


# FORM OF ORDERSHEET

Court of \_\_\_\_\_

**Misc. application No. 741/2024**

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	18/07/2024	<p>The Misc. application in Service Appeal No. 269/2023 submitted by Nasir Iqbal through Mr. Ashraf Ali Khattak Advocate. It is fixed for hearing before Division Bench at Peshawar on 19.07.2024. Original file be requisitioned.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

**BEFORE THE LEARNED SERVICE TRIBUNAL KHYBER  
PAKHTUNKHWA PESHAWAR**

CM No. 741 /2024

In the matter of

Service Appeal No. 269/2023

Decided on 22.05.2024

**Nasir Iqbal.....Appellant**

**V E R S U S**

**The Provincial Police Officer & others...Respondents**

**I N D E X**

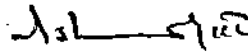
<b>S.No</b>	<b>Description of Documents</b>	<b>Annex</b>	<b>Pages</b>
1.	Application under section 152 & 153 CPC		1-2
2.	Affidavit		3
3.	<b>Copy of the Judgment and Order dated 22.05.2024</b>	A	4-7



**Appellant / Applicant**

**Through**

**Dated: 18.07.2024**



**ASHRAF ALI KHATTAK  
Advocate, Supreme Court  
of Pakistan**

1

**BEFORE THE LEARNED SERVICE TRIBUNAL KHYBER**  
**PAKHTUNKHWA PESHAWAR**

CM No. \_\_\_\_/2024

In the matter of

Service Appeal No. 269/2023

Decided on 22.05.2024

Nasir Iqbal, Ex-Constable No. 117, Police Force, Karak.

.....Appellant

**V E R S U S**

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer, Kohat Region, Kohat.
3. The District Police Officer Karak.

.....Respondents

**APPLICATION UNDER SECTION 152 & 153 OF THE CPC 1908**

Respectfully Sheweth:

1. That the above noted Service Appeal was pending adjudication before this Hon'ble Tribunal and was decided vide Judgment and order dated 22.05.2024.
2. That vide judgment and order dated 22.05.2024 this Hon'ble Tribunal while allowing the Appeal of the Appellant, set aside the impugned order and reinstate the Appellant in Service from the date of his dismissal with all back benefits.

**However, the absence period of the Appellant shall be treated as leave of the kind due. (Copy of the Judgment and Order dated 22.05.2024 is attached as Annexure A)**

3. That the record reveals that the Appellant was dismissed from service vide order dated 11.08.2022 on ground of his alleged indulgence with criminal and narcotics. It is evident from the record that he has never been remained absent from service till the date of dismissal i.e 11.08.2022, which is misconception and has been erroneously incorporated in the Judgment and such like error comes within the provision of section 152 & 153 of CPC 1908.

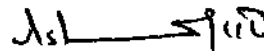
**In view of the above humble submission, it is therefore, very humbly prayed that the arithmetical mistake / misconception highlighted above may kindly be deleted from the Judgment & order dated 22.05.2024.**



**Appellant / Applicant**

**Through**

**Dated: 18.07.2024**



**ASHRAF ALI KHATTAK  
Advocate, Supreme Court  
of Pakistan**

**BEFORE THE LEARNED SERVICE TRIBUNAL KHYBER  
PAKHTUNKHWA PESHAWAR**

CM No. \_\_\_\_/2024

In the matter of

Service Appeal No. 269/2023

Decided on 22.05.2024

**Nasir Iqbal.....Appellant**

**V E R S U S**

**The Provincial Police Officer & others...Respondents**

**AFFIDAVIT**

I, Nasir Iqbal, Ex-Constable No. 117, Police Force, Karak, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.



**DEPONENT**

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR**

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

*Service Appeal No.269/2023*

Date of presentation of Appeal.....02.02.2023  
Date of Hearing.....22.05.2024  
Date of Decision.....22.05.2024



Nasir Iqbal, Ex-Constable No.117, Police Force, Karak.....(Appellant)

Versus

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar
2. The Regional Police Officer, Kohat Region, Kohat.
3. The District Police Officer, Karak.....(Respondents)

Present:  
Mr. Ashraf Ali Khattak, Advocate .....For the appellant  
Mr. Muhammad Jan, District Attorney .....For respondents

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED FINAL ORDER DATED 06.01.2023 PASSED BY THE RESPONDENT NO.2 ON THE DEPARTMENTAL APPEAL OF THE APPELLANT; PREFERRED AGAINST THE IMPUGNED ORIGINAL ORDER OB NO.584 DATED 08.11.2022 PASSED BY RESPONDENT NO.3.

