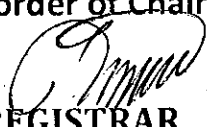


Form- A
FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 264/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	27.03.2024	<p>The implementation petition of Mr. Sibghatullah submitted today by Syed Noman Ali Bukhari Advocate. It is fixed for implementation report before Single Bench at Peshawar on 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. 264 /2024

In

Service Appeal No.1907/2022

Sibghatullah

V/S

Police Deptt:

INDEX

S.No.	Documents	Annexure	Page No.
1.	Memo of Execution Petition	-----	01-02
2.	Copy of Judgment	- A -	03-08
3.	Copy of application	-B-	09-10
4.	Vakalat Nama	-----	10

Sy Nozar
PETITIONER
Sibghatullah

THROUGH:

Noman
SYED NOMAN ALI BUKHARI

&

Uzma
(UZMA SYED)
Advocates, High Court

Cell No: 0306-5109438

1

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

Execution Petition No. 264 /2024

In

Service Appeal No.1907/2022

**Khyber Pakhtukhwa
Service Tribunal**

Diary No. 11939

Dated 27-03-2024

Mr. Sibghatullah , Junior Clerk (Ex-Senior Clerk),
DPO. Bannu.

.....(Petitioner)

VERSUS

1. The inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. The Additional Inspector General of Police HQrs, Khyber Pakhtunkhwa, Peshawar.
3. The Regional Police Officer Bannu Region Bannu.

.....(Respondents)

.....

**EXECUTION PETITION FOR DIRECTING THE
RESPONDENTS TO IMPLEMENT THE
JUDGMENT DATED: 25-10-2023 OF THIS
HONOURABLE TRIBUNAL IN LETTER AND
SPIRIT.**

.....

RESPECTFULLY SHEWETH:

1. That the applicant/Petitioner filed Service Appeal No.1907/2022 against the reversion order.
2. That the above mentioned Appeal was heard on 25-10-2023 by the Hon'able Service Tribunal and the same was decided on 25-10-2023. The Honourable Tribunal was kind enough to accept the appeal of appellant with all back benefits and consequential benefits. **(Copy of judgment is attached as Annexure-A).**
3. That the appellant also filed application to respondents for the implementation of judgment and but the respondents were totally failed in taking any action regarded this, Despite the fact that the

appellant going to retired in May 2024. Copy of application is attached as annexure-B.

- 4. That the respondent totally violated the judgment of Hon'able Service Tribunal is totally illegal amount to disobedience and Contempt of Court.
- 5. 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 implement the same in letter and spirit.
- 6. That the petitioner has having no other remedy to file this Execution Petition.

It is, therefore, most humbly prayed that the respondents may be directed to obey the judgment dated 25-10-2023 of this august Tribunal in letter and spirit. Any other remedy, which this august Tribunal deems fit and appropriate that, may also be awarded in favor of applicant/appellant.

Sibghatullah
 PETITIONER
 Sibghatullah

THROUGH:

Syed Noman
 SYED NOMAN ALI BUKHARI
 &
Uzma
 (UZMA SYED)
 Advocates, 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.



Sibghatullah
 DEPONENT

A (3)

(1)

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 1907 /2022

Mr. Sibghatullah , Junior Clerk (Ex-Senior Clerk),
DPO. Bannu.



.....(Appellant)

VERSUS


1. The inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. The Additional Inspector General of Police HQrs, Khyber Pakhtunkhwa, Peshawar.
3. The Regional Police Officer Bannu Region Bannu.

.....(Respondents)

APPEAL UNDER SECTION 4 OF THE KP SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 16/05/2022 WHEREBY THE PENALTY OF REVERSION FROM THE POST OF SENIOR CLERK TO THE POST OF JUNIOR CLERK WAS IMPOSED UPON THE APPELLANT AND AGAINST THE ORDER DATED 25/11/2022 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED FOR NO GOOD GROUNDS.

PRAYER:

THAT THE ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDER DATED 16/05/2022 AND 25/11/2022 MAY PLEASE BE SET ASIDE AND THE APPELLANT MAY BE RESTORED TO HIS ORIGINAL POST OF SENIOR CLERK WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL

ATTESTED

MEMBER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR.

Service Appeal No. 1907/2022

Date of Institution ... 23.12.2022

Date of Decision... 25.10.2023



Sibghatullah, Junior Clerk (Ex-Senior Clerk), DPO Bannu.

... (Appellant)

VERSUS

Inspector General of Police, Khyber Pakhtunkhwa, Peshawar and 02 others.

... (Respondents)

SYED NOMAN ALI BUKHARI,
Advocate

For appellant.

MR. MUHAMMAD JAN,
District Attorney

For respondents.

