


Form- A

FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 659/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	03.07.2024	<p>The implementation petition of Mr. Umar Hayat submitted today by Uzma Syed Advocate. It is fixed for implementation report before Single Bench at Peshawar on 05.07.2024. 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>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.

Execution Petition No. 659 /2024

In

Service Appeal No. 1110/2019

Umar Hayat

V/S

police Deptt:

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1.	Memo of Execution Petition	-----	01-03
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3.	Copy of order	-B-	11
4.	Copy of application	-D-	12
5.	Vakalat Nama	-----	13

محمد ضیاءت

PETITIONER

Umar Hayat

THROUGH:

Uzma
(UZMA SYED)

ADVOCATE HIGH COURT

& Syed Noman Ali Bukhari
(SYED NOMAN ALI BUKHARI)

ADVOCATE HIGH COURT

Cell No: 0311-9440376

(7)

**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.**

Execution Petition No. 659 /2024

In

Service Appeal No. 1110/2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 13952

Dated 03-07-2024

Mr. Umar Hayat Ex-LHC No.516
Kohat Region, Kohat.

(Petitioner)

VERSUS

1. The Regional Police officer, Kohat Region, Kohat.
2. The District Police Officer, Kohat.

(Respondents)

.....
**EXECUTION PETITION FOR DIRECTING THE
RESPONDENTS TO IMPLEMENT THE
JUDGMENT DATED: 05/04/2022 OF THIS
HONORABLE TRIBUNAL IN LETTER AND
SPIRIT.**
.....

RESPECTFULLY SHEWETH:

1. That the applicant/Petitioner filed Service Appeal No-1110/2019 against the dismissal order.
2. That the said appeal was finally heard by the Honorable Tribunal on 05/04/2022. The Honorable Tribunal is kind enough to allow this appeal of appellant and convert the penalty of dismissal from service into penalty of censure and the appellant was re-instated into service with consequential benefits and the intervening period

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treated as leave without pay. **(Copy of judgment is attached as Annexure-A).**

3. That the appellant also filed application to respondents for the implementation of judgment.
4. That the respondents conditionally implemented the judgment vide order dated 02/12/2022 and re-instated the appellant into service and penalty of dismissal from service was converted in censure. But the said order was silent about consequential benefits and intervening period. **Cop of order is attached as annexure-B.**
5. That the appellant filed application for proper implementation but The grant of back benefits and other benefits was verbally refused to the petitioner and till date compliance was not made. **(Copy of Application is attached as Annexure-C).**
6. That the respondents were totally failed in taking action regarded the Hon'able Tribunal Judgment dated 05-04-2022 in true letter and spirit.
7. That the respondent totally violated the judgment of Hon'able Service Tribunal, is totally illegal amount to disobedience and Contempt of Court.
8. That the judgment is still in the field and has not been suspended or set aside by the Supreme Court of Pakistan, therefore, the respondents are legally bound to implemented the same in letter and spirit.
9. That the petitioner has having no other remedy to file this Execution Petition.

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It is, therefore, most humbly prayed that the respondents may be directed to obey the judgment dated 05/04/2023 of this august Tribunal in letter and spirit and the respondent may be directed to modify the order dated 02/12/2022 and issue order as per judgment and grant back benefits to appellant as per judgment. Any other remedy, which this august Tribunal deems fit and appropriate that, may also be awarded in favor of applicant/appellant.

عمر حیات
PETITIONER
Umar Hayat

THROUGH:

Uzma Syed
(UZMA SYED)
ADVOCATE HIGH COURT

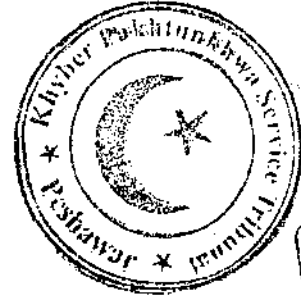
& Syed Noman Ali Bukhard
(SYED NOMAN ALI BUKHARD)
ADVOCATE HIGH COURT

AFFIDAVIT:

It is affirmed and declared that the contents of the above Execution Petition are true and correct to the best of my knowledge and belief.

