


FORM OF ORDER SHEET

Court of _____

Appeal No. 1072 /2024


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	30/07/2024	<p>The appeal of Mr. Sher Khan resubmitted today by Mr. Shakir uddin Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 01.08.2024. Parcha Peshi given to counsel for the appellant.</p> <p>By the order of Chairman  REGISTRAR</p>

The appeal of Mr. Sher Khan received today i.e on 12.07.2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1 ✓ According to sub-rule-4 of rule-6 of Khyber Pakhtunkhwa Service Tribunal rules 1974 respondent no. 1, 2 & 3 are un-necessary/improper parties, in light of the rules ibid and on the written direction of the Worthy Chairman the above mentioned respondent number be deleted/struck out from the list of respondent.
- 2 ✓ Address of appellant is incomplete be completed according to rule-6 of Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 3 ✓ Necessary party be made in the heading of appeal.
- 4 ✓ Appeal has not been flagged/marked with annexures marks.
- 5 ✓ Copy of recovery of salary order mentioned in para-4 of the memo of appeal is not attached with the appeal be placed on it.
- 6 ✓ Letter dated 12.12.2023 attached with the appeal is illegible.
- 7 ✓ Departmental appeal is unsigned.
- 8 ✓ In the memo of appeal the word petitioner is used but there exists no provision in the Service Tribunal Act/Rule 1974 for using the word of petitioner.
- 9 ✓ Three copies/sets of the appeal along with annexures i.e. complete in all respect for Tribunal and one for each respondent may also be submitted with the appeal.

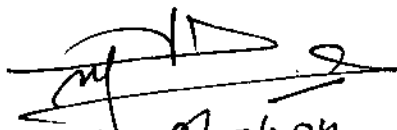
No. 366 /Inst./2024/KPST,

Dt. 12/7 /2024.


OFFICE ASSISTANT
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Shakir Uddin Adv.
Supreme Court at Peshawar.

Note: Objections have removed and resubmitted. and the respondent no 3 is relevant.


18/07/2024

**BEFORE THE HON'BLE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR**

Appeal no. 1072/2024

Sher Khan

Vs.

R.P.O and others

**APPLICATION FOR FIXATION OF THE ABOVE
TITLE CASE BEFORE THE PRINCIPLE SEAT IN
PESHAWAR.**

Respected Sir,


1. That the above titled appeal has filed before this Hon'ble Tribunal in which no date of hearing has yet been fixed.
2. That the applicant belongs from Chitral and currently living in Peshawar due to illness of kidneys and the appellant would not be able to long travel to Swat.
3. That there is no legal bar if the above appeal is fixed before the principal seat in Peshawar .

It is, therefore, humbly requested that on acceptance of this application, the above mentioned appeal may kindly be fixed before the principal seat at Peshawar.

Applicant

Through

Counsel



BEFORE THE HONOURABLE SERVICE TRIBUNAL PESHAWAR

S.A. No. 1072/2024

Sher khan

Appellant

VERSUS

Regional Police Officer & others

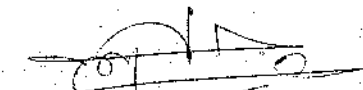
Respondents

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S. No	Description of documents	Annexure	Pages
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3.	Copy of promotion order	"A"	6
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Appellant

Through



Shakir Uddin Chitrali

Advocate High Court

BEFORE THE KHYBER PAKHTUNKHA SERVICE TRIBUNAL

PESHAWA

S.A. No. 1072/2024

Ex Head Constable Sher Khan son of Mashey Lal , Police Department, Police Line
District Upper Chitral Buni.

Appellant

VERSUS

1. Regional Police Officer, Malakand Division, Office P9W2+CM3 Shahi Bagh Saidu Sharif Swat, Khyber Pakhtun khwa.
2. District Police Officer, District Upper Chitral Buni.
3. District Account Officer, District Upper Chitral Buni.

