


Form- A
FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 551/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	12.06.2024	<p>The implementation petition of Mr. Mamrez Khan submitted today by Mr. Fawad Jan Advocate. It is fixed for implementation report before Single Bench at Peshawar on 14.06.2024. 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</p> <p> REGISTRAR</p>

KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR

CHECK LIST

Mamroz Khan Versus

Govt

..... Appellant

..... Respondents

S NO	CONTENTS	YES	NO
1.	This petition has been presented by: <u>Dr. Fawad Advocate High Court</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?	x	
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 _____		

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

Name:- Dr. Fawad Jan

Signature:- Fawad

BEFORE THE
KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,

PESHAWAR

Execution Petition No. 551/2024

Mamrez KhanAppellant

Versus

Govt of KPK & Others.....Respondents

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Dr. Fawad Jan

Advocate High Court, Peshawar

Office No: SF - 374,

DEANS PLAZA, PESHAWAR CANTT.

MOBILE NO.0314-9828818

1

BEFORE THE
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Khyber Pakhtunkhwa
Service Tribunal

PESHAWAR

E. P. No. 551/2024

Diary No. 13475

Dated 12-06-2024

Mr. Mamrez Khan, Head Constable No.769, Police Station
SNGPL, Karak

.....Petitioner

Versus

1. Government of KPK, through, Secretary Home & Tribal Affairs KPK, Peshawar.
2. Inspector General of Police, KPK, Peshawar.
3. Additional Inspector General of Police Investigation, KPK, Peshawar.
4. Regional Police Officer, Kohat.
5. District Police Officer, Karak.

.....Respondents

Application for Implementation of the Order / Judgment of this Hon'ble Tribunal dated:08.05.2024 passed in the Service Appeal No. 1192/2022 against the Respondent No. 1 to 5 and directing him to restore the previous position of the petitioner with all back benefits.

Respectfully Sheweth,

The petitioner most humbly submits as under:

1. That the petitioner filed Service Appeal No1182/2022 against the order dated:16.11.2021 of respondent No 4 and order dated 29.09.2021 of respondent No 5.(copy Appeal is Attached as Annexure A)
2. That this Hon'ble Tribunal was pleased to allow that appeal in favour of petitioner and directed the respondents to restore the previous position of the petitioner with all back benefits.(Copy of Judgment/ Order Is Attached As Annexure B)

3. That the petitioner approach office of District Police Officer and moved several applications but serve no purpose. **(Copy of Application Is Attached As Annexure C)**
4. That the respondents had not yet made compliance to the order / Judgment passed by this Hon'ble Tribunal and the petitioner has not been restored to his previous position nor any efforts has been made / initiated by the respondents in this respect, hence this petition.

It is therefore most humbly prayed that on acceptance of this application the respondents may kindly be directed to implement the order / judgment dated:08.05.2024 of this Hon'ble Tribunal in true letter and spirit.

Any other relief which this Hon'ble Court deems fit and necessary for the safe administration of justice.

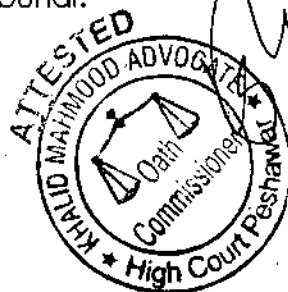
Dated: 12.05.2024 Through

Petitioner

Dr Fawad Jan Advocate

AFFIDAVIT:

Mr. Mamrez Khan, Head Constable No.769, Police Station SNGPL, Karak solemnly affirm on oath that the contents of the above application is true and correct to the best of my knowledge and nothing has been concealed from this Hon'ble tribunal.



