


Form- A
FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 622/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	24.06.2024	<p>The implementation petition of Mr. Muhammad Noman Khan submitted today by Mr. Haseen Ullah Advocate. It is fixed for implementation report before Single Bench at Peshawar on 26.06.2024. Original file be requisitioned. AAG has noted the next date. Parcha peshi given to counsel for the petitioner.</p> <p>By the order of Chairman  REGISTRAR</p>

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

CHECK LIST

Case Title: Muhammad Noman Khan vs Govt;

S#	CONTENTS	YES	NO
1	This Appeal has been presented by: <u>Hasem Ullah Adv.</u>		
2	Whether Counsel/Appellant/Respondent/Deponent have signed the requisite documents?	✓	
3	Whether appeal is within time?	✓	
4	Whether the enactment under which the appeal is filed mentioned?		
5	Whether the enactment under which the appeal is filed is correct?		
6	Whether affidavit is appended?	✓	
7	Whether affidavit is duly attested by competent Oath Commissioner?	✓	
8	Whether appeal/annexures are properly paged?	✓	
9	Whether certificate regarding filing any earlier appeal on the subject, furnished?		
10	Whether annexures are legible?	✓	
11	Whether annexures are attested?	✓	
12	Whether copies of annexures are readable/clear?	✓	
13	Whether copy of appeal is delivered to AG/DAG?	✓	
14	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	✓	
15	Whether numbers of referred cases given are correct?	✓	
16	Whether appeal contains cutting/overwriting?		✓
17	Whether list of books has been provided at the end of the appeal?		✓
18	Whether case relate to this court?	✓	
19	Whether requisite number of spare copies attached?	✓	
20	Whether complete spare copy is filed in separate file cover?	✓	
21	Whether addresses of parties given are complete?	✓	
22	Whether index filed?	✓	
23	Whether index is correct?	✓	
24	Whether Security and Process Fee deposited? On		
25	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On		
26	Whether copies of comments/reply/rejoinder submitted? On		
27	Whether copies of comments/reply/rejoinder provided to opposite party? On		

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name: Hasem Ullah
 Signature: [Signature]
 Dated: 24/6/24

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

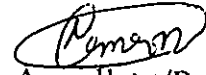
EXECUTION PETITION NO. 622 /2024
IN
APPEAL NO. 342/2022

Muhammad NOMAN KHAN
V/S
Government of KPK through Chief Secretary and Others:

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Memo of Petition	1 - 2
2.	Affidavit.	3
3.	Judgment of Service Tribunal dated: 30.01.2024 + <i>Application</i>	A	4 - <i>9</i> <i>10</i>
4.	Wakalat Nama	-----	<i>11</i>

Dated: 24/06/2024


Appellant/Petitioner

Through,


HASEEN ULLAH
Advocate High Court of Pakistan.
0300-9597866

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

**Khyber Pakhtunkhwa
Service Tribunal**

EXECUTION PETITION NO. 622 /2024

Diary No. 13718

IN

APPEAL NO. 342/2022

Dated 24-06-2024

Muhammad Noman Khan S/o Farman Ullah R/o Mohallah Javid Abad Achar
Road Peshawar, District Peshawar.

..... **Applicant/Appellant**

VERSUS

1. **Government of KPK** through Chief Secretary KPK Peshawar.
2. Inspector General of police KPK Peshawar.
3. AIG Establishment of Police KPK Peshawar.
4. AIG telecommunication and Transport, Khyber Pakhtunkhwa, Peshawar.
5. Deputy Inspector General of Police, Telecommunication and Transport, Khyber Pakhtunkhwa, Peshawar. **Respondents**

**EXECUTION PETITION FOR DIRECTING THE
RESPONDENTS TO COMPLY THE JUDGMENT
DATED 30.01.2024 IN ITS TRUE LETTER AND SPIRIT**

RESPECTFULLY SHEWETH:

ON FACTS:

Brief facts giving rise to the present execution petition are as under:

1. That petitioner/applicant was appointed in police Department as Naib Qasid.
2. The Applicant was discharged from service by the respondents on 25.10.2021.
3. That petitioner/applicant filed a service appeal no. **342/2022** against the order of the respondents and challenged it before the worthy Khyber Pakhtunkhwa Services Tribunal Peshawar.
4. That service appeal of the petitioner/applicant was allowed in favour of the appellant in its detail judgment dated 30.01.2024.

(Copy of the judgment dated 30.01.2024 is attached as ANNEXURE A).

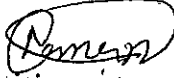
5. That, the petitioner/applicant approached time and again to the respondents and requested for implementation of the aforesaid judgment of this Hon'ble Tribunal but the respondents are lingering on the matter on one pretext or the other.

