FORM OF ORDER SHEET

Court of	<u> </u>	<u> </u>	
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Annaal	N.		747	/2024	
<u>Appeal</u>	140.	 	<u> /1/</u>	<u>/2024</u>	

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S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	29/05/2024	The appeal of Mr. Moeen Ali presented today b
-		Mr. Fazal Shah Mohmand Advocate. It is fixed fo
		preliminary hearing before Single Bench at Peshawa
		31.05.2024. Parcha Peshi given to the counsel for the
	,	appellant.
		By the order of Chairman
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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No 7/7 /2024

Moeen AliAppellant

VERSUS

PPO. & others

.....Respondents

INDEX.

S.No	Description of Documents	Annexure	Pages
1.	Service appeal with affidavit		1-4
2.	Copy of regularization order dated 01-03-2020	A	5= 6
3.	Copy of transfer order dated 14-11-2021	В	7
4.	Copy of order dated 06-12-2023	С	8
6.	Copy of removal order dated 05-01-2024.	D	9-10
7.	Copy departmental Appeal	E	11.
8.	Vakalat Nama		.12

Dated:-27-05-2024

Moten Al.
Appellant

Through

Fazal Shah Mohmand

Advocate,

Supreme Court of Pakistan

<u>OFFICE:</u>- Cantonment Plaza Flat 3/B Khyber Bazar Peshawar Cell# 0301 8804841 <u>Email:</u>- fazalshahmohmand@gmail.com



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No 7/7 /2024

Moeen Ali, Ex Constable No 1529, Capital City Police Peshawar.

Appellant

VERSUS

- **1.** Superintendent of Police Head Quarters Capital City Police Peshawar.
- 2. Capital City Police Officer Khyber Pakhtunkhwa Peshawar.

.....Respondents

APPEAL U/S 4 OF THE KPK SERVICE TRIBUNAL ACT **AGAINST** THE ORDER DATED 05-01-2024 WHEREBY, THE APPELLANT HAS BEEN REMOVED FROM AND AGAINST WHICH DEPARTMENTAL SERVICE OF THE APPELLANT NOT HAS RESPONDED SO FAR DESPITE THE LAPSE OF MORE THAN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:-

On acceptance of this appeal the impugned Order dated 05-01-2024 may kindly be set aside and the appellant may kindly be ordered to be reinstated in service with all back benefits.

Respectfully Submitted:-

- 1. That the appellant was enlisted as Special Police Officer (SPO) in the year 2019 and later on regularized w.e.f 01.03.2020 along with others and since enlistment the appellant performed his duties with honesty and full devotion and to the entire satisfaction of his high ups. (Copy of regularization order dated 01-03-2020 is enclosed as Annexure A).
- 2. That the appellant was transferred to District Khyber on 14-11-2021, where he regularly performed his duties. (Copy of transfer order dated 14-11-2022 is enclosed as Annexure B).
- 3. That in the month of October 2023 fact finding inquiry was initiating and the appellant along with others were brought to police lines at about 10:00 PM on leave days i.e. Saturday and Sunday where he was forced to sign a blank paper and was also directed to deposit his service book, service card, cheque



book and ATM card etc., which are still not returned to the appellant despite repeated requests.

- 4. That the salary of the appellant was subsequently stopped, after the mentioned preliminary inquiry on the allegations of ghost/illegal/fake employees vide order dated 06-12-2023 (Copy of order dated 06-12-2023 is enclosed as Annexure C)
- **5.** That the appellant was duly enlisted as SPO and later on regularized and he performed his duties honestly and also received salaries from respondent department.
- 6. That in the meanwhile the appellant was removed from service vide order 05-01-2024. (Copy of removal order dated 05-01-2024 is enclosed as annexure D)
- 7. That the appellant visited the office of respondent No. 2 on 02.02.2024 to submit departmental appeal, however the same was not entertained where after the appellant sent his departmental appeal through registered courier (TCS) on 02.02.2024 which has not been responded so far.(Copy departmental Appeal is enclosed as Annexure E).
- **8.** That the impugned Order dated 05-01-2024 to the extent of appellant is against the law, facts and principles of natural justice on grounds inter alia as follows:-

GROUNDS:-

- **A.** That the impugned order dated 05-01-2024 is illegal, unlawful and void ab-initio.
- **B.** That mandatory provisions of law and rules have been badly violated by the respondents and the appellant has not been treated according to law and rules.
- **C.** That no charge sheet and show cause notice was issued to the appellant.
- **D.** That no regular inquiry was conducted in the matter to have found out the true facts and circumstances.
- **E.** That no evidence was collected in support of the allegations thus the charges never stood established against the appellant.