Deponent

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BEFORE THE HONOURABLE
KHYBER PAKHTOONKHWAS SERVICE TRIBUNAL,
PESHAWAR

Appeal No. 192/2022

Mr. Mamrez Khan, Head Constable No.769, Police Station SNGPL, Karak.....Appellant

VERSUS

1. Inspector General of Police, KPK, Peshawar.
2. Regional Police Officer, Kohat.
3. District Police Officer, Karak.

.....Respondents

APPEAL U/S-4 OF THE KHYBER PAKHTOONKHWAS TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ORDER DATED: 29.09.2021 OF THE DISTRICT POLICE OFFICER KARAK (RESPONDENTS NO.3), WHEREBY PENALTY OF REMOVAL FROM SERVICE WAS IMPOSED ON APPELLANT AND THE IMPUGNED ORDER DATED: 16.11.2021 PASSED BY THE REGIONAL POLICE OFFICER (RESPONDENT NO.2) VIDE WHICH THE DEPARTMENTAL APPEAL OF APPELLANT WAS REJECTED AND IMPUGNED ORDER DATED 11.04.2022 OF THE INSPECTOR GENERAL OF POLICE KHYBER PAKHTOONKHWAS (RESPONDENT NO. 1), VIDE WHICH THE REVISION PETITION OF APPELLANT FILED UNDER POLICE RULE 11-A OF POLICE RULES 1975 WAS PARTIALLY ACCEPTED AND PENALTY OF REMOVAL

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FROM SERVICE WAS CONVERTED INTO MAJOR PENALTY OF COMPULSORY RETIREMENT FROM SERVICE.

COPIES OF ALL THE THREE ORDERS ARE ENCLOSED AS ANNEXURE A, A-1 AND A-2 RESPECTIVELY.

Prayer in Appeal:

ON ACCEPTANCE OF THIS APPEAL THE IMPUGNED ORDER DATED: 16.11.2021 OF THE RESPONDENTS NO.2, AND THE IMPUGNED ORDER DATED: 29.09.2021 OF THE RESPONDENT NO.3 AND IMPUGNED ORDER DATED: 11.04.2022 MAY PLEASE BE SET-ASIDE AND THE APPELLANT POSITION MAY KINDLY BE RESTORED WITH ALL BACK BENEFITS.

Respectfully Sheweth..

Appellant very humbly submits the service appeal based on the following facts and grounds.

Facts:-

1. That the appellant is bona-fide resident of village GardiBanda, Tehsil TakhteNasrati District Karrak. The appellant joined police as a constable and was promoted to the rank of head constable. The appellant had put in long and unblemished service of 37 years in police. In the year 2021 appellant while posted in Police Station Sui Northern Gas Pipe line (SNGPL) Karak was rendered to disciplinary action by respondent NO. 3 on the basis of business departmental charges.
2. That un-officially partitioned landed property situated adjacent of the house of appellant was purchased by one Bashir Advocate. Appellant being a co-sharer in the property and neighbor was having superior right of pre-emption, therefore, appellant without loss of a moment-initiated pre-emption proceedings by serving

Law
ATTESTED

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- notice on vender followed by lodging pre-emption suit before competent court.
3. That the quick and lawful action of appellant annoyed the vendee and vendor and both started harassing the appellant one way or the other so as to force and pressure, the appellant for withdrawal of the suit but appellant did not succeed to their nefarious designs.
 4. That the vendee and vendor lodged joint complaint against appellant before respondent NO. 3, the immediate superior officer of appellant. The complaint was based on false, fabricated and concocted allegations of criminal intimidation and misuse of officiated status.
 5. That through the matter was purely private event and was not rendered to official duty or commission of misconduct yet respondent No. 3 rendered appellant to disciplinary action, charge sheet and statement of allegations based on false contents of complaint of vendee and vendor was issued to appellant. **Copies of the charge sheet and statement of allegation annexed as annexure as B and B-1.**
 6. That the appellant submitted detailed and plausible reply in response to the charge sheet but the defense of the appellant was not considered. In same vein appellant when noticed the biased attitude of the enquiry officer, the appellant submitted two applications for transfer of the enquiry to another officer. **Copies of the reply and applications are attached as annexure -C, D-1 and D-2.**
 7. That though appellant expressed written no confidence on the enquiry officer yet the same enquiry officer submitted fact findings based on no evidence that the charge is proper and respondent NO. 3 without issuing final show cause notice, provision of the copy of the fact findings and chance to personal hearing issued removed from service order of the appellant. **Copy of the order is already enclosed as annexure -A.**
 8. That appellant filed departmental appeal before the respondent No. 2 against the order of respondent No. 3 but the departmental appeal was rejected. **Copy of the departmental appeal and rejection order is enclosed as annexure E and rejection order already enclosed as annexure A-1.**
 9. That the appellant filed revision petition under rule 11 -A of the Police Rules 1975 before the respondent No. 1 against the orders of the respondent No. 2 and 3. The review petition was not respondent therefore the appellant

