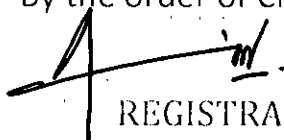


Form- A
FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 955/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	08.12.2023	<p>The implementation petition of Mr. Ilam Nawaz submitted today by Syed Roman Shah 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 the counsel for the petitioner.</p> <p>By the order of Chairman  REGISTRAR</p>

①

BEFORE THE HON'BLE KPK SERVICE TRIBUNAL,
PESHAWAR.

E.P. No. 955/2023

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 9783

Dated 08-12-2023

Implementation Petition / 2023

Ilam Nawaz (Constable No. 292) S/o Bahadar Khan, District
Police, Hangu.

.....**PETITIONER**

VERSUS

- 1) Provincial Police Officer / Inspector General of Police, Khyber
Pakhtunkhwa, Peshawar.
- 2) District Police Officer, Hangu.
- 3) Deputy Inspector General of Police, Kohat Region, Kohat.
- 4) Government of Khyber Pakhtunkhwa through Chief
Secretary, Peshawar.

.....**RESPONDENTS**

PETITION FOR DIRECTING THE RESPONDENTS TO
IMPLEMENT THE JUDGMENT DATED 10/09/2021
PASSED BY THIS HON'BLE SERVICE TRIBUNAL,
PESHAWAR, WHERE BY THE PETITIONER NAME
ABOVE WAS REINSTATED IN HIS RESPECTIVE
SERVICE WITH ALL BACK BENEFITS.

RESPECTFULLY SHEWETH:

- 1) That, the Petitioner is law abiding citizen and entitled for all
fundamental rights enshrined under the constitution of
1973.

- 2) That, the Appellant then Petitioner was dismissed from his service against which the appellant / petitioner preferred in appeal to this Hon'ble Service Tribunal in year 2014.
- 3) That, this Hon'ble Service Tribunal going through / perusal of entire record and hearing arguments passed a judgment on dated 10/09/2021, where by the appellant / petitioner was reinstated in his service with all back benefits. *(Copy of judgment is annexed as Annexure "A")*
- 4) That, after getting attested copies of judgment dated 10/09/2021, the present appellant / petitioner approached to the office of the respondent No. 2 for his arrival against his respective position and concerned district but the respondent No 2 was using delaying tactics.
- 5) That, after above stated process, the appellant / petitioner filed an execution petition, which was consigned to record room on dated 18/07/2022 upon production of order dated 23/12/2021 by the respondent, whereby the respondent's department urged that the service tribunal judgment dated 10/09/2021 has been implemented. *(Copy of order dated 18/07/2022 and order dated 23/12/2021 are annexed as Annexure "B & C")*.
- 6) That, the respondent's department not only misleading / defrauded the appellant / petitioner but this Hon'ble Service Tribunal by stating that the judgment of this Hon'ble Court has been implemented. Though the appellant / petitioner was reinstated on service but the respondent reluctant to pay the back benefits as per the judgment of this Hon'ble

Service Tribunal, hence this petition for implementation of the judgment dated 10/09/2021 in letter and spirit.

7) That, appellant / petitioner time and again preferred an applications to the respondents for fully implementation of the judgment of this Hon'ble Service Tribunal but all in vain. *(Copies of applications are annexed as Annexure "D").*

8) That, it is well settled principle of law that justice should not only be done but seem to be done, therefore, strict directions may kindly be given to the respondent's department to implement the remaining part of the judgment to meet the end of justice.

9) That, any other grounds will be raised at the time of arguments with the prior permission of this Hon'ble Service Tribunal.

It is therefore, most humbly prayed that on acceptance of instant implementation Petition, judgement dated 10/09/2021 may kindly be fully implemented in letter and spirit to meet the end of justice and to take strict disciplinary action against the respondent's department for giving false, misleading statement before this Hon'ble Service Tribunal.

Dated: 08/12/2023

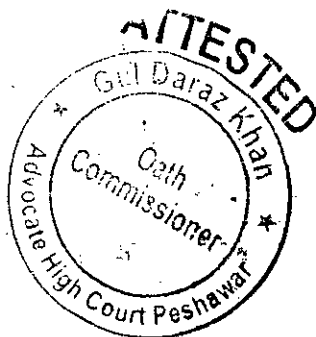
[Signature]
APPELLANT / PETITIONER

Through

[Signature]
Syed Roman Shah
Advocate, High Court, Peshawar
&
Muhammad Mahtab Uz Zaman
Advocate, Peshawar.

Affidavit:

It is, stated on oath that contents of instant petition are true and correct to the best of our knowledge and nothing has been concealed from this Honorable Court.



