


## Form- A

## FORM OF ORDER SHEET

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

Implementation Petition No. 662/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	05.07.2024	<p>The implementation petition of Mr. Amjad Ali submitted today by Mr. Fazal Shah Mohmand Advocate. It is fixed for implementation report before Single Bench at Peshawar on 10.07.2024. 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  REGISTRAR</p>

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**

**PESHAWAR**

Implementation Petition No 662 /2024

In

Implementation petition No. 155/2021

In

Service Appeal No. 1458/2018

Amjad Ali .....Applicant/Appellant.

**V E R S U S**

PPO and Others .....Respondents

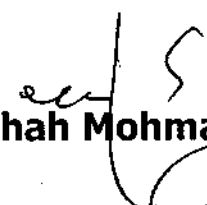


**I N D E X**

S.No	Description of documents	Annexure	Pages
1.	implementation Petition with Affidavit		1 - 2
2.	Copy of the Order and Judgment dated 08.07.2021	A	3 - 7
3.	Copy of Implementation Petition & Order dated 13-06-2023	B & C	8 - 10
4.	Wakalat Nama		11

**Dated:-04.07.2024**

  
**Applicant/Petitioner**

**Through**

  
**Fazal Shah Mohmand ASC**  
  
**Baseer Ahmad Shah**  
&  
**Ibad Ur Rehman Khalil**  
**Advocates Peshawar.** 

**OFFICE:- Cantonment Plaza Flat 3/B Khyber Bazar Peshawar Cell #  
0301-8804841**

-1-

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**

**PESHAWAR**

Implementation Petition No 662 /2024

In

Implementation petition No. 155/2021

In

Service Appeal No. 1458/2018

Amjad Ali, Inspector No 305-P, Incharge Security Peshawar High Court  
Peshawar. ....Appellant.

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 14627

Dated 05/07/2024

**V E R S U S**

1. Provincial Police officer, Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police officer Peshawar.
3. Superintendent of Police, Headquarters Peshawar.

.....Respondents

**IMPLEMENTATION PETITION UNDER SECTION 7 OF THE  
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 FOR  
THE IMPLEMENTATION OF ORDER/JUDGMENT DATED 08-07-  
2021 PASSED BY THIS HONORABLE TRIBUNAL IN THE ABOVE  
TITLED SERVICE APPEAL.**

**Respectfully Submitted:-**

1. That the applicant/appellant earlier filed Service Appeal No. 1458/2018 before this honorable Tribunal for his confirmation as sub- inspector w.e.f 10-09-2012, i.e the date when his colleagues were confirmed which was accepted with the direction to respondents to confirm the appellant as sub- inspector with effect from the date when his colleagues and juniors were confirmed , as well as to place him in due place in the seniority list with all benefits vide order/judgment dated 08-07-2021 . **(Copy of the Order/Judgment dated 08.07.2021 is enclosed as Annexure A).**
2. That the applicant/appellant earlier filed the execution petition No 155/2021 which was disposed off vide order dated 13-06-2023 in the light of the commitment of the respondents that the petitioner would be promoted to the rank of DSP in the next DPC and the petitioner was allowed if the desired relief is not granted as per the

commitment he may file fresh petition..(Copy of implementation petition & Order dated 13-06-2023 are enclosed as Annexure B & C).

- 3. That the respondents are not ready to implement the Order/ Judgment of this honorable Tribunal dated 08-07-2021 in its true spirit for no legal and valid reasons, this act of the respondents is unlawful, unconstitutional and goes against the Orders and Judgment dated 08-07-2021 of this honorable Tribunal.
- 4. That noncompliance of the order of this honorable Tribunal, speaks malafide on part of the respondents and they are bent upon to lower the position of the judiciary in the eyes of the public at large.

