


FORM OF ORDER SHEET

Court of _____

Appeal No. 1404/2024


S.No.	Date of order, proceedings	Order or other proceedings with signature of judge
1	2	3
1-	02-Sep-24	<p>The appeal of Mr. Ihsanullah resubmitted today by Mr. Muhammad Riaz Advocate. It is fixed for preliminary hearing before Single Bench at Abbottabad on 26-Sep-24. Parcha Peshi given to counsel for the appellant.</p> <p>By order of the Chairman  REGISTRAR</p>

This is an appeal re-filed by Mr. Ihsan Ullah today on 04.06.2024 against the order dated 25.04.2024 against which he made/preferred departmental appeal/representation on dated 17.05.2024 the period of ninety days is not yet lapsed as per section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, which is premature as laid down in an authority reported as 2005-SCMR-890.

As such the instant appeal is returned in original to the appellant/Counsel. The appellant would be at liberty to resubmit fresh appeal after maturity of cause of action.

No. 129 /Inst:/2024/KPST,

Dt. 5/6 /2024.

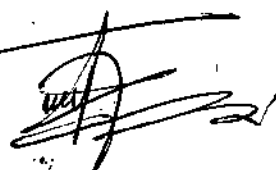

OFFICE ASSISTANT
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Muhammad Riaz Adv.
High Court A. Abad.

Return to the appellant for resubmission after maturity i.e. after expiry of 90 days of ^{receipt of} departmental appeal or its rejection. R. 10/6/24.

No 139 /Inst:/24/KPST
Dated 10/06/2024

The statutory period of 90 day has lapsed.
In submitting the instant appeal




The appeal of Mr. Ihsanullah received today i.e on 27.05.2024 is incomplete on the following score which is returned to the appellant for completion and resubmission within 15 days.

- 1- Address of appellant is incomplete be completed according to rule-6 of Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 2- Copy of departmental appeal against the impugned order is not attached with the appeal be placed on it. Annexure-D is an application before the Peshawar High Court A.Abad Bench but not a departmental appeal before the appellate authority.

No. 76 /Inst;/2024/KPST,

Dt. 29/5 /2024.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.
29/5/24

Muhammad Riya Adv.
High Court A.Abad.

DTO

BEFORE THE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR

Service Appeal No. 1404 /2024

Ihsanullah son of Wakeel Shah, resident of Kuz Chuchang, Dassu, District Kohistan. *EX- Constable, Police line Kohistan upper.* ...APPELLANT

VERSUS

District Police Officer, Upper Kohistan & others.

...RESPONDENTS

SERVICE APPEAL

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5.	Copy of impugned order dated 25.04.2024	17	"C"
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7.	Wakalatnama	19-20	

Dated: 23.05.2024

Through


...APPELLANT


(MUHAMMAD RIAZ)
Advocate High Court, Abbottabad

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

Service Appeal No. 1404 /2024

Ihsanullah son of Wakeel Shah, resident of Kuz Chuchang, Dassu, District Kohistan. *Ex- Constable police line Kohistan upper.* ...APPELLANT

VERSUS

1. District Police Officer, Upper Kohistan.
2. Regional Police Officer, Hazara Region, Abbottabad.

...RESPONDENTS

**SERVICE APPEAL UNDER SECTION 4 OF THE
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
ACT, 1974, AGAINST THE IMPUGNED ORDER
BEARING NO.1239-42/PA, DATED 25.04.2024
ISSUED BY THE RESPONDENT NO.1, WHEREBY,
THE RESPONDENT NO.1 IMPOSED MAJOR
PENALTY OF DISCHARGE FROM SERVICE
UNDER POLICE RULES 12-21 FROM THE DATE OF
ABSENCE FROM DUTY AND THE PERIOD HE
REMAINED ABSENT FROM DUTY IS COUNTED**

AS WITHOUT PAY IS ILLEGAL, UNLAWFUL,
WITHOUT LAWFUL AUTHORITY,
DISCRIMINATORY, PERVERSE, ARBITRARY,
FANCIFUL, AGAINST THE RELEVANT LAW,
RULES AND REGULATIONS, BASED ON
MALAFIDE AND CONSEQUENTLY OF NO LEGAL
EFFECT UPON THE RIGHTS OF THE APPELLANT.

