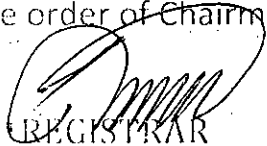


Form- A

FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 117/2024

S.No	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	31.01.2024	<p>The implementation petition of Mr. Ameer Zada submitted today by Mr. Hassan U.K Afridi 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

Execution petition No. 117 /2024
In
Service Appeal No.182/2022

Asif Khan.....**Appellant/Applicant**

V E R S U S

Govt. of Khyber Pakhtunkhwa
Through Secretary Home & others.....**Respondents**

I N D E X

S#	Description of Documents	Annex	Pages
1.	Execution petition		1-3
2.	Affidavit		4
3.	Judgment dated 03.07.2023		5-8
4.	Letter to DPO by MS Kohat dated 14.11.2023.		9
5.	Letter to DPO by MS Kohat dated 06.12.2023		10
6.	Repot of Standing Medical Board		11
7.	Letter by DPO to IGP dated 28.12.2023		12
8.	Medical documents		13-16
9.	Application		17
10.	Wakalatnama		18


Appellant

Through


Hassan U.K Afridi
Advocate Supreme Court
Cell No. 0300-9151963

Dated 31.01.2023

1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Execution petition No. 117 /2024
In
Service Appeal No.182/2022

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 10907

Dated 31-1-2024

Asif Khan Son of Wasil Khan,
R/o New Abadi, Jungle Khel District Kohat
A.S.I.F. KHAN. 657/44. Police Department. Appellant/Applicant

V E R S U S

1. Government of Khyber Pakhtunkhwa through Secretary Home, Civil Secretariat, Peshawar
2. Inspector General of Police (IGP), Khyber Pakhtunkhwa, Peshawar
3. Deputy Inspector General of Police, Kohat
4. District Police Officer, Kohat.....**Respondents**

**APPLICATION FOR IMPLEMENTATION/
COMPLIANCE OF JUDGMENT/ORDER OF
THIS HON'BLE TRIBUNAL VIDE DATED
03.07.2023**

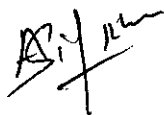
Respectfully Sheweth:-

1. That the applicant/appellant has filed service Appeal before this Hon'ble Tribunal, which was decided in favour of applicant/appellant vide judgment dated 03.07.2023. **(Copy of judgment is attached).**

2. That the applicant/appellant was execution before this Hon'ble Tribunal which was disposed-off, with the direction to the respondents to send the case of the appellant to the medical board, the case of the appellant has been sent to the Medical Board Kohat and the appellant has medically examined and the medical superintendent sent the case to the respondent No.4 for final opinion from the Service Police Hospital Peshawar vide letter dated 06.12.2023.
3. That the Standing Medical Board DHQ Teaching Hospital KDA, Kohat throughout examined the appellant and submitted their report but referred the case of the appellant to Service Police Hospital Peshawar and still the case of the appellant is pending without any result, while the Hon'ble Tribunal directed to the respondents to constitute Medical Board for medical checkup of appellant within 30 days of receipt of the judgment.
4. That the respondents are not bothered/interested to finalize the case of the appellant in accordance with the direction of the Hon'ble Tribunal.

5. That some other ground may be adduced at the time of arguments with the permission of this Honourable Court.

It is, therefore most humbly prayed that on acceptance of this application, the respondents may kindly be strictly directed to implement the judgment dated 03.07.2023 of the Hon'ble Tribunal.



