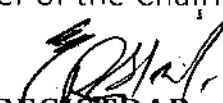


Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Implementation Petition No. 1073/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	19.09.2024	<p>The implementation petition of Mr. Ayat Ullah submitted today by Mr. Ashraf Ali Khattak Advocate. It is fixed for implementation report before Single Bench at Peshawar on 30.09.2024. Original file be requisitioned. AAG has noted the next date. Parcha Peshi given to counsel for the petitioner.</p> <p>By order of the Chairman</p> <p> REGISTRAR</p>

## BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Execution Petition No. 1073 /2024

In

Service Appeal No.205 /2021

Ayat Ullah

SHO, Police Station Cantt., Kohat.....Applicant / Petitioner.

Versus

The Regional Police Officer,  
Kohat Region, Kohat & other.....

Respondents.

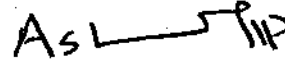
INDEX

S.No.	Description of Documents	Date	Annexure	Pages
1.	Petition for execution with Affidavit.			1-3
2.	Copy of order / Judgment passed by this Hon'ble Tribunal.	29-05-2024	A	4-9
3.	Copy of application.		B	10
4.	Wakalat Nama.			11



Applicant/Petitioner

Through



Ashraf Ali Khattak  
Advocate,  
Supreme Court of Pakistan



Ali Bakht Mughal  
Advocate,  
High Court, Peshawar

Dated: \_\_\_\_\_ / 09/ 2024

## BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Execution Petition No. <sup>1073</sup> /2024

①

In

Service Appeal No.205 /2021

Khyber Pakhtunkhwa  
Service TribunalDiary No. 15861Dated 19-09-2024

Ayat Ullah

SHO, Police Station Cantt., Kohat.....Applicant / Petitioner.

Versus

1. **The Regional Police Officer,**  
Kohat Region, Kohat.
2. **The District Police Officer,**  
District Kohat.....Respondents.

**EXECUTION PETITION UNDER SECTION 7(d) OF THE  
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974.**

Respectfully Sheweth,

Facts giving rise to the present execution petition are as under:-

1. That the applicant / petitioner filed the above titled service appeal which was disposed of by this Hon'ble Tribunal on 29-05-2023. The operative part of the Judgment is reproduced as under for easy reference;-

7. *“As sequel to the above, we are constrained to allow this appeal and set aside the impugned orders dated 30-08-2021 and 01-12-2021. Costs shall follow the event. Consign.”*

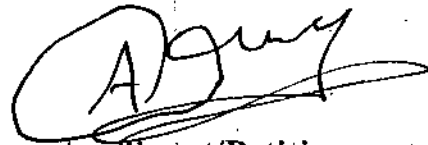
Copy of Order / Judgment dated 29-05-2023 passed by this Hon'ble Tribunal is attached as **Annexure-A**.

2. That applicant in the light of order of this Honorable Tribunal dated 29-05-2023 approached the respondents and submitted application for implementation of the aforesaid Judgment but the respondents are reluctant to implement the Judgment in

letter and spirit. Copy of application is attached as **Annexure-B**.

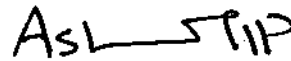
3. That the acts and actions of the respondents squarely fall within the ambit of the Contempt of this Hon'ble Tribunal and as such are liable to be proceeded for the Contempt and for the punishment under the law.

**It is therefore**, humbly prayed that on acceptance of this application, this Hon'ble Tribunal may graciously be pleased to take action and initiate Contempt of Tribunal proceedings against the respondents and directs them implement the Judgment in letter and spirit.



**Applicant/Petitioner**

Through



**Ashraf Ali Khattak**  
Advocate,  
*Supreme Court of Pakistan*



**Ali Bakht Mughal**  
Advocate,  
*High Court, Peshawar*

Dated: \_\_\_\_\_ / 09/ 2024

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

③

**Execution Petition No. \_\_\_\_\_/2024**

**In**

**Service Appeal No.205 /2021**

**Ayat Ullah**

SHO, Police Station Cantt., Kohat.....**Applicant / Petitioner.**

**Versus**

**The Regional Police Officer,**

Kohat Region, Kohat & other.....**Respondents.**

**AFFIDAVIT**

I, Ayat Ullah, SHO Police Station Cantt, Kohat do hereby solemnly affirms and declare on Oath that the Contents of the instant petition are correct and true to the best of my knowledge and belief and nothing has been concealed from the notice of this Hon,ble Tribunal.