PRAYER: ON ACCEPTANCE OF THE INSTANT
SERVICE APPEAL, THE IMPUGNED ORDER
BEARING NO.1239-42/PA, DATED 25.04.2024
ISSUED BY THE RESPONDENT NO.1 MAY
GRACIOUSLY BE SET-ASIDE AND THE
APPELLANT MAY KINDLY BE REINSTATED INTO
SERVICE WITH ALL BACK BENEFITS. ANY
OTHER RELIEF WHICH THIS HONOURABLE
TRIBUNAL DEEMS FIT AND PROPER IN THE
CIRCUMSTANCES OF THE CASE.

Respectfully Sheweth: -

1. That the appellant was appointed as Police Constable vide enlistment order dated 07.11.2022. (Copy of enlistment order is annexed as Annexure "A").

2. That since his appointment, the appellant served the department with full dedication and performed his duties with zeal and zest to the entire satisfaction of the department.
3. That the appellant remained absent from duty due to illness and this fact reflect from the impugned discharge order that the appellant was initially referred from RHC Dassu to Ayub Teaching Hospital, Abbottabad for treatment purpose on 13.07.2023 and this fact was also brought into the notice of high-ups. (Copy of medical report is annexed as Annexure "B").
4. That the respondent No.1 without adopting legal procedure/ codal formalities, discharge the appellant from service by imposing major penalty vide impugned order bearing No.1239-42/PA, dated 25.04.2024. (Copy of impugned order dated 25.04.2024 is annexed as Annexure "C").
5. That it is pertinent to mention here that impugned discharge from service order was received by the appellant on 30.04.2024.

6. That after receiving the impugned order, the appellant filed a departmental appeal before the respondent No.2 on 17.05.2024, which was not decided yet by the respondent No.2. *It is pertinent to mention here that under the relevant rules i.e 12.21 of Police Rules, 1934 there shall be no appeal against the order of discharge.* (Copy of departmental appeal is annexed as Annexure "D").

7. That the appellant being aggrieved from the impugned order dated 25.04.2024, seeks the gracious indulgence of this Honourable Tribunal, inter-alia, on the following grounds: -

GROUND: -

- a) That the impugned order of discharge from service dated 25.04.2024 is illegal, unlawful, without lawful authority, arbitrary, perverse, fanciful, against the relevant law, rules and regulations and based on malafide, hence, liable to be set-aside.

- b) That the appellant never remained willful absent as alleged in the impugned order and the entire illegal proceedings were carried out fictitiously, while sitting in office by the respondent No.1 out of the malafide.
- c) That before imposing the impugned major penalty, no show cause notice and opportunity of personal hearing was awarded to the appellant. Moreover, the proceedings were not carried out under the Khyber Pakhtunkhwa Police Rules, 1975, hence, the impugned order is wholly illegal, unlawful, without lawful authority and of having no legal effect.
- d) That the grounds alleged in the impugned discharge order were insufficient for discharging the appellant from service summarily.
- e) That the principle of natural justice and fair mindedness are grounded in the philosophy of affording right of audience before any

detrimental action is taken and the departmental authority did not bother to inquire regarding the illness of appellant.

- f) That no inquiry into the alleged allegations was ever conducted and the impugned penalty was imposed without having the allegations proved.
- g) That the appellant was never confronted, appellant was not put on notice to present his view point/ explanation under the doctrine of audi-alterm-partem, hence, the impugned order is not sustainable and maintainable under the law on this very sole ground.
- h) That no evidence worth name was attempted to collect by the respondent No.1 against the appellant for the alleged absence from the duty and he has been condemned on flimsy and perverse ground with malafide intention.
- i) That appellant had an unblemished service record at his credit and he has been removed

from service with a single stroke of pen without observing the due process of law and having the allegations proved.

- j) That no complaint was ever filed by anyone against the appellant for his being absent from duty as alleged on any working day with any authority.
- k) That the appellant has unblemished service career as the appellant was performed his duties with great zeal and zest and never remained negligent in performing of his assigned duties. Similarly, neither any departmental nor any public complaint is available against the appellant.
- l) That the respondent No.1 has not rendered any cogent, confidence and inspiring findings while delivering his impugned order.
- m) That the other points will be agitated at the time of arguments.

PRAYER: -

It is, therefore, respectfully prayed that on acceptance of the instant service appeal, the impugned order bearing No.1239-42/PA, dated 25.04.2024 issued by the respondent no.1 may graciously be set-aside and the appellant may kindly be reinstated into service with all back benefits. Any other relief which this Honourable tribunal deems fit and proper in the circumstances of the case.