[Signature]
DEPONENT

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHAWA,
PESHAWAR.

Service Appeal No 1380/2014

1414
~~21-12-2014~~

Ilam Nawaz S/o Bahadar Khan, Ex-
Constable No 292, District Police Hangu
..... Appellant



Versus

1. Inspector General of Police Khyber Pakhtunkhwa, Peshawar.
2. Secretary to Govt. of Khyber Pakhtunkhwa, Home Department, Peshawar.
3. District Police Officer, Hangu.
4. Deputy Inspector General of Police, Kohat Region, Kohat

..... Respondents



APPEAL U/S 4 OF SERVICE TRIBUNAL
ACT, 1974 AGAINST THE ORDERS OF
RESPONDENT NO 4, ISSUED VIDE
OFFICE MEMO NO 3508/LB ON DATED
27/12/2014, WHEREBY THE APPELLANT
WAS DISMISSED FROM SERVICE.

4/12/14

Prayer:-

That the orders may please be declared against law, rules, principles of natural justice and ab-initio illegal/void be set-aside and the appellant may please be reinstated into service with all back benefits.

ATTESTED

EXCISER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

5

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1380/2014

Date of Institution ... 04.12.2014
Date of Decision ... 10.09.2021

Ilam Nawaz S/O Bahadar Khan, Ex-Constable No.292, District
Police, Hangu.

... (Appellant)

VERSUS

Inspector General of Police, Khyber Pakhtunkhwa, Peshawar and
three others.

... (Respondents)

Raja Muhammad Ijaz,
Advocate

... For appellant.

Kabir Ullah Khattak,
Assistant Advocate General

... For respondents.

ROZINA REHMAN

... MEMBER (J)

ATIQU UR REHMAN WAZIR

... MEMBER (E)

JUDGMENT

ROZINA REHMAN, MEMBER (J): The relevant facts leading to filing
of instant appeal are that appellant joined service of the Prison
Department as Constable. He was implicated in a criminal case and
was arrested by the Islamabad Police, where-after, he was released
on bail. He visited Hangu Police Lines for joining duty but was
shocked to know about his dismissal from service vide order dated
27.12.2013. He filed departmental appeal which was dismissed,

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

z (6)

where-after, he filed representation which was also dismissed, hence, the present service appeal.

2. We have heard Raja Muhammad Ijaz Advocate for appellant Kabir Ullah Khattak learned Additional Advocate General and for the respondents and have gone through the record and the proceedings of the case in minute particulars.

3. It has been contended by the learned counsel for appellant that the impugned orders were passed at the back of the appellant as no charge sheet was served upon him and he was condemned unheard because he was in the judicial lockup. Learned counsel further submitted that the appellant was arrested by the Islamabad Police without seeking permission of the competent authority of Khyber Pakhtunkhwa Police and that the absence of appellant was not deliberate as he was confined in judicial lockup, therefore, joining the duty was beyond his control. He submitted that mere arrest in a criminal case is no ground for dismissal from service unless and until conviction order is recorded by the competent court of Law and lastly, he submitted that the appellant was acquitted in the criminal case and the only stigma on the person of appellant is no more, therefore, he may kindly be reinstated in service. Reliance was placed on 2005 P.L.C (C.S) 1197; 2002 S.C.M.R 57 and 2006 S.C.M.R 453.

4. Conversely learned A.A.G submitted that appellant absented himself from lawful duty and was arrested in case F.I.R No.282 of Police Station Sabzi Mandi Islamabad for recovery of stolen car,

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

therefore, proper charge sheet was issued and departmental inquiry was conducted as he was involved in the offence of *moral turpitude*.

5. As per record on the basis of allegations that Alam Nawaz while posted at Qazi Pump Naka Bandi Police Lines, Hangu proceeded on Shabashi on 08.06.2013 and absented himself from official duty w.e.f 09.06.2013 who was arrested in Punjab in F.I.R No.282 dated 13.06.2013 of Sabzi Mandi Police Station, Islamabad. Charge sheet and statement of allegations were issued and available on file. One Gul Sarwar Khan R.I Police Station Hangu was appointed as Inquiry Officer. The inquiry report is available on file which clearly shows that neither the charge sheet nor statement of allegation was ever served upon the appellant as he had been arrested by the Islamabad Police. He was confined in Jail but the Inquiry Officer did not try even to contact the appellant to make sure service of any notice upon the appellant for the purpose of departmental proceedings. He was proceeded against ex-parte despite the fact that he was in jail and this fact was in the knowledge of the respondents but even then, final show cause notice was issued and he was dismissed from service vide order dated 27.12.2013. He preferred departmental appeal on 04.08.2014 which was dismissed on 12.11.2014. There is nothing on file which could show that order of dismissal was properly communicated to the appellant in time. Perusal of record would reveal that after arrest of the appellant, case was tried in the competent court of Law and the appellant was convicted by the learned Judicial Magistrate on 23.04.2014. Feeling aggrieved, he filed Criminal Appeal under Section 408/409 of PPC against the order of Judicial Magistrate,

