

Form- A
FORM OF ORDER SHEET

Implementation Petition No. 247/2024

Order or other proceedings with signature of judge

3

10.03.2024

The implementation petition of Mr. Shaukat Ali submitted today by Mr. Taimur Ali 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 counsel for the Petitioner.

By the order of Chairman



REGISTRAR

The execution petition in appeal no. 480/2019 received today i.e. on 19.01.2024 is returned to the counsel for the petitioner with the following remarks.

Copy of application moved by the petitioner to competent authority for the implementation of judgment is not attached with the petition. If the application has already been preferred and reasonable period of 30 days has been expired be placed on file. If not, the same process be completed and then after approach to this Tribunal for the implementation of Judgment.


No. 145 /S.T.

Dt. 22/1 /2024.


REGISTRAR
KHYBER PAKHTUNKWA
SERVICE TRIBUNAL
PESHAWAR

Mr. Taimur Ali Khan Adv.
High Court Peshawar.

Respected Sir,

Resubmitted after compliance


18/03/2024.

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

Execution petition No. 247/2024
In Service Appeal No.480/2019

Shaukat Ali

V/S

Police Department

INDEX

S.No.	Documents	Annexure	P. No.
1	Memo of execution petition	-----	01-02
2	Copy of judgment dated 09.10.2023	A	03-07
3	Copy of application	B	08
4	Vakalat Nama	-----	09

PETITIONER

THROUGH:



(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT
Cell# 0333-9390916

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.**

Execution Petition No. 267 /2024
In Service Appeal No.480/2019

**Khyber Pakhtukhwa
Service Tribunal**

Diary No. 10655

Dated 19-1-2024

Shaukat Ali Junior Clerk,
Traffic Head Quarter, Khyber Pakhtunkhwa Peshawar.

(PETITIONER)

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Capital City Police Officer, Peshawar.
3. The Senior Superintendent of Police/Chief Traffic Officer, Peshawar.

(RESPONDENTS)

.....
**EXECUTION PETITION FOR DIRECTING THE
RESPONDENTS TO IMPLEMENT THE JUDGMENT
DATED 18.10.2023 OF THIS HONOURABLE
TRIBUNAL IN LETTER AND SPIRIT.**
.....

RESPECTFULLY SHEWETH:

1. That the petitioner has filed service appeal No. 480/2019 in this Honorable Tribunal against the order dated 22.03.2019, whereby the departmental of the petitioner against the order dated 24.01.2019 wherein major penalty of reduction to a lower post for a period of 03 years has been imposed upon the petition.
2. That the appeal of the petitioner was heard and decided by this Honorable Tribunal on 18.10.2023. The Honorable Tribunal partially allowed the appeal of the petitioner and the impugned order was modified and major penalty of reduction to lower post for three years was converted into minor penalty of stoppage of one increment for one year. **(Copy of judgment dated 18.10.2023 is attached as Annexure-A)**
3. That the appellant has filed an application for implementation of judgment dated 18.10.2023 on 31.01.2024, however no action has taken on his application to implement the judgment dated 18.10.2023

of this Honorable Tribunal. (Copy of application is attached as Annexure-B)

4. That the Honorable Service Tribunal converted the major penalty of reduction to lower post for three years of the petitioner into minor penalty of stoppage of one increment for one year in its judgment dated 18.10.2023, but after the lapse of about five months, the respondents did not convert the major penalty of reduction to lower post for three years of the petitioner into minor penalty of stoppage of one increment for one year by implementing the judgment dated 18.10.2023 of this Honorable Tribunal.
5. That in-action and not fulfilling formal requirements by the department after passing the judgment of this august Tribunal, is totally illegal amount to disobedience and Contempt of Court.
6. That the judgment is still in the field and has not been suspended or set aside by the Supreme Court of Pakistan, therefore, the department is legally bound to obey the judgment dated 18.10.2023 of this Honorable Tribunal in letter and spirit.
7. That the petitioner has having no other remedy except to file the instant execution petition in this Honorable Tribunal for implementation of judgment dated 18.10.2023 of this Honorable Tribunal.

It is, therefore, most humbly prayed that the respondents may kindly be directed to implement the judgment dated 18.10.2023 of this Honorable Tribunal in letter and spirit. Any other remedy, which this Honorable Tribunal deems fit and appropriate that, may also be awarded in favour of petitioner.