...APPELLANT

Through

Dated: 23.05.2024

(MUHAMMAD RIAZ)
Advocate High Court, Abbottabad


VERIFICATION: -

Verified on oath that the contents of foregoing appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Tribunal.


...APPELLANT

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

Service Appeal No. _____/2024

Ihsanullah son of Wakeel Shah, resident of Kuz Chuchang, Dassu, District
Kohistan. **...APPELLANT**

VERSUS


District Police Officer, Upper Kohistan & others. **...RESPONDENTS**

SERVICE APPEAL

AFFIDAVIT

I, Ihsanullah son of Wakeel Shah, resident of Kuz Chuchang, Dassu, District
Kohistan, do hereby solemnly affirm and declare on oath that the contents of
foregoing service appeal are true and correct to the best of my knowledge
and belief and nothing has been concealed therein from this Honourable
Tribunal.


DEPONENT


MUHAMMAD ADNAN YOUNIS
ADVOCATE HIGH COURT
BATH COMMISSIONER
Bhottabani Lic # 2986-88
25/05/24

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

Service Appeal No. _____/2024

Ihsanullah son of Wakeel Shah, resident of Kuz Chuchang, Dassu, District
Kohistan. ...APPELLANT

VERSUS

District Police Officer, Upper Kohistan & others. ...RESPONDENTS

SERVICE APPEAL

LIST OF BOOKS

1. Constitution of Islamic Republic of Pakistan, 1973.
2. All relevant service laws.
3. Other relevant case law will be cited at Bar.

...APPELLANT

Through

Dated: 23.05.2024

(MUHAMMAD RIAZ)
Advocate High Court, Abbottabad



District Officer
K. M. Khan

Case No. 03-03-2591 OB No. 152
Dated 02-11-2022

Case No. 34 X 27
Education FA

Without any reason under Police Rule 12-211

and is allowed on temporary basis and his services will be liable to be terminated at

