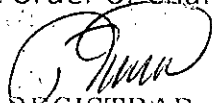


Form- A

FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 142 /2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	15.02.2024	<p>The implementation petition of Mr. Naveed Khan submitted today by Roaeda 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 style="text-align: right;">By the order of Chairman  REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL PESHAWAR

Executive Petition No. 142/2024

In Service Appeal No. 3871/2021

Mr. Naveed Khan

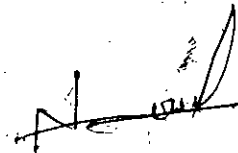
VERSUS

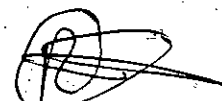
The Inspector General of Police, Khyber Pakhtunkhwa
Peshawar & others

INDEX

<i>S#</i>	<i>Description of Documents</i>	<i>Annex</i>	<i>Pages</i>
1.	Execution Petition.		1-3
2.	Affidavit		4
3.	Copy of judgment	"A"	5-9
4.	Copy of reinstatement order & application	"B & C"	10-11
5.	Wakalat Nama.		12

Dated: 23/08/2022


Applicant

Through 

Roeeda Khan
Advocate, High Court
Peshawar

(U)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Executive Petition No. _____/2024

In Service Appeal No. 3871/2021

Mr. Naveed Khan S/o Umar Khan, Constable Belt
No.5260 R/o Urmar Miana, Mohallah Toheed Abad,
Peshawar.

.....*Petitioner*

VERSUS

1. The Inspector General of Police, Khyber Pakhtunkhwa Peshawar.
2. The Capital City Police Officer, Peshawar.
3. Senior Superintendent of Police, Peshawar.
4. Superintendent of Police (Security), Civil Secretariat Peshawar.

.....*Respondents*

EXECUTION PETITION FOR
DIRECTING THE RESPONDENTS TO
PROPERLY IMPLEMENT THE
JUDGMENT DATED 20.12.2022
PASSED IN SERVICE APPEAL
NO.3871/2021 OF THIS HON'BLE
TRIBUNAL IN LETTER AND SPIRIT

Respectfully Sheweth,

1. That the applicant/appellant filed Service Appeal No.3871/2021 in this August Tribunal which has been accepted on 20.12.2022. **(Copy of judgment is annexed as annexure "A")**.
2. That this Hon'ble tribunal was pleased to accept the appeal of the appellant the impugned order is set aside and the appellant has been reinstated in service with all back benefits/as prayed for.

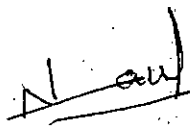
3. That the appellant submitted the judgment/order dated 20.12.2022 but no action has been taken by the department so far.
4. That non implementation of the above mentioned judgment the appellant filed execution petition No.115/23 in response of which the appellant has been reinstated on 24.08.2023 with all arrears and consequential benefits. **(Copy of reinstatement order is attached a annexure "B")**.
5. That although the appellant has been reinstated by the respondent department with all back benefits on 24.08.2023 but the said back benefits has not been granted / issued in practical shape to the appellant as well as the appellant has been reinstated on 20.12.2022 by this Hon'ble Tribunal, while the respondent department reinstate the appellant on 24.08.2023 instead of 20.12.2022.
6. That the appellant submitted an application to respondent department for back benefits and properly implementation of the judgment of this Hon'ble Tribunal but in vain. **(Copy of application is attached as annexure "C")**.
7. That the respondent department are bound to properly obey the order of this Hon'ble Tribunal.

3

8. That the petitioner has no remedy except to file this execution petition.

It is, therefore, most humbly prayed that the respondents may kindly be directed to properly implement the judgment of this August Tribunal in letter and spirit.

Dated: 14/02/2024


Applicant

Through


ROEDA KHAN

Advocate, High Court
Peshawar.

4

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Executive Petition No. _____/2024

In Service Appeal No. 3871/2021

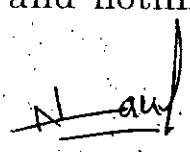
Mr. Naveed Khan

VERSUS

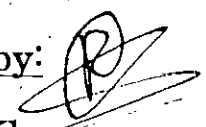
The Inspector General of Police, Khyber Pakhtunkhwa
Peshawar & others

Affidavit

I, Mr. Naveed Khan S/o Umar Khan, Constable Belt No.5260 R/o Urmar Miana, Mohallah Toheed Abad, Peshawar, do hereby solemnly affirm and declare on oath that all the contents of the instant Execution Petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.


