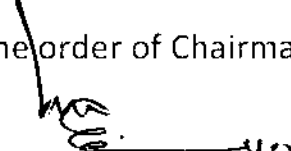


Form- A  
FORM OF ORDER SHEET

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

Execution Petition No. 04/2023

S.No	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	03.01.2023	<p>The execution petition of Mr. Imran Khan submitted today by Syed Noman Ali Bukhari 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. 4 /2023  
In Service Appeal No. 12447/2020

SCANNED  
KPST  
Peshawar

Imran Khan

V/S

police Deptt:

INDEX


S.No.	Documents	Annexure	Page No.
1.	Memo of Execution Petition	-----	01-02
2.	Copy of Judgment	- A -	03-10
3.	Vakalat Nama	-----	11

  
PETITIONER

Imran Khan

THROUGH:

  
SYED NOMAN ALI BUKHARI  
ADVOCATE, HIGH COURT

&  
  
(UZMA SYED)  
ADVOCATE, PESHAWAR

Cell No: 0306-5109438

1

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

Execution Petition No. 4 /2023  
In Service Appeal No.12447/2020

Khyber Pakhtunkhwa  
Service Tribunal

Mr. Imran Khan Constable no. 511  
CCP Peshawar.

Registry No 2687

Dated 3/11/23

**PETITIONER**

**VERSUS**

1. The Inspector General of Police: KP Peshawar.
2. The Capital City Police Officer KP, Peshawar.
3. The Superintendent of Police: KP Peshawar.

**RESPONDENTS**

.....  
**EXECUTION PETITION FOR DIRECTING THE  
RESPONDENTS TO IMPLEMENT THE  
JUDGMENT DATED: 28/06/2022 OF THIS  
HONOURABLE TRIBUNAL IN LETTER AND  
SPIRIT.**  
.....

**RESPECTFULLY SHEWETH:**

1. That the applicant/Petitioner filed Service Appeal No-12447/2020 against the impugned order dated 06/07/2022.
2. That the said appeal was finally heard by the Honorable Tribunal on 28/06/2022. The Honorable Tribunal is kind enough to accept the appeal of appelliant with all back benefits. **(Copy of judgment is attached as Annexure-A).**

3. That the respondents were totally failed in taking any action regarded the Hon'able Tribunal Judgment dated 28-06-2022.
4. That the respondent totally violated the judgment of Hon'able Service Tribunal, is totally illegal amount to disobedience and Contempt of Court.
5. That the judgment is still in the field and has not been suspended or set aside by the Supreme Court of Pakistan, therefore, the respondents are legally bound to implement the same in letter and spirit.
6. That the petitioner has having no other remedy to file this Execution Petition.

It is, therefore, most humbly prayed that the respondents may be directed to obey the judgment dated 28-06-2022 of this august Tribunal in letter and spirit and the respondent may be directed to grant Back benefits of the period w.e.from 31/10/2017 to 15/05/2020. Any other remedy, which this august Tribunal deems fit and appropriate that, may also be awarded in favor of applicant/appellant.

  
**PETITIONER**  
Imran Khan

**THROUGH:**

  
**(SYED NOMAN ALI BUKHARI)**  
ADVOCATE HIGH COURT.

**AFFIDAVIT:**

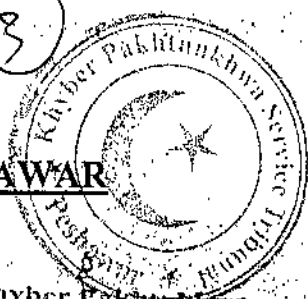
It is affirmed and declared that the contents of the above Execution Petition are true and correct to the best of my knowledge and belief.



**DEPONENT**

  
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**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**



APPEAL NO. 12447/2020

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 11856

Dated 21/10/2020

Imran Khan, Constable No. 511,  
CCP Peshawar.

(APPELLANT)

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Capital City Police Officer, Peshawar.
3. The Superintendent of Police, Peshawar.

(RESPONDENTS)


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**APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 06.07.2020, WHEREBY THE MAJOR PUNISHMENT OF REDUCTION TO LOWER STAGE IN TIME SCALE OF PAY HAS BEEN IMPOSED UPON THE APPELLANT & BENEFIT WAS ALSO NOT GRANTED FOR THE PERIOD HE REMAINED OUT OF SERVICE AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF 90-DAYS.**

PRAYER:

**THAT ON THE ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDER DATED 06.07.2020 MAY KINDLY BE SET ASIDE AND THE TIME SCALE OF PAY OF THE APPELLANT MAY BE RESTORED TO ORIGINAL POSITION AS IT WAS BEFORE THE PENALTY ORDER DATED 06.07.2020 WITH ALL BACK AND CONSEQUENTIAL BENEFITS. THE RESPONDENTS MAY FURTHER BE DIRECTED TO GRANT BENEFIT FOR THE PERIOD (31.10.2017 TO 15.05.2020) DURING WHICH APPELLANT REMAINED OUT OF SERVICE AS THE ALLEGATIONS COULD NOT ESTABLISHED AGAINST THE APPELLANT DURING INQUIRY PROCEEDING. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.**

ATTESTED

  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

(U)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 12447/2020

SCANNED  
KPST  
Peshawar

Date of Institution ... 21.10.2020  
Date of Decision ... 28.06.2022

Imran Khan, Constable No.511, CCP Peshawar.