Respondents

**APPEAL U/S 4 OF THE KHYBERPAKHTUNKHWA SERVICE TRIBUNAL ACT 1974,
AGAINST THE IMPUGNED OFFICE ORDER/LETTER NO. 4904/PC, UPER CHITRAL
DATED 12-12-2023**

Respectfully Showeth:

1. That the appellant was an employee of the police department and was serving as constable later on promotion to the rank of head constable w-e-f 02-10-2022. (copy of promotion order is annexed as annexure "A")
2. That the appellant was retired at the age of superannuation from the said post in the year of 2023. (copy of the retirement order is annexed as annexure "B")

3. That after retirement of the appellant his case was being processed for release of his pension wherein the authorities (Respondent No. 5) made observation to the effect that there is overwriting in the service book of the appellant wherein his date of birth is wrongly mentioned as 02-01-1963 where as his correct date of birth was declared 20-01-1962.
4. That on the basis of the above observation the salary of one year of the appellant Rs. 8,37,804/- was deducted after the letter of the District Police Officer Upper Chitral (Respondent No.4) dated 12-12-2023.(Copy of letter dated 12-12-2023 and deduction slip are annexed as annexure "C" &"C1")
5. That the date of birth of the appellant as mentioned in the service book of the appellant is correctly recorded as 02-01-1963 and on the basis of the alleged overwriting the deduction was wrongly made from the pension of the appellant.(copy of the extract of the service book is annexed as annexure "D")
6. That against the mentioned above official letter the appellant submitted departmental appeal before the appellate forum which has not decided even after the expiry of 90th days.(copy of departmental appeal is annexed as annexure "E")
7. That the appellant being aggrieved from the above mentioned unlawful and illegal deduction of one year salary of the appellant Rs. 8,37,804/- and having no other alternate and adequate remedy available to him invokes the constitutional jurisdiction of this Honorable Court on the following grounds amongst others.

Grounds:

- A. That the order of the deduction made the respondents is against the law, facts and circumstances of the case hence not tenable in the eyes of law and liable to be set aside.
- B. That the maintenance of the service book and the entries/correction made therein the sole responsibility of the respondents and the appellant no concern with same.

- C. that the during the entire service of the appellant till the date of his retirement no objection whatsoever were made by the respondent in respect of the alleged overwriting in the service book and in this belated stage the impugned order be speaks of ill will and malafidies.
- D. That as per the date of enrollment mentioned in the service book as 02-01-1983 and age of enrollment twenty years the date of birth mentioned in the service book as 02-01-1963 is correct because the record of the service book provides corroboration to the service.
- E. That even otherwise the appellant has served the department up to the years of 2023 and as per law and the judgment of the superior court he is entitled to receive full payment of the services rendered by him.
- F. That as per the law rules and regulation the impugned order or deduction is perverse arbitrary and not tenable and liable to be declared null and void.
- G. That any other grounds with the prior permission of this Honorable Court will be raised at the time of arguments.

It is therefore humbly prayed that on acceptance of this Service appeal and ...

- a. The impugned order of deduction of one year salary of the appellant of Rs. 8,37,804/- may kindly be declared as illegal unlawful null and void.
- b. The Respondents may kindly be directed to release the deducted amount of Rs.8, 37,804/- to the appellant being legally entitled to the same.
- c. Any other relief which has not been specifically ask for and to which the appellant is entitled in the given facts and circumstances of the case may also be granted in favor of the appellant.

(4)

APPELLANT

Through

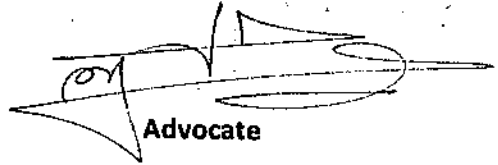


Shakir Ud Din Shahid

Advocate High Court

NOTE:

As per information supplied to me by my client no other APPEAL has earlier been filed by me regarding the instant matter are pending in any court of law.



Advocate

BEFORE THE HONOURABLE SERVICE TRIBUNAL PESHAWAR

S.A No..... /2024

Sher khan

Appellant

VERSUS

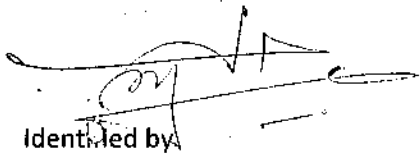
Regional Police Officer & others

Respondents

AFFIDAVIT

I SHER KHAN son of Muhammad Shah Lal Ex Head Constable Police Department Police Line District Upper Chitral, Buni do here by solemnly affirm and declare on oath that the contents of this service appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.




Identified by

Shkir Ud Din Shahid

Advocate High Court

DEPONENT

#15202-6148316-7
CNIC No. cell 345-869880

Cell No.



