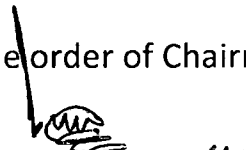


Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 706/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	01.12.2022	<p>The execution petition of Mr. Adil Rehman submitted today by Huma Khan 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  REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

EXECUTION PETITION NO. 706 /2022

IN

APPEAL NO 16407/2020

ADIL REHMAN

VS

POLICE DEPTT:

INDEX

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3.	Vakalatnama		10

Petitioner

Through:

Huma Khan

HUMA KHAN

Advocate Peshawar

☎333 9488825

17301-6394805-8

BC: 14-4883

Email: lawstudent3333@gmail.com.

-1-

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

EXECUTION PETITION NO. 706 /2022

IN

APPEAL NO 16407/2020

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 2098

Dated 01/12/2022

Mr. Adil Rehman, No.887 of District Police Kohat

.....**PETITIONER**

VERSUS

- 1- The Inspector General of Police, Khyber Pakhtunkhwa Peshawar.
- 2- The Regional Police Officer, Kohat Region, Kohat
- 3- The District Police Officer, Kohat.

..... **RESPONDENTS**

EXECUTION PETITION FOR DIRECTING THE
RESPONDENTS TO OBEY THE JUDGMENT DATED
12.09.2022 IN LETTER AND SPIRIT.

Filed today
Registrar

R/SHEWETH:

- 1- That the petitioner filed service appeal bearing No. 16407/2020 before this august Service Tribunal for his re-instatement into service with all back benefits.
- 2- That the appeal of the petitioner was heard and the appellate authority is directed as follows" ***We are unison on acceptance of this appeal in the light of our observation in the preceding paras which immediately call for the acceptance of the instant service appeal as prayed for.*** Copy of the judgment dated 12-09-2022 is attached as annexure **A.**

- 3- That after obtaining copy of the judgment dated 12-09-2022 the petitioner submitted the judgment mentioned above for its implantation to the Department concerned but the respondents department are not willing to obey the judgment dated 12-09-2022 in letter and spirit.
- 4- That the petitioner has no any other remedy but to file this Execution petition.

It is therefore, most humbly prayed that the respondents may be directed to implement the order dated 12-09-2022 in letter and spirit. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the petitioner.

Dated: 01/12/22

Adil Rehman
Petitioner

Through:

Huma Khan
HUMA KHAN
 Advocate Peshawar

AFFIDAVIT

I, Adil Rehman, No.887 of District Police Kohat, do hereby solemnly affirm on oath that the contents of the above **Execution Petition** re true and correct to the best of my knowledge and believe and nothing has been concealed from this Honorable Tribunal.

Adil Rehman
DEPONENT



"A" (4) -3-



BEFORE THE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL PESHAWAR.

Adil Rehman No: 887 of District police Kohat 16407 (Appellant)

VERSUS

- 1. INSPECTOR GENERAL OF KPK POLICE PESHAWAR.
- 2. DEPUTY INSPECTOR GENERAL OF POLICE KOHAT REGION KOHAT
- 3. DISTRICT POLICE OFFICER KOHAT. (Respondent)

Khyber Pakhtunkhwa Service Tribunal
Diary No. 13839
Dated 2/11/2020

u/s 4 of KPK Services Tribunal Act, 1974
APPEAL AGAINST THE IMPUGNED ORDER VIDE OB NO 289 DATED 29.03.2016 IN WHICH UPON THE ALLEGATION THE APPELLANT WAS DISMISSED AND WERE SEND TO JAIL AND AFTER ACQUITTAL APPELLANT PREFERRED DEPARTMENTAL REPRESENTATION WHICH WERE ALSO REJECTED.

