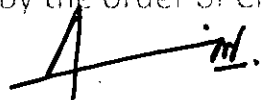


Form- A

FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 606/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	31.08.2023.	<p>The implementation petition of Mr. Asif Khan is submitted today by Mr. Javed Iqbal Gulbela 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 606 2023

In

Service appeal No. 3866/2021

Asif Khan Constable 853;


VERSUS


Inspector General of Police Khyber Pakhtunkhwa and Others.

I N D E X.

S.N O	DESCRIPTION OF DOCUMENTS	ANN:	PAGES
1.	Execution Petition		1-2
2.	AFFIDAVIT & Addresses of Parties		3-4
3.	Copy of the Order & judgment dated 25/07/2023	"A"	5-9
4.	Wakalat Nama		10


Petitioner


Through
Javed Iqbal Gulbela,
Advocate, Supreme Court Pakistan.


Saghir Iqbal Gulbela.
Advocate High Court

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Execution petition No 606 2023

Diary No. 7293

In

Service appeal No. 3866/2021

Dated 31/8/2023

Asif Khan Constable 853, Headquarter City Traffic Police, Peshawar.

.....**PETITIONER.**

VERSES

- 1) Inspector General of Police Khyber Pakhtunkhwa at Central Police Office, Civil Secretariat, Peshawar.
- 2) Capital City Police Officer at Police Line, Peshawar.
- 3) Superintendent of Police HQRS, City Traffic Police, Peshawar.

.....**RESPONDENTS.**

Execution Petition for Implementation of Judgment & Order of
this Hon'ble Tribunal in Appeal No. 3866/2021 Decided on
25/07/2023.

Respectfully Sheweth!

- 1) That the above mentioned appeal was decided by this Hon'ble Tribunal vide judgment dated 25/07/2023. **(Copy of the judgment dated 25/07/2023 is annexed as annexure-"A")**.
- 2) That the petitioner after getting of the attested copy of the same judgment approached the respondents several time for the implementation of the above mention judgment. However they are using delaying tactics and reluctant to implement the judgment of this Hon'ble Tribunal.
- 3) That the relevant portion of the judgment at Para No.06 is reproduced "***For the stated reasons, especially, the innocence/none involvement of the appellants in the above circumstances rendered the entire departmental proceedings of no avail, therefore, on acceptance of these appeals, we set aside the impugned orders and order reinstatement of the appellants with all back benefits. The period absence shall be treated as leave of the kind due. Consign.***"
- 4) That the respondents are legally and morally bound to obey the Order & Judgment of this Hon'ble Tribunal and to implement judgment of this Hon'ble Tribunal. But they are reluctant to implement the same.

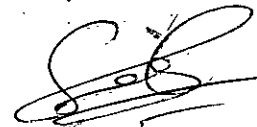
- 5) That the petitioner has no other option, but to file the instant petition for implementation of judgment of this Hon'ble Tribunal.
- 6) That there is no legal bar, which may prevent this Hon'ble Tribunal from implementation of its own judgment.

It is, therefore, requested that on acceptance of this petition, the Respondents may directed to implement the judgment & Order of this Hon'ble Tribunal pass in Appeal 4812/2021 dated: 25-07-2023, by reinstating the Petitioner into service with all back benefits.

Dated: 28-08-2023


Petitioner

2
Javed 2
Through
Javed Iqbal Gulbela,
Advocate, Supreme Court Pakistan.


Saghir iqbal Gulbela.
Advocate High Court

Alam Zeb khan
Advocate Peshawar.



M. Arif Mohmand
Advocate Peshawar.

3

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

S.Appeal No.3866/2021

In

Execution Petition _____/2023

Asif Khan

Versus

Govt of KPK & Others

AFFIDAVIT

I, Aisf Khan S/o Muhammad Ishaq R/o P.O Badaber, Mohallah Garhi Ali Khel, Peshawar, do hereby solemnly affirm & declare on oath that all contents of the instant Service Appeal are true & correct to the best of my knowledge and belief & nothing has been concealed from this Hon'ble Tribunal.



Aisf Khan
DEPONENT

CNIC# 17301-2546165-1
Cell# 0313-9642303

Identified By:

Javed Iqbal Gulbela
Advocate, Supreme Court,
of Pakistan.