**It is therefore prayed, that on acceptance of this Application/Petition, respondents may kindly be directed to implement the Order and Judgment of this honorable Tribunal dated 08-07-2021 passed in Service Appeal No 1458/2018 in its true letter and spirit.**

**Dated:-04.07.2024**

**Applicant/Petitioner**

**Through**

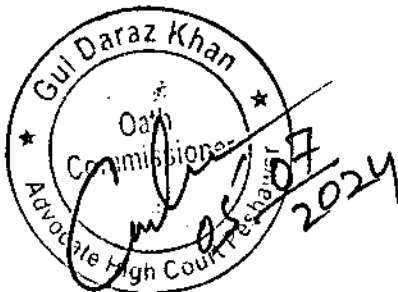
**Fazal Shah Mohmand ASC**

**Baseer Ahmad Shah**

**&**

**Ibad Ur Rehman Khan**

**Advocates Peshawar**



**AFFIDAVIT**

I, Amjad Ali, Inspector No 305-P, Incharge Security Peshawar High Court Peshawar, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Implementation Petition** are true and correct to the best of my knowledge and believe.

**DEPONENT**

-3- ee A"



**BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR**

Service Appeal No 1458/2018

Amjad Ali, inspector, No 305-P, Incharge Security Peshawar High Court Peshawar. .... **Appellant**

**V E R S U S**

1. Provincial Police Officer KPK Peshawar.
2. Capital City Police Officer Peshawar.
3. Superintendent of Police, Headquarters Peshawar.

**Khyber Pakhtunkhwa Service Tribunal**

Diary No. 1725

Dated 05/12/2018

..... **Respondents**

**APPEAL U/S 4 OF THE KPK SERVICE TRIBUNAL ACT 1974 FOR ANTE-DATED CONFIRMATION OF THE APPELLANT AS SUB INSPECTOR W.E.F 10-10-2012 FOR WHICH HIS DEPARTMENTAL APPEAL DATED 17-08-2018 HAS NOT BEEN RESPONDED SO FAR DESPITE THE LAPSE OF STAUTORY PERIOD OF NINETY DAYS.**

**PRAYER:-**

On acceptance of this appeal the appellant may kindly be confirmed as Sub Inspector w.e.f. 10-10-2012 i, e from the date when his colleagues/junior to him were confirmed as Sub Inspector with due seniority in List "F" with all back benefits.

**Respectfully Submitted:-**

1. That the appellant was appointed as Assistant Sub Inspector upon the recommendations of KP Public Service Commission along with ten others vide Notification dated 05-01-2007 of District Peshawar. **(Copy of Notification dated 05-01-2007 is enclosed as Annexure A).**
2. That the appellant along with 36 others was confirmed as Assistant Sub Inspector and their names were brought on promotion List "E" vide Notification dated 01-10-2010 and was promoted as Officiating Sub Inspector. **(Copy of Notification dated 01-01-2010 is enclosed as Annexure B).**

Filed to-day  
Registrar  
5/12/18

**ATTESTED**  
*[Signature]*  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar  
28/6/18

That according to Police Rules, the appellant was required to have been confirmed as Sub Inspector after satisfactory service for two years, but he was not confirmed for the reason that he has not been, posted as SHO/OI, independent Incharge of Police Station for one year, in time while his other colleagues including even juniors to him were confirmed in the rank of Sub Inspectors depriving the appellant, vide Notification dated 10-

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 1458/2018

Date of Institution ... 05.12.2018

Date of Decision ... 08.07.2021



Amjad Ali, Inspector, No.305-P Incharge Security Peshawar High Court Peshawar  
... (Appellant)

VERSUS

Provincial Police Officer Khyber Pakhtunkhwa Peshawar and two others.  
... (Respondents)

FAZAL SHAH MOHMAND  
Advocate ... For Appellant

MUHAMMAD RASHEED KHAN  
Deputy District Attorney ... For Respondents

MR. SALAH-U-DIN ... MEMBER (JUDICIAL)  
MR. ATIQ UR REHMAN WAZIR ... MEMBER (EXECUTIVE)