- **F.** That the appellant was not heard in person and ex parte action has been issued against him in violation of the principles of natural justice.
- **G.** That there is no omission and commission on part of the appellant and the appellant could not be punished for the fault of others if any, strangely the alleged master mind have been transferred only and no action has been taken against them, hence the impugned order smacks malice.
- **H.** That the appellant has about 5 years of service with unblemished service record.
- I. That the appellant seeks the permission of this honorable tribunal for further/additional grounds at the time of arguments.

It is therefore prayed that appeal of the appellant may kindly be accepted as prayed for in the heading of the appeal.

Any other relief deemed appropriate and not specifically asked for, may also be granted in favor of the appellant.

Dated:-27-05-2024

Moven Ali

Appellant

Through

Fazal Shah Mohmand

Advocate,

Supreme Court of Pakistan

&

Baseer Ahmad Shah

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Ibad Ur Rehman Khalil Advocates Peshawar



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No_	/2024	
Moeen Ali	***********	Appellant
	VERSUS	
PPO. & others	***************************************	Respondents

AFFIDAVIT

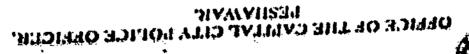
I, Moeen Ali, Ex Constable No 1529, Capital City Police Peshawar., do hereby solemnly affirm and declare on oath that the contents of this **Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

DEPONENT

Mocen Ali

Oath Campissioner to

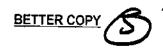




Therefore, in the ilght of above millication, the following Special Police Officers are ogustration of the total City Police as Constables (BPS-07) with effect from 01.03,2020. Harmon Comment of the following Special Police Officers(SPOs) working in CCP Peshawar under special police Officers(SPOs) working the following the following special police of the following the foll the incommentation of the House and Tabus Affairs Department is pleased to notify herewith the finding the House and the sample of the finding for the finding the following the finding for the finding for the finding the first of the state of provincial Police Officer Rhyber Pakhtunkhwa and approval of the grings the Sections of the Elyber Pathtunkhan Special Police Officer (Repulational on the grants on the Machinist on the Machine on the service) Act, 2019 (Rhyber Pakhtunkhan Act No , XXVII of 2019) and on the service) 1 a. vinis smoistrong of the pursuance of the provisions con the provisions control of the provision control of the provision control of the provision control of the provision

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OFFICE OF THE CAPITAL CITY POLICE OFFICER, PESHAWAR

ORDER

No. SO/Budget/HD/15-29/2016 Vol-II: In pursuance of the provisions contained in section 3 read with Section 5 of the Khyber Pakhtunkhwa Special Police Officer (Regularization of Service) Act, 2019 (Khyber Pakhtunkhwa Act No. XXVII of 2019) and on the recommendation of Provincial Police Officer Khyber Pakhtunkhwa and approval of the Provincial cabinet, the Home and Tribal Affairs Department is pleased to notify herewith regularization of the following Special Police Officers (SPOs) working in CCP Peshawar under DDO Code PR4093-Peshawar City Police as Constables (BPS-07) with effect from 01.03.2020.

Therefore, in the light of above notification the following Special Police Officers are hereby absorbed as Regular Constable (BPS-07) in Capital City Police, Peshawar. They are allotted Constabulary numbers noted against their names.

S.No	Name & SPO Belt No.	Father Name	Allotted No.
1.	UMAR AMJAD	MUHAMMAD AMJAD	
2.	MUHAMMAD ISMAIL	YOUSAF	
3.	MUHAMMAD HILAL	MUHAMMAD YOUNAS	-
4.	IRFAN	KHALID GUL	
5.	MOEEN ALI	ABDUL MANAN	
6.	QAZI SOHAIL	IMAM DIN	
7.	MUHAMMAD TAHIR	SARZAMIN	· · · · · · · · · · · · · · · · · · ·
8.	HAMZA	MUSA KHAN	
9.	JAMAL UD DIN	SHER DIL	
10.	HAMID ALI	AHMAD ALI	
11.	SHAHZAD ALI	MURAD ALI	
12.	MUHAMMAD IFTIKHAR	SHAKIR ULLAH	
13.	SIFAT ULLAH	AMIN ULLAH	
14.	MUHAMMAD IJAZ	TARIQ KHAN	
15.	SALMAN SHEHZAD	SHAHDAD GUL	
16.	YOUSAF KHAN	GUL KHAN	
17.	MUHAMMAD SALMAN	GUL KHAN	
18.	USMAN .	SALIM	
19.	USMAN KHAN	JAVID KHAN	
20.	JALAL UD DIN	SHERDIL KHAN	
21.	MUHAMMAD UBAID	LAIQAT ALI SHAH	-
22.	SAID AMIN	MUHAMMAD AMIN	
23.	QARAZ MEHMOOD	TAJ MEHMOOD	
24.	UMAR FAROOQ	ZAHOOR AHMAD	
25,	BILAL	SALIM	
26.	JUNAID	MUSTAQIM SHAH	
27.	RAHIM GUL	ABDUL GANI	
28.	WASIM SHOUKAT	SHOUKAT HUSSAIN	
29.	AMIR HUSSAIN	RAHMAN HUSSAIN	
30.	HAZRAT GUL	HABIB GUL	· · · · · · · · · · · · · · · · · · · · ·

