


Form- A

FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 390/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	21.05.2024	<p>The implementation petition of Mr. Amirullah submitted today by Syed Roman Shah Advocate. It is fixed for implementation report before Single Bench at Peshawar on 23.05.2024. Original file be requisitioned. AAG has noted the next date. Parcha Peshi given to the counsel for the petitioner.</p> <p>By the order of Chairman  REGISTRAR</p>

(1)

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWAPESHAWAR

Execution Petition No. 390 /2024; In Service appeal no. 1223 of 2023

Amir Ullah S/o Feroz Khan Ex-Police Constable R/o Dhab Sangani, Tehsil and
District Karak Petitioner

Versus

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 12911

Dated 21-05-2024

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar
2. Regional Police Officer, Kohat Region, Kohat
3. District Police Officer, Karak

..... Respondents

PETITION FOR DIRECTING THE RESPONDENT TO IMPLEMENT THE
JUDGMENT AND ORDER DATED 23/02/2024 OF THIS HONORABLE
TRIBUNAL, IN THE ABOVE NOTED APPEAL.

Respectfully Sheweth;

Applicant humbly submits as under

1. That the above noted appeal has been decided on 23/02/2024, by this honorable tribunal.
2. That the appeal of the petitioner has been remitted to the department / respondents for holding proper inquiry in to the matter and conclude the report within 60 days of receipt of judgment. **(Copy of the judgment is attached as annexure-A)**
3. That the petitioner has approached time and again to the respondent to implement the judgment of this hon'ble tribunal but the respondent deaf eared to the request of the petitioner. **(Application is Attached as Annexure -B)**

2)

4. That now the petitioner has no other remedy but to approach this Hon'ble tribunal for the implementation of this tribunal order dated 22/02/2024.
5. That there is no bar in filing of this petition, and this petition is well within time.

It is therefore most humbly prayed that upon acceptance of this petition, the respondents may please be directed to implement the order and judgment of this Hon'ble tribunal Dated 23/02/2024, and to punish the respondents for defiance of this Hon'ble tribunal order dated 23/02/2024.

W/26

Petitioner

Through

Syed Roman Shah

Syed Roman Shah

Advocate High Court

AFFIDIVIT

I, Amir Ullah S/o Feroz Khan Ex-Police Constable R/o Dhab Sangani, Tehsil and District Karak, do hereby solemnly affirm and declare on oath that the contents of the above petition is true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable tribunal.



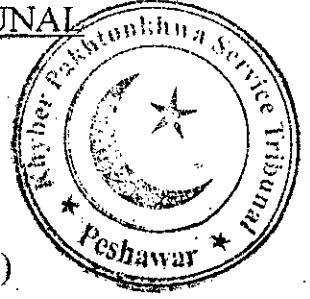
Deponent

W/26

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

Service Appeal No. 1223/2023

BEFORE: KALIM ARSHAD KHAN ... CHAIRMAN
MISS FAREEHA PAUL ... MEMBER(E)



Amirullah S/O Ferooz Khan R/O Dhab Sangani, Dhab, Tehsil and District Karak.(Appellant)

Versus

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer, Kohat Region, Kohat.
3. District Police Officer Karak.
4. Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar.

.....(Respondents)

Mr. Shahid Qayum Khattak,
Advocate

For appellant

Mr. Asif Masood Ali Shah,
Deputy District Attorney.

For respondents

Date of Institution.....	29.05.2023
Date of Hearing.....	23.02.2024
Date of Decision.....	23.02.2024

JUDGEMENT

FAREEHA PAUL, MEMBER (E): The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the order dated 15.01.2023 passed by respondent No. 3, whereby the appellant was awarded major punishment of termination/removal from service and against the order dated 04.05.2023, passed by respondent No. 2 vide which his departmental appeal was rejected. It has been prayed that on acceptance of the appeal, the impugned orders

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Service Tribunal
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dated 15.01.2023 and 04.05.2023 might be set aside and the appellant might be held entitled for all back benefits of pay and service.

2. Brief facts of the case, as given in the memorandum of appeal, are that respondent No. 3 initiated disciplinary proceedings against the appellant and issued charge sheet and statement of allegations to him. Thereafter, an inquiry was initiated against him and respondent No. 3 passed an order dated 15.01.2023 vide which major punishment of termination/removal from service was passed against him without collecting any evidence and providing an opportunity of hearing to him. Feeling aggrieved, he filed departmental appeal/representation before respondent No. 2 which was rejected on 04.05.2023, and the same was not intimated to the appellant officially till filing of the instant service appeal.

3. Respondents were put on notice. They submitted written reply/comments on the appeal. We heard the learned counsel for the appellant as well as learned Deputy District Attorney for the respondents and perused the case file with connected documents in detail.

