


Form- A

FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 665/2024

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. Zafran Ullah submitted today by Mr. Taimur Ali Khan 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,</p> <p> REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Execution petition No. 665/2024
In Service Appeal No.1737/2023

Zafran Ullah

V/S

Police Department

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S.No.	Documents	Annexure	P. No.
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4	Copy of application	C	12
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PETITIONER

THROUGH:

(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT
Cell# 0333-9390916

& 
(SHAKIR ULLAH TORANI)
ADVOACTE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Execution Petition No. 665 /2024
In Service Appeal No.1737/2023

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 14043

Dated 05/07/2024

Zafran Ullah, Ex-Constable No.4542,
District Security Branch, Peshawar.

PETITIONER

VERSUS

1. The Provincial Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Capital City Police Officer, Peshawar.
3. The Senior Superintendent of Police (Operation), Peshawar.

RESPONDENTS

.....

**EXECUTION PETITION FOR DIRECTING THE
RESPONDENTS TO IMPLEMENT THE
JUDGMENT DATED: 25.04.2024 OF THIS
HONOURABLE TRIBUNAL IN LETTER AND
SPIRIT.**

.....

RESPECTFULLY SHEWETH:

1. That the petitioner has filed Service Appeal No.1737/2023 in this Tribunal against the order dated 07.12.2021, whereby the petitioner has been removed from the service. Against the order dated 25.03.2022, whereby the departmental appeal of the petitioner has rejected and against the order dated 17.08.2023, whereby the revision of the petitioner was also rejected. **(Copy of memo of appeal is attached as Annexure-A)**
2. That the said appeal was heard and decided by this Honorable Tribunal on 25.04.2024 and the Honorable Tribunal allowed the appeal of the petitioner as prayed for. **(Copy of judgment 25.04.2024 is attached as Annexure-B)**
3. That the petitioner also filed application on 20.05.2024 to implement the judgment dated 25.04.2024, but no action has taken

on his application by implementing the judgment dated 25.04.2024. (Copy of application is attached as Annexure-C)

- 4. That the Honorable Service Tribunal reinstated the petitioner by accepting his appeal in its judgment dated 25.04.2024, but after the lapse of about more than two months the petitioner was not reinstated by the respondents by implementing the judgment dated 25.04.2024 of this Honorable Tribunal.
- 5. That in-action and not fulfilling formal requirements by the department after passing the judgment of this Honorable Tribunal, is totally illegal amount to disobedience and Contempt of Court.
- 6. That the judgment is still in the field and has not been suspended or set aside by the Supreme Court of Pakistan, therefore, the department is legally bound to obey the judgment dated 25.04.2024 of this Honorable Tribunal in letter and spirit.
- 7. That the petitioner has having no other remedy except to file this execution petition in this Honorable Tribunal.

It is, therefore, most humbly prayed that the respondents may be directed to implement the judgment dated 25.04.2024 of this Honorable Tribunal in letter and spirit. Any other remedy, which this Honorable Tribunal deems fit and appropriate that, may also be awarded in favour of petitioner.

Zafran
PETITIONER
Zafran Ullah

THROUGH:

[Signature]
(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT
& *[Signature]*
(SHAKIR ULLAH TORANI)
ADVOACTE

AFFIDAVIT:

It is affirmed and declared that the contents of the execution petition are true and correct to the best of my knowledge and belief.

Zafran
DEPONENT



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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. 1737/2023

Zafran Ullah, Ex-Constable No.4542,
District Security Branch, Peshawar.

(APPELLANT)

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Capital City Police Officer, Peshawar.
3. The Senior Superintendent of Police, (Operation) Peshawar.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 07.12.2021, WHEREBY MAJOR PUNISHMENT OF REMOVAL FROM SERVICE WAS IMPOSED UPON THE APPELLANT, AGAINST THE ORDER DATED 25.03.2022, WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS REJECTED AND AGAINST THE ORDER DATED 09.02.2023 RECEIVED BY THE APPELLANT ON 17.08.2023, WHEREBY THE REVISION OF THE APPELLANT WAS ALSO REJECTED FOR NO GOOD GROUNDS.

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 07.12.2021, 25.03.2022 AND 09.02.2023 MAY KINDLY BE SET ASIDE AND THE APPELLANT MAY BE REINSTATED INTO HIS SERVICE WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY, WHICH THIS HONORABLE TRIBUNAL DEEMS FIT AND APPROPRIATE THAT, MAY ALSO, BE AWARDED IN FAVOUR OF APPELLANT.

