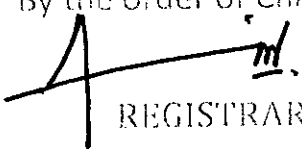


Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Implementation Petition No. 835/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	20.11.2023	<p>The implementation petition of Mr. Asfandyar submitted today by Syed Noman Ali Bukhari Advocate It is fixed for implementation report before Single Bench at Peshawar on _____. Original file be requisitioned. AAG has noted the next date. Parcha peshi is given to counsel for the petitioner.</p> <p>By the order of Chairman  REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL, PESHAWAR.

Execution Petition No. 835 /2023

In

Service Appeal No. 1184/2016

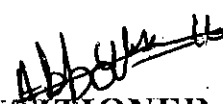
Asfandiyar

V/S

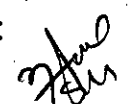
police Deptt:


**INDEX**

S.No	Documents	Annexure	Page No.
1.	Memo of Execution Petition	----	01-02
2.	Copy of Judgment	- A -	03-07
3.	Copy of application.	-B-	08
4.	Vakalat Nama	----	09

  
PETITIONER  
Asfandiyar

THROUGH:

  
SYED NOMAN ALI BUKHARI  
ADVOCATE, HIGH COURT

  
&  
(UZMA SYED)  
ADVOCATE, PESHAWAR  
Cell No: 0306-5109438

①

BEFORE THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR.

Execution Petition No. 835 /2023

In

Service Appeal No. 1184/2016

Khyber Pakhtunkhwa  
Service Tribunal

Case No. 9254

Dated 20-11-2023

Mr. Asfandiyar Constable No.1349, previous no: 107,  
District Charsadda.

(Petitioner)

VERSUS

1. The Provincial Police Officer, KP, Peshawar
2. The District Police Officer Charsadda.
3. The Deputy inspector General of Police Mardan Region, Mardan-  
1.

(Respondents)

.....

**EXECUTION PETITION FOR DIRECTING  
THE RESPONDENTS TO IMPLEMENT THE  
JUDGMENT DATED: 17/05/2023 OF THIS  
HONORABLE TRIBUNAL IN LETTER AND  
SPIRIT.**

.....

**RESPECTFULLY SHEWETH:**

1. That the applicant/Petitioner filed Service Appeal No-1184/2016 for back benefits.
2. That the said appeal was finally heard by the Honorable Tribunal on 17/05/2023. The Honorable Tribunal is kind enough to allow this appeal of appellant as prayed for. (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 17/05/2023. Copy of application is attached as annexure-B.

4. That the respondents were totally failed in taking any action regarded the Hon'able Tribunal Judgment dated 17/05/2023.
5. That the respondent totally violated the judgment of Hon'able Service Tribunal, is totally illegal amount to disobedience and Contempt of Court.
6. 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 implement the same in letter and spirit.
7. 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 17/05/2023 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/appellant.

*Abby In Ch*  
**PETITIONER**  
 Asfandiyar

**THROUGH:**

*Noman Ali Bukhari*  
**(SYED NOMAN ALI BUKHARI)**  
**ADVOCATE HIGH COURT.**

**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.

*[Signature]*  
**DEPONENT**



① A ③

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

Appeal No. \_\_\_\_\_/2016



Mr. Asfandiyar, Constable, No.1349,  
Previous No.107, District Charsadda.

**APPELLANT**

VERSUS

1. The Provincial Police Officer, KPK, Peshawar.
2. The Deputy Inspector General of Police, Mardan Region-1, Mardan.
3. The District Police Officer, Charsadda.

.....


**APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL ACT, 1974 AGAINST THE RE-INSTATEMENT ORDER DATED 26.05.2015 WHEREBY THE PERIOD OF SERVICE WAS CONSIDERED AS LEAVE WITHOUT PAY AND AGAINST THE REJECTION ORDER DATED 21.06.2016, RECEIVED BY THE APPELLANT ON 23.9.2016 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED FOR GOOD GROUNDS.**

.....

**PRAYER:**

***THAT ON ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDERS DATED 26.05.2015 & AND 21.06.2016 RECEIVED BY THE APPELLANT ON 23.9.2016 MAY BE MODIFIED AND THE RESPONDENT DEPARTMENT MAY BE DIRECTED TO CONVERT THE INTERVENING PERIOD AS LEAVE WITH FULL PAY. ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.***

ATTTESTED

  
MEMBER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

(4)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR.**

Service Appeal No. 1184/2016

Date of Institution ... 19.10.2016

Date of Decision... 17.05.2023



Asfandiyar, Constable No. 1349, Previous No. 107, District Charsadda.

(Appellant)

VERSUS

The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and 02 others.

... (Respondents)

SYED NOUMAN BUKHARI,  
Advocate

For appellant.

MR. ASIF MASOOD ALI SHAH,  
Deputy District Attorney

For respondents.

