### FORM OF ORDER SHEET

	. Court o	
er e	<u>Apr</u>	geal No. 276/2024
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
	2	3
4	15/02/2024	
41.7	13/02/2024	The appeal of Mr. Sahib Ullah resubmitted today
		by Mr. Mujeeb Ullah Advocate. It is fixed for preliminary
		hearing before Single Bench at Peshawar on 16.02.2024.
		Parcha Peshi is given to counsel for the appellant.
		By the order of Chairman
		( Mmu
		REGISTRAR.

The appeal of Mr. Sahibullah received today j.e on 31.01.2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Annexues-C&D of the appeal are illegible be replaced by legible/better one.
- 2. Annexures of the appeal are unattested.

\*3- Copies of charge sheet, statement of allegations, show cause notice, enquiry report and replies thereto are not attached with the appeal be placed on it.

No. 2/ /S.T.

DI. 4/2 /2024.

REGISTRAR SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

Mr. Mujibullah Adv. High Court at Peshawar.

Rear Siv.

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no Show could shall shall the has been 185 ment fullated. El 1

18/2024

### BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 276/2024.

Sahib Ullah

#### VERSUS

Govt of Kp & Others

### APPLICATION FOR FIXATION OF THE INSTANT APPEAL FOR PRELIMINARY HEARING AT PRINCIPAL SEAT.

### Respectfully Sheweth,

- That the above titled appeal is filed before this Hon'ble Tribunal wherein no date of hearing is yet fixed.
- 2. That the Applicant/ counsel is requesting for fixation of the instant appeal before principal seat as no bench is currently available at camp court Swat
- 3. That most of the contesting Respondents also belong to Peshawar.
- That there is no legal impediment on acceptance of this application.

In wake of above submissions, the instant appeal may kindly be fixed before principal seat for ends of justice.

Advocate

Counsel for Appellant Khalid & Law Associates 46 C, Cantonment Plaza 2<sup>nd</sup> Floor, Peshawar, Sadar. Cell No. 03018521721

llaM

### BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 276 /2024.

Sahib Ullah

### **VERSUS**

Govt of Kp & Others

### INDEX OF DOCUMENTS

S.No	Description of documents	Annexure	Pages
1 .	Memo of Appeal		1-3
2	Affidavit		. 4
3	Address of Parties		5 .
5	Copy of office order dated 03/06/2022 of Respondent No. 4	A	6-7
6	Copies of Appeal and appellate order dated 09/09/2022	B & C	8-9
7	Copies of revision petition and office order of Respondent No.2	D & E	10-11
-	Wakalatnama		

Appellant

Through

Mujeeb Ułfah Advocate,

High Court, Peshawar

Khalid & Law Associates 46 C, Cantonment Plaza 2<sup>nd</sup> Floor, Peshawar, Sadar. Cell No. 03018521721

### BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 276 /2024.

Sahib Ullah LHC No. 1701 District Police Office, Timergara Lower Dir	
APPELLA	NT

#### **VERSUS**

- 1. Govt. of Khyber Pakhtunkhwa through Secretary Home & Tribal Affairs Department, Secretariat Peshawar.
- 2. Inspector General of Police Khyber Pakhtunkhwa, Peshawar
- 3. Regional Police Officer, Malakand.
- 4. District Police Officer, Timergara Lower Dir.

RESPONDENTS

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDERS DATED 03/06/2022, 19/09/2022 COMMUNICATED TO APPELLANT ON 05/01/2024 WHEREBY MAJOR PENALTY OF "REDUCTION IN PAY BY STAGES" WAS **IMPOSED** ON THE APPELLANT IMMEDIATE EFFECT IMPOSE UPON APPELLANT CONVERTED INTO MINOR PENALTY OF STOPAGGE OF ONE ANNUAL INCREMENT BY RESPONDENT NO. 2.

