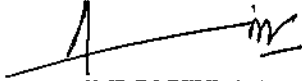


Form- A

FORM OF ORDER SHEET

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

Execution Petition No. 26/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	13.01.2023	<p>The execution petition of Mr. Muhammad Sherzaz 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>

**BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR**

Execution Petition # 26/2023

Misc Pett: No. \_\_\_\_\_ /2023

IN

S.A. No. 936 / 2020

Muhammad Sheraz

versus

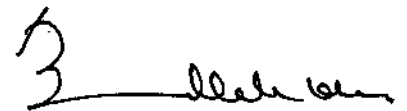
Superintendent & Others

**I N D E X**

S.#	Description of Documents	Annex	Page
1.	Memo of Misc Petition		1-3
2.	Copy of Appeal dated 31-01-2020	"A"	4-7
3.	Copy of Judgment dated 14-07-2022	"B"	8-11
4.	Reinstatement order dated 09-01-2023	"C"	12

Applicant

Through



(Saadullah Khan Marwat)  
Advocate

21-A Nasir Mension,  
Shoba Bazar, Peshawar.

Ph: 0300-5872676

Dated: 13-01-2023

**BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR**

Execution Petition # 26/2023

Misc Pett: No. \_\_\_\_\_ /2023

IN

S.A. No. 936/2020

Muhammad Sheraz

S/O Muhammad Sabir

R/O Utmanzai Charsadda.

Constable No. 2355,

FRP, Peshawar ..... Appellant

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 2973

Dated 13-1-2023

**VERSUS**

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

Filed to-day

Registrar

**APPLICATION FOR IMPLEMENTATION OF THE  
JUDGMENT DATED 14-07-2022 OF THE HON'BLE  
TRIBUNAL, PESHAWAR:**

**Respectfully Sheweth:**

1. That on 31-01-2020, applicant filed Service Appeal before this hon'ble Tribunal for reinstatement in service with all back benefits. (Copy as annex "A")
2. That the said appeal came up for hearing on 25-05-2022 and then the hon'ble Tribunal was pleased to hold that:-

"The penalty imposed upon the appellant is unwarranted and on acceptance of this appeal, the impugned orders are set aside. The appellant is reinstated in service, however the intervening period shall be treated as leave of the kind due". (Copy as annex "B")

3. That applicant as well as Registrar of the hon'ble Service Tribunal remitted the judgment to respondents for compliance but the same was not honored in letter and spirit till date.
4. That on 09-01-2023, R. No. 01 issued officer order wherein applicant was reinstated in service, however his intervening period was treated as leave of kind due if any in his credit. (Copy as annex "C")
5. That till date no penny was paid to the applicant by the respondents and the judgment of the hon'ble Tribunal was not implemented in letter and spirit.

It is, therefore, most humbly requested that the judgment dated 14-07-2022 of the hon'ble Tribunal be complied with hence forthwith.

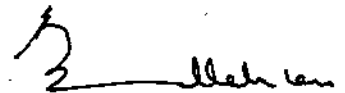
**OR**

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



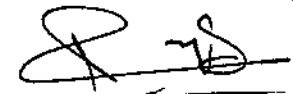
Applicant

Through



Saadullah Khan Marwat

Arbab Saif-ul-Kamal



Amjad Nawaz  
Advocates

Dated: 13-01-2023

## AFFIDAVIT

I, Muhammad Sheraz S/O Muhammad Sabir R/O Utmanzai Charsadda, Constable No. 2355, FRP, Peshawar (Applicant), do hereby solemnly affirm and declare that contents of **Implementation Petition** are true and correct to the best of my knowledge and belief.



*13*  
  
 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.