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Islamabad in the Court of Additional Sessions Judge-VIII, Islamabad and vide order dated 16.05.2014 of the Additional Sessions Judge, Islamabad, appeal was accepted, the impugned judgment was set aside and case was remanded to Trial Court with direction to proceed in accordance with law and to remove all the illegalities, however, he did not pass the order of acquittal giving cause to the present appellant to file bail application in the Islamabad High Court and vide order dated 02.07.2014 of the august Court, he was admitted to bail, where-after, the learned Trial Court concluded the trial and vide order dated 14.05.2015 of the learned Judicial Magistrate, he was acquitted. It has been held by the superior fora that all the 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 only ground on which he had been dismissed from service and the said ground had subsequently disappeared, therefore, his acquittal, making him re-emerge as fit and proper person entitled to continue with his service.

6. It is established from the record that charges of involvement in the criminal case ultimately culminated in honorable acquittal of appellant by the competent Court of Law in the above-mentioned criminal case. In this respect, we have sought guidance from 1988 P.L.C (C.S) 179; 2003 S.C.M.R 215 and P.L.D 2010 Supreme Court 695.

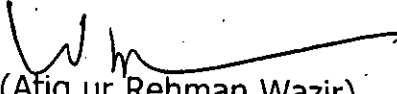
7. In view of the above factual and legal position, we set aside the impugned orders and direct that the appellant be reinstated in


ATTESTED
 EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

8 (9)

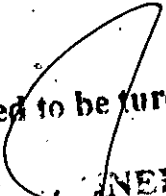
in service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.
10.09.2021


(Atiq ur Rehman Wazir)
Member (E)


(Rozina Rehman)
Member (J)

Certified to be true copy


MEMBER
Khyber Pakhtunkhwa
Service Tribunal.
Peshawar

Date of Presentation of Application 24-9-2021
 Number of Copies 2800
 Cost of Copy 30
 Urgent
 Total 30
 Name of Copyist SW
 Date of Completion of Copy 11/10/2021
 Date of Delivery of Copy 11/10/2021

18.07.2022

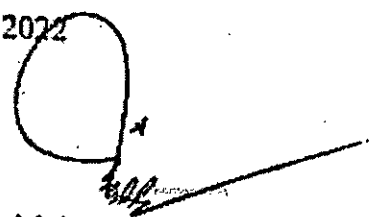
Learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

02. On perusal of the file, office order bearing No. 11538-41/EC dated 23.12.2021 was found to have been placed as annexure B (Page-9) which depicts and reflects that the Service Tribunal judgement dated 10.09.2021 has been implemented conditionally/provisionally subject to the outcome of CPLA. When attention of the learned counsel for the petitioner was invited to the said implementation order, he requested that the No: of the said CPLA may be provided to him. Learned Additional

Advocate General is directed to provide the same.

03. In view of the above, for all intents and purposes, the Service Tribunal judgement dated 10.09.2021 has conditionally/provisionally been implemented by the respondent department. As such the instant execution petition stands implemented. Consign.

04. Pronounced in open court at Peshawar and given under my hands and seal of the Tribunal this 18th of July, 2022


(Mian Muhammad)
Member (E)


ATTESTED



11

OFFICE OF THE
DISTRICT POLICE OFFICER,
HANGU

Annexure - C

Tel No. 0926-623078 & Fax No. 0926-620135
Email: dpohangu@gmail.com

ORDER

In pursuance of Hon'ble Service Tribunal, Khyber Pakhtunkhwa, Peshawar order announced on 10/09/2021 in Service Appeal No. 1180/2014 dated 14.12.2014, Ex Constable Alam Nawaz No. 292 is hereby conditionally/provisionally reinstated in service with all back benefits till the outcome of CPLA with immediate effect.

OB No. 1146
Dated 23/12/2021.

DISTRICT POLICE OFFICER,
HANGU 23/12

OFFICE OF THE DISTRICT POLICE OFFICER, HANGU,

No 11538 -- 41 /EC, dated Hangu, the 23/12/2021.

Copy of above is submitted for favour of information to

the:-

- 1 Deputy Inspector General of Police, D&I, Khyber Pakhtunkhwa, Peshawar, please.
2. Regional Police Officer, Kohat Region, Kohat, please.
3. Assistant Inspector General of Police, Legal, Khyber Pakhtunkhwa Peshawar, please.
4. Reader, Pay Officer, SRC & OASI for information and necessary action.