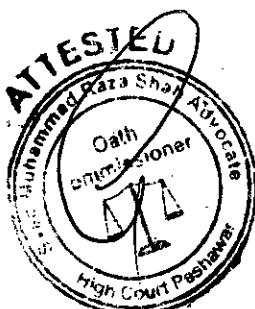

PETITIONER
Shaukat Ali

THROUGH:


(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT

AFFIDAVIT:

It is affirmed and declared that the contents of the execution petition are true and correct to the best of my knowledge and belief.




DEPONENT



BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

APPEAL NO. 480/2019

Shaukat Ali, Junior Clerk,
Traffic Head Quarter, Khyber Pakhtunkhwa Peshawar.

(APPELLANT)

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa. Peshawar.
2. The Capital City Police Officer, Peshawar.
3. The Senior Superintendent of Police/Chief Traffic Officer, Peshawar.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 22.03.2019, WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT OF THE APPELLANT AGAINST THE ORDER DTAED 24.01.2019 WHEREIN MAJOR PENALTY OF REDUCTION TO A LOWER POST FOR A PERIOD OF 03 YEARS HAS BEEN IMPOSED UPON THE APPELLANT FOR NO GOOD GROUNDS.

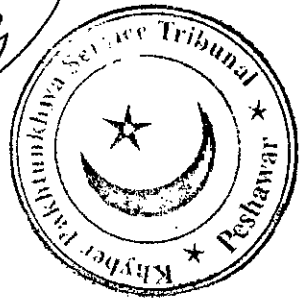
PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 22.03.2019 AND 24.01.2019 MAY KINDLY BE SET ASIDE AND THE APPELLANT MAY BE RESTORED TO HIS ORIGINAL POST/SCALE OF SENIOR CLERK AS HE WAS BEFORE THE PENALTY IMPOSED WITH ALL BACK AND CONSEQUENTAIL BENEFITS. ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT, MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR



Service Appeal No. 480/2019

BEFORE: MRS. RASHIDA BANO ... MEMBER (J)
MISS FAREEHA PAUL ... MEMBER (E)

Shaukat Ali, Junior Clerk, Traffic Head Quarter, Khyber
Pakhtunkhwa Peshawar. (Appellant)

VERSUS

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Capital Police Officer, Peshawar.
3. Senior Superintendent of Police/Chief Traffic Officer, Peshawar.

.... (Respondents)

Mr. Taimoor Ali Khan
Advocate ... For appellant

Mr. Muhammad Jan
District Attorney ... For respondents

Date of Institution.....10.04.2019
Date of Hearing.....18.10.2023
Date of Decision.....18.10.2023

JUDGMENT

RASHIDA BANO, MEMBER (J): The instant service appeal has been instituted under section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as below:

“On acceptance of instant appeal the order dated 22.03.2019 and 24.01.2019 may kindly be set aside and the appellant may be restored to his original post/scale of senior clerk as he was before the penalty imposed with all back and consequential benefits.”

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar


5

2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant while serving as Senior Clerk, was posted in driving license branch Traffic Headquarter, Peshawar. Departmental action was taken against him on the allegations that he failed to stop process of the 14 cases having fake/bogus signatures of SSP/T and MLA on learner permits and driving test files and had also allowed and facilitated Junior Clerks, Shahzeb and Sanaullah, to process the fake license cases. On conclusion of the inquiry, the appellant was awarded major penalty of reduction to a lower post for a period of three years vide order dated 24.01.2019. Feeling aggrieved, he preferred departmental appeal, which was rejected vide order dated 22.03.2019; hence the instant service 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 District Attorney and perused the case file with connected documents in detail.

4. Learned counsel for the appellant has contended that the appellant is having an unblemished record of service and did not remain involved in preparation of any fake/bogus Learner Permits; that the witnesses examined during the inquiry have not leveled any allegation against the appellant; that the appellant has not been provided any opportunity of personal hearing and he was thus condemned unheard; that the appellant has not been treated in accordance with law and his rights guaranteed under the law and constitution were badly violated; that the appellant has never committed any act or omission, which could be considered as misconduct and even otherwise too, the penalty imposed upon the appellant is too harsh.

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

5. Conversely, learned District Attorney for the respondents contended that a regular inquiry was conducted in the matter, wherein proper charge sheet and summary of allegations was issued to which appellant submitted his reply, in which he pleaded innocence. Final show cause notice was issued, but his reply was not satisfactory. Therefore, the competent authority in light of finding on enquiry report, awarded major penalty of reduction to lower scale.

