


Form- A

FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 80/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	18.01.2024	<p>The implementation petition of Mr. Qaiser Abbas submitted today by Mr. Noor Muhammad Khattak 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. 80 /2024

In

Appeal No. 252/2018

MR. QAISER ABBAS

VS

IGP & OTHERS

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PETITIONER

Mr. Qaiser Abbas

Through:


Noor Mohammad Khattak
Advocate Supreme Court

-/-

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Execution Petition No. 80 /2024

In

Appeal No. 252/2018

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 10622

Dated 18-1-2024

Mr. Qaiser Abbas, Ex-Constable.
S/o Zahir Ali R/o Sheikhan, Kohat

.....PETITIONER

VERSUS

1. Inspector General of Police Khyber Pakhtunkhwa, Peshawar.
2. Commandant FRP Khyber Pakhtunkhwa, Peshawar.
3. Superintendent of Police, FRP Kohat Region, Kohat.

..... RESPONDENTS

**EXECUTION PETITION UNDER SECTION 7(2)(d) OF
THE KP SERVICE TRIBUNAL ACT 1974, RULE 27 OF
THE KP SERVICE TRIBUNAL RULES 1974 READ
WITH SECTIONS 36 AND 51 OF THE CIVIL
PROCEDURE CODE AND ALL ENABLING LAWS ON
THE SUBJECT FOR THE IMPLEMENTATION OF THE
JUDGMENT DATED 24/11/2023 IN LETTER AND
SPIRIT.**

R/SHEWETH:

- 1- That the petitioner filed service appeal bearing No. 252/2018 before this august Service Tribunal, against the dismissal order of the appellant by the respondents department.
- 2- That the appeal of the petitioner was finally heard on dated 24/11/2023 and as such the ibid appeal was allowed with the following terms by this august Service Tribunal:
In view of the above discussion, the appeal in hand is allowed by setting aside the impugned orders and the appellant is re-instated in service with all back benefits, parties are left to bear their own costs. Consign". Copy of the judgment dated 24/11/2023 is attached as annexure.....**A**
- 3- That after obtaining copy of the judgment dated 24/11/2023 the same was submitted with the respondents for implementation of his grievance coupled with an application, but the respondents/ department

failed to do so, which is the violation of the judgment supra. Copy of application is attached as annexure.....B

- 4- That petitioner having no other remedy but to file this implementation petition.

It is therefore, most humbly prayed that on acceptance of the instant execution petition the respondents may kindly be directed to implement the Judgment dated 24/11/2023 passed in Appeal No. 252/2018 in letter and spirit. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the petitioner.


PETITIONER
Mr. Qaiser Abbas

THROUGH:


NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT

AFFIDAVIT

I Mr. Qaiser Abbas, Ex-Constable, do hereby solemnly affirm that the contents of this Execution Petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.


DEPONENT



"A" -3-



BEFORE THE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal 252 2018

Ex-Constable Qaiser Abbas S/o Zahir Ali R/o Sheikhan Kohat

(Appellant)

VERSUS

1. INSPECTOR GENERAL OF KPK POLICE PESHAWAR.
2. COMMADANT FRP KPK PESHAWAR.
3. SUPERINTENDENT OF POLICE ,FRP KOHAT REGION KOHAT

(Respondent)

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ORDER DATED 14-06-2017 VIDE OB-NO-518 IN WHICH THE RESPONDENT NO: 3 UPON THE RECOMMENDATION FROM ENQUIRY AWARDED THE MAJOR PUNISHMENT OF DISMISSAL FROM SERVICE AND THE APPELLANT PREFERRED DEPARTMENTAL REPRESENTATION DATED 20-07-2017 AND THE RESPONDENT GIVEN FALSE CONSOLATION THAT REPRESENTATION WILL BE ACCEPTED AND ALSO STATED THAT REPRESENTATION BEFORE RESPONDENT NO 1 BE ENDORESED FOR REINSTATEMENT BUT THE SAME WAS REJECTED ON DATED 26-09-2017 AND 15-01-18.