### Prayer:

By accepting of this service appeal, the impugned order dated 22/12/2023 of Respondent No. 2 to the extent of stoppage of one annual increment may kindly be declared null and Void and kindly be set aside, consequently stoppage of one annual increment may kindly be restored. Any other relief, which this honorable court deems fit and appropriate, may also be granted in favor of appellant for the ends of justice.

### Respectfully Sheweth:

### Brief facts leading to the instant appeal are;

1- That appellant is an employee of the Respondents department and is performing his duties as Police Constable since 2010 at Timergara Lower Dir.

- 2- That the appellant is serving Respondents department with great zeal and devotion up to the entire satisfaction of their superiors and till date there is no complaint against the appellant. It is worth to note that appellant was on duty as Escort for transportation of accused to judicial complex at Balambat Lower Dir.
- 3- That on 20/04/2022 firing incident took place outside the judicial complex/court Balambat lower Dir for which appellant was held responsible for negligence in his official duty. In this respect disciplinary action was taken against the Appellant, and major Penalty of Reduction in pay by three stages was imposed upon appellant vide office order dated 03/06/2022.

{Copy of office order dated 03/06/2022 of Respondent No. 4 is annexed as A}

- 4- That feeling aggrieved from the office order dated 03/06/2022, appellant preferred an appeal before Respondent No. 3 (Regional Police Officer) the appellate authority, which was rejected vide order dated 09/09/2022. {Copies of Appeal and appellate order dated 09/09/2022 are annexed as B & C}
- 5- That the appellant preferred Revision against the appellate order dated 09/09/2022. The Worthy Respondent No. 2 disposed of the said Revision Petition by converting the major penalty into minor penalty of stoppage of one annual increment for three years without cumulative effect vide office order dated 22/12/2023.

{Copies of revision and office order of Respondent No.2 are annexed as D & E}

10. That Appellant being aggrieved from the order dated 22/12/2023 whereby Revision of the Appellant was partially accepted/considered, having no other effacious remedy available except to approach this Hon'ble Tribunal inter alia on the following grounds.

### GROUNDS

- A. That the impugned office orders dated 03/06/2022, 19/09/2022 & 22/12/2023 of Respondents are wrong, illegal, unfounded, unconstitutional, based on colorable exercise of power, hence, is liable to be set aside.
- B. That the impugned orders issued by Respondents are in sheer violation of the Fundamental Rights guaranteed to the Appellant as envisaged under the Constitution of Islamic Republic of Pakistan 1973.
- C. That the Appellant has not been treated in accordance with law and rules by the Respondents Department on the subject noted above and

as such the Respondents violated Article 4 of the Constitution of Islamic Republic of Pakistan 1973.

- D. That no show cause notice, charge sheet, and statement of allegations has been issued to the Appellant which is mandatory under the rules before imposing major penalty of removal from service.
- E. That no regular inquiry has been conducted and it is pertinent to note that no opportunity of personal hearing was given to Appellant. Which is against the principal of Natural Justice.
- F. That the whole proceedings took place on malafide, ill will intentions and just to harass the appellant, which is violation of fundamental rights guaranteed by Constitution of Islamic Republic of Pakistan 1973.
- G. That any other ground will be taken at the time of arguments with the kind permission of this Honorable Court.

In wake of above submissions, it is therefore, most humbly prayed that the instant appeal may kindly be accepted and stoppage of one annual increment for three years may kindly be restored as prayed for.

Any other relief this Hon'ble Court deems appropriate which has not been specifically prayed for may kindly be awarded to appellant for ends of justice.

Appellant

Through

Mujeeb Ullah Advocate High Court,

Khalid & Law Associates 46 C, Cantonment Plaza 2<sup>nd</sup> Floor, Peshawar, Sadar. Cell No. 03018521721

## (4)

### BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. \_\_\_\_/2024.

Sahib Ullah

**VERSUS** 

Govt. of KP & Others

### **AFFIDAVIT**

I, Sahib Ullah LHC No. 1701 DPO office, Timergara Lower Dir do, hereby solemnly affirm and declare that the contents of the instant appeal are true and correct to the best of my knowledge and belief, and nothing has been concealed from this Honorable Court.

