



# FORM OF ORDER SHEET

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

Case No. - 1650/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	22/11/2022	<p>The appeal of Mr. Muhammad Javed presented today by Syed Noman Ali Bukhari Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____. Notices be issued to appellant and his counsel for the date fixed.</p> <p>By the order of Chairman</p> <p> REGISTRAR, </p>

**BEFORE THE KP SERVICE TRIBUNAL PESHAWAR**

Appeal No. 1650 /2022

Muhammad Javed

V/S

Police Deptt:

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*محمد جواد*  
**APPELLANT**  
Muhammad Javed

**THROUGH:**

*سید نومان علی بکھری*  
**(SYED NOMAN ALI BUKAHRI)**  
ADVOCATE HIGH COURT.

*وزما سید*  
**(UZMA SYED)**  
ADVOCATE HIGH COURT

(1)

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

Appeal No. 1650/2022

Mr. Muhammad Javed Ex-Constable No: 7369  
FRP Bannu Range, Bannu.

**APPELLANT**

**VERSUS**

1. The Provincial Police officer, KP Peshawar.
2. Commandant Frontier Reserve Police, KP, Peshawar.
3. The Superintendent of police FRP Bannu.

**RESPONDENTS**

.....

**APPEAL UNDER SECTION 4 OF THE KP SERVICE  
TRIBUNALS ACT, 1974 AGAINST THE ORDER OF  
RESPONDENT NO. 2 DATED 24/10/2022 WHEREBY,  
THE DEPARTMENTAL APPEAL OF THE  
APPELLANT REJECTED AND HELD THAT THE  
APPELLANT STOOD AUTOMATICALLY  
TERMINATED/REMOVED FROM SERVICE  
UNDER FR-18 WHICH IS UNLAWFUL.**

.....

**PRAYER:**

***THAT ON ACCEPTANCE OF THIS APPEAL, THE  
IMPUGNED ORDER DATED 24/10/2022 MAY BE SET  
ASIDE AND DECLARE THE APPELLANT RETIRED ON  
AGE OF SUPERANNUATION (60 YEARS) AND ALSO  
KEEPING IN VIEW LONG SERVICE CAREER OF  
APPELLANT OF 35 YEARS TILL AGE OF  
SUPERANNUATION I.E 12/01/2022. ANY OTHER  
REMEDY WHICH TRIBUNAL DEEMS FIT AND  
APPROPRIATE THAT MAY ALSO BE AWARDED IN  
FAVOUR OF APPELLANT.***

3

**RESPECTFULLY SHEWETH:**

1. That the appellant was appointed as Appointed in Police Department on 12.01.1987 and the appellant has long unblemished service career of about 26 years till 2013 and 35 years till age of superannuation. **Copy of relevant document of Service Book is attached as annexure-A.**
2. That appellant was transferred in October 2013, and vide order dated the record of the appellant was sent herewith vide order dated 18/11/2013. Thereafter appellant made so many requested to SP Bannu for take attendance of the appellant or retired him from service but not fruitful result was achieved. Thereafter the appellant fell ill and came back to home and due to illness the appellant cannot resume his duties. Therefore, appellant didn't perform his duties so the absentia of the appellant was not willing full but due to above mentioned reasons. **Copy of order is attached as annexure-B.**
3. That prior to the above mentioned order whatsoever duty was assigned to appellant, he performed the same with efficiency.
4. That the appellant was reached to age of superannuation on 12/01/2022 but no action was taken against the appellant till age of superannuation and thereafter too. The appellant preferred appeal for benefits of service which he rendered to department, after 9 months of his superannuation. The department disposed off the departmental appeal vide order dated 24/10/2022 after 9 ½ month and held that the appellant stood automatically terminated/removed from service under Fr-18 which is unlawful and against the norms of justice. **Copy of CNIC, appeal and impugned Order is attached as Annexure-C, D & E)**
5. That now the appellant comes to this Honorable Tribunal on the following grounds amongst the others:

**GROUND:**

- A) That the impugned order dated 24/10/2022, is against the law, facts, norms of justice and material on record, therefore, not tenable and liable to be set aside.
- B) That appellant was reached to age of superannuation on 12/01/2022 but no action was taken against the appellant till age of superannuation and thereafter too. The appellant preferred appeal for benefits of service which he rendered to department, after 9 months of his superannuation. The department disposed off the departmental appeal vide order dated 24-10-2022 after 9 ½ month

and held that the appellant stood automatically terminated/removed from service under Fr-18 which is unlawful and against the norms of justice. Further it is added that the FR-18 is no more in field which was omitted vide finance Division Notification No. F.1(11) R.4/89, dated 03-11-1992. Hence the penalty awarded to appellant is void ab initio and no value in eye of law.