Appellant

Through



Hassan U.K Afridi

Advocate Supreme Court

Dated 31.01.2024

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Execution petition No. _____/2024

In

Service Appeal No.182/2022

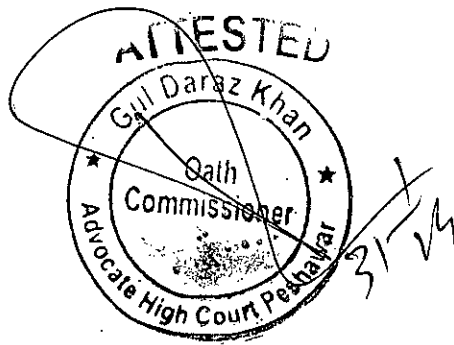
Asif Khan.....**Appellant/Applicant**

V E R S U S

Govt. of Khyber Pakhtunkhwa
Through Secretary Home & others.....**Respondents**

A F F I D A V I T

I, Asif Khan Son of Wasil Khan R/o New Abadi, Jungle Khel District Kohat, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Execution petition** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.



Asif Khan
DEPONENT

KHYBER PAK HTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 182/2022

BEFORE: MR. KALIM ARSHAD KHAN ... CHAIRMAN
MRS. RASHIDA BANO ... MEMBER (J)



Asif Khan S/O Wasil Khan, R/O Mohallah New Abadi, Jungle Khel,
Kohat.

... (Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Home Civil Secretariat, Khyber Pakhtunkhwa, Peshawar.
2. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
3. Deputy Inspector General of Police/Regional Police Officer, Kohat.
4. District Police Officer, Kohat.

... Respondents)

Mr. Hasan U.K Afridi
Advocate

For appellant

Mr. Asif Masood Ali Shah
Deputy District Attorney

For respondents

Date of Institution.....08.02.2022
Date of Hearing.....03.07.2023
Date of Decision:..... 03.07.2023

JUDGEMENT

RASHIDA BANO, MEMBER (J): The instant service appeal has been instituted under section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as below:

“On acceptance of the instant service appeal both the impugned orders may kindly be set aside and the respondents may kindly be directed to order for constitution of fresh medical board for examination of appellant and if appellant medically fit, then the appellant

R

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

may please be reinstated in service, in accordance with law with all back benefits.”

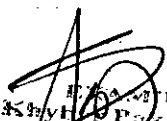
6

2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was appointed as constable in police department on 02.06.2006. The appellant performed his duties to the entire satisfaction of his high-ups and also qualified lower school course A1 and B1 examinations. That during service the appellant fell ill, a medical board was constituted as a result of which he was retired from service on 04.10.2020 on medical grounds. The appellant continued his treatment and after regaining his health, he submitted application for his reinstatement with a request to constitute a medical board for his medical examination which was rejected by respondent No.3 vide order dated 13.09.2021. He filed revision against said order was also rejected by respondent No.2 on 25.01.2022, hence the present service appeal.

3. Respondents were put on notice, who submitted written replies/comments on the appeal. We have heard the learned counsel for the appellant as well as the learned Deputy District Attorney and perused the case file with connected documents in detail.

4. Learned counsel for the appellant argued that the impugned orders passed by the respondents are against law and justice hence liable to be set aside. He further contended that under the rules if any civil servant who had been invalidated during service could be reinstated if subsequently it was declared that he could efficiently his duty, even if he had availed his pension and dues. He argued that the appellant has fundamental right under constitution for his medical checkup by constituting medical board. Lastly, he submitted, that the appellant has not been treated in accordance with law and rules, therefore, he requested for acceptance of the instant service appeal.

ATTESTED


EXAMINED
Khyati P. Kulkarni
Service Tribunal
Pune

5. The learned Deputy District Attorney argued that on the request of the appellant he was invalidated out from service on the opinion of Standing Medical Board. He contended that the appellant was treated in accordance with law and rules. He further argued that the appellant is retired police personnel and he is no more at the strength of Police Department he has been granted all pensionary benefits and his re-instatement in service is not admissible under the rules.