**JUDGMENT**

**Mr. ATIQ UR REHMAN WAZIR MEMBER (E):-** Brief facts of the case are that the appellant was promoted as officiating Sub Inspector(SI) on 01-01-2010 but was not confirmed as SI after satisfactory service for two years, whereas his other colleagues including his juniors were confirmed in the rank of SI vide order dated 10-09-2012. Finally, the appellant was confirmed as sub inspector vide order dated 13-07-2015 but with immediate effect, against which the appellant filed departmental appeal, which was not responded to, hence the instant service appeal with prayers that the appellant may be confirmed as sub inspector w.e.f

**ATTESTED**

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar  
20/6/21

10-09-2012, the date when his other colleagues/juniors were confirmed with due seniority in list F with all back benefits.

02. Written reply/comments were submitted by respondents.

03. Arguments heard and record perused.

04. Learned counsel for the appellant has contended that the appellant was not confirmed as SI along with his colleagues due to the reason that during the tenure as officiating sub inspector, he did not serve in independent charge of a police station, a notified police post or as in-charge investigation of a police station or in counter terrorism department. Learned counsel for the appellant further contended that such postings were beyond control of the appellant; that according to Police Rules 13:18, it was the legal right of the appellant to be confirmed as SI after lapse of two years, but in case of appellant, the said rules have not been observed; That finally the appellant was confirmed vide order dated 13-07-2015 but with immediate effect instead of 10-09-2012 and was included to list F, whereas his other colleagues and juniors were confirmed on 10-09-2012 and were accorded seniority accordingly, the appellant too, as such is entitled to ante-dated confirmation as SI w.e.f 10-09-2012, but he was not treated accordingly. Learned counsel for the appellant further contended that similar nature cases have already been accepted by this Tribunal and the appellant is also entitled to same relief under the principles of equity and consistency. Reliance was placed on CP No. 538-P. of 2003, Service Appeal No. 1602/2010, Service Appeal No. 1450/2013, Service Appeal No. 1227/2013, Service Appeal No. 1021/2015 and Service Appeal No. 271/2018. Learned counsel for the appellant added that the appellant has not been treated in accordance with law and rule and was deprived of his legal rights in arbitrary and illegal manner. On the question of limitation, learned counsel for the appellant added that in matter of promotion, seniority, pay and other emoluments, limitation

ATTESTED

EXAMINER

Chyler Pakhtukhwa

Service Tribunal

Peshawar

would not foreclose his right accrued to him. Reliance was placed on 2002 PLC (CS) 1388, 2009 PLC (CS) 178 and 1999 SCMR 880. Learned counsel for the appellant prayed that on acceptance of this appeal, the appellant may be confirmed as SI w.e.f 10-09-2012, the date when his colleague/juniors were confirmed with due seniority in list F and with all back benefits.

05. Learned Deputy District Attorney appeared on behalf of official respondents have contended that confirmation in the rank of SI is subject to fulfillment of rule 13:10(2) and standing order issued by the provincial police officer from time to time; that the appellant was required to qualify the requisite criteria for confirmation in the rank of SI. Learned Deputy District Attorney further contended that the appellant was confirmed as SI, when he fulfilled the mandatory requirements and orders are issued with immediate effect and not with retrospective effect as per law and rule. Learned Deputy District Attorney added that other colleagues/ juniors of the appellant were promoted after fulfilling the requisite criteria. Learned Deputy District Attorney further added that posting/transfer on independent position are made after examining professional skills and ability of suitable officers; that the appellant was treated in accordance with law and his appeal being devoid of merit may be dismissed.

06: We have heard learned counsel for the parties and have perused the record. Record reveals that the only reason for non-confirmation of the appellant as SI was that the appellant had not fulfilled the criteria envisaged in 13:10(2) of Police Rules, 1934, which is reproduced as under:

**ATTESTED** "No Sub-Inspector shall be confirmed in substantial vacancy unless he has been tested for a year of an officiating Sub-Inspector in independent charge of a Police Station, a notified police post, or as in-charge investigation of a police station or in counter terrorism department."