MR. SALAH-UD-DIN  
MR. MUHAMMAD AKBAR KHAN

MEMBER (JUDICIAL)  
MEMBER (EXECUTIVE)

JUDGMENT:

SALAH-UD-DIN, MEMBER:- According to the averments in the appeal, the appellant was falsely charged in case FIR No. 1276 dated 26.09.2008 under sections 324/34 PPC Police Station Charsadda and he thus remained absent from duty which resulted in his dismissal from service vide order dated 05.06.2009 passed by District Police Officer Charsadda without issuing him any charge sheet or statement of allegations; that the appellant was acquitted on 04.09.2015, where-after he submitted departmental appeal, which was allowed by Deputy Inspector General of Police Mardan Region Mardan-I vide order dated 26.05.2015 and the appellant was ordered

ATTESTED


to be reinstated in service with immediate effect by treating the intervening period as leave without pay; that the appellant preferred appeal before the Inspector General of Police Khyber Pakhtunkhwa Peshawar challenging the order dated 26.05.2016 to the extent of treating of the intervening period as leave without pay. The same ~~was, however, rejected vide order dated 23.06.2016.~~ The appellant has now approached this Tribunal by way of filing 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 has addressed his arguments supporting the grounds agitated by the appellant in his service appeal. On the other hand, learned Deputy District Attorney for the respondents has controverted the arguments of learned counsel for the appellant and has supported the comments submitted by the respondents.

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

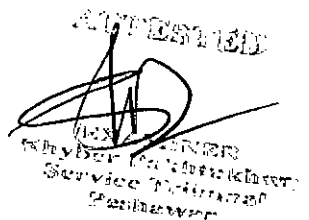
5. A perusal of the record would show that the appellant was dismissed from service vide order dated 05.06.2009 passed by District Police Officer Charsadda, which was challenged by the appellant through filing of departmental appeal before the Deputy

ATTESTED  
  
 Deputy District Attorney  
 Khyber Pakhtunkhwa  
 Peshawar

Inspector General of Police Mardan Region Mardan-I, who while allowing the departmental appeal of the appellant vide order dated 26.05.2015 has observed as below:-

*"After going through the available record and also hearing the appellant in person in orderly room held in this office on 13.05.2015, I have come to the conclusion that appellant was dismissed without affording opportunity of being heard nor he was given opportunity to submit defence against the penalty imposed. His previous record was checked and no major punishment was found in his record. He has more than 17 years of service and dismissal from service with a single stroke of pen seems unjustified and harsh. There is no denying that the appeal is time barred and here in disposal of this case, I would like to refer to a well settled principle of law that procedural technicalities should not be allowed to prevail on dispensation of substantial justice. Procedural laws are meant to advance the cause of justice and not to thwart it. The Supreme Court of Pakistan in Criminal Original Petition No. 90/2009 has held that while deciding a case, principles of natural justice "audi alteram partem" and other fundamental rights should be observed which guarantee the right of petitioner that he should not be condemned unheard. The order passed by the then District Police Officer has been passed in violation of universally accepted principles of natural justice, the petitioner was not heard nor reasons for his absence, apparently which were beyond his control, were not taken into account and thus caused serious prejudice to him. (Emphasis provided)*

6

APPROVED  
  
 Inspector General of Police  
 Mardan Region  
 Mardan-I




(7)


*In view of the above, I accept the appeal in hand.  
He is reinstated in service with immediate effect and  
the period he remained out of service to be regularized  
as leave without pay.*

6. Keeping in view his own findings in the order dated 26.05.2015 as reproduced above, the Deputy Inspector General of Police Mardan Region Mardan-I was not justified in treating the out of service period of the appellant as leave without pay. Nothing is available on the record, which could show that the appellant had remained gainfully employed in any service during the period during which he remained out of service.

7. In view of the above discussion, the appeal in hand is allowed as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
17.05.2023

  
(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

  
(MUHAMMAD AKBAR KHAN)  
MEMBER (EXECUTIVE)

\*Naem Amin\*

Quoted to be true copy

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of Presentation of Application 23/10/2023

Number of Pages page 4

Copying Fee 20/-

Urgent 5/-

Total 25/-

Name of Copyist

Date of Completion of Copy 23/10/2023

Date of Receipt of Copy 23/10/2023

B-08  
مکرمہ حساب ڈسٹرکٹ پولیس آفیسر حارسہ

حساب عالی!

گزارش ہے کہ میری اسٹیل نمبر 1184/2016

ہلنرز عدالت سندھ میں ٹریبونل میں اور نے منظور کر لی  
ہے جس میں انہوں نے Intervening party کے تمام Benefits

فائدہ اٹھرایا ہے (ضمیمہ لگا ہے)

یہذا گزارش ہے کہ ضمیمہ پر عمل دیا

نہ کہ مجھے میرے تمام حقوق و فائدے دیے جائیں

آسیا ن بھار




اسفندیا ~~اسفندیا~~ A

1349

کانٹیل نمبر  
حارسہ

مورف 23-10-22

AT Steel  
[Signature]

16948	پشاور بار ایسوسی ایشن، خیبر پختونخواہ	
ایڈویکٹ: مسٹر فیضان علی بخاری	  	
بار کونسل ایسوسی ایشن نمبر: BC-15-5442		
رابطہ نمبر: 0326-5109432		

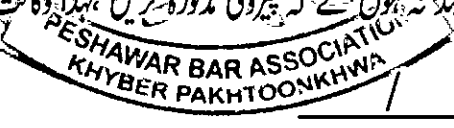
بعدالت جناب: **محترم مخدوم مسٹر فیضان علی بخاری**

منجانب:	دعویٰ:
<b>مسٹر فیضان علی بخاری</b> <b>محمد ارشد</b> <b>بنام</b>	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:

### باعت تحریر آگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کا پروائی متعلقہ آن مقام سٹیٹ کے مسٹر فیضان علی بخاری کے واسطے مقرر کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کال اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقریر ثالث ذ فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری کی طرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساکنہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانبہ التوا کے مقدمہ کے سبب سے ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

Accepted & Accepted



المرقوم: /20

بِـد \_\_\_\_\_ وَاہِ الشَّہِدِ العِـبِدِ

مقام کے لیے منظور ہے۔