


Form- A

FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 338/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	26.05.2023	<p>The execution petition of Mr. Amjid Ghani submitted today by Mr. Mir Zaman Safi Advocate. It is fixed for implementation report before Single Bench at Peshawar on <u>30-05-2023</u>. Original file be requisitioned. AAG has noted the next date.</p> <p>By the order of Chairman  REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Implementation Petition No. 338 /2023

In

Appeal No.5732/2021

AMJID GHANI

VS

POLICE DEPTT:

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PETITIONER/APPLICANT

THROUGH:


MIR ZAMAN SAFI

ADVOCATE

MOBILE NO.0333-9991564

0317-9743003

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Implementation Petition No. 338 /2023

In

Appeal No.5732/2021

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 5628

Dated 26/5/2023

Mr. Amjid Ghani, Constable No. 2219,
Police Lines, Peshawar.

.....APPELLANT

VERSUS

- 1- The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
- 2- The Chief Capital City Police Officer, Peshawar.
- 3- The Superintendent of Police Headquarter, Peshawar.

.....RESPONDENTS

IMPLEMENTATION PETITION FOR DIRECTING
THE RESPONDENTS TO OBEY THE JUDGMENT
OF THIS AUGUST TRIBUNAL DATED 11.01.2023 IN
LETTER AND SPIRIT

R/SHEWETH:

- 1- That the petitioner filed Service appeal bearing No. 5732/2021 before this august Service Tribunal against the impugned order dated 23.09.2020 whereby major of reduction to lower stage of time scale for a period of two years was imposed on the appellant.
- 2- That appeal of the petitioner was finally heard by this august Tribunal on 11.01.2023 and was decided in favor of the petitioner vide judgment dated 11.01.2023 with the view that *"In view of the above discussion, the appeal in hand is allowed as prayed for"*. Copy of the judgment is attached as annexure.....A.
- 3- That after obtaining attested copy of the judgment dated 11.01.2023 the petitioner submitted the same before the respondents for implementation but till date the judgment of this august Tribunal has not been implemented by the respondents in letter and spirit.
- 4- That the petitioner has no other remedy but to file this implementation petition.

It is therefore, most humbly prayed that on acceptance of this implementation petition the respondents may very kindly be directed to implement the judgment of this august Tribunal dated 11.01.2023

in letter and spirit. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the petitioner.

Dated: 26.05.2023.

PETITIONER

AMJID GHANI

THROUGH:


MIR ZAMAN SAFI
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Implementation Petition No. 338 /2023

In

Appeal No.5732/2021

AMJID GHINI

VS

POLICE DEPTT:

AFFIDAVIT

I **Mir Zaman Safi**, Advocate on behalf of the petitioner, do hereby solemnly affirm that the contents of this **implementation petition** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.


MIR ZAMAN SAFI
ADVOCATE





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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 5732/2021

BEFORE: MRS. ROZINA REHMAN ... MEMBER (J)
MISS FAREEHA PAUL ... MEMBER (E)

Mr. Amjid Ghani, Constable No. 2219, Police Lines, Peshawar.
..... (Appellant)

Versus

1. The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. The Chief Capital City Police Officer, Peshawar.
3. The Superintendent of Police Headquarter, Peshawar.
..... (Respondents)

Mr. Mir Zaman Safi,
Advocate For appellant

Mr. Muhammad Adeel Butt,
Assistant Advocate General For respondents

Date of Institution..... 31.05.2021
Date of Hearing..... 11.01.2023
Date of Decision..... 11.01.2023

JUDGEMENT

FAREEHA PAUL, MEMBER (E): The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 23.09.2020 whereby major penalty of reduction to lower stage of time scale for a period of two years was imposed on the appellant and against the appellate order dated 18.05.2021 whereby the departmental appeal of the appellant was rejected. It has been prayed that on acceptance of the appeal, both the impugned orders might be set aside and the appellant be restored to his original scale with all back benefits and

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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any other remedy which this Tribunal deemed fit might also be awarded in his favour.

2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was the employee of respondent department and serving as Constable No. 2219. While performing his duty, he was served with charge sheet by respondent department with the allegations, *"It has been proved in preliminary enquiry that you mentioned in the letter No. 4492-93/OASI dated 28.02.2020 and other 03-officials mentioned in annexure-B showed deceitful attitude as all of you were in knowledge that you are ineligible for BI-Examination even then you tried to deceive the department and ETEA."* The appellant submitted detailed reply to the charge sheet and denied the allegations leveled against him. The respondent department also conducted a preliminary inquiry in the matter whereby other officials were also charged with the same allegations but it was not proved in the inquiry that the appellant had appeared in BI Examination. Respondent No. 3, without fulfilling the codal formalities, issued the impugned order dated 23.09.2020 whereby major penalty of reduction to lower stage of time scale for a period of two years was imposed on him. Feeling aggrieved from the impugned order dated 23.09.2020, he preferred departmental appeal before the respondent No. 2 but the same was rejected vide order dated 18.05.2021; hence the present appeal.

