FORM OF ORDER SHEET

| Court of | |
|----------|------------------|
| Case No | 240/ 2023 |

| S.No. | Date of order proceedings | Order or other proceedings with signature of judge | | | |
|-------|---------------------------|--|--|--|--|
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| 1 | 27/1/2023 | The appeal of Mr. Kheyal Muhammad resubmitted today by Roceda Khan Advocate. It is fixed for preliminary | | | |
| | - ' | hearing before Single Bench at Peshawar on Parcha Peshi is given to appellant/counsel. | | | |
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| - | | By the order of Chairman REGISTRAR | | | |
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This is an appeal filed by Kheyal Muhammad today on 28/12/2022 against the order dated 10.10.2022 against which he made/preferred departmental appeal/ representation on 26.10.2022 the period of ninety days is not yet lapsed as per section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, which is premature as laid down in an authority report as 2005-SCMR-890.

As such the instant appeal is returned in original to the appellant/Counsel. The appellant would be at liberty to resubmit fresh appeal after maturity of cause of action and also removing the following deficiencies.

1- Copies, of charge sheet, statement of allegations, show cause notice, enquiry report and replies thereto are not attached with the appeal.

No. <u>58</u>/St.

Dt. 5/1/2023.

PAKHTUNKHWA PESHAWAR.

Roccda Khan Adv. Pesh.

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 240 of 2023

Kheyal Muhammad S/o Mastan Gul R/o Neher Garhi Sarband Peshawar

..... Appellant

VERSUS.

- 1) District Police officer Khyber.
- 2) Capital City Police officer Police Line KPK Peshawar.
- 3) Inspector General of police KPK Peshawar.

..... Respondents

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| 7. | Copy of revision petition and letter dated 28.11.2022 | C&D | 9-4 |
| 8. | Copy of application | E | 12 |
| 9. | Wakalat Nama | - | |

Dated 28/12/2022

Appellant Through

Kabir Ullah Khattak

Roeeda Khan Advocates, High Court, Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 240 of 2023

Kheyal Muhammad S/o Mastan Gul R/o Neher Garhi Sarband Peshawar

..... Appellant

VERSUS

1) District Police officer Khyber.

2) Capital City Police officer Police Line KPK Peshawar.

3) Inspector General of police KPK Peshawar.

.......... Respondents

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNAL ACT, 1974, AGAINST THE IMPUGNED ORDER DATED 10.10.2022 WHEREBY MAJOR PENALTY OF DISMISSAL FROM SERVICE HAS BEEN AWARDED TO THE APPELLANT AGAINST WHICH THE APPELLANT FILED THE DEPARTMENTAL APPEAL 26.10.2022 WHICH HAS NOT BEEN DECIDED WITIN THE STATUTORY PERIOD OF NINETY DAYS.

Prayer:

On acceptance of the instant service appeal the impugned order dated 10.10.2022 may kindly be set aside and the appellant may kindly be reinstate on his service along with all back benefits.

Respectfully Sheweth:

FACTS

The appellant respectfully submits as under:

- 1) That the appellant was appointed as FC Constable with respondent Department on 2014.
- 2) That after appointment the appellant performed his duty with full devotion and hard work and no complaint whatsoever has been made against the appellant.
- That while performing his official duty with respondent Department the appellant has been restrained from performing his official duty with respondent Department by not obeying the illegal order of his high-ups at the month of July, 2022.
- 4) That on 10.10.2022 the impugned order has been issued against the appellant whereby the appellant has been dismissed from service. (Copy of impugned order 10.10.2022 is attached as Annexure-A).
- 5) That the appellant submitted a Departmental appeal on 26.10.2022 against the impugned order dated 10.10.2022. (Copy of Departmental Appeal is attached as Annexure-B).

- That the appellant submitted a revision petition on 16.11.2022 in response of which a letter has been issued to respondent No. 2 by the respondent No. 3 on 28.11.2022 regarding the rejection order of Departmental Appeal. (Copy of revision petition and letter dated 28.11.2022 are attach as Annexure-C&D).
- 7) That the appellant submitted an application to respondent Department on 30.11.2022 regarding the response of Departmental Appeals. (Copy of application is attached as Annexure-E).
- 8) That feeling aggrieved the appellant prepares the instant Service Appeal before this Hon' able Tribunal inter alia on the following grounds.

GROUNDS

- A). That the impugned order dated 10/10/2022 is come under the definition of void order because it has been passed without fulfilling the codal formalities.
- B) That no charge sheet and no statement of allegation has been issued or served to the appellant which is a clear cut violation of Rule-06 (i) (a) of Police Rules 1975.
- C) That no show cause notice and no final show cause noticed has been issued against the appellant.

