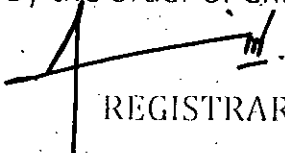


Form- A
FORM OF ORDER SHEET

Court of

Implementation Petition No. 88/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	19.01.2024	<p>The implementation petition of Mr. Sher Bahadar submitted today by Mr. Mir Zaman Safi 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</p>  <p>REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Implementation Petition No. 88 /2024

In

Appeal No.7566/2021

SHER BAHADAR

VS

POLICE DEPTT:

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE NO.
1-	Memo of petition	1- 2.
2-	Affidavit	3.
3-	Judgment & application	A & B	4- 8.
4-	Wakalat nama	9.

PETITIONER/APPLICANT

THROUGH:


MIR ZAMAN SAFI
ADVOCATE

MOBILE NO.0333-9991564

0317-9743003

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Implementation Petition No. 88 /2024

In

Appeal No.7566/2021

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 10655

Dated 19-1-2024

Mr. Sher Bahadar, Constable No. 2289,
Police Lines, Mardan.

.....APPELLANT

VERSUS

- 1- The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
- 2- The Regional Police Officer Mardan Region, District Mardan.
- 3- The District Police Officer, Mardan.

.....RESPONDENTS

IMPLEMENTATION PETITION FOR DIRECTING
THE RESPONDENTS TO OBEY THE JUDGMENT
OF THIS AUGUST TRIBUNAL DATED 23.10.2023 IN
LETTER AND SPIRIT

R/SHEWETH:

- 1- That the petitioner filed Service appeal bearing No. 7566/2021 before this august Service Tribunal against the impugned order dated 09.06.2020 whereby major of dismissal from service was imposed upon the appellant.
- 2- That appeal of the petitioner was finally heard by this august Tribunal on 23.10.2023 and was decided in favor of the petitioner vide judgment dated 23.10.2023 with the view that *"In view of the above discussion, the appeal in hand is partially allowed by setting aside the impugned orders and the major penalty of dismissal from service is converted into minor penalty of stoppage of three annual increments for a period of three years. The appellant is re-instated in service and the period of his absence as well as the intervening period with effect from the date of his dismissal till his re-instatement shall be treated as leave without pay for bridging up his service gap"*. Copies of the judgment and application are attached as annexure.....A & B.
- 3- That after obtaining attested copy of the judgment dated 23.10.2023 the petitioner submitted the same before the respondents alongwith application for implementation but till date the judgment of this august Tribunal has not been implemented by the respondents in letter and spirit.
- 4- That the petitioner has no other remedy but to file this implementation petition.

It is, therefore, most humbly prayed that on acceptance of this implementation petition the respondents may very kindly be directed to implement the judgment of this august Tribunal dated 23.10.2023 in letter and spirit. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the petitioner.

Dated: 19.01.2024.

PETITIONER

SHER BAHADAR

THROUGH:


**MIR ZAMAN SAFI
ADVOCATE**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Implementation Petition No. _____/2024

In

Appeal No.7566/2021

SHER BAHADAR

VS

POLICE DEPTT:

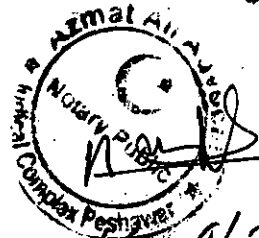
AFFIDAVIT

I **Mir Zaman Safi, Advocate** on behalf of the petitioner, do hereby solemnly affirm that the contents of this **implementation petition** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.



MIR ZAMAN SAFI
ADVOCATE

ATTESTED



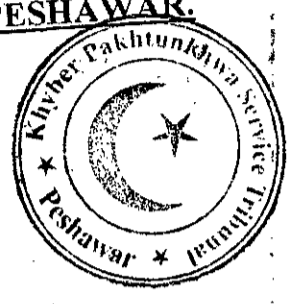
19-01-2024

"A"

A-4

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR.

Service Appeal No. 7566/2021
Date of Institution ... 08.10.2021
Date of Decision... 23.10.2023



Sher Bahadar, Ex-Constable No. 2289, Police Lines, Mardan. ... (Appellant)

VERSUS

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

MR. MIR ZAMAN SAFI.
Advocate

For appellant.

MR. ASAD ALI KHAN,
Assistant Advocate General

For respondents.

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

MEMBER (JUDICIAL)
MEMBER (EXECUTIVE)

JUDGMENT:

SALAH-UD-DIN, MEMBER:- Brief facts giving rise to filing of the instant appeal are that disciplinary action was taken against the appellant on the allegations of his absence from duty with effect from 03.11.2019, which culminated into his dismissal from service vide the impugned order bearing OB No. 928 dated 09.06.2020 passed by the then District Police Officer Mardan. The appellant challenged the punishment of his dismissal from service through filing of departmental appeal before the Regional Police Officer Mardan, which was rejected vide order dated 06.08.2020 and the revision petition submitted by the appellant to the Inspector General of

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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Police Khyber Pakhtunkhwa Peshawar was also rejected vide order dated 08.06.2021, hence the instant service appeal.

