


Form-A

FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 343/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	
1	30.05.2023	<p>The execution petition of Mr. Imran Ullah submitted today by Mr. Muhammad Zafar Tahir Kheli Advocate. It is fixed for implementation report before Single Bench at Peshawar on <u>02-06-2023</u>. Original file be requisitioned. AAG has noted the next date.</p> <p>By the order of Chairman  REGISTRAR</p>

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

CHECK LIST

Case Title: Imranullah vs PGP etc

S#	CONTENTS	YES	NO
1	This Appeal has been presented by:		
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?		✓
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:

Mohammad Iqbal Khan

Signature:

Dated:

26-05-2023

BEFORE THE SERVICE TRIBUNAL, KHYBER PUKHTOONKHWA
PESHAWAR

Execution Petition 343 2023
In
Service Appeal No. 11822 / 2020

Imran Ullah

VERSUS

Govt of Khyber Pakhtunkhwa etc.

=====
I N D E X
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S.No	Particulars	Annexure	Pages
1	Execution Petition	-	1-2
2	Addresses of parties	-	3
3	Execution Form	-	4
4	Service Tribunal Judgment dated 29-03-2023	-	5-8
4	Vakalatnama	-	9

Date:- 25th May, 2023

Muhammad Zafar Khan (Tahirkheli)

A S C,

87- Al-falah Street, near
State Life Building, Peshawar Cantt.

Cell No. 0300-9597670

①

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA
PESHAWAR

Execution Petition 343 2023
In
Service Appeal No. 11822 / 2020

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 5664
Dated 30/5/2023

Imran Ullah,
Constable / Driver No. 1308,
District Police Nowshera, Presently,
Police training Center Kohat

..... Appellant

Versus

1. Inspector General of Police,
Government of Khyber Pakhtunkhwa, Peshawar.
2. ^{police} AIG, Establishment, Khyber Pakhtunkhwa Peshawar.
3. DIG, Mardan Region-I, Mardan
4. Regional Police Officer, Mardan.
5. Registrar for Inspector General of Police Peshawar.
6. District Police Officer, Nowshera.

..... Respondents

=====

**PETITION FOR IMPLIMENTATION OF
DECISION DATED 29-03-2023 OF KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR PASSED IN
SERVICE APPEAL No.11822 / 2020.**

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RESPECTFULLY SHEWETH

1. The petitioner had filed a service appeal No. 11822 / 2020 before this Hon'ble Tribunal wherein he had sought relief as under;

By accepting this appeal and setting aside the impugned orders dated 04-09-2020 & 22-04-2020, wherein the appellant's representation and mercy petition against the punishment for stoppage of increments for two years with cumulative effect along with fine of Rs. 1000/- vide order dated 30-12-2009 and one increment for one year with immediate effect with a fine of Rs. 1000/- vide OB No. 2159 dated 24-12-2009 were imposed upon the appellant.

2. That the petitioner's service appeal was accepted vide judgment of this Hon'ble Tribunal dated 29-03-2023 wherein the penalty of stoppage of one annual increment for 1 year with cumulative effect vide OB No. 2159 dated 24-12-2009 and stoppage of increments for 2 years and fine of Rs. 1000/- vide OB No. 2171 dated 30-12-2009 imposed upon the appellant was set aside. **(Copy annexed)**
3. That in-spite of the decision passed on 29-03-2023 in favour of the petitioner, the same has not been implemented till date, which needs intervention of this Hon'ble Tribunal to direct the respondent department to implement the same in its true letter and spirit.

It is, therefore, most humbly prayed that by accepting this petition the Respondent Department may be directed to implement the decision of this Hon'ble Tribunal dated 29-03-2023.

[Signature]

Petitioner,

Through,

[Signature]

Muhammad Zafar Khan (Tahirkehi)

A S C

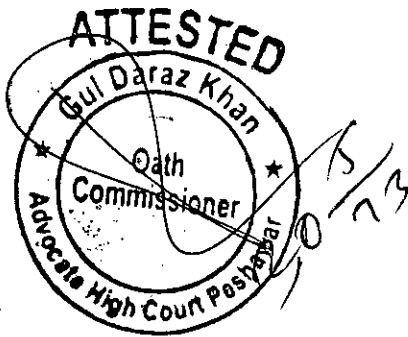
Peshawar, dated
___/May, 2023

Affidavit

I, the petitioner, stated on Oath that contents of the above petition are true and correct to the best of my knowledge and belief, and nothing has been kept concealed from this Hon'ble Tribunal.

[Signature]

DEPONENT



(3)

BEFORE THE SERVICE TRIBUNAL, KHYBER PUKHTOONKHWA
PESHAWAR

Execution Petition _____ 2023
In
Service Appeal No. 11822 / 2020

Imran Ullah

VERSUS

Govt of Khyber Pakhtunkhwa etc.

