

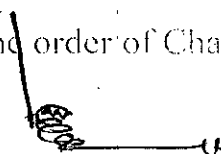
FORM OF ORDER SHEET

Date of order proceedings

Court of

Case No. -

479 /2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	03/05/2023	<p>The appeal of Mr. Sair Ullah presented today by Mr. Shahzada Irfan Zia Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on</p> <p style="text-align: right;">By the order of Chairman</p>  <p style="text-align: right;">REGISTRAR</p>

**BEFORE THE KPK SERVICE TRIBUNAL , PESHAWAR**

Appeal No. 979 /2023

Sair Ullah ..... APPELLANT

**Versus**

Province of KPK etc ..... RESPONDENTS

**I N D E X**

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3.	Departmental Appeal	B	5
4.	Show Cause Notice dated 19-01-2023	C	6
5.	Final Order dated 20-04-2023	D	7
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APPELLANT

THROUGH:

SHAHZADA IRFAN ZIA

ADVOCATE SUPREME COURT OF PAKISTAN

21-B, Nimra Centre, Faqirabad. NO-1, Peshawar.

CELL. 0300-9345297

Dated. 04-05-2023

**BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR**

Appeal No. 979 /2023

Sair Ullah Constable No. 566/ Cook, Police Post Mazanga, District Bannu.

..... APPELLANT

V E R S U S

1. Province of KPK through Inspector General of Police/ Provincial Police Officer, Central Police Office, Peshawar.
2. Regional Police Officer, Bannu Region, Bannu.
3. District Police Officer, Bannu.

.....RESPONDENTS

**APPEAL UNDER SECTION 4 OF KPK SERVICE TRIBUNAL ACT, 1974 AGAINST IMPUGNED ORDER DATED 18-01-2023, PASSED BY RESPONDENT NO-3 WHEREBY THE APPELLANT HAS BEEN AWARDED THE MAJOR PENALTY OF DISMISSAL FROM SERVICE AND HIS DEPARTMENTAL APPEAL AGAINST THE IMPUGNED ORDER IBID WAS REJECTED BY RESPONDENT NO-2 VIDE IMPUGNED FINAL ORDER DATED 20-04-2023, DISREGARD OF THE RULES AND PRINCIPLES OF NATURAL JUSTICE, THUS BOTH THE IMPUGNED ORDERS ARE LIABLE TO BE SET ASIDE BEING ILLEGAL AND VOID.**

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Respectfully Sheweth:

**FACTS OF THE CASE**

1. **That** the appellant joined the Police Force as Constable on 01-01-2015 and from day one of his service, he performed his statutory duties to the entire satisfaction of his superiors and about 08 years service is at his credit.
2. **That** unfortunately on 18-01-2023 the respondent No-3 passed the impugned order and imposed the major penalty of Dismissal from service upon the appellant on the pretext of absence from duty, disregard of the rules and procedure provided under the law. (ANNEX.A)
3. **That** feeling aggrieved the appellant filed his departmental appeal before the respondent No-2 but the appellate authority( respondent No-2) rejected the departmental appeal of the appellant vide impugned final order dated 20-04-2023. It is strange and surprising that after the impugned order of dismissal from service dated 18-01-2023 a show cause notice dated 19-01-2023 was served upon the appellant, which is illegal

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and a blatant violation of the law, procedure and rules. (Annex. B,C and D)  
Hence the present appeal is being filed inter alia on the following grounds:

**GROUND**

- A. That** both the impugned orders are passed without due process of law, therefore, illegal and void.
- B. That** the impugned order dated 18-01-2023 passed by respondent No-3 is based on malafide as the Authority passed the impugned order, ibid on 18-01-2023 while served the show cause notice dated 19-01-2023 upon the appellant after the issuance of impugned order, thus entire proceeding is illegal, void and unsustainable under the law.
- C. That** before passing the impugned order dated 18-01-2023 no inquiry was conducted through inquiry committee/ inquiry officer to dig out the truth and impugned order was passed in a haphazard manner in haste, therefore, all proceedings and impugned orders are arbitrary and liable to be set-aside.
- D. That** before issuance of impugned order dated 18-01-2023 and final order dated 20-04-2023 by competent authority and appellate authority, no chance of personal hearing was afforded to the appellant, thus the appellant was condemned unheard in clear violation of the rules and principles of natural justice. The action of the respondents is in utter violation of Article 10-A of the Constitution of Islamic Republic of Pakistan, 1973 which reads as under:
- “ Right to fair trial. For the determination or his civil rights and obligations or in any criminal charge against him a person shall be entitled to a fair trial and due process.**
- E. That** both the impugned orders passed by respondents are harsh and not proportionate to guilt of the appellant. The august Supreme Court of Pakistan time and again reiterated that the penalty should proportionate to the guilt of the delinquent civil servant.
- (2006 SCMR-443)**
- F. That** the appellant seeks the permission of this honourable court for further/ additional grounds at the time of arguments.