Pray:

In view of above submission it is requested, by accepting of instant appeal the impugned order of Respondents may be set aside and the present appellant may please be re instated service with all back benefits.

Respectfully Sheweth,

With great veneration the instant appeal is preferred by the appellant on the following grounds:-

ATTESTED


EXAMINER
Khyber Pakhtoon Khwa
Service Tribunal
Peshawar

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KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWA

BEFORE: SALAH-UD-DIN ... MEMBER (Judicial)
FAREEHA PAUL ... MEMBER (Executive)

Service Appeal No. 252/2018

Ex-Constable Qaiser Abbas S/O Zahir Ali, R/O Sheikhan Kohat.
(Appellant)

Versus

Inspector General of Khyber Pakhtunkhwa Police Peshawar and 02
others. (Respondents)

Present:

Syed Mudasir Pirzada, Advocate.....For the appellant
Mr. Muhammad Jan, District AttorneyFor respondents

.....
Date of presentation of Appeal.....12.02.2018
Date of Hearing.....24.11.2023
Date of Decision.....24.11.2023

JUDGMENT

SALAH-UD-DIN, MEMBER: Precise facts giving rise to filing of the instant appeal are that the appellant, while posted at Patrolling post Abdul Ali District Hangu, was deputed for special duty at District Karak in connection with Census of the year 2017. He was charged and arrested in case FIR No. 256 dated 05.05.2017 under section 324 PPC Police Station City District Kohat, which resulted in taking of departmental action against him. On conclusion of the inquiry, the appellant was awarded major punishment of dismissal from service vide order bearing OB No. 518 dated 14.06.2017. The same was challenged by the appellant through filing of departmental appeal, which was also rejected vide order dated 26.09.2017. The appellant then preferred revision petition before the Inspector General of Police Khyber

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Pakhtunkhwa, Peshawar, which too was rejected vide order dated 15.01.2018, hence the instant appeal.

2. On receipt of the appeal and its admission to regular hearing, respondents were summoned, who put appearance through their representative and contested the appeal by way of filing written reply raising therein numerous legal as well as factual objections.

3. Learned counsel for the appellant contended that the appellant was falsely roped in a concocted case and has been acquitted vide order dated 15.07.2017 passed by competent court of law. He next contended that the only allegations against the appellant was his involvement in the criminal case and as he has been acquitted by competent court of law, therefore, he was entitled to have been reinstated in service. He further contended that the complainant of the concerned criminal case has not been examined in the inquiry proceedings and no evidence connecting the appellant with the alleged crime was recorded by the inquiry officer. He next argued that neither charge sheet nor statement of allegations was issued to the appellant and he was not provided any opportunity of cross examination of the witnesses examined during the inquiry. He further argued that there are material dents in the inquiry proceedings but the same were ignored by the competent Authority as well as the appellate Authority at the time of passing of the impugned orders. He also argued that the impugned orders are bereft of any legal sanctity, therefore, the same may be set-aside and the appellant may be reinstated in service with all back benefits.

ATTESTED

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Peshawar/Pakhtunkhwa
Service Tribunal
Peshawar

4. On the other hand, learned District Attorney for the respondents contended that the appellant had made firing at an eunuch namely

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Hamdullah and case FIR No. 256 dated 05.05.2017 under section 324 PPC Police Station City District Kohat was thus registered against him. He next contended that a regular inquiry was conducted against the appellant and he was provided opportunity of personal hearing as well as self defence. He further contended that the allegations against the appellant stood proved in a regular inquiry, therefore, he was rightly dismissed from service. He next argued that acquittal of the appellant was not on merits rather the same was on the basis of compromise, therefore, the acquittal of the appellant could not be considered as a ground for his exoneration in the departmental proceedings. He further argued that criminal as well as departmental proceedings can run parallel and the acquittal of the appellant in the criminal proceedings is of no benefit to him in the departmental proceedings. In the last he requested that the impugned orders may be kept intact and the appeal in hand may be dismissed with cost.