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OFFICE OF THE CAPITAL CITY POLICE OFFICER, PESHAWAR

ORDER

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Therefore, in the light of above notification the following Special Police Officers are hereby absorbed as Regular Constable (BPS-07) in Capital City Police, Peshawar. They are allotted Constabulary numbers noted against their names.

S.No	Name & SPO Belt No.	Father Name	Allattad No.
1.	FARHAD ALI	KHAN SHAH	Allotted No.
2.	ALAM DIYAR	ZAKIR	
3.	IQBAL	LIA TAOAT	
4.	MUHAMMAD ADNAN SHEHZAD	SHEHZAD GUL	-
5.	IBNE AMIN	IQBAL AHMAD	
6.	QAZI IRFAN	QAZI ALAUDDIN	-+
7.	ALI ZEB	ALAM ZEB	

Sd/-SP HQRS: FOR CAPITAL CITY POLICE OFFICER, PESHAWAR.

OBNO.2064 Dated 27-06-2019

No._____/OSI, dated Peshawar the

/2020.

Copy to all concerned.

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OFFICE OF THE CAPITAL CITY POLICE OFFICER, PESHAWAR

ORDER

The following lower subordinates of Capital City Police Peshawar are hereby Transfer to District Police Officer Khyber on loan basis with immediate effect.

- 1. Hamza No.1414
- 2. Moin Ali No.1529
- 3. Muhammad Ahmad Raza No.569

Sd/-CAPITAL CITY POLICE OFFICER, PESHAWAR.

No.3089-92/OSIO

dated Peshawar the 14-11-2021

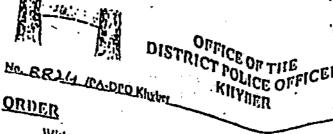
Copy of the above is forwarded for information and necessary action to the:-

- 1. District Police Officer Khyber
- 2. PO CCP Peshawar
- 3: FM CCP Peshawar
- 4. CRC CCP Peshawar.

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ORDER

With reference to Office Letter No. 20219/PA.Sp.Com JAN 172023, in pursuance of the directions the pay of the following its hereby

immediate effectiff funher anders,

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07	Muhammad Younas sto Gut Khan No. 6208	1	450	↲
08	Salman Shehzad s/o Shehzad Gul No. 7161	<u> </u>	9967	↲
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10	Mocen Ali s/o Abdul Manan No. 1529		652	7
11	Shaukat Iqbal s/o Mir Khatam No. 1593	921	365	┪
12	Muhammad Ejaz s/o Teriq Khan No. 7466		304	┪
. 13	Muhammad Ubald s/o Llaqat Ali No. 6472	395	704	┪
14	Farhad s/o Khan Shah No. 945		369	٦
15	Hamza どo Musa Khan No. 1414		649	닉
- 16	Muhammud Tohir s/o Sher Zamin No. 6631		1979	ㅓ
17	Heman s/o Spicem No. 6048		4018	닉
18	Faraz Mehmond s/o Toj Muhammad No. 6567	99	7180	_
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Copies to:

The Copins City Patter Officer, Prob DSP 11Q, Khyber Germanian Khyber



SUPERINTENDENT OF POLICE HEADQUARTERS CCP PESHAWAR

ORDER

In compliance with the direction of PROJIGES Rhyber Pakhtunkhwa issued vide fenter No. 101 PA DIGHIQUS, dated 21.08 2023 and WCCPO vide Endat: No. 4242-51 dated (2.11.2023 Mocen Mi. Belt. No. 1529, Personnel No. 985652 (Khyber) was found to be chost illegal employee. He was proceeded against on account of receiving fliegal saturies burugh bank account despite the fact that he did not found in the official record.