عمر حیات
DEPONENT

ATTESTED
Syed Muhammad Raza Khan Advocate
Oath Commissioner
High Court Peshawar



**BEFORE THE HONBLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR**

In Re S.A. 1110 /2019

Umar Hayat Ex-LHC S/o Syed Badshah R/o
Mohallah Tor Chapari, Banda, Kohat

Khyber Pakhtunkhwa
Services Tribunal

Diary No. 12/16

Date 30/8/2019

----- (Appellant)

VERSUS

1. Regional Police Officer Kohat Region, Kohat.
2. District Police Officer Kohat.

----- (Respondents).

**APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICES TRIBUNAL
ACT -1974 AGAINST THE IMPUGNED
ORDER NO: 7329/EC, DATED 17/08/2019
OF THE REGIONAL POLICE OFFICER
KOHAT REGION, WHEREBY
DEPARTMENTAL APPEAL AGAINST
THE IMPUGNED ORDER DATED
24/05/2019 OF THE DISTRICT POLICE
OFFICER KOHAT, WHEREBY THE
APPELLANT HAS BEEN DISMISSED
FROM SERVICE, WAS DISMISSED AND
TURNED DOWN IN CLASSICALLY
CURSORY AND WHIMSICAL MANNER.**

Filed to-day

Registrar

30/8/19

Respectfully Sheweth;

1. That the appellant is a law abiding citizen and hails from a respectable family of District Kohat.

ATTESTED

Signature
Khyber Pakhtunkhwa
Services Tribunal
Peshawar

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**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.**

Service Appeal No. 1110/2019

BEFORE: MR. KALIM ARSHAD KHAN, ... CHAIRMAN
MR. MIAN MUHAMMAD, ... MEMBER(F)

Mr. Umar Hayat, Ex-LHC son of Syed Badshah R/O Mohallah Tor Chaari Banda, Kohat. (Appellant)

Versus

1. Regional Police Officer, Kohat Region, Kohat and
2. District Police Officer, Kohat.

SCANNED
PESHAWAR
(Respondents)

Mr. Javed Iqbal Gulbela, Advocate ... For appellant

Mr. Kabirullah Khattak, Addl. Advocate General ... For respondents.

Date of Institution.....30.08.2019
Date of Hearing.....04.04.2022
Date of Decision.....05.04.2022

JUDGMENT.

KALIM ARSHAD KHAN CHAIRMAN.- The appellant. Umar Hayat Ex-

LHC has filed the instant appeal against the order dated 24.05.2019 of the District Police Officer, Kohat, whereby, he was dismissed from service and against the order dated 17.08.2019 of Regional Police Officer, Kohat Region Kohat, whereby his departmental appeal was rejected.

2. As per the appeal, the appellant was appointed in the Police Department and had served for more than twenty years with devotion; that the appellant remained posted as DFC at the Police Station Jungle Khel Kohat for some time alongwith another DFC Namely Muhammad Sabeel; that during the trial of one case, titled "The State Vs. Nawab Khan" pending before the Court of learned Additional Sessions Judge-II Kohat; that vide order No. 09, dated 22.03.2019,

ATTESTED

the learned Judge not only attached salary of the appellant but also the DIG

MEMBER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Kohat Range and DPO Kohat were directed to take necessary action against the

appellant. That a show cause notice was issued to the appellant which was replied by him. That he was dismissed from service vide impugned office order dated 27.05.2019. Feeling aggrieved, he moved a departmental appeal which was also rejected on 17.08.2019, hence, the present appeal.