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In view of the aforesaid facts and circumstances of the case it is humbly prayed that the impugned order dated 18-01-2023 passed by respondent No-3 and Final order dated 20-04-2023 passed by respondent No-2 both may graciously be set aside being illegal and void, directing the respondents to reinstate the appellant into service with all back benefits.

Any other relief if this court deems appropriate in the circumstance of the case may also be granted in favour of appellant.

APPELLANT

THROUGH

SHAHZADA IRFAN ZIA  
ADVOCATE SUPREME COURT OF PAKISTAN  
CELL. 0300-9345297

**AFFIDAVIT**

I, Sair Ullah constable No-566, police post Mazanga, Bannu do hereby declare on oath that the contents of this appeal are true and correct to the best of my knowledge & belief and nothing has been concealed from the court.

DEPONENT

**CERTIFICATE**

Certified that no such appeal has earlier been filed on behalf of appellant before this court on the subject matter.

ADVOCATE

PUNISHMENT ORDER

The following Constables posted to sensitive Police Posts. However, it has been reported that they remain absent most of the time and do not perform their duty efficiently. They pay no attention to the directions issued by the undersigned and do not mend their ways. They are habitual absentee.

- |                                   |                       |
|-----------------------------------|-----------------------|
| 1. Constable Wasim Ullah No. 1562 | PP Mazanga            |
| 2. Constable Rizwan Khan No. 2291 | PP Mazanga            |
| 3. Constable Haq Nawaz No. 157    | PP Mazanga            |
| 4. Constable Sair Ullah No. 566   | Cook PP Mazanga       |
| 5. Constable Nayab Khan No. 971   | Cook PP Sheikh Landak |
| 6. Constable Parmez Khan No. 662  | Cook PS Haved         |

Keeping in view of the above, the undersigned meticulously perused all the relevant record. Being habitual absentee their further retention in service would be detrimental and burden over shoulders of the Department. In the current situation of terrorism, their absence have put other officials of the concerned Police Posts at risk. therefore, I, Dr. Muhammad Iqbal, District Police Officer, Bannu, in exercise of the power vested in me under Police Rule 1975(As amended vide Govt. of Khyber Pakhtunkhwa Gazette Notification of even No: dated 27<sup>th</sup> of August 2014) hereby awarded them Major Punishment of "Dismissal from Service" with immediate effect.

OB No. 55  
Dated: 15/10/2023

(Dr. MUHAMMAD IQBAL)PSP  
District Police Officer,  
Bannu.  
Tel: 0928-9270038  
Fax :0928-9270045  
Email: [jnobannu2@gmail.com](mailto:jnobannu2@gmail.com)

اپیل لسلسلہ الٹو فی البرخواستگی

موضوعہ والا سٹان رجسٹرڈ لوئیس آفیسر صاحب ہاؤس رجسٹر ہاؤس

اپیل بہ استدعا یہ ہے کہ جب 04/08/23 کو 08/05/23 درجہ 18 1/23 ایسا الٹی حکم  
برخواستگی جاری کرتے ہیں اور 18 1/23 کو حکم برخواستگی اور درجہ 19 1/23 کو شوکارا نوٹس نام  
من مانیٹل جاری کرتے ہیں مانیٹل لائٹری مانیٹل کو ملازمت سے برخواست کیا ہے۔ لٹی قحانہ اور  
ماہم نہیں کیا ہے۔ یہی مانیٹل لائٹری مانیٹل کو اپنی دفاعی ضمانتی کا موقع دیا ہے۔ جو ظلم  
ہے۔ حکم صدرہ ماہم اور مانیٹل کو ملازمت سے برخواست کیا گیا ہے۔