~~ATTSTEL~~

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RESPECTFULLY SHEWETH:

FACTS:

1. That the appellant was appointed in the respondent department as Constable and has completed mandatory training and has performed his duty with great devotion and honesty, whatsoever assigned to him and no complaint has been filed against him regarding his performing.
2. That the appellant was performing his duty in District Security Branch, Peshawar and has received commendation certificate with cash reward for his excellent performance. **(Copy of appreciation certificate is attached as Annexure-A)**
3. That the appellant while performing his duty in such capacity, charge sheet along with statement of allegations were issued to the appellant which was properly replied by the appellant in which he denied the allegations and gave the real facts about the issue. **(Copies of charge sheet along with the statement of allegations and reply are attached as Annexure-A&B)**
4. That inquiry was conducted against the appellant in which no proper opportunity of defense was provided to the appellant as neither statements were recorded in the presence of the appellant nor gave him opportunity of cross examination, but despite the inquiry officer recommended him for major punishment. **(Copy of inquiry is attached as Annexure-C)**
5. That show cause notice was issued to the appellant which was replied by the appellant in which he again denied the allegations and gave facts about the issue. **(Copies of show cause notice and reply are attached as Annexure-D&E)**
6. That on the basis of above allegations and without conducting regular and proper inquiry to dig out the reality about the allegations, the appellant was removed from service vide order dated 07.12.2021. **(Copy of removal order dated 07.12.2021 is attached as Annexure-F)**
7. That the appellant filed departmental against dismissal order dated 07.12.2021, which was rejected on 25.03.2022. The appellant then filed revision on 28.03.2022, which was also rejected on 09.02.2023 for no good grounds, however, the rejection order dated 09.02.2023 was never communicated to the appellant and the appellant received the rejection order dated 09.02.2023 through an application dated 17.08.2023. **(Copies of departmental appeal, order dated**

ATTSTED

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25.03.2022 revision, application and order dated 09.02.2023 are attached as Annexure-G,H,I,J&K).

8. That the appellant has no other remedy except to file the instant appeal in this Honorable Tribunal for redressal of his grievance on the following grounds amongst others.

GROUND:

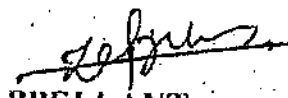
- A) That the impugned orders dated 07.12.2021, 25.03.2022 and 09.02.2023 are against the law, facts, norms of justice and material on record, therefore, not tenable and liable to be set aside.
- B) That no proper and regular inquiry was conducted against the appellant because no opportunity of defense was provided to the appellant as neither statements were recorded in the presence of the appellant nor gave him opportunity of cross examination, which is violation of law and rules and such the impugned order is liable to be set aside on this ground alone.
- C) That inquiry officer mainly relied on the statement of SI Zulfikar ASHO Jumrad and SI Zia Ullah Khan IO without conducting proper and regular inquiry to dig out the reality about the allegations and gave it finding on presumption basis, which is not permissible under the law.
- D) That the appellant was arrayed in the case vide FIR No.319 dated 09.09.2021 u/s 9D, 13 KPK Act 15AA, 109, 419, 468, 471, 420 P.S Jamrud on the basis of statement of accused namely Najeeb Ullah u/s 163, however, the appellant was discharged by the competent Court of law on 04.01.2021 on the basis that beside the statement of co-accused, no evidence is available against the Zafran (appellant). (Copy of order dated 04.01.2021 is attached as Annexure-L)
- E) That no corroborative evidence was present against the appellant and due to that reason the competent court of law discharge him, but respondent department took action against the appellant on presumption basis which is against the norms of justice and fair play.
- F) The appellant who was arrayed in the case vide FIR No.319 dated 09.09.2021 u/s 9D, 13 KPK Act 15AA, 109, 419, 468, 471, 420 P.S Jamrud on the basis of statement of accused namely Najeeb Ullah u/s 163, however, he was discharged by the competent Court of law on 04.01.2021 on the reason that no evidence is available against the Zafran (appellant), therefore, there remain no ground to penalize the appellant.

ATTSTED


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- G) That the appellant has not been treated in accordance with law and rules and has been condemned unheard throughout.
- H) That the appellant seeks permission of this Honorable Tribunal to advance others grounds and proofs at the time of hearing.

It is, therefore most humbly prayed that on the acceptance of this appeal, the order dated 07.12.2021, 25.03.2022 and 09.02.2023 may kindly be set aside and the appellant may be reinstated into his service with all back and consequential benefits. Any other remedy, which this honorable tribunal deems fit and appropriate that, may also, be awarded in favour of appellant.