Deponent

Verified by:


Roeeda Khan
Advocate High Court
Peshawar.

"A" 5

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**



Service Appeal No. 3871/2021

BEFORE: MRS. ROZINA REHMAN ... MEMBER (J)
MISS FAREEHA PAUL ... MEMBER (E)

Naveed Khan son of Umar Khan, Contable Belt No. 5260 R/O Urmar
Miana, Mohallah toheed Abad, Peshawar. (Appellant)

Versus

1. Inspector General of Police/PPO, Peshawar.
2. Capital City Police Officer, Peshawar.
3. Senior Superintendent of Police, Peshawar.
4. Superintendent of Police (Headquarters), Peshawar.
5. Deputy Superintendent of Police (Security), Civil Secretariat,
Peshawar. (Respondents)

Mr. Muhammad Saeed Khan,
Advocate


For appellant

Mr. Muhammad Riaz Khan Paindakhel,
Assistant Advocate General

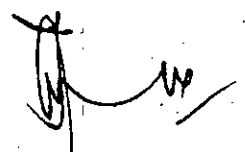
For respondents

Date of Institution..... 16.03.2021
Date of Hearing, 20.12.2022
Date of Decision..... 20.12.2022

JUDGEMENT

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar


FAREEHA PAUL, MEMBER (E): The service appeal in hand has
been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal
Act, 1974 against the order dated 29.12.2020, against which departmental
appeal dated 15.01.2021 was dismissed on 02.03.2021 by respondent No. 2.
It has been prayed that on acceptance of the appeal, the impugned order
dated 29.12.2020 might be set aside and the appellant be reinstated in
service with all arrears and consequential back benefits.



2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was appointed as Constable on 06.04.2011 in Police Department after the due process of the law. He was suspended from service vide order dated 08.04.2020, as a result of being charged in a murder case vide FIR No. 273 dated 02.04.2020 u/s 302/34 PPC P.S Umar, District Peshawar. The appellant was placed under suspension by respondent No. 4 vide order dated 08.04.2020 due to involvement in the criminal case and absenting himself from duty w.e.f. 11.09.2019 till the issuance of suspension order. A charge sheet and statement of allegations was also served upon him on 08.04.2020 on the grounds of involvement in a criminal case and absenting himself from duty w.e.f. 31.03.2020. On 28.04.2020, the appellant appeared in police lines and joined the duty once again. Departmental inquiry against the appellant was initiated in which he was recommended for major punishment. He was dismissed from service vide order dated 29.12.2020. The appellant, being aggrieved and dissatisfied from the impugned order dated 29.12.2020, preferred departmental appeal on 15.01.2021 before respondent No. 2 which was rejected on 02.03.2021; hence the present 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 Additional Advocate General for the respondents and perused the case file with connected documents in detail.

4. Learned counsel for the appellant after presenting the case in detail contended that no show cause notice was served upon the appellant which

ATTESTED

 Service Tribunal
 Peshawar



was not a formality but a mandatory provision of law and no opportunity of personal hearing was afforded to him before imposition of major penalty. He further contended that the competent authority was required to conduct a proper inquiry and provide opportunity of hearing, cross examination and defense to the appellant before imposition of major penalty which was not done. He further contended that the impugned order dated 29.12.2020 was violative of Section 24-A of General Clauses Act as the competent authority failed to pass a speaking order with sound reason and to substantiate allegation in the light of evidence on record. According to him, the appellant was falsely charged in the said FIR wherein the appellant was not convicted and the case was still pending before the competent court of law till the submission of the instant service appeal. Learned counsel presented the order of Additional Sessions Judge-XIII Peshawar dated 16.12.2022 vide which the appellant had been acquitted of the charges leveled against him.