**EXAMINED**  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar


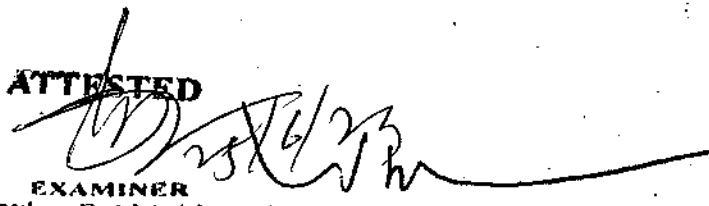
To this effect the worthy Apex Court as well as this Tribunal, in numerous judgments have held that condition of postings as envisaged in the rule *ibid*, as



impediment in the way of confirmation as SI was not attributable to the appellant because postings were beyond control of the appellant, which powers rests with the competent authority and subordinate officials cannot be punished for such administrative lapses on part of the relevant authority, hence depriving him from being confirmed in the rank of SI along with his batch-mates would tantamount to his deprivation from further progression, which was not justified. It was also noted that respondents totally ignore Rule-13:18 of Police Rules, 1934, wherein it is laid down that all police officers promoted in rank shall be on probation for two years, provided that the appointing authority may, by a special order in each case, permit periods of officiating service to count towards a period of probation. On the conclusion of probation period a report shall be rendered to the authority empowered to confirm the promotion who shall either confirm the officer or revert him.

07. In view of the foregoing discussion, we are of the considered opinion that case of the appellant is similar in nature with the cases already decided by this Tribunal as well as by the apex court, as referred to by counsel of the appellant. For the reasons, we are inclined to accept the present appeal with directions to the respondents to confirm the appellant as SI from the date when his other colleagues were confirmed, as well as place him in due place in the seniority list. The appellant is also held entitled to all consequential benefits, if any. Parties are left to bear their own costs. File be consigned to record room.

**ANNOUNCED**  
**08.07.2021**

**ATTESTED**  
**EXAMINER**  
**Khyber Pakhtunkhwa**  
**Service Tribunal**  
**Feohawar**

**(SALAH-U-DIN)**  
**MEMBER (JUDICIAL)**

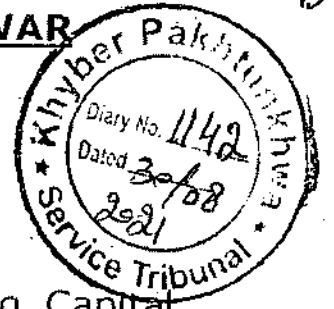
**(ATIQ UR REHMAN WAZIR)**  
**MEMBER (EXECUTIVE)**

Date of Presentation of Application 25/6/2024  
Number of Words Page 5  
Copying Fee 25/-  
Urgent 5/10  
Total 30/-  
Name of Copyist \_\_\_\_\_  
Date of Completion of Copy 25/6/2024  
Date of Delivery of Copy 25/6/2024

(1) -8 "B"

**BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR**

Implementation Petition No 155 /2021  
In  
Service Appeal No 1458/2018



Amjid Ali, Inspector No 305-P, Investigation Wing Capital  
City Police, Peshawar. .... **Appellant/Petitioner**

**V E R S U S**

1. Provincial Police Officer, Khyber Pakhtunkhwa Peshawar.
2. Capital City Police Officer, Peshawar.
3. Superintendent of Police Headquarters, Peshawar.




