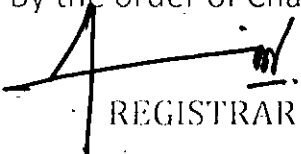


Form- A  
FORM OF ORDER SHEET

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

Implementation Petition No. 961/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	11.12.2023	<p>The implementation petition of Mr. Gul Bacha submitted today by Mr. Taimur Ali Khan 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>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR

Execution petition No. 961 /2023  
In Service Appeal No.7374/2021

Gul Bahar

V/S

Police Department

INDEX

S.No.	Documents	Annexure	P. No.
1	Memo of execution petition	-----	01-02
2	Copy of judgment dated 09.10.2023	A	03-07
3	Copy of application	B	08
4	Vakalat Nama	-----	09

PETITIONER

THROUGH:



(TAIMUR ALI KHAN)  
ADVOCATE HIGH COURT

Cell# 0333-9390916

①

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

Execution Petition No. 961 /2023  
In Service Appeal No. 7374/2021

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 9816

Dated 11-12-2023

Gul Bahar, Constable No.1612,  
Capital City Police, Peshawar.

(PETITIONER)

**VERSUS**

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Capital City Police Officer, Peshawar.
3. The Superintendent of Police, Headquarter, Peshawar.

(RESPONDENTS)

.....  
**EXECUTION PETITION FOR DIRECTING THE  
RESPONDENTS TO IMPLEMENT THE JUDGMENT  
DATED 09.10.2023 OF THIS HONOURABLE  
TRIBUNAL IN LETTER AND SPIRIT.**  
.....

**RESPECTFULLY SHEWETH:**

1. That the petitioner has filed service appeal No. 7374/2021 in this Honorable Tribunal against the order dated 23.09.2020, whereby major punishment of reduction to lower stage of time scale for the period of two years was imposed upon the petitioner and against the order dated 29.12.2020, whereby the departmental appeal of the petitioner has been rejected and against the order dated 30.06.2021, whereby the revision of the petitioner was also rejected.
2. The appeal of the petitioner was heard and decided by this Honorable Tribunal on 09.10.2023. The Honorable Tribunal convert the major punishment of reduction to lower stage of time scale for the period two years into minor penalty of withholding of one increment for one year in its judgment dated 09.10.2023. **(Copy of judgment dated 09.10.2023 is attached as Annexure-A)**
3. That the petitioner also field application on 14.11.2023 for implementation of judgment dated 09.10.2023 of this Honorable Tribunal but action has taken by the respondents on the application

by implementing the judgment dated 09.10.2023. (Copy of application is attached as Annexure-B)

4. That the Honorable Service Tribunal converted the major punishment of reduction to lower stage of time scale for the period two years of the petitioner into minor penalty of withholding of one increment for one year in its judgment dated 09.10.2023, but after the lapse of about more than two months, the respondents did not convert the major punishment of reduction to lower stage of time scale for the period two years of the petitioner into minor penalty of withholding of one increment for one year by implementing the judgment dated 09.10.2023 of this Honorable Tribunal.
5. That in-action and not fulfilling formal requirements by the department after passing the judgment of this august 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 department is legally bound to obey the judgment dated 009.10.2023 of this Honorable Tribunal in letter and spirit.
7. That the petitioner has having no other remedy except to file the instant execution petition in this Honorable Tribunal for implementation of judgment dated 09.10.2023 of this Honorable Tribunal.

It is, therefore, most humbly prayed that the respondents may be directed to implement the judgment dated 09.10.2023 of this Honorable Tribunal in letter and spirit. Any other remedy, which this Honorable Tribunal deems fit and appropriate that, may also be awarded in favour of petitioner.

THROUGH:

P-2  
PETITIONER

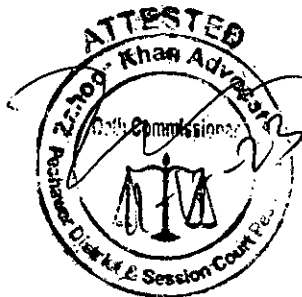
Gul Bahar

(TAIMUR ALI KHAN)

ADVOCATE HIGH COURT

**AFFIDAVIT:**

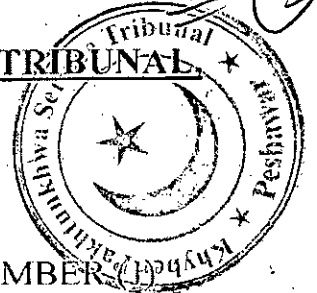
It is affirmed and declared that the contents of the execution petition are true and correct to the best of my knowledge and belief.



