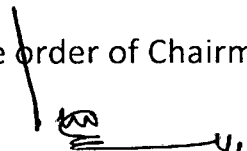


Form- A  
FORM OF ORDER SHEET

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

Execution Petition No. 676/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	14.11.2022	<p>The execution petition of Mr. Hassan Badshah submitted today by Mr. Fazal Shah Muhammad 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>

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

Implementation Petition No 676/2022  
In  
Service Appeal No 1625/2021

Hassan Badshah .....Petitioner

**V E R S U S**

DPO and others.....Respondents

**INDEX**

S. No	Description of documents	Annexure	Pages
1.	Implementation Petition with Affidavit		1-2
2.	Copy of the Judgment/Order dated 22-06-2022	A	3-7
4.	Vakalat Nama		8

Dated:-14-11-2022

Through

*HBadshah*  
Petitioner/Appellant

*Fazal Shah Mohmand*  
Fazal Shah Mohmand  
Advocate,  
Supreme Court of Pakistan

&

*Rabia Muzaffar*  
Rabia Muzaffar  
Advocate High Court.

①

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

Implementation Petition No \_\_\_\_\_/2022

In

Service Appeal No 1625/2021

Hassan Badshah S/o Said Qamash, Retired Constable No. 246,  
District Police Nowshera.

.....Petitioner

**V E R S U S**

1. District Police Officer Nowshera.
2. Regional Police Officer, Mardan Region Mardan.
3. Provincial Police Officer Khyber Pakhtunkhwa Peshawar.
4. District Accounts Officer Nowshera.
5. Accountant General, Khyber Pakhtunkhwa, Peshawar.
6. Secretary, Finance Department Govt. of Khyber Pakhtunkhwa Peshawar.

.....Respondents

**IMPLEMENTATION PETITION UNDER SECTION 7 OF THE  
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974  
FOR THE IMPLEMENTATION OF JUDGMENT/ORDER  
DATED 22.06.2022 PASSED BY THIS HONORABLE  
TRIBUNAL IN THE ABOVE TITLED SERVICE APPEAL.**

**Respectfully Submitted:-**

1. That the Petitioner/appellant earlier filed Service Appeal No 1625/2021, before this honorable Tribunal to make necessary correction in the retirement as well as other service record of the appellant thereby entering "Retired on Medical Board/ground being permanently incapacitated" instead of Compulsory Retirement which was allowed as in favour of the appellant vide Order/Judgment dated 22-06-2022. **(Copy of the Order/Judgment dated 22-06-2022 is enclosed as Annexure A).**
2. That the Petitioner/appellant after obtaining attested copy of the stated Order/Judgment of this honorable Tribunal approached respondents by conveying the same through written application which was duly forwarded but even then the appellant is not treated as per the Judgment ibid of this honorable Tribunal.
3. That the respondents are not ready to implement the Order/Judgment of this honorable Tribunal in its true spirit for no legal and valid reasons, this act of the respondents is

unlawful, unconstitutional and goes against the Order dated 22-06-2022 of this honorable Tribunal.

It is therefore prayed, that on acceptance of this Application/Petition, respondents may kindly be directed to implement the Order of this honorable Tribunal dated 22-06-2022 passed in Service Appeal No 1625/2021.

Dated: 14-11-2022

Through

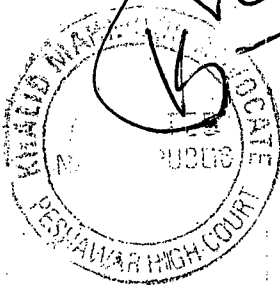
*H Badshah*  
Petitioner/Appellant

*[Signature]*  
Fazal Shah Mohmand  
Advocate,  
Supreme Court of Pakistan

& *[Signature]*  
Rabia Muzaffar  
Advocate High Court.

### **AFFIDAVIT**

I, Hassan Badshah S/o Said Qamash, Retired Constable No. 246, District Police Nowshera., do hereby solemnly affirm and declare on oath that the contents of the accompanying **Implementation Petition** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.



*14-11-22*  
*H Badshah*  
**DEPONENT**

Annex A-3

**BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR**

Service Appeal No 1625/2021

Hassan Badshah S/O Said Qamash, Retired Constable No. 246,  
District Police Nowshera ..... **Appellant**

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 1631

Dated 25/1/2021

**V E R S U S**

1. District Police Officer, Nowshera.
2. Regional Police Officer, Mardan Region Mardan.
3. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
4. District Accounts Officer Nowshera.
5. Accountant General, Khyber Pakhtunkhwa, Peshawar.
6. Secretary Finance Department, Govt. of Pakhtunkhwa, Peshawar.