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

6. A perusal of the record would show that departmental action was taken against the appellant on the allegations of his involvement in case FIR No. 256 dated 05.05.2017 under section 324 PPC Police Station City District Kohat. According to the available record, the inquiry officer had recorded the statements of one Faiz-ul-Haq as well as investigation officer of the case namely Manzoor-ur-Rehman ASI and Rizwanullah S.I, who had recorded the report of the complainant in shape of Murasila.

It is an admitted fact that the appellant was not provided an opportunity of cross-examination of the said witnesses examined during the

ATTESTED


Attesting Officer
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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inquiry, therefore, their statements could not be taken into consideration for awarding punishment to the appellant. Moreover, the complainant Hamdullah Jan and alleged eye witness namely Hamad S/O Muhammad Nabi were required to have been examined during the inquiry in support of the allegations leveled against the appellant, however the same has not been done. In view of non recording of statement of the very complainant during the inquiry, it could not be concluded that the allegations against the appellant were proved.

7. Departmental action was taken against the appellant on the basis of criminal case registered against him, however the appellant has already been acquitted by competent court of law. The appellant was though acquitted on the basis of compromise, however it is by now well settled that all acquittals are honourable and there could be no acquittal which could be termed as dishonourable.

8. In view of the above discussion, the appeal in hand is allowed by setting-aside the impugned orders and the appellant is reinstated in service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
24.11.2023

(SALAH-UD-DIN)
MEMBER (JUDICIAL)

(FAREEHA PAUL)
MEMBER (EXECUTIVE)

Certified to be true copy

Naeem Amin

MEMBER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 07-12-23
Number of Words _____
Copying Fee 200/-
Urgent _____
Total 200/-
Name of Copyiest _____
Date of Completion of Copy 17-1-24
Date of Delivery of Copy 17-1-24

"B-8" ملازمت ختم - DPہ صاحب ضلع کوہاٹ

عنوان: درخواست عمار بحالی ملازمت عفو تمام مراعات

ضلع عالی! مورخہ 14/6/2017 کو ملازمت سے برخاست کیا گیا تھا جس کے خلاف سائل حکماء اپیل اور ٹکرائی جج کی جو کم دونوں خارج ہوئی۔ جس کے بعد سائل نے سروس ٹریبونل کے ورڈ میں سروس اپیل نمبر 252/18 جج کی جو کم بحق سائل ضلع مورخہ 24/11/23 منظور ہو کر سائل کو تمام مراعات کے ساتھ ملازمت پر بحالی کا حکم صادر فرمایا۔

لہذا استدعا ہے کہ سائل ضلع مورخہ 24/11/23 سروس ٹریبونل عدالت کے ضلع کو من وین لکیم کرے سائل کو اپنے تمام مراعات کے ساتھ ملازمت پر بحالی کا حکم صادر فرمایا جائے

ATTACHED

مورخہ 08/12/23

سائل عتیق عباس ولد ظاہر علی
مقرر سائل

VAKALATNAMA
BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Exhibits No /2024

Qaiser Abbas

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Police Dept.

(RESPONDENT)
(DEFENDANT)

I/We Qaiser Abbas

Do hereby appoint and constitute **Noor Mohammad Khattak Advocate Supreme 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 cost. 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.

Dated. / /2024

Qaiser Abbas
CLIENT

ACCEPTED

Waleed Adnan
**NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT**

Umar Farooq Mohmand
WALEED ADNAN

Muhammad Ayub
UMAR FAROOQ MOHMAND

Mahmood Jan
MUHAMMAD AYUB

&

Mahmood Jan
**MAHMOOD JAN
ADVOCATES**

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