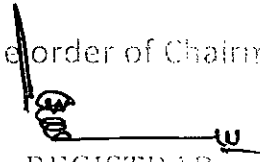


Form-A

FORM OF ORDER SHEET

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

Implementation Petition No. 279/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	
1	08.05.2023	<p>The execution petition of Mr. Mohib Ullah Khan submitted <sup>by</sup> Uzma Syed Advocate. It is fixed for implementation report before Single Bench at Peshawar on <u>15-5-23</u>. Original file be requisitioned. AAG has noted the next date.</p> <p>By the order of Chairman</p>  <p>REGISTRAR</p>

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

Execution Petition No. 279 /2023  
In

Service Appeal: 7469/2021

Mohib Ullah Khan, SI S/o Raza Khan R/o Caste Malik Deen  
khel, Soor Dhand Kajoori P.o Bara District Khyber.

..... Applicant

**VERSUS**

1. District Police Officer, District Khyber, Khyber  
Pakhtunkhwa .
2. Chief Capital Police Officer, (CCPO) Peshawar.
3. Inspector General of Police Khyber Pakhtunkhwa  
Peshawar.

..... Respondents


**INDEX**

S.No.	Description of documents	Annexure	Pages
1.	Copy of petition		1-2
2.	Copy of Judgment	A	3-7
3.	Wakalat Nama		8

Dated 08/05/2023

  
Applicant

Through

  
Uzma Syed  
Advocate High Court,  
Peshawar

0333-9860175

(1)

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

Execution Petition No. 279 /2023

In

Service Appeal: 7469/2021

Khyber Pakhtunkhwa  
Service Tribunal

Entry No. 5193

Dated 8/5/2023

Mohib Ullah Khan, SI S/o Raza Khan R/o Caste Malik Deen  
khel, Soor Dhand Kajoori P.o Bara District Khyber.

..... Applicant

**VERSUS**

1. District Police Officer, District Khyber, Khyber  
Pakhtunkhwa .
2. Chief Capital Police Officer, (CCPO) Peshawar.
3. Inspector General of Police Khyber Pakhtunkhwa  
Peshawar.

..... Respondents

.....

**EXECUTION PETITION FOR DIRECTING THE  
RESPONDENTS TO IMPLEMENT THE JUDGMENT  
DATED: 03/04/2023 OF THIS HONOURABLE  
TRIBUNAL IN LETTER AND SPIRIT.**

  
.....  
**Respectfully Sheweth:**

1. That the appellant/Petitioners filed Service Appeal No. 7469/2021  
before this Hon' able Tribunal which has been accepted by this Hon'  
able Tribunal vide Judgment dated 03/04/2023. (Copy of Judgment is  
annexed as Annexure-A).

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 7469/2021

Date of Institution ... 21.09.2021  
Date of Decision ... 03.04.2023



Mohib Ullah Khan, SI, S/O Raza Khan R/O Caste Malik Din Khel, Soor  
Dhand, Khajori, P.O Bara, District Khyber.

... (Appellant)

**VERSUS**

District Police Officer, District Khyber, Khyber Pakhtunkhwa and two  
others. ... (Respondents)

Shah Faisal Ilyas,  
Advocate

... For appellant.

Asad Ali,  
Assistant Advocate General

... For respondents.

Mrs. Rozina Rehman

... Member (J)

Mr. Muhammad Akbar Khan

... Member (E)

**JUDGMENT**

ROZINA REHMAN, MEMBER (J): This judgment is intended to dispose of two connected service appeals including the present one bearing No.7469/2021 titled "Mohib Ullah Khan Vs. Police Department & others" and Service Appeal No.7473/2021 titled "Shah Wali Vs. Police Department & Others" as common question of law and facts are involved therein. The appellants have 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 08.04.2021 may graciously be set aside and direct the respondents to reinstate the appellant with all back benefits."

2. Brief facts of the case are that appellant Mohib Ullah Khan was serving as Sub Inspector while Shah Wali as Constable in the Police Department of Khyber Pakhtunkhwa. They were performing their duties with zeal and zest at Police Station Bara, District

TESTED  
Khyber Pakhtunkhwa  
Service Tribunal

4

Khyber when in the meanwhile they were charged in case FIR No.163 dated 10.09.2020 registered at PS Bara. That after lodging of FIR they were not even charged in the above mentioned FIR but they were suspended alongwith stoppage of pay. After suspension formal inquiry was conducted and appellants were charge sheeted. They submitted reply and major punishment of dismissal from service was awarded to the appellants on 08.04.2021. Feeling aggrieved, they filed departmental appeal but no decision was conveyed to the appellants, hence, the present service appeal.