19-7-24

Annex "A"

6

ORDER

Sher Khan No. 120 of this District Police, whose name was brought on C-II list w.e.f 02.07.2022, giving the benefit of Policy guide line No.4/2013, issued by worthy, Inspector General of Police, Khyber Pakhtunkhwa Peshawar, vide his office letter No.3325-75/PPO, dated 05.12.2013. He has completed his tenure of 3 month in list C-II. He is to be retired from service on superannuation on 02.01.2023.

Therefore, he is promoted C-II Head Constable w.e.f 02.10.2022 in accordance with the P-G No.04/2013. and Posted to Police Lines Upper Chitral with immediate effect till further order.

District Police Officer,
Chitral Upper

No. 2922-29 /E-II, dated Chitral Upper the
Copy to:-

23 / 19 / 2022

1. The District Account Officer, Chitral Upper.
2. DSP/HQ.
3. SDPO Mastuj.
4. RI/LO.
5. SHO Yarkhoon.
6. Pay officer.
7. Reader for OB.
8. Establishment Clerk.
9. C.O Security Clarence Form.

District Police Officer,
Chitral Upper

ATTESTED

[Signature]



DISTRICT POLICE OFFICER

CHITRAL UPPER (KPK)

Email: dpochitralupper@gmail.com

Phone: (0943-470452)


Fax: (0943-470452)

No. 22-31 /E-II, Dated Chitral Upper the

03 / 01 / 2023.

ORDER.

HC Sher Khan No. 120 of this District Police is hereby retired from service in Police Department on attaining the age of superannuation i.e. 50 Years w.e.f. 02.01.2023.


District Police Officer,
Chitral Upper.

No. & Date Even:

Copies for information & necessary action to:-

1. The District Accounts Officer, Chitral Upper.
2. DSP HQrs.
3. SDPO Mastuj.
4. Pay Officer.
5. RI Police Lines.
6. Establishment Clerk.
7. Pension Clerk.
8. Reader for O.B.
9. I/O General Godown.
10. CO HRMS/HRMIS.

ATTESTED

Annex 'C'

8



FORM 2 (P/2)

OFFICE OF THE
DISTRICT POLICE OFFICER
UPPER CHITRAL (KPK)
Phone & Fax: 0943-470452
Mail: dpo@chitralupper@gmail.com

No. 4904/PC, Dated Upper Chitral the 12 / 12 / 2023.

To: The District Accounts Officer,
Chitral Upper.

Subject:- PENSION/GRATUITY CLAIM IN RESPECT OF HC FAIROOZ KHAN NO. 232 OF DISTRICT POLICE CHITRAL UPPER PROCEEDED ON SUPERANNUATION PENSION W.E.F. 06.06.2023 AND HC SHER KHAN NO. 120 PROCEEDED ON SUPERANNUATION PENSION W.E.F. 02.01.2023.

Memo: Please refer to this Office Memo. No. 1420/PC, dated 10.05.2023, Memo: No. 2278/PC, dated 03.07.2023, Memo No. 4217/PC, dated 08.11.2023 and your Office Memo: No. DAO CU/Pension section/275, dated 14.11.2023.

It is submitted that Pension/Gratuity case of HC Fairouz Khan No. 232 and HC Sher Khan No. 120 of this District Police were submitted to your respective office and were returned from your respective Office with the observations of service book 1st page being overwritten in the date of birth column. Difference in the date of birth in service book, Medical Certificate and CNIC were also observed. As per your good office observation service book is the main source of record and pension is calculated accordingly.

It is therefore requested to kindly correct their date of birth for pension purpose in service books according to the pre defined rules, overwriting in the service books be set aside after doing necessary formalities and process their pension cases according to the rules.

[Signature]
District Police Officer
Chitral Upper.

~~ATTENDED~~

BETTER COPY

(8) A

OFFICE OF THE
DISTRICT POLICE OFFICER
UPPER CHITRAL (KPK)
(Phone & Fax: 0943-470542)

No. 4904/PC, Dated upper chitral the 12- 12 -2023

To

The district Accounts Officer,
Chitral Upper.

Subject:- PENSION CLAIMIN RESPECT OF THE HCFAIROZ KAHNNO,232
OF DISTRICT POLICE CHITRAL UPPER PROCEEDED ON
SUPRANUATION PENSION W-E-F 06-06-2023 AND HC SHER
KHAN NO. 120 PROCEEDED ON SUPRANUATION PENSION W-
E-F 02-01-2023

Memo:

Please refer to this office Memo :No 1420/pc,dated 10-05-2023, Memo:No 2278/PC , dated 03-07-2023, Memo : No.4217/PC dated 08-11-2023 and your office Memo: No,DAO CU/pension section/275,dated14-11-2023.