6. That feeling aggrieved, petitioner/applicant is left with no other remedy but to approach this Hon'ble Tribunal by filing the present execution petition for the implementation of the aforesaid judgment of this Hon'ble Tribunal.

IT IS THEREFORE, MOST HUMBLY PRAYED THAT ON ACCEPTANCE THIS EXECUTION PETITION THE RESPONDENTS MAY BE DIRECTED TO IMPLEMENT THE JUDGMENT OF THIS HON'BLE TRIBUNAL DATED 30.01.2024 PASSED IN ABOVE TITLED SERVICE APPEAL IN ITS TRUE LETTER & SPIRIT.

Any other remedy which this Hon'ble Tribunal deems fit that may also be awarded in favour of the petitioner.

Dated: 24.06.2024


Petitioner/Applicant

Muhammad Noman Khan
Through:


HASEEN ULLAH
Advocate High Court of Pakistan.
0300-9597866

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

EXECUTION PETITION NO. _____/2024

IN

APPEAL NO. 342/2022

Muhammad Noman Khan Applicant/Appellant

VERSUS

Government of KPK through Chief Secretary KPK Peshawar and others.

AFFIDAVIT

I, **Muhammad Noman Khan** S/o Farman Ullah R/o Mohallah Javid Abad Achar Road Peshawar, District Peshawar, do hereby solemnly affirm that the contents of this Petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.



(Signature)

DEPONENT

CNIC NO. 17301-1922558-5

Cell No.

0345 9000 204

(5)



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 342/2022

BEFORE: RASHIDA BANO --- MEMBER (J)
MUHAMMAD AKBAR KHAN --- MEMBER (E)

Muhammad Noman Khan S/O Farman Ullah, (Ex-Naib Qasid of Telecommunication and Transport, KPK) R/o Mohallah Javed Abad Achar Road Peshawar, District Peshawar..... (Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa, through Chief Secretary Khyber Pakhtunkhwa, Peshawar.
2. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
3. AIG Establishment for Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
4. Assistant Inspector General of Police, Telecommunication and Transport, Khyber Pakhtunkhwa, Peshawar.
5. Deputy Inspector General of Police, Telecommunication and Transport, Khyber Pakhtunkhwa, Peshawar..... (Respondents)

Present:-

HASEEN ULLAH GAMARYANI,
Advocate

--- For Appellant

ASAD ALI KHAN,
Assistant Advocate General

--- For respondents.

Date of Institution.....08.03.2022

Date of Hearing..... 30.01.2024

Date of Decision.....30.01.2024

JUDGMENT

MUHAMMAD AKBAR KHAN, MEMBER(E):- The instant service appeal has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as under;

"On acceptance of this appeal the order of respondent No. 30 dated 21.02.2022 whereby the appeal of the appellant against

ATTESTED
[Signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

(6)

the impugned order of respondent No. 4 and 15 dated 25.10.2021; has been rejected against dismissal from service may kindly be reversed and resultantly the dismissal/discharge from service order of appellant issued by respondent dated 25.10.2021 may kindly be set aside and the appellant may be reinstated in service with all back benefits."

02. Brief facts of the case are that appellant was serving as Naib Qasid in the Police Department; that on 05.09.2021, he fell ill and upon the advice of doctor for bed rest, remained unable to attend the duties; that on 23.09.2021, the appellant was issued Show Cause Notice which was replied by him on 27.09.2021; that on 07.10.2021, charge sheet was issued to him which was also replied by the appellant; that subsequently, vide order dated 25.10.2021, he was discharged from service. Feeling aggrieved from the impugned order dated 25.10.2021, the appellant filed mercy petition followed by departmental appeal on 06.12.2021, which was rejected vide order dated 21.02.2022, hence preferred the instant service appeal on 08.03.2022.

03. Notices were issued to the respondents, who submit their comments, wherein they refuted the assertions raised by the appellant in his appeal. We have heard arguments of learned counsel for the appellant and learned Assistant Advocate General and have gone through the record with their valuable assistance.

04. Learned counsel for the appellant contended that the impugned order was illegal, unlawful, without authority and based on malafide. He submitted that no inquiry had been conducted; that the appellant had been awarded with

ATTESTED

EXAMINER
Khair P. Peshkhan
Service Tribunal
Peshawar

(7)

consulted doctor at Naseerullah Khan Babar Memorial Hospital, Kohat Road Peshawar. The doctor examined him and prescribed medicine for his treatment as outdoor patient. The time period which the appellant remained indisposed was the peak period of COVID-19 which had created a scare around the world including Pakistan. On 23.09.2021 the appellant was served with a Show Cause Notice which the appellant replied on 27.09.2021 and he was charge sheeted on 17.10.2021. The main reason for not accepting the medical leave of the appellant was verification of medical prescriptions from the hospital where the appellant consulted medical doctor. The Hospital authorities verified that the appellant remained as outdoor patient in the hospital but he was not advised bed rest by the doctor concerned which was written on the back of the medical prescriptions. However, the illness of the appellant remained proved and verified under the Khyber Pakhtunkhwa Civil Servants Revised Leave Rules, 1981. Rule 13 of the said rules is reproduced below;