ATTESTED

submitted service appeal No. 310/2022 before this honorable service tribunal. **Copy of the revision petition is enclosed as annexure F.**

- 10. That respondent No. 1 partially accepted the revision petition vide order dated 11/04/2022 whereby the penalty of removal from service was converted into compulsory retirement from service. **Copy of the order is already enclosed as annexure - A-2.**
- 11. That in the view of the above changed scenario appellant placed request for amended of the service appeal and also prayed for the grant of permission of filing afresh appeal for challenging inter alia the major penalty of compulsory retirement from service.
- 12. That this honorable tribunal was pleased to allow the above request of appellant vide order dated **copy of the order is considered as annexure G.** Therefore, the appellant submits fresh appeal on the following grounds.

GROUND:

- A. That the enquiry proceedings were conducted in flagrant violation of law and rules governing disciplinary actions. No one was examined as a witness in support of the charges leveled against appellant. No chance of cross examination of the witnesses was provided to appellant. Appellant expressed written no confidence on enquiry officer but the enquiry officer and respondent No. 3 ignore the written objection of appellant. Enquiry having not conducted in accordance with law, the entire subsequent action based on the enquiry findings have no legal sanctity.
- B. That under the law and rules, enquiry officer will be confined to the allegations stated in the charge sheet. Enquiry officer will not travel beyond the ambit of such allegations. The enquiry officer of appellant case was biased and he submitted findings based on his personal observations and grievances. The enquiry officer submitted findings in violation of settled principle of law that "No one shall be a judge of his own cause."
- C. That superior courts have held in numerous reported judgements that final show cause notice along with enquiry findings shall be supplied to accused officer. No final show cause notice was issued to appellant.

Paul
ATTESTED

Findings of enquiry officer were not supplied despite submission of an application before the respondent No. 3.

D. That the respondents have passed the order without properly evaluating the facts and evidence on record. Therefore, the orders are against law, facts and materials on record, hence liable to be set aside.

E. That the impugned orders were outcome of private event between appellant and his opponents of the pre-emption suit. Respondent No. 3 and the enquiry officer under the influence of the opponents of appellant, initiated departmental proceedings against appellant despite the fact it was no case of commission of mis conduct.

F. That appellant was not associated in the enquiry proceedings. No opportunity of personal hearing was provided. The impugned orders were passed in slipshod manner without applying prudent mind for ascertaining the truth or otherwise of the charge, award of penalty to police officer on the base of civil dispute of police officer with his opponents, adversely affect the moral of the police establishment.

G. That the whole departmental file has been prepared in violation of law and rules. Appellant was serving police as lower subordinate therefore question of criminally intimidating an advocate and co-villagers does not arise. Again, a lower subordinate is not in position to misuse his authority. Therefore, there is no truth in the charge and the same is baseless and the opponent of appellant fabricated the charge with sole aim of harassing the appellant for withdrawal of pre-emption suit.

H. That the impugned orders suffer from legal and factual infirmities and mis-application of law in violation of settle principles of evaluation of facts and evidence by the superior courts.

I. That the Appellant per policy of civil servant should be given an opportunity of hearing and the same has not been done, which seems to be injustice with Appellant.

ATTESTED

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- J. That the appellant belongs to very poor family and according to civil servant laws and impugned orders without fulfilling the legal requirements is nullity in the eye of law and also against all norms of natural justice.
- K. That appellant seeks permission of the honorable tribunal for rising other grounds at the time of hearing of the case.

**IT IS, THEREFORE, GRACIOUSLY PRAYED
THAT ON ACCEPTANCE OF THIS APPEAL
THE IMPUGNED ORDERS OF THE
RESPONDENTS MAY PLEASE BE SET-ASIDE
AND THE APPELLANT MAY KINDLY BE
REINSTATED WITH ALL BACK BENEFITS.**

Appellant
Through:

Dr. Fawad Jan
Advocate, Peshawar

Dated: 27.07.2022

VERIFICATION:

It is verified that (as per information given me by my client) all the contents of the instant appeal are true and correct and nothing has been concealed intentionally from this Hon'ble Tribunal.