- D) That no opportunity of personal hearing and defense has been provided to the appellant.
- E) That no Departmental inquiry has been conducted against the appellant which is mandatory before imposing of major penalty.
- F) That there is no illegality on part of the appellant and so concerned the absence of the appellant it was not intentionally but due to the reason mention in the above paras.
- G) That any other will be raised at the time of arguments with the prior permission of this Hon' able court.

It is therefore most humbly prayed that on acceptance of the instant service appeal the impugned order dated 10.10.2022 may kindly be set aside and the appellant may kindly be reinstate on his service along with all back benefits.

Any other remedy which this august tribunal deems fit that may also onward granted in favor of appellant.

Dated 28/12/2022

Appellant

Through

Kabir Ullah Khattak

Roeeda Khan Advocates, High Court, Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

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| Appeal No of 2022 | 2 | • | | | |

VERSUS

- 1) District Police officer Khyber.
- 2) Capital City Police officer Police Line KPK Peshawar.
- 3) Inspector General of police KPK Peshawar.

........... Respondents

ADDRESSES OF THE PARTIES

Appellant

Kheyal Muhammad S/o Mastan Gul R/o Neher Garhi Sarband Peshawar

Respondents

- 1) District Police officer Khyber.
- 2) Capital City Police officer Police Line KPK Peshawar.
- 3) Inspector General of police KPK Peshawar.

Dated 28/12/2022

Appellant

Through

Kabir Ullah Khattak

Rooeda Khan Advocates, High Court, Peshawar. -61

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

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Kheyal Muhammad S/o Mastan Gul R/o Neher Garhi Sarband Peshawar

..... Appellant

VERSUS

- 1) District Police officer Khyber.
- 2) Capital City Police officer Police Line KPK Peshawar.
- 3) Inspector General of police KPK Peshawar.

..... Respondents

AFFIDAVIT

I, Kheyal Muhammad S/o Mastan Gul R/o Neher Garhi Sarband Peshawar do hereby solemnly and oath that the contents of the instant appeal are true and correct to the best of myknowledge and belief and nothing has been concealed from this Hon' able Court.

Deponen

KHYBER

/PA-DPO Khybe

DISMISSAL ORDER

Khin FC Khyal Muhammad No. 3059 s/o Mastana Gul of District Police Khyber was suspended and closed to Police Lines Kluyber vide Order No. 4061-66/PA-DPO Khyber dated 25/07/2022 due to his absence from lawful duty. He was directed to report to Police Lines Khyber, but he failed to do so, thus making his regular absence period 03 months and 23 days long because he did not report to his post since his date of transfer vide Order No. 3107-10/OHC-Khyber dated 14/06/2022. The official was issued with final show cause notice on 01/10/2022 to report to his duties but he failed.

Moreover, the delinquent official was directed multiple times to join his duty via DSP HQrs, RI Lines and concerned SHO vide D.D Entry No. 13, dated 09/08/2022 of Police Lines Khyber. Finally, he was contacted directly on his cell phone from Police Lines Khyber reported vide D.D Entry No. 17, dated 16/08/2022 and D.D Entry No. 27, dated 18/08/2022. However, he failed to respond to any notice or to join his duty.

Therefore, the undersigned, being the competent authority, is satisfied about his noninterest in performance of duties and compliance. Thus, in order to maintain discipline in the force. the undersigned hereby awards the defaulter official with Major Punishment of Dismissal from Service as per Section 4-b(iv) of Police (E&D) Rules 1975 (With Amendments

> DISTRICT POLICE OFFICER, KHYBER

> > ()

Copies to:

DSP HQrs/RI Lines for information

OHC DPO Office Khyber for Transfer/Posting Record

Accountant Khyber for Stoppage of pay

Service Record Branch for compilation of Service Record

I/C Control Room for proper communication

The starte of Colo Silve Silve (B) 146 che مؤدنا در گزارش به كرمین با زو ا فاجیل عب تاب می در گوی 1301 4/16 60 13/18 i 8/18/18/00 listine عًا وُلُون سے تعبیر وجول کرے۔ صبی سے میں انعار بردا: 12 de d'antide Obstact 26-10-2022 Certes! آب ما تالعمار كانسبل خيال في وله مسانه على-CNIC NO: 17301-6835088-5 Sign ! Chapel