6. Perusal of record would reveals that appellant was appointed as constable in the respondent department on 02.06.2006, who qualified lower school course A1 and B1 examination. Appellant was allowed to retire from service w.e.f 15.09.2020 on medical grounds vide order dated 04.10.2020. After regaining health and being found fit by his doctor, appellant applied for his reinstatement with request to constitute medical board for his medical examination but his application was rejected /filed by respondent No.3 vide order dated 13.09.2021 and revision petition against said order was also rejected by respondent No.2 on 26.01.2022. Perusal of both the impugned orders reveals that no reason for rejection /filing of it was given by respondents No. 2 & 3 but in reply it is mentioned that the appellant himself applied for medical board and as such he has not challenged the proceedings of medical board within stipulated time. It is also mentioned that after retirement on medical grounds appellant remains no more government servant and he got all pensionary benefits and also getting his pension regularly. Appellant's main contention is that after gaining health and being declared fit by his doctor he was entitled to be examined by medical board and reinstatement in service on the strength of Rule 519 of Civil Service Regulation which says that:

"There is no bar to the re-employment of an officer who has regained health after obtaining invalid pension, or if an officer is invalidated as being incapacitated from employment in a

ATTESTED
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

8

particular branch of the service, to his re-employment in some other branch of the service. The rules in such a case as to refunding gratuity, drawing pension, and counting service, the same as in the case of re-employment after compensation pension."

So bare perusal of this Rule 519 reveals that any government servant who was declared invalidated by medical board and getting invalid pension after regaining health could be re-employed and there exist no bar in respect of his re-employment/reinstatement. When there is no bare upon re-employment into service then in such a situation refusal to constitute medical board for medical check-up of the appellant for the purpose of determination of his regaining health and to declare him fit or otherwise for re-employment/reinstatement into service by the respondent are unjustified and against law, rules and arbitrary in nature. Learned counsel for the appellant relied upon 1994 PLC (C.S) 957, which is applicable to the facts and circumstances of the appellant case, so far as plea taken by the respondents is concerned, that same is not in accordance with rules and law on subject, therefore, has no force in it and cannot be relied upon.

8. As a sequel to the above discussion, we allow this appeal with direction to respondents to constitute medical board for medical check-up of appellant within 30 days of the receipt of this judgment and if appellant was declared fit by the medical board then he may be reinstated/re-employed strictly in accordance with relevant rules and law. Costs shall follow the event. Consign.

9. Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 3rd day of July, 2023.

(RASHIDA BANO)
Member (J)

(KALIM ARSHAD KHAN)
Chairman

Certified to be true copy
Kaleemullah
Khyber Pakhtunkhwa
Service Tribunal
Peshawar
11/7/23

Date of Presentation of Application 11/7/23
 Number of ~~Words~~ Page 4
 Copying Fee 20/-
 Urgent _____
 Total 25/-
 Name of Copyist Shahzad
 Date of Completion of Copy 11/7/23
 Date of Delivery of Copy 11/7/23

9

OFFICE OF THE
MEDICAL SUPERINTENDENT
DHQ TEACHING HOSPITAL
KDA; KOHAT

No. 4680 /F-6

Dated Kohat the 14 /11/2023

To
The District Police Officer
Kohat.

Subject:- **CONSTITUTION OF STANDING MEDICAL BOARD**

Memo:

Reference your office No.7532/LB dated 14.11.2023 on the subject cited above and to state that Ex-LHC Asif Khan No.657, may be directed to appear before the Standing Medical Board on **16.11.2023** at **09:00AM** in the office of the undersigned along-with CNIC (in original) and relevant medical documents (if any).

M. Akbar
MEDICAL SUPERINTENDENT
DHQ TEACHING HOSPITAL
KOHAT

14/11/2023

ATTACHED

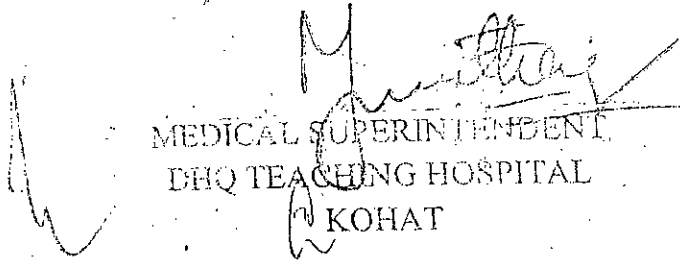
OFFICE OF THE
MEDICAL SUPERINTENDENT
DHQ TEACHING HOSPITAL
KDA; KOHAT
No. 4977 /F-6
Dated Kohat the 06/12/2023

(10)

To
The District Police Officer
Kohat.