Advocate

Note:

That no such like petition / Appeal on this subject matter has earlier been filed before this Hon'ble Tribunal.

ATTESTED

Advocate

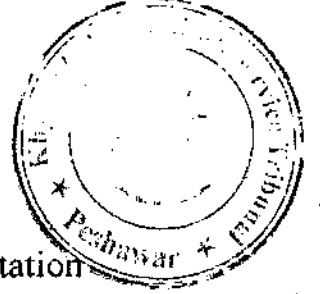
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KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

BEFORE: **KALIM ARSHAD KHAN** ... CHAIRMAN
MUHAMMAD AKBAR KHAN ... MEMBER (Executive)

Service Appeal No.1192/2022

Date of presentation of Appeal.....29.07.2022
Date of Hearing.....08.05.2024
Date of Decision.....08.05.2024



Mr. Mamrez Khan, Head Constable No.769, Police Station SNGPL, Karak.....(Appellant)

Versus

1. **Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.**
2. **Regional Police Officer, Kohat.**
3. **District Police Officer, Karak.....(Respondents)**

Present:

Dr. Fawad Ullah, AdvocateFor the appellant
Mr. Asif Masood Ali Shah, Deputy District Attorney....For respondents

.....

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 20.09.2021 OF THE DISTRICT POLICE OFFICER KARAK (RESPONDENT NO.3) WHEREBY PENALTY OF REMOVAL FROM SERVICE WAS IMPOSED ON THE APPELLANT AND THE IMPUGNED ORDER DATED 16.11.2021 PASSED BY THE REGIONAL POLICE OFFICER (RESPONDENT NO.2) VIDE WHICH DEPARTMENTAL APPEAL OF THE APPELLANT WAS REJECTED AND IMPUGNED ORDER DATED 11.04.2022 OF THE INSPECTOR GENERAL OF POLICE (RESPONDENT NO.1) VIDE WHICH THE REVISION PETITION OF APPELLANT FILED UNDER POLICE RULE 11-A OF POLICE RULES 1975 WAS PARTIALLY ACCEPTED AND PENALTY OF REMOVAL FROM SERVICE WAS CONVERTED INTO MAJOR PENALTY OF COMPULSORY RETIREMENT FROM SERVICE.

ATTESTED

EX CHIEF CLERK
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

16/5/24

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JUDGMENT

KALIM ARSHAD KHAN, CHAIRMAN: Brief facts of the case are that appellant was serving as Head Constable in the Police Department; that on the basis of complaint, he was proceeded against departmentally and charge sheet/statement of allegations were issued followed by inquiry; that resultantly, he was dismissed from service; that feeling aggrieved, he filed departmental appeal to the RPO Kohat but the same was dismissed; that thereafter, he filed Revision Petition under the Khyber Pakhtunkhwa Police Rules, 1975 to the Inspector General of Police Khyber Pakhtunkhwa and the IGP converted the penalty of dismissal into compulsory retirement from service. Therefore, he filed the instant service appeal for reinstatement into service with back benefits.

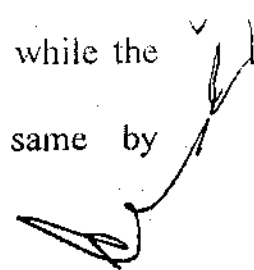
2. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents put appearance and contested the appeal by filing written reply raising therein numerous legal and factual objections. The defense setup was a total denial of the claim of the appellant.

4. We have heard learned counsel for the appellant and learned Deputy District Attorney for respondents.

5. The learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned Deputy District Attorney controverted the same by supporting the impugned order(s).

