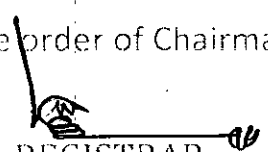


Form- A
FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 245 /2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3.
1	13.04.2023	<p>The execution petition of Mr. Munawar Khan submitted today by Syed Ghufan Ullah Shah Advocate It is fixed for implementation report before Single Bench at Peshawar on _____. Original file be requisitioned. AAG has noted the next date.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHUWA
SERVICE TRIBUNAL PESHAWAR

Execution Petition No. 245 2023

In

Service Appeal No. 586/ 2013.

Munawar Khan

V E R S U S

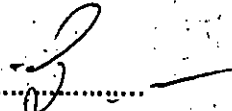
Provincial Police Officer, KPK Peshawar & another

INDEX

S.No	Description of Documents	Annexure	Pages
1.	Memo of petition for implementation		1-3
2.	Affidavit		4
3.	Addresses of parties		5
4.	Copy of order/judgment dated 24-06-2021	"A"	6-12
5.	Copy of the application	"B"	13
6.	Wakalatnama		14


Appellant / Petitioner

Through


Syed Ghuffanullah Shah
(Advocate Supreme Court of Pakistan)
Office; 22-A Nasir Mansion
Railway Road, Peshawar
Cell No.0334-9185580

(1)

BEFORE THE KHYBER PAKHTUNKHUWA
SERVICE TRIBUNAL PESHAWAR

Execution Petition No. 245.....2023

In

Service Appeal No. 586/2013.

Munawar Khan Ex-Inspector Police, Crimes Investigation
Branch Peshawar.

.....Petitioner/Appellant

V E R S U S

1. Provincial Police Officer, KPK Peshawar.
2. DIG Investigation/Headquarters, Peshawar.
3. The Govt of Khyber Pakhtunkhwa ,Through Secretary ,Finance
Department ,Civil Secretariat Peshawar.

.....Respondents

APPLICATION FOR IMPLEMENTATION OF THE
ORDER/JUDGMENT OF THIS HONOURABLE TRIBUNAL
DATED 24/06/2021 PASSED IN SERVICE APPEAL
NO.586/2013, WHEREBY THE PENALTY IMPOSED AGAINST
THE PETITIONER HAS BEEN CONVERTED FROM DISMISSAL IN
TO COMPULSORY RETIREMENT FROM SERVICE WITH EFFECT
FROM 05-11-2012.

PRAYER;

ON ACCEPTANCE OF THE INSTANT APPLICATION THE
SUBJECT ORDER & JUDGEMENT OF THIS HONOURABLE
TRIBUNAL DATED 24-06-2021 BE IMPLEMENTED /SATISFIED IN

(2)

ITS TRUE SPIRIT AND ANY OTHER RELIEF ACCORDING TO THE CIRCUMSTANCES OF THE CASE MAY ALSO BE GRANTED TO THE PETITIONER AGAINST RESPONDENTS.

RESPECTFULLY SHEWETH:-

1. That the above titled Service Appeal was decided by this honorable tribunal in favour of the petitioner /appellant vide order/judgment dated 24/06/2021.

(Copy of order/judgment dated 24/06/2021 is annexure "A")

2. That this Honorable Tribunal has allowed appeal of the petitioner/appellant by setting aside the impugned order of his dismissal from service dated 05-11-2012 by converting it into compulsory retirement

3. That accordingly the applicant/petitioner is entitled for pensionary benefits and arrears etc but the respondents are deliberately defying for about 03 years of the judgment.

4. That the appellant several times approached to the respondents for the implementation of the judgment and order passed by this honorable tribunal, vide order and judgment dated 24-06-2021 but in vain

(Copy of the application is annexed as annexure "B")

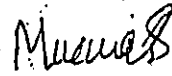
5. That since date respondents have been failed to comply with the order/judgment dated 24-06-2021 passed by this

3

honorable tribunal; and the petitioner is suffering from their deliberate delaying tactics.

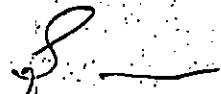
6. That any other ground will be furnished at any stage of the proceeding with the prior permission of this Honorable Tribunal.

It is, therefore, most humbly prayed that on acceptance of this application, the respondents may kindly be directed to implement the order/judgment of this Honourable Tribunal dated 24-06-2021 with all consequential relief.



Petitioner / Appellant

Through



Syed Ghufraan Ullah Shah
Advocate Supreme Court of Pakistan

(4)

BEFORE THE KHYBER PAKHTUNKHUWA
SERVICE TRIBUNAL PESHAWAR

Execution Petition No.....2023

In

Service Appeal No. 586/ 2013.

