


Form- A

FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 981/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	10.09.2024	<p>The implementation petition of Mr. Hashmat Khan submitted today by Mr. Muhammad Aslam Khan Tanoli 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. Parcha Peshi given to counsel for the petitioner.</p> <p>By order of the Chairman</p> <p> REGISTRAR</p>

The C.M in appeal no. 1721/2022 received today i.e. on 19-8-2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

1. Annexure C & E is not legible be replace with legible one.
2. Affidavit is not attested by oath commissioner.
3. Annexures attached with file are unattested.

No. 665 /S.T,

Dt. 9/9 /2024


ASSISTANT
TO REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR

Muhamamd Aslam Tanoli
Advocate, Abbottabad.

Respected Sir,
1) objection one removed & replace with legible
2) removed
3) removed
Resubmitted after completing the
file
Hesam
10/9/24

BEFORE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Execution Petition No.....981.....

Hashmat Khan EX-Constable No. 572 District Police Haripur.
.....(Petitioner)

VERSUS

1. District Police Officer, Haripur.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. Provincial Police Officer, Khyber Pakhtunkhwa Peshawar.

EXECUTION PETITION IN SERVICE APPEAL NO. 1721/2022

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4.	Copy of Minutes of Meeting	"C"	
5.	Copy of Notice	"D"	
6.	Copy of verification letter dated 12-08-2024	"E"	
7.	Wakalatnama		

Hashmat Khan
PETITIONER

THROUGH

M. Aslam Tanoli
(MUHAMMAD ASLAM TANOLI)
ADVOCATE HIGH COURT
AT PESHAWAR

Dated: 19-08-2024

(1)

BEFORE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Execution Petition No.....

Hashmat Khan, Ex-Constable No.795 District Police Haripur, R/O
Village & P.O. Kundi, Tehsi Ghazi. District Haripur.

.....(Petitioner)

VERSUS

1. District Police Officer, Haripur.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. Provincial Police Officer, Khyber Pakhtunkhwa Peshawar.

**EXECUTION PETITION IN SERVICE APPEAL NO. 1721/2022 FOR
IMPLEMENTATION OF JUDGMENT/DECISION DATED 29-05-2024 OF
THIS HONOURABLE SERVICE TRIBUNAL.**

**PRAYER: ON ACCEPTANCE OF INSTANT EXECUTION PETITION THE
RECONDENTS MAY GRACIOUSLY BE DIRECTED TO IMPLEMENT THE
JUDGMENT/DECISION DATED 29-05-2024 OF THIS HONOURABLE
SERVICE TRIBUNAL PROVISIONALLY/CONDITIONALLY SUBJECT TO
OUTCOME OF CPLA BEING FILED BY THE RESPONDENTS.**

Respectfully Sheweth:

1. That petitioner/appellant filed subject service appeal before this Honorable Service Tribunal against the order of Respondents whereby petitioner/appellant was awarded the punishment of "dismissal from service" vide order dated 23-08-2022 by DPO Haripur and his departmental appeal was rejected by Regional Police Officer, Hazara Region, Abbottabad vide order dated 22-11-2022.
2. That this Honorable Tribunal on acceptance of subject service appeal issued judgment/decision dated 29-05-2024 with the order that "Therefore , we set aside the impugned orders dated 23-08-2022 & 22-11-2022 by reinstating the appellant into service and remit the case back to the respondents to get the medical documents

verified and if the same were found valid/correct the department may consider his leave on medical grounds. Costs shall follow the event. Consign".

(Copy of judgment/decision dated 29-05-2024 is attached as Annexure-"A").

3. That on receipt of attested copy of the judgment/decision dated 29-05-2024 of this Honorable Tribunal, the appellant verbally requested the respondents' time & again and even through written duty report dated 31-07-2024 for implementation of the judgment/decision but of no avail. **(Copy of duty report dated 31-07-2024 is attached "B").**
4. That respondents instead of implementing the judgment/decision of this Honorable Tribunal constituted a Scrutiny Committee wherein it has been decided that the case if fit for filing CPLA against the judgment/decision dated 29-05-2024 of Honorable KPK Service Tribunal before the Supreme Court of Pakistan. **(Copy of the minutes of meeting dated 29-05-2024 is attached as Annexure-"C").**
5. That the respondents have also sent an undated and unsigned NOTICE to the petitioner/appellant intending that they are going to file CPLA against the judgment dated 29-05-2024 of this Tribunal with the registry branch of Honorable Supreme Court at Peshawar. **(Copy of the Notice is attached as Annexure "D").**
6. That as per direction of this Honorable Tribunal the medical documents of petitioner/appellant which were sent by respondents to Hospital Authorities Haripur for

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verification have been verified by the Medical Superintendent, Tehsil Head Quarters Ghazi (District Haripur) vide his letter dated 12-08-2024. (Copy of the letter dated 12-08-2024 is attached as Annexure-"E").