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**DEPONENT** 

### (5)

### BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. /2024.

Sahib Ullah

**VERSUS** 

Govt of Kp & Others

### Appellant:

Sahib Ullah LHC 1701 DPO office, Timergara Lower Dir.

### Respondents:

- 1. Govt. of Khyber Pakhtunkhwa through Secretary Home & Tribal Affairs Department, Secretariat Peshawar.
- 2. Inspector General of Police Khyber Pakhtunkhwa, Peshawar
- 3. Regional Police Officer, Malakand.
- 4. District Police Officer, Timergara Lower Dir.

Appellant

Through

Mujeeb Ulah Advocate

High Court, Peshawar

Khalid & Law Associates
46 C, Cantonment Plaza
2<sup>nd</sup> Floor, Peshawar, Sadar.
Cell No. 03018521721



# OFFICE OF THE 6 OFFICER DIR LOWER

#### ORDER

- 1. This order will dispose of the departmental enquiry against LHC Sahibullah No.1701, that as per finding of preliminary enquiry conducted by DSP Legal Dir Lower, that while he posted on Escort duty for transportation of accused, on 20-04-2022 a firing incident took place outside Judicial Complex/Court Balambat. In which 01 person was killed and one got seriously injured. He was held responsible for negligence in his official duty as he failed to adopt proper security measures. Which shows gross negligence and inefficiency on his part.
- 2. Therefore, he was issued charge sheet/statement of allegation and Mr. Mushtaq Ahmad SP Investigation Dir Lower was appointed as enquiry officer, to conduct proper departmental enquiry against him and submit his finding report.
- 3. The enquiry officer, during the course of enquiry recorded the statements of all concerned as well as the official concerned and recommended him for major punishment.
- 4. He was called in Orderly Room on 02-06-2022 for personal hearing and full opportunity was given to him to explain his position but he badly failed to produced any cogent reason in his self defense nor satisfy the undersigned.
- 5.1 Therefore I, Ikram Ullah (PSP) District Police Officer, Dir Lower in exercise of power vested under (E & D) Rules 1975, with Amendment-2014, agreed with the finding of enquiry Officer and awarded a major punishment of "Reduction in pay by three stages" to LHC Sahibullah No.1701, with immediate effect.

ORDER ANNOUNCED

OB No. 455

Dated 62 66 /2022

(IKRAM ULLAH), PSP District Police Officer Dir Lower

No. 5428-30 /EB,

Copy for information and necessary action to the:- -

Pay Officer Local Office.

2. OHC Local Office.





# OFFICE OF THE DISTRICT POLICE OFFICER DIR LOWER No. 6/83 /EC, dated 23-6 /2022

To: -

The Regional Police Officer,

Malakand at Saidu Sharif, Swat

Subject:

APPLICATION

Memo:

Enclosed please find herewith an application submitted by LHC Sahib Ullah No. 1701 of this District Police, requesting therein for restoration of punishment of "Reduction in pay by three stages" is forwarded here-with for your kind perusal, please.

Enclosed: (02)

District Police Officer

### Annex "B"

المرائح من بناب DIG ماحب الماكثرريجن بمقام سيدوشريف موات على المرائد من بناب المرائد من المرائد من

