Form- A

	FORM OF ORDER SHEET
Ċ	ourt of
	implementation Petition No. 239/2024
onte of soler (asceedings	Order or other proceedings with signature of judge
7	3
14.03.2024	The implementation petition of Mr. Sher
	Bahadar received today by registered post through Mr.
	Imtiaz Ali Marwat Advocate. It is fixed for
	implementation report before touring Single Bench at
	D.L.Khan on Original file be
•	requisitioned. AAG has noted the next date. The
	counsel for the petitioner has been informed
	telephonically.
	By the order of Chairman REGISTRAR
,	

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR, CAMP AT D.I.KHAN.

Implementation/Execution Petition No. 239... of 2024. In Judgment dated 21/11/2023 in Service appeal No. 339/2023.

Sher BahadarPetitioner/Appellant **VERSUS**Inspector General of Police etcRespondents

INDEX

No.	Particulars	Annexure	Pages
1	Grounds of Implementation /Execution Petition along with affidavit.		1-3
2	Copy of service appeal	A	4-7
3	Copy of judgment dated 21/11/2023	В	8-10
4	Copy of application	С	11-12

Your Humble Petitioner

Sher Bahadar

Through Counsel

Dated; 4/03/2024

Imtiaz Ali Khan Marwat Advocate District Bar, DIKhan, Cell#0346-7847274.

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR, CAMP AT D.I.KHAN.

Diary No. 11750

Sher Bahadar son of Muhammad Aslam Resident of Paniala, Tehsil & District Dera Ismail Khan, Ex-Sub Inspector).

......Petitioner

VERSUS

- 1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
- 2. Regional Police Officer, DIKhan.

.....Respondents

IMPLEMENTATION /EXECUTION PETITION JUDGMENT DATED 21/11/2023 IN SERVICE APPEAL NO. 339/2023 WHEREBY THE HONOURABLE SERVICE TRIBUNAL DIRECTED TO COMPLETE THE FURTHER PROCESS OF SENIORITY ON LIST "F" IN ACCORDANCE WITH THE ENTRIES IN LIST "E" WITHIN 60 DAYS AND THE RIGHTS OF **ALSO** APPELLANT MAY RETIRED TREATED IN THE SAME MANNER AND THE IN ACTION ON THE PART OF RESPONDENTS TO COMPLY THE JUDGMENT.

Respectfully Sheweth:-

Brief facts of the case are:

That the present petitioner lodged a service appeal No. 339/223 against order bearing No. 259/ES dated 11/01/2023 of Regional Police Officer, DIkhan whereby appellant / petitioner was not granted revised seniority in promotion

list "E" and order No. CPO/CPB/329 dated 30/12/2022 and No. 317/CPB dated 08/12/2022 of Inspector General of Police depriving appellant / petitioner from right of seniority and back benefits for no good grounds.

- 2. That the Honourable Service Tribunal accepted the service appeal vide consolidated judgment dated 21/11/2023 and directed that rights of retired appellant may also be treated in the same manner. Copy of service appeal is enclosed as **Annexure "A"** and judgment dated 21/11/2023 is enclosed as **Annexure "B"**.
- 3. That the petitioner / appellant submitted an application along with copy of judgment for implementation / compliance, but the respondents are reluctant to obey the directions so far. Copy of application is enclosed as Annexure "C".
- 4. That as per Section 7 of the KP Civil Servant Act, petitioner / appellant is entitled to confirmation / seniority and promotion from back date along with his colleagues and also entitled to promotion along with all back benefits / arrears as per Section 17 of the ibid Act even after retirement.
- 5. That the petitioner has no other remedy, but to file the instant implementation petition.

6. That counsel for the petitioner / appellant may kindly be allowed to raise additional grounds during the course of arguments.

In view of the above, it is, therefore, most respectfully prayed that on acceptance this petition, the judgment dated 21/11/2023 in Service Appeal No. 339/2023 may kindly be got implemented to ensure the justice.

Your Humble Petitioner

Sher Bahadar

Through Counsel

Dated; U/03/2024

Imtiaz Ali Khan Marwat Advocate District Bar, DIKhan, Cell#0346-7847274.

AFFIDAVIT:-

I, **Sher Bahadar** son of Muhammad Aslam Resident of Paniala, Tehsil & District Dera Ismail Khan, Ex-Sub Inspector), the petitioner, do hereby solemnly affirm and declare on OATH that the contents of the same are true and correct to the best of my knowledge and belief and that nothing has been concealed from this honorable court.

Deponent

Ameter A

PESHAWAR CAMP COUPT AT DERA ISMAIL KHAN. Service Appeal No. 339 /2023

Sher Bahadar(Appellant)

VERSUS

Govt. of KPK etc.....(Respondents).