- C) That no action was taken against the appellant during service i.e before the reaching to age of superannuation. Thus the department lost his train from the track and cannot imposed penalty after retirement. The reported judgment of Supreme Court of Pakistan Cited as *2004 S C M R 678 ABDUL WALI versus WAPDA* through its Chairman and others. Wherein held that “-Initiation of disciplinary proceedings against civil servant after retirement from service---Validity--Disciplinary proceedings could not be taken against civil servant for imposition of major or minor penalty after he had already retired from service on attaining age of superannuation.
- D) That the appellant has has long unblemished service career of about 26 years till 2013 and 35 years till age of superannuation with good record at his credit and the impugned order has been passed without examining the real facts. So keeping in view the long service career of the appellant the lenient view may be taken.
- E) That the whole actions of the authority and the impugned order dated 24/10/2022 is one sided in violation of fair principle of justice, law and rules.
- F) That no show cause notice was issued before passing penalty order which is against the law and rules.
- G) That appellant has not been treated according to law and rules.
- H) That the appellant has been condemned unheard and has not been treated according to law and rules.
- I) That the appellant has not been treated under the proper law and rules, therefore, the impugned order is liable to be set aside on this score alone.
- J) That according to Federal Shariyat court Judgment cited as *PLD 1989 FSC 39* the show cause notice is must before taking any adverse action, non-issuance of show cause notice is against the injunction of Islam. Hence the impugned order is liable to be set-aside.
- K) That the show cause is the demand of natural justice before taking adverse action and also necessary for fair trial and also necessary

in light of injunction of Quran and Sunnah but show cause was not served to the appellant ( show cause given to the appellant but with the impugned order) which is malafide on the part of the deptt. So, fair trail denied to the appellant which is also violation of Article 10-A of the constitution. Further it is added that according to reported judgment cited as 1997 PLD page 617 stated that every action against natural justice treated to be void and unlawfully order. Hence impugned order is liable to be set-aside. The natural justice should be considered as part and parcel according to superior court judgment cited as 2017 PLD 173 and 1990 PLC cs 727.

- L) That the penalty of dismissal from service is very harsh which was passed in violation of law and rules, therefore, the same is not sustainable in the eyes of law.
- M) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

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

*Muhammad Javed*  
**APPELLANT**  
Muhammad javed

**THROUGH:**  
*Syed Noman Ali Bukhari*  
**(SYED NOMAN ALI BUKAHRI)**  
**ADVOCATE HIGH COURT.**  
& *Uzma Syed*  
**(UZMA SYED)**  
**ADVOCATE HIGH COURT**

**CERTIFICATE:**

It is certified that no other service appeal earlier has been filed between the present parties in this Tribunal, except the present one.

*Muhammad Javed*  
**DEPONENT**

**LIT OF BOOKS:**

1. Constitution of the Islamic Republic of Pakistan, 1973.
2. The ESTA CODE.
3. Any other case law as per need.

*Syed Noman Ali Bukhari*  
**(SYED NOMAN ALI BUKHARI)**  
**ADVOCATE HIGH COURT**

6

**BEFORE THE KP SERVICE TRIBUNAL PESHAWAR**

Appeal No. \_\_\_\_\_/2022

Muhammad Javed

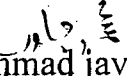
V/S

Police Deptt:

**AFFIDAVIT**

I, Muhammad Javed, (Appellant) do hereby affirm that the contents of this service appeal are true and correct, and nothing has been concealed from this honorable Tribunal.

DEPONENT

  
Muhammad Javed

90  
A

Left hand	Left ring	Left white	Left thumb
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Impression of fingers and thumb of left hand.  
 Deputy Supt. of Police  
 A. H. Novshera  
 Signature  
 11/187

Reference to orders approving above service for pension service in the Police Department	Rank or grade	Pay of last Appointment	PERIOD		
			From	To	Year

Government Service prior to present employment, which is approved for pension service.

Replication Roll No. dated received back and attached to the Rajni Misal

M. K. Javal							
Pir M. Javal							
B. K. Javal							
K. K. Javal							
de -							
de -							
M. J. Javal							
M. W. F. J.							
12-1-1962							
5-7							
33 ± x 35 ±							
12-1-1987							
25 years							
Made on fore hand							

Tribe or caste  
 Village or Town  
 Post and Telegraph Office  
 Police Station  
 District  
 Province  
 Height  
 Cast  
 Date of Enrollment  
 Age at Enrollment  
 Descriptive Marks

VICE ROLL OF

LATER AND



Appointed, promoted  
suspended, reduced,  
discharged,  
dismissed, resigned  
or died

To what grade and pay  
Appointed, promoted  
or reduced

Date

No. of  
District  
Order

(7)  
Full Signature of Superintendent  
of Police

Appointed as Constable Temp. @ Rs. 460/- 87  
12.1.1987 (OS No 12 2/15-187)

Deputy Supdt. of Police  
(A P) Nowshera

By fixed provisionally @ Rs. 625/- per month effect  
from 1-7-87 - R. (S) No. 2 (625-16-965)

DSI P/H

Cont 16 641

As Constable @ Rs. 16/- R. 657/- per  
month from 12-1-1987

Commandant

7. TRANSFERS BEYOND THE DISTRICT

1	2	3	4
Date	From	To	Authority for transfer
12/1/87	Constable	Constable	Commandant

