


Form- A

FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 500/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	18.07.2023	<p>The implementation petition of Mr. Inayat Ullah submitted today by Mr. Muhammad Yasir Khattak Advocate. It is fixed for implementation report before Single Bench at Peshawar on <u>21/07/2023</u>. Original file be requisitioned. AAG has noted the next date</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

BEFORE THE HONORABLE CHAIRMAN SERVICES TRIBUNAL KP,
PESHAWAR

E.P. No. 500/2023

Misc. Application No. _____ / 2023

(for implementation)

In Services Appeal No. 1508/2012

Engr. Inayat Ullah (Applicant / Appellant)

VERSUS

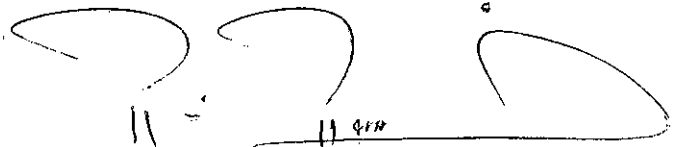
Government of KP & others..... (Respondents)

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Applicant / Appellant

through



MUHAMMAD YASIR KHATTAK

Advocate Supreme Court

Flat No. 7, 2nd Floor, Zeb

Plaza, Tehkal Payan,

Peshawar

Cell # 0321-9060880

(1)

**BEFORE THE HONORABLE CHAIRMAN SERVICES TRIBUNAL KP,
PESHAWAR**

Misc. Application No. _____ / 2023

(for implementation)

In Services Appeal No. 1508/2012

Engr. Inayat Ullah S/O Muhammad Maroof Khan R/O H.No.124, Street No.6,
Sector 04, Phase-IV, Hayatabad, Peshawar.

(Applicant / Appellant)

VERSUS

1. Government of KP, through its Chief Secretary, Peshawar.
2. Secretary Communication & Works Department, KP, Peshawar.
3. Chief Engineer North C & W, Peshawar.

(Accused / Respondents)

**APPLICATION FOR IMPLEMENTATION OF THE JUDGMENT DATED:
17-12-2015 PASSED BY THIS HONORABLE TRIBUNAL.**

Respectfully Sheweth,

The Applicant submits as under.

1. That the Applicant / Appellant had filed an Appeal U/S-4 of Services Tribunal Act, 1974 against the order dated: 01-10-2012 and Dated: 30-11-2012 passed by the Respondents whereby penalty of removal from service was imposed on the Applicant / Appellant.

(Copy of the Appeal is attached as Annexure: A)

2. That this Honourable Court was kind enough to pass an Order/Judgement on 17-12-2015 by modifying the impugned orders of removal from service into compulsory retirement w.e.f. the date of the impugned order dated: 01-10-2012.

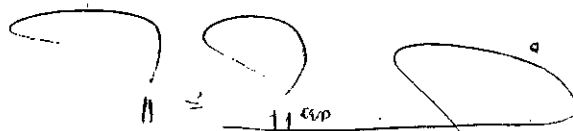
(Copy of the Judgment Dated: 17-12-2015 is attached as Annexure-B)

3. That after getting the attested copy of the above said Judgment, the Respondents were informed and were so many times requested by the Applicant / Appellant to obey the Order passed by this Honorable Tribunal but gave deaf ear.
4. That in spite of the directions made in this regard, till now no order of any sort in the light of the above said Judgement has been passed by the Respondents.
5. That the Respondents have not only failed to obey the Judgment passed by this Honourable Court but have not been able to conceal their grudges and anger against the Applicant for the fault which the Applicant has committed by filing an appeal before this Honourable Court.
6. That by disregarding and disrespecting of the Judgment passed by this Honourable Court, the Respondents have thus committed the offence under Contempt of Court Ordinance, 2003 for which they deserves to be proceeded against in accordance with law and accordingly be punished.
7. That there are many other submissions / grounds which will be raised at the time of arguments.

It is, therefore, humbly prayed that on acceptance of this Application, this Honourable Tribunal may be pleased to implement the Judgment dated: 17-12-2015 and initiate contempt proceedings against the Respondents for not obeying the Judgment of this Honourable Tribunal and be punished accordingly.

Applicant / Appellant

through

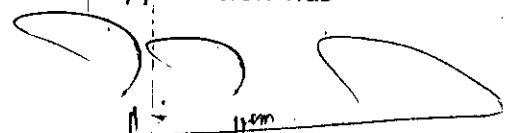


MUHAMMAD YASIR KHATTAK

Advocate Supreme Court

Note:

As per knowledge imparted to me in this behalf, no such like Application has earlier been filed before this Honourable Tribunal.