*3*  
  
 ADVOCATE

A 4

**BEFORE KPK SERVICE TRIBUNAL PESHAWAR**

S.A No. \_\_\_\_\_/2020

Muhammad Sheraz  
S/O Muhammad Sabir,  
R/o Utmanzai Charsadda,  
Ex-Constable No. 2355,  
FRP Range Peshawar. . . . . Appellant

**Versus**

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

⊕<=>⊕<=>⊕<=>⊕<=>⊕

**APPEAL U/S 4 OF SERVICE TRIBUNAL ACT, 1974  
AGAINST OFFICE ORDER NO. 26-28 / PA DATED 10-01-2018 OF R. NO. 01, WHEREBY APPELLANT WAS  
REMOVED FROM SERVICE AND PERIOD OF ABSENCE  
WAS TREATED AS ABSENCE FROM DUTY OR OFFICE  
ORDER NO. 5552-53 / EC DATED 04-07-2019 OF R.  
NO. 02 WHEREBY REPRESENTATION OF APPELLANT  
WAS REJECTED OR OFFICE ORDER NO. 332-38 /20  
DATED 07-01-2020 OF R. NO. 03 WHEREBY  
REVISION PETITION OF APPELLANT WAS REJECTED:**

⊕<=>⊕<=>⊕<=>⊕<=>⊕

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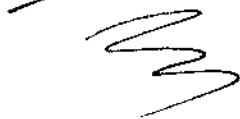


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**Respectfully Sheweth;**

1. That appellant was enlisted in service as Constable on 27-12-2010 and served the department till the date of removal from service.
2. That on 03-08-2017, appellant was going to attend the funeral of his friend maternal mother and got lift from one Tanveer owner of the vehicle to reach Takhtbhai.
3. That on the said date, the said vehicle was intercepted by the local police of Police Station Takhtbhai and FIR No. 1222 dated 03-08-2017 U/S 419,420/468/431/15AA was registered. (Copy as annex "A")
4. That to make out a case against appellant as well as the owner of the vehicle namely Tanveer, 30 bore pistol was attributed to him and the vehicle was attributed to appellant, despite the fact that the said 30 bore pistol was at the name of appellant as per license dated 11-11-2014. (Copy as annex "B")
5. That on 21-08-2017, appellant was served with Charge Sheet which was not replied due to missing of the said one. (Copy as annex "C")
6. That inquiry into the matter was not conducted as per the mandate of law, yet SI Altaf Khan submitted his report on 15-09-2017 to the authority for onward action. (Copy as annex "D")
7. That on 18-09-2017, received on 21-09-2017, appellant was served with Final Show Cause Notice which was replied by denying the allegation. (Copies as annex "E" & "F")
8. That on 10-01-2018, appellant was removed from service by R. No. 01 and absence period was treated as absence from duty. (Copy as annex "G")
9. That in the meanwhile, trial into the criminal case was concluded by the Trial Court and appellant with co-accused was acquitted from the baseless charges vide judgment dated 30-05-2019. (Copy as annex "H")

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10. That thereafter, appellant submitted departmental appeal before R. No. 02 for reinstatement in service which was rejected on 04-07-2019. (Copy as annex "I")
11. That appellant submitted Revision Petition before R. No. 03 which was rejected on 07-01-2020. (Copies as annex "J" & "K")

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

**GROUND S:**

1. That appellant was enlisted in service as Constable and served the department till the date of removal from service.
2. That to make out a case, the police attributed 30 bore pistol to the driver of the vehicle, despite the fact that license was shown to them at the name of appellant while the vehicle was attributed to him.
3. That enquiry into the matter was not conducted as per the mandate of law as no statement of any concerned was recorded in presence of appellant nor he was afforded opportunity of cross examination.
4. That the vehicle was not at the name of appellant.
5. That as and when absence period was treated absence from duty, then the service of appellant was regularized and there was no need to remove him from service.
6. That as and when appellant was acquitted from the baseless charges by the competent court of law on merit, then there was no need to remove him from service.
7. That the action of the respondents against appellant by keeping in view the aforesaid facts and circumstances of the case, is based on malafide.

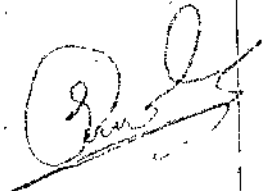
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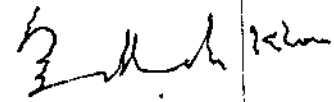
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It is, therefore, most humbly prayed that on acceptance of appeal; orders dated 10-01-2018, 04-07-2019 and 07-01-2020 of the respondents be set aside and appellant be reinstated in service with all back benefits, with such other relief as may be deemed proper and just in circumstances of the case.



Appellant

Through



Saadullah Khan Marwat



Arbab Saiful Kamal



Amjad Nawaz  
Advocates.