3. After admission of the appeal, reply was sought from the respondents, which was accordingly submitted, wherein it was contended that the appellant had earned in-different service record with numerous bad entries, found ill-reputed as charged in case FIR No.705 dated 01.05.2019 u/s 371-A/B PPC Police Station MRS Kohat. That the appellant was directed by the court of Additional Sessions Judge-II, Kohat for execution of non-bailable warrants against PWs in case FIR No.101 dated 07.03.2017 u/s 9-C CNSA Police Station Jungle Khel, Kohat but the appellant willfully disobeyed the lawful order of the competent court. That the act of appellant caused delay in conclusion of the prosecution case and the court vide order No.9 dated 22.03.2019 had directed the respondents for necessary action against the appellant. That a show cause notice was served upon the appellant and on completion of proceedings, he was awarded punishment on the above ground and his previous conduct as charged in a moral turpitude offence and earning bad name to Police Department.

4. We have heard the learned counsel for the appellant and learned Additional Advocate General for the Respondents.

5. It was urged by the learned counsel for the appellant reiterating the grounds taken in the appeal and submitted that the appellant was wrongly awarded major penalty. He prayed for acceptance of this appeal and reinstatement of the

appellant.

ATTESTED

EXAMINED
Khyber Pakhtunkhwa
Service Tribunal
Cashew

[Signature]
05/4/22

6. Conversely the learned Additional Advocate General opposed the arguments and submitted that the charge against the appellant stood established and he has appropriately been penalized.

7. The appellant was proceeded against departmentally on the basis of order sheet dated 22.03.2019 of learned Addl. Sessions Judge-II, Kohat which order sheet is reproduced as under:-

"Azhar Ali, Dy.PP for the State present. Accused absconding.PW, Qismat Khan, SHO present and examined as PW.5. Remaining PWs absent. Against them, even the process not properly served by the processing agency. In the circumstances, salary of DFC, Umar Hayat is hereby attached. Copy of this order sheet again be sent to the offices of the Worthy DIG, Kohat Range, Kohat and the DPO, Kohat for necessary action against the DFC concerned. Fresh NBW-A be issued against the remaining PWs and the prosecution is directed to produce its evidence by next date of hearing. Put up for prosecution evidence, for..."

8. The show cause notice under Rule 5(3) of the Khyber Pakhtunkhwa, Police Rules, 1975 (Amendment 2014) showed that the evidence of the appellant was required as PW by court of learned Additional Sessions Judge-II Kohat in Case FIR.No.101 dated 07.03.2017 U/S-9-C of the CNSA Police Station Jungle Khel, but despite repeated summons/warrants he did not appear before the Court. The court vide order dated 22.03.2019, took serious action that the appellant willfully disobeyed order of the court and also amounting to misconduct. The impugned order is shown to have been issued on 17.05.2019 which also reveals

ATTES

BY ORDER
 Dy. Sd. JUDGE
 District Court
 Kohat

that evidence of the appellant was required as PW by court of learned Additional Sessions Judge-II, Kohat but despite repeated summons/warrants, he deliberately did not appear before the court. In addition to the above, it was mentioned in the dismissal order that the DPO Kohat had gone through the record which he found indifferent. It was added that the accused official earned 28 bad entries in his whole service. He was charged in Case FIR No.705 dated 01.05.2019 U/S 371-AB PS MRS as accused No. 1 for running brothel House or supporting the same, hence the appellant was declared the black mole on the image of Khyber Pakhtunkhwa Police.(The underlining is ours) While exercising the powers conferred under Section 5(2) of Khyber Pakhtunkhwa Police Rules, 1975, the general proceedings were dispensed with and punishment of dismissal was imposed on the appellant.

9. It is to be observed at this juncture that the above underlined portion was not part of the show cause notice rather an unjustified addition in the dismissal order, which, as the record shows, was even not earlier confronted with the appellant.