Leave on Medical Certificate.---Leave applied for on medical certificate shall not be refused. The authority competent to sanction leave may, however, at its discretion, secure a second medical opinion by requesting the Civil Surgeon or the Medical Board to have the applicant medically examined. The existing provisions contained in Supplementary Rules 212, 213 and Rule 220 to 231 for the grant of leave on medical grounds will continue to apply

ATTESTED

**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR**

Although we also find that Mr. Saeed Khan, DSP Telecommunication & Transport, Peshawar was nominated as inquiry officer by the competent authority in order to conduct inquiry and reference to this inquiry is made in the impugned

2

maximum punishment and the authority had not fulfilled the legal requirements; that the impugned order was not in accordance with the allegations leveled against him and the same was harsh. He further submitted that no opportunity of hearing had been given to the appellant. Lastly, he submitted that the respondents have violated the Government Servants (Efficiency & Discipline) Rules, 2011 by not giving chance of defense in the inquiry proceedings and the same conduct was also against the fundamental rights enshrined in the Constitution of Islamic Republic of Pakistan. He, therefore, requested for acceptance of the instant service appeal.

05: As against that, learned Assistant Advocate General argued that the respondents acted in accordance with law/rules and order of discharge from service was passed after observing all the codal formalities as per law/rules; that proper inquiry was initiated against the appellant and the codal formalities fulfilled including issuance of Show Cause Notice alongwith statement of allegations and affording opportunity of defense. He further argued that the appellant was a habitual absentee and was not interested in performing his duty. Lastly, he submitted that proper opportunity of cross examination was also given to the appellant but he failed to avail the same, therefore, was rightly dismissed from service.

06. Scrutiny of record reveal that the appellant was appointed as Naib Qasid on 31.10.2019 and posted in Telecommunication & Transport, Khyber Pakhtunkhwa, Peshawar. Later on he was transferred and posted at Wireless Control D.I.Khan. The appellant while on station leave during weekend proceeded to his home city Peshawar and on 05.09.2021 he fell ill and

ATTESTED
EXAMINER
Peshawar
Service Tribunal
Peshawar

9

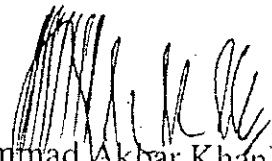
order dated 25.10.2021 but no inquiry report is available on record nor annexed with the reply of the respondents nor the same was submitted during the course of arguments which makes the entire disciplinary proceedings doubtful denying the appellant opportunity of defense and personal hearing by the inquiry officer.

07. Foregoing in view we set aside the impugned orders dated 25.10.2021 & 21.02.2022 reinstate the appellant into service. The period from 25.10.2021 till the date of announcement of the judgment shall be treated as leave without pay. Costs shall follow the event. Consign.

08. Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 30th day of January, 2024.



(Rashida Bano)
Member (J)



(Muhammad Akbar Khan)
Member (E)

Kamramillah

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 10-5-24
Number of Words _____
Copying Fee 25/-
Urgent _____
Total 30/-
Name of Copyist _____
Date of Completion of Copy 10-5-24
Date of Delivery of Copy 10-5-24

10

Dairy Number

1953

date: 13/5/24

To : The Deputy Inspector General of Police,
Telecomm: & Transport
Khyber Pakhtunkhwa, Peshawar.

Subject: RE-INSTATEMENT ORDER BY THE SERVICE TRIBUNAL KP
PESHAWAR IN R/O MUHAMMAD NOMAN S/O FARMAN ULLAH (NAIB
QASID).

Respected Sir,

With due respect, it is stated that I have re-instated in Govt: Service as Naib Qasid by the Khyber Pakhtunkhwa service tribunal Peshawar on the decision dated 30-10-2024 the true copy of the above court decision dully attested has been received and submitted with the application for ready reference.

As mentioned in para-7 in the attached service tribunal order decision that my absentee periods out of service from 25-10-2021 till the date of the decision announcement date up to 30-01-2024 may please be treated as leave without pay.

In fact the above it is requested that my re-instatement order on the post of Naib Qasid in Telecommunication and transport police KP Peshawar may kindly be issued to me as soon as possible.

With regard.

Dated: 13/5/2024.

Muhammad Noman s/o Farman Ullah
r/o Mohallah Javed Abad Acher Road
Peshawar.

Ex-Naib Qasid Telecommunication
& Transport, KP Peshawar.



date: 13/5/2024

Attested



