

## Form- A

## FORM OF ORDER SHEET

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

Implementation Petition No: 297 /2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	12.05.2023	<p>The execution petition of Mr. Fayyaz Badshah submitted today by Mr. Attiq ur Rehman 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 <i>Amy</i> For REGISTRAR</p>

# KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR

## CHECK LIST

*فیاض علی*  
..... Appellant

Versus

*SGP etc*  
..... Respondents

S NO	CONTENTS	YES	NO
1.	This petition has been presented by: <u>Advocate</u> <u>Court</u>	√	
2.	Whether Counsel/Appellant/Respondent/Deponent have signed the requisite documents?	√	
3.	Whether appeal is within time?	√	
4.	Whether the enactment under which the appeal is filed mentioned?	√	
5.	Whether the enactment under which the appeal is filed is correct?	√	
6.	Whether affidavit is appended?	√	
7.	Whether affidavit is duly attested by competent Oath Commissioner?	√	
8.	Whether appeal/annexures are properly paged?	√	
9.	Whether certificate regarding filing any earlier appeal on the subject, furnished?	√	
10.	Whether annexures are legible?	√	
11.	Whether annexures are attested?		
12.	Whether copies of annexures are readable/clear?	√	
13.	Whether copy of appeal is delivered to AG/DAG?	√	
14.	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	√	
15.	Whether numbers of referred cases given are correct?	√	
16.	Whether appeal contains cutting/overwriting?	x	
17.	Whether list of books has been provided at the end of the appeal?	√	
18.	Whether case relate to this court?	√	
19.	Whether requisite number of spare copies attached?	√	
20.	Whether complete spare copy is filed in separate file cover?	√	
21.	Whether addresses of parties given are complete?	√	
22.	Whether index filed?	√	
23.	Whether index is correct?	√	
24.	Whether Security and Process Fee deposited? On _____		
25.	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On _____	√	
26.	Whether copies of comments/reply/rejoinder submitted? On _____		
27.	Whether copies of comments/reply/rejoinder provided to opposite party? On _____		

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name:- *Atiq-ur-Rehman*

Signature:- *A ur R*

Dated:- *12/5/23*

**BEFORE THE LEARNED SERVICE TRIBUNAL KHYBER**  
**PAKHTUNKHWA PESHAWAR**

*Execution Petition No. 297/2023*

CM No. \_\_\_\_\_/2023

In the matter of

Service Appeal No. 5365/2020

Decided on 02.03.2023

Fayyaz Badshah Ex-Inspector Kohat Police

..... **Applicant / Appellant**

**VERSUS**

1. Inspector General of KPK Police Peshawar,
2. Deputy Inspector General of Police Kohat Region Kohat.
3. District Police Officer Kohat.

..... **Respondents**

**I N D E X**

<b>S.No</b>	<b>Description of Documents</b>	<b>Annex</b>	<b>Pages</b>
1.	Application for implementation		1-3
2.	Affidavit		4
3.	<b>Copy of the Judgment and Order dated 02.03.2023</b>	A	5-10
4.	<b>Wakalat Nama</b>		11

*[Signature]*  
**Appellant / Applicant**

**Through**

**Dated: 12.05.2023**

*[Signature]*  
**ATTIQ UR REHMAN**  
**Advocate, High Court**  
**Peshawar**

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**BEFORE THE LEARNED SERVICE TRIBUNAL KHYBER**

**PAKHTUNKHWA PESHAWAR**

*Execution Petition no. 297/2023*

CM No. \_\_\_\_\_/2023

In the matter of

Service Appeal No. 5365/2020

Decided on 02.03.2023

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 5300

Dated 12/5/2023

Fayyaz Badshah Ex-Inspector Kohat Police

..... **Applicant / Appellant**

**VERSUS**

1. Inspector General of KPK Police Peshawar.
2. Deputy Inspector General of Police Kohat Region Kohat.
3. District Police Officer Kohat.

