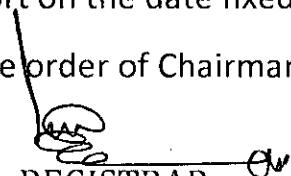


Form- A

FORM OF ORDER SHEET

Court of _____

Execution Petition No. 713/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	07.12.2022	<p>The execution petition of Mr. Muhammad Riaz submitted today by Mr. Saadullah Khan Marwat 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>

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BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

E. P. No. 713/2022

Misc Pett: No. _____ /2022

IN

S.A. No. 2082/2019

Muhammad Riaz

versus

Superintendent & Others

I N D E X

S.#	Description of Documents	Annex	Page
1.	Memo of Misc Petition		1-3
2.	Copy of Appeal dated 12-12-2019	"A"	4-6
3.	Copy of Judgment dated 14-09-2022	"B"	7-9
4.	Compliance letter dated 31-10-2022	"C"	10

Applicant

Through

Saadullah Khan Marwat

(Saadullah Khan Marwat)

Advocate

21-A Nasir Mension,
Shoba Bazar, Peshawar.

Ph: 0300-5872676

Dated: 05-12-2022

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR*Execution Petition no 713/22*

Misc Pett: No. _____ /2022

IN

S.A. No. 2082/2019

Muhammad Riaz S/O Ghulam Rabbani,
Constable, Belt No. 6561, FRP, Bannu

Range Bannu Appellant

VERSUS

Khyber Pakhtunkhwa
Service TribunalDiary No. 2189Dated 7/12/2022

1. Superintendent of Police,
FRP, Bannu Range Bannu.

2. Commandant FRP, KP,
Peshawar.

3. Provincial Police Officer, KP,
Peshawar

Respondents

**APPLICATION FOR IMPLEMENTATION OF THE
JUDGMENT DATED 14-09-2022 OF THE HON'BLE
TRIBUNAL, PESHAWAR:**

Respectfully Sheweth:

1. That on 12-12-2019, applicant filed Service Appeal before this hon'ble Tribunal to restore increments from the date of stoppage. (Copy as annex "A")
2. That the said appeal came up for hearing on 14-09-2022 and then the hon'ble Tribunal was pleased to hold that:-

"The appeal in hand is allowed. The impugned penalty awarded to the appellant stands set aside and one increment of the appellant stands restored with all back benefits". (Copy as annex "B")

3. That on 31-10-2022, applicant as well as Registrar of the hon'ble Service Tribunal remitted the judgment to respondents for compliance but so far no favorable action was taken there and then and the judgment of the hon'ble Tribunal was put in a waste box. (Copy as annex "C")
4. That the respondents are not complying with the judgment of the hon'ble Tribunal in letter and spirit and flouts the same with disregard, so are liable to be proceeded against the Contempt of Court Law for punishment.

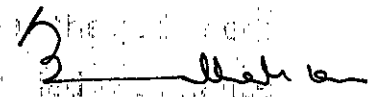
It is, therefore, most humbly requested that the judgment dated 14-09-2022 of the hon'ble Tribunal be complied with hence forthwith.


OR


In the alternate, respondents be proceeded for contempt of court and they be punished in accordance with Law.


Applicant.

Through


Saadullah Khan Marwat

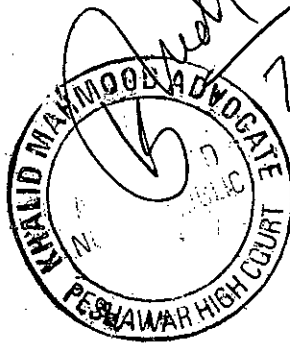

Arbab Saif-ul-Kamal


Amjad Nawaz
Advocates

Dated: 05-12-2022

AFFIDAVIT

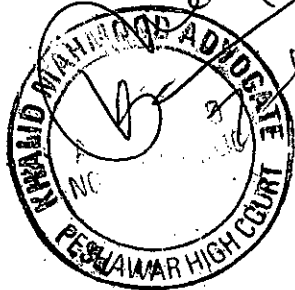
I, Muhammad Riaz S/O Ghulam Rabbani, Constable, Belt No. 6561, FRP, Bannu Range Bannu (Applicant), do hereby solemnly affirm and declare that contents of **Implementation Petition** are true and correct to the best of my knowledge and belief.