Subject:- STANDING MEDICAL BOARD.

Memo:
Reference your office letter No.7532/SRC dated 14.11.2023 and this
office letter No.4680/F-6 dated 14.11.2023 on the subject cited above and to enclose
herewith the opinion of the Standing Medical Board on the Proceeding of Standing
Medical Board in respect of EX-LHC Asif Khan No.657, for further necessary action.


MEDICAL SUPERINTENDENT
DHQ TEACHING HOSPITAL
KOHAT


ATTSTED

(18)

PROCEEDING OF STANDING MEDICAL BOARD DHO TEACHING HOSPITAL KDA KOHAT

The Standing Medical Board has examined Ex-LHC Asif Khan No.657,
CNIC No:14301-1093591-3.

As the employee is boarded out on medical grounds as per Cardiac
Problem, so advised cardiology consultation:-

Opinion of Cardiologist:

Advised: ECG, ECHO, Lipid Profile, RFTs, FBS

HTN, BP: 160/100, EF 60

As the employee is boarded out on medical grounds and now he has
requested to be reinstated.

He is referred to Services Hospital Peshawar for final opinion.

SMB EXAMINATION

Dated Kohat the 16.11.2023



نوٹ: اس کے لئے بورڈ نے
سٹارڈ سروس ہسپتال پشاور کو
رجسٹریشن کے لئے

1. CO-OPTED MEMBER

Dr. Aboul Sami

Cardiologist
DHO Teaching Hospital
Kohat

2. MEMBER

Dr. Akhtar Ali

Medical Specialist
DHO Teaching Hospital
Kohat

3. MEMBER

Dr. Khan Karim Afridi

Surgeon Specialist
DHO Teaching Hospital
Kohat

4. CHAIRMAN

Dr. Mushtaq Ahmad

Medical Specialist
DHO Teaching Hospital
KDA Kohat

ATTSTED

12



Office of the
District Police Officer,
Kohat

Ph: #. 0922-9260116 Fax #. 0922-9260125

No. 8256 /CB dated Kohat the 28/12/2023

To: The Assistant Inspector General of Police,
Enquiry, Internal Accountability Branch
Khyber Pakhtunkhwa,
Peshawar.

Subject: SERVICE APPEAL NO. 182/2022, TITLED ASIF KHAN EX-
FC NO. 657 VS GOVT OF KHYBER PAKHTUNKHWA
ETC.

Memo: Please refer to your office Letter Memo No. 1932-35/CPO/
IAB dated 15.12.2023.

The requisite information is submitted herewith for favour of
perusal as desired please.

Encl: (40 pages)


DISTRICT POLICE OFFICER,
KOHAT


ATTSTED

13

DHO TEACHING HOSPITAL KDA KOHAT

OUT DOOR PATIENT TICKET

Sent: *Dr. J. N. ...* OPD No: *2862*
 Facility Name: _____
 Name: _____ Age: *39* Sex: *M*
 Father's / Husband's Name: _____

Date: _____ Clinical Finding / Investigation / Treatment / Referral / Test Findings

NIC - 143 01 - 1098531-3

*Refer to Police Services
 hospital as the employee
 is boarded out on medical grounds as
 cardiac problem. So Adv on biology
 investigation.*

HTW -

*Dr. Benza Am
 5/40 Bp: 160/100*

K.D.A. KOHAT
16 NOV 2023
DHO HOSPITAL
KDA

*Adv
 9/14
 E (H) - Lipid profile
 RFTS
 RBS*

ATTSTED

ECHOCARDIOGRAPHY

DHQ TEACHING, HOSPITAL KOHAT



ECHOCARDIOGRAPHY REPORT

(14)