..... **Respondents**

**APPLICATION FOR THE IMPLEMENTATION OF  
THE JUDGMENT AND ORDER DATED  
02.03.2023 IN THE CAPTIONED SERVICE  
APPEAL OF THIS HON'BLE TRIBUNAL.**

Respectfully Sheweth:

1. That the above noted Service Appeal was pending adjudication before this Hon'ble Tribunal and was decided vide Judgment and order dated 02.03.2023.
2. That vide judgment and order dated 02.03.2023 this Hon'ble Tribunal allowed the appeal and set aside the impugned Orders dated 10.02.2020 and 17.02.2020 and the Appellant was ordered to be reinstated in service with all back benefits. **(Copy of the Judgment and Order dated 02.03.2023 is attached as Annexure A)**
3. That the Judgment and Order of this Hon'ble tribunal was duly communicated to the Respondents by the Petitioner vide various Applications for implementation. Thereafter the Petitioner is continuously approaching the Respondents for the implementation of the Judgment and Order dated 02.03.2023, however they are reluctant to implement the same.
4. That the Respondents are legally bound to implement the judgment of this Hon'ble Tribunal dated 02.03.2023 in its true letter and spirit without any further delay, which has already been delayed due to the malafide intention of the Respondents.
5. That the valuable rights of the Petitioner are involved in the instant case and the Respondents are violating

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the legal and fundamental rights of the Petitioner by not reinstating the Petitioner into his service with all back benefits.

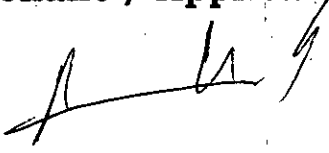
6. That other grounds will be raised at the time of arguments with prior permission of this Hon'ble Tribunal.

**On acceptance of this Application, the Order and Judgment dated 02.03.2023 of this Hon'ble Tribunal may Kindly be implemented in its true letter and spirit. And the Respondents may graciously be directed to reinstated the Petitioner on his respective post/position with all back benefits.**

  
Appellant / Applicant

Through

Dated: 12.05.2023

  
**ATTIQ UR REHMAN  
Advocate, High Court  
Peshawar**

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**BEFORE THE LEARNED SERVICE TRIBUNAL KHYBER**  
**PAKHTUNKHWA PESHAWAR**

CM No. \_\_\_\_\_/2023

In the matter of

Service Appeal No. 5365/2020

Decided on 02.03.2023

Fayyaz Badshah Ex-Inspector Kohat Police

..... **Applicant / Appellant**

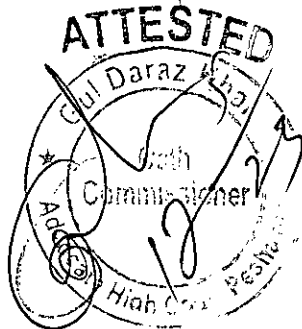
**VERSUS**

1. Inspector General of KPK Police Peshawar.
2. Deputy Inspector General of Police Kohat Region Kohat.
3. District Police Officer Kohat.

..... **Respondents**

**AFFIDAVIT**

I, Fayyaz Badshah Ex-Inspector Kohat Police, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.



*Fayyaz*  
**DEPONENT**

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**BEFORE THE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL PESHAWAR.**



Fayyaz Bad Shah Ex- Inspector Kohat Police

(Appellant)  
Khyber Pakhtoon Khwa  
Service Tribunal

**VERSUS**

Diary No. 4659

Dated 04/6/2020

1. INSPECTOR GENERAL OF KPK POLICE PESHAWAR.
2. DEPUTY INSPECTOR GENERAL OF POLICE KOHAT REGION KOHAT
3. DISTRICT POLICE OFFICER KOHAT.

(Respondent)

**APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ORDER DATED 10.02.2020 VIDE OB-NO 90 IN WHICH THE RESPONDENT NO:-3 WITHOUT THE AID OF ENQUIRY DIRECTLY AWARD THE MAJOR PUNISHMENT OF DISMISSAL FROM SERVICE WITH IMMEDIATE EFFECT THE APPELLANT PREFERRED DEPARTMENTAL REPRESENTATION DATED 17.02.2020 BUT THE SAME WAS NOT CONSIDERED NOR REJECTED TILL DATE**

Respectfully Sheweth,

With great veneration the instant appeal is preferred by the appellant on the following grounds:-

**Facts:**

1.-Briefly facts as per impugned order is that on 05.01.2019 an incident and assault on police was taken place in the jurisdiction of Sub Division Darra and you along with other 10/20 officials duly armed was present at the distance of 150/200 meters from the place of incident but you deliberately did not respond/ rescue the police.

2. That in consultation with other stakeholders police has made nakabandies outlests of Darra i.e. mattani highway and Gulshan Abad check posts in order to apprehend the suspects/culprits and their vehicles, particularly coal trucks.