the effect from 02-11-2022 and is allowed consequently the

is allowed as per the order dated 15/01/2022

Uppal Krishna

Tehsil District

Police Station

MARKEEL SHAH

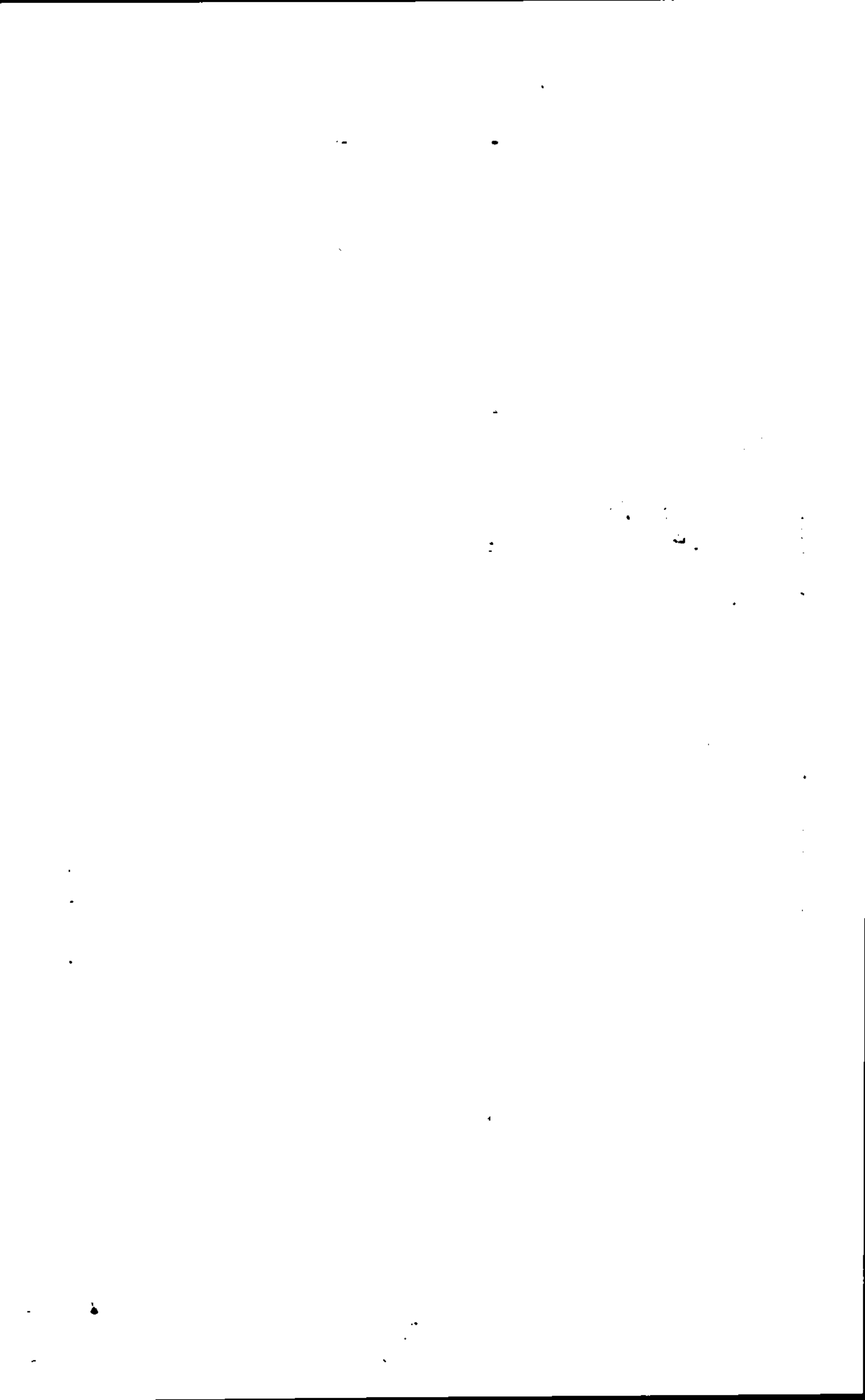
Isan Ullah

ENLISTMENT ORDER

POLICE DEPARTMENT

Muhammad Rizwan
Advocate High Court
District
103467113532

A/11/11





MEDICAL TEACHING INSTITUTION ABBOTTABAD

Ayub Teaching Hospital. Phone: 0992-920174, Fax: 0992-380328
Email: info@ath.gov.pk, Website: www.ath.gov.pk

OPD Prescription form

Token No : 065
 Room No : *Abbottabad*
 Department : MEDICAL-D
 Date : 02 SEP 23 09:15:52
 Dept Fee : 10
 User : SEHRISH ALI
 MRNO : K0400003510016
 Invoice No : K04233221652
 Sex : Male