5. Learned Assistant Advocate General, while rebutting the arguments of learned counsel for the appellant, contended that the appellant was proceeded against departmentally on the charge of his involvement in a criminal case and his prolonged willful absence from duty. He was suspended from service vide order dated 08.04.2020 and charge sheet alongwith statement of allegations was served upon him. He further contended that proper departmental inquiry was conducted against him, wherein he was given opportunity of defence but he failed to rebut the charges leveled against him and was found guilty beyond any shadow of doubt. Besides there were 27 bad entries and 03 minor punishments in his

ATTESTED



service record. Learned AAG requested that the appeal might be dismissed with cost.

6. After hearing the arguments and going through the record present before us, it transpires that the appellant was charged in a murder case vide FIR dated 02.04.2020. He was put under suspension on 08.04.2020 by his competent authority. His appeal for bail before arrest was rejected on 07.09.2020 by the Additional Sessions Judge-IV, Peshawar and he was arrested on that date and put behind bar. He was granted bail by the august Supreme Court of Pakistan vide its judgment dated 05.11.2020. On 08.04.2020, when the appellant was suspended, an inquiry was initiated against him by issuing him a charge sheet and statement of allegations. The Inquiry Officer, a Deputy Superintendent of Police, submitted his report dated 29.12.2020 which consisted of proceedings of one sentence according to which, "the alleged official was summoned by the parwanas and on his mobile cell No. 0301-8808140 several times but he could not appear before the undersigned to attend the inquiry proceedings." It is difficult to understand that an officer of DSP rank had no idea of conducting inquiry in case of an accused who was behind the bar. Proceedings of inquiry indicate that it was not ensured whether the accused received the charge sheet and statement of allegations. As he was behind the bar, the Inquiry Officer had to go to him to conduct the inquiry, which was not done, despite the fact that he was bound under the rules to provide reasonable opportunity of hearing to the accused, as was clearly mentioned in the statement of allegations also.

The competent authority also did not ascertain whether all the legal

ATTESTED
[Signature]

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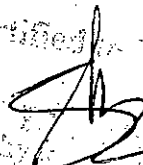
9j

formalities for conducting the inquiry were fulfilled or not. The inquiry report was, therefore, faulty and full of lacunas, but the competent authority of the appellant passed the order of dismissal based on the same report. The appellate authority (The CCPO Peshawar) rejected the departmental appeal of the appellant based on the same findings of the Inquiry Officer/report.

7. It would have been in the fitness of the matter that the appellant would have been kept under suspension till the outcome of the trial in the competent court of law. During the course of proceedings in this Tribunal, the appellant was acquitted of all the charges by the court of Additional Sessions Judge-XIII, Peshawar vide its judgment dated 16.12.2022.

8. In view of the above discussion, the appeal in hand is allowed as prayed for. Parties are left to bear their own costs. Consign.

9. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 20th day of December, 2022.*

Certified true copy

 Rozina Rehman
 Member (J)
 Peshawar


 (ROZINA REHMAN)
 Member (J)


 (FARLEHA PAUL)
 Member (E)

Date of Presentation of Application: 14/12/24

Number of Writs: 5 P

Copying Fee: 25/-

Urgent: 8/-

Total: 36/-

Name of Copy: _____

Date of Completion of Copy: 14/12/24

Date of Delivery of Copy: 14/12/24

(B) (10)

ORDER

Ex-Constable Naveed No.5260 of CCP Peshawar was proceeded against departmentally on the charges of his involvement in Criminal case, vide FIR No. 273, dated 02.04.2020 u/s 302/34 PPC PS Umar, and also absented himself from lawful duty w.e.f 31.03.2020 to 29.12.2020 (Total 08 months and 28 days) without any leave/permission.

2. After completion of all codal formalities, he was awarded major punishment of dismissal from service by SP/HQ Peshawar vide OB No. 3536, dated 29.12.2020. The appellant then filed departmental appeal which, after due consideration, was also filed/rejected vide order Encl: No. 608-14/PA, dated 02.03.2021.

3. Feeling aggrieved, the appellant then filed service appeal No. 3871/21 before the Khyber Pakhtunkhwa Services Tribunal, Peshawar. The respondents/department submitted duly vetted Para wise comments before the honorable Tribunal. The honorable Tribunal, without taking into consideration plea of the respondents, accepted the appeal and, on 20.12.2022 ordered that "in view of above discussion the appeal in hand is allowed as prayed for".

