


Form- A
FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 336/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
-1	2	
1	25.05.2023	<p>The execution petition of Mr. Abdul Hameed submitted today by Mr. Imtiaz Ali Khan Maiwat Advocate. It is fixed for implementation report before touring Single Bench at D.I.Khan on _____.</p> <p>Original file be requisitioned. AAG has noted the next date.</p> <p>By the order of Chairman  REGISTRAR</p>

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR, CAMP AT D.I.KHAN.**

Implementation/Execution Petition No...³³⁶... of 2023.
In Judgment dated 21/03/2023 in Service appeal No. 536/2022.

Abdul HameedPetitioner/Appellant
VERSUS
Inspector General of Police etcRespondents

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Your Humble Petitioner

Abdul Hameed
Abdul Hameed
Through Counsel

Dated: 24/05/2023

Imtiaz Ali Khan Marwat
Imtiaz Ali Khan Marwat
Advocate District Bar, DIKhan,
Cell#0346-7847274.

|

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR, CAMP AT D.I.KHAN.**

Implementation/Execution Petition No. 336... of 2023.
In Judgment dated 21/03/2023 in Service appeal No. 536/2022.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 5614

Dated 25/5/2023

Abdul Hameed son of Abdul Majeed Resident of Thal,
Tehsil Paharpur District Dera Ismail Khan, Ex-
Constable No. 1373, DIKhan.

.....**Petitioner**

VERSUS

1. Inspector General of Police, Khyber Pakhtunkhwa,
Peshawar.
2. Regional Police Officer, DIKhan.
3. District Police Officer, Dera Ismail Khan.

.....**Respondents**

**IMPLEMENTATION PETITION/EXECUTION
PETITION OF JUDGMENT DATED
21/03/2023 IN SERVICE APPEAL NO.
536/2022 WHEREBY THE HONOURABLE
SERVICE TRIBUNAL SET-ASIDE THE
PUNISHMENT OF DISMISSAL AWARDED TO
PETITIONER / APPELLANT AND DIRECTED
RESPONDENTS TO REINSTATE APPELLANT
/ PETITIONER FROM THE DATE OF
DISMISSAL ALONG WITH ALL
CONSEQUENTIAL BENEFITS AND THE
INACTION ON THE PART OF RESPONDENTS
TO COMPLY THE JUDGMENT.**

Respectfully Sheweth:-

Brief facts of the case are:

1. That the present petitioner lodged a service appeal No. 536/222 against impugned order No. 878 dated 18/05/2021 whereby present petitioner / appellant was dismissed from service.
2. That the Honourable Service Tribunal accepted the service appeal vide judgment dated 21/03/2023, set aside the impugned order of dismissal from service and directed to reinstate the petitioner / appellant from date of dismissal with all benefits / consequential benefits. Copy of service appeal is enclosed as **Annexure "A"** and judgment dated 21/03/2023 is enclosed as **Annexure "B"**.
3. That the petitioner / appellant submitted an application along with copy of judgment for implementation / compliance, but the respondents are reluctant to obey the directions so far. Copy of application is enclosed as **Annexure "C"**.
4. That the petitioner has no other remedy, but to file the instant implementation petition.

5. That counsel for the petitioner / appellant may kindly be allowed to raise additional grounds during the course of arguments.

In view of the above, it is, therefore, most respectfully prayed that on acceptance this petition, the judgment dated 21/03/2023 in Service Appeal No. 536/2022 may kindly be got implemented to ensure the justice.

Your Humble Petitioner

Named
Abdul Hameed

Through Counsel

Dated; 24/05/2023

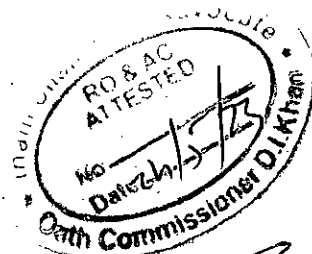
Int 2
Imtiaz Ali Khan Marwat

Advocate District Bar, DIKhan,

Cell#0346-7847274.

AFFIDAVIT:-

I, **Abdul Hameed** son of Abdul Majeed Resident of Thal, Tehsil Paharpur District Dera Ismail Khan, Ex-Constable No. 1373, DIKhan, the petitioner, do hereby solemnly affirm and declare on OATH that the contents of the same are true and correct to the best of my knowledge and belief and that nothing has been concealed from this honorable court.



Named
Deponent

[Signature]

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

Service Appeal No. 536/2022

Annexure 'A'

Abdul Hameed s/o Abdul Majeed
r/o Thafal, Tensil Paharpur, District DIKhan
Versus

...(Appellant)

1. Inspector General of Police, Khyber Pakhtunkhwa Peshawar.
2. Regional Police Officer, Dera Ismail Khan.
3. District Police Officer, Dera Ismail Khan.