Dated 29-01-2020

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10.00.00  
B 8



**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**PESHAWAR**

Service Appeal No. 936/2020

BEFORE: MR. KALIM ARSHAD KHAN ... CHAIRMAN  
MISS FAREEHA PAUL ... MEMBER(E)

Muhammad Sheraz S/O Muhammad Sabir, R/O Utmanzai  
Charsadda, Ex-Constable No. 2355, FRP Range, Peshawar.

... (Appellant)

Versus

1. Superintendent of Police, FRP Peshawar Range, Peshawar.
2. Commandant FRP, Khyber Pakhtunkhwa, Peshawar.
3. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.

... (Respondents)

Mr. Arbab Saiful Kamal  
Advocate

... For appellant

Mr. Muhammad Rasheed Khan  
Deputy District Attorney

... For respondents

Date of Institution.....31.01.2020  
Date of Hearing.....25.05.2022  
Date of Decision..... 14.07.2022

**JUDGEMENT**

**FAREEHA PAUL, MEMBER (EXECUTIVE):** The Service Appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against office order dated 10.01.2018 of Respondent No. 1, whereby appellant was removed from service and period of absence was treated as absence from duty against office order dated 04.07.2019 of Respondent No. 2, whereby representation of the appellant was rejected and against office order dated 07.01.2020 of Respondent No. 3, whereby revision petition of the appellant was rejected.

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2. Brief facts of the case, as per memorandum of appeal, are that the appellant was enlisted in service as constable on 27.12.2010. On 03.08.2017, he was going to attend the funeral of his friend's maternal mother and got lift from one Taveer, owner of the vehicle, to reach Takhtbhai. The vehicle was intercepted by local police of Police Station Takhtbhai and FIR No. 1222 dated 03.08.2017 U/S 419/420/468/471/15AA was registered. A 30 bore pistol was also attributed to the owner of the vehicle Taveer and vehicle was attributed to the appellant, despite the fact that the said 30 bore pistol was of the appellant as per license dated 11.11.2014. The appellant was served with charge sheet dated 21.08.2017, on the basis of which a final show cause notice was issued. Though he denied the allegations, but the appellant was removed from service vide order dated 10.01.2018. In the meanwhile, trial of criminal case was concluded and the appellant alongwith accused was acquitted from the charges leveled against them vide judgment dated 30.05.2019. The appellant submitted departmental appeal, which was rejected on 04.07.2019. His revision petition was also rejected on 07.01.2020; hence the service appeal.

2. On receipt of appeal and its admission to full hearing, the respondents were asked to submit written reply/comments. They submitted their joint paravise comments and rebutted the claim of the appellant. We have heard arguments of learned counsel for the appellant and learned Deputy District Attorney for the respondents and perused the case file with connected documents minutely and thoroughly.

3. Learned counsel for the appellant submitted that the appellant was involved in a criminal case wherein baseless allegations were leveled against

FOR

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him. He appraised the Tribunal that the police attributed 30 bore pistol to the driver of the vehicle despite the fact that license was shown to them which was in the name of the appellant whereas the vehicle was attributed to him. He was tried by the court of competent jurisdiction and ultimately vide judgment dated 30.05.2019, acquitted from the criminal charge. The respondents should have placed the appellant under suspension and waited for the outcome of criminal proceedings but instead he was removed from service without giving him any opportunity of cross examination. He requested that the appeal may be accepted as prayed for.

4 The learned Deputy District Attorney while rebutting the arguments of learned counsel for the appellant contended that criminal proceedings and departmental proceedings were different in nature and could run simultaneously. Proper departmental proceedings were initiated against the appellant, wherein allegations were proved against him and he was rightly removed from service. He requested for dismissal of the appeal with cost.

5 It appears from the record that the appellant was removed from service only on the ground of involvement in a criminal case vide FIR No 1222 dated 03.8.2017 U/S 419/420/468/471/15-AA Police Station Jakh Blai, District Mardan. The appellant was tried by the court of competent jurisdiction and was acquitted from the criminal charge vide judgment dated 30.05.2019. In the meantime he was removed from service vide order dated 10.1.2018. It is true that departmental and criminal proceedings can run simultaneously but it is equally true that except involvement of the appellant in a criminal case, there was no other allegation or charge against him from which we could infer that the appellant was rightly awarded the punishment.

