

Form- A

FORM OF ORDER SHEET

Implementation Petition No. 202/2024

Date of order

Order or other proceedings with signature of judge

29.02.2024

The implementation petition of Mr. Imtiaz Ullah submitted today by Syed Roman Shah 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.

By the order of Chairman


REGISTRAR

①

BEFORE THE SERVICE TRIBUNAL KHYBER

PAKHTUNKHWAPESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 11483

Execution Petition No. 202/2024, In Service appeal no. 1465 of 2022 Dated 29-02-2024

Imtiaz Ullah S/o Muqarab Khan Constable FRP rang No. 5906 R/o Sarat Khel,
District Karak.....Decree Holder/Petitioner

Versus

1. Provincial Police Officer/ Inspector General of Police
Khyber Pakhtunkhwa, Peshawar
2. Commandant FRP, Khyber Pakhtunkhwa Peshawar.
3. Superintendent of Police, FRP Kohat, region Kohat.

.....Judgment Debtor/Respondents

PETITION FOR DIRECTING THE RESPONDENT TO IMPLEMENT THE
JUDGMENT AND ORDER DATED 09/01/2024 OF THIS HONORABLE
TRIBUNAL, IN THE ABOVE NOTED APPEAL.

Respectfully Sheweth;

Applicant humbly submits as under


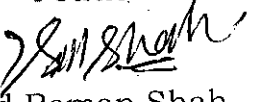
1. That the above noted appeal has been decided on 09/01/2024, by this honorable tribunal in favor of the petitioner.
2. That the appeal of the petitioner has been accepted and the petitioner has been reinstated in service with all back benefits. **(Copy of the judgment is attached as annexure-A)**
3. That the petitioner has approached time and again to the respondent to implement the judgment of this hon'ble tribunal but the respondent deaf eared to the request of the petitioner. ^{Application with} **(Dairy No of respondent are Attached As Annexure -B)**

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4. That now the petitioner has no other remedy but to approached this Hon'ble tribunal for the implementation of this tribunal order dated 09/01/2024.

5. That there is no bar in filing of this petition, and this petition is well within time.

It is therefore most humbly prayed that upon acceptance of this petition, the respondents may please be directed to implement the order and judgment of this Hon'ble tribunal Dated 09/01/2024, and to punish the respondents for defiance of this Hon'ble tribunal order dated 09/01/2024.


Petitioner
Through 
Syed Roman Shah
Advocate High Court

AFFIDIVIT

I, Imtiaz Ullah S/o Muqarab Khan Constable FRP rang No. 5906 R/o Sarat Khel, District Karak, do hereby solemnly affirm and declare on oath that the contents of the above petition is true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable tribunal.




Deponent

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BEFORE THE SERVICE TRIBUNAL
KHYBER PAKHTUNKHWAPESHAWAR



Service-Appeal No. 1465/2022

Imtiaz Ullah S/o Muzarab Khan, Constable FRP range. No:5906 R/o
Sarat Khel, Karak.

Appellant

Versus

Khyber Pakhtunkhwa
Service Tribunal

Case No. 1558

Dated 11-10-2022

1. Provincial Police Officer/ Inspector General of Police
Khyber Pakhtunkhwa, Peshawar
2. Commandant FRP, Khyber Pakhtunkhwa Peshawar.
3. Superintendent of Police, FRP, Kohat region, Kohat.
4. Government of Khyber Pakhtunkhwa through
Chief Secretary, Peshawar

Respondents

APPEAL UNDER SECTION 4 OF SERVICE TRIBUNAL ACT, 1974
AGAINST THE ORDER OB NO.389, DATED 19/07/2022
PASSED BY RESPONDENT NO. 3, BY WHICH THE APPELLANT
HAS BEEN STOOD RETIRED FROM SERVICE, AND AGAINST
THE ORDER NO. 7914-15, DATED 27/09/2022, PASSED BY
RESPONDENT NO. 2, VIDE WHICH THE DEPARTMENTAL
REPRESENTATION/ APPEAL FILED BY APPELLANT HAS BEEN
REJECTED.