It is submitted that pension case of HC fairoz khan No.232 and HC Sher Khan No.120 of District Police were submitted to your respective office and were returned from your respective office with the observation of service book 1st page being overwritten in the date of birth column. Difference in the date of birth in service book medical certificate and cnic were also observed.As per your good office observationservice book is the main source of record and pension is calculated accordingly.

It is therefore requested to kindly correct their date of birth for pension purpose in service books according to the pre-defined rules, overwriting in the service books be set aside after doing necessary pay fixation and process their pension cases according to the rules.

DISTRICT POLICE OFFICER
CHITRAL UPPER

Attended
[Handwritten Signature]

Annex "CI"

9

Arrears Payable wef 02.01.2022 to 31.12.2023

Commutation: 7354.90 x 12 x 12 = 3791.90 x 12 = 45502.80

Pay Overpayment:

Total Pen. Ars. Rs.	878007-
Less:- ROP	637804-
NET ARS payable	40203-

31-1-22 to 31-1-22	Rs. 62015-
2/2022	64082-
3/2022	61082-
4-2022	61082-
5-2022	74252-
6-2022	7751-
7-2022	65513-
8-2022	65513-
9-2022	73751-
10-2022	10459-
11-2022	70459-
12-2022	81354-
1-2023	4530-
Total Overpayment	577564-

ATTESTED

ATTESTED

(9A)

Better Copy

Arrears Payable wef 02.01.2022 to 31.12.2023 Rs

Communication 7354 90x12x12-3719

Rs. 109129

Pay overpayment

2-1-22 to 31-1-2022 Rs. 62015 total Pay arrears Rs. 878007

212022 64082 Less ROP 837804

Wef 2-1-22 3/2022 64072 Net arrears payment 40203

4-2022 64082

To 5-2022 73282

6-2022 77752

01.012023 7-2022 68813

8-2022 68813

9-2022 73751

10-2022 70459

11-2022 70459

12-2022 81384

1-2022 4830-

Total payment 837804

ATTEST
[Signature]

9B

Annex 'D'

Reason of fingers and thumb of left hand

I understand that I have been appointed under section 7 of the Police Act (V of 1861), and the purpose of that section is to give to any person appointed under it and now in force, by which any discharge and conduct are reversed, to me, I give to serve voluntarily under the provisions of the said Police Act and to obey all laws and regulations which may be made in pursuance of the said Act (V of 1861).

Terms of appointment issued under section 8 of the Police Act (V of 1861).

Department	Rank or Grade	Pay of last Appointment	From	To	PERIOD		
					Years	Months	Days

Reference to orders approving above service for pension service in the Police Department.

known Service prior to present employment which is approved for pension service.

Roll No. 112 dated 23/12/82 received back and attached to the Raji Mial.

Slava	Madhony Lal.	Madhony Lal.	Police Station	Madhony Lal.	2.1.1983	32 1/2 x 34	2.1.1983	20 years.	A. Kishore Kumar, Secy. to H. P. 9 Force
Madhony Lal.	Police Station	Police Station	Police Station	Police Station	Police Station	Police Station	Police Station	Police Station	Police Station

ATTESTED

OFFICE OF THE DEPUTY COMMISSIONER

Better Copy

Name	Fathers name	Tribe or Caste	Post and Telegraph office	Police Station	District	Province	Date of birth	Height	Chest Management	Date of enrolment	Age on enrollment	Distractive Marks
Sher	Mashay Lal	Kashay	Mastuj	Do	Chitral	NWFP	21.0.1963	5-6	21 ½ 2x34	2.1.1983	20 years	A

Roll No. 112 dated 23/12/82 received back and attached to the Fauji Misal

Service prior employment, which is approved for pension service.

Department	Rask or grade	Pay of last appointment	From	To	Period Years	Months	days
Character from			Reference to orders approving above services for pension in the Police Department				

I understand that I have been appointed under section 7 of the Police Act (V of 1861) and the purport of that section of the act and the rules issued under it and now in force by which any discipline and conduct are governed to me I agree faithfully under the provisions of the said Police act and to obey : lawful order issued to officers and undertake not to resign my appointment within three days from the date of my enrolment of appointment issued under section 6 of the Police Act (V of 1861).

