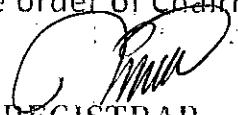


Form- A

FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 160 /2024

S No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	23.02.2024	<p>The implementation petition of Mr. Ghani ur-Rehman submitted today by Mr. Umar Khitab Advocate. It is fixed for implementation report before touring Single Bench at Swat on _____.</p> <p>Original file be requisitioned. AAG has noted the next date.</p> <p>By the order of Chairman  REGISTRAR</p>

BEFORE THE SERVICE TRIBUMNAL K.P. PESHAWAR/ CAMP
COURT MINGORA SWAT.

E.P. No: 160/2024


1. Ghani Ur Rahman Mohaalla Shahabnagr Panar Mingora
swat.....Appellant.

VERSUS.

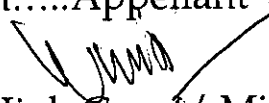
2. Inspector General Police Khyber Pukhtoonkhw Peshawar
and others.....Respondents.

INDEX.

S. No	Description.	Page	Annex:
1	Application.	1-3	
2	Affidavit	4	
3	Judgment.	5-10	
4.	Application.	11	
5	Wakalatnama.	12	


Ghanai Ur Rahman.....Appellant

Through


Umar Khitab advocate High Court/ Mingora
Bench. Cell No. 0345-9524854.

BEFORE THE SERVICE TRIBUNAL K.P. PESHAWAR CAMP
COURT MINGORA SWAT

Implementation Petition No. 160 /2024

Service Appeal No. 1177/2023

Khyber Pakhtukhwa
Service Tribunal

Diary No. 11315

Dated 23-02-2024

Ghani Ur Rahman Mohallah Shahabnagar Panar Mingora Swat
Retired Inspector In Police Department, *Swat*.

.....appellant/petitioner

Versus

1. Inspector General Police Khyber Pukhtunkhwa Peshawar.
2. Deputy Inspector General of Police C.T.D. Khyber Pakhtunkhwa Peshawar.
3. Regional Police Officer Malakand Range Saidu Sharif Swat.
4. District Police Officer Swat.

.....respondents

APPLICATION FOR IMPLEMENTATION IN
SERVICE APPEAL NO 1177/2023 PASSED BY
HONORABLE SERVICE TRIBUNAL K.P PESHAWAR
IN CONNECTION TITLED SERVICE APPEAL.

Respectfully Sheweth,

Briefs Facts Given To The Instant Petition Are As Under:

1. That the appellant/petitioner filed the service appeal bearing no 1177/2023 titled "ghani ur Rahman versus inspector general police Khyber Pakhtunkhwa peshawar and other" and after hearing this honorable tribunal disposed of the service appeal vide judgment dated 07-12-2023 with specific to direction to respondents. (Copy of Judgment as Annex: A)
2. That the appellant/petitioner approached the concerned office (inspector general police K.P. peshawar)

(2)

where the judgment was communicated along with application vide Post office receipt No, 936 dated 15/01/2023 but the till date the respective grievance of the appellant / Petitioner did not decide the matter in the light of judgment Passed by this Honorable service Tribunal. (Application dated 13/01/2023 as Annex: B)

7. That the appellant / Petitioner repeatedly visited the concerned office but no head was paid to his request for deciding his case nor the respondents are taking interest to decide the issue.
8. That being aggrieved the petitioner prefer this application for Implementation of the Honorable service Tribunal judgement.

GROUND.

- A) That not implementation of judgment of this Honorable Tribunal by the Respondents is arbitrary, mechanical and with out showing any obedience and respect of the pronouncement of this Honorable service tribunal.
- B.) That the applicant/ Petitioner properly submitted the Judgment of this Honorable Tribunal to concerned Respondent but the concerned Respondent has not honor the same judgment..
- C) That the Respondents clearly violated the judgment this Honorable Tribunal and the demand of justice is to be proceeded him in accordance with law as no one is above the law and all the citizen be treated and proceeded according to the mandate of Constitution.
- D) That any other grounds may be adduced during the course of arguments, with the kind permission of this Honorable Tribunal.

Prayer.

It is therefore, humbly prayed that acceptance of the petition/ application and the concerned Respondent (Inspector General Police Khyber Pukhonkhw Peshawar may kindly be directed to implement the order dated 02/10/2023 this Honorable Tribunal judgment passed in connection Service appeal 1177/2023.