ATTESTED

Chairman
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

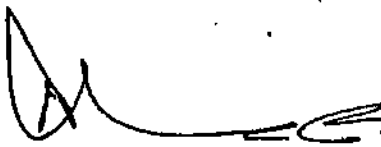


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6. The allegations against the appellant was his alleged involvement in an illegal extra departmental activities as well as misuse of official powers. The appellant was proceeded against departmentally on a complaint of one Bashir Ahmad Advocate in respect of some land property and during the entire inquiry proceedings there was nothing found to be said a misconduct so as to justify the proceeding against the appellant departmentally. There might be some private land dispute, but because of that dispute, we are unable to hold that the appellant could be held liable for misconduct or at least misusing his official position.


7. Keeping in view the situation, instant service appeal is accepted. The impugned orders are set aside and the appellant is reinstated into service with all back benefits. Costs shall follow the event. Consign.

8. Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 8th day of May, 2024.


KALIM ARSHAD KHAN
Chairman


MUHAMMAD AKBAR KHAN
Member (Executive)

ATTESTED


Khyber Pakhtunkhwa
Service Tribunal
Peshawar
Mutazem Shah

Date of Presentation of Application 16-5-24

Number of Pages 39

Copy No. 15/1

Unit No. 15/1

Trial No. 15/1

Name of Applicant

16-5-24

16-5-24

12th Jan. 2024

1. Appellant in person present. Mr. Asad Ali Khan, Assistant Advocate General for the respondents present.
2. Former made a request for adjournment as his counsel was not available today. Adjourned. To come up for arguments on 08.05.2024 before D.B. P.P given to the parties.

SCANNED
KPST
Peshawar

Mutazem Shah



(Rashida Bano)
Member (J)



(Kalim Arshad Khan)
Chairman

S.A #.1192/2022

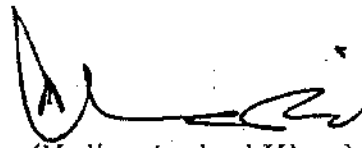
ORDER

8th May. 2024

1. Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.
2. Vide our consolidated judgment of today placed on file instant service appeal is accepted. The impugned orders are set aside and the appellant is reinstated into service with all back benefits. Costs shall follow the event. Consign.
3. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 8th day of May. 2024.*



(Muhammad Akbar Khan)
Member (E)



(Kalim Arshad Khan)
Chairman

Mutazem Shah


ATTESTED

Reference Attached.

R/Sir,

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It is submitted that Ex-Constable Mumraiz Khan No. 769 has preferred an application alongwith enclosures that he was dismissed from service vide OB No 587 dated 29.09.2021. After that he submitted an appeal to high-ups and his punishment of dismissal was converted into compulsory retirement. In this regard he approached to the Service Tribunal Khyber Pakhtunkhwa, Peshawar vide service appeal No 1192/2022. Later on the said Tribunal decided his appeal and announced his order in favour of applicant on 08.05.2024 (copy enclosed) vide which the honorable Service Tribunal conveyed the following remarks, which is reproduced below:-

"our consolidated judgment of today placed on file instant service appeal is accepted. The impugned order is set aside and the appellant is reinstated into service with all back benefits".

In the light of Service Tribunal order sheet the Ex-constable named above has moved the enclosed application seeking therein his arrival in police line Karak.

Submitted for favour of perusal and order, please.

[Signature]
EC/Karak.

W/DPO

Wait till the decision of Regional Review Board.

DPO Karak
05/06/2024

[Signature]
ATTESTED

18-2024
769
EX

ATTESTED

[Handwritten signature]

18-2024
769
EX

[Handwritten signature]
Process number: 11/2024

18-2024
769
EX

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VAKALATNAMA

BEFORE THE SERVICE TRIBUNAL K.P.K.
PESHAWAR

Execution Petition No. _____/2024

MAMREZ KHAN Applicant

VERSUS


Govt of KPK and others Respondents

I/We **Mr. Mamrez Khan**, Head Constable No.769, Police Station SNGPL, KarakDo hereby appoint and constitute **Dr. Fawad Jan Advocate**, Peshawar 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 cost. 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.

Dated. 12/06/2024

CLIENT(S)

Mamrez Khan

ACCEPTED

Dr. Fawad Jan
Advocate High Court
(BC-19-1109)
17101-0278021-9

Dr. Fawad Jan
Advocate High Court, Peshawar
Office No: SF – 374,
DEANS PLAZA, PESHAWAR CANTT.
MOBILE No.0314-9828818