*Ayat Ullah*  
**Deponent**



**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR**

ANX-A. (4)

**BEFORE: KALIM ARSHAD KHAN ... CHAIRMAN  
M. AKBAR KHAN ... MEMBER (Executive)**

*Service Appeal No. 205/2021*

Date of presentation of Appeal.....31.12.2021

Date of Hearing..... 29.05.2023

Date of Decision.....29.05.2023

**Ayat Ullah, SHO, Police Station, Cantt: Kohat.**

.....*Appellant*

Versus

1. **The Regional Police Officer, Kohat Region Kohat.**

2. **The District Police Officer, Kohat.**

.....*(Respondents)*

Present:

Mr. Ashraf Ali Khattak, Advocate.....For the appellant.

Mr. Muhammad Jan, District Attorney.....For respondents.

-----  
**APPEAL UNDER SECTION 4 OF THE KHYBER  
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 READ  
WITH POLICE RULES, 1975 AND RULE-19 OF GOVERNMENT  
SERVANTS (EFFICIENCY AND DISCIPLINE) RULE, 2011  
AGAINST THE IMPUGNED FINAL ORDER OF THE  
RESPONDENT NO.1 BEARING ENDST NO.19063/EC DATED  
KOHAT THE 01.12.2021, WHEREIN HE REJECTED THE  
DEPARTMENTAL APPEAL OF THE APPELLANT PREFERRED  
AGAINST THE ORDER PASSED BY RESPONDENT NO.2 VIDE  
OB NO.590 DATED 30.08.2021, WHEREBY HE AWARDED  
PUNISHMENT OF STOPPAGE OF THREE INCREMENTS  
WITHOUT ACCUMULATIVE EFFECT AND INTERVENING  
PERIOD WAS TREATED AS UNAUTHORIZED LEAVE  
WITHOUT PAY.**

**ATTESTED**  
*[Signature]*  
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

(5)

**JUDGMENT**

**KALIM ARSHAD KHAN CHAIRMAN:** Brief facts leading to filing of the instant appeal are that the complainant of case F.I.R No. 1593 dated 15.12.2019 registered at Police Station City Kohat U/S 365 P.P.C reported regarding the kidnapping of his son by a person in police uniform. The gunners of the appellant had allegedly telephonic contact with the charged accused before and after occurrence. The appellant was also suspected for contact with the accused on the eventful day i.e. before and after the occurrence. He was charged sheet alongwith statement of allegations, whereafter, he submitted reply and after issuance of the final show cause notice, appellant was awarded major punishment of dismissal from service vide order dated 16.01.2020; that feeling aggrieved, the appellant preferred departmental appeal on 20.01.2020 which was disposed of on 25.06.2020; that the appellant then filed service appeal No. 3325/2020 which was partially accepted vide judgment dated 28.07.2021 and the case was remitted to the department with the direction to receive reply of the appellant to the final show cause notice within seven days of the receipt of this judgment and then to pass a speaking order according to law; that the respondents issued final show cause notice to the appellant which was replied by the appellant; that the respondent No. 2 imposed minor punishment of stoppage of three increments without cumulative effect and the intervening period is treated as un-authorized leave without pay on the principle of "No work, no pay" vide impugned order dated 31.08.2021; that the appellant preferred departmental



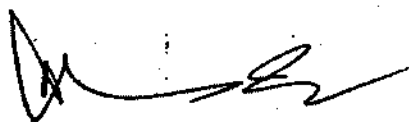
**TESTED**  
  
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

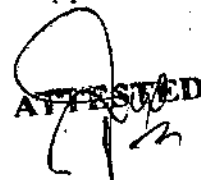
appeal against the impugned order on 26.09.2021 which was rejected on 30.11.2021, hence, the instant service appeal; ⑥

2. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents put appearance and contested the appeal by filing their respective written replies raising therein numerous legal and factual objections. The defense setup was a total denial of the claim of the appellant.