(3)

~~Umar~~
Ghani Ur Rahman.....Petitioner

Through

Umar Khitab advocate High court/

Darulqaza Mingora Bench Swat.

Cell No. 0345-9524854

4

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR MINGORA BENCH SWAT.

APPLICATION APPEAL No. _____/2023.

Mr. Ghanai Ur Rahman Mohallaha Shahabnagar Panar
Mingora Swat. *Ex-Inspector in Police*.....Appellant.

VERSUS

1. Inspector General Police Khyber Pukhoonkhw
Peshawar and others..... Respondents

AFFADAVIT.

It is stated on oath that the contents of this application are true and correct to the best knowledge and belief. Moreover, no such like service appeal is pending before this Honorable Service Tribunal K.P. Peshawar camp court Swat.

Ghanai



Ghanai Ur Rahman.....Appellant.



KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
AT CAMP COURT SWAT

BEFORE: **RASHIDA BANO** ... MEMBER (J)
MUHAMMAD AKBAR KHAN ... MEMBER (E)

Service Appeal No.1177/2023

Date of presentation of Appeal.....24.05.2023
Date of Hearing.....07.12.2023
Date of Decision.....07.12.2023

Ghani Ur Rahman Mohallah Shababnagar Pananar Mingora
Swat.....(Appellant)

Versus

1. Inspector General of Police Khyber Pakhtunkhwa Peshawar.
2. Deputy Inspector General of Police CTD Khyber Pakhtunkhwa.
3. Regional Police Officer Malakand Range Saidu Sharif Swat.
4. District Police Officer Gulkada Swat.
5. Tamiz Ud Din D.S.P Latkoo Lower Chitral.
6. Aqeel Shah D.S.P C/O District Police Office Mardan....(Respondents)

Present:

UMAR KHITAB,
Advocate ----- For appellant

MUHAMMAD JAN,
District Attorney ----- For respondents.

JUDGMENT

MUHAMMAD AKBAR KHAN, MEMBER (E):- The instant service appeal has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as under;

"That on acceptance of this Service appeal the impugned order passed by respondent No.1 dated 01/03/2023 may kindly be set aside and the appellant may kindly be promoted to the

ATTESTED

Khyber Pakhtunkhwa
Service Tribunal
Peshawar

post of DSP (BPS-17) with all back benefits Any other relief deem fit in the circumstances may also be awarded in favours of appellant against respondent."

02 Brief facts of the case are that the appellant was initially appointed in the police department vide order dated 30.04.1981. He was promoted to the post of Inspector (BPS-16) vide order dated 05.11.2016; that the respondent No. 2 Submitted the ACRs of the appellant to respondent No.1 for the period w.e.f 01.01.2021 to 02.09.2021 vide letter date 30.11.2022 and respondent No.3 Submitted ACR,s of the appellant for the period of w.e.f 03.09.2021 to 31.21.2021 to respondent No. 1 vide letter dated : 15.03.2023; that the DPC meeting was held on 08.12.2022; that the appellant retired from service on attaining the age of superannuation on 08.04.2023 vide order dated 01.03.2023; that the respondent department issued impugned Notification whereby junior to the appellants were promoted to the rank of DSP. Feeling aggrieved from the impugned Notification dated 01.03.2023 the appellant filed departmental appeal on 09.05.2023 which was rejected vide order dated 19.05.2023, hence preferred the instant Service appeal on 24.05.2023.

03. Notices were issued to the respondents, who submitted their comments, wherein they refuted the assertions raised by the appellant in his appeal. We have heard arguments of learned counsel for the appellant and learned District Attorney for the respondents and have gone through the record with their valuable assistance.

ATTESTED

EXAMINER
 Khayr M. Chhakhwa
 Service Tribunal
 Peshawar

04. Learned counsel for the appellant contended that the impugned Notification dated 01.03.2023 is against the law facts, hence liable to be set aside; that the appellant has not been treated in accordance with the law, rules as well as constitution of the Islamic Republic of Pakistan 1973; that the respondents have not promoted the appellant to the post of DSP (BPS-17) despite having eligibility and seniority which is against the law, facts, illegal, unlawful unconstitutional and based on malafide and norms of natural justice; that the respondent No.1 acted in arbitrary and malafide manner by not promoting the appellant to the post of DSP (BPS-17) that the entire proceedings have been conducted in derogation of law and rules: that the Notification dated: 01.03.2023 of respondents No.1 is whimsical, capricious and founded on surmises and conjectures.