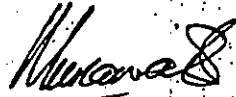
Munawar Khan

V E R S U S

Provincial Police Officer, KPK Peshawar & another

AFFIDAVIT:


I, Munawar Khan Ex-Inspector Police, Crimes Investigation Branch Peshawar/appellant; do hereby solemnly verify and declare on oath that all the contents of the subject application; are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

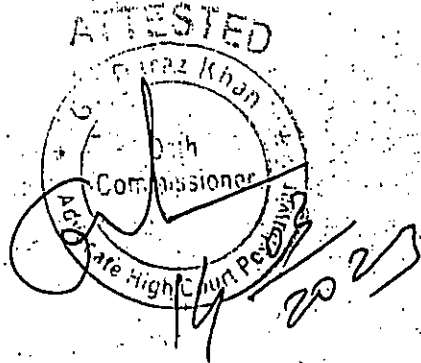


Deponent

C.N.I.C No. 13101-9757612-1

Verified by:


Syed Ghufuran Ullah Shah
Advocate Supreme Court of Pakistan



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BEFORE THE KHYBER PAKHTUNKHUWA
SERVICE TRIBUNAL PESHAWAR

Execution Petition No.....2023

In

Service Appeal No. 586/2013.

Munawar Khan

VERSUS

Provincial Police Officer, KPK Peshawar & another

ADDRESSES OF PARTIES

PETITIONER;

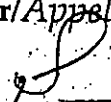
Munawar Khan Ex-Inspector Police, Crimes Investigation Branch
Peshawar

RESPONDENTS;

1. Provincial Police Officer, KPK Peshawar.
2. DIG Investigation/Headquarters, Peshawar.
3. The Govt of Khyber Pakhtunkhwa ,Through Secretary ,Finance
Department ,Civil Secretariat Peshawar.


Petitioner/Appellant

Through


Syed Ghufyan Ullah Shah
Advocate Supreme Court of Pakistan

6 Ahmed-A³



BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

W.F. Peshawar
Case No. 653
Date 01-4-2013

Service Appeal No. 586 /2013

Munawar Khan, Ex-Inspector Police, Crimes Investigation Branch, Peshawar

.....Appellant

Versus

- 1. Provincial Police Officer, KPK, Peshawar.
- 2. DIG Investigation/Headquarters, Peshawar

.....Respondents

APPEAL AGAINST THE ORDER NO.5548-51/EC/INV. DATED 05.11.2012 OF RESPONDENT NO.2 WHEREBY APPELLANT HAS BEEN DISMISSED FROM SERVICE.

*DA not
Respond*

Prayer:-

THAT ON ACCEPTANCE OF THE APPEAL THE IMPUGNED ORDER BE SET ASIDE AND APPELLANT BE REINSTATED IN SERVICE WITH FULL BENEFITS OF SERVICE WITH SUCH OTHER RELIEF AS MAY BE DEEMED PROPER IN THE CIRCUMSTANCES OF THE CASE.

[Signature]
1/4/2013

Respectfully Sheweth:

Short facts giving rise to the present appeal are as under:-

- 1. That that appellant proceeded on 10 days leave with prior verbal permission of his senior namely Tanvirul Haq Sipra, former Addl IG Investigation and subsequently due to illness could not resume duty but the illness was communicated and the medical

ATTESTED

[Signature]
SECRETARY
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

certificates were in the possession of the appellant as there was none to take to the police department.

2. That on recovery from illness when appellant wanted to resume duty he was not allowed to resume but he was informed that he has been proceeded against for breach of discipline under Police Rules 1934 and Police Order 2002.

3. That it is claimed that charge sheet was issued to the appellant but the same was not delivered to him.

4. That the so called enquiry was conducted against the appellant in which he was not allowed to produce evidence and opportunity of cross-examining the witnesses was also refused as no evidence against him was recorded in his presence nor he was confronted with any document.

5. That the so called enquiry committee found appellant guilty and based on such report final show cause notice was served on the appellant on 09.10.2012 alongwith the enquiry report. *(Copy of Show Cause Notice is Annex-A)*

6. That appellant submitted reply to the show cause notice and claimed innocence. The reply to the show cause is Annex-B.

7. That instead of competent authority DIG Investigation/HQtrs who had issued charge sheet and also the final show cause notice vide order dated 05.11.2012 directed dismissal of the appellant from service. The dismissal order is Annex-C.