6. Perusal of record reveals that appellant while performing his duties in driving license branch Traffic Headquarter, received charge sheet and statement of allegation that he failed to stop process of the 14 cases for issuance of driving license having fake/bogus signatures of SSP Traffic and MLA Traffic on learner permits and driving license test files and allowed and facilitated Junior Clerks, Shahzeb and Sanaullah to process fake license. Appellant submitted reply of the charge sheet and was associated with inquiry proceedings. Inquiry committee consisting of Mr. Muhammad Shoaib Khan (PSP) Faqirabad and Najam ul Hussan Laiqat (ASP) Hayatabad, after fulfillment of all legal and codal formalities submitted their report on 09.01.2019 to the authority, who after issuance of final show cause notice, passed impugned order dated 24.01.2019 and awarded major penalty of reduction to a lower post for a period of three years with immediate effect.

7. Perusal of enquiry report reveals that inquiry committee in its finding mentioned that nowhere, during inquiry proceedings, it could be established that Mr. Shoukat Ali was involved in this scam directly or indirectly, but being incharge of driving license branch it was his responsibility to keep


ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

check. So it is established, that the appellant had no involvement in issuing of 14 cases having bogus/fake signature of MLA and there is only negligence at his part being senior. He would have to keep check his juniors who were directly involved. It is pertinent to mention here that the main accused Shahzeb and Sanaullah junior clerks, who were dismissed from service and major penalty of their dismissal from service was converted into minor penalty of stoppage of three annual increments for a period of three years with cumulative effect by the Tribunal in service appeal No. 1008/2019 on 01.02.2022.

8. In our humble view, the quantum of penalty awarded to the appellant does not commensurate with the act of negligence and is too harsh. Consequently, the appeal in hand is partially allowed and the impugned orders are modified and major penalty of reduction to lower post for the three years is converted into minor penalty of stoppage of one increment for one year. Cost shall follow the events. Consign.


9. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 18th day of October, 2023.*


(FAREEHA PAUL)
Member (E)

*Kaleemullah


(RASHIDA BANO)
Member (J)

Certified to be true copy


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 15/10/23
Number of Words 98
Copying Fee 100/-
Agent SP
Fees 50/-
Date of Submission of Copy 15/10/23
Date of Delivery of Copy 15/10/23

خدمت خانہ سے سی۔ ٹی۔ او ٹریفک ٹاؤن

(8) B

درخواست برسر عدل ارتداد کوڈٹ تحت فورم 18-10-23

324
21-07-0

جا عالی

تہذیب کی بجائی ہے کہ سائل کو فورم 2019

کو صاف 5 آج سے *Lower State* Reducer to کے ساتھ
تہذیب کی سائل نے ڈیپارٹمنٹ ایپل ڈائریکٹری
میں فورم 219-03-22 کو طرہ سے ہوئی

سائل نے سروس ٹرانسفر میں سروس ایپل ڈائریکٹری

جس میں فورم 18-10-23 کو قید سے ہو چکا ہے۔
اس میں سروس ٹرانسفر کے سائل کے ساتھ آؤٹ کمر کے ساتھ
کے ساتھ ڈیپارٹمنٹ کو *AS* کیا ہے

لینڈ ایڈریس درخواست اسٹریٹ کی بجائی ہے کہ سروس ٹرانسفر
کے قید کے روشنی میں دوبارہ اپنے عہدہ پر *Restored* کیا
جاوے۔ (عدالت قید پر ادھی ہے)

عین تہذیب کی طرف

التماس

تہذیب کی طرف سے سائل کی سہولت کے لئے

DSP legal
Please speak
31-1-2023

8

VAKALAT NAMA

NO. _____/2024

IN THE COURT OF KP Service Tribunal, Peshawar

Shaukat Ali (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

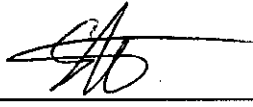
Police Department (Respondent)
(Defendant)

I/We, Shaukat Ali

Do hereby appoint and constitute **TAIMUR ALI KHAN, ADVOCATE HIGH COURT**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.


I/We authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/2023



(CLIENT)

ACCEPTED


TAIMUR ALI KHAN
Advocate High Court

BC-10-4240
CNIC: 17101-7395544-5
Cell No. 03339390916