صاحب

مستری آفیسر صاحب کے حضور عا ہزارہہ، مالکین صاحب ذیل اپیل دائر کرنا ہے۔

یہ کہ مانیٹل درجہ 15 1/23 کو مانیٹل مانیٹل ہے۔ اور موجودہ وقت میں لوئیس کوئی سزائے  
قحانہ پوری میں لگور 2 نڈری لینا ہے۔ مانیٹل کو لٹی لٹی لٹی ہے  
کہ کوئی سے ملازمت میں لگے دو وقت مانیٹل مانیٹل مانیٹل۔ جب مانیٹل ملازمت میں لگے  
لگور میں فوراً منتقل کر کے۔ مانیٹل مانیٹل نے مانیٹل آفیسر نہیں کیا ہے۔ اس وجہ  
درجہ 18 1/23 مانیٹل مانیٹل مانیٹل سے لگور میں مانیٹل مانیٹل مانیٹل۔ مانیٹل مانیٹل  
اپنی ڈیلیوری انجام دی تھی۔ اگلے روز دوپہر مانیٹل مانیٹل مانیٹل۔ مانیٹل مانیٹل مانیٹل  
کوئی آیا۔ اور حجے غیر حاضر کیا۔ اور لگور مانیٹل مانیٹل مانیٹل۔ مانیٹل مانیٹل مانیٹل  
درجہ 18 1/23 کو مانیٹل مانیٹل مانیٹل اور مانیٹل درجہ 19 1/23 کو مانیٹل مانیٹل مانیٹل۔ اور لگور مانیٹل مانیٹل  
کیا ہے۔ مانیٹل کو مانیٹل مانیٹل مانیٹل مانیٹل مانیٹل مانیٹل مانیٹل مانیٹل مانیٹل  
ابذا اپیل کرنا ہے۔ یہ مانیٹل نے مانیٹل مانیٹل مانیٹل مانیٹل مانیٹل مانیٹل مانیٹل مانیٹل  
مانیٹل کو لوئیس اپنی مانیٹل مانیٹل مانیٹل مانیٹل مانیٹل مانیٹل مانیٹل مانیٹل مانیٹل  
مانیٹل مانیٹل مانیٹل مانیٹل مانیٹل مانیٹل مانیٹل مانیٹل مانیٹل مانیٹل مانیٹل

سائل - Ex - 7 نڈری مانیٹل مانیٹل مانیٹل 566 - 1993-03-12

OFFICE OF THE DISTRICT POLICE OFFICER, BANNU

SHOW CAUSE NOTICE  
(Under rules 5(3) of the Police Rules, 1975)

That you Cook Constable Iqrar No. 666, Cook Constable Naveed No. 446, Cook Constable Parmez Khan No. 662, Cook Constable Saifullah No. 566, Cook Constable Nayab Khan No. 971 have rendered yourselves liable to be proceeded under Rule 5(3) of the Khyber Pakhtunkhwa Police Rules (As amended vide Khyber Pakhtunkhwa gazette Notification No. 27<sup>th</sup> of August 2014) for the following misconduct:

- That as reported by SDPO/Rural-I, Bannu vide letter No. C4/R-I, dated 13.01.2022, you following Cook Constables have been found in awareness of cooking and you officials cook through private cooks and often found absent from Police Stations which shows your irresponsibility and lack of interest in duty.

S.#	Name, Rank & No.	Place of Posting
1.	Cook Constable Iqrar No. 666	PS Miryan
2.	Cook Constable Naveed No. 446	PS Miryan
3.	Cook Constable Parmez Khan No. 662	PS Haved
4.	Cook Constable Saifullah No. 566	PP Hazanga
5.	Cook Constable Nayab Khan No. 971	PP Sheikh Landak

- Such an act on your part is against service discipline and amounts to gross misconduct/negligence in duty.

That by reason of above, as sufficient material is placed before the undersigned; therefore it is decided to proceed against you in general police proceeding without a d of enquiry officer.

That the misconduct on your part is prejudicial to good order of discipline in the police force. That your retention in the police force will amount to encourage in efficient and unbecoming of good police officers.

That by taking cognizance of the matter under enquiry, the undersigned as competent authority under the said rules, proposes stern action against you by awarding one or more of the kind punishments as provided in the rules.

You are, therefore called upon to show cause as to why you should not be dealt strictly in accordance with the Khyber Pakhtunkhwa Police Rules, 1975 for the misconduct referred to above.

You should submit reply to this show cause notice within 07 days of the receipt of the notice failing which an ex parte action shall be taken against you.