M Riaz
DEPONENT

CERTIFICATE:

As per instructions of my client, no such like Implementation Petition has earlier been filed by the appellant before this Hon'ble Tribunal.



[Signature]
ADVOCATE

A 4

BEFORE KPK SERVICE TRIBUNAL PESHAWAR

S.A No. _____/2019

Muhammad Riaz S/O Ghulam Rabbani,
B. No. 6561, Constable FRP, Bannu
Range, Bannu Appellant

VERSUS

1. Superintendent of Police,
FRP Bannu Range Bannu.
2. Commandant FRP, KP,
Peshawar.
3. Provincial Police Officer,
KP, Peshawar. Respondents

⇔<=>⇔<=>⇔<=>⇔<=>⇔

APPEAL U/S 4 OF SERVICE TRIBUNAL ACT, 1974
AGAINST OB. NO. 599, DATED 27-08-2009 OF R. NO.
01 WHEREBY THREE PUNISHMENTS ON ONE AND THE
SAME CAUSE WAS IMPOSED UPON APPELLANT
REGARDING 190 DAYS ABSENCE OR OFFICE ORDER
NO. 6361 / EC DATED 16-09-2010 OF R. NO. 02
WHEREBY REPRESENTATION OF APPELLANT WAS
REJECTED FOR NO LEGAL REASON OR REVISION
PETITION NO. 3565 DATED 07-10-2019 OF R. NO. 03
WHEREBY THE SAME WAS REJECTED:

⇔<=>⇔<=>⇔<=>⇔<=>⇔

Respectfully Sheweth;

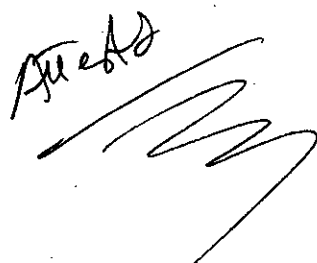
1. That appellant was appointed as constable on 26-07-2017 in the Frontier Reserve Police (FRP) Bannu Range, Bannu.

- 5
2. That appellant was served with Show Cause Notice regarding absence from duty of 190 days which was replied and denied the same.
 3. That Final Report was submitted to the authority wherein three (03) punishments were imposed by R. No. 01 on 27-08-2009 by treating absence period of 190 days as leave without pay, fine of Rs. 1000/ and stoppage of one increment affecting future service of his career. (Copies as annex "A")
 4. That appellant submitted departmental appeal before R. No. 02 for setting aside of the said punishments which was rejected on 16-09-2010 for no legal reason. (Copy as annex "B")
 5. That on 27-09-2019, appellant submitted Revision Petition before R. No. 03 which was rejected on 07-10-2019. (Copies as annex "C"& "D")
 6. That the said orders were not supplied to appellant, so on 14-11-2019, he submitted application to the authority to provide copy of the same which was allowed on the same date. (Copy as annex "E")

Hence this appeal, inter alia, on the following grounds:

GROUND S:

- a. That appellant was awarded with triple punishments which are against the law on the subject.
- b. That in the Final Report, Show Cause Notice, and reply thereto was mentioned but were made of no avail to appellant.
- c. That no enquiry as per the mandate of law was conducted and appellant was not provided opportunity of self-defense, so the impugned orders are of no legal effect.
- d. That on one and the same cause, three punishments mentioned above were imposed upon the appellant which are against the norms of law.

Attest


- e. That absence from duty was neither willful nor intentional but the mother of appellant was seriously ill, so he attended her for treatment.
- f. That no time limit was fixed for stoppage of increment but stopped the same for ever which are not justified in any legal manner.
- g. That impugned orders are not per the mandate of law, so are based on malafide.

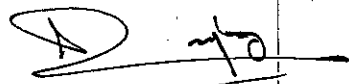
It is, therefore, most humbly prayed that on acceptance of appeal, the impugned office orders dated 27-08-2009, 16-09-2010 and 07-10-2019 of the respondents be set aside and the increments be restored from the date of stoppage, with such other relief as may be deemed proper and just in circumstances of the case.