Filed to day

Registrar

PRAYER

On accepting this service appeal, the impugned order NO:389, dated
19/07/2022 Passed by respondent No.3, and against the order NO. 7914-

2/ Gulshan
ATTSTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

(2) (4)

15. dated 27/09/2022, passed by respondent no. 2, may graciously be set aside by declaring it illegal, unlawful, without authority, based on mala fide, void abinitio and thus not sustainable in the eyes of law and appellant may please be re-instated in service with all back benefits of pay and service

Respectfully Sheweth;

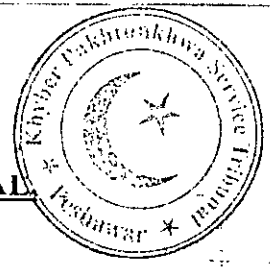
1. That the appellant was enlisted in respondent department as constable on 01/01/2011, and the appellant was performing his duty with great zeal and passion.
2. That appellant met with road accident on 28/11/2018, while performing his official duty and got major spinal injury along other minor injuries. **(Copy of Naqalmad is attached As Annexure-A)**
3. That the appellant along others were referred to Standing Medical Board for physical examination at DHQ hospital Kohat, whereby the appellant along others were examined and the SMB advised light work for the appellant. **(Minutes of SMB is attached as Annexure-B).**
4. That despite the SMB recommendation the respondent No. 3 issued an order OB No. 389, Dated: 19/07/2022, where the appellant was illegally retired from the service. **(Order dated 19/07/2022 is attached as annexure-C)**
5. That appellant filed departmental appeal/representation (The facts and ground agitated therein may please be treated as part and parcel of this appeal) against the impugned order by respondent No. 2, who vide order dated 27/09/2022 rejected the

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

ATTSTED

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KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

BEFORE: SALAH-UD-DIN ... MEMBER (Judicial)
FAREEHA PAUL ... MEMBER (Executive)

Service Appeal No. 1465/2022

Imtiaz Ullah S/O Muqarab Khan, Constable FRP Range No. 5906.
R/O Sarat Khel, Karak. (Appellant)

Versus

Provincial Police Officer/Inspector General of Police, Khyber
Pakhtunkhwa, Peshawar and 03 others. (Respondents)

Present:

Mr. Shahid Qayum Khattak, Advocate.....For the appellant
Mr. Asad Ali Khan, Assistant Advocate GeneralFor respondents

Date of presentation of Appeal.....11.10.2022
Date of Hearing.....08.01.2024
Date of Decision.....09.01.2024

JUDGMENT

SALAH-UD-DIN, MEMBER: Precise averments as per memorandum of appeal are that the appellant was enlisted as Constable in Police Department on 01.01.2011. He while performing his official duty had met an accident in which he sustained major spinal injury as well as other minor injuries. The appellant alongwith other police officials were referred to Standing Medical Board for medical examination at DHQ Hospital Kohat. The Standing Medical Board opined in its report that the appellant could be adjusted on light duty but despite that he was retired from service vide the impugned order bearing OB No. 389 dated 19.07.2022. The appellant challenged the same by way of

ATTESTED

MEMBER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

ATTESTED

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filing departmental appeal before the Commandant Frontier Reserve Police Khyber Pakhtunkhwa Peshawar, which was rejected vide order dated 27.09.2022, hence the instant 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 has addressed his arguments supporting the grounds agitated by the appellant in his appeal. On the other hand, learned Assistant Advocate General for respondents has controverted the arguments of learned counsel for the appellant and have supported the comments submitted by the respondents.

4. Arguments have already been heard and record perused.

5. A perusal of the record would show that vide letter No. 272/PO.HC dated 03.02.2022, Superintendent of Police, FRP Kohat Range, Kohat had requested the Medical Superintendent District Headquarter & Teaching Hospital Kohat for constituting of Standing Medical Board for examination of the appellant as well as certain other police officials. Standing Medical Board was thus constituted and it examined the appellant as well as other police officials on 15.02.2022 and proceedings of the same were sent by Medical Superintendent DHQ Hospital KDA Kohat to the Superintendent of Police FRP Kohat Range Kohat vide letter

ATTEST NO. 742/SMB dated 21.02.2022, copy of which is available on the

Page 2

ASSISTANT
ADVOCATE GENERAL
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

[Signature]
ATTSTEL

record. The remarks of Standing Medical Board regarding the appellant are reproduced as below:-

*"Road Traffic Accident on 28.11.2008.
Hx of spine injury
X-Ray D/L Spine (AP Lat)
Implants in spine
He may not be able to do actively duty for the rest of his life. Can be adjusted on light duty or boarded out on medical ground as not fit for active duty."*