12

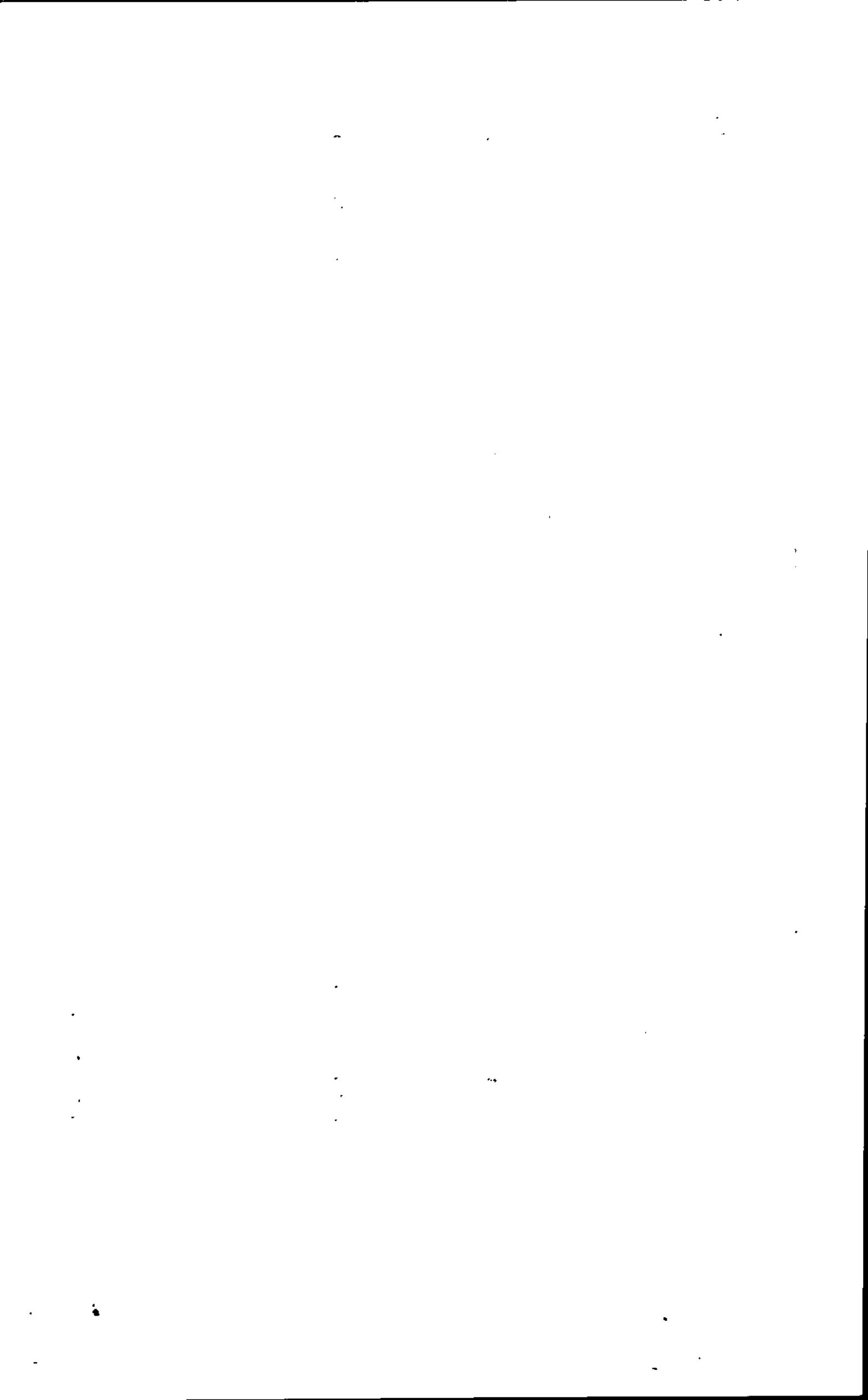
Name : Ihsan Ullah
 Father Name : WAKEEL SHAH
 Husband Name :
 Age : 22 Year(s) 07 Month(s) 28 Day(s)
 AIC # : 1340152769837
 Patient Type : REGULAR

Investigation

Dr. D. Vay
Group
Grade
Number
Dr. P. B. S.
06/06 (1)

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 ② Cap Chemofus
 ③ Tab Urim Long
1/1/1/1/1

fifteen days.
Home based.
 Medical Officer
 ABBOTTABAD





MEDICAL TEACHING INSTITUTION ABBOTTABAD

Ayub Teaching Hospital. Phone: 0992-920174, Fax: 0992-380328
Email: info@ath.gov.pk, Website: www.ath.gov.pk

OPD Prescription form

Token No : 098
Room No : 13
Department : MEDICAL-D
Date : 15-Oct-23 09:15:30
Dept Fee : 10
User : SEHRISH ALI
MRNO : K0400003510051
Invoice No : K04233221621
Sex : Male

Name : Ihsan Ullah
Father Name : WAKEEL SHAH
Husband Name :
Age : 22 Year(s) 09 Month(s) 15 Day(s)
NIC # : 1340152769837
Patient Type : REGULAR

Investigation

Q: Dg

has very
migraine
through

Spinal
S.E.S

Two week
Home Bed rest
Dr. Sehrish Ali
15/10/23

Ad

① Lab stemetrid
1/1/1

② Divalproen Salum 200
2+2+2

③ Fluoxetine 20mg
1+1/1

④ Calomel 50mg
1+1/1



MEDICAL TEACHING INSTITUTION ABBOTTABAD

Ayub Teaching Hospital. Phone: 0992-920174, Fax: 0992-380328
Email: info@ath.gov.pk, Website: www.ath.gov.pk

Token No : 049
Room No : *Allesha 121*
Department : MEDICAL

OPD Prescription form

Patient Name : Ihsan Ullah
Patient Name : WAKEEL SHAH
Patient Name :
Age : 22 Year(s) 06 Month(s) 14 Day(s)
ID # : 1340152769837
Consultation Type : REGULAR

Muhammad High Court
Advocate High Court
Office: 66, Ayub Tarnoli Plaza Abbottabad
0348711313

Date : 17-Jul-23 15:52
Fee : 10
User : SEHRISH ALI
MRNO : K0400003510351
Invoice No : K04233221423
Sex : Male

Investigation

02-07
less intake
in gastric
thoughts.

