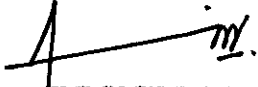


FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 330 /2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	
1	24.05.2023	<p>The execution petition of Mr. Amir Malik submitted today by Mr. Taimur Ali Khan 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  REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Execution petition No. 330 /2023
In Service Appeal No.7908/2021

Amir Malik

V/S


Police Department

INDEX

S.No.	Documents	Annexure	P. No.
1	Memo of execution petition	-----	01-02
2	Copy of judgment dated 10.01.2023	A	03-07
3	Vakalat Nama	-----	08

PETITIONER

THROUGH:


(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT
Cell# 0333-9390916

①

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

Execution Petition No. 330 /2023
In Service Appeal No. 7908/2021

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 5562
Dated 24/5/2023

Amir Malik, Ex Constable No. 1723,
Operation Sattf, Kohat.

PETITIONER

VERSUS

1. The Provincial Police Officer Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer, Kohat Region, Kohat.
3. The District Police officer, Kohat.

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 petitioner has filed service appeal No. 7908/2021 in this Honorable Tribunal against the order dated 27.10.2020, whereby the petitioner was dismissed from service, against the order dated 05.01.2021, whereby the departmental appeal of the petitioner was rejected and against the order dated 26.11.2021, whereby the revision of the petitioner was also rejected.
2. The appeal was finally heard and decided by this Honorable Tribunal on 03.04.2023. The Honorable Tribunal accepted the appeal of the petitioner and the impugned order of imposition of penalty with disciplinary proceedings wherefrom it resulted were set aside and the petitioner was reinstated into service with all back benefits. **(Copy of judgment dated 03.04.2023 is attached as Annexure-A)**

3. That the Honorable Service Tribunal reinstated the petitioner by accepting his appeal in its judgment dated 03.04.2023, but after the lapse of more than one month the petitioner was not reinstated by the respondents by implementing the judgment dated 03.04.2023 of this Honorable Tribunal.
4. That in-action and not fulfilling formal requirements by the department after passing the judgment of this august Tribunal, is totally illegal amount to disobedience and Contempt of Court.
5. That the judgment is still in the field and has not been suspended or set aside by the Supreme Court of Pakistan, therefore, the department is legally bound to obey the judgment dated 03.04.2023 of this Honorable Tribunal in letter and spirit.
6. That the petitioner has having no other remedy except to file this execution petition.

It is, therefore, most humbly prayed that the department may be directed to implement the judgment dated 03.04.2023 of this august Tribunal in letter and spirit. Any other remedy, which this august Tribunal deems fit and appropriate that, may also be awarded in favour of petitioner.

Amir Malik

PETITIONER
Amir Malik

THROUGH:

(Signature)

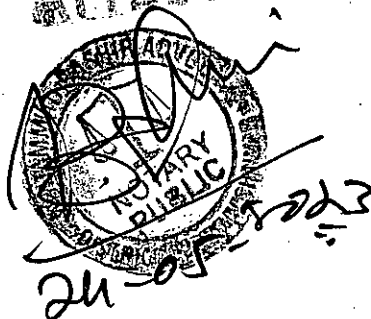
(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT
&

(SHAKIR ULLAH TORANI)
ADVOCATE PESHAWAR

AFFIDAVIT:

It is affirmed and declared that the contents of the execution petition are true and correct to the best of my knowledge and belief.

ATTESTED



Amir Malik

DEPONENT



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. 7908/2021

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 8049

Dated 17-12-2021

Amir Malik, Ex-Constable No. 1723,
Operation Staff, Kohat.

(APPELLANT)

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer, Kohat Region Kohat.
3. The District Police Officer, Kohat.


(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 27.10.2020, WHEREBY THE APPELLANT WAS DISMISSED FROM SERVICE, AGAINST THE ORDER DATED 05.01.2021, WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED FOR NO GOOD GROUNDS AND AGAINST THE ORDER DATED 26.11.2021 WHEREBY THE REVISION OF THE APPELLANT HAS ALSO BEEN REJECTED FOR NO GOOD GROUNDS.

PRAYER:

THAT THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 27.10.2020, 05.1.2021 AND 26.11.2021 MAY KINDLY BE SET ASIDE AND THE RESPONDENTS MAY FURTHER BE DIRECTED TO REINSTATE THE APPELLANT INTO HIS SERVICE WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR



Service Appeal No. 7908/2021

Date of Institution ... 17.12.2021
Date of Decision ... 03.04.2023

Amir Malik, Ex-Constable No.1723, Operation Staff, Kohat.

... †(Appellant)

VERSUS

The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and two others.

... (Respondents)

Taimur Ali Khan,
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): The appellant has invoked the jurisdiction of this Tribunal through above titled appeal with the prayer as copied below:

“That on the acceptance of this appeal, the order dated 27.10.2020, 05.01.2021 and 26.11.2021 may kindly be set aside and the respondents may further be directed to reinstate the appellant into his service with all back and consequential benefits.”

