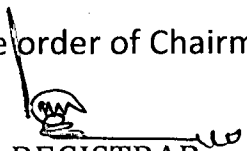


Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 701/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	30.11.2022	<p>The execution petition of Mr. Muhammad Javed submitted today by Mr. Muhammad Aslam Tanoli Advocate. It is fixed for implementation report before touring Single Bench at A.Abad on _____.</p> <p>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 HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Execution Petition No. 701/22

AA9

Muhammad Javed Sub. Inspector No. 188/H, presently posted as OII (Investigation Wing) at Police Station Hattar, Haripur.

.....(Petitioner)

VERSUS

1. Provincial Police Officer, Khyber Pakhtunkhwa Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. District Police Officer, Haripur.

EXECUTION PETITION IN SERVICE APPEAL NO. 9402/2020

INDEX

S/No.	Description of documents.	Annexure	Page No.
1.	Execution Petition		01-04
2.	Decision dated 19-04-2022 of KPK Service Tribunal	"A"	05-10
3.	Wakalatnama		

Javed

PETITIONER

THROUGH

M. Aslam Tanoli

(MUHAMMAD ASLAM TANOLI)
ADVOCATE HIGH COURT
AT PESHAWAR

Dated: 30-11-2022

①

BEFORE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Execution Petition No.....701/22.....

Muhammad Javed Sub. Inspector No. 188/H, presently posted as
Oll at Police Station Hattar, Haripur.

.....(Petitioner)

VERSUS

1. Provincial Police Officer, Khyber Pakhtunkhwa Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. District Police Officer, Haripur.

**EXECUTION PETITION IN SERVICE APPEAL NO. 9402/2020 FOR
IMPLEMENTATION OF JUDGMENT/DECISION DATED 19-04-2022 OF
THIS HONOURABLE SERVICE TRIBUNAL.**

**PRAYER: ON ACCEPTANCE OF INSTANT EXECUTION PETITION THE
RECONDENTS MAY GRACIOUSLY BE DIRECTED TO IMPLEMENT THE
JUDGMENT/DECISION DATED 19-04-2022 OF THIS HONOURABLE
SERVICE TRIBUNAL PROVISIONALLY/CONDITIONALLY SUBJECT TO
OUTCOME OF CPLA BEING FILED BY THE RESPONDENTS.**

Respectfully Sheweth:

1. That petitioner/appellant filed subject titled service appeal before this Honorable Service Tribunal against the order of Respondents whereby petitioner/appellant was awarded the punishment of stoppage of 03 annual increments with cumulative effect and period remained out of service as leave without pay by respondent No. 2 while converting the penalty of dismissal from service passed by respondent No.3.
2. That this Honorable Tribunal on acceptance subject service appeal issued judgment/decision dated 19-04-2022 that **"In view of the matter, this appeal is accepted,**

2

Impugned order of withholding of increments for three years is set aside and the period he remained out of service be treated as on duty".

(Copy of judgment/decision dated 19-04-2022 is attached as Annexure-"A").

3. That on receipt of attested copy of the judgment/decision dated 19-04-2022 of this Honorable Tribunal, the appellant requested the respondents for implementation of the judgment/decision.
4. That respondents instead of implementing the decision of this Honorable Tribunal have taken the plea that they are going to file a CPLA with stay application against the decision dated 19-04-2022 of this Honorable KPK Service Tribunal before the Supreme Court of Pakistan Islamabad.
5. That despite petitioner's incessant approaches to respondents, the petitioner/appellant has not been granted his decided rights/benefits of service. Appellant is facing financial distresses due to the reason.
6. That there is no stay order from the Apex Supreme Court of Pakistan against the judgment/decision dated 19-04-2022 of this Honorable Tribunal and in such a condition respondents are legally bound to implement the said judgment/decision in its letter and spirit. Hence this Execution Petition on the following:

GROUNDS

3

- A) That as this Honorable Service Tribunal in its judgment/decision dated 19-04-2022 has decided that "In view of the matter, this appeal is accepted, impugned order of withholding of increments for three years is set aside and the period he remained out of service be treated as on duty".
- B) That there is no stay order from the Apex Supreme Court of Pakistan against the Judgment/decision dated 19-04-2022 of this Honorable Tribunal and the same is in field. Respondents are legally bound to comply with the said judgment/decision.
- C) That departmental authorities/respondents are reluctant to pay any heed to the judgment/decision dated 19-04-2022 of this Honorable Tribunal hence instant execution petition.
- D) That petitioner is facing financial distresses due to non-implementation of judgment/ decision of this Honorable Tribunal.
- E) That instant Execution Petition is well within time and this Honorable Tribunal has got every jurisdiction to entertain and adjudicate upon the same.