4. On procurement of the Judgment order dated 20.12.2022, the department lodged CPLA before the Honorable Supreme Court of Pakistan against the very judgment dated 20.12.2022. The appellant then filed the execution petition No. 115/2023 for implementation of judgment order dated 20.12.2022 passed by the Service tribunal, Peshawar (copy of order sheet is attached).

5. On acquirement of order sheet dated 09.05.2023 and 20.08.2023, this office, vide letter No. 1180/ LB, dated 14.07.2023 and, letter No. 2136/LB, dated 08.08.2023, has sought guidance from CPO which is still awaited.

6. Now, as approved by the competent authority and in view of the above, the judgment on service appeal No. 3871/21 passed on 20.12.2022 by the honorable Services Tribunal, is implemented conditionally/provisionally subject to outcome of CPLA pending in apex court and Ex-Constable Naveed Khan of CCP Peshawar is reinstated in service with all arrears and consequential back benefits.


SUPERINTENDENT OF POLICE
HEADQUARTER PESHAWAR.

O.B No 2080
Dated 25/8/2023.

No. 3035-47 /PA/SP/H Qrs. dated Peshawar, the 24 / 8 /2023.

Copy for information:

1. The Inspector General of Police Khyber Pakhtunkhwa Peshawar.
2. The Capital City Police Officer, Peshawar.
3. The SSSP Operations and Coordination Peshawar.
4. The DSP HQrs: Peshawar.
- ✓ 5. The DSP Legal for information and presenting before the Honorable Tribunal a copy of this Order.
6. The AD-IT and Office Superintendent CCP Peshawar.
7. The PO, CRC and FMC CCP Peshawar.
8. The OASI with the direction to allot new Belt No. to Naveed Khan reinstated.
9. Constable Naveed under former Belt No. 5260 reinstated.

بخدمت جناب سپرنٹنڈنٹ پولیس ہیڈ کوارٹر پشاور

درخواست براد عطا کرنے Back Benefit اور تقریباً آٹھ مہینوں کی تنخواہ

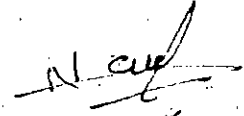
جناب عالی:- سائل حسب ذیل عرض رساں ہے۔

1. یہ کہ سائل نے سروس ٹرانسفر میں بحالی کیلئے سروس اپیل نمبر 21/3871 دائر کی تھی جو کہ سائل کے حق میں مورخہ 20.12.2022 کو Back Benefit کے ساتھ فیصلہ ہوا۔

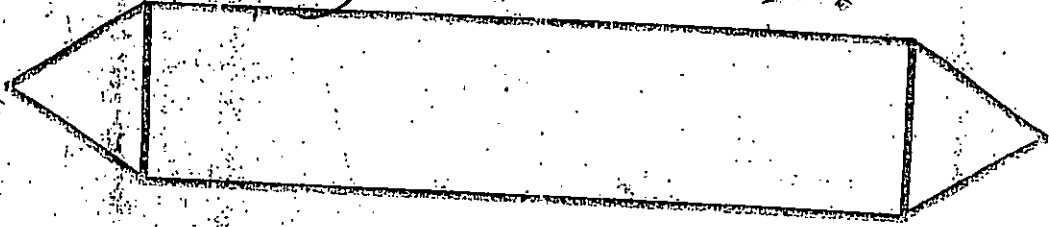
2. یہ کہ سائل کو محکمہ نے مورخہ 24.08.2023 کو بحال کیا لیکن Back Benefits بحال ادا نہ کئے اسکے علاوہ سائل کے تقریباً آٹھ مہینوں کی تنخواہ بھی سائل کو ادا نہیں کیا۔

لہذا استدعا ہے کی جاتی ہے سائل کو Back Benefit اور تنخواہ دینے کا حکم صادر فرمائی جاوے۔

المرقوم: 20.12.2023


سائل نوید خان

بعد از جناب سرور اسٹیبل کمانڈ



2024ء منجانب اسٹیبل کمانڈ

سلسلہ فیضان نام لکھی لکھی

مورخہ

مقدمہ

دعویٰ

جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ

آن مقام کے لیے زود وقت آج کے

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے ق تقرر ثالث و فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق و مابہر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا محتاج ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانبہ التوائے مقدمہ ہوں گے سب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

2024ء

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المرقوم

Accepted By