=====

ADDRESSES OF PARTIES

=====

Appellant

Imran Ullah,
Constable / Driver No. 1308,
District Police Nowshera, Presently,
Police training Center Kohat

Respondents


1. Inspector General of Police,
Government of Khyber Pakhtunkhwa, Peshawar.
2. AIG, Establishment, Khyber Pakhtunkhwa Peshawar.
3. DIG, Mardan Region-I, Mardan
4. Regional Police Officer, Mardan.
5. Registrar for Inspector General of Police Peshawar.
6. District Police Officer, Nowshera.



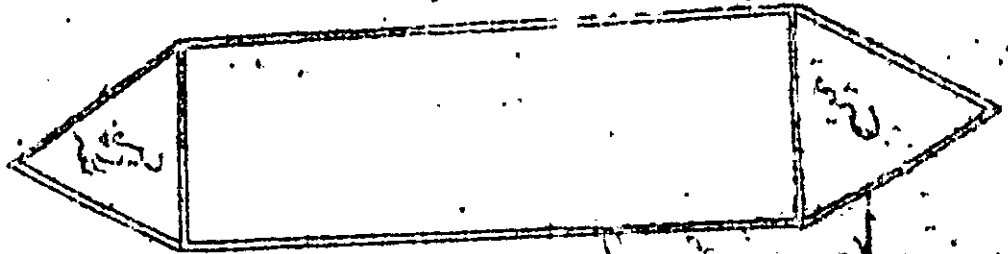
Petitioner,

Through,

Peshawar, dated
25th / May, 2023



Muhammad Zafar Khan (Tahirkheli)
A S C



کتابخانه عمومی شهرداری تهران

کتابخانه عمومی شهرداری تهران - تهران - خیابان ولیعصر - پلاک ۱۱۸

۱	کتابخانه عمومی شهرداری تهران	کتابخانه عمومی شهرداری تهران	کتابخانه عمومی شهرداری تهران
۲	کتابخانه عمومی شهرداری تهران	کتابخانه عمومی شهرداری تهران	کتابخانه عمومی شهرداری تهران
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۸	کتابخانه عمومی شهرداری تهران	کتابخانه عمومی شهرداری تهران	کتابخانه عمومی شهرداری تهران
۹	کتابخانه عمومی شهرداری تهران	کتابخانه عمومی شهرداری تهران	کتابخانه عمومی شهرداری تهران
۱۰	کتابخانه عمومی شهرداری تهران	کتابخانه عمومی شهرداری تهران	کتابخانه عمومی شهرداری تهران

تاریخ ثبت

کتابخانه عمومی شهرداری تهران
تهران - خیابان ولیعصر - پلاک ۱۱۸

کتابخانه عمومی شهرداری تهران

کتابخانه عمومی شهرداری تهران

5

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR.

Service Appeal No. 11822/2020

Date of Institution... 01.10.2020

Date of Decision... 29.03.2023



Imran Ullah, Constable/Driver No. 1308, District Police Nowshera, Presently
Police Training Centre Kohat.

... (Appellant)

VERSUS

Inspector General of Police, Government of Khyber Pakhtunkhwa, Peshawar
and 05 others.

... (Respondents)

MR. MUHAMMAD ZAFAR TAHIRKHELI,
Advocate

--- For appellant.

MR. FAZAL SHAH MOHMAND,
Additional Advocate General

--- For respondents.

MR. KALIM ARSHAD KHAN
MR. SALAH-UD-DIN

--- CHAIRMAN
--- MEMBER (JUDICIAL)

JUDGMENT:

SALAH-UD-DIN, MEMBER:- Precise facts surrounding the

instant appeal are that the appellant, while serving as Constable/Driver

in District Nowshera, was awarded minor penalty of stoppage of 02

annual increments with cumulative effect vide order bearing O.B

No. 2171 dated 30.12.2009 as well as minor penalty of stoppage of

one annual increment for one year alongwith fine of Rs. 1000/- vide

O.B No. 2159 dated 24.12.2009. The appellant allegedly gained


knowledge of the impugned penalties in the month of September 2019

and thus challenged the same by way of filing representation before

DIG Mardan Region-I followed by filing of mercy petition before the

Inspector General of Police Khyber Pakhtunkhwa, however the same

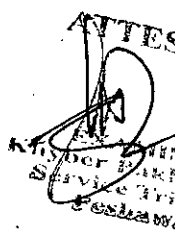
ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

were rejected. The appellant has now approached to this Tribunal by way of filing of instant service appeal for redressal of his grievance.

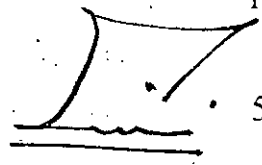
2. On admission of the appeal for regular hearing, notices were issued to the respondents, who contested the appeal by way of filing of reply, wherein they refuted the assertion raised by the appellant in his appeal.