راک (۱۳) مجمعور

انپيكٹر جزل اف يوليس

خيبر پختو نخوا پيثاور

درخواست بمراد تمكم فرمانے واسطے بحالی سروس (FS Khial Muhammad) آف دستر كه در ديس خيبر بمعد ادائيگل شخواجات وبقاياجات

یہ کہ من سائل ایک ایماند او فرض شاس محنی، جوان انسان ہوں۔ صاف ستھر ہے اور ہے واغ مروس

کر دار کا حال انسان ہوں۔ من سائل نے غیر حاضری قصد آیا عمد آنہ کی ہے بلکہ بہت ہی مجبوری اور ہے ہی

سے عالم میں جب میرے سینٹر آفینر سیاد صاحب (عزازی سب انبیکٹر) بھے ایک غیر قانون اور نیر
اخلاقی اور غیر اسلامی سم دیا اور دھم کی دی کہ اگر میں نے اس کا یہ حکم ندمانا تو پولیس لائن کے اندر ڈویو ٹی

واسطے آنے کی ہمت نہ کرناور نا نتیجہ کا تم خود ڈمہ دار ہوگے اسکا غیر قانونی حکم میہ تھا کہ میں باہر سڑک پر جاکر
بڑی گاڈیوں سے ہمت کے نام پر غیر قانونی طور پر روبیہ بیسہ وصول کر کے اسکو دے دوں تا کہ وہ اسکے ذاتی
بڑی گاڈیوں سے ہمت کے نام پر غیر قانونی طور پر روبیہ بیسہ وصول کر کے اسکو دے دوں تا کہ وہ اسکے ذاتی
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جیب میں جیا جائے ہم پر ڈیوٹی کرنے پر پابندہ لگادی۔ شاف کے ساسنے میر سے برتی کی اور مجھے
لیس لائن سے زبر دستی ہا ہر کر دیا۔

لیس کا تن سے زبر دستی ہا ہر کر دیا۔

اس سلسلے میں، میں نے سی سی بی اوصاحب کو پولیس لائن پیثاور میں ایک درخواست مور خد-10-26 اس سلسلے میں، میں نے سی کی اوصاحب کو پولیس لئن پیٹاور میں ایک درخواست مور خدا میں نے 2022 کو دے دی ہے لیکن میرے کو کی شنوا کی نہ ہوئی ہے میرے ساتھ سر اسر ذیاوتی ہے اور میں نے

پولیس بروس کے صاف ستھرے کردار کو بچانے واسطے قربانی وی۔

لہذا استدعائے کہ بمنطوری درخواست ہذا من سائل کے ساتھ نری سے کام لیتے ہوئی متعلقہ م سب انسپیکٹر سجاد کے خلاف تانوتی کاروائی کی جائے اور میرے ساتھ انصاف کر کے جمعے دین پولیس سروس دوبارہ بحال کرنے کے واسطے اور میری تخواہ کے بقایا جات جمعے دلوانے واسطے احکامات صادر قرمادیں۔

من سائل بهت خکر گزار اور دعا گور بو نگااور آیک ترتی اور زندگی ش کامیانی واسطے دُعاکر تار بو نگا۔ ا

Byst

خيال محمه (كانشيل FCNo . FCNo . 3059)

موبائل نمبر: 9505073-0335

16.11.2022

مادی می است می ا



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OFFICE OF THE INSPECTOR GENERAL OF POLICE KHYBER PAKHTUNKHWA Central Police Office, Peshawar.

No. S/ 2923

/22, dated Peshawar the 287 // /2022.

То

The

Capital City Police Officer,

Peshawar.

Subject:

APPLICATION FOR RE-INSTATEMENT IN SERVICE.

Memo:

Ex-FC Kheyal Muhammad No. 3059 s/o Mastan Gul of district Khyber Police has preferred application to the Worthy IGP/Khyber Pakhtunkhwa for reinstatement in service.

In order to proceed further in the matter, a copy of his appeal rejection order may

be sent to this office, please.

Office Superintendent, Secret Branch CPO

28/4/2012

(E) 12 Ref. Lemm # 5/2923 /22 dated Pashawai The 20/11/2022. من المن المار الربي يطاب شار المال الم · = 20 = 1/2, 1 16.11-2022 Per عالضا۔ لکر جے بھی اس سار ہے اس کے اس کے اس میں د شاریز از مسا را به در در برا او دلار از است کا ما ای در از است کا ما این می در از است کا می کارد از است کا می کارد از است کا می کارد از است کارد از این می کارد از این التي درم ال و مارز مر المان على المارز مرافعة على المارز من المان على المارز من المان الم 2022 (1) Ex. FC # 3059 (EU-0335-95050

