


Form- A
FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 1070/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	18.09.2024	<p>The implementation petition of Mr. Umar Farooq received today by registered post through Mr.Hamayun Khan Advocate. It is fixed for implementation report before touring Single Bench at A.Abad on 24.09.2024. Original file be requisitioned. AAG has noted the next date. Counsel for the applicant has been informed telephonically.</p> <p>By order of the Chairman</p> <p> REGISTRAR</p>

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

E.P No. 1070 /2024

IN

Appeal No. 32/2023

Umar Farooq son of Abdus Salam (Ex-Constable No. 4848/FRP) Hazara Region Abbottabad, resident of Changi Bandi Tehsil & District Haripur.

...PETITIONER

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Home and Tribal Affairs, Peshawar and others.

...RESPONDENTS

APPLICATION FOR IMPLEMENTATION

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3.	Copy of judgment dated 24/07/2024	11-15	"B"
4.	Wakalatnama		


...PETITIONER

Dated: 6/8 /2024

Through


(HAMAYUN KHAN)
0312086681


(FAZLULLAH KHAN)
Advocates High Court, Abbottabad

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

E.P No. 1070 /2024

IN

Appeal No. 32/2023

Umar Farooq son of Abdus Salam (Ex-Constable No. 4848/FRP) Hazara Region Abbottabad, resident of Changi Bandi Tehsil & District Haripur.

...PETITIONER

**Khyber Pakhtunkhwa
Service Tribunal**

VERSUS

Diary No. 15836

Dated 18-09-2024

1. Government of Khyber Pakhtunkhwa through Secretary Home and Tribal Affairs, Peshawar.
2. Inspector General of Police Khyber Pakhtunkhwa, Peshawar.
3. Commandant Frontier Reserve Police, Peshawar.
4. Regional Police Officer/DIG Hazara Region at Abbottabad.
5. Superintendent of Police, Frontier Reserve Police Hazara Region Abbottabad.

...RESPONDENTS

**APPLICATION FOR IMPLEMENTATION OF
JUDGMENT DATED 24/07/2024 PASSED BY THIS
HONOURABLE TRIBUNAL IN APPEAL NO. 32/2023
TITLED "UMAR FAROOQ V/S GOVT. OF KHYBER
PAKHTUNKHWA & OTHERS".**

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Respectfully Sheweth:-

1. That petitioner filed service appeal No. 32/2023 against the impugned order dated 16/09/2022 passed by respondent No.5. Copy of appeal is annexed as Annexure "A".
2. That on 24/07/2024 after hearing of arguments this Honourable tribunal accepted appeal of the appellant and set-aside impugned order dated 16/09/2022 and petitioner is reinstated into service with all back benefits. Copy of judgment is attached as annexure "B".
3. That thereafter, petitioner submitted judgment passed by this Honourable court in the office of respondent No. 5 for implementation of judgment dated 24/07/2024.
4. That after laps of 02 months respondents not implemented judgment dated 24/07/2024 of this Honourable tribunal till date and refuse implementation of the same.

5. That respondent No. 3 instead of complying with the direction of this Honourable Tribunal, straightaway refused to comply with the direction of this Honourable Tribunal.
6. That other point would be raised at the time of arguments kind permission of this Honourable Tribunal.

It is therefore, humbly prayed that on acceptance of instant application respondents be kindly be directed forthwith implement the judgment dated 24/07/2024 passed by this Honourable Tribunal in its true letter and spirit


...PETITIONER

Through

Dated: 6/9/2024


(HAMAYUN KHAN)

&

(FAZLULLAH KHAN)
Advocates High Court, Abbottabad

ANNEXURE "A" 4

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR CAMP AT ABBOTTABAD

Service Appeal No. 32 /2022

Umar Farooq son of Abdus Salam, (Ex-Constable No. 4848/FRP Hazara Region Abbottabad), resident of Changi Bandi Tehsil & District Haripur.

...APPELLANT

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Home and Tribal Affairs Peshawar.
2. Inspector General of Police Khyber Pakhtunkhwa, Peshawar.
3. Commandant Frontier Reserve Police, Peshawar.
4. Regional Police Officer/ DIG Hazara Region at Abbottabad.
5. Superintendant of Police Frontier Reserve Police Hazara Region, Abbottabad

...RESPONDENTS

APPEAL UNDER ARTICLE 212 OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN 1973 READ WITH SECTION 64 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974. AGAINST THE IMPUGNED ORDER DATED 16/09/2022 PASSED BY RESPONDENT NO. 05 WHEREBY APPELLANT WAS DISMISSED FROM SERVICE WITH EFFECT FROM 03/07/2022 WHICH IS ILLEGAL, AGAINST THE LAW, FACTS AND LIABLE TO BE SET-ASIDE.