Respectfully Sheweth,

With great veneration the instant appeal is preferred by the appellant on the following grounds:-

Facts:

Briefly facts of the case are that as per report of Mohariar PP Bannu Gate that when he assumed the charge of Mohariar on 21.10.2014 several case property articles/items/Arms and Ammunition were found missing/deficient in the maal Khana of the Police Post. In this regard he also registered his report in the roznamcha vide DD No: 17 dated 19.11.2014 DD No: 22 dated 25.12.2014.

That upon the allegation the service of the appellant were dismissed expertly without waiting for the decision of the court of law (Copy of impugned order is annexed as annexure A)

2. That criminal case was registered against the appellant vide FIR No: 272 U/s 406/409 PPC dated 01.04.2016 and appellant remained behind the bar and the appellant was Honorably acquitted by learned trial court Kohat dated 25/11/2017 (Copy of FIR along with order is annexed as annexure B)

3. That the appellant had preferred a representation after earning a long legal battle and earned acquittal from all the charges leveled against the appellant but the same was rejected on dated 10.05.2017. (Copy of all representation along with orders are annexed as annexure C)

4. That the appellant tender always a good service before the entire satisfaction of the superiors and never ever indulged in any subversive activity which are

ATTESTED
EXAMINER
Khyber Pakhtunkhwa Service Tribunal Peshawar
Filed to-day
Registrar
2/11/2020

Registered to-day and filed.
Registrar
2/11/2020

4-

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.16407/2020

Date of Institution ... 02.11.2020

Date of Decision ... 12.09.2022



Adil Rehman No.887 of District Police Kohat.

... (Appellant)

VERSUS

Inspector General of Police Khyber Pakhtunkhwa, Peshawar and two others.

... (Respondents)

Syed Mudassir Pirzada,
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:

“It is humbly prayed that the impugned order of DPO, Kohat dated 29.03.2016 may please be set aside for the end of justice and the appellant may please be graciously reinstated in service by ordering for denovo inquiry if necessary”.

2. Brief facts of the case are that as per report of Moharrir PP Bannu Gate, case properties in shape of arms & ammunition etc. were found missing/deficient in the Mall Khana of the Police Post during the period of present appellant. In this regard, report was entered in the Roznamcha vide DD No.17 and 22. Upon the allegations, the appellant was

ATTESTED

Secretary, Khyber Pakhtunkhwa Service Tribunal
Peshawar

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dismissed. A criminal case was also registered against the appellant and he was acquitted by the learned Trial Court, Kohat. He preferred a representation after a long legal battle but the same was rejected. During the rejection period, one of his close elders in District Hangu committed an offence U/S 302 PPC etc. and due to the said criminal case appellant also took refuge due to enmity in Northern Area for the sake of his life and was later on declared innocent and discharged from the so called allegations, hence, the present appeal.

3. We have heard Syed Mudassir Pirzada, Advocate learned counsel for the 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. Syed Mudassir Pirzada Advocate, learned counsel for the appellant argued inter alia that the impugned orders are against law, facts and norms of justice as appellant was not treated according to law. Learned counsel contended that the appellant was behind the bars and all the proceedings were conducted in the absence of appellant which is apparent from the impugned order and that no proper departmental inquiry was conducted against the appellant. Further submitted that no opportunity of personal hearing was afforded to the appellant nor any witness was examined in his presence. Lastly, he submitted that as per law and judgment of the superior Courts when a criminal case is registered against a civil servant, then the proceedings of departmental inquiry has to be suspended till the decision of court but in the instant case, procedure was not adopted and inquiry report was not given to the

TESTED

SENIOR
S. J. K. TRIBUNAL
Peshawar

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appellant which was very much necessary. He, therefore, requested for acceptance of this appeal.

5. Conversely, learned AAG submitted that departmental and criminal proceedings can run side by side hence, appellant was dismissed after proper departmental proceedings in accordance with law and rules. He submitted that as per report of Moharrir Police Post Bannu Gate, different articles, arms & ammunition in shape of case property were found missing in the Mal Khana, therefore, proper report was entered in the daily Roznamcha and appellant was served with charge sheet alongwith statement of allegations. DSP Saddar was appointed as Inquiry Officer who submitted his report wherein the appellant was found guilty of the charge. He was also served with final show cause notice whereafter he was called in Orderly Room but he could not appear, therefore, he was dismissed from service.