(4)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Execution petition No. _____ 2023

In

Service appeal No. 3866/2021

Asif Khan Constable 853,

VERSUS

Inspector General of Police Khyber Pakhtunkhwa and Others.

Addresses of parties

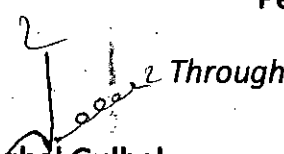
Petitioner:

Asif Khan Constable 853, Headquarter City Traffic Police, Peshawar.

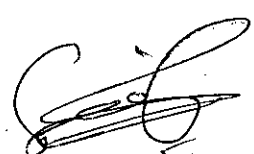
Respondents:

- 1) Inspector General of Police Khyber Pakhtunkhwa at Central Police Office, Civil Secretariat, Peshawar.
- 2) Capital City Police Officer at Police Line, Peshawar.
- 3) Superintendant of Police HQRS, City Traffic Police, Peshawar.


Petitioner


Javed Iqbal Gulbela,
Advocate, Supreme Court Pakistan.

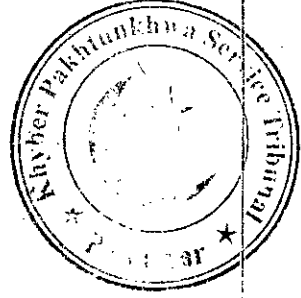
Alam Zeb khan
Advocate Peshawar.


Saghir Iqbal Gulbela.
Advocate High Court


M. Arif Mohmand
Advocate Peshawar.

5

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR



APPEAL NO _____ /2021

Mr. Asif Khan, Ex-Constable No. 853,
Headquarter City Traffic Police, 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, Head Quarters City Traffic Police,
Peshawar.....RESPONDENTS

APPEAL UNDER SECTION-4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT-1974 AGAINST
THE IMPUGNED ORDER DATED 29.12.2020 WHEREBY
MAJOR PENALTY OF DISMISSAL FROM SERVICE HAS
BEEN IMPOSED ON THE APPELLANT AND AGAINST THE
IMPUGNED APPELLATE ORDER DATED 02.03.2021
WHEREBY DEPARTMENTAL APPEAL OF THE APPELLANT
HAS BEEN REJECTED ON NO GOOD GROUNDS

PRAYER:

That on acceptance of this appeal the impugned orders dated 29.12.2020 and 02.03.2021 may very kindly be set aside and the appellant be re-instated into service with all back benefits. Any other remedy which this August Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

Brief facts giving rise to the present appeal are as under:-

- 1- That appellant was the employee of respondent Department and was performing his duty as Traffic Police Constable No. 853 quiet efficiently up to the entire satisfaction of his superiors.
- 2- That during service the appellant was falsely implicated in criminal case FIR No. 810, dated 10.07.2020 under section 365/147/149/5 Exp/15AA/182 PPC at Police Station Badhber. Copy of FIR is attached as annexure.....A.

TESTED
[Signature]
Khyber Pakhtunkhwa Service Tribunal
Peshawar

Service Appeal No.3866/2021 titled "Asif Khan -vs-The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar and others", and Service Appeal No.4812/2021 titled "Azmat Ullah -vs-the Inspector-General of Police, Khyber Pakhtunkhwa, Peshawar and others" decided on 25.07.2023 by Division Bench comprising Kalim Arshad Khan, Chairman, and Ms.Fareeha Paul, Member, Executive, Khyber Pakhtunkhwa Service Tribunal, Peshawar



KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**
FAREEHA PAUL ... MEMBER (Executive)

Service Appeal No.3866/2021

Date of presentation of Appeal.....24.03.2021
Date of Hearing.....25.07.2023
Date of Decision.....25.07.2023

Mr. Asif Khan, Ex-Constable No.853, Headquarter City Traffic Police, 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, Headquarters City Traffic Police, Peshawar.....(Respondents)**

Service Appeal No.4812/2021

Date of presentation of Appeal.....07.04.2021
Date of Hearing.....25.07.2023
Date of Decision.....25.07.2023

Mr. Azmat Ullah, Ex-Constable No.602, (Police Department Khyber Pakhtunkhwa) S/O Hazrat Yousaf, R/O Ghar Mali Khel, Masho Khel, P.O Badhber, District Peshawar.....(Appellant)