8. That appellant therefore, submitted departmental appeal on 13.12.2012. Copy is Annex-D.

9. That more than 90 days passed but the appeal has not been decided, hence this appeal.

GROUNDS:-

A) That appellant had in writing submitted that he was allowed 10 days leave by the competent authority namely Tanvirul Haq Sipra, former Add. IG but no evidence to that effect was allowed to be recorded.

B) That appellant wanted to prove his sickness but he was refused the opportunity to produce evidence to that effect.

C) That no enquiry in accordance with the principles of natural justice was allowed and appellant was not confronted with any evidence oral or documentary.

D) That in fact no evidence was recorded in his presence.

ATTESTED
[Signature]
K. S. ANAND
Secretary
Service Tribunal

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- E) That the charge sheet /show cause notice and the dismissal order have been passed by one and the same person namely Mohammad Idrees Khan, DIG Investigation.
- F) That the report of the enquiry committee is perverse and not based on evidence.
- G) That the dismissal order has not been passed by the competent authority and having been passed an unauthorized person, the same is of no legal effect.

It is, therefore, prayed that the appeal be accepted as prayed in the heading.

Munawar
Appellant

Through

Qazi Muhammad Anwar
(QAZI MUHAMMAD ANWAR)
(Sitara-i-Imtiaz)
Advocate
10-A Nasir Mansion, Peshawar

Syed Ghurran Shah
(SYED GHURRAN SHAH)
Advocate

ATTESTED

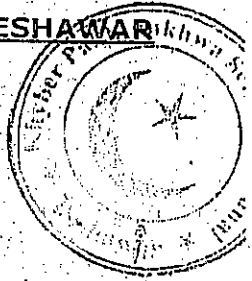
[Signature]
MUNICIPAL
Sewerage
Department
Peshawar

9

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 586/2013

Date of Institution 01.04.2013
Date of Decision 24.06.2021



Munawar Khan, Ex-Inspector Police, Crimes Investigation Branch
Peshawar.

(Appellant)

VERSUS

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and
one another.

(Respondents)

Syed Ghufraan Ullah Shah,
Advocate

For appellant.

Muhammad Adeel Butt,
Additional Advocate General

For respondents.

AHMAD SULTAN TAREEN
ROZINA REHMAN

CHAIRMAN
MEMBER (J)

Handwritten signature and date: 24/6/21

JUDGMENT

ROZINA REHMAN, MEMBER : Appellant was an Inspector in Police Department. He was dismissed from service vide order dated 05.11.2012. It is the legality and validity of this order which has been challenged by him in the present service appeal filed U/S 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.

ATTESTED

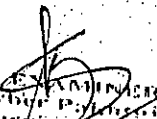
Handwritten signature and stamp of the Khyber Pakhtunkhwa Service Tribunal, Peshawar.

2. Brief facts of the case are that appellant proceeded on leave with prior verbal permission of Additional I.G Investigation but subsequently could not resume duty due to illness which fact was communicated to the Department. He was proceeded against for breach of discipline under Police Rules and lastly appellant was dismissed from service. He submitted departmental appeal which was not responded to, hence, the present service appeal.

3. Learned counsel for appellant argued that the impugned order is against law and facts as inquiry was not conducted according to law and that the entire proceedings were carried out in the absence of appellant. He contended that the appellant was not afforded any opportunity of personal hearing and he was condemned unheard and lastly, he submitted that appellant has put in considerable pensionable service of almost 15 years and that he would have no objection if major penalty in shape of dismissal from service is converted into major penalty in shape of compulsory retirement.

4. Conversely, learned A.A.G argued that appellant while posted as Inspector in the National Accountability Bureau Peshawar was attached with Investigation Branch C.P.O Peshawar for purpose of pay. NAB authorities issued warrant of arrest against the appellant allegedly being involved in Corruption, therefore, he was arrested and convicted by NAB Court, however, he was reinstated in service from the date of suspension. He contended that appellant avoided joining duty, therefore, he was proceeded against departmentally and the

ATTESTED


Attending Officer
Service Tribunal
Peshawar



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departmental proceedings initiated against appellant culminated in passing the order of dismissal from service of the appellant. He further submitted that copy of charge sheet was received by appellant but he did not submit his reply in response to the charge sheet and he was properly examined by the inquiry officer but he failed to advance plausible explanation for his deliberate absence.