6. The above reproduced remarks of Standing Medical Board would show that the appellant was declared as physically capable of performing light duty. Moreover, one other Police Constable namely Sibghatullah was also examined by the same Standing Medical Board on the same day and remarks of Standing Medical Board regarding him were as below:-

*"Left cubitus varus with stiffness
Ulnar Neuropathy
X-Ray Left Elbow Joint (AP/Lat)
Permanent disability in left upper limb.
Cannot do active duty for the rest of his tenure.
Can be adjusted in light duty or boarded out on medical grounds as not fit for active service."*

7. It is the contention of learned counsel for the appellant that as per report of the Standing Medical Board, the above-mentioned Constable Sibghatullah No. 5643 was having permanent disability in left upper limb but even then he was adjusted by assigning him light duty, while the appellant was retired from service and was thus discriminated. The respondents have admitted in their comments that Constable Sibghatullah had not been retired, however they have tried to distinguish the case of Constable Sibghatullah on the ground that he had sustained injury in Police encounter/combat. The respondents have, however failed to produce any rule or law

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[Signature]
MEMBER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

ATTSTED

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supporting their plea of distinguishing of case of Constable Sibghatullah from that of the appellant. We are thus of the view that the appellant is similarly placed employee and deserve to be treated alike Constable Sibghatullah.

8. Consequently, the appeal in hand is allowed as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
09.01.2024

(SALAH-UD-DIN)
MEMBER (JUDICIAL)

(FAREEHA PAUL)
MEMBER (EXECUTIVE)

Naeem Amin

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Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application	25/01/24
Number of Words	4-P
Copying Fee	20/-
Urgent	
Total	20/-
Name of Copy	
Date of Receipt	25/01/24
Date of Delivery	25/01/24

ATTSTED

انجمن جناب کمانڈر نٹ ایف آر پی حیدر پختونخواہ شہاور

CR No

درخواست بحراد بحالی سرویس

12330/PSO

26-01-24

جناب عالی!

سائل حسب ذیل علم ان رساں ہے

1- یہ کہ سائل کو FRP کو باٹ ریج سے بوجہ بیماری جبری ریٹائرڈ کیا جگا۔

2- یہ کہ سائل نے مذکورہ ریٹائرمنٹ آرڈر، جس میں اس کے سائل میں عین عین کیا جگا۔ جس کو آرڈر انجمنٹ مورفہ 09/01/2024 کو دوبارہ لائٹ ورک پر بحال کر دیا ہے (مقتضیٰ مذکورہ لائن ہے)

لہذا آپ صاحب سے درخواست ہے کہ سائل کو

بہ مطابق مندرجہ سرویس ٹریبونل مورفہ 09/01/2024

لائٹ ورک پر بحال کیا جائے۔

سائل ناصر دعا گو دستگار

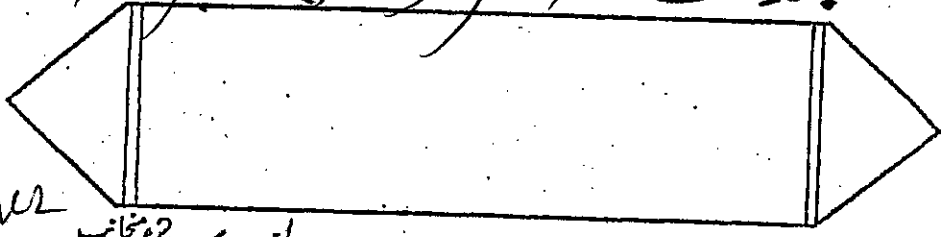
المرفوعہ 26/01/2024

السرور

امضاء: اللہ خ - FRP کنٹریل کو باٹ ریج کو باٹ

ATTSTED

بعدالت سرور سرور قبول طلبہ و طلبہ



Petitioner
1- اختیاز اللہ بنام پولیس و علیہ

موزخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی وجواب وہی وکل کاروائی متعلقہ
آن مقام صاحب کیلئے سرور و مال کے
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر حالت ہ فیصلہ برحلف دیئے جواب وہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور صوبائی چیک روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری کیلئے یا اپیل کی برآمدگی اور منسوخی
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ لے جانے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جائداد اتوائے مقدمہ کے سبب سے وہوگا۔
کوئی تارج 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 مندر ہے۔

اختیاز اللہ بنام پولیس و علیہ
مقدمہ مندرجہ عنوان بالا میں

المرقوم 28
ماہ 20 21 22

بمقام
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کے لئے منظور ہے۔
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