MR. SALAH-UD-DIN
MR. MUHAMMAD AKBAR KHAN

MEMBER (JUDICIAL)

MEMBER (EXECUTIVE)

JUDGMENT:

SALAH-UD-DIN, MEMBER:-

The brief facts giving rise to

filing of the instant appeal are that the appellant was serving as Senior Clerk in Police Department. The appellant alongwith Inspector (Legal) Muhammad Farooq were proceeded against departmentally on

the allegations that while working as Pay Officer in the office of District Police Officer Bannu, he alongwith Inspector Legal Muhammad Farooq had illegally get started the salary of one

Sher Akbar and had illegally favoured him in receiving his arrears of salary unlawfully; that they were involved in unlawful entry of Sher Akbar in Police Department, who was a contractual employee

and his contract has already expired in the year 2017. On conclusion of the inquiry, he was awarded major punishment of reversion from the post of Senior Clerk to the post of Junior Clerk vide order bearing

OB No. 150 dated 16.05.2022. The appellant challenged his penalty



ACCEPTED
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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by way of filing departmental appeal before the Inspector General of Police Khyber Pakhtunkhwa Peshawar, which was rejected vide order dated 25.11.2022, hence the instant appeal.

2. On receipt of the appeal and its admission to regular hearing, respondents were summoned, who put appearance through their representative and contested the appeal by way of filing written reply raising therein numerous legal as well as factual objections.

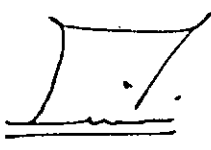
3. Learned counsel for the appellant contended that it is an admitted fact that the concerned person namely Sher Akbar was actively performing duty in Sub-Division Bannu and the Inspector Legal had also submitted opinion that he was entitled to get his salaries as per rules. He next contended that in light of the opinion of Inspector (Legal) namely Muhammad Farooq Khan, the competent Authority had allowed the application filed by Sher Akbar for release of his salary and the appellant then prepared his salary bills with bonafide intention. He further argued that the appellant was not in any way in connivance with Sher Akbar and had prepared the bills in light of the opinion of Inspector Legal and allowing of the application of Sher Akbar by District Police Officer, Bannu. He further contended that the appellant has been discriminated as the departmental appeal of the co-accused namely Muhammad Farooq Khan Inspector Legal was allowed by setting-aside the punishment of reversion awarded to him, while the departmental appeal of the appellant was rejected without assigning any cogent reasons. He also argued that nothing was brought on record during the inquiry, which could prove that the


ATTESTED
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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appellant was having any connivance with Sher Akbar in the release of his salaries.


4. On the other hand, learned District Attorney for the respondents contended that the legal opinion sent by Inspector Legal was twisted by the appellant and he illegally processed pay bill of Sher Akhbar by making possible his entry in Police Department through illegal way. He next contended that the appellant was provided opportunity of personal hearing as well as self defence, however he failed to submit any plausible reason in rebuttal of the charges leveled against him. He next argued that a regular inquiry was conducted in the matter by complying all legal and codal formalities. In the last he requested that the impugned orders may be kept intact and the appeal in hand may be dismissed with cost.



5. We have heard the arguments of learned counsel for the parties and have perused the record.

6. A perusal of the record would show that one Sher Akbar Khan was performing his duty as SDPO Sub-Division Wazir Bannu and had submitted an application to the DPO Bannu for release of his pay. The same was entrusted to Inspector Legal Bannu namely Muhammad Farooq, who submitted his opinion, which is available on the record. The Inspector Legal Bannu had mentioned in his report that Sher Akbar Khan was entitled to get salaries as per rules/policy. In light of the report so submitted by the Inspector Legal

Bannu, the application of Sher Akbar Khan was also allowed by the then District Police Officer Bannu. The appellant in his reply to the

ATTESTED

EXAMINER
Service Tribunal
Peshawar

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charge sheet as well as in his statement recorded during the inquiry had taken specific plea that he had prepared the pay bill of Sher Akbar in light of the opinion of Inspector Legal Bannu as well as allowing of the application of Sher Akbar by the then District Police Officer Bannu. The inquiry officer in para-1 of the conclusion of the inquiry report has affirmed the afore-mentioned stance of the appellant, which is reproduced as below:-

"1. That accused Senior Clerk Sibghat Ullah had prepared the in-questioned bill for Sher Akbar in light of legal opinion of Inspector Legal and after recording the remarks of the competent Authority, thereupon."

7. In view of the findings of the inquiry officer rendered in para-1 of the conclusion of his inquiry report, the appellant could not be held responsible for any lapse on his part entailing taking of disciplinary action against him. Furthermore, the concerned Inspector Legal Bannu was also awarded the punishment of reversion from the rank of Inspector Legal Bannu to the rank of Sub-Inspector Legal vide OB No. 151 dated 16.05.2021, however his departmental appeal was then allowed by setting-aside the punishment so awarded to him. According to the available record, Sher Akbar Khan was posted as SDPO Sub-Division Wazir Bannu during the relevant days and was actively performing duty. This fact was not dug out during the inquiry as to who were the helping hands in making possible the very posting of Sher Akbar Khan on the said post through illegal way.