ADVOCATE

BEFORE THE HONORABLE CHAIRMAN SERVICES TRIBUNAL KP,
PESHAWAR

3

Misc. Application No. _____ / 2023

(for implementation)

In Services Appeal No. 1508/2012

Engr. Inayat Ullah (Applicant / Appellant)

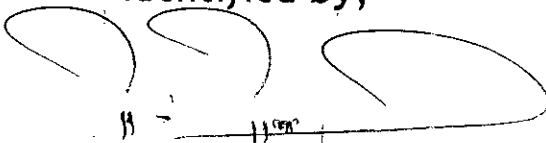
VERSUS

Government of KP & others..... (Respondents)

AFFIDAVIT

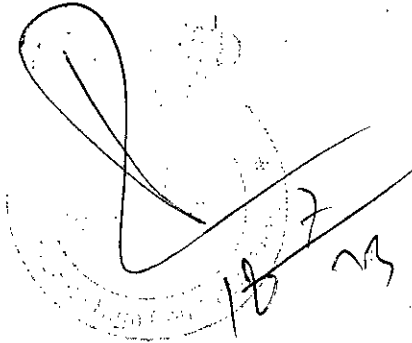
I, Engr. Inayat Ullah S/O Muhammad Maroof Khan R/O H.No.124, Street No.6, Sector 04, Phase-IV, Hayatabad, Peshawar do hereby solemnly affirm and declare on oath that the contents of this Petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

Identified by;



M. Yasir Khattak

(ASC)



Engr. Inayat Ullah
DEPONENT

BEFORE THE HONORABLE CHAIRMAN SERVICES TRIBUNAL KP,
PESHAWAR

Misc. Application No. _____ / 2023

(for implementation)

In Services Appeal No. 1508/2012

Engr. Inayat Ullah (Applicant / Appellant)

VERSUS

Government of KP & others..... (Respondents)

ADDRESSES OF THE PARTIES

APPLICANT

Engr. Inayat Ullah S/O Muhammad Maroof Khan R/O H.No.124, Street No.6,
Sector 04, Phase-IV, Hayatabad, Peshawar.

RESPONDENTS

1. Government of KP, through its Chief Secretary, Peshawar.
2. Secretary Communication & Works Department, KP, Peshawar.
3. Chief Engineer North C & W, Peshawar.

Applicant / Appellant

through

MUHAMMAD YASIR KHATTAK

Advocate Supreme Court

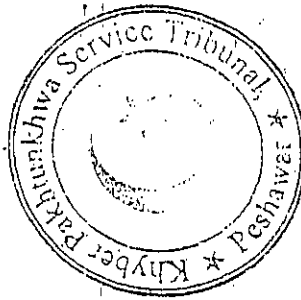
12

Annex: A
5

28/12/12

BEFORE KPK SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 502 / 2012



ENGINEER INAYATULLAH,
Ex - Executive Engineer,
Lastly working as Superintending Engineer, (BS-19),
R/o House # 124, Street # 6,
Sector 04, Phase-IV, Hayatabad, Peshawar

..... Appellant

VERSUS


1. GOVERNMENT OF KPK,
Through Chief Secretary,
Peshawar.
2. SECRETARY,
Communication & Works Department,
KPK, Peshawar.
3. CHIEF ENGINEER,
North, C & W, Peshawar

..... Respondents

APPEAL UNDER SECTION 4 OF KPK SERVICE TRIBUNAL ACT, 1974
AGAINST IMPUGNED ORDER NO. SOE/C&WD/1-13/81 DATED
01.10.2012 WHEREBY PENALTY OF REMOVAL FROM SERVICE WAS
IMPOSED & IMPUGNED APPELLATE ORDER OF EVEN NUMBER DATED
30.11.2012, RECEIVED BY REGISTERED MAIL ON 05.12.2012
WHEREBY THE REVIEW PETITION OF THE APPELLANT HAS BEEN
REJECTED WITHOUT MENTIONING ANY REASONS.

28/12/12

ATTESTED


Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

PRAYER: That on acceptance of this service Appeal, the Impugned Appellate Order dated 30.11.2012 as well as Original Order dated 01.10.2012 be set-aside and Appellant be reinstated in service with all back benefits and wages with such other relief as may deem fit in the circumstances of the case may also be granted.

