frontier Reserve Police KPK,  
Peshawar.

**SUBJECT: IMPLEMENTATION OF ORDER DATED 25/11/2021  
PASSED BY THE WORTHY KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL (CAMP COURT DERA ISMAIL  
KHAN)**

Respected Sir,

Applicant humbly submits and states as under,

1. That applicant being eligible and qualified, was appointed as constable in police department after due process. After taking charge the applicant performed his official duties with great zeal and zest. During the same an FIR No. 121 dated 22/04/2011 under sections 324/452 PPC PS Gomal University DIKhan was registered against the applicant and the applicant was arrested on the same day. After that ex-parte inquiry was conducted against the applicant and the applicant was granted a major punishment of removal from service vide order dated 19/07/2021.

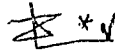
2. That applicant filed Service Appeal No. 525/2013 in the Worthy KPK Service Tribunal camp court at DIKhan which has been decided on 25/11/2021. The Worthy Tribunal was pleased to accept the service appeal and set-aside the impugned orders with the direction to the respondent department to reinstate the applicant with back benefits. Copy of order dated 25/11/2021 is enclosed.

(11)

It is, therefore, humbly requested that order of Worthy Khyber Pakhtunkhwa Service Tribunal (Camp Court Dera Ismail Khan) may graciously be implemented in its true letter and spirit and the applicant may kindly be reinstated into service with all back benefits so that the ends of justice be met.

Dated: 08/02/2022

Humble Applicant



**Zakir Hussain**

s/o Ghulam Bashir r/o Haji Mora  
Tehsil & District Dera Ismail  
Khan. (Constable No. 7645 FRP  
Dera Ismail Khan)



MUHAMMAD ABDULLAH

Advocate  
bc-09/09/14

Date of issue: June 2021  
Valid upto: June 2024



Secretary  
KP Bar Council

کورٹ  
فیس

Before the Court of KPK Service Tribunal Peshawar

Petitioner

مخائب

Zakir Hussain vs Govt, of KPK etc

دعوی باجرم

Execution Petition

تفصیل دعوی باجرم

باعث تحریر آئنگے

DIKhan

Muhammad Abdullah Baloch (AHC)

مقدمہ مندرجہ بالا عنوان میں اپنی طرف واسطے بیرونی وجوہات دہی برائے پیشی یا تعین مقدمہ بنام

کو حسب ذیل شرائط پر وکیل مقرر کیا ہے کہ میں پیشی پر خود یا ہذا بذریعہ رد برو عدالت حاضر ہوتا رہوں گا اور ہر وقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا اگر پیشی پر منظر حاضر نہ ہو اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طرف ذمہ دار نہ ہوں گے نیز وکیل صاحب موصوف صدر مقام کچہری کے علاوہ یا کچہری کے اوقات سے پہلے یا پیچھے یا بروز تعطیل بیرونی کرنے کے ذمہ دار نہ ہوں گے اور مقدمہ صدر کچہری کے علاوہ اور جگہ سماعت ہونے یا بروز تعطیل یا کچہری کے اوقات کے آگے یا پیچھے پیش ہونے پر منظر کوئی نقصان پہنچے تو اس کے ذمہ دار یا اسکے واسطے کسی معاوضہ کے ادا کرنے یا سخت نہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے بھ کوکل ساختہ پر داخہ صاحب موصوف مثل کردہ ذات خود منظور قبول ہو گا اور صاحب موصوف کو عرض دعوی یا جواب دعوی یا درخواست اجراء اسمائے ذکری نظر ثانی اپیل گمرانی و ہر قسم درخواست ہر قسم کے بیان دینے اور پر تاشی یا راضی نامہ و فیصلہ برحاف کرنے اقبال دعوی کا بھی اختیار ہو گا اور بصورت مقرر ہونے تاریخ پیشی مقدمہ مندرجہ بیرون از کچہری صدر بیرونی مقدمہ مندرجہ نظر ثانی اپیل و گمرانی و درآمدگی مقدمہ یا مشورہ ذکری یک طرفہ یا درخواست سہم اتناہی یا قرض یا گرفتاری قیل از فیصلہ اجراء ذکری بھی صاحب موصوف کو بشرط ادا بیگی علیحدہ مختصم بیرونی کا اختیار ہو گا اور تمام ساختہ پر داخہ صاحب موصوف مثل کردہ از خود منظور و قبول ہو گا اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہو کہ مقدمہ مندرجہ یا اس کے کسی جزو کی کاروائی یا بصورت درخواست نظر ثانی اپیل گمرانی یا دیگر سہالہ و قدمہ مذکورہ کسی دوسرے وکیل یا جہ مندرجہ اپنے نامہ یا اپنے ہمراہ مقرر کریں اور اپنے مشیر قانون کو بھی ہر امر میں دہی اور دینے اختیارات حاصل ہوں گے جیسے صاحب موصوف کو حاصل ہیں اور دوران مقدمہ میں جو کچھ ہر جانبہ التزام پڑے گا وہ صاحب موصوف کا حق ہو گا کہ صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہو گا کہ مقدمہ کی بروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا

لہذا وکالت نامہ لکھ دیا ہے تاکہ مستدر ہے

2022 Oct 26 مورخہ

مضمون وکالت نامہ من لیا ہے اور اچھی طرح کچھ لیا ہے اور منظور ہے

Accepted  
26/10  
03146932557  
D.I. Islam

Zakir Hussain - - - - - Petitioner

\* \* v  
1210123844241