05. Learned District Attorney on behalf of official respondents contended that the orders passed by the respondents are quite legal and in accordance with law and rules; that the case of the appellant was considered in the Departmental Promotion Committee held on 08.12.2022 however, due to his missing ACR for the period from 03.01.2021 to 31.12.2021 the appellant was recommended to be deferred from the promotion to the rank of DSP (BPS-17); that the appellant was not promoted to the rank of DSP (BPS-17) because of his incomplete ACR; that the appellant has been treated in accordance with the law and no illegality has been done to the appellant. No violation of law and rules has been committed by the respondents.

06. Scrutiny of record reveals that the appellant was promoted as officiating Inspector on 05.11.2014 and confirmed as Inspector on

ATTESTED

KAMAL NEER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

05.11.2016. At the time of placement of his promotion case before the DSC on 08.12.2022 he was eligible in all respect for promotion to the rank of DSP (BS-17). However, due to shortage of ACR for the period 03.09.2021 to 31.12.2021 his promotion was deferred by the DSC. Recommendees of the DSC including juniors of the appellant were notified on 01.03.2023. The appellant stood retired from service on 08.04.2023 after less than a month of promotion order of his colleagues. Interestingly the date of order of retirement on superannuation issued on 01.03.2023 coincides with the date of promotion of the colleagues including his juniors. We observe that at the time of consideration of promotion of the appellant it was in the knowledge of DPC that the appellant was at the verge of superannuation and as such he deserved priority treatment. The only reason for deferment of promotion of the appellant was non-availability of ACR for the period 03.09.2021 to 31.12.2021 otherwise he was eligible for promotion in terms of length of service completion of mandatory training and good service record. From the letter of Regional Police Officer addressed to the Registrar CPO Peshawar dated 15.03.2023 it is quite clear that the issue of missing ACR of the appellant remained under correspondence since 02.01.2023 and finally original copy of ACR in respect of the appellant for the missing period was submitted on 15.03.2023 after 15 days of issuance of Notification of promotion of the colleagues of the appellant. No fault seems on part of the appellant with regard to making available of the missing ACR for the period which actually comes to 03 months and 19 days only. We also observe that

ATTESTED the appellant has not been treated at par with his other 04 colleagues who were promoted on notional basis as they stood retired on superannuation in

between the date of DSC meeting and issuance of promotion Notification. Keeping in view the due date of superannuation of the appellant i.e. 08.04.2023, he could have been cleared/recommended for promotion subject to availability of ACR for the short period of less than four months.

07. In view of foregoing discussion we are inclined to accept the appeal in hand and direct the respondents to prepare case for proforma promotion of the appellant and place it before the DPC for consideration. Wisdom is derived from 2012 SCMR 126 of Supreme Court of Pakistan. Costs shall follow the event. Consign.

08. *Pronounced in open Court at camp court Swat and given under our hands and the seal of the Tribunal on this 07th day of December, 2023.*



RASHIDA BANO
Member (J)
Camp Court Swat



MUHAMMAD AKBAR KHAN
Member (E)
Camp Court Swat

Kamranullah

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 11-01-24
Number of Pages 5 P
Copying Fee 25/-
Urgent 5/-
Total 30/-
Name of Copyholder
Date of Completion of Work 11-01-24
Date of Delivery of Copy 11-01-24

ORDER

07.12.2023

01. Learned counsel for the appellant present. Mr. Muhammad Jan, District Attorney for the respondents, present. Arguments heard and record perused.

02. Vide our detailed judgment of today, separately placed on file, consisting of (05) pages, we are inclined to accept the appeal in hand and direct the respondents to prepare case for promotion of the appellant and place it before the DPC for consideration. Wisdom is derived from 2012 SCMR 126 of Supreme Court of Pakistan. Costs shall follow the event. Consign.

03. *Pronounced in open Court at camp court Swat and given under our hands and the seal of the Tribunal on this 07th day of December, 2023.*



RASHIDA BANO
Member (J)
Camp Court Swat



MUHAMMAD AKBAR KHAN
Member (E)
Camp Court Swat

Affidavit

11

The

Honorable
Inspector General of Police
Khyber Pukhtoonkhw Peshawar.