Name: ASIF KHAN Age: 39 Sex: M Date: 20/11/2023

Parameter	M.Mode&2-D Echo Observed Values	Normal Values
LV End Diastolic Diameter	4.5	3.5-5.7
LV End Systolic Diameter	3.1	
Right Ventricle	2.3	0.9-2.6
LV Post-Wall	1.0	0.6-1.1
Interventricular Septum	1.0	0.6-1.1
Aortic	2.8	1.9-4.0
Left Atrium	3.3	2.0-3.9
Fractional Shortening	31%	30-44
Ejection Fraction	62%	
MVA		
VSD		

Doppler Study

Valve Value	Gradient	Regurgitation	Hemodynamic	
Mitral Valve			RVSP	
Aortic			PASP	
Pulmonary			Doppler MVA	
Tricuspid Valve			VSD Gradient	

2D Comments	Doppler Study
LV is normal in size with preserved function	E/A Ratio is NOT Reversed
LA/RA/RV are also normal in size	MR/AR/TR NOT Documented
No segmental wall motion abnormality seen	
Valvular structures are normal in Shape	
No LA/LV Clot seen	

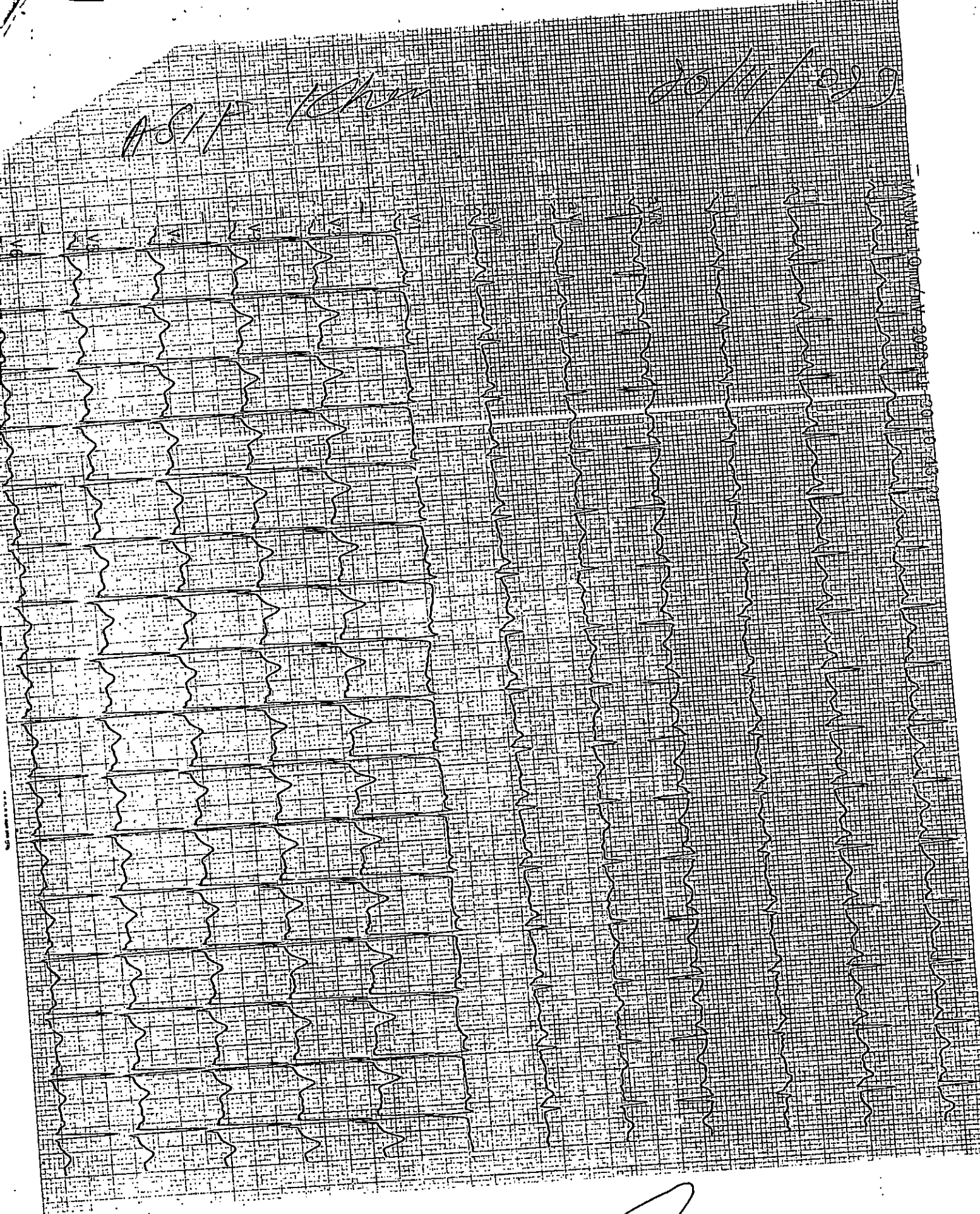
CONCLUSION : PRESERVED LV SYSTOLIC FUNCTION. LVDD

Signature _____

ATTSTED

ASIT K. Sharma

20/11/09



MAHARAJA GURUDEV UNIVERSITY
JALANDHAR
PUNJAB
INDIA
PHONE: 0191-2534343

ATTSTED.

459579516

12413202

DHQ TEACHING HOSPITAL KDA KOHAT



Book No. **1813**
Serial No. **43**

Date: 20/11/23

OPD/ Adm No. 690

Received Rs. 690

From: CRP