DISTRICT POLICE OFFICER,
HANGU 23/12

(Signature)

(12)

Annexure - 'D'

The District Police Officer,
Hangu

Application for the reinstatement
Of the appellant with all back
Benefits according to the Judgment
Order passed by the Khyber Pakhtunkhwa
Service Tribunal Peshawar dated
10/09/2021 in service appeal No 1380/2014

Respectfully Sheweth:-

It is Stated that the appellant filed appeal against the departmental
Order of dismissal before the Hon'ble Service tribunal kpk Peshawar.

That the appeal of the appellant has been accepted by the .Hon'ble
Service Tribunal KPK Peshawar through Order / Judgment dates
10/09/2021 through which the appellant has been reinstated on service
With all back benefits.

It is therefore humbly prayed to issue Order of reinstatement of the
Appellant of Honble Service Tribunal KPK Peshawar with all back benefits.

Thanks

Dated 23 / 12 / 2021



Your Sincerely
Alam Nawaz
Constable No 292
District Police Hangu
Mob:0333-9256963



To,
The District Police Officer,
Hangu

(13)

Subject: APPLICATION FOR PAYMENT OF ARREARS AS PER ORDER/JUDGMENT HON'BLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR VIDE DATED 10/09/2021.

Respected Sir,

It is, stated that the applicant has been reinstated in service by the Hon'ble Tribunal vide order / judgment dated 10/02/2021 with all back benefits.

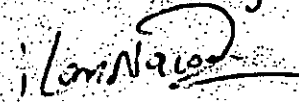
That the applicant was reinstated in service vide order No.446 dated 23/12/2021 with immediate effect but the payment of the arrears has not been paid to the applicant till date.

That the applicant is entitled for all back benefits / salaries as per decision of Hon'ble Service Tribunal Khyber Pakhtunkhwa Peshawar.

It is, therefore, humbly requested that to issue order of payment of the arrears and release the outstanding amount to the applicant.

Thanking you and anticipation;

Yours Sincerely



Alam Nawaz

Constable Built No.213

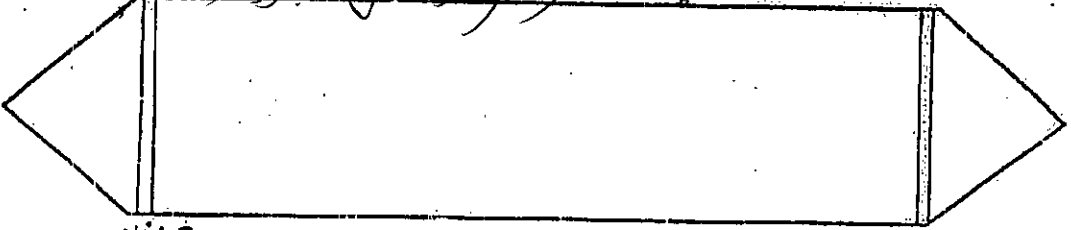
DP Hangu

Call # 0333-9256963


ATTESTED

Dated 12/04/2022

بعدالت چهار سپهر سپهر الکترونیک خیرخواہ شماره



2 مخانب
عالم نواز بنام لویس و کلیر

BC-17-7618
syedronam91@gmail.com

موضوع
مقدمہ
دعویٰ
پریم

باعث تخریب آنکھ

مقدمہ بندرجہ عنوان بالا میں اپنی طرف سے، واسطے پیروی اور جواب دہی اور کل کارروائی متعلقہ
آن مقام شہاد کیلئے سپہر روحان سناہ جہاں الزمان رہ رہو لیسے
مقررہ کر کے اقرار کیا جاتا ہے۔ کہ صاحب روصوف کو مقدمہ کی کل کارروائی کا کابل اختیار ہوگا۔ نیز
وکیل صاحب کو رضی نامہ کرنے سے قبل و تقرر ثالثہ فیصلہ برحلف دیے جواب دہی اور اقبال دعویٰ اور
بہ صورت ڈگری کرنے اجراء اور صولی چیک و روپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرا میں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یک طرفہ یا ایسی کی برآمدگی اور منسوخ
نیز دائر کرنے سے اپیل نمرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ہر صورت مقدمہ مذکور
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 بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساحت
و اخذ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سبب سے ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکورہ کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

عالم نواز ولد صاحب خان
سکنہ شوکی پانڈہ، ڈالانی نہ وقت لکھنؤ
ہندوستان

المرقوم 08 ماہ 12 2023
واہ العبد

Accepted
Signature
MIA

شہاد
مقام