8. Moreover, the impugned order dated 16.05.2022 passed by the Regional Police Officer Bannu Region, Bannu does not mention the period for which the punishment of reversion awarded to the appellant

ATTACHED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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would remain effective. The competent Authority has thus not followed the mandatory provisions of FR-29, which is reproduced as below:-

"F. R. 29. If a Government servant is, on account of misconduct or inefficiency, reduced to a lower grade or post, or to a lower stage in his time -scale, the authority ordering such reduction shall state the period for which it shall be effective and whether, on restoration, it shall operate to postpone future increments and if so, to what extent."

9. Consequently, the appeal in hand is allowed by setting-aside the impugned orders and the appellant is restored to his original post of Senior Clerk with all back and consequential benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
25.10.2023

(MUHAMMAD AKBAR KHAN)
MEMBER (EXECUTIVE)

(SALAH-UD-DIN)
MEMBER (JUDICIAL)

Naeem Amin Certified copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 27/3/24
Number of pages 5
Copying Fee 25/-
Urgent 57/-
Total 30/-
Name of Copyist
Date of Completion 27/3/24
Date of Delivery 27/3/24

B (9) 11

جی سائی

تو الٹنٹو لہ حکم طرف 23/10/23 شمارہ سرورس ٹریبونل پتار

سائن کو جملہ مراعات All Back Benefits سے تعلق

بجریٹ کلاؤڈ سوائس سے تعلق بحال میں ہے

741
24/11/24

سید انور علیہ درخواست استدعا جبکہ سائن کو رد کرنے والا

ذمہ دار کسی روشنی میں جملہ مراعات All Back Benefits سے تعلق

بجریٹ کلاؤڈ سوائس سے تعلق بحال کرنے کے اکتاوات صادر کرنا

زوارش ہوگی

تاریخ 23/10/23

سائن جیٹو الٹنٹو لہ حکم بحال ایچ آر مینٹ سرورس ڈسٹری بیوٹو لہ
سول

Sir
Requested Pl.

23.10.2024

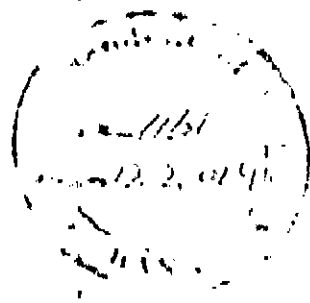
✓ DSP Legal/SRC

- for info & further Proceeds.
- report about Current Status of the Case.

23.10.2024

ATTACHED

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From: The Regional Police Officer,
Bannu Region, Bannu
To: The Assistant Inspector General of Police,
Legal, Khyber Pakhtunkhwa, Peshawar.
No. /RRK, dated Bannu, the 02/02/2024

Subject: APPLICATION OF JUNIOR CLERK SIBGHAT ULLAH KHAN

Memorandum:

The applicant Junior Clerk Sibghat Ullah has requested for restoration of his rank from Junior Clerk to Senior Clerk on the grounds of Judgment of Khyber Pakhtunkhwa Service Tribunal Peshawar vide Order dated 25.10.2023.

His application is submitted herewith with the request that this office may kindly be favoured about the current position of CPLA and also guide this office about his request of restoration, please.

Regional Police Officer,
Bannu Region,
Bannu

No. 572 /RC

Copy of above is forwarded to the District Police officer Bannu w/r to his office letter No. 405/SRC dated 26.01.2024 for information.

Regional Police Officer,
Bannu Region,
Bannu

SRC / DSP legal
For information & m/c.

District Police Officer
BANNU
02/02/2024

ATTESTED

Handwritten signature/initials

VAKALAT NAMA

NO. _____ /20

IN THE COURT OF KP Service Tribunal, Peshawar

Sibghatullah

Appellant
Petitioner
Plaintiff

VERSUS

Police Dept

Respondent (s)
Defendants (s)

I Sibghatullah (Appellant) do hereby appoint and constitute the **SYED NOMAN ALI BUKHARI Advocate High Court** for the aforesaid Appellant(s), Petitioner(S), Plaintiff(s) / Respondent(s), Defendant(s), Opposite Party to commence and prosecute / to appear and defend this action / appeal / petition / reference on my / our behalf and all proceedings, that may be taken in respect of any application connected with the same including proceeding in taxation and application for review, to draw and deposit money, to file and take documents, to accept the process of the court, to appoint and instruct council, to represent the aforesaid Appellant, Petitioner(S), Plaintiff(s) / Respondent(s), Defendant(s), Opposite Party agree(s) ratify all the acts done by the aforesaid.

DATE _____ /20

Sibghatullah
(CLIENT)

ACCEPTED

Syed Noman Ali Bukhari
SYED NOMAN ALI BUKHARI
ADVOCATE HIGH COURT
BC NO. 15-5643

Uzma Syed
UZMA SYED

Advocate High Court