...(Respondents)

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6.	Copy of Charge Sheet & Summary of Allegation	C	9-10
7.	Copy of Punishment order No. 878, date 18.05.21	D	11
8.	Copy of departmental appeal	E	12
9.	Copy of RPO DIKhan order 5241/ES, dated 06.02.21 rejecting departmental appeal.	F	13-14
10.	Wakalat Nama	-	15

*Attested
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Your Humble Appellant

Abdul Hameed
Abdul Hameed
Through Counsel

Dated: / /2022

Imtiaz Ali Khan
Imtiaz Ali Khan Advocate

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

Service Appeal No. 536/2022

Abdul Hameed s/o Abdul Majeed
r/o Thafal, Tehsil Paharpur, District DIKhan

...(Appellant)

Versus

1. Inspector Gneral of Police, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Dera Ismail Khan.
3. District Police Officer, Dera Ismail Khan.(Respondents)

APPEAL U/S 4 OF THE KP SERVICE TRIBUNAL ACT 1974
AGAINST THE IMPUGNED ORDER NO. 878, DATED 18.05.21
OF DPO DIKHAN WHEREBY APPELLANT WAS DISMISSED
FROM SERVICE AND AGAINST IMPUGNED ORDER NO. 5241,
DATED 06.12.21 WHEREBY THE DEPARTMENTAL APPEAL OF
APPELLANT WAS REJECTED FOR NO GC OD GROUNDS

Respectfully Sheweth:

1. That the appellant is naturally bonafide citizen of Islamic Republic of Pakistan and hails from respectable family of DIKhan.
2. That the appellant was appointed as Constable in Police Department on 27.07.2007 and performed his duties with full zeal and devotion to the satisfaction of his officers.
3. That appellant was posted at Check-post Tariq Shaheed of PS Saddar a Truck carrying allegedly Non-Custom Paid items was intercepted at Chehkan by SHO PS Saddar and case F R No. 164, dated 03.04.2021 u/s 419/420/468/471/162 PPC was registered, Copy of FIR is Annexure "A".

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Checked by SHO PS Saddar and case FIR No. 164, dated 03.04.2021 u/s 419, 420/468/471/162 PPC was registered, Copy of FIR is Annexure "A".

4. That appellant remained in quarter guard of Police Lines, DIKhan for 10 days and was released on 12.04.2021 vide DD No. 55, dated 12.04.2021, Copy of which is Annexure "B".
5. That in the meanwhile a charge sheet alongwith summary of allegation was issued vide No. 1599-1600/EC, dated 03.04.2021 charging appellant with the allegation that checking of call phone of smuggler/accused Jamal Wazir has revealed that he was in communication with appellant to pass the Truck loaded with NCP items through CP Tariq Shaheed unchecked. And that appellant was transferred to PS Kirri Khaisore vide OB No. 676, dated 02.04.2021 but failed to obey the orders deliberately. Copy of charge sheet is Annexure "C".
6. That appellant submitted detail reply denying the allegations.
7. That after so-called enquiry, Respondent No.3 DPO DIKhan awarded punishment of dismissal from service to appellant. Copy is Annexure "D".
8. That appellant lodged departmental appeal to RPO DIKhan who ordered denovo enquiry vide order No. 3200/ES, dated 28.07.2021. Copy of appeal is Annexure "E".
9. That EPO DIKhan submitted denovo enquiry finding report to RPO DIKhan for perusal and orders.
10. That RPO DIKhan vide order bearing No. 5241, dated 06.12.2021 rejected the departmental appeal of appellant through Stereotype order, which was received to appellant on 22.12.2021. Copy is Annexure "F".
11. That feeling aggrieved appellant lodged a Revision Petition to the IGP KP, Peshawar Respondent No.1 for setting aside impugned dismissal order and appellate order but no action yet taken within the prescribed period.
12. That appellant has no other adequate remedy except to file the instant Service Appeal in this Honourable Tribunal on the following grounds, inter alia.

Submitted
for

FOUND:

That impugned dismissal order dated 17.05.2021 and departmental appeal order dated 06.12.2021 are against the law, facts, norms of justice and material on record, therefore, not tenable and liable to be set-aside.

- b. That the impugned dismissal order is unwarranted, illogical and against the rules, therefore not tenable in the eye of law.
- c. That the appellant has been condemned unheard and as such the impugned order are heaving no legal sanctity, therefore, liable to be set-aside.
- d. That the Enquiry Officer conducted enquiry in slipshod manner and failed to appreciate as to how it was made possible to smuggle the rice from Afghanistan passing the Truck through Check-posts of Army +Police of South Waziristan Tribal District and District Tank unchecked. The enquiry report is silent.
- e. That the enquiry officer also failed to appreciate the order dated 15.04.2021 passed by Addl. Session Judge DIKhan for return of case-property to accused, which negate the element of smuggling.
- f. That the appellant has been punished on basis of hearsay evidence. There is not an iota of proof during enquiry about the so-called smuggler. That a Truck of so-called NCP items has not reached to the CP Tariq Shaheed and was intercepted at Chhkan.
- g. That when the case-property rice is not established as NCP, the allegations of links with smugglers is void ab-initio.
- h. That the 2nd allegations of not obeying the transfer order is also after-thought.
- i. That Respondent No.3, DPO DIKhan failed to pass any order upon denovo enquiry, hence whole proceedings are null and void.
- j. That no proper procedure has been adopted during departmental proceedings, hence on this sole ground denovo enquiry may be declared illegal and ineffective over the rights of appellant.