2. Brief facts of the case are that appellant was appointed in Levies Force in 2012 and he was performing his duty with great devotion and honesty. After absorption of the Levies Force in the Police Department, appellant became the member of Police Force and in the Police Department too, he performed his duty with great devotion. Before

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

merger of Levies Force in the Police Department, appellant was working under the command of Deputy Commissioner/Commandant Levies Kohat and during that period, an FIR dated 160 was registered against some unknown persons on 02.06.2014 at Police Station, KDA Kohat U/S 382/34 PPC. The name of appellant was also included in that criminal case and he was arrested on 18.08.2019. After merger of the Levies Force in the Police Department, charge sheet alongwith statement of allegations were served upon appellant which was replied. final show cause notice was issued to the appellant and he was dismissed from service vide order dated 27.10.2020. He filed departmental appeal which was rejected. He then filed revision petition which also met the same fate, hence, the present service appeal.

3. We have heard Taimur Ali Khan 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. Taimur Ali Khan Advocate, learned counsel for the appellant argued inter-alia that the impugned orders are against law, facts, norms of justice and material on record, hence, not tenable and liable to be set aside. He contended that that inquiry was not conducted according to the prescribed procedure as neither statements were recorded in the presence of appellant nor opportunity of cross-examination was provided which is violation of law and rules; that no opportunity of defense was provided to the appellant during inquiry proceedings, which is violation of Article 10-A of the Constitution of Islamic Republic of Pakistan, 1973. He contended that the appellant clearly mentioned in his reply to the charge sheet that he was present at Shendhand Hospital on duty at the time of occurrence and that he was not directly charged in the FIR but the

ATTESTED


 Taimur Ali Khan
 Advocate
 Service Tribunal

Inquiry Officer failed to unearth the hidden facts. Lastly, he submitted that he was falsely implicated in the criminal case and that he was dismissed from service without waiting for the conclusion of criminal case which act is against the norms of justice. He, therefore, requested for acceptance of the instant service appeal.

5. Conversely, learned AAG argued that the appellant before absorption was serving under the command of Deputy Commissioner/Political Authorities Kohat and during his posting a robbery took place, wherein, unknown accused had taken away salary of Levy Khasadar and to this effect case FIR No.160 was registered. That during the course of investigation of criminal case, appellant alongwith four others were traced out as accused in the aforementioned criminal case. He was arrested and was suspended. He submitted that after fulfillment of all codal formalities, he was punished according to law..

6. From the record, it is evident that appellant while posted at the office of Deputy Commissioner, Kohat was proceeded against departmentally for being involved in case FIR No.160 dated 02.06.2014 registered at Police Station KDA Kohat U/S 382/34 PPC. He was served with charge sheet alongwith statement of allegations. SDPO Headquarters Kohat was appointed as Inquiry Officer, however, inquiry report is not available on file and it was not produced despite directions. Copy of FIR No.160 is available on file which shows that it was registered by one Muhammad Shoab against unknown accused on 02.06.2014. The appellant was arrested in the instant case on 18.08.2019 and he was charge sheeted on 23.12.2019. It is also on record that the present appellant was not directly charged in the FIR. Case was tried in a competent court of Law and in the meanwhile, APP submitted an

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

application seeking discharge of the accused U/S 494 Cr.PC read with Section-5 (B) of Prosecution Act and vide order dated 01.04.2022 of the learned Senior Civil Judge (ADMN)/Judge MTMC Kohat, present appellant alongwith four others were acquitted U/S 294-A of Cr.PC-read with Section 494(2) Cr.PC. 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 appellant in criminal case was the sole ground on which he had been dismissed from service and the said ground had subsequently disappeared through his acquittal, making him re-emerge as a fit and proper person entitled to continue his service. It is established from the record that charges of his involvement in criminal case ultimately culminated in honorable acquittal of the appellant 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 what has gone above, the appeal at hand is accepted. Consequently, the impugned order of imposition of penalty with disciplinary proceedings wherefrom it resulted, are set aside and the appellant is reinstated into service with all back 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)

Mutazem Shuh

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

VAKALAT NAMA

NO. _____/2023

IN THE COURT OF KP Service Tribunal Peshawar

Amin Malik

(Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Police Department

(Respondent)
(Defendant)

I/We, _____

Do hereby appoint and constitute **TAIMUR ALI KHAN, ADVOCATE HIGH COURT**, 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 costs.

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. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/2023

Taimur Ali Khan
(CLIENT)

ACCEPTED

Taimur Ali Khan

TAIMUR ALI KHAN
Advocate High Court

SHAKIR ULLAH TORANI
Advocate

BC-10-4240
CNIC: 17101-7395544-5
Cell No. 03339390916