Umar Farooq
[Signature]

2 5

PRAYER:- ON ACCEPTANCE OF THE INSTANT SERVICE APPEAL, IMPUGNED ORDER DATED 16/09/2022 PASSED BY RESPONDENT NO. 5 MAY KINDLY BE DECLARED NULL AND VOID, AGAINST THE LAW AND NATURAL JUSTICE AND APPELLANT BE RE-INSTATED IN SERVICE WITH ALL BACK BENEFITS.

Respectfully Sheweth;-

Appellant beg to solicit through this appeal on the following factual and legal grounds;-

1. That on 12/10/2010 appellant was appointed as Constable bearing No. 4848 in Frontier Reserve Police Hazara.
2. That after appointment appellant was sent to Police Training School on completion of training appellant was posted at different station.
3. That since 2010 appellant performed his duty with full devotion and liabilities and there had no complaint against appellant.

*Attested
H. S. An*


4. That on 03/07/2022 some opponents of the appellant of his native Village Changi Bandi Haripur lodged one of the so-called FIR No. 292 under sections 386, 170, 337-

AI, 506, 34 PPC Police Station Sara-e-Salan District Haripur against the appellant for personal grudges and enmity. Copy of FIR is attached as Annexure "A".

5. That thereafter, appellant surrender himself before the local police for the purpose of obeying law.
6. That thereafter, elders of the local community conducted domestic Jirga whereby after satisfaction of the complainant appellant was declared innocent because at the time of occurrence appellant was not present at the spot nor he has any contact with the complainant as well as other accused and after satisfaction of complainant, complainant appeared before the court of learned Judicial Magistrate-I, Haripur whereby he recorded the statement and thereafter appellant was acquitted from charges leveled against him. Copies of statement and order are annexed as Annexure "B".
7. That on 21/07/2022 competent authority issued charge sheet alongwith statement of allegation with allegation that you "Spoil the good image of the Police Department which is against the rules of discipline force". Copy of charge sheet and statement of allegation is annexed as Annexure "C".

Attested
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- 8. That thereafter on 10/08/2022 appellant submitted his reply of the charge sheet and categorically denied all kinds of allegations against him. Copy of reply is annexed "D".
- 9. That on 16/09/2022 the competent authority (Superintendent of FRP)/ Respondent No. 5 passed impugned order whereby imposed major penalty dismissal from service. Copy of impugned order is annexed as Annexure "E".
- 10. That on 28/09/2022 appellant filed departmental appeal against the impugned order dated 16/09/2022 before the respondent No. 3 but till date respondent No. 3 not passed any order on the said appeal and similarly not given any response to the petitioner. Copy of departmental appeal is annexed as Annexure "F".
- 11. That feeling from aggrieved from the above aforesaid situation, appellant seeks indulgence of this Honourable Tribunal, inter-alia, on the following amongst many other grounds through this appeal.

Attested


GROUNDS:-

- a. That, the dismissal from service order dated 16/09/2022 is illegal, unlawful, without lawful

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authority, perverse, and against the constitutional guaranteed rights of the appellant hence, untenable in the eye of law and his liable to be set-aside.

- b. That when law prescribed something which is to be in a particular. That must be in that manner and not otherwise. Hence the competent authority was bound to follow the law which is not done in the instant case. Hence impugned order is liable to be set-aside and appellant be reinstated.
- c. That, neither any show cause was served upon the appellant nor he was associated with any enquiry hence, the dismissal order is based on political influence, therefore liable to be set-aside.
- d. That competent authority intentionally not delivered the inquiry to the appellant for redressing of his grievance which shows the malafide of the competent authority.
- e. That; the appellant was condemned unheard and he did not given opportunity for personal hearing to bring the real and true facts on the screen.

A. K. S. W.
H. S. W.

- f. That even otherwise the impugned dismissal order dated 16/09/2022 is liable to be set-aside on the

grounds that no rights of defence or personal right of hearing which was mandatory provision of law was given to the appellant before being proceeded against him.

g. That, impugned order was passed against the appellant with malafide, against law and natural justice.

h. That the whole disciplinary proceedings initiated against the appellant have been done in contravention to the rules, regulation and law and therefore the whole proceedings are liable to be set-aside; appellant be reinstated to his original post.

i. That competent authority violated the basic principle of natural justice and rule and procedure prescribed in E&D & Police Rules, hence impugned order is liable to be set-aside.

j. That competent authority issued impugned order against the well known principles procedures prescribed and guidelines by the superior courts and authorities time by time for the governments departments but competent authority ignored all these rules and principles.