*Attested
[Signature]*

That it is a cherished principle of law that where a law requires a thing to be done in a particular manner, the same is to be done in that manner and not otherwise.

- l. That appellant has 15 years service and that too unblemished, therefore the impugned punishment is too harsh.
- m. That from every angle the appellant is liable to be reinstated into service with all back benefits.
- n. That any ground no raised here may graciously be allowed at the time of arguments.

PRAYERS

It is, therefore, humbly prayed that acceptance of instant service appeal, the impugned order No. 878, dated 18.05.2021 of office of DPO DIKhan and impugned order No. 5241, dated 06.12.2021 of the office of RPO DIKhan whereby appellant has been dismissed from service may graciously be set-aside and appellant may very graciously be reinstated into service with all back benefits.

Dated:

Your Humble Appellant

Plameed

Abdul Hameed
Through- Counsel

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Imtiaz

Imtiaz Ali Khan Advocate

Note -

No such like appeal for the same appellant upon the same subject matter has earlier been filed by me, prior to the instant one, before this Honourable Tribunal.

Imtiaz
Advocate

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BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, CAMP COURT DERA ISMAIL KHAN.
Service Appeal No. _____/2022

Abdul Hameed (Appellant)

VERSUS

Inspector General of Police KPK etc ..(Respondents)

AFFIDAVIT

I, **Abdul Hameed** son of Abdul Majeed R/o Thathal Tehsil Paharpur District Dera Ismail Khan, the appellant, do hereby solemnly affirm declared on oath that contents of the above **Appeal** are true and correct to the best of my knowledge and nothing has been concealed from this Honourable Tribunal.

Abdul Hameed

DEPONENT

31/3/22
[Signature]

Abdul Hameed
[Signature]

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**BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, CAMP COURT DERA ISMAIL KHAN.**

CM No. _____ of 2022

In Service Appeal No. _____/2022

Abdul Hameed(Appellant)

VERSUS

Inspector General of Police KPK etc. (Respondents)

**APPLICATION U/S-5 OF LIMITATION ACT FOR
CONDONATION OF DELAY.**

Respectfully Sheweth:-

- 1- That the above titled Service appeal is being filed before this Honourable Tribunal and the contents of service appeal may kindly be considered as part of main appeal.
- 2- That the appellant remained ill due to which the impugned orders were not communicated to the appellant well in time. Hence, the appellant appeal is well within time.
- 3- That there is no delay in filing the above mentioned appeal before the Honourable Tribunal as the appellant filed departmental appeal well within time, but result / order was communicated after considerable delay.
- 4- That valuable rights of the appellant are involved in the main appeal. Hence the appeal of the appellant may graciously be disposed on merits, rather than on technicalities.

It is, therefore, humbly prayed that on acceptance of the above mentioned application, the delay of appeal may kindly be condoned in the light of above submissions.

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Your Humble Appellant

Abdul Hameed
Abdu Hameed

Through Counsel

Imtiaz Ali Khan
IMTIAZ ALI KHAN

Advocate, Dera Ismail Khan.

Dated: 03/03/2022

AFFIDAVIT:-

I, **Abdul Hameed** son of Abdul Majeed R/o Thathal Tehsil Paharpur District Dera Ismail Khan, the appellant, do hereby solemnly affirm declared on oath that contents of the above **application** are true and correct to the best of my knowledge and nothing has been concealed from this Honourable Tribunal.

Abdul Hameed
DEPONENT

Service Appeals No. 509/2022 titled "Amanullah vs Inspector General of Police & others" and No. 536/2022 titled "Abdul Hameed versus Inspector General of Police and others", decided on 21.03.2023 by Division Bench comprising Kalim Arshad Khan, Chairman, and Salah Ud Din, Member, Judicial, Khyber Pakhtunkhwa Service Tribunal, Camp Court Dera Ismail Khan.



**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
CAMP COURT DERA ISMAIL KHAN.**

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**
SALAH UD DIN ... MEMBER (Judicial)

Service Appeal No. 509/2022

Date of presentation of appeal.....01.04.2022
Dates of Hearing.....21.03.2023
Date of Decision.....21.03.2023

Amanullah son of Jamal Din caste Marwat resident of Moazam, Tehsil
& District Dera Ismail Khan, Ex-Head Constable No.1017, D.I.Khan.
.....Appellant

Versus

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Dera Ismail Khan.
3. District Police Officer, Dera Ismail Khan

.....(Respondents)

Present:

Mr. Imtiaz Ali Khan,
Advocate.....For the appellant.