### در خواست بمراد مدردانه غور تمن سنيج تنخواه دوباره بحال

جناب عال ا

### سائیل زیل عرض ادسال ہیں۔

- 1. يدكه سائيل سال 2010 بحشيت كنسنبل بحرقي موكر تاحال نهايت ايمانداري د وي في سرا نهام دد دماب.
  - 2. يدكد مائيل عرصه ايك مال سے جوزيشل گارديس تعينات رہا۔
- 3. یہ کہ مور ند 2022-04-20 کو حسب معمول عدالت تیم مروسے طرفان ذیر حرامت کرے عدالت کے عدالت کے میں میں میں میں میں میں میں میں کہ اللہ کے اللہ کا اللہ کہ اللہ کا اللہ
- 4. یہ کر زیر حراست تیدیوں المزمان کے حفاظت پر معمود حمیث باہر کسشبان نے طران ہو قائیر تک شروع کی تو میں ۔ تو میں نے باتی زیر حراست طرمان جو کہ فائیر تک کی دجہ سے بھامنے کی کوشش میں سے میں نے ان کو قابو کر کے حوالات عدالت میں بند کئے۔ چو تک عدالت کے میں گیٹ ہر کیمرے دولا کے مائید پر نصب شدہ ہا اورعدالت کی طرف ند ہونے کی وجہ سے مائیل کی کاروائی کیمرے میں محفوظ اریکار ڈند ہوسکا۔

6. ید که من سائیل ایک غریب کھرانے سے تعاق رکھتا ہے۔ سائیل تمن بچوں کا باپ ہے ادر کمر کا دامد خود کفیل ہے۔ در منظ کی کی وجہ سے سائیل کی تین سنج تنخواو کو تی سے مشکلات کا سامتا ہے۔

لمذا بحالت بالااستدعاب كمد من سائيل تين (03) سليح تنواه دوباره بحال كرنے كے مناب احكامات صادر فراوي ا

مین توازش ہوگی

تابعددارمساحب اللهد LHC/1701متعین بدلیس لائن تیمر کره منسلح دیر لوشید اتابعد دارمساحب الله د

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المالي

Annex ("



OFFICE OF THE REGIONAL POLICE OFFICER, MALANAND AT SAIDU SHARIF SWAT.

Ph.: 1046.0240388 & Par No. 1046.0240100

Email: ehmulaLandreginea email.com

ORDER.

This order will dispose of appeal of LHC Sahihullah No. 1761 of Dir Lower District in connection with major punishment awarded by the District Police Officer Dir Lower vide DH No. 455, dated 02-18-2022 i.e. reduction in pay by duce stages.

Brief facts of the case are that as per preliminary evaluity conducted by 1381 Legal Hir Lower wherein he starty that LHC Salibullah No 1701 while posted on escentility for transportation of accused in 20-14-2022 a firing incident took place putilide Julicial Camples Court Halambat, in which (1) person was killed and one you seriously unioned Plantas held responsible in his official duty as he falled to adopt proper security measures. Which shows pross negligerals and methiclency on his part. He was resurd Undige Sheet statement of allegation and SP Investigation Dir Lower was appointed as I mainry d'ifficere tu conduct proper depairemental enquiry against delinquent official and submu his finding report. The Enquiry Officer, during the course of enquiry recorded Statement of all converned as well as the delinquent official and recommended him for awarding major panishment. He was called in orderly from by the District Police Officer. the langer on 02-16-2022 for personal hearing and full opportunity was given to him in esplantischer position butthe badly failed by produce my eagent reases in his self defense nor sansfied the District Police Officer, Dif Lower Sheteligie, the District Police Officer, Louier Die in excises of power vested under (1 &D) Rules 1975 Willi amended 2014, Sagreed with the finding of enquiry officer and awaided him major punishment of reduction In pay by three stages vide OB No.455 dated 112 100 21122

He was called in Orderly Room on 07-194-2022 and heard him in person; but he did not produced any count reason to defend the charges leveled against him, therefore, his appeal is hereby rejected

No. 9957 /E,

Regional Police Officer, Mulakand Region Swat

Copy to the District Police Officer, for lower with reference to his office Memor No. 6193/EC. dated 23-08-2022 and No. 808086 C. dated 13-07-2022 His Service Rull and Full Missal committing enquiry file received with the memor under reference are returned herewith for record in your office.

OU LOWE

Frissus



## OFFICE OF THE REGIONAL POLICE OFFICER, MALAKAND AT SAIDU SHARIF SWAT

Ph: 0946-9240388 & Fax No. 0946-9240390 Email: ebmalakandregion@gmail.com

#### **ORDER**

This order will dispose of appeal of LHC Sahibullah No.1701 of Dir Lower District in connection with major punishment awarded by the District Police Officer, Dir Lower vide OB No.455, dated 02-06-2022 i.e. reduction in pay by three stages.