6. After hearing the learned counsel for the parties and going through the record of the case with their assistance and after perusing the precedent cases cited before us, we are of the opinion that the appellant while posted at PP Bannu Gate as Moharrir, was held responsible for missing/deficient case properties in the Mal Khana. In this regard, the then Moharrir Hameed Badshah also entered report in the Roznamcha vide DD No.17 dated 19.11.2014 and DD No.22 dated 25.12.2014. Charge sheet alongwith statement of allegations were issued but its service upon appellant is not available on file as admittedly, FIR No.272 was registered against appellant on 01.04.2016 U/S 406/409 PPC and he was arrested on the same date. The respondent Department failed to show

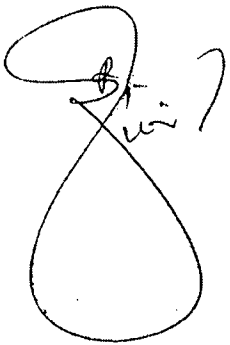
ATTESTED

EX. MEMBER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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service of any notice inside the jail premises in the presence of Superintendent of Jail. Admittedly, no evidence was recorded by Inquiry Officer Sona Khan rather FIR was registered against the appellant on 01.04.2016, whereas charge sheet and statement of allegations were issued on 30.04.2015. The appellant was acquitted in the above mentioned case on 22.02.2017. It is worth mentioning that the date of the alleged occurrence was 19.11.2014, whereas FIR No.272 was registered on 01.04.2016 and the delay in lodging of FIR was never explained by the Department. Then after about 20 days another FIR No.326 was registered against the appellant and allegedly the occurrence had taken place on 02.04.2016. This delay in lodging of FIR was also not explained and vide judgment of the learned Senior Civil Judge, Kohat dated 25.11.2017, he was acquitted U/S 249 A Cr.PC. So far as missing of case properties in the Mal Khan during his tenure is concerned, nothing was brought in black & white to show that actually, he was the custodian of case property being Moharrir and that different items were found missing during his period. Register No.19 is kept for entering the detail of the case property but neither the register was produced before this Bench nor copy of the same was taken from the concerned Moharrir during the inquiry proceedings in order to show missing items in the Mal Khana during the tenure of appellant. An extract from the Roznamcha was produced before this Bench which shows that Hameed Badshah LHC who assumed charge from his predecessor Adil Rehman is available on file and who admitted the entries in the said register according to law where-after, both Hameed Badshah and Adil Rehman signed the relevant register which is available on file. One Sona Khan DSP Saddar had been



ATTESTED


Khyber Pakhtunkhwa
Service Tribunal
Peshawar

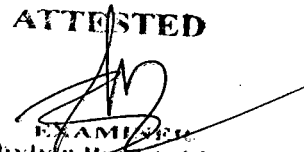
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appointed as Inquiry Officer by DPO Kohat, whereas, the findings of the departmental inquiry clearly shows that the same was submitted by Sub Divisional Police Officer, Saddar Circle Kohat and order of the authority is missing as to how the inquiry was conducted by SDPO instead of DSP. Proper procedure was not adopted not only by the competent authority but also by the Inquiry Officer. Report of the inquiry Officer is silent in respect of missing items. The appellant was not given any opportunity of defense as well as personal hearing. No evidence was recorded and no opportunity of cross examination was given to the appellant. So far as limitation is concerned, major punishment of dismissal from service was awarded on 30.03.2016. He was acquitted on 22.02.2017 and just after acquittal, he filed appeal on 08.03.2017 which was rejected on 10.05.2017 by RPO Kohat Region. The appeal was quite well within time as he opted to file appeal after the decision by competent court of law and just after getting acquittal, he filed departmental appeal which was rejected. His revision petition was filed on 03.09.2020 which was rejected on 11.09.2020 and service appeal was filed on 21.10.2020. The revision was filed with a delay and the reason mentioned by the appellant is genuine as his close family elder in Thal District Hangu was allegedly involved in a criminal case U/S 302 324 PPC and the appellant being close relative of the accused party took refuge in the Northern Area due to enmity and after declaring the appellant innocent by the Jirga, he filed present service appeal, therefore, the delay in filing appeal is condoned.