Mr. Muhammad Jan,
District Attorney.....For the respondents

Service Appeal No. 536/2022

Date of presentation of appeal.....01.04.2022
Dates of Hearing.....21.03.2023
Date of Decision.....21.03.2023

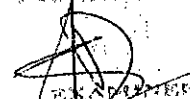
Abdul Hameed son of Abdul Majeed resident of Thafal, Tehsil
Paharpur District Dera Ismail Khan.
.....Appellant

Versus

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Dera Ismail Khan.
3. District Police Officer, Dera Ismail Khan.

.....(Respondents)

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Registrar
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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Present:

Mr. Imtiaz Ali Khan, Advocate.....For the appellant.

Mr. Muhammad Jan,
District AttorneyFor the respondent.

APPEALS UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST

1. THE IMPUGNED ORDERS DATED 17.05.2021, AND 18.05.2021 WHEREBY THE APPELLANTS WERE DISMISSED FROM SERVICE
2. ORDERS NO.5243 & 5241 BOTH DATED 06.12.2021 WHEREBY THE DEPARTMENTAL APPEALS OF THE APPELLANTS WERE REJECTED AND
3. ORDER DATED 02.06.2022 WHEREBY THE REVISION PETITION FILED BY THE APPELLANT AMANULLAH WAS ALLOWED AND HE WAS REINSTATED IN SERVICE WHILE PUNISHMENT OF DISMISSAL OF SERVICE WAS CONVERTED INTO FORFEITURE OF TWO YEARS APPROVED SERVICE AND THE INTERVENING PERIOD WAS TREATED AS LEAVE WITHOUT PAY

CONSOLIDATED JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Through this single judgment this and connected appeal No.536/2022 titled "Abdul Hameed versus Inspector General of Police and others" are going to be decided as both are regarding almost the same facts with slight difference that the revision petition of the appellant of connected appeal had not yet allegedly been decided while that the of the appellant of this appeal has been allowed, therefore, both the appeals can be conveniently decided together,

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

2. According to the appeal of Amanullah, he was performing the duties of Head Constable at the Fathala Check post of Police Station Kulachi

Attested
Jan

Service Appeal No. 509/2022 titled "Amrullah vs Inspector General of Police & others" and No. 536/2022 titled "Abdul Hameed versus Inspector General of Police and others", decided on 21.03.2023 by Division Bench comprising Kalim Arshad Khan, Chairman, and Salah Ud Din, Member, Judicial, Khyber Pakhtunkhwa Service Tribunal, Camp Court Dera Ismail Khan.

District Dera Ismail Khan, when a truck was intercepted at Chehkan by the Station House Officer (SHO) Police Station Saddar and an FIR No.164 dated 03.04.2021 under sections 419/420/468/471/162 of the Pakistan Penal Code against the truck driver and a smuggler; that the appellant remained in quarter guard for 10 days and was released on 12.04.2021 vide DD No.55; that in the meanwhile charge sheet along with summary of allegations was issued vide No.1593-94 dated 02.04.2021 on two allegations first that the appellant allowed a truck carrying Non-Customs Paid (NCP) rice 87½ bags and second that the appellant was transferred from chock post Hathala to Police Station Paharpur on 02.04.2021 but he did not proceed to the new place of posting; that the appellant submitted reply to the charge sheet that the truck was not carrying NCP rice as the local police failed to hand over the truck to Customs Authorities and the court of learned Additional Sessions Judge had also released to the owner vide order dated 15.04.2021 which was handed over vide DD No.19 dated 15.04.2021 (Annexure-B); that the enquiry officer submitted report recommending reduction in rank to the appellant; that the District Police Officer D.I.Khan did not agree to the report of the enquiry officer and awarded punishment of dismissal to the appellant; that the appellant filed departmental appeal to respondent No.2, who ordered de novo enquiry vide order No.3199/ES dated 28.07.2021; that after the de novo enquiry, the Regional Police Officer D.I.Khan rejected the appeal vide order No.5243 dated 06.12.2021; that the appellant lodged a revision petition to the Inspector General of Police/respondent No.1 for setting aside the impugned dismissal and appellate orders but till filing of the

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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Service Appeals No. 309/2022 titled "Amnulloh vs Inspector General of Police & others" and No. 536/2022 titled "Abdul Hameed versus Inspector General of Police and others", decided on 21.03.2023 by Division Bench comprising Kalim Ashad Khan, Chairman, and Salah Ud Din, Member, Judicial, Khyber Pakhtunkhwa Service Tribunal, Camp Court Dera Ismail Khan.

appeal that was not decided, which was, however, received during the pendency of the appeal and the appellant filed an application for filing amended memorandum and grounds of appeal, which is allowed today and instead of filing amended appeal, the order passed in revision petition was directed to be considered as part of the appeal as the appellant is also challenging the same.

