


Form- A

FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 552/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	02.08.2023	The implementation petition of Mr. Rehman Ali submitted today by Syed Noman Ali Bukhari Advocate is fixed for implementation report before Single Bench at Peshawar on _____ Original file is requisitioned. AAG has noted the next date.
		By the order of Chairman
		 REGISTRAR

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.

Execution Petition No. 552 /2023

In

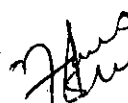
Service Appeal No.1152/2018

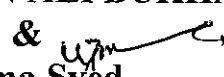
INDEX

S.No.	Documents	Annexure	Page No.
1.	Memo of Execution Petition	-----	01-02
2.	Copy of Judgment	- A-	03-07
3.	Vakalat Nama	-----	08

APPLICANT/PETITIONER

THROUGH:


(SYED NOMAN ALI BUKHARI)

& 
Uzma Syed

Advocates, High Court
Peshawar.

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR.

Execution Petition No. 552 /2023

In

Service Appeal No.1152/2018

Khyber Pakhtukhwa
Service Tribunal

Diary No. 6802

Dated 02/08/23

Mr. Rehmat Ali, Ex-Constable No 500
CCP, Peshawar.

PETITIONER

VERSUS

1. The Superintendent of Police Headquarter KP, Police Peshawar.
2. The Capital City Police (CCPO), Peshawar.
3. The Deputy Inspector General Of Police, Peshawar.

RESPONDENTS

.....

**EXECUTION PETITION FOR DIRECTING THE
RESPONDENTS TO IMPLEMENT THE
JUDGMENT DATED 07.04.2023 OF THIS
HONORABLE TRIBUNAL IN LETTER AND
SPIRIT.**

.....

RESPECTFULLY SHEWETH:

1. That the applicant/appellant filed Service Appeal No.1152/2018 in this august Tribunal against the order dated 18.03.2016, 16.05.2016 & 15.11.2016 whereby the appellant has been dismissed from the service.
2. That the said appeal was finally heard by the Honorable Tribunal on 07.04.2023 and the Honorable Tribunal was kind enough to accept the appeal and penalty of dismissal from service is set aside and the appellant is reinstated into service with all back benefits. (Copy of judgment is attached as Annexure-A).
3. That the appellant also filed application to respondents for the implementation of judgment. The respondents were totally failed in taking any action regarded the Hon'able Tribunal Judgment dated 07.04.2023.

(15/2/23)

4. That in-action and not fulfilling formal requirements by the respondent 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 respondents are legally bound to pass formal appropriate order.
6. That the petitioner has having no other remedy to file this Execution Petition.

It is, therefore, most humbly prayed that the respondents may be directed to obey the judgment dated 27.04.2023 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 favor of applicant/petitioner.

APPLICANT/PETITIONER

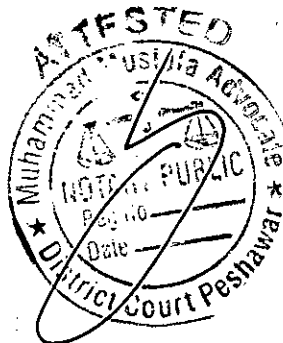
(15/2/23)
Rahmat Ali

THROUGH:

(15/2/23)
(SYED NOMAN ALI BUKHARI)
&
Uzma Syed
Advocate, High Court
Peshawar.

AFFIDAVIT:

It is affirmed and declared that the contents of the above Execution Petition are true and correct to the best of my knowledge and belief and nothing has been concealed from the Hon'able Tribunal.



(15/2/23)
DEPONENT

A 3

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

Service Appeal No.1152/2018

Date of Institution ... 05.07.2018
Date of Decision ... 07.04.2023



Mr. Rehmat Ali, Ex-Constable/No.500 Capital City Police, Peshawar.

... (Appellant)

VERSUS

The Superintendent of Police Headquarters, Khyber Pakhtunkhwa,
Peshawar and two others.

... (Respondents)

Syed Noman Ali Bukhari,
Advocate ... For appellant.

Asif Masood Ali Shah,
Deputy District Attorney ... For respondents.

Rozina Rehman ... Member (J)
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:

“On the acceptance of this appeal, the order dated
18.03.2016, 16.05.2016 and 15.11.2016 may please be set
aside and the appellant may be reinstated into service
with all back and consequential benefits.”

2. Brief facts leading to filing of the instant appeal are that
appellant was appointed as Constable in 2006. He was serving as
Traffic Warden Peshawar when in the meanwhile, he was implicated in
case FIR No.327 dated 04.05.2015 registered at Police Station
Charsadda U/S 411 PPC. He was charge sheeted on the basis of above

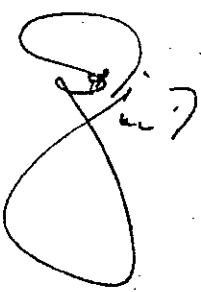
REGISTERED

(4)

mentioned FIR and was dismissed from service vide order dated 18.03.2016. He preferred departmental appeal which was rejected. He then filed revision U/S 11-A of the Khyber Pakhtankhwa Police Rules, 1975 which was also rejected. He was acquitted by a competent court of Law vide judgment dated 17.01.2018. He, therefore, filed departmental appeal after earning acquittal which was not responded to, hence, the present service appeal.