Attested
[Signature]

- k. That the competent authority without any reasons on the part of appellant imposed major penalty of dismissal from service and no opportunity of personal hearing was given to the appellant.
- l. That the other points shall be argued at the time of arguments.

It is therefore, most humbly prayed that on acceptance of the instant service appeal, impugned order dated 16/09/2022 passed by Respondent No. 5 may kindly be declared null and void, against the law and natural justice and appellant be re-instated in service with all back benefits.

[Signature]
 ...APPELLANT

Through

Dated: 20/11 /2022

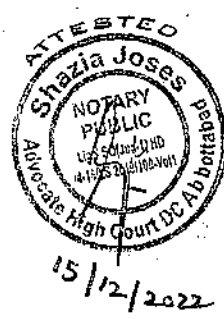
[Signature]
 (FAZLULLAH KHAN)
 &

[Signature]
 (HAMAYUN KHAN)
 Advocates High Court, Abbottabad

VERIFICATION/ AFFIDAVIT:-

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

Attested
[Signature]



[Signature]
 ...APPELLANT

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ANNEXURE 'B'

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1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
CAMP COURT, ABBOTTABAD

Service Appeal No. 32/2023

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

Umar Farooq son of Abdus Salam (Ex-Constable No. 4848/FRP) Hazara Region Abbottabad, resident of Changi Bandi Tehsil and District Haripur.
.....(Appellant)

Versus

1. Government of Khyber Pakhtunkhwa through Secretary Home and Tribal Affairs, Peshawar.
2. Inspector General of Police Khyber Pakhtunkhwa, Peshawar.
3. Commandant Frontier Reserve Police, Peshawar.
4. Regional Police Officer/DIG Hazara Region at Abbottabad.
5. Superintendent of Police, Frontier Reserve Police Hazara Region, Abbottabad.(Respondents)

Mr. Hamayun Khan, Advocate ... For appellant

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

Date of Institution.....	04.01.2023
Date of Hearing.....	24.07.2024
Date of Decision.....	24.07.2024

JUDGEMENT

Attested
H. Farooq

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 16.09.2022 passed by respondent No. 5 whereby appellant was dismissed from service with effect from 03.07.2022. It has been prayed that on acceptance of the appeal, the impugned order dated 16.09.2022 might be set aside and appellant be reinstated into service with all back benefits.

2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was appointed as Constable in the Frontier Reserve Police

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6-8-24
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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Hazara vide order dated 12.10.2010. He was sent to Police Training School and on completion of training, he was posted at different stations. On 03.07.2022, his opponents lodged FIR No. 292 under sections 386, 170, 337-AI, 506, 34 PPC Police Station Sara-e-Saleh, District Haripur against the appellant for personal grudges and enmity. The appellant surrendered himself before the local police. The matter was patched up by the elders of the locality and after satisfaction of the complainant, appellant was declared innocent and vide order dated 12.10.2022 of learned Judicial Magistrate-I, Haripur, he was acquitted from the charges leveled against him. On 21.07.2022, the Superintendent of Police, FRP Hazara Region, Abbottabad issued charge sheet alongwith statement of allegations to the appellant that he spoiled the good image of the Police Department which was against the rules of a disciplined force. On 10.08.2022, he submitted his reply to the charge sheet and denied the allegations leveled against him. On 16.9.2022, the competent authority imposed major penalty of dismissal from service upon the appellant. Feeling aggrieved, he filed departmental appeal on 28.09.2022 but no order was passed on the said appeal; hence the instant service appeal.

Attested
H. E. A. W.

3. Respondents were put on notice who submitted written reply. 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 order was illegal, unlawful and not tenable in the eyes of law. He argued that no show cause notice was served upon the appellant nor he was associated with any enquiry. The appellant was not given opportunity of

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EXAMINER
Hyber Pakhtunkhwa
Service Tribunal
Peshawar

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personal hearing and he was condemned unheard. He stated that the whole proceedings were carried out in contravention to the rules and the order passed on the basis of such proceedings was liable to be set aside. He requested that the appeal might be accepted as prayed for.