7. That despite petitioner's incessant approaches to respondents, he has not been granted the decided rights/benefits of his service. Owing to this appellant alongwith his family facing financial distresses.
8. That there is no stay order from the Apex Supreme Court of Pakistan against the judgment/decision dated 29-05-2024 of this Honorable Tribunal and in such a position respondents are legally bound to implement the said judgment/decision in its letter and spirit. Hence this Execution Petition on the following:

GROUNDS

- A) That as this Honorable Service Tribunal in its judgment/decision dated 29-05-2024 has decided that "Therefore, we set aside the impugned orders dated 23-08-2022 & 22-11-2022 by reinstating the appellant into service and remit the case back to the respondents to get the medical documents verified and if the same were found valid/correct the department may consider his leave on medical grounds. Costs shall follow the event. Consign".
- B) That there is no stay order from the Apex Supreme Court of Pakistan against the Judgment/decision dated 29-05-2024 of this Honorable Tribunal and the

same is in field. Respondents are legally bound to comply with the said judgment/decision.

- C) That departmental authorities/respondents are reluctant to pay any heed to the judgment/decision dated 29-05-2024 of this Honorable Tribunal hence instant execution petition.
- D) That petitioner alongwith his family is facing financial distresses because of non-implementation of judgment/ decision of this Honorable Tribunal.
- E) That instant Execution Petition is well within time and this Honorable Tribunal has got every jurisdiction to entertain and adjudicate upon the same.

PRAYER:

It is, therefore, humbly prayed that this Honorable Tribunal may graciously be pleased to accept this Execution Petition and issue necessary orders/directions to the respondents to implement the judgment/decision dated 29-05-2024 of this Honorable Tribunal in its true letter and spirit.

Hashmat Khan
PETITIONER

THROUGH

M. Aslam Tanoli
(MUHAMMAD ASLAM TANOLI)
ADVOCATE HIGH COURT
AT ABBOTTABAD

Dated: 14-08-2024

AFFIDAVIT

I, Hashmat Khan petitioner do hereby undertake/solemnly affirm that the contents of foregoing petition are true and correct to the best of my knowledge and belief and nothing has been concealed or suppressed from this Honorable Tribunal.

Dated: 14-08-2024

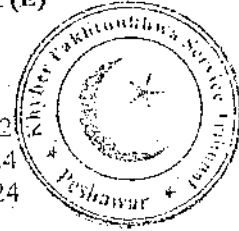
DEPONENT *Hashmat Khan*

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
AT CAMP COURT ABBOTTABAD

BEFORE: KALIM ARSHAD KHAN ... CHAIRMAN
MUHAMMAD AKBAR KHAN ... MEMBER (E)

Service Appeal No. 1721/2022

Date of presentation of Appeal.....30.11.2022
Date of Hearing.....29.05.2024
Date of Decision.....29.05.2024



Hashmat Khan Ex-Constable No. 795 District Police Haripur R/o Village &
Post Office Kundi, Tehsil Ghazi, District Haripur.....(Appellant)

VERSUS

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region, Abbotabad.
3. District Police Officer, Haripur.....(Respondents)

MUHAMMAD ASLAM TANOLI,
Advocate --- For appellant.

ASIF MASOOD ALI SHAH,
Deputy District Attorney --- For respondents

JUDGMENT

MUHAMMAD AKBAR KHAN, MEMBER (E):-The instant service appeal has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as under;

"On acceptance of instant service appeal both the orders dated 23.08.2022 and 22.11.2022 of the respondents may graciously be set aside and appellant be reinstated in his service from the date of dismissal with all consequential service back benefits on rendition of accounts."