..... **Respondents**

**APPEAL U/S 4 OF THE KPK SERVICE TRIBUNAL ACT 1974 AGAINST THE ORDER DATED NIL OF RESPONDENT NO.1 WHEREBY DEPARTMENTAL APPEAL FOR NECESSARY CORRECTION TO THE EXTENT OF RETIRED ON MEDICAL BOARD HAS BEEN FILED.**

**PRAYER:-**

On acceptance of this appeal the impugned Order of respondent No. 1 dated NIL and impugned entry of compulsory retirement whereby appeal for necessary correction to the extent of Retired on Medical Board has been filed may kindly be set aside and respondents may kindly be directed to make necessary correction in the retirement order as well as other service record of the appellant thereby entering "Retired on Medical Board/ground being permanently incapacitated" instead of Compulsory Retirement.

Any other remedy not specifically asked for and deemed appropriate in the circumstances case may also be granted in favor of the appellant.

**Respectfully Submitted:-**

1. That the appellant was enlisted in District Police Nowshera on 10-02-1980 and in the year 1994 due to complicated diseases was referred to Standing Medical Board for detailed examination and investigation. The Medical Board after examination and investigation opined that the appellant is completely and permanently incapacitated for further service of any kind. **(Copy of Opinion of Standing Medical Board is enclosed as Annexure A).**

*[Handwritten Signature]*

**Filed to-day**  
*[Signature]*  
Registrar  
25/1/2021

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

4

Service Appeal No. 1625/2021

Date of Institution ... 25.01.2021  
Date of Decision ... 22.06.2022



Hassan Badshah S/O Said Qamash, Retired Constable No.246,  
District Police, Nowshera.

(Appellant)

VERSUS

District Police Officer, Nowshera and five others.

(Respondents)

Fazal Shah Mohmand,  
Advocate

... For appellant.

Naseer Ud Din Shah,  
Assistant Advocate General

... For respondents.

Rozina Rehman  
Fareeha Paul

... Member (J)  
... Member (E)

JUDGMENT

ROZINA REHMAN, MEMBER (J): The appellant has invoked the jurisdiction of this Tribunal through above titled appeal with the prayer as copied below:

“On acceptance of this appeal the impugned order of respondent No.1 dated nil and the impugned entry of compulsory retirement whereby appeal for necessary correction to the extent of retired on Medical Board has been filed may kindly be set aside and respondents may kindly be directed to make necessary correction in the retirement order as well as other service record of the appellant thereby entering

ATTESTED  
  
Khyber Pakhtunkhwa Service Tribunal  
Peshawar

8

**"Retired on Medical Board/ground being permanently incapacitated" instead of "Compulsory Retirement."**

2. Brief facts of the case are that appellant was enlisted in district Police Nowshera on 10.02.1980. He was referred to Standing Medical Board for examination and investigation in the year 1994 due to a complicated disease and the appellant was declared completely and permanently incapacitated for further service of any kind. He was accordingly retired from service on medical grounds, however, he was shown as compulsory retired on the discharge certificate instead of retired as invalidated/incapacitated. He approached the competent authority (respondent No.4) for rectification in the pension papers to the extent of entry in the type of pension as retired on Medical Board instead of compulsory retirement which was filed being time barred. He filed writ petition which was withdrawn with the permission to approach proper forum, hence, the present service appeal.

3. We have heard Fazal Shah Mohmand Advocate learned counsel for appellant and Naseer Ud Din Shah, learned Assistant Advocate General for respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Fazal Shah Mohmand Advocate learned counsel appearing on behalf of appellant inter-alia submitted that the appellant was not treated according to law and rules because he was referred to Standing Medical Board for detailed examination and investigation and the opinion of Medical Board was taken into consideration but wrong entry was made in the relevant service record. He further contended that the entry in his service record was passed in utter violation of law and rules and that the impugned order being not a speaking order is liable to be


ACCEPTED  
  
 MEMBER  
 SERVICE TRIBUNAL  
 PESHAWAR

set aside. Lastly, he submitted that fundamental rights of the appellant guaranteed in the Constitution of Islamic Republic of Pakistan, 1973 were badly violated. He, therefore, requested for acceptance of the instant service appeal. (6)

5. Conversely, learned AAG contended that appellant had proceeded on retirement in the year 1994 almost 26 years ago and due to devastating flood of 2010, entire record of District Nowshera got damaged/destroyed. It was submitted that perusal of form No.14-12(2) discharge certificate as well as Pension Roll Data Sheet, appellant proceeded on retirement under pension type as compulsory retirement on 05.10.1994 and that he kept mum for 26 years and no objection was raised on his mode of retirement, therefore, plea of the appellant being badly time barred, was rightly rejected.