3. Respondents were put on notice who submitted written replies/comments on the appeal. We have heard the learned counsel for the

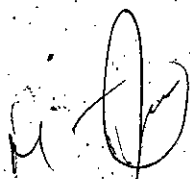
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Service Tribunal
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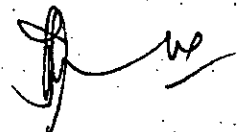
appellant as well as the learned Additional Advocate General for the respondents and perused the case file with connected documents in detail.

4. Learned counsel for the appellant, after presenting the case in detail, contended that neither any show cause notice was served upon the appellant nor chance of personal hearing/defence was provided to him; moreover no inquiry was conducted, all of which was mandatory before passing the impugned orders. He further argued that the punishment awarded to the appellant was also violative of the provisions of Rule 29 of Fundamental Rules and that the treatment meted out with him was discriminatory. He requested that the appeal might be accepted as prayed for.

5. Learned Assistant Advocate General, while rebutting the arguments of learned counsel for the appellant, contended that the appellant had full knowledge that he was ineligible for BI Examination, even then he tried to deceive the department as well as ETEA. He was issued charge sheet alongwith statement of allegation to which he submitted reply, which was found unsatisfactory. An inquiry committee comprising of DSP Civil Secretariat and DSP Coordination was constituted, which conducted the inquiry and submitted its report that the appellant tried to use a shortcut way to get promotion. He further contended that after completion of inquiry proceedings, the appellant was issued final show cause notice to which he replied and that after observing all codal formalities, he was awarded major punishment of reduction to lower stage of time scale for a period of two years. He requested that the appeal might be dismissed with cost.



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 Khushal Dalnukhwa
 Service Tribunal
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6. After hearing the arguments and going through the record, it reveals that the appellant was appointed in 2011 in the Khyber Pakhtunkhwa Police. When departmental examination being conducted by ETEA came to his knowledge, he applied for the same. According to his department, he deceived the departmental authorities as well as the ETEA when he applied for the BI examination, for which he was not eligible, and hence he was proceeded against and major penalty was awarded to him. Documents annexed with the appeal indicate that in response to the charge sheet, the appellant himself admitted that he was under stress as a result of hospitalization, and later on demise, of his niece when the departmental AI and BI examinations were announced. He, therefore, asked his friend to get the form filled for him and submit on the last date of submission of forms. His friend erroneously submitted the BI examination form and realizing the mistake, the appellant requested to forgive him. An inquiry report annexed with the appeal as well as the reply indicates that there were three officials, including the appellant, who had deceived the department and ETEA by applying for BI examination for which they were ineligible. During the hearing the learned AAG presented the ETEA form filled by the appellant which was for BI examination, which according to the appellant was erroneously filled by his friend. It was noted that the Deputy Superintendent of Police, Headquarters, CCP, Peshawar had verified the form by stating, "certified that as per Para 05, 06 and 07 of the MOU signed b/w ETEA and AIG (Establishment), the candidate has fulfilled all the formalities and is ELIGIBLE for BI examination 2020." Now the question that arises out of

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Service Tribunal
Peshawar

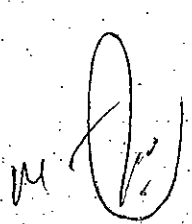
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this statement is that what was the record based on which this verification was done? Did the DSP, HQ not verify from any source that the applicant had not qualified the AI examination which was the pre-requisite for the BI examination? This verification provides a picture of the state of record keeping, specially human resource related matters, and the ignorance of the dealing officers and officials while processing such cases. This indicates that the police department is not maintaining a good management information system which is of utmost importance specially for such a big establishment.

7. Perusal of record indicates that if there is a mis-statement, whether deliberate or by error, on the part of appellant, the respondents too were not vigilant enough to check the error at the time of verification of application form. Had the appellant appeared in the examination, the matter would have taken another turn. Now, as it did not happen and the mistake or mis-statement had been identified at an early stage, it is felt that there is every chance of rectifying it.

8. In view of the above discussion, the appeal in hand is allowed as prayed for. Parties are left to bear their own costs. Consign.

9. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 11th day of January, 2023.*



(FAREEHA PAUL)
Member (E)

(ROZINA REHMAN)
Member (J)

Certified to be true copy
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

_____ OF 2023

Anjid Ghani

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Police Deptt:

(RESPONDENT)
(DEFENDANT)

I/We Anjid Ghani

Do hereby appoint and constitute **MIR ZAMAN SAFI, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. 24 / 05 / 2023

Abani
CLIENT

M. Zaman Safi
ACCEPTED
MIR ZAMAN SAFI
ADVOCATE

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