Brief facts of the case are that as per preliminary enquiry conducted by DSP Legal Dir Lower wherein he stated that LHC Sahibullah No.1701 while posted on escort duty for transportation of accused, on 20-04-2022 a firing incident took place outside Judicial Complex/Court Balambat, in which 01 person was killed and one got seriously injured. He was held responsible in his official duty as he failed to adopt proper security measures. Which shows gross negligence and inefficiency on his part. He was issued Charge Sheet statement of allegation and SP Investigation Dir Lower was appointed as Enquiry Officer, to conduct proper departmental enquiry against delinquent official and submit his finding report. The Enquiry Officer, during the course of enquiry recorded statement of all concerned as well as the delinquent official and recommended him for awarding major punishment. He was called in orderly room by the District Police Officer. Dir Lower on 02-06-2022 for personal hearing and full opportunity was given to him so explain his position but he badly failed to produce any cogent reason in his selfdefense nor satisfied the District Police Officer, Dir Lower. Therefore, the District Police Officer. Lower Dir in exercise of power vested under (E&D) Rules 1975 with amended 2014. agreed with the finding of enquiry officer and awarded him major punishment of reduction in pay by three stages vide OB No.455, dated 02-06-2022.

He was called in Orderly Room on 07-09-2022 and heard him in person, but he did not produced any cogent reason to defend the charges leveled against him, therefore, his appeal is hereby rejected.

Regional Police Officer, Malakand Region Swat

No.<u>9957/E,</u> Dated 19.09.2022

\*\*\*\*\*\*\*\*\*\*\*

Copy to the District Police Officer. Dir Lower with reference to his office Memo: No.6193/EC, dated 23-06-2022 and No.8088/EC, dated 13-07-2022. His Service Roll and Fuji Missal containing enquiry file received with the memo: under reference are returned herewith for record in your office.

4

### بخد مت جناب البهكتر جزل آف پوليس معاحب خيبر پختو نخو اهه در خواست بمر او عدر دانه خور تين ( 3()) سينج تخواو دوياره بحال

\$698 201760

. بریش فرش دمان تیبار

- ا يرك سافيل ١١١٥ مشيت كلسفيس محرق وركرة وال تبايد الدائد اوق عدة وفي مر مهام وت ووجه
  - 2 يرك مانش الرمد يك مال سع جود يكل مورد بين تحيات ربا
- 3 یہ کہ مور ند 2022 £ 20.04 کو حسب معمول عدالت تیم کر وسے بڑوان ڈیر جواست کر کے بھوالیت کے میں گیٹ سے میر کر و تیمر کر وسے باہر مجازی میں سوار کرنے کیلے اللے قریبلے سے بلال کرنے والے لڑ ان نے پالیس کی ڈیر جواست مزمان پر فائے رقیہ کرے جس سے ڈیر جواست قیدی مزم المبادر کے کرجان بھی جہد میرم می جدر شدید زخی ہوں۔
- 5. يوك جناب DPO صاحب في بحوال آوار نمبر 455 ور 03.06.2022 من سائني كي تين سني تنو و كات وي مي

یے کے من سائیں ایک تریب محمرانے سے آخل رکھا ہے۔ سائیں تین بج ل کا پاپ ہے۔ اور محرکا دامد کٹیل ہے۔ اور مہنا لک ک وجہ سے سائیل کی تین سنج سنج اوکو لا سے وکا سے کا مامنا ہے۔

لبذا الانت بالانته عاب كه من ما تكل تين (١١٦) من تخواه دوباره بينال كرف يم منامب احكامت معاور فرووي

Sir.

مائن اسٹانگی فریمیت دیا گور در دریا <del>میں میکنیسٹے تھے۔</del> مین دریار دریار تھے۔ 1702 میل دور

تابعداره حب النّه فمبر 1701 / 1110 متعينه في ليم كالأن تيمر حمر و دمير كن وير لوتي به

Sir.