.....**Respondents**

**PETITION FOR THE IMPLEMENTATION OF  
ORDER/JUDGMENT DATED 08-07-2021 PASSED  
BY THIS HONORABLE TRIBUNAL IN THE ABOVE  
TITLED SERVICE APPEAL.**

**Respectfully Submitted:-**

1. That the Petitioner/appellant earlier filed Service Appeal No 1458/2018 for his confirmation as Sub Inspector w. e. f. 10-09-2012, i.e the date when his colleagues were confirmed which was accepted vide Order/Judgment dated 08-07-2021, the petitioner was ordered to be confirmed as SI from the date when his other colleagues were confirmed, as well as to place him in due place in the seniority list with all benefits. **(Copy of the Order and Judgment is enclosed as Annexure A).**

**ATTESTED**  
  
**EXAMINER**  
**Khyber Pakhtunkhwa**  
**Service Tribunal**  
**Peshawar**

2. That the Petitioner/appellant after obtaining attested copy of the stated Order/Judgment of this honorable Tribunal approached respondents which was duly forwarded but with no further proceedings till date.

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-9-

3. That the respondents are not ready to implement the Order and Judgment of this honorable Tribunal in its true spirit for no legal and valid reasons, this act of the respondents is unlawful, unconstitutional and goes against the Orders and Judgment dated 08-07-2021 of this honorable Tribunal.

It is therefore prayed, that on acceptance of this Application/Petition, respondents may kindly be directed to implement the Order and Judgment of this honorable Tribunal dated 08-07-2021 passed in Service Appeal No 1458/2018.

Dated:-27.08.2021

*[Signature]*  
Applicant/Petitioner

Through

*[Signature]*  
**FAZAL SHAH MOHMAND**  
ADVOCATE,  
SUPREME COURT OF PAKISTAN.

**AFFIDAVIT**

I, Amjid Ali, Inspector No 305-P, Investigation Wing Capital City Police, Peshawar, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Implementation Petition** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

*[Signature]*  
**DEPONENT**

**ATTSTED**  
*[Signature]*  
**EXAMINER**  
Khyber Pakhtunkhwa  
Service



E.P. No. 155/2024

Amjad Ali vs Govt

-10- "C"

13<sup>th</sup> June, 2023



1. Junior to counsel for the petitioner present. Mr. Muhammad Jan, District Attorney alongwith Mr. Tariq Umar DSP (Legal) for the respondents present.

2. Representative of the respondents referred to the commitment made by the judgment debtors in Para-5 & 6 of the so called objection petition and in the prayer part, it was further reiterated that the petitioner would be promoted to the rank of DSP in the next DPC once he come back to complete the requisite advance course. This being so, there is no need to proceed further to this matter, therefore, it is filed. The petitioner is, however, at liberty that once his advance course is completed and he thinks that the desired relief has not been granted as committed by judgement debtors, he may file fresh application. Consign.

3. Pronounced in open court in Peshawar and given under my hand and seal of the Tribunal on this 13<sup>th</sup> day of June, 2023.

ATTESTED

*[Signature]*  
25/6/24  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

*[Signature]*  
(Kalim Arshad Khan)  
Chairman

\*Adnan Shah, P.A.\*

Date of Presentation of Application 25/6/24  
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Date of Completion of Copy 25/6/24  
Date of Delivery of Copy 25/6/24

Accepted

W. J. F. G.

Accepted

Attached

مقام

پتہ

\_\_\_\_\_

2023 07 05

مقام پر داخل ہونے پر آپ کے پاس تمام دستاویزات موجود ہیں۔ آپ کو اپنی مرضی کے مطابق ان کو اپنی مرضی کے مطابق فراہم کیا جائیگا۔  
 آپ کو اپنی مرضی کے مطابق فراہم کیا جائیگا۔  
 آپ کو اپنی مرضی کے مطابق فراہم کیا جائیگا۔  
 آپ کو اپنی مرضی کے مطابق فراہم کیا جائیگا۔

محکمہ اعلیٰ

بمقام سربراہ

SA No. 1458/2018  
 ڈپٹی  
 محکمہ  
 وزارت

بمقام  
 اعلیٰ  
 محکمہ

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مقام