Subject:- APPLICATION FOR IMPLEMENTATION OF
JUDGMENT OF HONORABLE SERVICE TRIBUNAL
KHYBER PUKHTOONKHW PESHWAR CAMP COURT
SWAT DATED 07/12/2023.

R/Sir,

1. That the appellant filed a service appeal No. 1177/2023 Before the Honorable service Tribunal K.P. Peshawar Camp court Swat against the impugned promotion Notification No, CPO-E /Promotion /425 dated 01/03/2023.
2. That the Honorable service tribunal K.P. Peshawar camp Court Swat accepted the service appeal of the appellant On 07/12/2023. (Judgment copy as attached for ready Reference)

It is therefore, humbly prayed to accept the instant implementation application and the appellant case prepared for proforma promotion.

Your, s obedient

Ghaniur Rahman Ex Inspector Mohallah
Shahabnagr Panar Mingora Swat.

Dated 13/01/2023.

Cell No. 0343-2428858

No.936 For Insurance Notices see reverse. Stamps affixed on reverse of RGL116999036 in the initial weight prescribed in the Post Office Guide or on which no acknowledgement is due.

Received a registered* addressed to _____ Date-Stamp _____

Initials of Receiving Officer _____ with the word "insured" before it when necessary.

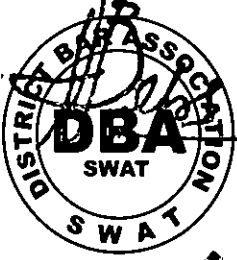


Insured for Rs. (in figures) _____ (in words) _____

Insurance fee Rs. _____ Ps. _____ (in words) _____


Name and _____

Weight _____ Kilo _____ Grams _____

DISTRICT COURT P.O. SWAT
15 JAN 2024
Rs. 90 Ps. AD 60

<p>بار کونسل نمبر: bc-1058-18</p> <p>بار ایسوسی ایشن نمبر: 10345-9524833</p> <p>رابطہ نمبر: 10345-9524833</p> <p>ای میل ایڈریس:</p>	<p>سیریل نمبر: 1190098</p>    <p>ڈسٹرکٹ بار ایسوسی ایشن سوات</p>
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بعدالت جناب: سروس ٹریبونل خیبر پختون خواہ لٹس اور کیمپ کورٹ سوات

<p>منجانب:</p> <p>غنی الرحمن انصاری فضل لورس</p> 	<p>دعویٰ اور خواست: احرا</p> <p>علت نمبر:</p> <p>مورخہ:</p> <p>جرم:</p> <p>تھانہ:</p>
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بابت تحریر آنگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے برائے پیروی مقدمہ

آن مقام ملکہ سورت کیلئے محترم خطاب ڈسٹرکٹ کو مقرر کر کے

اقرار کیا جاتا ہے، کہ صاحب موصوف کو مقدمہ کی کل کارروائی کو کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث کرنے، دعویٰ، جواب، دعویٰ، اقبال، دعویٰ اور درخواست برائے سرسبزی مقدمہ، منسوخی ڈگری کی طرف، اجراء و پیروی کرنے کا اختیار ہوگا نیز دائر کرنے اپیل نگرانی، نظر ثانی و پیروی کرنے کا مختار ہوگا۔ اور مقدمہ مذکورہ کیلئے کل وقتی یا جزوی کارروائی کیلئے کسی دیگر وکیل یا مختار قانون کو اپنے ہزارہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو بھی جملہ مذکورہ اختیارات حاصل ہوں گے، اور اس کا ساختہ و پروا ختم منظور قبول ہوگا، بدوران مقدمہ جو خرچہ و ہرجانہ کسی بھی سبب سے حاصل ہوگا، وہ وکیل موصوف وصول کرنے کا مختار ہوگا، کوئی تاریخ پیشی مقام مذکورہ بالا سے باہر ہو، تو وکیل صاحب پیروی مقدمہ کرنے کے پابند نہ ہوں گے، مقدمہ کسی عدالت میں بخدم پیروی خارج ہونے یا ڈگری کی طرف ہونے کے صورت میں وکیل صاحب ذمہ دار نہیں ہوں گے،

لہذا وکالت نامہ لکھ دیا کہ سندر ہے

Accepted

کے لئے منظور ہے۔

مقام ملکہ سورت

16202-5910095-5