JUDGMENT

KALIM ARSHAD KHAN, CHAIRMAN: Brief facts of the case are that appellant was appointed as Constable on 05.08.2009; that he was charge sheeted on the basis of alleged involvement in extra departmental activities as well as lodging of FIR No.338 U/S N.P. Khyber Pakhtunkhwa Police Act, 2017 at Police Station Sarband, which was replied by him; that an inquiry was conducted against him, wherein, the inquiry officer recommended the appellant for

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Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

major punishment; that show cause notice was issued to the appellant, resultantly, he was dismissed from service vide impugned order dated 08.11.2022.

2. Feeling aggrieved, he filed departmental appeal but the same was rejected vide order dated 06.01.2023, therefore, he filed the instant service appeal.

3. 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, learned District Attorney and learned counsel for private 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 District Attorney, controverted the same by supporting the impugned order(s).

6. True that departmental proceedings and criminal proceedings could run simultaneously but it is equally true that in case, where the department has not proceeded in accordance with the prescribed procedure for conducting inquiry, in that situation, the inquiry cannot be made basis for penalizing a civil servant. In this case, although, an inquiry was conducted by the SDPO Banda Daud Shah, Karak, but in the inquiry proceedings the appellant was not confronted with any material with which he was charged nor any

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independent witness was recorded in support of the allegations against the appellant. It is strange enough to note that the inquiry officer had cross-examined the appellant instead of examining some independent witness and providing opportunity of cross examination to the appellant. The inquiry proceedings are thus not sustainable, nor is the consequent punishment maintainable.

7. Therefore, on allowing this appeal, we set aside the impugned order and reinstate the appellant in service from the date of his dismissal with all back benefits. However, the absence period of the appellant shall be treated as leave of the kind due.

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 22<sup>nd</sup> day of May, 2024.

KALIM ARSHAD KHAN  
Chairman

MUHAMMAD AKBAR KHAN  
Member (Executive)

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Muhammad Akbar Khan

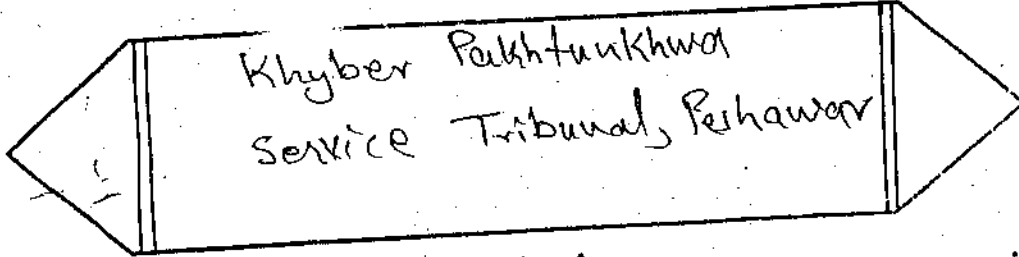
Date of Presentation of Application 22-05-2024  
Number of Words 27  
Copying Fee 15/-  
Urgent \_\_\_\_\_  
Total \_\_\_\_\_  
Name of Copy \_\_\_\_\_  
Date of Completion 25-5-24  
03-6-24

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## بعدالت

(8)



مورخہ  
مقدمہ  
دعویٰ  
جرم

2 مخائب  
بنام

نام Label

کے  
Provincial Police Officer  
and others

### باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروان سے  
آن مقام پشاور کیلئے اشرف علی خٹک ASC  
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 پر حلف دینے جو جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق  
زرائیں 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 باختیارات حاصل ہوں گے اور اس کا ساختہ  
پر داخست منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانشین 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 وکالت نامہ لکھ دیا کہ مندر ہے۔

Attested & Accepted

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المترقوم

واہ العبد  
Ashraf Ali  
کے لئے منظور ہے۔

بمقام

Handwritten signature