INDEX

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S.No	Description of Documents	Annexure	Page
1.	Grounds of Service Appeal along with affidavit.		1-5
-2.	Application for condonation of delay along with affidavit		6
3.	Copy of order dated 03/11/2009	"A"	bud#
4.	Copy of conformation order dated 19/01/2017	"B" (7-9
1. 5.	Copy of promotion as SI dated 05/05/2017	"C"	10.
6.	Copy of confirmation as SI dated 31/12/2021	"D"	11-12
7.	Copy o application / appeal / representation	"E"	13
8.	Copy of retirement order dated 10/10/2022	"F"	14
9.	Copy of impugned order dated 08/12/2022	"G"	15
10.	Coy of impugned order dated 30/12/2022	"H"	16
11-	Copy of impugned sonority list dated 11/01/2023	"I"	17-20
_12.	Vakalatnama		
-			2

Your Humble Appellant

Sher Bahadar Through Counsel

Dated: 7/02/2023

MTIAZ ALI KHAN MARWAT

Advocate, District Bar, Dera Ismail Khan Mobile #0346-7847274

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR CAMP COURT AT DERA ISMAIL KHAN.

Company of the second

Service Appeal No. 339 /2023

Sher Bahadar S/o Muhammad Aslam Resident of Paniala, District Dera Ismail Khan, Sub-Inspector Police (Retired).

....(Appellant)

VERSUS

- 1. Government of Khyber Pakhtunkhwa, through-Secretary to Govt. Khyber Pakhtunkhwa, Peshawar.
- 2. Inspector General Folice, Khyber Pakhtunkawa, Peshawar.
- 3. Regional Police Officer, Dera Ismail Khan:

.....(Respondents)

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST ORDER BEARING NO. 259/ES DATED 11/01/2023 OF REGIONAL POLICE OFFICER DERA ISMAIL KHAN WHEREBY APPELLANT WAS NOT GRANTED RESERVED SENIORITY IN PROMOTION LIST "E" AND ORDER NO. CPO/CPB/329 DATED 30/12/2022 AND NO. 317/CPB DATED 08/12/2022 OF INSPECTOR GENERAL POLICE DEPRIVING APPELLANT FROM RIGHT OF SENIORITY AND BACK BENEFITS FOR NO GOOD GROUNDS.

Respectfully Sheweth:-

- That the appellant is naturally bonafide citizen of Islamic Republic of Pakistan and hails from respectable family of District Dera Ismail Khan
- 2. That appellant was appointed as constable in Police Department on 19/01/1983 and performed his duties with full zest and devotion. The appellant gained promotion to the rank of Head Constable in due course.
- That appellant was promoted as officiating ASI vide order Endst; No. 3815/E.S dated 03/11/2009 on two years probation. Copy of

order dated 03/11/2009 is enclosed as Annexure "A".

- That appellant was confirmed in the rank of ASI vide order No. 268-82/ES dated 19/01/2017. Copy of confirmation order dated 19/01/2017 is enclosed as *Annexure "B"*.
- 5. That appellant was promoted to the rank of officiating SI of 02 years probation vide RPO DIKhan office Endst; No. 18-29-41/ES dated 05/05/2017. Copy of promotion order dated 05/05/2017 is enclosed as Annexure "C".
- <u>6.</u> That appellant was confirmed as S.I vide notification bearing Endst; No. 5842-60/E.S dated 31/12/2021. Copy of confirmation as SI order dated 31/12/2021 is enclosed as *Annexure "D"*.
- 7. That Regional Departmental Scrutiny committee was constituted for rectification / revised seniority strictly in accordance with Police Rules, 13-18.
- That appellant submitted application for rectification of seniority / revised seniority strictly in accordance with Police Rules, 13-18. Copy of application is enclosed as <u>Annexure</u> "E".
- 9. That in the meanwhile appellant was retired from service vide DPO DIKhan Office dated 10/10/2022. Copy of retirement order dated 10/10/2022 is enclosed as *Annexure "F"*.
- That in compliance with kind verdicts of August Supreme Court of Pakistan, Honourable Peshawar High Court, Peshawar and this Honourale Tribunal, the I.G.P Khyber Pakhtunkhwa directed for bringing the names of premoted ASIs on list "E" from date of officiating promotion as ASI on completion of successful completion of probation period. Copy of impugned order dated 08/12/2022 is enclosed as Annexure "G".