(Appellant)

VERSUS

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

(Respondents)

Syed Noman Ali Bukhari,  
Advocate

For appellant.

Muhammad Rasheed,  
Deputy District Attorney

For respondents.

Salah Ud Din  
Rozina Rehman

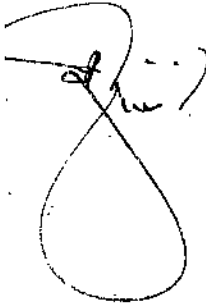
... Member (J)  
... Member (J)

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 this appeal, the impugned order dated 06.07.2020 may kindly be set aside and the time scale of pay of the appellant maybe restored to original position as it was before the penalty order dated 06.07.2020 with all back and consequential benefits. The respondents may further be directed to grant benefit for the period (31.10.2017 to 15.05.2020) during which appellant remained out of service as the allegations could not be established against the appellant during inquiry proceedings."

ATTESTED


  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

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2. Brief facts of the case are that appellant was appointed as Constable. During service, he was departmentally proceeded against and was dismissed from service on 13.10.2017. He filed departmental appeal and revision which were also rejected. Feeling aggrieved, he filed Service Appeal No.144/2018 which was partially accepted vide order dated 04.03.2020. The appellant was reinstated into service with direction to the department to conduct de-novo inquiry in the mode and manner prescribed under the Khyber Pakhtunkhwa Police Rules, 1975. In compliance of the judgment of this Tribunal, appellant was reinstated into service on 15.05.2020 for the purpose of de-novo inquiry. Inquiry was conducted but without issuing charge sheet to the appellant and major punishment of reduction to lower stage in a time scale of pay was imposed upon appellant. He filed departmental appeal which was not responded to, hence, the present service appeal.

3. We have heard Syed Noman Ali Bukhari learned counsel for appellant and Muhammad Rasheed learned Deputy District Attorney for the respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Syed Noman Ali Bukhari Advocate, learned counsel for appellant submitted that the impugned order dated 06.07.2020 is against law, facts and norms of justice, therefore, not tenable and liable to be set aside. It was argued that the Inquiry Officer clearly mentioned in his report that the allegations of demanding illegal gratification leveled against the appellant could not be established but despite that major punishment was awarded to the appellant and that too, without any back benefits for the period he remained out of service. Learned counsel submitted that the video which went viral on social media was also not available for examination and it could not be ascertained that



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EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

the amount if demanded was an illegal gratification or otherwise. That no charge sheet alongwith statement of allegation was issued to the appellant before the impugned order which is violation of law and rules. Similarly, no show cause notice was issued and that the punishment is silent in respect of time as no time has been specified for reduction to lower stage in a time scale of pay by the competent authority. He further contended that the benefits for the period (13.10.2017 to 15.05.2020) was also not granted he remained out of service despite the fact that the allegations were not established against the appellant.

5. Conversely, learned DDA submitted that the appellant while posted at Police Station Pandu Peshawar was proceeded against departmentally on the charges that a video went viral on social media wherein the appellant was found demanding illegal gratification from public in the jurisdiction of P.S Pandu which tarnished the image of the Department. He submitted that the appellant was associated in the inquiry proceedings and proper opportunity of defense was provided to him. He failed to defend the charges leveled against him and that the Inquiry Officer after thorough probe reported that the charges were proved. It was further submitted that after submission of inquiry report by the Inquiry Officer, the competent authority had minutely gone through the material on record and he was punished after fulfillment of all codal formalities which punishment does commensurate with the gravity of charges.

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

ATTESTED

EXAMINED  
Khyber District  
Service Tribunal  
Peshawar



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appellant was charge sheeted on 03.10.2017 under Police Rules, 1975 on the basis of following allegations:

- i. That a video went viral through social medial wherein you found demanding illegal gratification from public in the jurisdiction of Phandu which tarnished the image of the Department.
- ii. That your act falls within the ambit of corruption and amounts to gross misconduct on your part.