Respectfully Sheweth,

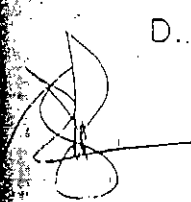
Short facts giving rise to the present Service Appeal, are as under:

1. That, Appellant, while posted as Superintending Engineer (HQ) O/O Chief Engineer (North), C&W, Peshawar, was issued a Charge Sheet coupled with the Statement of Allegations dated 09.01.2012 containing charges pertaining to the period when Appellant was posted as Superintending Engineer (OPS) (HQ) O/O Chief Engineer FATA W&S Peshawar, copy of the Charge Sheet and Statement of Allegations are attached as Annexure-A & B. It is important to mention here that the said Charge Sheet / Statement of Allegations was never served upon the Appellant.
2. That, on the basis of said Charge Sheet and Statement of Allegations, Appellant was proceeded against and an inquiry was conducted against him. As earlier mentioned the Charge Sheet / Statement of Allegations was not served upon the Appellant hence the Enquiry was conducted in absence of the Appellant.
3. That, on the basis of Ex-Parte Enquiry, probably in May 2012, the Competent Authority issued a Show Cause Notice, whereby penalty of stoppage of 03 Annual Increments for 3 years was proposed, copy of the Show Cause Notice and Covering Letter dated 19.06.2012 are attached as Annexure-C & D.
4. That, as per Show Cause Notice, the Enquiry Report was not accompanied with the same, hence the Appellant requested for the provision of Enquiry Report which was provided to him vide Letter dated 02.07.2012, copy of the Letter dated 02.07.2012 and Enquiry Report is attached as Annexure E & F.
5. That, as the proposed penalty was not based on law, true facts and reality on grounds, therefore, Appellant submitted his Reply to the Show Cause Notice, wherein Appellant denied the charges and clarified

his position, copy of the same is attached as Annexure-G. (The said Reply may please be read as integral part of instant Appeal).

- (7)
6. That, without affording the chance of personal hearing, Order dated 25.09.2012 was passed whereby proposed and recommended penalty was imposed upon the Appellant, copy of the Order dated 25.09.2012 is attached as Annexure-H.
 7. That, the Order dated 25.09.2012 was handed over to the Appellant on 05.10.2012 however Appellant accepted the same and continued to perform his duties.
 8. That, astonishingly, on 08.10.2012 Appellant was handed over yet another Order dated 01.10.2012 whereby on similar charges he was once again awarded the punishment of Removal from Service, copy of the Impugned Order dated 01.10.2012 is attached as Annexure I.
 9. That, against the said illegal punishment Order, as per law applicable, Appellant submitted his Review Petition before the worthy Chief Minister on 11.10.2012, copy of the Review Petition is attached as Annexure-K.
 10. That, the Appellate Authority rejected the Appeal / Representation of the Appellant vide Order dated 30.11.2012, received by the Appellant on 05.12.2012, copy of the Impugned Appellate Order along with Registry Envelop are attached as Annexure-L & M, hence, this Service Appeal on following amongst other grounds.

GROUNDS:

- A. That, the Punishment Order as well as Impugned Appellate Order is illegal, unlawful, void and ineffective.
 - B. That, the same are against the principles of Natural Justice, also.
 - C. That, on similar charges, the undersigned has been awarded the punishment of Stoppage of three annual increments for period of 03 years vide Order dated 25 September 2012, communicated to the Appellant on 05.10.2012 hence the Impugned Orders are utter violation and in disregard of law.
 - D. That, before issuance of Impugned Order no enquiry was conducted nor any letter of Charge / Statement of Allegations / Show Cause Notice was served upon the Appellant.
- 

- E. That, the Enquiry Officer only recommended the minor punishment hence the same was imposed and accepted by the Appellant.
- F. That, after communication of Order dated 25.09.2012, when the undersigned approached the Office for performance of his duties, he was handed over, subject-mentioned Order dated 01.10.2012.
- G. That, according to Article 13 of the Constitution of Islamic Republic of Pakistan, 1973 no person shall be prosecuted or punished for the same offence, more than once.
- H. That, the proceedings as initiated and concluded against the undersigned were totally illegal, unlawful, void and ineffective but in spite of the same, the Order dated 25.09.2012 was issued and the Appellant, for the sake of his long unblemished service accepted the same.
- I. That, the Punishment Order is not based on true facts and figures; rather the same is based on conjectures and presumptions.
- J. That, no meaningful personal hearing was given to the Appellant as provided under the Law.
- K. That, the Impugned Appellate Order is defective on the face of it besides being violative of section 24-A of General Clauses Act, 1897 because no reasons were recorded while rejecting the Review petition of the Appellant, moreover the Impugned Appellate Order is a non speaking order.