3. The facts of the connected appeal No.536/2022 are that he was posted as Constable at Police Check Post Tariq Shaheed of Police Station Sadda, where a truck, allegedly carrying non-customs paid items, was intercepted at Chahkan by the SHO PS Saddar and FIR No.164 dated 03.04.2021 under sections 419/420/468/471/162 of the Pakistan Penal Code was registered; that the appellant remained in quarter guard for ten days and was released on 12.04.2021 vide DD No.55; that in the meanwhile a charge sheet along with summary of allegations was issued vide No.1599-1600/EC dated 03.04.2021 charging the appellant with the allegation that checking the call phone of smuggler/accused Jamal Wazir had revealed that he was in communication with appellant to pass truck loaded with NCP items through CP Tariq Shaheed unchecked; that the appellant was transferred to Police Station Kirri Khaisore vide OB No.676 dated 02.04.2021 but he failed to obey the orders deliberately; that the appellant submitted reply; that after an enquiry, the District Police Officer, D.I.Khan, awarded punishment of dismissal from service to the appellant; that the appellant filed departmental appeal to the Regional Police Officer (RPO) D.I.Khan, who ordered de novo enquiry vide order No.3200/ES dated 28.07.2021; that after the de novo enquiry, the RPO

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal



Service Appeals No. 509/2022 titled "Amanullah vs Inspector General of Police & others" and No. 536/2022 titled "Abdul Hameed versus Inspector General of Police and others", decided on 21.03.2023, by Division Bench comprising Fatin Arshad Khan, Chairman, and Salah Ud Din, Member, Judicial, Khyber Pakhtunkhwa Service Tribunal, Camp Court Dera Ismail Khan.

D.I. Khan, vide order bearing Endst No. 5241 dated 06.12.2021 rejected the appeal; that aggrieved of the same, the appellant filed revision petition to the Inspector General of Police, Khyber Pakhtunkhwa but no action was taken, compelling the appellant to file the connected appeal.

4. On receipt of the appeals and their admission to full hearing, the respondents were summoned. Respondents put appearance and contested the appeals by filing written replies raising therein numerous legal and factual objections. The defence setup was a total denial of the claim of the appellant, however, no specific denial was made in the replies of the two appeals. It was mainly contended that the appeals were badly barred by time; that that the links of the appellants were established through cell phone data; that the recommendation of the enquiry officer was not binding upon the competent authority.

5. We have heard learned counsel for the appellants and learned District Attorney for the respondents.

6. The Learned counsel for the appellants reiterated the facts and grounds detailed in the memo and grounds of the appeals while the learned District Attorney controverted the same by supporting the impugned orders.

7. There are two same allegations on both the appellants. One is that a truck carrying non-custom paid items was intercepted at Chehkan by SHO Saddar; that upon enquiry, it came to surface that the said NCP items were owned by a renowned smuggler Jamal Wazir; that upon checking cellphone

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

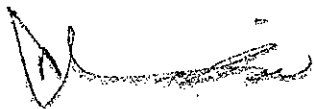
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Service Appeals No. 509/2022 titled "Amanullah vs. Inspector General of Police & others" and No. 536/2022 titled "Abdul Hameed versus Inspector General of Police and others", decided on 21.03.2023 by Division Bench comprising Kalan Arshed-Khan, Chairman, and Saleh Ud Din, Member, Judicial, Khyber Pakhtunkhwa Service Tribunal, Camp Court Dara Ismail Khan.

of said smuggler, it revealed that he was in communication with the appellants and both of the appellant let the truck go unchecked through their respective check posts Hathala and Tariq Shaheed. The second allegation was that the appellant Amanullah was transferred to Police Station Paharpur and the appellant Abdul Hameed was transferred to Police Station Kirri Khaisore vide OB No.676 with directions to report at new place of posting immediately but they deliberately did not obey the order with mala fide intention. During the initial enquiry conducted by Alamgir Khan SDPO Paharpur, the appellant Amanullah the allegations against him were proved and he was awarded major penalty of dismissal from service but during the de novo enquiry by Fazal Rahim Khan SDPO City Circle conducted on the order of RPO D.I.Khan, the appellant Amanullah was though found guilty of relations with the smugglers and the reduction in the punishment was recommended but even then his appeal was rejected by the RPO D.I.Khan. The IGP KP, however, reinstated the appellant in service and his punishment of dismissal from service was converted into forfeiture of two years approved service with treatment of intervening period as without pay. Similarly, the same proceedings were held in the case of the appellant Abdul Hameed but the enquiry officer of the de novo enquiry Fazal Rahim Khan SDPO City Circle, though held the appellant Abdul Hameed responsible for having contacts established with the smugglers yet recommended permanent stoppage of two increments. However, his appeal was also rejected and by the time appeal was filed his revision petition preferred to the IGP KP was not responded. In the statement record during enquiry, the appellant

