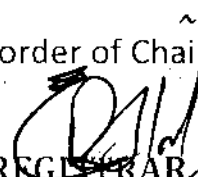


Form- A
FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 454/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	10.06.2024	<p>The implementation petition of Mr. Amir Malik submitted today by Syed Uzma Advocate. It is fixed for implementation report before Single Bench at Peshawar on 12.06.2024. 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.

Execution Petition No. 454 /2024
In
Service Appeal No. 7908/2021

Amir Malik

V/S


police Deptt:

INDEX

S.No.	Documents	Annexure	Page No.
1.	Memo of Execution Petition	----	01-03
2.	Copy of Judgment	- A -	04-08
3.	Copy of order	-B-	09
4.	Copy of order	-C-	10
4.	Copy of applicaton	-C-	10
5.	Vakalat Nama	----	11


PETITIONER
Amir Malik

THROUGH:


(UZMA SYED)
ADVOCATE, PESHAWAR

Cell No: 0311-9440376

(Syed Kamran ^{of the} ullah)

Advocate:
0310-8840100

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.

①

Execution Petition No. 454 /2024
In

Service Appeal No. 7908/2021

Khyber Pakhtunkhwa
Service Tribunal

Case No. 13260

Dated 10-06-2024

Mr. Amir Malik Ex-Constable No.1723
Operation staff, kohat.

(Petitioner)

VERSUS

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

(Respondents)

.....
**EXECUTION PETITION FOR DIRECTING THE
RESPONDENTS TO IMPLEMENT THE
JUDGMENT DATED: 03/04/2023 OF THIS
HONORABLE TRIBUNAL IN LETTER AND
SPIRIT.**
.....

RESPECTFULLY SHEWETH:

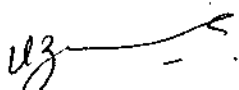
1. That the applicant/Petitioner filed Service Appeal No-7908/2021 against the removal order.
2. That the said appeal was finally heard by the Honorable Tribunal on 03/04/2023. The Honorable Tribunal is kind enough to allow this appeal of appellant and reinstated the appellant into service with all back benefits. (Copy of judgment is attached as Annexure-A).
3. That the appellant also filed application to respondents for the implementation of judgment. The respondents were totally failed in taking any action regarded the Hon'able Tribunal judgment dated 03/04/2023.

4. That the respondents conditionally implemented the judgment vide order dated 04/07/2023 and re-instated the appellant into service with all back and consequential benefits with immediate effect. **Copy of order is attached as annexure-B.**
5. That the appellant filed application for compliance of the order but The grant of back benefits and other benefits was verbally refused to the petitioner and till date compliance was not made practically but to the extent of peace of paper. **(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 03-04-2023 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.

It is, therefore, most humbly prayed that the respondents may be directed to obey the judgment dated 03/04/2023 of this august Tribunal in letter and spirit and the respondent may be directed to grant back benefits to appellants and other benefits may also be granted 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.


PETITIONER
 Amir Malik

THROUGH:


 (UZMA SYED)
 ADVOCATE HIGH COURT.
 (Syed Kamran ^{for} Ullah)
 Advocate:
 0310-8840100

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.

malik

DEPONENT



(4)

(Annexure "A")

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. _____/2021

Khyber Pakhtunkhwa
Service Tribunal

Entry No. 8049

Dated 17-12-2021

Amir Malik, Ex-Constable No. 1723,
Operation Staff, Kohat.

(APPELLANT)

VERSUS

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

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974
AGAINST THE ORDER DATED 27.10.2020, WHEREBY THE
APPELLANT WAS DISMISSED FROM SERVICE, AGAINST
THE ORDER DATED 05.01.2021, WHEREBY THE
DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN
REJECTED FOR NO GOOD GROUNDS AND AGAINST THE
ORDER DATED 26.11.2021 WHEREBY THE REVISION OF
THE APPELLANT HAS ALSO BEEN REJECTED FOR NO
GOOD GROUNDS.