Annex "E"

(10)

BEFORE THE REGIONAL POLICE OFFICER MALAKAND DIVISION

MENGORA SWAT

APPEAL/REPRESENTATION AGAINST THE ORDER/LETTER NO 4904/PC.UPPER
CHITRAL DATED 12-12-2023

Respectfully Showeth:

1. That the petitioner was an employee of the police department and was serving as constable later on promotion to the rank of head constable w-e-f 02-10-2022.(copy of promotion order is annexed as annexure "A")
2. That the petitioner was retired at the age of superannuation from the said post in the year of 2023.(copy of the retirement order is annexed as annexure "B")
3. That after retirement of the petitioner his case was being processed for release of his pension wherein the authorities (Respondent No. 5)made observation to the effect that there is overwriting in the service book of the petitioner wherein his date of birth is wrongly mentioned as 02-01-1963 where as his correct date of birth was declared 20-01-1962.
4. That on the basis of the above observation the salary of one year of the petitioner Rs. 8,37,804/- was deducted after the letter of the District Police Officer Upper Chitral (Respondent No.4) dated 12-12-2023.(Copy of letter dated 12-12-2023 and deduction slip are annexed as annexure "C" &"C1")
5. That the date of birth of the petitioner as mentioned in the service book of the petitioner is correctly recorded as 02-01-1963 and on the basis of the alleged overwriting the deduction was wrongly made from the pension of the petitioner.(copy of the extract of the service book is annexed as annexure "D")

Attested
[Signature]

6. That the order of the deduction made the respondents is against the law, facts and circumstances of the case hence not tenable in the eyes of law and liable to be set aside.
7. That the maintenance of the service book and the entries/correction made therein the sole responsibility of the respondents and the petitioner no concern with same.
8. that the during the entire service of the appellant till the date of his retirement no objection whatsoever were made by the respondent in respect of the alleged overwriting in the service book and in this belated stage the impugned order be speaks of ill will and malafides.
9. That as per the date of enrollment mentioned in the service book as 02-01-1983 and age of enrollment twenty years the date of birth mentioned in the service book as 02-01-1963 is correct because the record of the service book provides corroboration to the service.
10. That even otherwise the petitioner has served the department up to the years of 2023 and as per law and the judgment of the superior court he is entitled to receive full payment of the services rendered by him.
11. That as per the law rules and regulation the impugned order or deduction is perverse arbitrary and not tenable and liable to be declared null and void.
12. That any other grounds with the prior permission of this Honorable Court will be raised at the time of arguments.

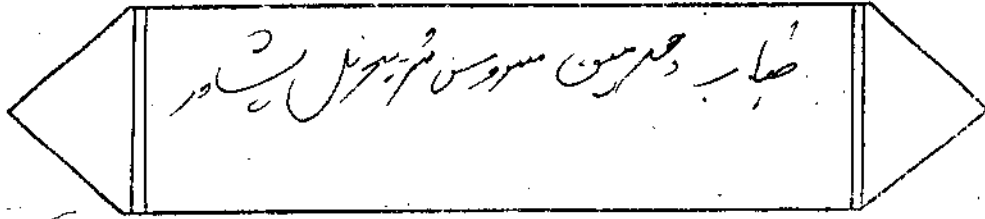
It is therefore humbly prayed that on acceptance of this appeal and the impugned order/letter of deduction of one year salary of the appellant of Rs. 8,37,804/- may kindly be declared as illegal unlawful null and void and may kindly be directed to release the deducted amount of Rs. 8,37,804/- to the appellant being legally entitled to the same.


Appellant

Ex Head Constable Sher Khan No.120
Police Department district Upper
Chitral Police Line Buni.

Dated: 12-03-2024

بعدالت



2 جناب

سید خان بنام

حکومت

مورخہ

مقدمہ

دعویٰ

جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
 آن مقام کے لئے صاحب دھرم سن مسروس ٹریڈنگ کمپنی
 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 ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور
 بصورت ڈگری کرنے اجراء اور وصولی چیک دروپیدار عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
 زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی
 نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار 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 مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ
 پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانشین 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 ادا کالت نامہ لکھ دیا کہ سند ہے۔

المرقوم 10 ماہ 2024

واہ العبد

کے لئے منظور ہے۔

بمقام

Accepted
 Accepted