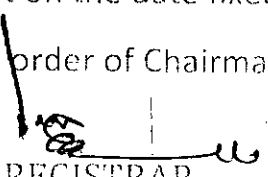


Form- A

FORM OF ORDER SHEET

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

Implementation Petition No. 228/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	06.04.2023	<p>The execution petition of Mr. Fazal Qayum 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</p> <p> REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.

Execution Petition No. 228 /2023  
In Service Appeal No.1684/2020

Fazle Qayum

V/S

police Deptt:

INDEX

S.No	Documents.	Annexure	Page No.
1.	Memo of Execution Petition	----	01-02
2.	Copy of Judgment	- A -	03-07
3.	Copy of application	-B-	08
4.	Vakalat Nama	----	09

*Fazle*  
PETITIONER  
Fazle Qayum

THROUGH:

*Noman*  
SYED NOMAN ALI BUKHARI  
ADVOCATE, HIGH COURT  
&  
*Uzma*  
(UZMA SYED)  
ADVOCATE, PESHAWAR

Cell No: 0306-5109438

1

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

Execution Petition No. 228 /2023  
In Service Appeal No.1684/2020

Mr. Fazl Qayum Sub-Inspector no. 82/MR  
District Mardan Police.

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 4771

Dated 06/4/2023

**PETITIONER**

VERSUS

1. The Inspector General of Police: KPK Peshawar.
2. The regional Police Officer Mardan region Mardan.
3. The District Police Officer, District Mardan.

**RESPONDENTS**

.....  
**EXECUTION PETITION FOR DIRECTING THE  
RESPONDENTS TO IMPLEMENT THE JUDGMENT  
DATED: 27/09/2022 OF THIS HONORABLE  
TRIBUNAL IN LETTER AND SPIRIT.**  
.....

**RESPECTFULLY SHEWETH:**

1. That the applicant/Petitioner filed Service Appeal No-1684/2020 for confirmation from due date.
2. That the said appeal was finally heard by the Honorable Tribunal on 27-09-2022. The Honorable Tribunal is kind enough to allow this appeal of appellant respondents were directed to grant the ante-date confirmation as SI w.e.from 17-09-2019 i.e the date on which his colleagues were confirmed. (Copy of judgment is attached as Annexure-A).

3. That the appellant also filed application to respondents for the implementation of judgment. The respondents were totally failed in taking any action regarded the Hon'able Tribunal judgment dated 27-09-2022. **Copy of application is attached as annexure-B.**
4. That the respondents were totally failed in taking any action regarded the Hon'able Tribunal Judgment dated 27-09-2022.
5. That the respondent totally violated the judgment of Hon'able Service Tribunal, is totally illegal amount to disobedience and Contempt of Court.
6. 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.
7. 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 27-09-2022 of this august Tribunal in letter and spirit. Any other remedy, which this august Tribunal deems fit and appropriate that, may also be awarded in favor of applicant/appellant.

*Fazle Qayum*  
**PETITIONER**  
 Fazle Qayum

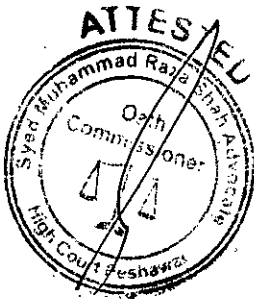
**THROUGH:**

*Syed Noman Ali Bukhari*  
**(SYED NOMAN ALI BUKHARI)**  
 ADVOCATE HIGH COURT.

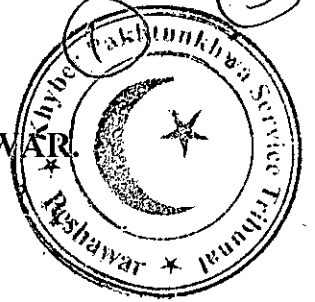
**AFFIDAVIT:**

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.

*Fazle Qayum*  
**DEPONENT**



BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR.



Appeal No. 1684 /2020

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 1107

Dated 12/2/2020

Mr. Fazl Qayum Sub-Inspector no. 82/MR  
District Mardan Police.

APPELLANT

VERSUS

1. The Inspector General of Police: KPK Peshawar.
2. The regional Police Officer Mardan region Mardan.
3. The District Police Officer, District Mardan.

RESPONDENTS

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNALS ACT, AGAINST ORDER DATED 20.09.2019 WHEREIN THE APPELLANT WAS NOT CONSIDER FOR PROMOTION AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL DATED 14.10.2019 OF THE APPELLANT OF THE APPELLANT WITHIN STATUTORY PERIOD OF 90 DAYS.