3. Learned counsel for the appellant argued that the appellant was deputed as gunner with Additional District & Sessions Judge-II Nowshera and was on duty with him during the alleged period of his absence; that neither any charge sheet or statement of allegations was issued to the appellant nor he has been provided an opportunity of personal hearing; that the proceedings were conducted in sheer violation of the relevant rules of Khyber Pakhtunkhwa Police Rules, 1975; that the impugned orders of imposition of penalties were never communicated to the appellant and on gaining knowledge of the same in the year 2019, he challenged the same by way of filing of departmental appeal; that the impugned penalties are of financial nature, therefore, being recurring cause of action no limitation would run against the same; that the appellant has been deprived of opportunity of self defence as well as personal hearing and his right guaranteed under Articles 4 & 25 of the constitution of Islamic Republic of Pakistan has been taken away; that certain similarly placed employees had filed departmental appeals after expiry of more than 10 years but the same were accepted, while the appeal as well as mercy petition of the appellant were dismissed on the ground

ATTESTED

 MEMBER
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

of limitation by not treating him similar to other employees, which is clear violation on the part of the respondents.

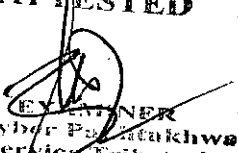
4. On the other hand, learned Additional Advocate General contended that the appellant had not obeyed lawful order of the competent Authority and did not perform Muharram duty, therefore, disciplinary action was taken against him; that the appellant was awarded the impugned penalties after fulfilling of all legal and codal formalities; that the penalties were awarded to the appellant way back in the year 2009, while he filed departmental appeal and after considerable delay, therefore, the same was rightly rejected being badly time barred.



5. We have heard the arguments of learned counsel for the parties and have perused the record.

6. Available on the record is copy of Mad No. 6 dated 23.12.2009, which shows that the appellant as well as certain other constables were conveyed telephonic information that they should ensure their attendance in Police Line Nowshera for the period from 05th Muharram till 10th Muharram for Muharram duty, however they did not report in Police Line. The aforementioned copy of Mad No. 6 dated 23.12.2009 bears an endorsement that the appellant was awarded penalty of stoppage of one annual increment for one year with cumulative effect vide O.B No. 2159 dated 24.12.2009.

Moreover, another endorsement on the same copy of Mad No. 6 would show that the appellant was awarded another penalty of stoppage of increments for two years with cumulative effect alongwith

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

fine of Rs. 1000/- vide O.B No. 2171 dated 30.12.2009. Entries of both the penalties have been made in the daily diary and nothing is available on record, which could show that any show-cause notice, charge sheet as well as statement of allegations were issued to the appellant prior to imposition of the impugned penalties. Similarly, nothing is available on the record, which could show that any inquiries under Khyber Pakhtunkhwa Police Rules, 1975 were conducted in the matter. The appellant has taken categorical stance that he was not relieved by Additional District & Sessions Judge for Muharram duty, which stance of the appellant was never thrashed out through any inquiry. Even otherwise too, it is the requirement of the concerned rule of Khyber Pakhtunkhwa Police Rules, 1975 that an opportunity is required to be provided to an accused official/officer before awarding him any punishment. The record is, however silent about providing of any opportunity of self defence as well as personal hearing to the appellant. So far as the question of limitation is concerned, the issue being one of financial benefits, therefore, the appeal is not hit by law of limitation.

7. In view of the above discussion, the impugned orders are set-aside and the appeal in hand is accepted as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
29.03.2023

Certified to be true copy
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

(KALIM ARSHAD KHAN)
CHAIRMAN

(SALAH-UD-DIN)
MEMBER (JUDICIAL)

Date of Presentation of Application 12/5/23
Number of ~~Pages~~ page 4
Copying Fee 20/-
Urgent 5/-
Total 25/-
Name of Client
Date of Copying
Date of Delivery of Copy 12/5/23

VAKALATNAMA

In the Court of

Khyber Pakhtunkhwa Service Tribunal, Peshawar

Execution Petition _____ 2023
In
Service Appeal No. 11822 / 2020

ID No.	B.C- 10-7764
Advocate	M. Zafar
Cell No.	0300-9597670
CNIC	17301-1639615-3

Petitioner
Plaintiff
Applicant
Appellant
Complainant

Imran Ullah

Decree-Holder

VERSUS

Respondent
Defendant
Opponent
Accused

Govt of Khyber Pakhtunkhwa etc.

Judgment-Debtor

I / We **Imran Ullah** the above noted appellant do hereby appointed and constitute, **Muhammad Zafar Khan Tahirkheli Advocate Supreme Court of Pakistan**, to appear, plead, act, compromise, withdraw or refer to arbitration for me / us as my / our counsels / advocates in the above noted matter, without any liability for his default and with the authority to engage any other Advocate / Counsel at my / our cost.

The Client / Litigant will ensure his presence before the Court on each and every date of hearing and the counsel would not be responsible if the case is proceeded ex-parte or is dismissed in default of appearance. All cost awarded in favour shall be the right of Counsel or his nominee, and if awarded against shall be payable by me/us.

I / We authorize the said Advocates to withdraw and receive on my / our behalf all sums and amounts payable or deposited on my / our account in the above noted matter.



Client

M. Zafar Khan Khan (Tahirkheli)

Attested & Accepted (Advocates)

Dated, 27/05/2023

Office **ATIQU LAW ASSOCIATES,**
87, Al-Falah Street, Besides State Life Building,
Peshawar Cantt, Phone: 091-5279529
E-mail : zafark.advocate@gmail.com