RAJON

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 Date  
 Place

Signature  
 Date

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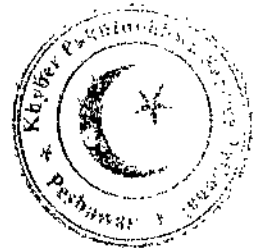
of removal from service. Mere involvement in a criminal case was not enough ground to pass any order of punishment against the appellant and that too in a case when the criminal proceedings had not yet concluded *and* before such conclusion, doing that was not appropriate. Instead of doing so the respondents might have put him under suspension till the outcome of his criminal case in the court of law. In the absence of convincing proof of allegations made against the appellant, order of removal from service is not sustainable.

NON

6. In view of above, the penalty imposed upon the appellant is unwarranted and on acceptance of this appeal, the impugned orders are set aside. The appellant is reinstated in service, however, the intervening period shall be treated as leave of the kind due. Parties are left to bear their own costs. Consign.

7. Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 14<sup>th</sup> day of July, 2022.

3



*(Signature)*  
 (KALIM ARSHAD KHAN)  
 Chairman

*(Signature)*  
 (FAREEDA PAUL)  
 Member (E)

Number of Pages/words 1600  
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 Date of Completion of Work 13-09-2022  
 Date of Delivery of Work 13-09-2022

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*(Signature)*  
 Peshawar

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OFFICE OF THE SUPERINTENDENT OF POLICE,  
FRP, PESHAWAR RANGE, PESHAWAR.  
PHONE: 091-9210467

**ORDER**

In continuation of this office Order No. 9378/SI Legal dated 18.11.2022, in order to regularized the intervening period in light of Service Tribunal Judgment in r/o Mr. Muhammad Sheraz No. 2355 of FRP Peshawar. His period of leave under the revised Leave Rules 1981 is as under:-

1. Period from 10.01.2018 to 11.10.2019 is counted on half pay
2. Period from 12.10.2019 to 17.11.2022 treated as extra ordinary leave without pay

*Robert U. Tal*  
Superintendent of Police, FRP,  
Peshawar Range, Peshawar.

09/01

No. 44

MEC, dated Peshawar the.

09 / 01 / 2023.

Copy of above is sent for favour of information and further necessary action to the:-

1. Accountant FRP/PR

ATTACHED  
TO PESHAWAR

*[Handwritten signature]*

بعد التّ جتایب سرورس ٹریڈنگ کمپنی پشاور

مخواب ایسٹ

محمد شہزاد  
دعویٰ اپیل  
Exeatia.

باعضرت شریف ایٹک

مقررہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکیل کاروائی متعلقہ آلہ مقام پشاور  
کیسٹ نمبر ۱۰۸۱۳ خان سرور سے ایڈووکیٹ ہائی کورٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب  
موصوف کو مقدمہ کی کل کاروائی کا کمال اختیار ہوگا نیز وکیل صاحب کو کرنے باطنی نامہ و اقرار ثالثہ و فیصلہ بر عاقب  
دینے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ اور مرضی دعویٰ اور درخواست  
ہر قسم کی تقدیر اور اس پر دستخط کرنے کا اختیار ہوگا نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی  
اور سسٹمی فیصلہ یا ڈگری کرنے اپیل نگران و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ منکرہ  
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا نگران قانونی کو اپنے ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا  
اور صاحب مقرر شدہ کو بھی وہی جملہ مندرجہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پرواغت منقولہ  
قبول ہوگا و دوران مقدمہ میں جو خرچہ و ہرجانہ التوا مقدمہ کے سبب سے ہوگا اس کے مستحق وکیل صاحب  
موصوف ہوں گے نیز بقایا و فرسبہ کی وصولی کرنے کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام درجہ  
پر ہو یا عد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکور کریں۔

لہذا رکالت نامہ دیکھ دیا کہ سند ہے۔

۱۳-۰۱-۲۳. الترقوم

العبد

العبد

العبد

ارباب سینگ سنگھ  
ایڈووکیٹ

محمد شہزاد  
ایڈووکیٹ

[Signature]

محمد شہزاد  
ایڈووکیٹ