حکومت پاکستان

16202-2675945-1



89



12/01/1962

قلمی شناختی کارڈ

UD0839

16202-2675945-1



11/09/2022

13082639827



سوال اور کسٹیشن شدہ حوالہ نمبر 7365

10  
10

حاج علی

2026  
22

گزشتہ سال کے مسائل کے جوابوں میں نظر سبھی دی گئی کرتا ہے سال 2013

FRP سے سوال ہوا اور Dik سے سوال ہوا اور FRP سے سوال ہوا اور Dik سے سوال ہوا

میری حاضری کروں گا مجھے شہادت کروں گا بار بار اس وقت سے اس وقت تک

یہ مسئلہ حل ہوا تو اس میں تبدیلی کی گئی اور اس سے گھر آ گیا اس کے بعد اس کا

کسٹیشن مجددہ نوعیت کی گئی جس کو 1987 سے اس وقت تک اس میں کوئی تبدیلی نہیں آئی

سال 1987 کا حوالہ ہے اور 2013 تک اس کا حوالہ ہے اور اس کے بعد اس کا حوالہ ہے

بہتر ہے درخواست اس کے ساتھ ساتھ اس کے ساتھ ساتھ اس کے ساتھ ساتھ

کسٹیشن شدہ حوالہ نمبر 7365

0343-1958277

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E (11)

**OFFICE OF THE COMMANDANT  
FRONTIER RESERVE POLICE  
KHYBER PAKHTUNKHWA, PESHAWAR  
Ph: No. 091-9214114 Fax No. 091-9212602**

No. 8689-90/Sl Legal, dated 24/10/2022.

### ORDER

This order will dispose of the departmental appeal preferred by constable Muhammad Javid No. 7369 of FRP Bannu Range.

Brief facts of the case are that he was transferred from FRP DI Khan Range to FRP Bannu Range, vide Deputy Commandant FRP, Khyber Pakhtunkhwa, Peshawar office order Endst; No. 7780-83/OSI, dated 31.10.2013.

In compliance of the above order the said constable was relieved with the directions to report arrival at his new place of posting i.e FRP Bannu Range. Besides his service record alongwith LPC were also sent to the office of SP FRP Bannu Range, Bannu for further necessary action vide office memo No. 1581/FRP, dated 18.11.2013 & No. 1591/FRP, dated 20.11.2013 respectively. However, the said constable failed to report arrival and remained absent from his duty without any leave or prior permission of his seniors.

After lapse of more than 09 years now the above named constable submitted the instant appeal for arrival in service.

In this regard ESTA CODE / Revised Edition 2011 Provides that:-

**“ After 5 years of continuous absence, services of a Civil Servant Shall automatically stand terminated under FR.18 and Rules 12 of NWFP Civil Servant Revised Leave Rules 1981. In the light of Rules 12 ibid, a willful absence of more than five years shall not be converted into leave without pay”.**

Keeping in view the above facts constable Muhammad Javid No. 7369 of FRP Bannu Range was continuously remained absent from lawful duty with effect from 31.10.2013 till to date for a long period of more than 09 years, without any leave or prior permission of the competent authority. Thus he is automatically stand terminated / removed from service under the rules quoted above.

  
Commandant  
o/c Frontier Reserve Police  
Khyber Pakhtunkhwa, Peshawar.

**Date & No. Even:-**

Copy of the above is forwarded for information & necessary acti

to the:-

1. SP FRP Bannu Range, Bannu w/r to his office memo No. 1092/FRP Bannu, date 22.09.2022. His Service record alongwith D-file sent herewith.
2. SP FRP DI Khan Range, DI Khan w/r to his office memo No. 1689/FRP DI Khan, dated 26.09.2022.

VAKALAT NAMA

12

APPEAL NO. \_\_\_\_\_/20

IN THE COURT OF KP SERVICE TRIBUNAL, PESHAWAR

Muhammad Javed

Appellant  
Petitioner  
Plaintiff

VERSUS

Police Deptt

Respondent (s)  
Defendants (s)

I Muhammad Javed (APPELLANT) do hereby appoint and constitute the *SYED NOMAN ALI BUKHARI Advocate High Court* for the aforesaid Appellant(s), Petitioner(S), Plaintiff(s) / Respondent(s), Defendant(s), Opposite Party to commence and prosecute / to appear and defend this action / appeal / petition / reference on my / our behalf and al proceedings that may be taken in respect of any application connected with the same including proceeding in taxation and application for review, to draw and deposit money, to file and take documents, to accept the process of the court, to appoint and instruct council, to represent the aforesaid Appellant, Petitioner(S), Plaintiff(s) / Respondent(s), Defendant(s), Opposite Party agree(s) ratify all the acts done by the aforesaid.

DATE \_\_\_\_\_/20

Muhammad Javed

(CLIENT)

ACCEPTED

Syed Noman Ali Bukhari  
SYED NOMAN ALI BUKHARI  
ADVOCATE HIGH COURT  
BC-15-5643