3. We have heard learned counsel for the appellant and learned District Attorney for the respondents.

4. Learned counsel for appellant contended that the appellant has not been treated in accordance with law, rules and policy governing the subject and acted in violation of Article, 3,4 and 10A of the Constitution of Pakistan, 1973. The appellant was neither charged by the complainant nor Enquiry Officer of the criminal case procured any evidence which could connect the appellant with alleged accusation provided in the charge sheet and statement of allegations. Since there was no evidence against the appellant, therefore, he has not made an accused person in criminal case. In the circumstances the penal impugned order was not tenable in the eyes of law and liable to be set aside. Lastly, he submitted that the instant appeal might be accepted.



ATTESTED  
  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar



5. This Tribunal in its earlier judgment in service appeal No. 3325/2020 titled "Ayat Ullah versus Inspector General of Police, Khyber Pakhtunkhwa, Peshawar and two others" has found in para-6 and 7 as under:-

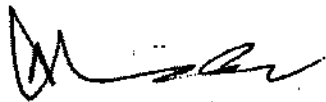
"6. In view of the above, without touching other merits of the case, this Bench is of the opinion that consequent upon the completion of inquiry conducted against the appellant he was served with final show cause notice on 15.01.2020 and he was required to show cause in response to the final show cause notice within 7 days of its delivery but on the very next date, i.e. on 16.01.2020, impugned order was passed, whereby major punishment of dismissal from service was imposed upon appellant. It has been mentioned in the impugned order that the appellant was served with final show cause notice, reply was received and found unsatisfactory, whereas, from the record it is crystal clear that appellant was not given proper opportunity and no such reply was submitted by the appellant to the final show cause notice.


7. Keeping in view the above discussion, this appeal is partially accepted and case is remitted to the Department with direction to receive reply of the appellant to the final show cause notice within 7 days of the receipt of this judgment and then to pass a speaking order according to law. Parties are left to bear their own costs. File be consigned to the record room."

6. on remand, a show cause notice was issued to the appellant and he was heard in person, where-after vide order dated 31.08.2021, although the appellant was reinstated into service, but a minor punishment of stoppage of three annual increments with cumulative effect was imposed upon him. Aggrieved from the said impugned order, he filed departmental appeal, which was rejected on 30.11.2021 and, hence, this appeal. After remission of this case, the service appeals of two other officials, who were also proceeded as a result of the same enquiry, were allowed by this Tribunal vide judgment

ATTESTED  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

dated 02.12.2021 reinstating them in service with all back benefits. The crux of the judgment of the Tribunal is that the complainant party of case FIR No. 1593 had patched up the matter with the nominated accused Farhad and main accused was discharged vide order of the learned Judicial Magistrate-II on 10.10.2022; that one of the appellants was Driver Constable with SHO, Ayat Ullah, present appellant; that he was not charged by the complainant in FIR; that the allegations in respect of contact of the appellants of those two appeals with the nominated accused Farhad in case FIR No. 1593 had also no force as the accused Farhad was not charged by the complainant party. Apart from above, in the statement of Anwar Shah, Inquiry Officer, the allegations against the appellants, could not be proved, as no evidence was collected regarding the factum of bringing the complainant and the abductee in the Vitz car (case property of same case), allegedly in the use of the appellants. Similarly, Israr Khan's statement was recorded during the enquiry, wherein too nothing, about the allegations against the appellants, was referred. Same is the case with the statement of Mst. Fatima Gul complainant of the criminal case. She rather denied the presence of the appellants with the Vitz Car. In the charge sheet besides other two irrelevant allegations one material allegation was that the appellants had contact with the accused on the eventful day i.e. before and after the occurrence. Regarding this allegation the enquiry officer has, though, found that the contact of the appellants with the accused of the criminal case was established, yet there is nothing, in support of the findings, placed on record, especially when the complainant did not charge the accused for the offence.