PRAYER:

4

It is, therefore, humbly prayed that this Honorable Tribunal may graciously be pleased to accept this Execution Petition and issue necessary orders/directions to the respondents to implement the judgment/decision dated 19-04-2022 of this Honorable Tribunal in its true letter and spirit.


PETITIONER

THROUGH


(MUHAMMAD ASLAM TANOLI)
ADVOCATE HIGH COURT
AT PESHAWAR

Dated: 30-11-2022

AFFIDAVIT

I, Muhammad Javed petitioner do hereby undertake/solemnly affirm that the contents of foregoing petition are true and correct to the best of my knowledge and belief and nothing has been concealed or suppressed from this Honorable Tribunal.

Dated 30-11-2022


DEPONENT



/ (5)

Amra - A

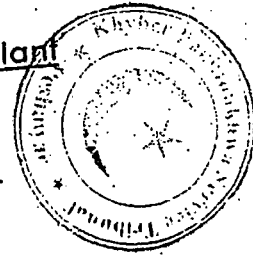
**BEFORE HONOURABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Khyber Pakhtunkhwa
Service Tribunal
Diary No. 8763
Dated 17-8-2020

Appeal No. 9402/2020

Mohammad Javed Sub Inspector No. H/188, Police Lines
Haripur.

Appellant



VERSUS

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. District Police Officer, Haripur.

Respondents

SERVICE APPEAL UNDER SECTION-4 OF KPK SERVICE TRIBUNAL
ACT 1974 AGAINST THE ORDER DATED 05-06-2020 OF THE
DISTRICT POLICE OFFICER HARIPUR WHEREBY APPELLANT WAS
"DISMISSED FROM SERVICE" AND ORDER DATED 03-08-2020 VIDE
WHICH WHILE ACCEPTING HIS DEPARTMENTAL APPEAL THE
REGIONAL POLICE OFFICER HAZARA REGION ABBOTTABAD
CONVERTD PEALTY OF DISMISSAL INTO STOPPAGE OF 03 YEARS
INCREMENTS WITH COMULATIVE EFFECT AND THE PERIOD
APPELLANT REMAINED OUT OF SERVICE (FROM 05-06-2020 TO
03-08-2020) HAS BEEN TREATED AS LEAVE WITHOUT PAY.

PRAYER: ON ACCEPTANCE OF INSTANT SERVICE APPEAL BOTH
ORDERS DATED 05-06-2020 AND 03-08-2020 OF RESPONDENTS
MAY GRACIOUSLY BE SET ASIDE AND APPELLANT BE RESTORED 03
YEARS STOPPED INCREMENTS AND THE PERIOD HE REMAINED OUT
OF SERVICE BE TREATED AS ON DUTY OR AT LEAST LEAVE OF THE
KIND DUE BE GRANT WITH GRANT OF ALL CONSEQUENTIAL
SERVICE BACK BENEFITS.

Filed to-day

Respectfully Sheweth:

Registrar
17/8/2020

Filed to-day

That while appellant posted as OII at Police Station Sarai
Saleh (Haripur) he was served upon with a Charge Sheet
which was duly replied on 11-05-2020 explaining all facts
and circumstances of the matter in detail and denying
the allegations incorporated therein being against the
facts, incorrect and baseless. (Copies of Charge Sheet &
its reply are attached as Annex-"A & B").

ATTESTED

Registrar
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

(6)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR
AT CAMP COURT, ABBOTTABAD.**

Service Appeal No.9402/2020



Date of Institution 17.08.2020
Date of Decision 19.04.2022

Muhammad Javed Sub Inspector No.H/188, Police Lines,
Haripur.

(Appellant)

VERSUS

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and
two others.

(Respondents)

Muhammad Aslam Tanoli,
Advocate

For appellant.

Kabir Ullah Khattak,
Additional Advocate General

For respondents.

Salah-Ud-Din
Rozina Rehman

Member (J)

Member (J)

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 instant service appeal, both
orders dated 05.06.2020 and 03.08.2020 of
respondents may graciously be set aside and
appellant be restored 03 years stopped increments
and the period he remained out of service be treated

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

(7)

as on duty or at least leave of the kind due be granted with grant of all consequential service back benefits."

2. Brief facts of the case are that the appellant while posted as OI at Police Station Serai Saleh, Haripur was served with a charge sheet alongwith statement of allegations. He was charged for certain irregularities in the investigation of case FIR No.539 dated 12.08.2018. Mr. Syed Inayat Ali Shah SP Investigation Haripur was nominated as Inquiry Officer for the purpose of scrutinizing of conduct of accused officer with reference to the above allegations. The Inquiry Officer submitted his report and vide order dated 05.06.2020 of District Police Officer, Haripur he was awarded major punishment of dismissal from service. He filed departmental appeal and vide order dated 03.08.2020 of Regional Police Officer, Hazra Region, Abbottabad major penalty of dismissal from service was set aside and was converted into minor punishment of stoppage of three years increments with cumulative effect while the period he remained out of service was treated as leave without pay. Feeling aggrieved from the said order, instant service appeal was filed.