RBS RFA
IPID Profile

Procedures: IPID Profile

Signature: [Signature]

Patient ID: 14768
Sample ID: Human
Name: ...
Type: ...
Sex: ...
Doctor: ...

Test time: 20.11.2023 10.33
Report date: 20.11.2023 10.33
Serial No.: 300526

WBC	10.9 + 10 ⁹ /l	5.00	110.0
LYM	2.32 10 ⁹ /l	1.30	4.00
MIU	0.33 10 ⁹ /l	0.16	0.70
GMA	3.23 10 ⁹ /l	2.50	1.50
LYM	21.3	25.0	40.0
MID	3.3	3.00	7.00
GRA	75.4 +	50.0	75.0
RBC	5.38 10 ¹² /l	4.00	5.50
HGB	17.7 + g/dl	12.0	17.4
HCT	49.4	36.0	59.0
MCV	92 fl	76.0	96.0
MCH	32.8 + pg	27.0	32.0
MCHC	35.7 + g/dl	30.0	35.0
RDWc	13.4	12.0	14.2
RDW	13.4	12.0	14.2
PLT	385 10 ⁹ /l	150	400
PCT	0.32	8.00	15.0
MPV	89 fl		
PDWc	36.9		
PDW	12.1		

DHQ TEACHING HOSPITAL KDA KOHAT

Patient: ASIF Gender: Age: Blood Type: Sample ID: 63
 Sample: Serum MRN.: Zone: Bed No.:
 Sender: Sent from: Priority: No
 Characteristic:
 Diagnosis:

Test	Full Name	Concentration	Unit	Results	Remark	Reference
GLU		131.7	mg/dL	Normal		70.0-130.0
UREA		13.9	mg/dL	Normal		10.0-50.0
CREAT		0.7	mg/dL	Normal	ICB	0.4-1.5
Cholesterol		140.1	mg/dL	Normal		0.0-200.0
Triglyceride		129.0	mg/dL	Normal	RFL; EDT	0.0-200.0
LDL		82.7	mg/dL	Normal	ICB	0.0-150.0
HDL		32.3	mg/dL	v	ICB; RFL	35.0-45.0