Appellant

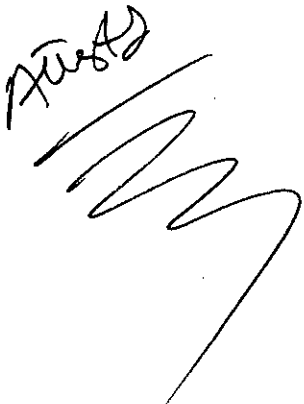
Through


Saadullah Khan Marwat


Arbab Saif-ul-Kamal


Amjad Nawaz
Advocates.

Dated. 11-12-2019



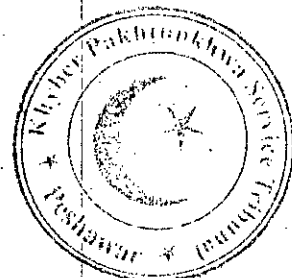
3 7

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR.

Service Appeal No. 2082/2019

Date of Institution ... 12.12.2019

Date of Decision ... 14.09.2022



Muhammad Riaz S/O Ghulam Rabbani, B. No. 6561, Constable FRP, Bannu Range, Bannu. ... (Appellant)

VERSUS

Superintendent of Police, FRP Bannu Range Bannu and two others. ... (Respondents)

MR. ARBAB SAIF-UL-KAMAL
Advocate

For appellant.

MR. ASIF MASOOD ALI SHAH,
Deputy District Attorney

For respondents.

MR. SALAH-UD-DIN
MR. MIAN MUHAMMAD

MEMBER (JUDICIAL)
MEMBER (EXECUTIVE)

JUDGMENT:

SALAH-UD-DIN, MEMBER:- Precise facts of the instant service appeal are that disciplinary action was taken against the appellant on the allegations of absence from duty for a split period of 190 days. Vide order bearing OB No. 959 dated 27.08.2009, the appellant was awarded punishment of stoppage of one increment as well as fine of Rs. 1000/- while the absence period was treated as leave without pay. The departmental appeal as well as revision petition of the appellant were also declined. The appellant has now filed the instant service appeal for redressal of his grievance.

2. Notices were issued to the respondents, who submitted their comments, wherein they refuted the assertions raised by the appellant in his appeal.

3. Learned counsel for the appellant has contended that the absence of the appellant from duty was not willful, rather the same was due to severe illness of mother of the appellant, which

ATTESTED
Khyber Pakhtunkhwa Services Tribunal
Peshawar

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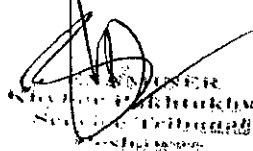
plea was taken by the appellant in his reply to the show-cause notice issued to him, however the same was not at all considered by the competent Authority; that on one hand the appellant was awarded punishment of fine, while on the other hand he was further awarded punishment of stoppage of one increment with cumulative effect; that the competent Authority has itself considered the period of absence from duty as leave without pay, therefore, awarding punishment to the appellant was not legally justified. Reliance was placed on unreported judgment dated 09.10.2020 passed by worthy Apex court in Civil Petition No. 549-P of 2014 titled "Additional IGP/Commandant FRP, Government of KPK Peshawar etc versus Adnan".

4. On the other hand, learned Deputy District Attorney for the respondents has contended that the appellant had willfully remained absent from duty for a period of about six months, therefore, he has rightly been awarded the impugned penalty; that the revision petition of the appellant was badly time barred, therefore, the appeal in hand is not maintainable and is liable to be dismissed on this score alone.

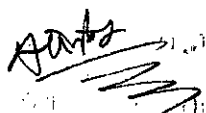
5. We have heard the arguments of learned counsel for the parties and have perused the record.

6. A perusal of the record would show that show-cause notice was issued to the appellant only on the allegation of his absence from duty without any sanctioned leave or permission of the competent Authority. The competent Authority while passing the impugned order i.e 27.08.2009 has itself treated the period of absence from duty as leave without pay and has thus regularized the same, therefore, there was no legal justification in awarding penalty to the appellant. Reliance in this respect is placed on unreported judgment dated 09.10.2020 passed by worthy Apex court in Civil Petition No. 549-P of 2014 titled "Additional IGP/Commandant FRP, Government of KPK Peshawar etc versus Adnan". So far as the question of limitation is concerned, the issue being one of financial nature would not be hit by the bar of limitation.