Filed to-day

Registrar  
12/2/2020

PRAYER:

Submitted to-day  
and filed.

Registrar

12/03/2020

THAT ON ACCEPTANCE OF THIS APPEAL, THE RESPONDENTS MAY BE DIRECTED TO CONSIDER THE APPELLANT FOR CONFIRMATION AGAINST THE POST/RANK OF SUB-INSPECTOR FROM HIS DUE DATE 17.09.2019 WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY, WHICH THIS TRIBUNAL DEEMS FIT AND APPROPRIATE THAT, MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

ATTESTED

Registrar  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

4

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No.1684/2020

Date of Institution ... 12.02.2020

Date of Decision ... 27.09.2022



Mr. Fazal Qayum Sub-Inspector No.82/MR District Mardan Police.

(Appellant)

VERSUS

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

(Respondents)

Syed Noman Ali Bukhari,  
Advocate

... For appellant.

Naseer Ud Din Shah,  
Assistant Advocate General

... For respondents.

Mrs. Rozina Rehman  
Miss. Fareeha Paul

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

JUDGMENT

ROZINA REHMAN, MEMBER: The appellant has invoked the jurisdiction of this Tribunal through above titled appeal with the prayer as copied below:

**“That on acceptance of this appeal, the respondents may be directed to consider the appellant for confirmation against the post/rank of Sub-Inspector from his due date 17.09.2019 with all back and consequential benefits.”**

2. Brief facts of the case are that appellant was appointed as Constable on 07.02.2002. He qualified Public Service Commission examination and was appointed as an ASI in 2010. He was promoted to the rank of Sub Inspector in 2014. He completed all the requisite/mandatory and professional training and

**ATTESTED**

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

mandatory period for confirmation as SI but fiasco. In support of his claim, reliance was placed on judgments of this Tribunal passed in Service Appeals No. 1021/2015, 1450/2013, 1227/2013 and 462/2018 wherein it was observed that it was the authority to give assignment of the SHO to the concerned official and when the authority failed to give such opportunity, then the role of serving as an independent SHO for one year would have no ground.

5. Conversely, learned AAG submitted that for confirmation in rank of SI, every Sub Inspector was required to fulfill the requisite criteria enshrined in Police Rules 1934 as amended in 2017 coupled with qualifying upper college course. He submitted that the appellant had not fulfilled the requisite criteria, therefore, he was not considered.

6. From the record it is evident that 12 officiating Sub Inspectors were confirmed in the rank of SI w.e.f 17.09.2019 by the Regional Police Officer Mardan on 20.09.2019. Appellant was ignored and his juniors namely Muhammad Kashif, Ittikhar, Muhammad Basheer and others were confirmed in the rank of SI. Feeling aggrieved he filed departmental appeal on 14.10.2019 which was forwarded to the RPO Mardan for further necessary action because the promotion/confirmation of officers in the rank of ASI were dealt within the regions concerned. It is not denied that according to Rule-13.10(2) of police Rules, 1934 no Sub Inspector shall be confirmed in substantial vacancy unless he has been tested for a year of an officiating SI in independent charge of a police station, an independent police post or as Incharge Investigation of a police station or in Counter Terrorism. As per policy guideline No. 1/2013, a pool of suitable officers not below the rank of SI is formed for posting of SHOs at district level by DPO concerned and the officers whose names are placed in

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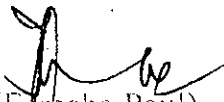
SHO's pool are considered for SHO posting as and when required. Regional Police Officer provided an opportunity to appellant in orderly room held on 26.07.2017 and requested the IGP for repatriation of the appellant to his parent region Mardan for completion of his mandatory period, according to amended rule 13.10(2) Police Rule, 1934 vide letter No. 1020 dated 30.07.2019. Copy of the order was forwarded to DPO Mardan with direction to call explanation from Establishment Clerk of his office for misguidance and posting the officer in an unnotified police post. Explanation was called from Senior Clerk Israr Ali by District Police Officer Mardan on 08.08.2019 which is available on file. Applications in this regard were submitted by the appellant and as per orderly room dated 25.09.2018 his request for posting as I/C police post was sent for proposal. Proposal is also placed on file vide which it was proposed that the appellant may be posted as I/C police post Beroch for completion of his mandatory period. The appellant completed one year period in Elite Force according to Amended Rule 13.10(2) of Police Rules, 1934, whereas he has also to complete one year mandatory period as independent incharge of a police station of a notified police post or as incharge investigation of a police station or in CTD Khyber Pakhtunkhwa. He has also completed the same but the same police post was later on declared as unnotified police post and the appellant was deprived of his confirmation alongwith fellow/colleagues and juniors. Had the relevant authority posted the appellant as an SHO, and had he failed to perform duty despite such posting, then he would have not been found entitled to the relief claimed. Since the omission is on the part of respondents, as such the appellant cannot be deprived of his right to ante-date confirmation as SI w.e.f 17.09.2019 i.e the date on which his colleagues were confirmed.