5. From the record it is evident that appellant was Inspector in National Accountability Bureau Peshawar and was attached with Investigation Branch for the purpose of pay. Admittedly, appellant was arrested and convicted by the NAB Court, therefore, he was suspended vide order dated 10.03.2005, however, he was acquitted by the august Peshawar High Court Peshawar vide order dated 09.06.2011 of all the charges leveled against him. The Provincial Police Officer reinstated the appellant in service from the date of suspension vide order dated 26.10.2011. It is also not denied that appellant submitted arrival in Investigation Wing C.P.O Peshawar. Nothing was brought on record in order to show that appellant was a habitual absentee, however, keeping in view the last request of the learned counsel for appellant and without touching the merits of the case, we are of the view that since the appellant has put in considerable regular service, it would be appropriate, keeping in view the circumstances of the case to convert the major penalty awarded in the shape of dismissal from service into that of compulsory retirement from service. As such, we convert the said penalty into

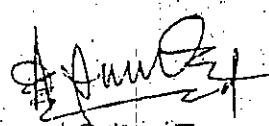
24/6/11

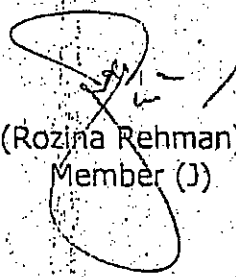
TESTED
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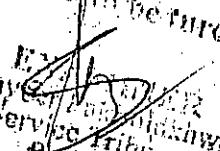
10

that of compulsory retirement w.e.f the date of his dismissal from service i.e. 05.11.2012. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.
24.06.2021


(Ahmad Sultan Tareen)
Chairman


(Rozina Rehman)
Member (J)

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 16/3/23
Number of Pages Page 7
Copying Fee 25/-
Urgent 25/-
Total 25/-
Name of Copy -
Date of Completion 20/3/23
Date of Delivery of Copy 20/3/23

(13)

Annexed = B

09/9213261

Dated. 22nd March, 2022

To,

Provincial Police Officer Khyber Pakhtunkhwa,
Police Lane, Peshawar Cantt.

24/3/22

Subject:-

GRANT OF PENSION AND PENASIONARY BENEFITS TO THE APPLICANT IN COMPLIANCE OF ORDER AND JUDGMENT DATED 24-06-2021 BY THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Respected Sir,

1. That the applicant was serving as inspector in Khyber Pakhtunkhwa police and was lastly posted at investigation branch CPO, Peshawar where vide impugned order bearing No. 5548-51/EC/Inv.05/11/12 dated 05-11-2012, he was awarded major punishment of dismissal from service.
2. That the applicant challenged the same before the Khyber Pakhtunkhwa Service Tribunal vide service appeal No. 586/2013, which was allowed and the impugned dismissal order was set aside and was converted into date of compulsory retirement with effect from date of dismissal from service i.e. 5-11-2012 vide order and judgment dated 24-06-2021. (Copy of the Order & Judgment is annexed)
3. That the aforesaid order and judgment has already gained finality as no appeal has been filed against the said order and judgment before the supreme court of Pakistan.
4. That the applicant is also entitled for outstanding salaries and other financial benefits from his date of first suspension dated 10-03-2005 to the date of his compulsory retirement i.e. 05-11-2012.

It is therefore most humbly requested that all the service benefits/pension and penasionary benefits along with arrears till date may kindly be granted to the applicant.

Attested

Sincerely yours

Munawar Khan

Munawar Khan

(Ex-Inspector Police, Crimes Investigation Branch, Peshawar)
R/o House No. 64, Opposite Street No. 2, Rah-e-Sukoon Habib
Ullah, Colony, Abbottabad.

بعد الترتیب سے روس، میونسپل کونسل اور



بنام یو ایس وغیرہ

مدرسہ
مقدمہ
ذاتی
مجموعہ

باعث تحریر آنکھ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جناب وہی دکن کاروائی متعلقہ
آن مقام لیسٹ اور کیلئے سید عثمان اللہ شاہ انور عظیمی حیات

تقرر کر کے اترایا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو ماضی نامہ کرنے و تقریر نمائتہ فیصلہ پر حلف دینے جناب وہی اور اقبال دعویٰ اور
باسورت ڈگری کرنے اجراء اور وصولی چیک درو پیار عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
ذرائع پر دستخط کرنے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یا کل طرفہ یا اپیل کی برآمدگی اور مشورتی
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقریر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو یہی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانتا تو اپنے مقدمہ کے سبب سے ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکورہ کریں۔ لہذا اذکار نامہ لکھ دیا کہ مندر ہے۔

الرقوم 5/4/23ء ماہ 20

مقام لیسٹ اور کے لئے منظور ہے۔
Attested Accepted
S. B. 4