

Form- A

FORM OF ORDER SHEET

Implementation Petition No. 250/2024

Order or other proceedings with signature of judge

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19.03.2024

The implementation petition of Mr. Shabir Ahmad submitted today by Syed Noman Ali Bukhari 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

BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL, PESHAWAR.

Execution Petition No. 250 /2024

In

Service Appeal No.1104/2017

Shabir Ahmad

V/S

Police Deptt:

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*Shabir Ahmad*  
PETITIONER

Shabir Ahmad

THROUGH:

*Uzma Syed*  
SYED NOMAN ALI BUKHARI

&

*Uzma Syed*  
(UZMA SYED)

ADVOCATES, HIGH COURT

Cell No: 0311-9440376

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

Execution Petition No. 256 /2024  
In  
Service Appeal No.1104/2017

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 11787

Dated 18-03-2024

Shabir Ahmad, Constable, No.163  
S/o Badshah Khan R/O Abdullah Colony  
PS MRS Tehsil & Distt: Kohat.

.....(Petitioner)

**VERSUS**

1. The AIG/Establishment for Inspector General of Police, KPK, Peshawar.
2. The District Police officer Hangu.

.....(Respondents)

**EXECUTION PETITION FOR DIRECTING THE  
RESPONDENTS TO IMPLEMENT THE  
JUDGMENT DATED: 29-04-2018 OF THIS  
HONOURABLE TRIBUNAL IN LETTER AND  
SPIRIT.**

**RESPECTFULLY SHEWETH:**

1. That the applicant/Petitioner filed Service Appeal No.1104/2017 against the dismissal order.
2. That the above mentioned Appeal before the Service Tribunal was decided on 29/04/2018. The Honourable Tribunal was kind enough to accept the appeal of appellant partially and the appellant was reinstated and the penalty of removal from service was converted into penalty of stoppage of two annual increments for 2 years. **(Copy of judgment is attached as Annexure-A).**
3. That the appellant was reinstated by the deptt: and appellant was performing his duty with full zeal and zest. But the increment of the appellant was not restored till date despite that the increment was stopped only for two years.

4. That the appellant also filed application to respondents for the implementation of judgment and requested for restoration of increments but the respondents were totally failed in taking any action regarded this.
5. That the respondent totally violated the judgment of Hon'able Service 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 respondents are legally bound to implement the same in letter and spirit.
7. That the petitioner has having no other remedy to file this Execution Petition.

It is, therefore, most humbly prayed that the respondents may be directed to obey the judgment dated 24/04/2018 of this august Tribunal in letter and spirit and directed the respondent to restore the annual incement of the appellant from April 2020. Any other remedy, which this august Tribunal deems fit and appropriate that, may also be awarded in favor of applicant/appellant.

*Shabir Ahmad R*  
**PETITIONER**  
 Shabir Ahmad

**THROUGH:**

*NA*  
**SYED NOMAN ALI BUKHARI**  
 &  
*UZMA SYED*  
**(UZMA SYED)**  
 ADVOCATES, HIGH COURT

**AFFIDAVIT:**

It is affirmed and declared that the contents of the above Execution Petition are true and correct to the best of my knowledge and belief.



18 MAR 2024

*Shabir Ahmad R*  
**DEPONENT**

1

A (S)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

**Appeal No. 1104/2017**

Date of Institution ... 09.10.2017

Date of Decision ... 24.04.2018

Shabir Ahmad, Ex-Constable, No:163,  
S/o Badshah Khan R/o Abdullah Colony,  
PS MRS Tehsil & Distt: Kohat.

... (Appellant)



VERSUS

1. The AIG/Establishment for Inspector General of Police, Khyber Pakhtunkhwa, Peshawar and another. ... (Respondents)

MS. UZMA SYED,  
Advocate

--- For appellant.

MR. KABIR ULLAH KHATTAK,  
Additional Advocate General

--- For respondents

MR. AHMAD HASSAN,  
MR. MUHAMMAD HAMID MUGHAL

--- MEMBER(Executive)  
--- MEMBER(Judicial)

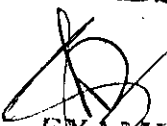
JUDGMENT

AHMAD HASSAN, MEMBER.- Arguments of the learned counsel for the parties heard and record perused.