3. We have heard Syed Noman Ali Bukhari Advocate learned counsel for the appellant and Asif Masood Ali Shah learned Deputy District Attorney for the respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Syed Noman Ali Bukhari Advocate, learned counsel for appellant, inter-alia, contends that the impugned orders are against law, facts, norms of justice and material on record. He contended that after earning acquitted from the charges, there is no ground remained to punish the appellant, hence, he is eligible to be reinstated. Learned counsel submitted that the impugned order is sheer violation of Articles-4 & 25 of the Constitution of Islamic Republic of Pakistan, 1973; that due to impugned order and harsh view of the respondents, the appellant and his family suffered a lot. Further submitted that no chance of personal hearing was provided to the appellant and the codal formalities were not fulfilled before passing of impugned order which is liable to be set aside. Lastly, he submitted that the appellant was not treated according to law. He, therefore, requested for acceptance of the instant service appeal.


AD
Deputy District Attorney
Khyber Pakhtankhwa
Services Tribunal
Faisalabad

5. Conversely, learned Deputy District Attorney submitted that the appellant has tainted service record and was also previously dismissed from service on account of his involvement in a criminal case. He contended that appellant while posted as Traffic Warden, Peshawar was proceeded against departmentally on the charges of involvement in a criminal case. He was issued charge sheet with statement of allegations and SDPO Faqir Abad was appointed as Inquiry Officer. Lastly, he submitted that after fulfillment of all codal formalities, he was awarded major punishment of dismissal from service by SP Headquarters, Peshawar, according to law.

6. From the record it is evident that while posted as Traffic Warden Peshawar, appellant Rehmat Ali was found involved in criminal case vide FIR No.327 dated 04.5.2015 at Police Station Prang, Charsadda U/S 411 PPC. The impugned order would reveal that he was involved in case FIR No.200 dated 05.04.2015 of Police Station Mandani and was dismissed from service, however, he was reinstated in service which is evident from the record. So far as involvement in case FIR No.327 is concerned, he was charge sheeted on the allegation of involvement in criminal case. In order to scrutinize his conduct, ASP Faqir Abad was appointed as Inquiry Officer. The inquiry report is available on file. As per procedure of the inquiry, the appellant, Ex-Constable Rehmat Ali was called and in view of his statement, major punishment was recommended. No witness was examined during the inquiry proceedings in presence of appellant. Appellant was not given any opportunity of defense. A reference of an old case FIR No.200 dated 15.04.2015 was given. However, appellant was reinstated in

ATTESTED


 DEPUTY DISTRICT ATTORNEY
 PESHAWAR

(6)

service. The inquiry report clearly shows that the appellant was recommended for major punishment due to persistent involvement in such like cases. The inquiry was not conducted strictly in accordance with law as no cogent reasons were advanced by the Inquiry Officer in order to show nexus of the accused official with stolen property. Order of the competent court of Law is available on file vide which appellant was acquitted from the charges leveled against him vide case FIR No.327 dated 02.06.2015. The order of the learned Judicial Magistrate-IV Charsadda dated 17.01.2018 is available on file vide which application submitted U/S 249-A of Cr.PC was accepted and the present appellant/accused official was acquitted of the charges leveled against him. It is for the respondent Department to wait for the conclusion of trial but neither the competent authority nor the appellate authority waited for the conclusion of trial. Earlier, he clearly mentioned in his appeal before DIG/RPO to reinstate him till the decision of criminal case but his request was not considered and his appeal was rejected. Lastly, he was acquitted on 17.01.2018, however, attested copies of the order were provided with on 10th February, 2018. where-after, he filed proper departmental appeal on 08.03.2018 which is well within time. 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. Involvement of the appellant in the 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.

ATTESTED

Khyber Pakhtunkhwa
Service Tribunal
Peshawar

(7)

7. It is established from the record that charges of his involvement in the 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 and judgments rendered by this Tribunal in Service Appeal No.1380/2014 titled Ham Nawaz Vs. Police Department; Service Appeal No.616/2017 titled Muntaz Ali Vs. Police Department; Service Appeal No.863/2018 titled Fateh-ur-Rehman Vs. Police Department; Service Appeal No.1065/2019 titled Naveed Gul Vs. Police Department and Service Appeal No.12098/2020 titled Ali Imran Vs. Police Department.

8. 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

07.04.2023

(Muhammad Akbar Khan)
Member (E)

(Rozina Rehman)
Member (J)

Mutazem Shah

Certified to be true copy

EXCISE & TAX
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 04-5-23
 Number of ~~Words~~ Pages 5
 Copying Fee 25/-
 Urgent 5/-
 Total 30/-
 Date of Completion of Application 04-05-23
 Date of Delivery of Copy 04-05-23

بعدالت

KP Service Tribunal, Pakistan

سہ 2ء منجانب

بنام

(تحت کالی)

سبم

لر لیس

باعث تحریر آنکہ

مورخہ

مقدمہ

دعویٰ

جرم

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ

آن مقام سے اور کیلئے رسید سے ان کی طرف سے

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز

وکیل صاحب کو راضی نامہ کرنے ق تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور

بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق

زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی

اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا محتاج ہوگا۔ از بصورت ضرورت

مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے

تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکور با اختیارات حاصل ہوں گے

اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ ہوں گے

سبب سے دہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔

کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھدیا کہ سندر ہے۔

20

۵۵

المرقوم

العبد گواہ العبد