3. We have heard Shah Faisal Ilyas Advocate, learned counsel for the appellant and Asad Ali; learned Assistant Advocate General for respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Shah Faisal Ilyas Advocate, learned counsel for the appellant argued inter-alia that the appellants were not directly charged in case FIR No.163 rather they were implicated after four days of the alleged occurrence. That they were charged on 14.09.2020 while they were arrested three days before nomination in the FIR which shows malafide. He submitted that no proper procedure was adopted before passing the impugned order as no opportunity of personal hearing was afforded to the appellants and that the impugned action of the respondents was also repugnant to the Constitution of Islamic Republic of Pakistan, 1973 as appellants were discriminated by the respondents and were deprived of their lawful rights. He, therefore, requested for acceptance of the instant service appeals.



ATTESTED

5. Conversely, AAG argued that appellants while posted at PS Bara involved in case FIR No.163 dated 10.09.2020 and that being members

  
 EXAMINER  
 Khyber Pakhtunkhwa  
 Service Tribunal  
 Peshawar

on bail. Both the appellants faced trial in Anti-Terrorism Court-II Peshawar alongwith accused Shaukat and Irfan and vide judgment dated 14<sup>th</sup> March, 2022 all the four accused i.e. Mohib Ullah, Shah Wali (the present appellants) Shaukat and Irfan were acquitted of the charges leveled against them. It has been held by the superior fora that all acquittals are certainly honorable. There can be no acquittal which may be said to be dishonorable. Nomination/Involvement of the appellants in criminal case was the sole ground on which they had been dismissed from service and the said ground had subsequently disappeared through their acquittal, making them re-emerge as a fit and proper persons entitled to continue their service. It is established from the record that charges of their involvement in criminal case ultimately culminated in honorable acquittal of the appellants by the competent court of Law. In this respect we have sought guidance from 1988 PLC (CS) 179, 2003 SCMR 215 and PLD 2010 Supreme Court, 695.

7. For the above mentioned facts and circumstances, these appeals are accepted and impugned order dated 08.04.2021 is set aside. Appellants are reinstated into service from the date of their dismissal from service i.e. 08.04.2021 with all back and consequential benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
03.04.2023

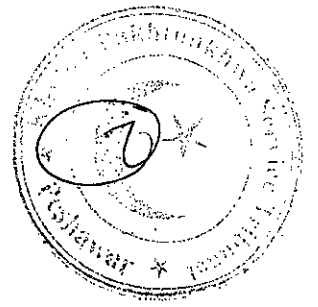
(Muhammad Akbar Khan)  
Member (E)

(Rozina Rehman)  
Member (J)

Service Tribunal  
Peshawar

Date of Presentation of Application 17-4-23  
Number of Pages Page 4  
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Copy 5/-  
Total 25/-  
Date submitted at 17-4-23  
17-4-23

**ORDER**  
03.04.2023

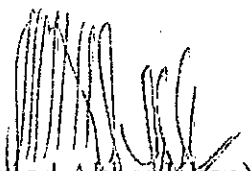


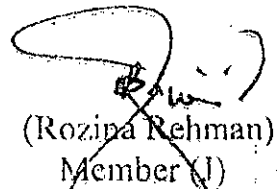
Appellant present through counsel.

Asad Ali, learned Assistant Advocate General for respondents present.

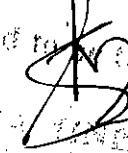
Vide our common detailed judgment of today of this Tribunal placed on file of connected Service Appeal No.7469/2021 titled "Mohib Ullah Khan Vs. Government of Khyber Pakhtunkhwa, instant appeal is accepted and impugned order dated 08.04.2021 is set aside. Appellant is reinstated into service from the date of his dismissal from service i.e. 08.04.2021 with all back and consequential benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.  
03.04.2023

  
(Muhammad Akbar Khan)  
Member (E)

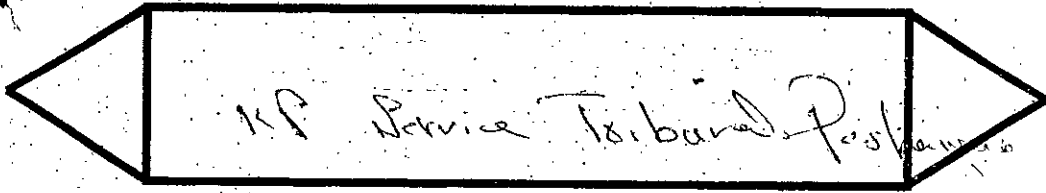
  
(Rozina Rehman)  
Member (J)

Date of Presentation of Application 17-4-23  
Number of Pages Page 2  
Copying Fee 10/-  
Urgent 15/-  
Total 25/-  
Name of \_\_\_\_\_  
Date of Completion of Copy 17-4-23  
Date of Delivery of Copy 17-4-23

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Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar



# بعدالت



مورخہ  
مقدمہ  
دعویٰ  
جرم

سہ 2 منجانب  
محمد انور بنام  
پولیس

## باعث تحریر آنکہ

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

آن مقام رشوانہ کیلئے عوامی مدرسہ اور وکیل

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 ارضی 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 پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ ہوں گے

سبب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔

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

المرقوم 8 ماہ 20

العبد دگ واہ العبد