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 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

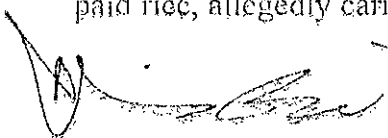
Service Appeals No. 509/2022 titled "Amanullah vs Inspector General of Police & others" and No. 536/2022 titled "Abdul Hameed versus Inspector General of Police and others", decided on 21.03.2023 by Division Bench comprising Kalim Arshad Khan, Chairman, and Salah Ud Din, Member, Judicial, Khyber Pakhtunkhwa Service Tribunal, Camp Court Dera Ismail Khan.

Amanullah alleged that because of polio duty there was only one constable for checking at the check post and that was why the thorough checking could not have been made. As to his transfer to Police Station Paharpur it was contended by the appellant that the officer who had to replace him had not arrived at the check post, therefore, he could not leave the check post without proper handing-taking over the charge.

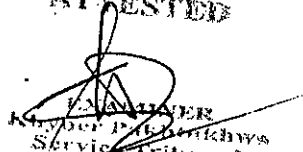
8. It is found that the appellant Amanullah was posted at Police Post Hathala from where allegedly the truck containing non-customs paid items had passed unchecked and the appellant Abdul Hameed was posted at Police Check Post Tariq Shaheed. The appellant Abdul Hameed in his statement recorded during the enquiry stated that on the day of occurrence i.e. on 03.04.2021, he was on polio duty and after polio duty at about 1330 hours he came back to perform duty at the check post from 1400 hours to 1600 hours and during this time no truck or vehicle had passed unchecked and as regards truck No. PKJ-438 that had not passed during his duty hours. As regards his transfer order, he alleged that the Moharrar Staff had not informed him about the same.

9. Main allegation against the two appellants is allowing the truck carrying non-customs paid items. This allegation is not tenable for manifold reasons. Firstly except the non-custom paid rice no other item was alleged to be in the truck. Leaving aside the question whether or not the rice was an import item on which custom duty is levied as that is quite irrelevant for decision of these appeals, the undisputed fact is that the alleged non-custom paid rice, allegedly carried by the truck No. PKJ-438, was never handed over

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MEMBER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

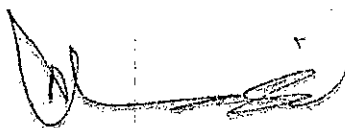
Service Appeals No. 309/2022 titled "Amangulhas-Inspector General of Police & others" and No. 336/2022 titled "Abdul Hameed versus Inspector General of Police and others", decided on 21.03.2023 by Division Bench comprising Kalim Arshad Khan, Chairman, and Salah Ud Din, Member, Judicial, Khyber Pakhtunkhwa Service Tribunal, Camp Court Dera Ismail Khan.

to the Customs Authorities rather that was released to the owner by ordinary court, which undisputed fact belies the allegations of allowing a truck carrying non-custom paid items to pass through the check posts unchecked, where the appellants were posted! When the items along with truck were returned to the owner, then it can safely be held that those were not being carried by unlawful means holding the appellants liable for the same. As to the non-relinquishment of charge and non-joining the new places of postings of the appellants, they had sufficiently explained the same and their stances taken in their statements could not be rebutted by the official respondents.

10. Therefore, the punishment awarded to both the appellants were not justified hence not sustainable. As a resultant consequence, we allow both the appeals and set aside the punishments awarded to both the appellants by directing the respondents to reinstate the appellants from the date of dismissal along with all consequential benefits. We direct that the costs of the appeal shall follow the result. Consign.

11. *Pronounced in open Court at Dera Ismail Khan and given under our hands and the seal of the Tribunal on this 21st day of March, 2023.*

*Attested
Imr*



KALIM ARSHAD KHAN
Chairman
Camp Court D.I. Khan

Certified to be true copy

SALAH UD DIN
Khyber Pakhtunkhwa
Service Tribunal
Peshawar



SALAH UD DIN
Member (Judicial)
Camp Court D.I. Khan

خدمت ضابط ڈسٹرکٹ پولیس ایف ڈی (19) ضلع ڈیرہ اسماعیل خان

ضابط عالی! Annexure C

یہ کہ من مسائل طرف 03 1/2 کو طارق شہید چیک بوسٹ پر تعینات تھا کہ 5450 صدر ڈیرہ نے ایک عدالت جلیل بحوالہ مقدمہ عدالت نمبر 164 طرف 03 1/2