APPELLANT
Zafran Ullah

THROUGH:


(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT

ATTSTED

B

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1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 1737/2023

BEFORE: MRS. RASHIDA BANO ... MEMBER (J)
MISS FAREEHA PAUL ... MEMBER (E)

Zafran Ullah, Ex-Constable No. 4542, District Security Branch, Peshawar.
.....(Appellant)

Versus

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
 2. The Capital City Police Officer, Peshawar.
 3. The Senior Superintendent of Police (Operation), Peshawar.
-(Respondents)

Mr. Taimur Ali Khan,
Advocate ... For appellant

Mr. Asif Masood Ali Shah,
Deputy District Attorney ... For respondents

Date of Institution..... 25.08.2023
Date of Hearing..... 25.04.2024
Date of Decision..... 25.04.2024

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 07.12.2021, whereby major punishment of removal from service was imposed upon the appellant, against the order dated 25.03.2022, whereby the departmental appeal of the appellant was rejected and against the order dated 09.02.2023 received by him on 17.08.2023, whereby his revision petition was also rejected. It has been prayed that on acceptance of the appeal, the impugned orders might be set aside and the appellant might be reinstated into service with all back and consequential benefits, alongwith any other remedy which the Tribunal deemed appropriate.


ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was appointed as Constable in the respondent department. During his service, charge sheet alongwith statement of allegations was issued to him which was properly replied by him in which he denied the allegations leveled against him and gave the real facts about the issue. Inquiry was conducted in which no proper opportunity of defence was provided to him as neither statements of witnesses were recorded in his presence nor he was given any opportunity of cross-examination, after which the Inquiry Officer recommended him for major punishment. Show cause notice was issued to him which was replied in which he again denied the allegations. He was removed from service vide impugned order dated 07.12.2021. Feeling aggrieved, the appellant filed departmental appeal which was rejected on 25.03.2022. He filed revision petition on 28.03.2022, which was also rejected on 09.02.2023, which was never communicated to him and he received the same through application submitted by him on 17.08.2023; hence the instant service appeal.

3. Respondents were put on notice who submitted their joint parawise 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 against the law, facts, norms of justice and material on record, therefore, not tenable in the eyes of law and liable to be set aside. He further argued that no proper and regular inquiry was conducted in the matter and no opportunity of defence was provided to him as neither

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar




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statements were recorded in his presence nor opportunity of cross examination was afforded to him which was mandatory under the law. The Inquiry Officer mainly relied on the statement of S.I Zulfiqar ASHO Jamrud and S.I Zia Ullah Khan, I.O without conducting proper and regular inquiry to dig out the real fact about the allegations and gave his findings on presumption which was not permissible under the law. He argued that the appellant was arrayed in the case vide FIR No. 319 dated 09.09.2021 u/s 9D, 13 KPK Act 15AA, 109, 419, 468, 471, 420 P.S Jamrud on the basis of statement of accused namely Najeeb Ullah u/s 163, however, the appellant was discharged by the competent court of law on 04.01.2021 on the basis that beside the statement of co-accused, no evidence was available against the appellant. He argued that no corroborative evidence was presented against the appellant but the respondent department took action against him on the basis of presumptions. He requested that the appeal might be accepted.

5. Learned Deputy District Attorney, while rebutting the arguments of learned counsel for the appellant, argued that performance of the appellant during service was not up to the mark and he committed gross misconduct by giving secret information to criminals and brought a bad name for the entire police force. He argued that the appellant, while posted to District Security Branch, Peshawar, was proceeded against departmentally on the charges of his involvement in the objectionable activities, having nexus with organized criminals and drug paddlers, with the intention of personal gain. He was issued charge sheet alongwith statement of allegations which was replied by him but the same was found unsatisfactory. The Superintendent of Police Cantt.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar



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Peshawar was appointed as Enquiry Officer. During the course of enquiry, the appellant was provided full opportunity of personal hearing, his statement was also recorded and he was given an opportunity of verbal cross examination, but he failed to rebut the charges leveled against him. The Enquiry Officer established his links with narcotics dealers and sharing sensitive information with them. The appellant was found guilty of the charges beyond any shadow of doubt and after fulfilling all the codal formalities, he was awarded the major punishment. He requested that the appeal might be dismissed.