5. Learned Deputy District Attorney, while rebutting the arguments of learned counsel for the appellant, argued that the appellant was found an inefficient Police Officer and there were two bad entries at his credit. He further argued that the complainant of the FIR namely Syed Haris Gillani submitted a written complaint to local police against the appellant wherein he stated that he, alongwith his friends, was unnecessarily detained by the appellant and tortured physically and mentally and was released after taking Rs. 5330 as illegal gratification. He argued that proper departmental proceedings were initiated against the appellant. He was issued charge sheet alongwith summary of allegations and Mr. Azam Ali, DSP, HQrs, FRP Hazara was appointed as Enquiry Officer to probe into the matter. Reply to the charge sheet submitted by the appellant was found unsatisfactory. The Enquiry Officer submitted his finding report wherein the appellant was found guilty of the charges leveled against him and after fulfillment of all codal formalities, he was awarded major punishment of dismissal from service as per law and rules.

7. From the arguments and record presented before us, it transpires that the appellant, while serving as Constable in the Police Department, was nominated in FIR No. 292 dated 03.07.2022 U/S 386, 170/337AI-506/34/PPC, P.S Sarai Saleh, District Haripur and was put behind the bars. Mere FIR was not a guilt unless it was proved by the competent court of law. The respondents were required to place him under suspension in the light of CSR 194 and wait for the

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EXAMINER
Pakhtunkhwa
Tribunal
Peshawar



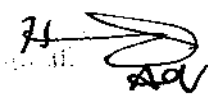
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outcome of trial in the court of law but it was not done and departmental proceedings were initiated against him on 21.07.2022 after which the impugned order of dismissal from service was issued on 16.09.2022. Record further indicated that the appellant was acquitted of all the charges vide order dated 12.10.2022 by the Judicial Magistrate-I, Haripur. His acquittal was not taken into consideration and he was punished. It had been held by the superior fora that all acquittals were certainly honourable. Nomination/involvement of the appellant in criminal case was the sole ground on which he was dismissed from service. The said ground subsequently disappeared through his acquittal, making him re-emerge as a fit and proper person entitled to continue his service. In that respect we sought guidance from 1988 PLC (CS) 179, 2003 SCMR 215 and PLD 2010 Supreme Court 695.

8. In view of above, the appeal in hand is allowed and the impugned order dated 16.09.2022 is set aside and the appellant is reinstated into service with all back benefits. Cost shall follow the event. Consign.

9. Pronounced in open court at Camp Court, Abbottabad and given under our hands and seal of the Tribunal this 24th day of July, 2024.


 (FAREEHA PAUL)
 Member (E)
 (Camp Court, Abbottabad)

 
 (RASHIDA BANO) 
 Member (J)
 (Camp Court, Abbottabad)

Fazle Subhan PS

Certified to be true copy
 6-8-24
 MEMBER (E)
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Date of Presentation of Application 06-08-24
 Number of Words 5
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 Total 30
 Date of Delivery of Copy 6-8-24

پس من مرفوعاً زائداً

پس من مرفوعاً زائداً (بجائزاً)

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Handwritten signature

6/9/2024

الوقت: صبح

ہذا درج ذیل باتوں پر غور فرمائیں۔

1۔ یہ باتیں صحیح ہیں اور ان کے خلاف کوئی شواہد نہیں ملتا۔

2۔ یہ باتیں صحیح ہیں اور ان کے خلاف کوئی شواہد نہیں ملتا۔

3۔ یہ باتیں صحیح ہیں اور ان کے خلاف کوئی شواہد نہیں ملتا۔

4۔ یہ باتیں صحیح ہیں اور ان کے خلاف کوئی شواہد نہیں ملتا۔

5۔ یہ باتیں صحیح ہیں اور ان کے خلاف کوئی شواہد نہیں ملتا۔

6۔ یہ باتیں صحیح ہیں اور ان کے خلاف کوئی شواہد نہیں ملتا۔

7۔ یہ باتیں صحیح ہیں اور ان کے خلاف کوئی شواہد نہیں ملتا۔

8۔ یہ باتیں صحیح ہیں اور ان کے خلاف کوئی شواہد نہیں ملتا۔

9۔ یہ باتیں صحیح ہیں اور ان کے خلاف کوئی شواہد نہیں ملتا۔

10۔ یہ باتیں صحیح ہیں اور ان کے خلاف کوئی شواہد نہیں ملتا۔

Hamid Khan, 123 Main Street, Lahore

مقدمہ نمبر: 123456789

پس من مرفوعاً زائداً

ATD

Execution Petition

پس من مرفوعاً زائداً

Mr. Govt of P.K.

BEFORE THE P.K. SERVICE TRIBUNAL

گورنمنٹ

وکالت نامہ

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