3. We have heard Muhammad Aslam Tanoli learned counsel for appellant and Kabir Ullah Khattak, learned Additional Advocate General for the respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Muhammad Aslam Tanoli Advocate learned counsel for appellant in support of appeal contended with vehemence that the impugned orders dated 05.06.2020 and 03.08.2020 of the respondents are illegal, against law and facts as no proper

ESTED
 THE JUDGE
 District Court
 Haripur

(8)

departmental inquiry was conducted. It was further argued that the appellant was not treated in accordance with law, rules and policy on the subject as the respondents acted in violation of Articles-4 & 25 of the Constitution of Islamic Republic of Pakistan, 1973. He contended that the appellant discharged his assigned duties with devotion, dedication and honesty and the allegations leveled against him were ambiguous in nature without any reason and justification. That in fact, the appellant never investigated the case, therefore, question of defective investigation does not arise which fact was also admitted by Regional Police Officer in his order passed on 03.08.2020. Learned counsel further submitted that accused Hanif was never interrogated by the appellant, therefore, question of preparation of pointation does not arise and the entire investigation in case FIR No.539 had been handed over to one Nazir Khan ASI/OI Investigation who carried out the same in accordance with law under the direct control and surveillance of SDPO and SHO Serai Saleh. The appellant himself was busy in case FIR No.347 dated 28.04.2020 registered at District Khaniwal, he, therefore, requested that the appellant being wrongly involved in the instant case was awarded with major penalty of dismissal from service without any reason and justification and that no opportunity of personal hearing was ever afforded to the appellant. His 34 years service in the Department was taken into consideration by the RPO who converted major punishment into minor punishment but the said order too, is against law and facts as his 34 years service was crushed with a single stroke of pen without paying any heed to his past service.

ATTESTED

[Signature]
 Notary Public
 Services
 Faisalabad

5. Conversely, learned A.A.G submitted that appellant Sub Inspector Muhammad Javed while posted as Officer Incharge

Investigation Police Station Serai Saleh, deliberately ignored important elements in the investigation of murder case. He failed to interrogate the accused and to effectuate recovery of weapon of offence and the motorcycle used in the offence. He was, therefore, issued charge sheet with statement of allegations and proper inquiry was conducted, where-after, he was called in Orderly Room and was heard in person. His non-professionalism and dishonesty proved through strong evidence, therefore, he was awarded major punishment of dismissal from service which was later on converted into minor punishment. Lastly, he submitted that the appellant did not follow the instructions of his senior, therefore, was awarded punishment under the existing rules.

6. From the record it is evident that FIR No,347 dated 28.04.2020 registered U/S 365 B PPC at Police Station Serai Saleh was marked to the appellant for the recovery of an abductee Mst. Robina Bibi and the arrest of accused Ghulam Hussain who was resident of Chak No.ER 124/7 Mian Channu, District Khaniwal. He filed an application for obtaining arrest warrant U/S 204 Cr.PC on 29.04.2020 which was duly allowed and a warrant of arrest was issued by the learned Judicial Magistrate. The appellant also submitted an application on 30.04.2020 for proceeding to District Khaniwal for recovery of abductee and arrest of accused. He also requested for two lady Constables and one IHC and one Constable which request was honored by the Superintendent of Police (Investigation). After compliance of all the necessary formalities, he reached the destination alongwith his team and reported in Police Station Talamba, Khaniwal on 01.05.2020 where he took one ASI Iftikhar Hussain and recovered abductee and arrested accused. He filed an application and produced

TESTED
 [Signature]
 [Stamp]

(10)