- ① *Cap chine 1/2*
 - ② *Tab gasterin 15*
 - ③ *Tab upram*
 - ④ *Syfl Vitakata*
- Hand.*

1/2

one month
home test.

Dr. Sehrish Ali
SEHRISH ALI



MEDICAL TEACHING INSTITUTION ABBOTTABAD
 Ayub Teaching Hospital, Phone: 0992-920174, Fax: 0992-380328
 Email: info@ath.gov.pk, Website: www.ath.gov.pk

Token No : 0477
 Room No : 15
 Department : MEDICAL-D
 Date : 16-Aug-23 10:15:55
 Dept Fee : 10
 User : SEHRISH ALI
 MRNO : K0400003510078
 Invoice No : K04233221696
 Sex : Male

OPD Prescription form

Name : Ihsan Ullah
 Father Name : WAKEEL SHAH
 Husband Name :
 Age : 22 Year(s) 07 Month(s) 14 Day(s)
 IIC # : 1340152769837
 Patient Type : REGULAR

Attended

Investigation

Dr. Ullah
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complete
of h.
prescribed
25/8/23
30 days
Home rest

Ad

- ① Sup of P.M. Long
- ② Lab of endo.
- ③ Cap of urine spec 3/25
- ④ Lab of P.M. etc.

Endo.
Lab of C.U.S



MEDICAL TEACHING INSTITUTION ABBOTTABAD

Ayub Teaching Hospital. Phone: 0992-920174, Fax: 0992-380328
Email: info@ath.gov.pk, Website: www.ath.gov.pk

OPD Prescription form

Token No : 044
Room No : 16
Department : MEDICAL-D
Date : 30-SEP-23 09:15:52
Dept Fee : 10
User : SEHRISH ALI
MRNO : K0400003510016
Invoice No : K04233221652
Sex : Male

Name : Ihsan Ullah
Father Name : WAKEEL SHAH
Husband Name :
Age : 22 Year(s) 06 Month(s) 14 Day(s)
AIC # : 1340152769837
Patient Type : REGULAR

Muhammad Riaz
Advocate High Court
Office: 55, Park Road, Abbottabad
03407113832

Att. [Signature]

Investigation

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 15
 Two Week
 Home Rest

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 2 + 2 + 2
 4. Cap Alun 3/8
 1

Date: 25-04-2024

OB No - 40

(MURKITTAL AHMAD PISP)
District Police Officer
Upper Kohistan

3. PO for n/action.

2. OSI/SIC DPO Office.

1. The Regional Police Officer, Hazara Region Abbottabad.

Copy of the above is forwarded for favour of information to the:

No. 1937-49 PA, dated 25/04/2024.

(MURKITTAL AHMAD PISP)
District Police Officer
Upper Kohistan

Order announced on 25.04.2024

Keeping in view the above facts, the undersigned came to conclusion that the alleged recruit constable Ihsanullah No.256 is guilty of the charges. Therefore, the undersigned being a competent authority, awarded him the major punishment of "Discharge from service" under Police Rules 12-21 from the date of absence from duty and the period he remained absent from duty i.e 13.07.2023 to till date is counted without pay.

In the light of finding report of Enquiry Officer, Final Show Cause notice along with Ground of Action issued to him vide this office Memo No. 842/PA dated 08.04.2024 and served upon him through his real brother namely SC Shamas ul Haque No. 330 PAS office. But he failed to submit his written reply again.

The Enquiry Officer, tried to dig out the real facts of the absence, but the delinquent recruit constable neither appeared before the Enquiry Officer, nor submitted written reply of Charge Sheet in his defence, who vide his finding submitted that the alleged constable does not taking interest in his official duty and his attitude also shows that he is not serious to continue his service, thus found him guilty of charges and recommended him for ex-parte action. He was called in "OR" on 01.12.2023, but he failed to appear before, the then (DPO) Muhammad Khalid Khan.

The Enquiry Officer, tried to dig out the real facts of the absence, but the delinquent recruit constable neither appeared before the Enquiry Officer, nor submitted written reply of Charge Sheet in his defence, who vide his finding submitted that the alleged constable does not taking interest in his official duty and his attitude also shows that he is not serious to continue his service, thus found him guilty of charges and recommended him for ex-parte action. He was called in "OR" on 01.12.2023, but he failed to appear before, the then (DPO) Muhammad Khalid Khan.