6. From the record, it is evident that appellant served in the District Police, Nowshera. Due to some complicated disease, he was referred to Standing Medical Board for proper examination and investigation. The Standing Medical Board examined the appellant on 08.09.1994 and after proper examination by Dr. Zia Ur Rehman Psychiatrist Hayat Shaheed Hospital, Peshawar, the appellant was considered completely and permanently incapacitated for further service in consequence of being Sihizo Affective and was not fit for service. The Standing Medical Board agreed with the opinion of Dr. Zia Ur Rehman, Psychiatrist and they considered the appellant to be completely and permanently incapacitated for future service of any kind in consequence of Sihizo Affective and was not fit for further service and should be boarded out from service. Accordingly, he got retired but it is strange that he was

*S. Zia*

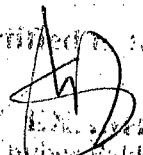
ATTENDED  
  
 District Commissioner  
 District Nowshera

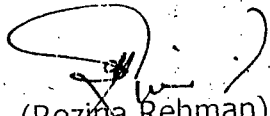


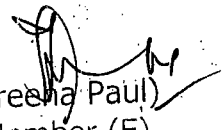
shown being proceeded on retirement, under pension type as 7  
 compulsory retirement on 05.10.1994. The respondents failed to  
 explain as to why the present appellant was shown as compulsory  
 retired on the Pension Roll Data Sheet. Compulsory retirement is a  
 major punishment as per Khyber Pakhtunkhwa Government Servants  
 (Efficiency & Discipline) Rules, 2011 and admittedly, the appellant was  
 examined by the Standing Medical Board. He was never departmentally  
 proceeded against for any kind of misconduct but even then the word  
 "Compulsory Retirement" was introduced in his relevant papers and  
 instead of making rectification, his appeal was rejected being badly time  
 barred. Infact, the order passed by the competent authority is a void  
 order and no limitation runs against void order.

7. Keeping in view the above discussion, this appeal is allowed as  
 prayed for. Parties are left to bear their own costs. File be consigned to  
 the record room.

ANNOUNCED.  
 22.06.2022

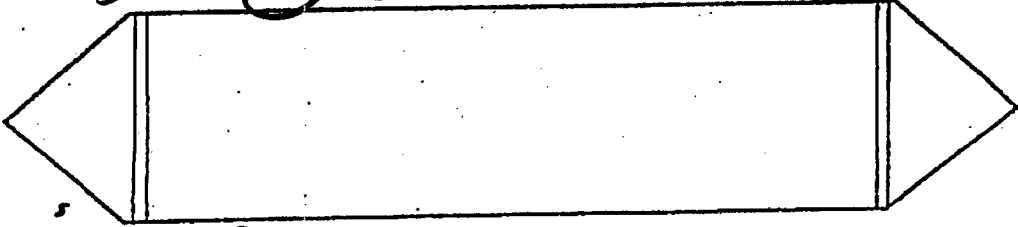
Certified to be true copy  
  
 Khyber Pakhtunkhwa  
 Service Tribunal,  
 Peshawar

  
 (Rozina Rehman)  
 Member (J)

  
 (Fareeha Paul)  
 Member (E)

Date of Presentation of Application: 20-10-22  
 Number of Words: 2000  
 Copying Fee: 47/-  
 Urgent: 47/-  
 Total: 26/-  
 Name of Applicant: \_\_\_\_\_  
 Date of Constitution of Copy: 20-10-22  
 Date of Delivery of Copy: 20-10-22

## بعد الت سردس ٹریبونل ۱۹۲۱ء کا دور



20 جناب محل  
صن باجوہ بنام ملک و غزن  
۱۹۶۰

موزخہ  
مقدمہ  
دعویٰ  
جرم

### باعث تحریر آنکے

آن مقام سنگھ کیلئے فضل شاہ مہندز والجہ منظر اور سس مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ

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 دینے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور صولی چیک دروپیا عرضی دعویٰ اور درخواست ہر قسم کی تصدیق زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ 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 باختیارات حاصل ہوں گے اور اس کا ساختہ پر داخستہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے وہوگا۔ 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 لکھ دیا کہ سندر ہے۔

المرقوم \_\_\_\_\_ ماہ \_\_\_\_\_ 20

العبد \_\_\_\_\_ واہ العبد \_\_\_\_\_

کے لئے منظور ہے۔  
Fazal Shahi Mohmand  
Asc

بمقام

*(Handwritten signature)*

HB a dshah