P-2  
DEPONENT

A (3)

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



Service Appeal No. 7374/2021

**BEFORE:** RASHIDA BANO --- MEMBER  
MUHAMMAD AKBAR KHAN --- MEMBER (E)

Gul Bahar Khan, Constable No. 1612, Capital City Police,  
Peshawar.....(*Appellant*)

**VERSUS**

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Capital City Police Officer, Peshawar.
3. The Superintendent of Police, Headquarter,  
Peshawar.....(*Respondents*)

**Present:-**

TAIMUR ALI KHAN,  
Advocate --- For Appellant

MUHAMMAD JAN,  
District Attorney --- For respondents.

Date of Institution.....25.08.2021  
Date of Hearing.....09.10.2023  
Date of Decision..... 09.10.2023

**JUDGMENT.**

**MUHAMMAD AKBAR KHAN, MEMBER(E):-** The instant service appeal has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as under;

*“That on acceptance of this appeal, the order dated 23.09.2020, 29.12.2020 and 30.06.2021 may kindly be set aside and the respondents may be directed to restore the stages of time scale of the appellant as were before the penalty order dated 23.09.2020 with all back and consequential benefits. Any other*

**ATTESTED**

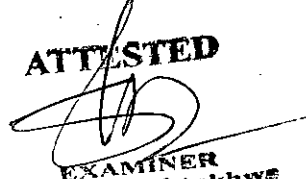
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

(4)

*remedy, which this august Tribunal deems fit and appropriate that may also, be awarded in favour of appellant."*

02. Brief facts of the case are that appellant was appointed as constable in the respondent department in the year 1998. The appellant had passed A-I course and was eligible for B-I course. The respondent department conduct B-I course through ETEA. The appellant had applied for B-I examination, however he had inadvertently wrote his date of birth as 07.07.1977 instead of 07.07.1980 in ETEA form for B-I examination and the appellant was declared ineligible for B-I examination and was not allowed in examination; that charge sheet/statement of allegations were issued to the appellant which was duly replied stating that he had no knowledge about the age limit required for B-I examination and inadvertently wrote his date of birth as 07.07.1977 instead of 07.07.1980. Inquiry was conducted against the appellant and the inquiry officer recommended suitable punishment for appellant but the respondent No. 3 imposed major punishment of reduction to lower stage of time scale for the period of two years upon the appellant vide order dated 23.09.2020. Feeling aggrieved, the appellant filed departmental appeal which was rejected on 29.12.2020. Thereafter the appellant filed revision petition which was also rejected on 30.06.2021, hence preferred the instant service appeal on 25.08.2021.

03. Notices were issued to the respondents, who submitted their comments, wherein they refuted the assertions raised by the appellant in his appeal. We have heard arguments of learned counsel for the appellant and learned District Attorney and have gone through the record with their valuable assistance.

**ATTESTED**  
  
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

04. Learned counsel for the appellant contended that the impugned order dated 23.09.2020, 29.12.2020 and 30.06.2021 are against the law, facts, norms of justice, therefore, not tenable and liable to be set aside; that the appellant has already been declared ineligible for B-I examination due to age factor, therefore, there remain no grounds to penalize the appellant on the basis of writing wrong date of birth in the ETEA form for B-I examinations for which he was awarded major punishment of reduction to lower stage of time scale for the period of two years which is too harsh and not tenable in the eyes of law; that the appellant being a low paid employee is suffering badly for such a harsh punishment and if the impugned orders are not set aside, it will effect his current salary as well as his pension. Learned counsel for the appellant placed reliance on 2006 SCMR 1120, 2017 PLC (C.S) 214, 2017 PLC (C.S) 1073 & 2019 PLC (C.S) 87.

05. Learned District Attorney on the other hand contended that during the scrutiny of B-I examination form, the appellant was found over age as per requirement of ETEA. That the charges leveled against the appellant were proved, as he deliberately wrote his date of birth incorrect while filling online application of ETEA, hence he was awarded an appropriate punishment as per law/rules. The appellant has accepted his guilt which cannot be tolerated in police department. Furthermore, ignorance of law is no excuse as the appellant time and again states that he was unaware about age restriction therefore, after fulfillment of all the codal formalities, the appellant was awarded the major punishment in reduction to lower stage of time scale for a period of two years; that the appellant himself is responsible


ATTI/STED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

for the situation by committing misconduct of cheating and awarded judicious punishment.