the abductee before the Judicial Magistrate Haripur for recording statement U/S 164 Cr.PC on 01.05.2020. The abductee was ordered to be sent to Darul-Aman and she was brought to the court on 02.05.2020. He then submitted an application for obtaining five days custody of the accused Gulam Hussain on 02.05.2020 but only one day custody was allowed and after interrogation of accused, appellant filed an application before the Magistrate on 03.05.2020 for recording his statement U/S 164/364 Cr.PC and on completion of proceedings accused was sent to jail on judicial remand by the court vide Jail Warrant dated 03.05.2020. From the record, it is evident that appellant remained engaged with case FIR No.347 dated 28.04.2020 and that too, on the directions of his seniors. On the other hand, investigation with regard to FIR No.539 dated 12.08.2018 was never marked to the appellant. The investigation in the said case was marked to one Nazir Khan ASI/OI Investigation who carried out the same in accordance with law under the direct control and surveillance of SDPO and SHO Serai Saleh. There is nothing on file which could show that the investigation with regard to FIR No. 539 had been marked to the appellant and that he deliberately ignored important elements in the investigation of a murder case. Order of the Regional Police Officer is available on file, wherein, it has been clearly mentioned that the appellant had not investigated the case rather ASI Nazir Khan was IO of the case. Nothing was brought on record in order to show nexus of the appellant with investigation of case FIR No.539. He had rendered 34 years service which was crushed with a single stroke of pen.

ATTESTED

Khushal Singh
Service Tribunal
Peshawar

In this view of the mater, this appeal is accepted, impugned order of withholding of increments for three years is set aside and the

11

period he remained out of service be treated as on duty. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
19.04.2021

(Salah-Ud-Din)
Member (J)
Camp Court, A/Abad

(Rozina Rehman)
Member (J)
Camp Court, A/Abad

Certified to be true copy
EXAMINER
Khob. Panchun:hw
Service Tribunal
Punjab

Date of Presentation of Application 23/6/22
Number of Words 2800
Copying Fee 30/-
Vergal _____
Total 30/-
Name of Applicant _____
Date of Receipt of Copy 04/07/22
Date of Delivery of Copy 04/07/22

وکالت نامہ

کورٹ فیس
قیمتی

بعدالت جناب *MR. M. A. Khan* *Adv.*
منجانب *Relatives*

MR. Prof. Dr. M. A. Khan **نام** *M. A. Khan*

دعویٰ یا جرم *Execution of Will* باعث تحریر آنکہ
مندرجہ بالا عنوان میں اپنی طرف سے پیروی و جوابدہی مقام *تیسرا در / اصحاب آباد*

حکم تنوی ایڈووکیٹ بدیں شرط وکیل مقرر کیا کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص روبرو عدالت حاضر ہوتا رہوں گا۔ اور بوقت پکارے جانے وکیل صاحب موصوف کو اطلاع دے کر حاضر کروں گا۔ اگر کسی پیشی پر مظہر حاضر نہ ہوا۔ اور حاضری کی وجہ سے کسی وجہ پر مقدمہ میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہونگے۔ نیز وکیل صاحب موصوف صدر مقام پکھری کے علاوہ کسی اور جگہ یا پکھری کے مقرر اوقات سے پہلے یا بروز تعطیل پیروی کرنے کے مجاز نہ ہونگے۔ اگر مقدمہ مقام پکھری کے کسی اور جگہ سماعت ہونے یا بروز پکھری کے اوقات کے آگیا یا پیچھے ہونے پر مظہر کو کوئی نقصان پہنچے تو ذمہ دار یا اس کے رابطے کسی معاوضہ ادا کرنے مختار نامہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہونگے۔ مجھے کل ساختہ پرواختہ صاحب مثل کردہ ذات خود منظور و قبول ہوگا اور صاحب موصوف کو عرضی دعویٰ اور درخواست اجرائے ڈگری و نظر ثانی اپیل نگرانی دائر کرنے نیز ہر قسم کی درخواست پر دستخط تصدیق کرنے کا بھی اختیار ہوگا۔ اور کسی حکم یا ڈگری کے اجرا کرنے اور ہر قسم کاروبار وصول کرنے اور رسید دینے اور داخل کرنے کا ہر قسم کا بیان دینے اور سپروٹائشی و راضی نامہ و فیصلہ برخلاف کرنے اقبال دعویٰ کا اختیار ہوگا۔ اور بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم امتناعی یا ڈگری قبل از فیصلہ اجرائے ڈگری بھی صاحب موصوف کو بشرط ادائیگی علیحدہ پیروی مختار نامہ کرنیکا مجاز ہوگا۔ اور بصورت ضرورت اپیل یا اپیل کے واسطے کسی دوسرے وکیل یا بیرسٹر کو بجائے اپنے ہمراہ مقرر کریں اور ایسے مشیر قانونی کو بھی اس امر میں وہی اختیارات حاصل ہونگے جیسے صاحب موصوف کو۔ پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا۔ تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور ایسی حالت میں میرا مطالبہ صاحب موصوف کے برخلاف نہیں ہوگا۔ لہذا مختار نامہ لکھ دیا ہے کہ سند رہے مضمون مختار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا اور منظور ہے۔

Accepted by
M. A. Khan
Adv.

مورخہ: 30-11-2022

العبد العبد العبد

Fauzil
(محمد صابو)