Accordingly, Luquity Committee beaded by the SSP Coordination was constituted to ensure one the allegations. The leading Committee, after point through the pros and cours of the usure, held that Hiegal employee Mosen Ali, was fictitionally recruited by muster sunds of the then Account Branch (). Budget Officer Adam, Sontor Clerk Huji Shahin Ab and Tay Officer Later Shah who were suplaining our salary from national exchequer on his name. The asterminds of this seam adopted writes liky illegally comboving a namesake of presions ismissedpolice employee, theral false phort employees recruited through lake orders CB entries and take manifer orders and thereafter storting their salaries in compicance of AO office etc.

by the instanceuse one Mosen Ali rousin of Muhammad Hikhar, stated that both f them were recruised by Hair Shahid and the paul its 500,000, each for their respective teraitments, Muhammad Ifukhai handed over die money in presence of Moein Ali at Baji Shahilly residence. Nature week, Shahil Hen provided Moven All with an order, he made his serie al without andergoing necessary procedures, the physical checkun, incident examination of animing The received his salarges through Affice Dank Dulazak Bond branch (0864). His bunk a atomicin was obtained. He opened recount No. 5040085000780010 on 204003921

the betwee Roll of his up Ali i \$200 was particulard, which revealed that the Notification as per Order Book No.2004, dated J. 201-2010, is fake, with reagaed signatures. The 10B clerk report on this Order book indicates in Astraktion leave entry for FC Religion Clinic 1778) and FC Adman (2886). Additionally, the ASI report on Belt No. J.529 in CCP Peshawar states that FC Muhammad Mohsm Khan is serving at gate No.2 as a gardity and the alfotted belt comiter is fake.

After having been gone through all the available material on record including findings/recommendations of the Engary Committee, the undersigned is fully consumed that no crovess whatsoever was followed for his recruding thevelow violating the principle of open competition and transparency as envisaged for general recruitment in Police and the only surpose that to draw sidary on his none from the national exchanger by the delinquent officials of Hat Bounch and their active lates

OFFICE OF THE SUPERINTENDENT OF POLICE HEADQUARTERS CCP PESHAWAR

Phone No. 091-9210737

ORDER

- 1. In compliance with the direction of DIG/HQrs: Khyber Pakhtunkhwa issued vide letter No. 101/PA/DIG/HQrs: dated 21.08.2023 and W/CCPO vide endst: No. 4242-51 dated 02.11.2023 Moeen Ali Belt No. 1529, Personnel No. 985652 (Khyber) was found to be ghost/illegal employee. He was proceeded against on account of receiving illegal salaries through bank account despite the fact that he did not found in the official record: -
- Accordingly, Enquiry Committee headed by the SSP Coordination was constituted to enquire into the allegations. The Enquiry Committee, after going through the pros and cons of the issue, held that Illegal employee Moeen Ali was fictitiously recruited by master minds of the then Account Branch i.e, Budget Officer Aslam, Senior Clerk Haji Shahid Ali and Pay Officer Tahir Shah who were siphoning out salary from national exchequer on his name. The masterminds of this scam adopted tactics like illegally employing a namesake of previous dismissed police employee illegal/fake/ghost employees recruited through fake orders/OB entries and fake transfer orders and thereafter starting their salaries in connivance of AG office etc.
- 3. In the instant case one Moeen Ali cousin of Muhammad Iftikhar, stated that both of them were recruited by Haji Shahid and they paid Rs. 500,000/- each for their respective recruitments. Muhammad Iftikhar handed over the money in presence of Moeen Ali at Haji Shahid's residence. After a week, Shahid Haji provided Moeen Ali with an order, he made his arrival without undergoing necessary procedures like physical checkup, medical examination or training. He received his salaries through Allied Bank Dalazak Road branch (0846). His bank statement was obtained. He opened account No. 0010085860780010 on 20-10-2021.
- 4. The Service Roll of Moeen Ali (1529) was scrutinized, which revealed that the Notification as per Order Book No.2064, dated 27-01-2019, is fake, with scanned signatures. The OB clerk report on this Order book indicates an Ex-Pakistan leave entry for FC Rehman Ullah (1778) and FC Adnan (2886). Additionally, the OASI report on Belt No.1529 in CCP Peshawar states that FC Muhammad Mohsin Khan is serving at gate No.2 as a sentry and the allotted belt number is fake.
- 5. After having been gone through all the available material on record including findings/recommendations of the Enquiry Committee, the undersigned is fully convinced that no process whatsoever was followed for his recruitment clearly violating the principle of open competition and transparency as envisaged for general recruitment in police and the only purpose was to draw salary on his name from the national exchequer by the delinquent officials of Pay Branch and their associates.