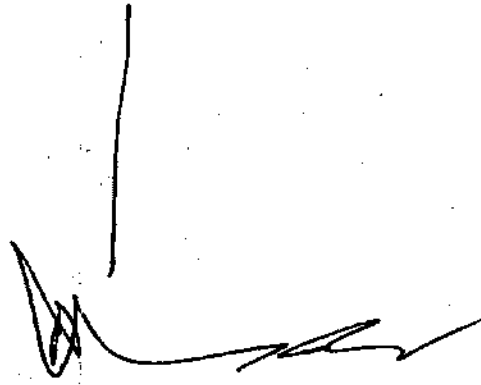


**ATTESTED**  
  
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Therefore, the allegation, against the appellant could not be said to have been proved. (9)

7. As a sequel to the above, we are constrained to allow this appeal and set aside the impugned orders dated 30.08.2021 and 01.12.2021. Costs shall follow the event. Consign.

8. Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 29<sup>th</sup> day of May, 2023.



KALIM ARSHAD KHAN  
Chairman



MUHAMMAD AKBAR KHAN  
Member (Executive)

Certified to be true copy  
EMERSON  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

\*Adnan Shah, P.A.\*

19-09-24

Date of Presentation of Application	6-P
Number of Words	301-
Copying Fee	51-
Urgent	351-
Total	-
Number of Copies	19-09-2024
Date of Completion	19-09-2024
Date of Delivery of Copy	

To

The District Police Officer,  
District Kohat.

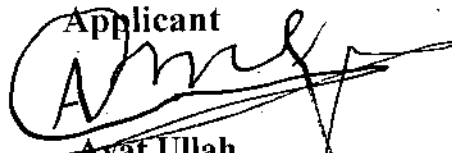
ANX-B-17 (10)

**Subject: APPLICATION FOR IMPLEMENTATION OF THE JUDGMENT PASSED BY THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL IN SERVICE APPELA No.205/2021 VIDE ORDER / JUDGMENT DATED 29-05-2023.**

Respected Sir,

With due respect, it is humbly submitted that applicant have filed Service Appeal No.205/2021 before the Khyber Pakhtunkhwa Service Tribunal on 31-12-2021 which was disposed of by the Hon'ble Service Tribunal on 29-05-2023 by setting aside the impugned orders dated 30-08-2021 and 01-12-2021.

**In view of the above,** it is humbly requested that the three increments which were withheld, may kindly be released and granted to the applicant.

Applicant  
  
 Ayat Ullah  
 SHO Police Station Cantt.  
 Kohat. 14/7/24

**ATTESTED**

WAKALAT NAMA

IN THE COURT OF SERVICE TRIBUNAL Peshawar (11)

ayaf Ullah

Appellant(s)/Petitioner(s)

VERSUS

The Regional Police  
officer

Respondent(s)

I/We ayaf Ullah do hereby appoint **Mr. Ashraf Ali Khattak, Advocate** Supreme Court of Pakistan in the above mentioned case, to do all or any of the following acts, deeds and things.

1. To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal in which the same may be tried or heard and any other proceedings arising out of or connected therewith.
2. To sign, verify and file or withdraw all proceedings, petitions, appeals, affidavits and applications for compromise or withdrawal or for submission to arbitration of the said case, or any other documents, as may be deemed necessary or advisable by them for the conduct, prosecution or defence of the said case at all its stages.
3. To receive payment of, and issue receipts for, all moneys that may be or become due and payable to us during the course of proceedings.

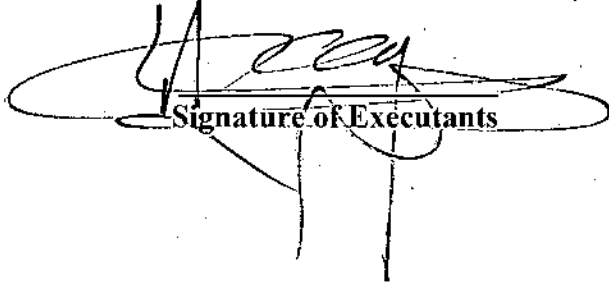
AND hereby agree:-

- a. That the Advocate(s) shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fee remains unpaid.

In witness whereof I/We have signed this Wakalat Nama hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this \_\_\_\_\_

Attested & Accepted by

Ashraf Ali Khattak  
Ashraf Ali Khattak  
Advocate,  
Supreme Court of Pakistan

  
Signature of Executants