3. That he has facilitated about 70/75 vehicles to proceed on un-frequented routes and took Rs 3000/- per vehicles as illegal qualification from them.

4. The reportedly, he has getting illegal gratification from officials deployed at Eagle Fort and grant them illegal leave.

5. That he was ill-reputed caused embarrassment for the entire department and reportedly involve in anti merger activities (Copy of impugned order annexed as annexure A)

6. That appellant was served with the charge sheet along with statement of allegation and the appellant had properly submitted his reply which was deliberately not consider nor discussed in impugned order and an ex-partly

FILED TO DAY

ATTENDED  
Khyber Pakhtoon Khwa  
Service Tribunal  
Peshawar



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**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR.**

Service Appeal No. 5365/2020  
Date of Institution ... 04.06.2020  
Date of Decision... 02.03.2023



Fayyaz Badshah Ex-Inspector Kohat Police.  
... (Appellant)

**VERSUS**

Inspector General of Khyber Pakhtunkhwa Police Peshawar and 02 others.  
... (Respondents)

MR. ATIQ-UR-REHMAN,  
Advocate --- For appellant.

MR. MUHAMMAD RIAZ KHAN PAINDAKHEL,  
Assistant Advocate General --- For respondents.

MR. SALAH-UD-DIN --- MEMBER (JUDICIAL)  
MS. FAREEHA PAUL --- MEMBER (EXECUTIVE)

**JUDGMENT:**

SALAH-UD-DIN, MEMBER:- Precise facts surrounding the instant service appeal are that the appellant was proceeded against departmentally on the allegations re-produced as below:-

i. That on 05.01.2019, an incident of assault on Police was taken place in the jurisdiction of Sub Division Darra and you alongwith other, 10/12 officials duly armed was present at the distance of 150/200 meters from place of incident, but you deliberately did not respond/rescue the Police.

ii. That in consultation with other stakeholders, Police has made nakabandis outlets of Darra i.e mattani, highway and Gulshan Abad checkpoints in

ATTESTED  
  
MEMBER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

order to apprehend the suspects/culprits and their vehicles, particularly coal trucks.

iii. That you have facilitated about 70/75 vehicles to proceed on un-frequented routes and took Rs. 300/- per vehicles as illegal gratification from them.

iv. That reportedly, you are getting illegal gratification from officials deployed at Eagle Fort and grant them illegal leave.

v. That you are ill-reputed caused embarrassment for the entire department and reportedly involve in anti-merger activities."

2. On conclusion of the inquiry, the appellant was awarded major penalty of dismissal from service by Commandant Darra Sub-Division/ District Police Officer Kohat vide order bearing O.B No. 90 dated 10.02.2020. The same was challenged by the appellant through filing of departmental appeal before DIG Kohat Region Kohat, which remained un-responded within the statutory period of 90 days, therefore, the appellant filed the instant service appeal on 04.06.2020. It was during the pendency of the instant service appeal that the departmental appeal of the appellant was decided vide order dated 25.06.2020 and his revision petition was then also rejected vide order dated 04.03.2021 issued from the office of Inspector General of Police Khyber Pakhtunkhwa Peshawar.

3. After admission of the appeal for regular hearing, notices were issued to the respondents, who contested the appeal by way

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EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal

of filing of joint reply, wherein they refuted the assertion raised by the appellant in his appeal.

4. Learned counsel for the appellant has addressed his arguments supporting the grounds agitated by the appellant in his service appeal. On the other hand, learned Assistant Advocate General for the respondents has controverted the arguments of learned counsel for the appellant and has supported the comments submitted by the respondents.

5. Arguments have already been heard and record perused.

6. The appellant was proceeded against departmentally by issuing him charge sheet as well as statement of allegations on 08.01.2020 and ASP Saddar Kohat was appointed as Inquiry Officer in the matter. We have gone through the inquiry report submitted by the inquiry officer, wherein it is mentioned that the testimony of the SHO, Driver, Subedar etc amply prove that the accused Fayaz Badshah displayed cowardice and did not respond to the call of duty. The respondents have, however not annexed statement of any of the witnesses recorded during the inquiry proceedings. On our query, representative of the respondents categorically stated that no other statement except the documents annexed as page-16 to page 20 with the reply of the respondents are available in record of the respondents. We have gone through the afore-mentioned documents and have observed that the documents as page 17 to 20 are undated applications of Naib Subedar Khan Aslam, addressed to various officers regarding an