FACTS

2. The brief facts are that the appellant was serving as Constable in Police Department. Departmental proceedings were initiated against the appellant on the allegations of absence from duty and upon culmination major penalty of dismissal from service was imposed on him vide impugned order dated 24.11.2016(received on 25.04.2017). He filed departmental appeal on 24.05.2017, which was rejected on 13.09.2017, hence the instant service appeal on 09.10.2017.

**ATTESTED**

  
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

ARGUMENTSto  
proceed

3. Learned counsel for the appellant argued that he was departmentally on the allegations of absence from duty and after conclusion major penalty of dismissal from service was imposed on him vide impugned order dated 24.11.2016 (received on 25.04.2017). Absence was not deliberate and intentional rather the circumstances forced him to stay away from duty. Impugned order was passed with retrospective effect, which is void in the eyes of law. Proper enquiry was not conducted. Opportunity of personal hearing was also not afforded to the appellant and as such he was condemned unheard.

4. On the other hand learned Additional Advocate General argued that enquiry proceedings were conducted against the appellant on account of willful absence from duty. Charge sheet and statement of allegations were served upon the appellant through DFC concerned, at his given home address. It was reported by the DFC that appellant had gone abroad as such the said documents could not be served on him. All codal formalities were observed before awarding major punishment of dismissal from service.

CONCLUSION

5. Impugned order dated 24.11.2016 was passed with retrospective effect and the same was void in the eyes of law. Resultantly, limitation could not be attracted in such cases. The respondents in their para-wise comments have conceded that enquiry proceedings were conducted at the back of the appellant. Whatever, may be the circumstances the appellant was condemned unheard. In order to look after his ailing father, he stayed away from duty. According to appellant absence was not

**ATTESTED**  
EXAMINER  
Khyber District

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Willful and deliberate. He remained absent for some months. We are of the view that penalty awarded to the appellant appear to be harsh.

6. As a sequel to the above discussion, the appeal is partially accepted and the penalty of dismissal from service is modified/converted into stoppage of two annual increments for two years. The absence period and intervening period shall be treated as leave without pay. Parties are left to bear their own costs. File be consigned to the record room.

Announced  
24.04.2018

*sd/- Ahmad Hassan,  
Member*

*sd/- M. Hamid Nughal,  
Member*

Certified to be true copy

*[Signature]*  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Date of Presentation of Application 08-05-18  
 Number of Words 1250  
 Copying Fee 8-00  
 Urgent 2-00  
 Total 10-00  
 Name of Copy [Signature]  
 Date of Completion of Copy 08-05-18  
 Date of Delivery of Copy 08-05-18

ب-6  
حکومت جناب دستریکٹ اینڈ  
پولیس  
نظرو

جناب عالی

گزارش ہے کہ سائل کی ایپل نمبر 1184/2017 سے سروس ٹرانسول

ٹیاور سے سورم 24 4/2018 کو منظور ہوئی تھی جسے

سے سائل کی Dismissal order کو مینور پنشن اور Increments

جو سال سے پہلے روک دیے گئے ہیں کہ سائل کو

کال دیا گیا، لیکن جو سال سے تقریباً

گزشتہ سال سے سائل کی Increments کال میں

تھے لہذا گزارش ہے سروس ٹرانسول کی

سے اوٹنی سے سائل کی Increments اپریل 2010

آپ کا نام  
محمد  
شیر احمد

Constable no: 163.

Date: - 20-12-2023.

ATTESTED



KP Service Tribunal, Peshawar

2 منجانب  
بنام

Shahar Ahmad

vs

Police Deptt

مورخہ

مقدمہ

دعویٰ

جرم

باعث تحریر آنکہ

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

آن مقام پشاور کیلئے سید نعمان علی خاں صاحب کی طرف سے  
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کمال اختیار ہوگا۔ نیز  
وکیل صاحب کو راضی نامہ کرنے ق تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق  
ذرائع پر 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 کاروائی 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 مذکور با اختیارات حاصل ہوں گے  
اور اس کا ساختہ پر داخستہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ 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۔

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ماہ

الرقوم

العبد و العبد

کے لئے منظور ہے۔

مقام

Shahar Ahmad (Petitioner)

f. Ahmad/R