بجرائم 162-471-468-469-470-471-472-473-474-475-476-477-478-479-480-481-482-483-484-485-486-487-488-489-490-491-492-493-494-495-496-497-498-499-500-501-502-503-504-505-506-507-508-509-510-511-512-513-514-515-516-517-518-519-520-521-522-523-524-525-526-527-528-529-530-531-532-533-534-535-536-537-538-539-540-541-542-543-544-545-546-547-548-549-550-551-552-553-554-555-556-557-558-559-560-561-562-563-564-565-566-567-568-569-570-571-572-573-574-575-576-577-578-579-580-581-582-583-584-585-586-587-588-589-590-591-592-593-594-595-596-597-598-599-600-601-602-603-604-605-606-607-608-609-610-611-612-613-614-615-616-617-618-619-620-621-622-623-624-625-626-627-628-629-630-631-632-633-634-635-636-637-638-639-640-641-642-643-644-645-646-647-648-649-650-651-652-653-654-655-656-657-658-659-660-661-662-663-664-665-666-667-668-669-670-671-672-673-674-675-676-677-678-679-680-681-682-683-684-685-686-687-688-689-690-691-692-693-694-695-696-697-698-699-700-701-702-703-704-705-706-707-708-709-710-711-712-713-714-715-716-717-718-719-720-721-722-723-724-725-726-727-728-729-730-731-732-733-734-735-736-737-738-739-740-741-742-743-744-745-746-747-748-749-750-751-752-753-754-755-756-757-758-759-760-761-762-763-764-765-766-767-768-769-770-771-772-773-774-775-776-777-778-779-780-781-782-783-784-785-786-787-788-789-790-791-792-793-794-795-796-797-798-799-800-801-802-803-804-805-806-807-808-809-810-811-812-813-814-815-816-817-818-819-820-821-822-823-824-825-826-827-828-829-830-831-832-833-834-835-836-837-838-839-840-841-842-843-844-845-846-847-848-849-850-851-852-853-854-855-856-857-858-859-860-861-862-863-864-865-866-867-868-869-870-871-872-873-874-875-876-877-878-879-880-881-882-883-884-885-886-887-888-889-890-891-892-893-894-895-896-897-898-899-900-901-902-903-904-905-906-907-908-909-910-911-912-913-914-915-916-917-918-919-920-921-922-923-924-925-926-927-928-929-930-931-932-933-934-935-936-937-938-939-940-941-942-943-944-945-946-947-948-949-950-951-952-953-954-955-956-957-958-959-960-961-962-963-964-965-966-967-968-969-970-971-972-973-974-975-976-977-978-979-980-981-982-983-984-985-986-987-988-989-990-991-992-993-994-995-996-997-998-999-1000

یہ کہ من مسائل کو فوری طور پر 10 دن کو دفتر گانا کی سرکاری آئی اور طرف 12 1/2 کو بحوالہ صدر 55 لائی ملی

یہ کہ من مسائل کے خلاف ذیل الزامات کے تحت چارج شیٹ جاری کی گئی

1) یہ کہ من مسائل سے جمال وزیر سیکرٹری ملزم فار ایڈوٹا اور من مسائل نے ٹرک کو چیک بوسٹ سے بغیر چیکنگ گزرنے دینا تھا۔

(ii) یہ کہ صدر 12 1/2 کو فوری طور پر چیک بوسٹ سے تبادلہ ملزم کو اور حکم عدالت کی

یہ کہ من مسائل نے جو ب چارج شیٹ میں الزامات من مسائل کو ایڈوٹا کوٹی پر تھا جس کی وجہ سے تبادلہ ملزم کو اور آمد نہ ہوا

اسی طرح یہ کہ ٹرک چارل NCP نہیں تھا اور چیک بوسٹ پر بغیر چیکنگ کے لیتا چچان ملزم لیا۔ سیز عدالت نے چارل مذکورہ سپرداری پر حوالے ملزم کے

ضابط 5450 صاحب نے بحوالہ حکم 18 5/2 من مسائل کو ملازمت سے برخواست کیا

یہ کہ محکمہ ایف ڈی ضابط RPO صاحب نے Denovo Enquiry کا حکم صادر کیا

یہ کہ دوبارہ الزامات میں چارل کا NCP نہ ہونا تسلیم کیا گیا

یہ کہ Denovo Enquiry کے لیے ضابط RPO صاحب نے محکمہ ایف ڈی قانونی

Attached
Dear

یہ کہ مسائل کے ضابط فیڈ بک ایف ڈی پولیس لٹیا اور کو Review درخواست دی جو تاحال فیصلہ مسائل کو وصول نہیں ہوا

اسی لیے مسائل نے چارج شیٹ کے خلاف معزز سرورس ٹریڈ سنٹر میں سرورس ایف ڈی نمبر 536/22 داخل کی

(2)

بہارِ معزز سرگسٹریوں نے بحالہ حکم صوفیہ 21³/₂₃
رولس پیل حکم کو اس قدر فائدہ دیا ہے اور اس سے مسائل کو تاریخ برخواستگی
سے جملہ مرعات (Consequential Benefits) کے ساتھ بحال کرنے کا حکم
صادر فرمایا ہے۔ نقل حکم سرگسٹریوں کے۔