Versus

- 1. The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.**
- 1. The Capital City Police Officer, Police Lines, Peshawar.**
- 2. The Superintendent of Police, Headquarters City Traffic Police, Peshawar.....(Respondents)**

Present:

Mr. Mir Zaman Safi, Advocate.....For the appellant in S.A #.3866/2021
Syeda Ume Habiba, Advocate.....For the appellant in S.A #.4812/2021
Mr. Muhammad Jan, District Attorney..For the respondents

APPEALS UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 29.12.2020 WHEREBY MAJOR PENALTY OF DISMISSAL FROM SERVICE HAS BEEN IMPOSED ON THE APPELLANTS AND AGAINST THE IMPUGNED APPELLATE ORDERS DATED 02.03.2021 & 11.03.2021 WHEREBY THE DEPARTMENTAL APPEALS OF THE APPELLANTS HAVE BEEN REJECTED

ATTESTED

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Peshawar

(7)

CONSOLIDATED JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Through this single judgment the above two appeals are being decided as they are similar in nature and almost with the same contentions, therefore, can be conveniently decided together.

I. Facts of the appeals as enumerated in the memoranda and grounds are summarized as under:

a. **Asif Khan SA 3866 of 2021:**

Appellant was serving as Constable in the Police Department. He was implicated in criminal case vide FIR No.810 dated 10.07.2020 U/S 365/147/149/5 Exp/15AA/182 PPC at Police Station Badhber, due to which, he was suspended vide order dated 31.08.2020; that the appellant approached the Court of the learned Additional District & Sessions Judge-IX Peshawar for want of pre-arrest bail which was granted to the appellant and BBA was confirmed vide order dated 06.10.2020. In the meanwhile, the respondents conducted fact finding inquiry. Resultantly, he was dismissed from service on 29.12.2020 i.e. before the final decision of the Court in the said FIR vide which the appellant was acquitted. Feeling aggrieved, he filed departmental appeal but the same was rejected on 02.03.2021, hence, the instant service appeal.

b. **Azmat Ullah SA 4812 of 2021**

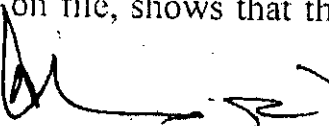
Appellant was serving as Constable. He was implicated in two criminal cases, i.e. FIR No.810 dated 12.08.2020 U/S 365/147/149/5 Exp/15AA/182 PPC at Police Station Badhber and FIR No.525 dated

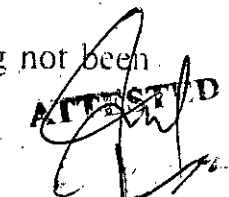
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SECRETARY
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

05.06.2020 U/S 342/427/149/PPC at Police Station, Badhber, due to which, he was suspended with immediate effect; that the appellant approached the Court of the learned Additional District & Sessions Judge-IX, Peshawar for want of pre-arrest bail which was granted to the appellant and BBA was confirmed vide order dated 06.10.2020. In the meanwhile, the respondents conducted fact finding inquiry. Resultantly, he was dismissed from service on 29.12.2020 before the decision in the criminal case, by the Court before the final decision in the said FIR vide which the appellant was acquitted. Feeling aggrieved, he filed departmental appeal but the same was rejected on 11.03.2021, hence, the instant service appeal

2. On receipt of the appeals and admission to full hearing, the respondents were summoned, they put appearance and contested the appeals by filing their respective written replies raising therein numerous legal and factual objections. The defense setup was a total denial of the claim of the appellants.
3. We have heard learned counsel for the appellants and learned District Attorney for respondents.
4. The Learned counsel for the appellants reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned District Attorney assisted by the learned counsel for respondents, controverted the same by supporting the impugned order(s).
5. It appears in the FIR No.810 that none of the appellants have been charged for any overtact. Besides, the affidavit of the complainant party, placed on file, shows that they have declared the appellants innocent having not been




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involved in the criminal case on the basis of which, they were proceeded against departmentally. Moreover, the Inquiry Officer did not bother to conduct inquiry properly as no opportunity of cross-examination seems to have been provided to the appellants during the course of inquiry. Last, but not the least, the charge sheet and statement of allegations were issued by Chief Traffic Officer, Peshawar, whereas, the impugned order was passed by Superintendent of Police Headquarters, City Traffic Police, Peshawar.