The is office order for disposal of departmental proceedings against recruit constable Ihsanullah No. 256 on the grounds that he while posted at Police Lines Kowala Upper Kohistan referred from RHC Basse to ATM Abbottabad for treatment purpose on 13.07.2023 but he failed to submit his medical document or arrival till now and remained absent himself from his lawful duty from 13.07.2023 to till without leave or permission of his seniors.

ORDER

Advocate High Court
Office: 56, Ayub Road, Faisal Pura, Abbottabad
93457113532

Handwritten signature and initials.

Handwritten text and date: 25-04-2024

امریکی ریفرنڈم کے لیے 50% کی ضرورت ہے

17.24/5 50% ریفرنڈم کے لیے ضروری ہے کہ ریفرنڈم کے لیے 50% سے زائد ووٹوں کی ضرورت ہے

ریفرنڈم کے لیے ضروری ہے کہ ریفرنڈم کے لیے 50% سے زائد ووٹوں کی ضرورت ہے۔ ریفرنڈم کے لیے ضروری ہے کہ ریفرنڈم کے لیے 50% سے زائد ووٹوں کی ضرورت ہے۔ ریفرنڈم کے لیے ضروری ہے کہ ریفرنڈم کے لیے 50% سے زائد ووٹوں کی ضرورت ہے۔

ریفرنڈم کے لیے ضروری ہے کہ ریفرنڈم کے لیے 50% سے زائد ووٹوں کی ضرورت ہے۔

ریفرنڈم کے لیے ضروری ہے کہ ریفرنڈم کے لیے 50% سے زائد ووٹوں کی ضرورت ہے۔

Muhammad Rizwan
Advocate High Court
Office: 56, Ayub Plaza Abbottabad
Phone: 0346711532

ریفرنڈم کے لیے ضروری ہے کہ ریفرنڈم کے لیے 50% سے زائد ووٹوں کی ضرورت ہے۔

18/11

19
12

OFFICE OF MUHAMMAD RIAZ
Advocate High Court, office at Abbottabad

To


1. District Police Officer, Upper Kohistan.
2. Regional Police Officer, Hazara Region, Abbottabad.

Subject: NOTICE OF FILING OF SERVICE APPEAL.

On the instructions of my client, Ihsanullah son of Wakeel Shah, resident of Kuz Chuchang, Dassu, District Kohistan, a service appeal is being filed before the Khyber Pakhtunkhwa Service Tribunal, Peshawar. A notice/ intimation of the same is being sent to you for your information.

Dated: 23.05.2024

(MUHAMMAD RIAZ)
Advocate High Court, Abbottabad
Office No.56, Ayub Tanoli Lawyers Plaza,
Kutchery Compound, Abbottabad
Cell 0346-711333





تاریخ: 22/5/2024

صفحہ: ۳

~~میں نے اپنے اس بیان کو درست اور حقیقی سمجھا ہے۔~~
 یہاں پر اس شخص نے جو بیان دیا ہے وہ بالکل سچا ہے۔
 اس نے کہا کہ اس شخص نے اسے اپنے پاس لے کر گیا ہے۔
 اس نے کہا کہ اس شخص نے اسے اپنے پاس لے کر گیا ہے۔
 اس نے کہا کہ اس شخص نے اسے اپنے پاس لے کر گیا ہے۔
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 اس نے کہا کہ اس شخص نے اسے اپنے پاس لے کر گیا ہے۔

اپنی طرف سے

میں نے اسے اپنے پاس لے کر گیا ہے۔

محمد علی احمد

میں نے اسے اپنے پاس لے کر گیا ہے۔

میں نے اسے اپنے پاس لے کر گیا ہے۔

میں نے اسے اپنے پاس لے کر گیا ہے۔

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میں نے اسے اپنے پاس لے کر گیا ہے۔

میں نے اسے اپنے پاس لے کر گیا ہے۔

میں نے اسے اپنے پاس لے کر گیا ہے۔

میں نے اسے اپنے پاس لے کر گیا ہے۔

محمد علی احمد

بوسہ

بجانب:

تاریخ:

Before The Service Tribunal
Lahore

گواہ

وکیل

۲۰۲۱