Test Date: 11/20/2023 11:14:46 AM
 Send Date: 11/20/2023 11:14:46 AM
 Print Date: 11/20/2023 11:42:11 AM

Tested: _____
 Reviewed By: _____
 The results are for this

[Signature]

محضور جناب ڈسٹرکٹ پولیس آفیسر صاحب کوہاٹ

درخواست بمراد بارہ تعیناتی میڈیکل بورڈ بمطابق فیصلہ خیر پختوخواہ سروس ٹریبونل پشاور مورخہ 3-7-2023

جناب عالی! مسائل ذیل عرض کرتا ہے۔

- ۱۔ یہ کہ مسائل مورخہ 2-6-2006 کو پولیس ڈیپارٹمنٹ میں بھرتی ہوا اور احسن طریقہ سے اپنی ڈیوٹی سرانجام کرتا ہے۔
 - ۲۔ یہ کہ مسائل دل کی بیماری کی وجہ سے اپنی سروس جاری نہ رکھ سکا اور میڈیکل بورڈ کی بنیاد پر مورخہ 4-10-2020 کو ریٹائرمنٹ لے لی۔
 - ۳۔ یہ کہ مسائل کچھ عرصہ بعد علاج معالجہ کر کے جب اپنا چیک اپ کیا تو صحت یاب تھا اس لیے مسائل دوبارہ میڈیکل بورڈ کے لیے درخواست دی لیکن وہ خارج ہوئی۔
 - ۴۔ یہ کہ مسائل نے سروس ٹریبونل میں اپیل دائر کی جو کہ منظور ہوئی اور عدالت نے یہ ہدایات دی کہ مسائل کی دوبارہ میڈیکل بورڈ کیا جائے اور اگر مسائل صحت مند ہو تو مسائل کو دوبارہ تعینات کیا جائے۔
- لہذا استدعا ہے کہ بمطابق فیصلہ سروس ٹریبونل مورخہ 3-7-2023 مسائل میڈیکل بورڈ کروایا جائے اگر مسائل صحت مند ہو تو مسائل کو دوبارہ تعینات کیا جائے۔

بدھ ۱۲ جولائی ۲۰۲۳

ATTSTED

عرض

آصف خان

آصف خان LHC/6571 ذلکدواصل خان

سکنہ نئی آبادی جنگل خیل کوہاٹ

رابطہ نمبر 0344-9243240

کورت میں

تینت ایک روپیہ

سروس سٹریٹس کورپوریشن K.P.

مخانب

مقدمہ
مقدمہ
عنوان
بنام
عنوان
پولیس

جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی اور جوابدہی کل کارروائی متعلقہ آن مقام کے لئے

مقرر کر کے قرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا اختیار ہوگا۔ نیز وہیل صاحب کو کرنے راضی نامہ و تقریر ثالث و فیصلہ برصغیر دینے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرانے اجراء اور وصولی چیک در روپیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق زر اس پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یہ طرفہ یا اپیل کی برآمدگی ایجنڈ منسوخی و نیز دائر کرنے اپیل نگرانی نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ اور بصورت ضرورت مقدمہ مذکور کے کل یا اپنی بجائے تقریر اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے۔ اور اس کا ساختہ پر داخہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ و ہرجانہ اتوائے مقدمہ کے سبب سے ہوگا۔ اس کے مستحق کیا صاحب موصوف ہوں گے نیز بقایا خرچہ کی وصولی کرنے کا بھی اختیار ہوگا۔ اور کوئی تاریخ پیشی مقام درہ پر ہو یا حد سے باہر وکیل صاحب پابند نہ ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

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المرقوم

کے لئے منظور ہے۔

نیشاور

مقام

Accept

HASSAN-U.K. AFRIDI
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High Court Peshawar

2024-10-16
0300-9157-963
bc-10-16-23