- That respondent No. 2, the I.G.P Khyber Pakhtunkhwa Peshawar vide letter no. CPO/CPB/329 dated 30/12/2022 directed to submit lists of revised seniority excluding the retired, deceased and Shuhada Officers. Copy of impugned order dated 30/12/2022 is enclosed as Annexure "H".
- 12. That respondent No. 2 vide ibid order further directed for not allowing back benefits and promotion.
- That now RPO DIKhan has assigned reserved seniority as ASI vide No. 259/E.S dated 11/01/2023 but depriving appellant being retired. Copy of impugned sonority list is enclosed as **Annexitre "I"**.
- That as per reported judgments of this Honourable Tribunal, the appellant is also entitled to all back benefits of revised seniority and promotion even after retirement.
- That feeling aggrieved by impugned orders the appellant has no others adequate remedy except to file the instant service appeal before this Honourable Tribunal, inter alia, on the following grounds;

GROUNDS:-

- A. That the impugned orders are wrong, illegal and against norms of justice and needs to be set aside.
- **B.** That the impugned orders are also contradictory to Police Rules and Service Laws, hence liable to be set aside.
- <u>C.</u> That the impugned orders are unwarranted, illegal, hence not tenable in the eyes of law.
- That the impugned orders are also in violation of reported judgments of the August Supreme Court of Pakistan as well as this Honourable Tribunal.

- E: That as per Police Rules 13-18 an official shall be confirmed an completion of 02 Years probation period.
- That appellant was promoted as appointing ASI on 03/11/2009 and was required to be confirmed on 03/11/2011 on completion of 02 years probation period.
- G. That in the impugned order / letter dated 30/12/2022 respondents admits that beneficiary orders and notification have retrospective effect, but in the note para have deprived the appellant from their right of seniority and promotion.
- That the right of seniority and promotion has accrued to the appellant during service (before retirement), for which appellant may not be denied vested rights for no fault on his part.
- I. That appellant has applied for rectification of his seniority during service and the in-action on the part of respondents is violation of the Law & Rules.
- <u>J.</u> That the scrutiny committee has also recommended for correction / revised seniority of other colleagues.
- K. That any right exerued during service, shall be admissible to appellant even after retirement.
- L. That it is a crystal principle of law that where a law requires a thing to be done in a particular manner, the same is to be done in that manner and not otherwise.
- M. That from every angle appellant is entitled to revised seniority and all back benefits thereto.
- N. That the rights of appellant were infringed vide impugned order dated 30/12/2022 and order dated 11/01/2023, therefore, the instant appeal is within time. However, application for condonation of delay is also attached.

It is, therefore, humbly prayed that on acceptance of instant service appeal, the respondents may kindly be directed to grant revised seniority to appellant along with all back benefits as well as consequential benefits, at all stages.

Your Humble Appellant

Sher Bahadar

Through Counsel

Dated: /7/01/2023

IMTIAZ ALI KHAN MARWAT

Advocate, District Bar, Dera Ismail Khan Mobile #0346-7847274

CERTIFICATE:-

It is certified that no such like amended appeal has been lodged by appellant, prior to the instant one against impugned order of revision.

Deponent

AFFIDAVIT:-

I, Sher Bahadar S/o Muhammad Aslam Resident of Paniala, District Dera Ismail Khan, Sub-Inspector Police (Retired), the petitioner, do hereby solemnly affirm declared on oath that contents of the Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

Deponent

IDENTIFIED BY:

IMTIAZ ALI KHAN MARWAT

Advocate, District Bar, DIK

On Cons

PESHAWAR CAMP COURT AT DERA ISMAIL KHAN

Service Appeal No. 339 /2023

Sher Bahadar S/o Muhammad Aslam Resident of Paniala, District Dera Ismail Khan, Sub-Inspector Police (Retired).

.....(Appellant)

Amethor B

VERSUS

1. Government of Khyber Pakhtunkhwa, through Secretary to Govt. Khyber Pakhtunkhwa, Peshawar.

2. Inspector General Police, Khyber Pakhtunkhwa, Peshawar.

3. Regional Police Officer, Dera Ismail Khan.

....(Respondents)

APPEAL UNDER SECTION 4 OF THE PAKHTUNKHWA . SERVICE TRIBUNAL ACT AGAINST ORDER BEARING NO. 259/ES DATED 11/01/2023 OF FECIONAL POLICE OFFICER DERA ISMAIL LHAN WHEREBY APPELLANT WAS NOT GRANTED RESERVED SENIORITY IN PROMOTION LIST AND ORDER NO. CPO/CPB/329 DATED 30/12/2022 AND NO. 317/CPB DATED 08/12/2022 OF INSPECTOR GENERAL POLICE DEPRIVING APPELLANT FROM RIGHT OF SUNIORITY AND BACK BENEFITS FOR NO GOOD GROUNDS.

Respectfully Sheweth:-

1. That the appellant is naturally bonafide citizen of Islamic Republic of Pakistan and hails from respectable family of District Dera Ismail Khan.

2. That appellant was appointed as constable in Police Department on 19/01/1983 and performed his duties with full zest and devotion. The appellant gained promotion to the rank of Head Constable in due course.