7. We are unison on acceptance of this appeal in the light of our observation in the preceding paras which immediately call for the

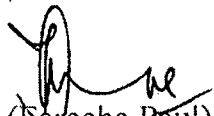
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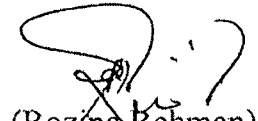

EXAMINED
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

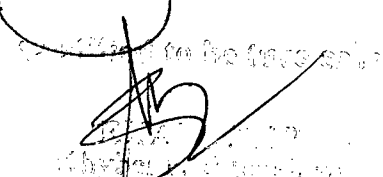
acceptance of the instant service appeal as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.

12.09.2022

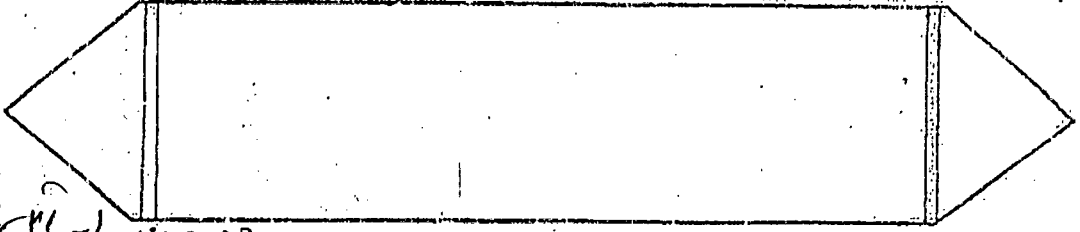

(Fajeeha Paul)
Member (E)


(Rozina Rehman)
Member (J)


Registrar
Service Tribunal

28/11/22
Number of Members 2800
Charging fee 30/-
Treasurer 30/-
29-11-2022
29-11-2022

بجالات KP سندھ سے تعلق رکھنے والے اور



2022ء منجانب (سائل)

عارف رحمان بنام ایس۔ ونگرہ

موزخہ
مقدمہ
دعوئی
پریم

باعث تحریر آنگہ

مقدمہ میں درجہ عنوان بالا میں اپنی طرف سے واسطے پیروی اور جواب دہی اور کمال کا بروائی متعلقہ
 آج کے مقام پر یہ عرض کرنا چاہتا ہوں کہ صاحب مہر صوف کو مقدمہ کی کل کارروائی کا مکمل اختیار ہوگا۔ نیز
 دیکل اور صاحب کو براہ راست ہر فیصلہ پر تعلق دینے کے لئے تقرر جمالت ہ فیصلہ پر تعلق دینے کے لئے تقرر جمالت ہ فیصلہ پر تعلق دینے کے لئے تقرر جمالت ہ
 باس ورت ڈگری کرنے کے اجراء اور اصولی چیز کے لئے اس پر یہ عرضی دعویٰ اور درخواست ہر قسم کی تقدیق
 زرا میں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری کی طرف یا ایچیل کی برآمدگی اور منسوخ
 نیز دائر کرنے کے اپیل ثرائی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
 کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ لیا اپنے بجائے تقرر کا اختیار
 ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیار حاصل ہوں گے اور اس کا سہا
 پر داخلہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سبب سے ہوگا۔
 کوئی تاثر پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
 مذکور کریں۔ لہذا اوکالت نامہ لکھ دیا کہ سند ہے۔

April Remind
کارروائی

المترقوم _____ ماہ _____ 20

Attested & Accepted