6. The appellant was proceeded against departmentally on the charges of having links with criminals and drug peddlers. The allegations read as follows:-

"It has been learnt from reliable sources that he while posted in District Security Branch, Peshawar was hand in gloves with organized criminals and drug paddlers. Similarly he was reportedly patronizing his illegal activities with the intention for personal gain. Being a member of the disciplined force, his above act comes within the ambit of corruption and is highly objectionable and render himself liable for disciplinary proceedings under Police (Efficiency & Disciplinary) Rules, 1975."

7. While going through the inquiry report, it was noted that the inquiry officer based his findings on statements of two police personnels; one of them was S.I Zulfikar who was ASHO, P.S Jamrud where the FIR was registered and the other was S.I Ziaullah Khan who was the Investigation Officer of the case. He also took into account some audio recordings provided by the ASHO Zulfikar P.S Jamrud. Two points were worth to note in the allegation against

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Commission
Peshawar



the appellant, one, "reliable sources" and second, "he was reportedly patronizing his illegal activities.....". Both these allegations are vague; neither reliable sources nor illegal activities have been defined and clearly mentioned. The inquiry report is also silent whether the reliable sources, reports regarding patronizing his illegal activities and audio recording were placed before the appellant and he was given an opportunity of cross examination. This shows that the requirements of fair trial were not fulfilled. The entire procedure looks like a one sided affair and is not tenable in the eyes of law.

8. In view of the above discussion, the appeal in hand is allowed as prayed for. Cost shall follow the event. Consign.


9. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 25th day of April, 2024.


(FARZEHA PAUL)
Member (I)


(RASHIDA BANO)
Member (I)

FazleSubhan P.S

ATTESTED


EXAMINER
Shaher Pakhtunkhwa
Service Tribunal
Peshawar
05/7/24

Date of Presentation of Application 05/7/24
 Number of Words 51
 Copying Fee 25/-
 Urgent 5/-
 Total 30/-
 Name of Copyist _____
 Date of Completion of Copy 05/7/24
 Date of Delivery of Copy 05/7/24

مذکورہ گزارش کی ایک کاپی ہے کہ میں اس کی کو SSI/1757/2024
 آرڈر نمبر 1757/2024 کے تحت جاری کیا گیا ہے۔ یہاں مذکورہ تمام باتوں کے
 خلاف مزید سے 1757/2024 کے تحت جاری کیا گیا ہے۔ یہاں مذکورہ تمام باتوں کے
 دیکھ کر اس کے خلاف مزید سے 1757/2024 کے تحت جاری کیا گیا ہے۔ یہاں مذکورہ تمام باتوں کے
 پیشبردگاہی کے لئے اس کے خلاف مزید سے 1757/2024 کے تحت جاری کیا گیا ہے۔ یہاں مذکورہ تمام باتوں کے
 پتہ: 25-04-2024 کو اس کی نوکری پر عمل کرنے سے انکماات صادر کرنے

اس سلسلہ میں مزید سے 1757/2024 کے تحت جاری کیا گیا ہے۔ یہاں مذکورہ تمام باتوں کے
 اس کے خلاف مزید سے 1757/2024 کے تحت جاری کیا گیا ہے۔ یہاں مذکورہ تمام باتوں کے
 اس کے خلاف مزید سے 1757/2024 کے تحت جاری کیا گیا ہے۔ یہاں مذکورہ تمام باتوں کے

مزید سے 1757/2024 کے تحت جاری کیا گیا ہے۔ یہاں مذکورہ تمام باتوں کے

اعمالی

آئیڈیو کا نام: زمانہ پبلشنگز
 زمیندار: الزمیر الزمیر
 DSB برائے جی سی سی

صفحہ 20
 2024



ATTSTEE

13

VAKALAT NAMA

NO. _____/2024

IN THE COURT OF Khyber Pakhtun Khwa Service Tribunal Peshawar

Zafraan Ullah (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Police Deptt (Respondent)
(Defendant)

I/We, Zafraan Ullah

Do hereby appoint and constitute **TAIMUR ALI KHAN, ADVOCATE HIGH COURT AND SHAKIR ULLAH TORANI ADVOCATE**, 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 costs.

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. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/2024

Zafraan Ullah
(CLIENT)

ACCEPTED

Taimur Ali Khan
TAIMUR ALI KHAN
Advocate High Court

BC-10-4240
CNIC: 17101-7395544-5
Cell No. 03339390916

Shakir Ullah Torani
SHAKIR ULLAH TORANI
Advocate Peshawar
BC-22-4994
03409146056