That appellant was promoted as officiating ASI vide order Endst; No. 3815/E.S dated -03/11/2009 on two years probation. Copy of

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Vice Tributalis

Service Appeal No.339/2023

ORDER 21st Nov. 2023

Kalim Arshad Khan, Chairman: Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney alongwith Mr. Khalid Nawaz, Inspector for the respondents present.

- 2. Vide our detailed order of today, placed on file of connected Service Appeal No.332/2021 titled "Shah Jehan Vs. Police Department" this case is also disposed of in terms of the said order. Copy of the order be placed on file of this case. Consign.
- 3. Pronounced in open Court at D.I.Khan and given under our hands and seal of the Tribunal on this 21st day of November, 2023.

(Muhammad Akbar Khan) Member (E)

(Kalim Arshad Khan) Chairman

Mutazem Shah*

Certified to be thre copy

Khycer Tubunal.

Service Appeal No.332/2023 titled "Shah Jehan & others Vs. Government of Khyber Pakhtunkhwa"

21st Nov. 2023 Kalim Arshad Khan, Chairman: Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney alongwith Mr. Khalid Nawaz, Inspector for the respondents present.

- At the very outset, learned Deputy District Attorney produced 2 copy of revised seniority list-E. After going through the revised seniority list-E, the learned counsel for appellant stated that although, the seniority position was corrected in accordance with part of theprayer of the appellant to the extent of bringing the appellant on List-F. Rest of the relief was also being granted, which was in process in accordance with the entries in List-E, on which, learned counsel says that the appellant would be satisfied, if the remaining process is completed within a period of 60 days. Learned counsel further says that the rights of the retired appellant may also be treated in the same manner. Order accordingly. This order shall also decide the connected Service Appeals No.333/2023, 334/2023, 335/2023, 337/2023, 338/2023, 339/2023, 340/2023, 341/2023, 342/2023, 343/2023, 344/2023, 345/2023, 346/2023 and 541/2023. Copy of this order be placed in files of all connected appeals. Consign.
 - Pronounced in open Court at D.I.Khan and given under our 3. hands and seal of the Tribunal on this 21st day of November, 2023.

(Muham#

Member (E)

(Kalim Arshad Khan) Chairman Certification to re copy

Service Tribahak Pachamar

*Mutazem Shah

The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.



SUBJECT:-

IMPLEMENTATION OF ORDER DATED 21/11/2023 PASSED BY THE HONOURABLE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR IN SERVICE APPEAL NO. 339 OF 2023 TITLED "SHER BAHADAR VS IGP ETC".

Respected Sir,

The applicant submits the following for yours kind and sympathetic consideration;-

- 1. That the applicant while serving in Police Department was promoted as efficiating ASI vide order bearing No. 3815/ES dated 03/11/2009 and was confirmed as ASI vide order No. 268-82 dated 19/01/2017.
- 2. That consequent upon confirmation as ASI, the applicant was promoted as officiating SI vide No. 1829-41/ES dated 05/05/2017 and confirmed as SI vide notification No. 5842-60/ES dated 31/12/2021.
- 3. That due to grievances of ranker police officials a scrutiny committee was constituted to examine the cases to revise the confirmation that scrutiny committee recommended to revise the date of confirmation as ASI w.e.from 2011 but competent authority delayed the decision.
- 4. That applicant was retired on superannuation vide order No. 3690-94/EC dated 10/10/2022.
- 5. That yours good office vide order No. 317/CPB dated 08/12/2022 directed to revise / bring the names of ASIs on list E from the date of successful completion of probation period but again vide order / letter No. CPO/CPS/329 dated 30/12/2022 directed not to include the names of retired police officers, back benefits and promotion.
- 6. That being aggrieved from the impugned orders the applicant lodged a service appeal for revised seniority along with all back benefits.

- 7. That during hearing of appeal, a copy of revised seniority list-E was produced before Honourable Service Tribunal on behalf of respondents / competent authority with the assurance that further revision is in progress and will be completed within period of 02 months / 60 days.
- 8. That as per Section 7(4) of KP Civil Servant Act, the applicant is also entitled to revised confirmation and back benefits accruing there from.
- 9. That now the Honourable Service Tribunal vide order dated 21/11/2023 has accepted all the service appeals and ordered to complete the process of compliance within 60 days. That the right of retired appellant may also be treated in the same manner. Order accordingly. Copy of order is enclosed.

In view of above, it is humbly prayed that in compliance with order dated 21/11/2023 of the Service Tribunal, the applicant may kindly be granted proforma revised seniority in list-E and promotion as well as revised confirmation in list-F with all back benefits accruing there from as laid down in Section 7(4) of the KP Civil Servant Act. I shall be highly obliged.

Yours Faithfully,

Dated 1/5/12/2023

SHER BAHADAR

S/o Muhammad Aslam R/o Panyala,
District D.I.Khan.
(Sub-Inspector Police retired, No. D/75)

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