06. Perusal of record shows that the respondent department issued schedule dated 23.01.2020 to conduct B-1 examination of Police Constables through ETEA indicating therein the Web address of ETEA for online application. In the circular instructions issued vide ibid schedule there was no mention of eligibility criteria for the perspective candidates to apply for the said examination. Since the maximum age limit for the said examination was 40 years, the online system did not allow downloading of application form for the candidates whose date of birth was beyond 1980. The appellant entered his date of birth as 1980 instead of 1977 which was his actual date of birth and got the application form downloaded and applied for the exam. During checking of the list by the police authorities before the examination, it was found that the appellant had wrongly indicated his date of birth as 1980 instead of 1977. Accordingly he was dropped from the examination and disciplinary proceedings were initiated against him. It reveals from the record of the disciplinary proceedings that the appellant admitted this act of giving wrong information to the system and he was not in the knowledge that he had become overage to apply and appear in the said examination. The appellant conceded at the bar also that he has no knowledge of computer and the online application form was filled by his computer knowing nephew. It is also admitted fact that the act of giving wrong information to the system by the appellant has neither provided any benefits to the appellant nor affected any vested right of other candidates appearing in the said examination as he stood debarred from appearing in the said examination.

**ATTESTED**

  
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar



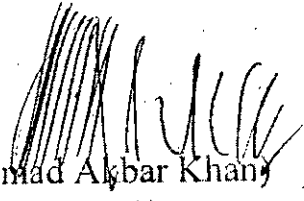
We hold that in the given scenario the major punishment of reduction to lower scale awarded to the appellant is too harsh and not commensurate with the magnitude of the guilt he has committed. Reliance is placed on 2006 SCMR 1120, 2017 PLC (C.S) 1073 & 2019 PLC (C.S) 87.

07. In view of the above discussion, we are constrained to convert the major punishment of reduction to lower stage of time scale for the period of two years into minor penalty of withholding of one increment for one year. Costs shall follow the event. Consign.

08. Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal this 09<sup>th</sup> day of October, 2023.



(Rashida Bano)  
Member (J)



(Muhammad Akbar Khan)  
Member (E)

\*Inshallah\*

Certified to be true copy

EMAN ULLAH  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of Presentation of Application 02/11/23  
 Number of Pages Page 5  
 Copying Fee 25/-  
 Urgent 5/-  
 Total 30/-  
 Name of Copyist \_\_\_\_\_  
 Date of Completion of Copy 02/11/23  
 Date of Delivery of Copy 02/11/23

جناب عالی!

(8) B

گزارش ہیکہ سائل نے 2020 میں B1 امتحان کیلئے آن لائن داخلہ کیا تھا  
لیکن سائل اور ایج تھا جس پر مورخہ 23.09.20 کو افسران بالانے 2 سال کی ٹائم سکیل  
کی سزا دی تھی۔

جس کے خلاف سائل نے سروس ٹریبونل میں اپیل دائر کی جس پر سروس ٹریبونل نے  
مورخہ 09.10.23 کو فیصلہ دیا کہ سائل کی دو سال ٹائم سکیل کی سزا کو ایک سال  
انکریمینٹ With holding میں تبدیل کر دیا جسکی کاپی ہمراہ لف ہے۔

لہذا بزریعہ درخواست استدعا ہے کہ سائل سے دو سال میں جتنی بھی کٹوتی ہوئی ہے اس  
کو واپس کرنے کا حکم صادر فرمائیں سائل تاحیات دعا گور ہے گا

آپکا تابع فرمان کنسٹیبل گلہار 1612 متعینہ تھانہ پھندو

0302-8874940

۹۰۲

جناب عالی!

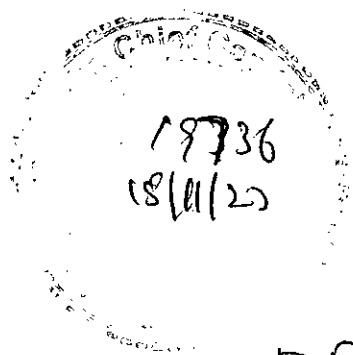
کنسٹیبل گلہار 1612 تھانہ کھنڈو  
لیڈر جنرل ڈیوی ڈائن سرائی  
دو سال سزا میں سے ایک سال کے ساتھ

Sir,

Powandeeal  
Police Station  
Pindol

SHD P. S. Phandee  
14/11/2023

SHD P. S. Phandee  
14/11/2023



DPS legal  
15.11.23

**VAKALAT NAMA**

NO. \_\_\_\_\_/2023

IN THE COURT OF KP Service Tribunal, Pakhawa

Gul Bahar

(Appellant)  
(Petitioner)  
(Plaintiff)

VERSUS

Police Department

(Respondent)  
(Defendant)

I/We, Gul Bahar

Do hereby appoint and constitute **TAIMUR ALI KHAN, ADVOCATE HIGH COURT**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/We authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated \_\_\_\_\_/2023

[Signature]  
(CLIENT)

ACCEPTED

[Signature]

**TAIMUR ALI KHAN**  
Advocate High Court

BC-10-4240  
CNIC: 17101-7395544-5  
Cell No. 03339390916