لیڈز ایڈووکیٹس نے حکم اصلاحیہ رولس سرگسٹریوں میں عمل درآمد کا
حکم فرمایا جاوے اور مسائل کو تاریخ برخواستگی سے جملہ مرعات اتنے تو ہیں
ادارے کا حکم صادر فرمائیں۔

التماعہ

صوفیہ 18⁴/₂₃

مسائل عبدالمجید ایکس کنٹریل سٹر 1373 ضلع ڈیرہ اسماعیل خان

رسائل نمبر 03469728630

Attested
for



IMTIAZ ALI KHAN

Advocate

bc-11-2641

Date of issue: October 2021

Valid upto: October 2024

Secretary
KP Bar Council



ADVOCATE

کامت نامہ

20



کورٹ
فیس

Rs:50/-

سر دسٹریکٹ بئیر ایسوسی ایشن، ڈیپارٹمنٹ آف لٹریچر، ڈیپارٹمنٹ آف لٹریچر، ڈیپارٹمنٹ آف لٹریچر

منجانب
بشیر احمد
نام
19/10/22

Execution Petition in SA No 536/2022

بعد ازاں
دعویٰ یا جرم
تفصیل دعویٰ یا جرم

باعودہ تحریر آنکہ

مقدمہ مندرجہ بالا عنوان میں اپنی طرف داپٹے بیرو اور جواب دہی برائے پیشی یا تصفیہ مقدمہ بنام

استیاز علی خان عدالت اڈوالڈ ڈیپارٹمنٹ آف لٹریچر

کو حسب ذیل شرائط پر وکیل مندر کیا ہے کہ میں پیشگی پر خود یا بذریعہ برو برو عدالت حاضر ہوتا رہوں گا اور ہر وقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا اگر پیشی پر منظر حاضر نہ ہو اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے نیز وکیل صاحب موصوف صدر مقام پکھری کے علاوہ یا پکھری کے اوقات سے پہلے یا پیچھے یا بروز تعطیل بیروئی کرنے کے ذمہ دار نہ ہوں گے اور مقدمہ صدر مقام پکھری کے علاوہ ہر جگہ سماعت ہونے یا بروز تعطیل یا پکھری کے اوقات کے آگے یا پیچھے پیش ہونے پر منظر کوئی نقصان پہنچے تو اس کے ذمہ دار یا اسکے داپٹے کسی معاوضہ نہ ادا کرنے یا سخت نہ داپٹس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے مجھ کو کل ساختہ پر داخست صاحب موصوف منسلک کردہ ذات خود منظور قبول ہو گا اور صاحب موصوف کو عرض دعویٰ یا جواب دعویٰ یا درخواست اجراء اسانے ڈگری نظر ثانی اپیل گرانٹی و ہرقسم درخواست ہرقسم کے بیان دینے اور پر ثالثی، راضی نامہ و فیصلہ برطرف کرنے اقبال ڈگری کا بھی اختیار ہوگا اور بصورت مقرر ہونے تاریخ پیشی مقدمہ مقرر بیرون ا پکھری صدر بیروئی مقدمہ مقرر نظر ثانی اپیل و گرانٹی و برآمدگی مقدمہ یا منسوخی ڈگری یک طرفہ یا درخواست حکم اتناہی یا قرتی یا گرفتاری نکل از فیصلہ اجراء ڈگری بھی صاحب موصوف کو بشرط ادا ثانی علیحدہ مختامہر دہی کا اختیار ہوگا اور تمام ساختہ پر داخست صاحب موصوف منسلک کردہ از خود منظور و قبول ہوگا اور یہ ورت ضرورت صاحب موصوف کو یہ بھی اختیار ہوگا کہ مقدمہ مذکورہ یا اس کے کسی جزئی کاروائی یا بصورت درخواست نظر ثانی اپیل گرانٹی یا دیگر معاملہ و قدم مذکورہ کسی دوسرے وکیل یا بیرسٹر کو اپنے بجائے یا اپنے ہمراہ مقرر کریں اور ایسے مشیر قانون کو بھی ہر امر میں وہی اور دیے اختیارات حاصل ہوں گے ہیں، صاحب موصوف کو حاصل نہیں اور وہ ان مقدمہ میں جو کچھ ہر جانہ التزام ہے گا وہ صاحب موصوف کا حق ہوگا مگر صاحب موصوف کو پوری نہیں تاریخ پیشی سے پہلے ادا نہ کروں گا صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پروہی نہ کریں اور ایسی صورت میں، میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا

لہذا وکالت نامہ لکھ دیا ہے تاکہ سند رہے

سورہ 24 مئی 2023

مضمون وکالت نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے

Attended & Accepted
Imtiaz
Advocate

Mansoor
Petitioner