10. When we go through Rule 5 sub rule-2 of Police Rules, 1975, it would reveal that an official can be awarded "*one of the minor punishments*" while the DPO Kohat in exercise of powers under Rule 5(2) "*could not award major punishment of dismissal from service*". Similarly, the show cause notice as well as impugned order both show that the evidence of the appellant was required by the learned Additional Sessions Judge-II Kohat and additional grounds taken by the DPO in the dismissal order that the appellant had 28 bad entries in his whole service and was also charged in a case FIR No. 705 dated 01.05.2019 u/s 371-AB PS MRS as accused No. 2, were also not in the show cause notice. In this particular case initiated on the order sheet of learned Additional Sessions Judge-II Kohat there was no reference of the case registered under Section 371-AB

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 1/22
 EX. M. ER.
 Khyber Pakhtunkhwa
 Police Rules, 1975

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PPC nor is there any evidence to be recorded in the case registered under Section 9-C of the CNSA, wherein the court of learned Additional Sessions Judge-II, Kohat had attached the salary of the appellant and the matter was sent to the DIG and the DPO Kohat for necessary action against the appellant.

11. The learned Additional Sessions Judge-II had himself taken a coercive measure by attaching the salary of the appellant and his alleged act was also not supported by any other evidence which could show his alleged misconduct thereby awarding him major punishment of dismissal from service. There is nothing said by the authority about the negligence of the appellant in executing the process of the court, or who marked that to the appellant or for that matter when/whether the process of the court was received by the appellant and against which witness etc, was there any sufficient time for the appellant to execute the process of the court are the questions which do not have answers and without any justified material, in the slipshod manner the DPO hastily proceeded against the appellant and while reaching a wrong conclusion, dismissed the appellant from the service. It appears that the DPO has not considered and evaluated the reply of the appellant given by him in response to the show cause notice, wherein he categorically submitted that he had served the process of the court and the witnesses got their statements recorded and the court passed/disposed of the case under Section 512 CrPC, therefore, at the most it was sluggishness of the appellant and for which awarding the major punishment of dismissal from service does not commensurate with the quantum of his guilt.

12. Therefore, on allowing this appeal we convert the major punishment of dismissal from service into minor penalty of censure under Rule 4(1)(a)(ii) of the Police Rules, 1975. The appellant is reinstated in service, with the consequential benefits. The intervening period be treated as leave of the kind:

We direct that costs shall abide by the result of this appeal. Consign.

ATTESTED
EXAMINER
19/11/2018

13. Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal this 05th day of April, 2022.

(Handwritten signature)

(KALIM ARSHAD KHAN)
Chairman

(Handwritten signature)

(MIAN MUHAMMAD)
Member (E)



TESTED
(Handwritten signature)
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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Date of Completion of Copy 01-7-22
Date of Delivery of Copy 01-7-22

B-11

POLICE DEPARTMENT

DISTRICT KOHAT

ORDER

In compliance with the judgment dated 05.04.2022, passed by Khyber Pakhtunkhwa the Service Tribunal Peshawar in service appeal No.1110/2019 and approval of competent authority vide CPO letter No.3008/ Legal dated 21.06.2022, the major punishment of dismissal from service awarded to Ex-LHC Umar Hayat No.516 is hereby converted into penalty of censure under Rule 4 (1) (a) (ii) of the Police Rules, 1975 conditionally / provisionally subject to the outcome of CPLA, filed against the impugned judgment before August Supreme Court of Pakistan.

OB NO. 652 /SRC
Dated. 1-12-2022


DISTRICT POLICE OFFICER,
KOHAT

OFFICE OF THE DISTRICT POLICE OFFICER KOHAT

No 11524-26/SRC, dated Kohat the 2-12 /2022.

Copy of above to DSP Legal /Reader /SRC /OHC for information and necessary action.

Handwritten signature
ATTESTED

بعدالت

صاحب مدعا کی درخواست پر فیصلہ

2024ء منجانب مدعا کی طرف
مقررہ بنام موکل کی درخواست پر

موردہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام لکھنؤ کے لیے غلطی سے درج ذیل مقررہ
مقررہ کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے کے تقرر ثالث و فیصلہ پر حلف دیے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک دروپہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی بڑائی
اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا محتاج 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 مذکور با اختیارات حاصل ہوں گے
اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جائہ التوائے مقدمہ ہوں گے
سبب سے وہوگا۔ 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 سند ہے۔

المرقوم 07 - 03 - 2024ء

واہ علیہ السلام
2024