It is, therefore, requested that appeal be accepted, as prayed for.

Certificate
 Original
 Copy
 Khyber Pakhtunkhwa
 Service Tribunal,
 Peshawar

[Signature]
 Appellant

Through,

[Signature]
 BILAL AHMAD KAKAIZAI
 (Advocate, Peshawar)

Date of Presentation 10-02-2016
 Number of Pages 1600
 Copying Fee 10
 Urgent 2
 Total 12
 Name of Clerk *[Signature]*
 Date of Completion 10-02-2016

Sr. No.	Date of order/ proceedings	Order or other proceedings with signature of Judge/ Magistrate
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2

3

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Annex: B

Service Appeal No.1508/2012,
Engineer Inayatullah Versus Government of KPK through
Chief Secretary, Peshawar etc.

JUDGMENT

17.12.2015

PIR BAKHSH SHAH, MEMBER.- Appellant with
counsel (Mr. Bilal Ahmad Kakaizai, Advocate) and
Government Pleader (Mr. Ziaullah) for the respondents
present.

2. Appellant was removed from service vide impugned
order dated 01.10.2012 on the ground of absence from duty
w.e.f. 15.09.2011. His departmental appeal was also rejected
vide order dated 30.11.2012, hence this appeal under Section 4
of the KPK Service Tribunal Act, 1974.

3. Record revealed that per charge sheet coupled with
statement of allegations signed on 09.1.2012, the appellant was
put to face the following charges:-

- i. "You have issued various premature posting/transfer
orders of the staff in the end of financial year i.e May,
2011.
- ii. You as Superintending Engineer (HQ) with a look after
charge of the Chief Engineer's office, has authorized
yourself (SE HQ) to accept the tenders/sanctioning of
contract agreement upto 10 million in violation of the
CPWA code in your own interest.

iii. You have transferred vehicles from one XEN to other XEN and kept it in your own un-authorized custody in addition to your existing designated vehicle, thereby the developmental works suffered due to non-inspection of works by the XEN.

iv. You are absent from duty since 2105.2011 without intimation/prior approval."

Engr. Shaukat Ali Shah, then Chief Engineer (CDO) C&W Department conducted the enquiry and recommended appellant for stoppage of 3 annual increments. Resultantly final show cause notice enclosed vide letter dated 2.7.2012 was to be served on the appellant. Vide order dated 25.09.2012, the same penalty of stoppage of three increments was imposed on the appellant. According to appellant, he received this order of 25.09.2012 on 05.10.2012 and accepted the same and continued to perform his duties. But astonishingly on 08.10.2012, the appellant was handed over yet another order dated 01.10.2012 (impugned) whereby on the same charges he was again awarded punishment but this time removal from service.

4. The respondents-department in its reply has denied that the appellant was punished twice for one and the same offence. According to the department, the appellant was proceeded against for irregularities committed in FATA in the (first case) while his removal from service vide impugned order dated 01.10.2012 is based on his willful absence from duty w.e.f. 15.09.2011. Rejoinder from the appellant's side is

also available on record.

5. Arguments heard and record perused.

6. It is the contention of the learned counsel for the appellant that the appellant has been vexed twice on the same charge of absence which situation is reflected from record. He further submitted that the appellant after rendering service as Engineer since 1980, rose to this high position who was removed from service by imposing major penalty on him which is extremely harsh in the circumstances available on record. It was also submitted that no codal formalities of serving of show cause notice was complied with nor opportunity of personal hearing was provided to him. He summed up that the enquiry being too harsh may be set aside.

7. The appeal was resisted by the learned Government Pleader on the ground that in the first course of departmental action against the appellant, he was issued charge sheet and statement of allegations and a regular enquiry was conducted against him by the then Chief Engineer Shaukat Ali Shah. That as the appellant again absented himself from duty w.e.f. 15.09.2011, therefore, under Rule 9 of KPK Government Servants (E&D) Rules, 2011, issuance of charge sheet and regular enquiry was not mandatory. That the absence notice against the appellant was managed in daily Express dated 30.3.2012 and daily News dated 01.4.2012, where-after he was removed from service vide impugned order dated 01.10.2012.. He submitted that the penalty imposed is just and in

accordance with the law, which may be left intact and the appeal may be dismissed.