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क्षत्र १ व्यवस्थितः म् । स्टब्स्यान् वर्ते स्ट



- 6. In this connection, it has also been observed in the judgment of the Apex Court of Pakistan vide Civil Petition No.4057 of 2021 & C.M. Appeal No. I of 2022 wherein such illegal employments in a Government Department were declared illegal in which no pre-requisite criteria was being followed, Para-3 of the judgment ibid is reproduced for ready reference as under:
- 3. "Having heard learned counsel for the parties and going through the impugned judgment and on the basis of the comments filed by the Government of Khyber Pakhtunkhwa, it appears that at the time of appointing the petitioner no process was followed and the principle of transparency and open competition was entirely ignored. The petitioner was appointed in violation of the law and the rules and even if the termination letter does not mention so, it is clear and obvious from the record that this was indeed the case. Further no vested right to claim continuation of service has been pleaded or shown".
- 7. Hence, in exercise of the powers mentioned in Section 4(1)(b)(iii) of Khyber Pakhtunkhwa Police Rules, 1975 (amended 2014), Moeen Ali Personnel Number 985652 ghost/illegal employee is hereby removed from Police record. He is also liable to be proceeded against under sections 110 &115 of the Khyber Pakhtunkhwa Police Act, 2017 (Khyber Pakhtunkhwa Act No. II of 2017) and other relevant provisions of the Pakistan Penal Code.

SUPERINTENDENT OF POLICE HQRS CCP PESHAWAR

No.479/88/PA

OB NO.96

Dated Peshawar the 05/01/2024.

Dated: 05/01/2024.

Copies to:-

- 1. The Dy: Inspector General of Police, HQrs Khyber Pakhtunkhwa at CPO Peshawar
- 2. The Capital City Police Officer, Peshawar
- 3. The Senior Superintendent of Police, Operations, Peshawar
- 4. The Senior Superintendent of Police, Coordination, Peshawar
- 5. The District Police Officer, Khyber
- 6. The Pay Officer EC-II, QASI, CRC & FMC

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Before the Capital City Police Officer, Peshawar

Subject:- Appeal against the Order dated 05-01-2024, of the Superintendent of Police, Head Quarters, Peshawar, whereby the appellant has been removed from service.

Respectfully Submitted:-

That the appellant was enlisted as Special Police Officer (SPO) in the year 2019 and later on Regularized w.e.f from 01-03-2020 along with others and since enlistment the appellant performed his duties with honesty and full Devotion to the entire satisfaction of his high ups. The appellant was transferred to District Khyber on 04-11-2021, where he regularly performed his duties and in the month of October, 2023 fact finding inquiry was initiated and the appellant along with others were brought to police Lines at about 10.00 P.M on leave days, i,e Saturday and Sunday where he was forced to sign a blank paper and was also directed to deposit his Service Book, Service Card, Check Book and ATM Card etc. which are still not returned to the appellant despite repeated requests. The salary of the appellant was subsequently stopped, after the mentioned preliminary inquiry on the allegations of ghost/illegal/Fake employees vide order dated 06-12-2023, and then the appellant was removed from Police Record vide Order dated 05-01-2024, which order is illegal and void ab-initio. The appellant was duly enlisted as SPO and later on regularized and he duly performed his duties. Thus the impugned order to the extent of the appellant is not tenable. The appellant was not heard and ex-parte action has been issued against him in violation of the principles of natural justice. No Charge Sheet and Show Causes Notice were issued to the appellant nor was any regular inquiry conducted in the matter. There is no omission or commission on part of the appellant and the appellant could not be punished for the fault of others if any. Strangely the alleged Masterminds have been transferred only and no action has been taken against them, hence the impugned order smacks malice.

It is therefore requested that on acceptance of this appeal impugned Order dated 05-01-2024 may kindly be set aside and the appellant may kindly be ordered to be reinstated in service with all back benefits.

Moeen Ali Ali, Ex Constable
No 1529, Capital City Police,
Peshawar R/O Gulbela peshawar
Cell # 0311-9409961

Dated: 02/02/2024

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