ATTESTED


Deputy District Attorney
Peshawar

7. In view of the above discussion, the appeal in hand is allowed. The impugned penalty awarded to the appellant stands



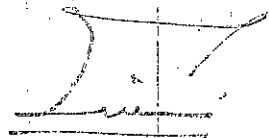
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set-aside and one increment of the appellant stands restored with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
14.09.2022



(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)

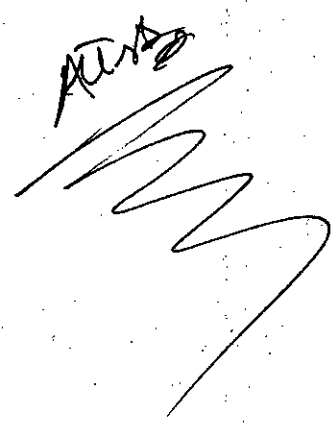


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 05/10/22
 Number of Words 1600
 Copying Fee 18/-
 Urgent 18/-
 Total 18/-
 Name of Copier ---
 Date of Completion of Copy 20/10/22
 Date of Delivery of Copy 20/10/22



C 10

1. Superintendent of Police,
FRP Banm Range, Banm.
2. Commandant FRP, KP,
Peshawar.

Subject: Application for Compliance of
Order/Judgment dated 14-09-22
Passed in S.A. No 2082/19
by the honorable Service Tribunal

Respected Sir

Please comply with the order
dated 14-09-22 passed in S.A. No. 2082/19
by the honorable Service Tribunal, Peshawar
in letter and spirit and obliged.

(Certified copy Attached)

M Riaz
Muhammad Riaz
S/O Ghulam Rabbani
B. No. 6561, Constable
FRP Banm Range Banm.
Cell. No. 0334-9284496.

Dated - 31-10-22.

بعد الت چاپ سرورس ٹریڈ مارک صوبہ سندھ پشاور

منجانب املاٹ
محمد ریاض بنام محمد چوہدری
دعوی اپیل

bc-11-1839
17301-6199816-3 Execution
handsome 9999

باعضرت شریکہ ایشک

مقررہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام پشاور
کیسٹ نمبر 1839-11-17301 کے تحت ایڈووکیٹ ہائی کورٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب
موصوف کو مقررہ وکل کاروائی کا کابل اختیار ہوگا نیز وکیل صاحب کو کرنے والی نامہ و دفتر ثالثہ وغیرہ متعلق
یہ جواب دہی اور اقبال دعویٰ اور لٹریچر ڈگری کرنے اجراء اور دوسری چیک در پیہ اور رضی دعویٰ اور درخواست
پر قسم کا تعدد لیتا نظر میں پرکھنا کرنے کا اختیار ہوگا نیز بصورت عدم پیروی یا ڈگری کی طرف یا اپیل کی برآمدگی
اور تیسری نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقررہ مذکورہ
کے وکل یا پیروی کاروائی کے واسطے اور وکیل یا مشاور قانونی کو اپنے ہمراہ یا اپنی بجائے تفریکہ اختیار ہوگا
اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا سامنے پرواغت منظور
قبول ہوگا اور دوران مقدمہ میں جو خرچہ و ہرجانہ التوا مقدمہ کے سبب ہوگا اس کے مستحق وکیل صاحب
موصوف ہوں گے نیز بقایا دفعہ کی وصولی کرنے کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام درجہ
پر ہو یا مد سے باہر ہو تو وکیل صاحب یا بندہ ہوں گے کہ پیروی مذکور کریں۔

لہذا وکالت نامہ رکھ دیا کہ سند ہے۔

الرقوم 22-12-7

القید القید القید

11
ارباب نیفا کمال
ایڈووکیٹ

محمد ریاض
ایڈووکیٹ

محمد نواز
ایڈووکیٹ

M. Rizy
M. Rizy