PRAYER:

THAT THE ACCEPTANCE OF THIS APPEAL, THE ORDER
DATED 27.10.2020, 05.1.2021 AND 26.11.2021 MAY KINDLY BE
SET ASIDE AND THE RESPONDENTS MAY FURTHER BE
DIRECTED TO REINSTATE THE APPELLANT INTO HIS
SERVICE WITH ALL BACK AND CONSEQUENTIAL
BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST
TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY
ALSO BE AWARDED IN FAVOUR OF APPELLANT.

§

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 7908/2021

Date of Institution ... 17.12.2021
Date of Decision ... 03.04.2023



Amir Malik, Ex-Constable No.1723, Operation Staff, Kohat.

(Appellant)

VERSUS

The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and two others.

(Respondents)

Taimur Ali Khan,
Advocate

... For appellant

Asad Ali,
Assistant Advocate General

... For respondents

Mrs. Rozina Rehman

... Member (J)

Mr. Muhammad Akbar Khan

... Member (E)

JUDGMENT

ROZINA REHMAN, MEMBER (J): The appellant has invoked the jurisdiction of this Tribunal through above-titled appeal with the prayer as copied below:

“That on the acceptance of this appeal, the order dated 27.10.2020, 05.01.2021 and 26.11.2021 may kindly be set aside and the respondents may further be directed to reinstate the appellant into his service with all back and consequential benefits.”

2. Brief facts of the case are that appellant was appointed in Levies Force in 2012 and he was performing his duty with great devotion and honesty. After absorption of the Levies Force in the Police Department, appellant became the member of Police Force and in the Police Department too, he performed his duty with great devotion. Before

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar



merger of Levies Force in the Police Department, appellant was working under the command of Deputy Commissioner/Commandant Levies Kohat and during that period, an FIR dated 160 was registered against some unknown persons on 02.06.2014 at Police Station, KDA Kohat U/S 382/34 PPC. The name of appellant was also included in that criminal case and he was arrested on 18.08.2019. After merger of the Levies Force in the Police Department, charge sheet alongwith statement of allegations were served upon appellant which was replied, final show cause notice was issued to the appellant and he was dismissed from service vide order dated 27.10.2020. He filed departmental appeal which was rejected. He then filed revision petition which also met the same fate, hence, the present service appeal.

3. We have heard Taimur Ali Khan Advocate, learned counsel for the appellant and Asad Ali, learned Assistant Advocate General for respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Taimur Ali Khan Advocate, learned counsel for the appellant argued inter-alia that the impugned orders are against law, facts, norms of justice and material on record, hence, not tenable and liable to be set aside. He contended that that inquiry was not conducted according to the prescribed procedure as neither statements were recorded in the presence of appellant nor opportunity of cross-examination was provided which is violation of law and rules; that no opportunity of defense was provided to the appellant during inquiry proceedings, which is violation of Article 10-A of the Constitution of Islamic Republic of Pakistan, 1973. He contended that the appellant clearly mentioned in his reply to the charge sheet that he was present at Shendhand Hospital on duty at the time of occurrence and that he was not directly charged in the FIR but the

ATTESTED
 EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar



Inquiry Officer failed to unearth the hidden facts. Lastly, he submitted that he was falsely implicated in the criminal case and that he was dismissed from service without waiting for the conclusion of criminal case which act is against the norms of justice. He, therefore, requested for acceptance of the instant service appeal.

5. Conversely, learned AAG argued that the appellant before absorption was serving under the command of Deputy Commissioner/Political Authorities Kohat and during his posting a robbery took place, wherein, unknown accused had taken away salary of Levy Khasadar and to this effect case FIR No.160 was registered. That during the course of investigation of criminal case, appellant alongwith four others were traced out as accused in the aforementioned criminal case. He was arrested and was suspended. He submitted that after fulfillment of all codal formalities, he was punished according to law..