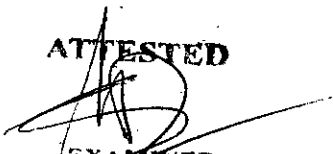
2. On receipt of the appeal and its admission to regular hearing, respondents were summoned, who put appearance through their representative and contested the appeal by way of filing written reply raising therein numerous legal as well as factual objections.

3. Learned counsel for the appellant argued that charge sheet, statement of allegations as well as show-cause notice were not served upon the appellant and the inquiry proceedings were conducted without associating the appellant with the same. He next argued that the appellant was condemned unheard as he was not provided any opportunity of personal hearing as well as self defence. He also argued that the rights of the appellant as guaranteed under Articles 4 & 25 of the Constitution of Islamic Republic of Pakistan, 1973 were violated.

He next contended that the absence of the appellant was not willful rather he was unable to attend his duty on account of severe illness. He further argued that absence of the appellant from duty even it admitted to be willful, was not an act of such grave misconduct to entail harsh punishment of dismissal from service. In the last he argued that the impugned orders may be set-aside and the appellant may be reinstated in service with all back benefits.

4. On the other hand, learned Assistant Advocate General for the respondents contended that the appellant had willfully remained absent from duty for considerable long period and the allegations


ATTESTED

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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against him stood proved in a regular inquiry. He next contended that the appellant was associated with the inquiry proceedings, however he did not join his duty despite taking of disciplinary action against him and failed to appear before the competent Authority for availing opportunity of personal hearing. He further argued that previously too, the appellant had remained absent from duty on various occasions and has been awarded minor punishments. In the last he requested that the impugned orders may be kept intact and the appeal in hand may be dismissed with costs.

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 the appellant was issued charge sheet as well as statement of allegations by the then District Police Officer Mardan on 26.11.2019. Copy of the charge sheet as available on the record would show that the same was personally received by the appellant on 28.01.2020 and he also filed reply of the same. The appellant had though taken the plea of illness in his reply, however the inquiry report would show that he had not produced any document to the inquiry officer regarding his illness. Moreover, in his departmental appeal too, the appellant had though taken the stance of his illness but he had not annexed any documentary proof regarding his illness. The appellant had remained absent from duty without seeking leave or permission of the competent Authority and was, therefore, liable for commission of misconduct. The question, however hounds the mind is whether the

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar


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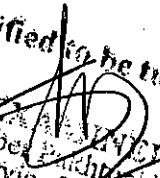
penalty so awarded to the appellant commensurate with the gravity of the charge or was too harsh. No doubt the competent Authority had jurisdiction to award to an accused any of the punishment provided under the Police Rules, 1975 but for the purpose of safe administration of justice, such punishment should be awarded which commensurate with the gravity of the ground on the basis of which penalty was awarded to an accused. Keeping in view the facts and circumstances of the case, we are of the opinion that the penalty so awarded to the appellant was too harsh, therefore, for safe administration of justice we convert the impugned major penalty into minor penalty of stoppage of three annual increments for a period of three years.

7. In view of the above discussion, the appeal in hand is partially allowed by setting-aside the impugned orders and the major penalty of dismissal from service is converted into minor penalty of stoppage of three annual increments for a period of three years. The appellant is reinstated in service and the period of his absence as well as the intervening period with effect from the date of his dismissal till his reinstatement shall be treated as leave without pay for bridging up his service gap. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
23.10.2023


(SALAH-UD-DIN)
MEMBER (JUDICIAL)


(MUHAMMAD AKBAR KHAN)
MEMBER (EXECUTIVE)

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Naeem Amin

ATTESTED


مقرر عدالت ڈسٹرکٹ پولیس آفیسر ڈسٹرکٹ مردان

B-8

درخواست نمبر ایف بی کے آر آر فیصلہ سرورس ٹریبونل

حرم 23-10-2023

محترم جج صاحب

کہ میں نے اپنی درخواستی آر آر حرم 09.06.2020 عدالت سے
فیصلہ جتو کو اس سرورس ٹریبونل سے میں اپیل نمبر 7566/2021
دائری عدالت

کہ مقدمہ اپیل مذکورہ بالا حرم 23.10.2023 عدالت حضور نے
میں حق میں فیصلہ کر دیا ہے۔ جس کی حالت آپ سے
مہارے کو درگواست بداییشن کریں۔ یہاں فیصلہ لو۔

کہ فیصلہ مذکورہ بالا کو میں تسلیم کر کے مسائل کو توڑیں
درجہ بال کر سجاتے۔

لہذا استدعا ہے کہ عدالت حضور نے فیصلہ مذکورہ بالا کو میں
تسلیم کر کے مسائل کو توڑا درجہ بال کرنے کے احکامات صادر فرمائے
جائیں۔

الحرم 2023/11/11

محمد

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AT-1-D

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

_____ OF 2024

Sher Bahadar

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Police Deptt:

(RESPONDENT)
(DEFENDANT)

I/We Sher Bahadar

Do hereby appoint and constitute **MIR ZAMAN SAFI, Advocate, Peshawar** 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. 19 / 01 / 2024

Sher Bahadar
CLIENT

Mir Zaman Safi
ACCEPTED

MIR ZAMAN SAFI
ADVOCATE

Munfat Ali &
MUNFAT ALI
ADVOCATE

OFFICE:

Room No.6-E, 5th Floor,
Rahim Medical Centre, G.T Road,
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0317-9743003