4. Learned counsel for the appellant, after presenting the case in detail, argued that the impugned orders were harsh, without any evidence, based on surmises & conjectures and against the principle of natural justice. He further argued that during the enquiry proceedings, no one was examined in support of the charges levelled against the appellant, nor any opportunity of hearing was provided to him. He was not confronted with any documentary or other kind of evidence. He

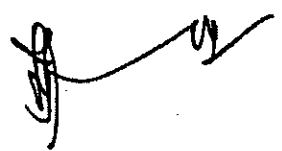
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EXAMINER
Khyat-e-Rashidul-Haq
Service Tribunal
Peshawar

further argued that it was a settled principle of justice that no one should be condemned unheard but in the instant case no proper enquiry was conducted. He requested that the appeal might be accepted as prayed for.


5. Learned Deputy District Attorney, while rebutting the arguments of learned counsel for the appellant, argued that the appellant was charged for making deceit/fraud in recruitment as Constable in the Police Department. He had not qualified ETEA test for recruitment as Constable for the year 2020-21 and his name was not included in the list of qualified candidates. In one of the lists received in District Karak, the appellant was shown as "recommended" while in another list provided by the CPO Peshawar, he was shown as "not recommended". Similarly, the list requisitioned from CPO Peshawar by the Regional Police Officer, Kohat did not reflect him as "recommended". The learned DDA argued that the appellant fraudulently succeeded in getting his appointment order on the basis of tempered recommendation. The SDPO Takht-e-Nasrati conducted the enquiry against him by fulfilling all the codal formalities, recorded the statements and collected evidence on record and the appellant was held guilty of gross misconduct. Respondent No. 3, being competent authority, heard him personally but he failed to defend himself and, hence, major punishment was awarded to him after fulfilling all procedural and legal formalities. He requested that the appeal might be dismissed.

6. The appellant was recruited as Constable in the Khyber Pakhtunkhwa Police through ETEA, 2020-21, and was issued belt No.

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Khyber Pakhtunkhwa
Service Tribunal
Peshawar




5007. At some later stage, it came to the knowledge of the respondent department that the appellant was shown as "passed" at serial no. 130, scoring 40 marks in ETEA merit list, received directly from CPO Peshawar whereas the ETEA list requisitioned from CPO Peshawar through RPO did not show his name, which meant that he was a failed candidate. He was charged on the ground that he got himself recruited through fraud and deception. An inquiry was conducted and he was awarded major punishment of termination/removal from service. According to the inquiry report annexed with the reply of the respondents, there were two recruitment lists. In one of the lists, out of the 130 successful candidates, the appellant was "recommended" at serial no. 130, whereas in the other, 128 candidates were shown as successful but in that list, name of the appellant was not mentioned. In the same report, the inquiry officer has clearly mentioned in its last sentence that how the name of the appellant was brought in the list provided by the CPO is to be ascertained by the CPO Peshawar. When the learned Deputy District Attorney was confronted with the question that whether any action was taken on the recommendation of the inquiry officer, he frankly stated that no action was taken except passing the impugned order of termination/removal from service. One completely fails to understand that how the lists were manipulated by the appellant and why no one in the office of Inspector General of Police, Central Police Office Khyber Pakhtunkhwa bothered to ascertain the facts behind the two lists being issued from the same office.

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 ATTORNEY GENERAL
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

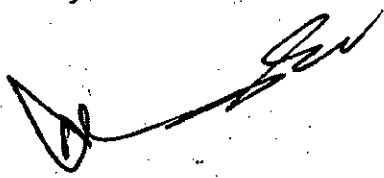


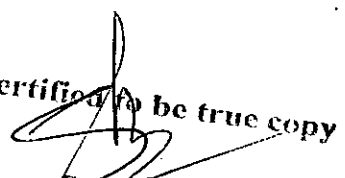
7. In the light of the above discussion, the appeal in hand is remitted to the respondent department for holding proper inquiry into the matter and conclude the report within sixty days of the receipt of this judgment. The question of back benefits is subject to the outcome of inquiry report. Cost shall follow the event. Consign.


8. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 23rd day of February, 2024.


(FARZEHA PAUL)
Member (E)

FazlaSubhan, P.S


(KALIM ARSHAD KHAN)
Chairman


Certified to be true copy
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Khyber Pakhtokhwa
Service Tribunal
Peshawar


Date of Presentation of Appeal
Number of Words 58
Copying Fee 25/-
Urgent
Total 25/-
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Date of Completion 20/3/24
Date of Delivery 20/3/24

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بعدالت سپنسر اسٹونز KPK

Execution Petition No
in Service Appeal No. 1223/2023

Petitioner 2، پنجاب
عافہ اللہ بیگم لکھنؤ

موزخہ
مقدمہ
دعویٰ
جیم

باعث تحریر آنکھ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام سیاہ کیلئے سپر وکال سیاہ اسٹونز
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
وزرائیں 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 اختیار 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 مذکورہ با اختیار حاصل ہوں گے اور اس کا ساختہ
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانبہ التوائے مقدمہ کے سبب سے ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکور کریں۔ لہذا ادکالت نامہ لکھد یا کہ سندر ہے۔

عافہ اللہ بیگم لکھنؤ
مقام

المرقوم 21 ماہ 05 2024

Attested
by
[Signature]

واہ الع
کے لئے منظور ہے۔
مقام