6. From the record, it is evident that appellant while posted at the office of Deputy Commissioner, Kohat was proceeded against departmentally for being involved in case FIR No.160 dated 02.06.2014 registered at Police Station KDA Kohat U/S 382/34 PPC. He was served with charge sheet alongwith statement of allegations. SDPO Headquarters Kohat was appointed as Inquiry Officer, however, inquiry report is not available on file and it was not produced despite directions. Copy of FIR No.160 is available on file which shows that it was registered by one Muhammad Shoaib against unknown accused on 02.06.2014. The appellant was arrested in the instant case on 18.08.2019 and he was charge sheeted on 23.12.2019. It is also on record that the present appellant was not directly charged in the FIR. Case was tried in a competent court of Law and in the meanwhile, APP submitted an

ATTESTED
 [Signature]
 MEMBER
 Service Tribunal
 Peshawar

application seeking discharge of the accused U/S 494 Cr.PC read with Section-5 (B) of Prosecution Act and vide order dated 01.04.2022 of the learned Senior Civil Judge (ADMN)/Judge MTMC Kohat, present appellant alongwith four others were acquitted U/S 294-A of Cr.PC read with Section 494(2) Cr.PC. It has been held by the superior fora that all acquittals are certainly honorable. There can be no acquittal which may be said to be dishonorable. Nomination/Involvement of the appellant in criminal case was the sole ground on which he had been dismissed from service and the said ground had subsequently disappeared through his acquittal, making him re-emerge as a fit and proper person entitled to continue his service. It is established from the record that charges of his involvement in criminal case ultimately culminated in honorable acquittal of the appellant by the competent court of Law. In this respect we have sought guidance from 1988 PLC (CS) 179, 2003 SCMR 215 and PLD 2010 Supreme Court, 695.

7. For what has gone above, the appeal at hand is accepted. Consequently, the impugned order of imposition of penalty with disciplinary proceedings wherefrom it resulted, are set aside and the appellant is reinstated into service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.

03.04.2023

(Muhammad Akbar Khan)
Member (E)

(Rozina Rehman)
Member (J)

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

ATTACHED

Appellant for information.
DSP Legal / Reader / Pay Officer / OHC.
Copy for necessary action to the:-

4759 /SRC, dated Kohat the 04-07/2023.

OFFICE OF THE DISTRICT POLICE OFFICER KOHAT

DISTRICT POLICE OFFICER,
KOHAT

OR NO 575 /SRC
Dated 04.07.2023

Supreme Court of Pakistan

Immediate effect subject to the outcome of CPA filed against the impugned judgment before august
The subject has been provisionally / provisionally with all back benefit conditional
The subject has been provisionally / provisionally with all back benefit conditional
The subject has been provisionally / provisionally with all back benefit conditional
The subject has been provisionally / provisionally with all back benefit conditional

ORDER

DISTRICT KOHAT



(Annexur "B")

(9)

ATTESTED

17-4-2024

constable no 1793

نام

mark

3-4-2023 کے لئے جاری کیے جانے والے

مقررہ وقت کے اندر داخل ہونے والے

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مقررہ وقت کے اندر داخل ہونے والے

بعدالت

Restawee Service Tribunal

11

مورخہ 07/06/24
مقدمہ اصیہ ملک سٹاک لیولس KPR
دعویٰ بنام 2 منجانب

باعث تحریر آئنگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دی وکل کاروائی متعلقہ Restawee Service Tribunal کے لیے پیرونیان بخاری سیر عکلمہ سیر عکلمہ ان کے مقام پر 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 ثالث و فیصلہ پر حلف دیے جواب دی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق و زرائع پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری کی طرف یا اپیل کی برآمدگی اور مستوفی نیز دائر کرنے اپیل نگرانی و نظرتانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ 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 سند ہے۔

Amit Malik
A

المرقوم 20

Attested
Accepted
سیر عکلمہ سیر عکلمہ
ایڈووکیٹ

عکلمہ ایروکیٹ
مقام