8. We have heard learned counsel for the parties and carefully perused the record with their assistance.

9. First charge sheet and statement of allegations charging the appellant for absence from duty since 21.5.2011 has been signed on 09.1.2012. This step was followed by regular enquiry conducted by Engr. Shaukat Ali Shah, then Chief Engineer C&W Department and according to para-4 of the joint para-wise comments of the respondent department under the factual ground, this enquiry report is dated 19.06.2012. It is thus abundantly clear that the charge sheet and enquiry report are post events (on point of time) from the charge of fresh allegations of absence from duty w.e.f. 15.09.2011 which charge is the subject matter of notice cited in the daily newspapers. In the stated situation, it is not understandable that if the appellant remained absent from duty since 15.09.2011 what prevented the competent authority from imposition of penalty on the appellant vide his previous order dated 25.09.2012? Penalizing the appellant for stoppage of three increments vide order dated 25.09.2012 inter-alia on the charge of absence from duty followed by a subsequent penalty of removal from service again on the charge of absence, vide impugned order dated 01.10.2012, seems to be an unusual practice in the domain of disciplinary proceedings against a civil servant. This being so, the recurrence of the two punishing orders seem to have stepped ~~slipped~~ on the border

line of the domain of double jeopardy which is not allowed under the law. The respondent-department also failed to show by producing A.D cards with registered letters that prior to citation in the newspapers, notices were duly issued to the appellant at his home address as provided in Rule 9 of KPK Government Servants (E&D) Rules, 2011 and were received by him. We have carefully perused the record and as the appellant has not categorically denied absence from duty for certain time, therefore, in the stated facts and circumstances of the case, the Tribunal is inclined to hold in the interest of justice, that to revisit the impugned orders of removal from service is necessary. Since the appellant has not categorically denied his absence for some time, therefore, we would like to modify the impugned orders of removal from service into his compulsory retirement w.e.f. the date of the impugned order i.e. 01.10.2012. The appeal is disposed of accordingly in the above terms. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
17.12.2015.

Self- Pir Bakhsh Shah
Member
Self- Abdul Latif,
Member

Certified

True copy

Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Receipt

Number

Copies

Urgent

Total

Name of

Date

Date of

22-02-2016
2400
14-00
2-00
16-00
[Signature]
22-02-2016
22-02-2016

VAKALAT NAMA

14

IN THE COURT OF Chairman Services Tribunal KP

Engg. Inayat Ullah

VERSUS

Govt. of KP & others

(Petitioner)
(Plaintiff)
(Appellant)
(Complainant)
(Decree Holder)
(Objector)

Peshawar

(Respondent)
(Defendant)
(Accused)
(Judgment Debtor)

I/we ~~Appellant~~ do hereby appoint **Muhammad Yasir Khattak (ASC)**
Adil Khalil & Touqeer Ahmad (Advocates) in the above mentioned case, to
do all or any of the following acts, deeds and things:-


1. To appear, act and plead for *metus* in the above mentioned case in this Court/Tribunal in which the same may be tried or heard, and any other proceedings arising out of or connected therewith.
2. To sign, verify and file or withdraw all proceeding, petitions, appeals, affidavits and applications for compromise or withdrawal, or for submission to arbitration of the said case, or any other documents, as may be deemed necessary or advisable by them for the conduct, prosecution or defense of the said case at all its stages.
3. To receive payment of, and issue receipts for, all moneys that may be or become due and payable to us during the course of proceedings.

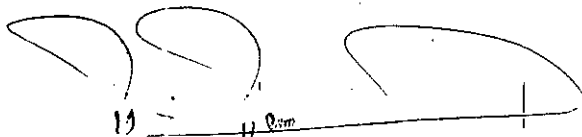
AND hereby agree:-

- a. That the Advocate shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fee remains unpaid.

In witness whereof, I/we have signed this Wakalatnama hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this _____.

Attested & Accepted by:

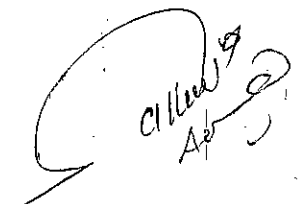

Signature of Executant/s



Muhammad Yasir Khattak
Advocate Supreme Court

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B.C 10-7891
Cell:0321-9060880

Adil


Adil