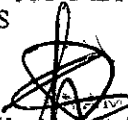
ATTESTED

Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

amount of Rs. 14300/-, which was spent by him on arrangement of vehicles and Generator for election duty and was not paid to him by the appellant. Similarly, on page-16 of the reply is an application submitted by Subedar Ilyas to the District Police Officer regarding the incident, which took place on 05.01.2020. The said application was submitted on 13.01.2020, while the charge sheet was received by the appellant on 14.01.2020. Even if the afore-mentioned application of the appellant is considered as statement of Subedar Ilyas, no opportunity was afforded to the appellant to cross-examine him, therefore, the same could not be considered as evidence against the appellant. The allegations against the appellant are though grave in nature, however the same have not been substantiated through recording of any cogent evidence during the inquiry proceedings against the appellant.

7. Moreover, the available record does not show that final show-cause notice was issued to the appellant and he was provided copy of the inquiry report. This Tribunal has already held in numerous judgments that issuance of final show-cause notice along with the inquiry report is must under Police Rules, 1975. Reliance is also placed on the judgment delivered by august Supreme Court of Pakistan reported as PLD 1981 SC-176, wherein it has been held that rules devoid of provision of final show cause notice along with inquiry report were not valid rules. Non issuance of final show cause notice and non-supply of copy of the findings of the inquiry officer to the appellant has

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 Khyber Pakhtunkhwa  
 Service Tribunal

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caused miscarriage of justice as in such a situation, the appellant was not in a position to properly defend himself in respect of the allegations leveled against him.

8. In view of the above discussion, the appeal in hand is accepted by setting-aside the impugned orders and the appellant is reinstated in service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
02.03.2023

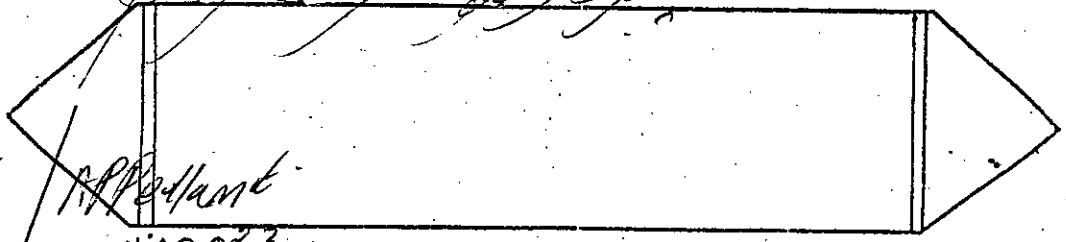
(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

(FARZEHA PAUL)  
MEMBER (EXECUTIVE)

~~Certificate to be filled copy~~  
~~SECRET~~  
~~Member, Administrative~~  
~~Service Tribunal,~~  
~~Peshawar~~

Date of Presentation of Application: 03/05/23  
Number of Pages: 5  
Copying Fee: 25/-  
Urgent: 5/-  
Total: 30/-  
Name: \_\_\_\_\_  
Date of Completion of work: 03/5/23  
Date of Delivery of Copy: 03/5/23

# بعدالت حیدرآباد میں درخواست گزار کے ساتھ



Applicant / Applicant  
2023ء پنجاب

4999 وغیرہ

صاحب نام، صاحب نام

موزخہ  
مقدمہ  
دعویٰ  
جرم

## باعث تحریر آئیکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی و کل کارروائی متعلقہ  
 آن مقام کشیور کیلئے عینی اہل حق و مکروہ  
 مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز  
 وکیل صاحب کو راضی نامہ کرنے و تقرر ثالتہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور  
 بصورت ڈگری کرنے اجراء اور صولی چیک رو پیسہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق  
 زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا ایمل کی برادگی اور منسوخ  
 نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور  
 کے کل یا جزوی کارروائی 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 مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ  
 پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جانہ التوائے 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  
 مذکور کریں۔ لہذا وکالت نامہ لکھد یا کہ سندر ہے۔

Accept

المرقوم \_\_\_\_\_ ماہ \_\_\_\_\_ 2023ء

العبد \_\_\_\_\_ واہ العبد

بمقام مسٹر رٹتیو کے لئے منظور ہے۔  
 BC# 12-3560  
 Mob# 03349124534  
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14301-2083945-3