ForWarded

LO.p.line Dir (L)

Forwarded

nep/HOts

Annex





#### OFFICE OF THE INSPECTOR GENERAL OF POLICE KHYBER PAKHTUNKHWA PESHAWAR.

#### <u>ORDER</u>

This order is hereby passed to dispose of Revision Petition under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 (amended 2014) submitted by LHC Sahib Ullah No. 1701. The petitioner was awarded major punishment of reduction in pay by three stages by DPO Dir Lower vide OB No. 455, dated 03.06.2022 on the allegations that he while posted on escent duty for transportation of accused, on 20.04.2022 a firing incident took place outside Judicial complex/Court Balambat, in which one person was killed and one got seriously injured. He was held responsible in his official duty as he failed to adopt proper security measures which show gross negligence & efficiency on his part. The Appellate Authority i.e. RPO Malakand rejected his appeal vide Order Endst: No. 9957/E, dated 9.69.2022.

Meeting of App llate Board was held on 12.12.2053 wherein petitioner was heard in person. The petitioner contended that I was I was capturing the running detained prisoners/accused.

The Board accepted the revision petition of the petitioner and his punishment of reduction in pay by three stages is modified into minor punishment of stoppage of one annual increment for three years without cumulative effect.

Sd/-

#### AWAL KHAN, PSP

Additional Inspector General of Police, HQrs: Slyber Pakhtunkhwa, Peshawar.

No. S/ 2787-92 /23, dated Peshawar, the 22-12 - /2023.

Copy of the above is forwarded to the:

- 1. Regional Police C ficer Malakand, Service Roll at any with Fuji Missal and Enquiry File of the above named. .HC received vide your office Memo: No. 13397-98/E, dated 01.12.2022 is returned herewith for your office record.
- 2. District Police Officer, Dir Lower.
  - 3. AIG/Legal, K. vbcr Pakhtunkhwa, Peshawar,
  - 4. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Pesh: war.
  - 5. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.

6. Office Supdt: E-IV CPO Peshawar.

in Lewis a Tanamera

3/1/54

PSP (FRAHZA CLAMMABULT)

AIG/Establishment,

For inspector General of Police, ithy, er Pakhtunkhwa, Peshawar.

Sahibillih مززن نمتذمر رعوي باعدت تحرمرا نكبه متدمه مدرجه موان بالاس اي فرن سواسط بيردى و تماب دى دكل كاردال متعلقه Myseeb Ullah D مقر برئے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کومقد مدکی کل کاروا کی کا کامل اختیار ہوگا۔ ٹیز وكر وساحب كورات نامه كرية وتفروناليت وفيصله برطف دسيع جواب وال اوراتبال دعوى ادر المارت ذكري كرفي اجراء ادرصول چيك درويدار عرضي دعوى اوردر خواست برسم كي تقديق ررای پرستندگرانی کا خشار موجایه نیزصورت عدم پیردی ما دگری میکطرفه مااییل کی مرا مدگی اورمنسوخی نیز دا ترکر فی این مرال دنظر نال دبیروی کرنے کا نقیار موگا۔ از بصورت ضرورت مقدمہ ترکور كِيِّل ياجرُ وي كارواني كه داسط اوروكل بالحيّارة الوني كواسخ بمراه يّاسخ بحاسع تغرّ ركا احتيار مری اور صاحب، غررشاره کومجی وای جمله ندکوره باا ختیارات حاصل مول مے اوراس کا سا لمت واختيم الورتبول اوكا ووال متلامه عن جوخر بيده برجان التواسط مقدمه كمسب سي واوكا مولی جارج بیتی مقام دورہ براہویا حدے باہر موتودیل صاحب یابند مول مے کہ بیروی اكزركر من لبزاوكالت نام ياعد يا كيسند ب Sped Mwad Ali 97-5457 0310-3353553

Scanned with CamScanner