An inquiry was also conducted by Deputy Superintendent of Police Headquarter CCP Peshawar where-after, appellant was dismissed from service on 13.10.2017. His departmental appeal and appeal under Rule-11A also met the same fate. Feeling aggrieved he filed appeal No.144/2018. The relevant para from the judgment delivered by this Tribunal on 04.03.2020 is hereby reproduced for ready reference.

*"Perusal of record reveals that the appellant was serving in Police Department. He was imposed major penalty of dismissal from service vide order dated 13.10.2017 on the aforesaid allegation.*

*The record further reveals that the inquiry officer has recorded the statements of witnesses DFC Aziz-ur-Rehman, FC Sawar Khan, HC Ameer Muhammad, and others including HC Ubaidullah, MASI Noor Muhammad, SHO Taimour Saleem Khan etc. but no opportunity of cross-examination was provided to the appellant as the copy of statement of FC Sawar Khan, DFC Aziz-ur-Rehman and Head Constable Ameer Muhammad are available on record although the inquiry officer was bound to provide opportunity of cross-examination, therefore, the appellant was deprived from his fundamental right of cross-examination/defense. Moreover, the*

ATTESTED

ATTESTED  
 Member, Peshawar  
 Service Tribunal

competent authority was also required to hand over the copy of inquiry report with the show cause notice but the copy of final show cause notice available on the record, also reveals that no copy of inquiry report was handed over to the appellant with the final show cause notice, therefore, the appellant was condemned unheard which has rendered the whole proceedings illegal and liable to be set-aside. As such, we partially accept the appeal, set aside the impugned order, reinstate the appellant into service and direct the respondent department to conduct de-novo inquiry in the mode and manners prescribed under the Police Rules, 1975 with further direction to fully associate the appellant in the inquiry proceeding, provide him opportunity of cross-examination and also handover copy of inquiry report with the show cause notice, within a period of 90 days from the date of receipt of copy of this judgment. The issue of back benefits will be subject to the outcome of de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room."

7. In compliance of the judgment of this Tribunal, appellant was reinstated in service on 15.05.2020 and without issuing any charge sheet alongwith statement of allegation inquiry was conducted by Sarfaraz Ali Shah Senior Superintendent of Police Coordination CCP Peshawar. Admittedly, no charge sheet alongwith statement of allegation and show cause notice were ever issued to the appellant. The inquiry report is also very much interesting and the conclusion is hereby reproduced for ready reference:

ATTESTED

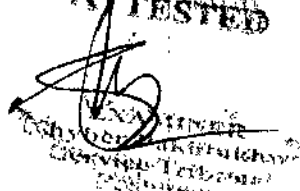
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

"However in case, whatever the motive or situation was, it is established that the FC Imran Khan was not paid and has not

*taken any money from Bilal, thus "action did not take place". Although due to insufficient evidence and during the course of de-novo enquiry, defection of Muhammad Bilal from his earlier statement, the allegations of demanding illegal gratification leveled against FC Imran Khan could not be established however keeping in view the previous enquiry, punishment awarded to FC Imran Khan and rejection of his appeal by the appellant authority one of the major punishment other than dismissal from service is recommended to be awarded to him."*

From perusal of record, we have come to the conclusion that the so called video which had went viral was never produced before the Inquiry Officer. Complainant Bilal did not charge the present appellant for taking illegal gratification. No evidence was produced before the inquiry Officer which could connect the appellant with the commission of offense and the inquiry report which was rejected by this Tribunal in the earlier round of litigation was once again relied upon not only by the Inquiry Officer but also by the competent authority and the appellant was once again punished on the strength of previous inquiry which had been rejected by this Tribunal.

8. The respondents have very blatantly violated the set norms and rules and conducted the proceedings in an authoritarian manner. We have observed that the inquiry conducted by the respondents is not in accordance with law/rules. It is, however, a well-settled legal proposition duly supported by numerous judgments of Apex Court that for imposition of major penalty, regular inquiry is a must.

ATTESTED  


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9. 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 with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.  
28.06.2022

(Salah Ud Din)  
Member (J)

(Rozina Rehman)  
Member (J)

Certified to be true copy

MEMBER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Date of Presentation of Application 23/11/22  
Number of Words 3200  
Copying Fee 484/-  
Urgent 88/-  
Total 572/-  
Date of Issuance of Copy 23/11/22  
Date of Delivery of Copy 23/11/22

**VAKALAT NAMA**

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

IN THE COURT OF KP Service Tribunal Peshawar

Imran Khan Appellant  
Petitioner  
Plaintiff

VERSUS

Police Deptt Respondent (s)  
Defendants (s)

I Imran Khan (Petitioner) 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

Imran Khan  
(CLIENT)

ACCEPTED

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

Uzma Syed  
**UZMA SYED**  
ADVOCATE HIGH COURT