6. For the stated reasons, especially, the innocence/none involvement of the appellants in the above circumstances rendered the entire departmental proceedings of no avail, therefore, on acceptance of these appeals, we set aside the impugned orders and order reinstatement of the appellants with all back benefits. The period of absence shall be treated as leave of the kind due. Consign.

7. Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 26th day of July, 2023.

Certified to be a true copy
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar


KALIM ARSHAD KHAN
Chairman


FAREEHA PAUL
Member (Executive)

Murazem Shah

Date of Presentation of Application

51-

25/-

51-

30/-

28/08/23

Date of Delivery of Copy

28/08/2023

وکالت نامہ

عدالت: حسٹریبل جج صاحب محترم سید ابرار حسین شاہ

نام: احمد خان حاکمیت و کسب

منجانب: ایپیلنٹ دعویٰ الگنی کوشنیشن

تاریخ: 28-08-2023

باعث تحریر آنکہ مقدمہ مندرجہ بالا عنوان اپنی طرف سے واسطے پیروی و جوابدہی

بمقام ایپیلنٹ کیلئے جاوید اقبال گل بیلہ ایڈووکیٹ سپریم کورٹ آف پاکستان

کو بدیں شرط وکیل مقرر کیا ہے۔ کہ میں ہر پیشی کا کوڈ یا بزرگیہ مختار خاص رو برو عدالت حاضر ہوتا رہوں گا۔ اور بوقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر دالت کرونگا، اگر پیشی پر من مظہر حاضر نہ ہوا اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور پر میرے برخلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہونگے۔ نیز وکیل صاحب موصوف صدر مقام پکھری کی کسی اور جگہ یا پکھری کے مقررہ اوقات سے پہلے یا پیچھے یا بروز تعطیل پیروی کرنے کے ذمہ دار نہ ہونگے۔ اگر مقدمہ علاوہ صدر مقام پکھری کے کسی اور جگہ سماعت ہونے یا بروز تعطیل یا پکھری کے اوقات کے آگے پیچھے پیش ہونے پر من مظہر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا مختار نہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہونگے۔ مجھے کوکل پر داخستہ صاحب موصوف مثل کردہ ذات خود منظور و قبول ہوگا۔ اور صاحب کو عرضی دعویٰ و جواب دعویٰ اور درخواست جرائے ڈگری و نظر ثانی اپیل و نگرانی ہر قسم کی درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کے اجراء کرنے اور ہر قسم کے روپیہ وصول کرنے اور رسید دینے اور داخل کرنے اور ہر قسم کے بیان دینے اور سپروٹاشی و راضی نامہ فیصلہ پر خلاف کرنے اقبال دعویٰ دینے کا بھی اختیار ہوگا۔ اور بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم انتہائی یا قرتی یا گرفتاری قبل از اجراء ڈگری بھی موصوف کو بشرط ادائیگی علیحدہ مختار نہ پیروی کا اختیار ہوگا۔ اور بصورت ضرورت صاحب موصوف کو بھی اختیار ہوگا یا مقدمہ مذکورہ یا اس کے کسی جزوی کاروائی کے واسطے یا بصورت اپیل، اپیل کے واسطے دوسرے وکیل یا ایئر سٹر کو بجائے اپنے یا اپنے ہمراہ مقرر کریں اور ایسے مشیر قانون کے ہر امر دی اور ویسے ہی اختیارات حاصل ہونگے جیسے کے صاحب موصوف کو حاصل ہیں۔ اور دوران مقدمہ میں جو کچھ ہر جانہ التواء پڑے گا۔ اور صاحب موصوف کا حق ہوگا۔ اگر وکیل صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کرونگا تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔ لہذا مختار نامہ لکھ دیا کہ سندر ہے۔

مورخ: 28-08-2023 مضمون مختار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

Accepted by

[Signature]
DC-11-1742

BC10-7924
epic 17301-14960657
mob 03459405501

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BC-23-6271

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BC-23-6484

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ایپیلنٹ

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