You are further directed to inform the undersigned that wish to be heard in person or not.

By reason of above you have rendered yourself liable to be proceeded under Khyber Pakhtunkhwa Police Rules (As amended vide Khyber Pakhtunkhwa gazette Notification No. 27<sup>th</sup> of August 2014), hence these ground of action.

(Dr. MUHAMMAD IQBAL) PSP  
District Police Officer,  
Bannu.

No. 15 /SRC. dated 19 / 01 /2023.

Received by: \_\_\_\_\_

Dated: / /2023



(Annex: D) 7-1-2023

ORDER

This order will dispose of departmental appeal preferred by Ex-Cook constable Sair ullah No.566 of District Bannu, wherein he has prayed for setting aside the order of major punishment of "Dismissal from service", imposed upon him by DPO Bannu vide OB No.58 dated 18.01.2023 for committing the following misconduct:-

- That as reported by SDPO Rural-I, Bannu, the appellant was found unaware of cooking and the appellant while posted at PP Mazanga performed cooking through private cooks and often found absent from Police Post which shows his irresponsibility and lack of interest in duty.

Comments, service record and other relevant papers were received from DPO Bannu vide his office letter No.974/SRC, dated 21.02.2023 and perused in detail. The DPO Bannu has reported that the appellant was issued Show Cause Notice vide No.25/SRC dated 19.01.2023 but his reply was found unsatisfactory. The appellant being habitual absentee, his further retention in service would be detrimental and burden over the shoulder of the department. In the current situation of terrorism his absence has put other officials of the concerned Police Post at risk. Therefore, the competent authority (DPO Bannu) has awarded the appellant major punishment of "Dismissal from Service" vide OB No. 58 dated 18.01.2023. The appellant was heard in person in orderly room held in RPO Office Bannu on 06.04.2023. His plea was not found convincing. He had recruited an "Iwazi" at a rate of Rs:10,000/- per month to perform duties at his place while he himself was doing private business. The introduction of this dirty culture is extremely dangerous in police department and cannot be allowed to go unchecked.

Therefore, I, Syed Ashfaq Anwar, PSP, Regional Police Officer, Bannu Region Bannu in exercise of the powers vested in me under Khyber Pakhtunkhwa Police Rules, 1975 (Amended 2014) hereby reject his appeal and endorse the punishment awarded to him by DPO Bannu vide OB No. 58 dated 18.01.2023.

ORDER NOTICED  
OB No. 58  
Dated 21 / 04 / 2023.

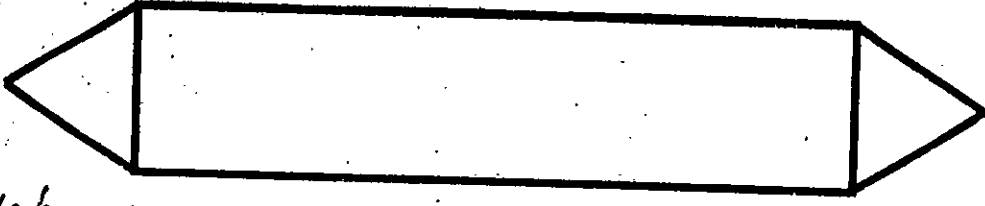
Regional Police Officer,  
Bannu Region,  
Bannu

No. 1215 /FC, dated Bannu the 20/04/2023  
Cc:

DPO-Bannu for necessary action w/r to his office letter No. cited above. Complete Service Roll and other relevant papers of Ex-FC Sair ullah No.566 of District Bannu are sent herewith for record in your office which may be acknowledged, please.

Regional Police Officer,  
Bannu Region,  
Bannu

Before the KPK Service Tribunal, Peshawar  
بعدالت



Sair Ullah

2 منجانب

مورخہ 03-5-2023

Province of KPK etc.

مقدمہ Sair Ullah

دعویٰ Service Appeal

جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ

آن مقام Peshawar کیلئے Shahzada Irfan Zia Advocate

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے ق تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ار عرضی دعویٰ اور درخواست ہر قسم کی تصدیق زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا محتاج ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکور با اختیارات حاصل ہوں گے اور اس کا ساختہ پرداختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ ہوں گے سب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔

Attested

Accepted

(Signature)

کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

Bc No. 10-7608

Cell: 0300-9345297

20 23

May

المرقوم 3rd

العبد د واہ العبد

(Sair)