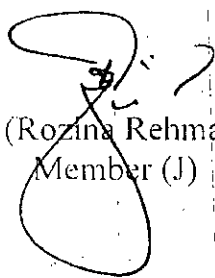
ATTESTED  
  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

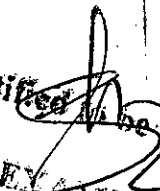


7. For the reason mentioned above, we allow this appeal and direct the respondents that the appellant be granted ante-date confirmation as SI w.e.f 17.09.2019 i.e the date on which his colleagues were confirmed. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED  
27.09.2022

  
(Farzeeha Paul)  
Member (E)

  
(Rozina Rehman)  
Member (J)

  
Certified to be true copy  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of Presentation of Application 27-2-23  
Number of ~~Words~~ Page 6  
Copying Fee 35/-  
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Total 35/-  
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Date of Completion of Copy 27-2-23  
Date of Delivery of Copy 27-2-23

## بخدمت جناب DIG صاحب مردان ریجن۔

جناب عالی!

التماس کیجانی ہے۔ کہ سائل سال 2014 میں بحیثیت SI پروموٹ ہو چکا ہے۔ SI کنفرمیشن کیلئے سائل نے ایک پیرڈ "ایلیٹ فورس KPK" میں دوسرا پیرڈ "انچارج چوکی ضلع مردان" میں مکمل کیا۔ سائل اپر کورس پاس ہے اور مختلف سکول ہائے سے کورسز بھی کئے ہیں۔ سائل نے SI کنفرمیشن کیلئے تمام شرائط 2019 میں مکمل کئے۔ سائل کو کنفرمیشن بحوالہ آرڈر نمبری (ES 11368-7) مورخہ 20.09.2019 میں نظر انداز کر کے کنفرم نہیں کیا گیا۔ کیونکہ انچارج چوکی پیرڈ شمار نہیں کیا گیا۔ بحوالہ چھٹی نمبری ES / 10201-1 مورخہ 30.07.2019 کو سائل جناب DIG صاحب مردان کو OR میں پیش ہوا۔ بحوالہ چھٹی (CPO-CPB319) مورخہ 23.10.2019 کنفرمیشن آرڈر نمبری ES/11368-7 مورخہ 20.09.2019 کے خلاف حکمانہ اپیل جناب IGP صاحب خیبر پختونخوا کو دائرہ کیا۔ لیکن کوئی شنوائی نہ ہوئی۔ سائل نے بااثر مجبوری قانونی چارہ جوئی کیلئے سروس ٹریبونل خیبر پختونخوا پشاور کو رجوع کیا۔ اپیل نمبری (ST-KPK-1684/20) عدالت مذکورہ نے منظور کر کے جس پر تفصیلی فیصلہ آچکا ہے۔ (فیصلہ ہمراہ لف درخواست ہے۔)

استدعا ہے کہ سروس ٹریبونل خیبر پختونخوا کے فیصلہ کو مد نظر رکھتے ہوئے سائل کی کنفرمیشن برطابق پولیس رولز 18-13 سال 2016 میں کیا جا کر مزید "F" لسٹ میں ضروری ترمیم لانے کیلئے مناسب حکم احکام صادر مشکور فرمائیں۔

العارض۔

اپ کا تابع فرمان SI فضل قیوم نمبری MR-82 مردان پولیس۔

*(Signature)*

مورخہ - 10.01.2023

VAKALAT NAMA

NO. \_\_\_\_\_/20

IN THE COURT OF KP Service Tribunal, Peshawar.

Fazale Qasim

Appellant  
Petitioner  
Plaintiff

VERSUS

Police Deptt

Respondent (s)  
Defendants (s)

I Fazale Qasim (Applicant) 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 all 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

[Signature]

(CLIENT)

ACCEPTED

[Signature]

**SYED NOMAN ALI BUKHARI**  
ADVOCATE HIGH COURT  
BC-15-5643