02. Brief facts of the case are that the appellant was appointed as Constable in the police department. During the course of his service, he was

ATTESTED
KALIM ARSHAD KHAN
Chairman
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

proceeded against on the charges of absence from duty and was ultimately dismissed from service vide order dated 23.08.2022, against which he filed departmental appeal on 01.09.2022, which was rejected vide order dated 22.11.2022, hence preferred the instant service appeal on 30.11.2022.

03. Notices were issued to the respondents, who submitted their comments, wherein they refuted the assertions raised by the appellant in his appeal. We have heard arguments of learned counsel for the appellant, learned Deputy District Attorney for the respondents and have gone through the record with their valuable assistance.

04. Learned counsel for the appellant has contended that the appellant has not been treated in accordance with law, rule and policy on the subject and acted in violation of Article-4 of the Constitution and the appellant has been dismissed from service without adhering to the legal process as prescribed by law; that absence of the appellant was not willful but was due to compelling reason of his illness and such stance has already been taken by the appellant in his departmental appeal, but the respondents did not take into consideration the reason of his illness and in this regard the appellant had also submitted medical prescriptions. Neither Show Cause Notice was issued to the appellant nor any regular enquiry was conducted into the matter and the appellant was also not provided opportunity of personal hearing therefore, the appellant was condemned unheard; that the impugned orders passed by the respondents are illegal and liable to be set aside.

05. Learned District Attorney for the respondents contended that the appellant was dismissed from service vide order 23.08.2022 on the allegation of absence from lawful duty without permission of the competent

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TESTED
 16/11/22
 District Attorney
 Service Tribunal
 Bangalore

authority; that the appellant was issued charge sheet and statement of allegations which was duly replied by the appellant but his reply was found unsatisfactory; that proper inquiry was conducted and he was given chance for personal hearing and self defense but he did not prove him innocent; that the impugned order was passed after observing all the legal and codal formalities, therefore, the appeal in hand may be dismissed with cost.

06. Record reveals that the appellant was dismissed from service on the allegation of absence from duty vide impugned order dated 23.08.2022. The appellant in response to charge sheet/statement of allegations had submitted his reply reiterating the stance that absence of the appellant was not willful but was due to his illness and also submitted his medical prescriptions, but the respondents neither termed it fake nor sent it for verification but reiterated that the appellant was supposed to inform the authorities well in time about such illness, hence his absence amounts to misconduct, which deserve to be awarded with major punishment. The stance of the respondents is not well founded given the fact that he had submitted his medical prescriptions through registered dak well before initiation of disciplinary proceedings against him and even mentioned/annexed with his reply to the charge sheet too, however, this fact was neither taken into consideration by the inquiry officer nor the competent authority. Civil servants leave rules clearly provide that leave on medical ground cannot ordinarily be rejected without verification or opinion of authorized medical practitioner/medical board. Therefore, we set aside the impugned orders dated 23.08.2022 & 22.11.2022 by reinstating the appellant into service and remit the case back to the respondents to get the medical documents verified and if the same were

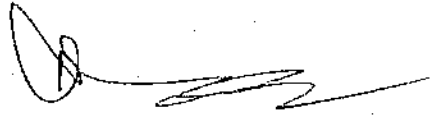
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ATTESTED
[Signature]
Member (Administrative)
Service Tribunal
[Date]

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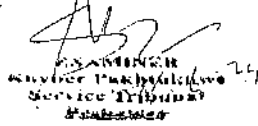

found valid/correct the department may consider his leave on medical grounds. Costs shall follow the event. Consign.

07. Pronounced in open court at camp court Abbottabad and given under our hands and seal of the Tribunal on this 29th day of May, 2024.



(KALIM ARSHAD KHAN)
Chairman
Camp Court Abbottabad

ATTESTED

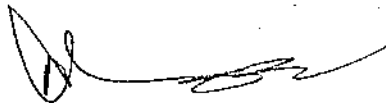

MEMBER (E)
Camp Court Abbottabad
(MUHAMMAD AKBAR KHAN)
MEMBER (E)
Camp Court Abbottabad


Insubmittal

Date of Presentation of Application 11-6-24
 Number of Words 4-P
 Copying Fee 20/-
 Urgent S/P
 Total 25/-
 Name of Copyist _____
 Date of Completion of Copy 11-6-24
 Date of Delivery of Copy 11-6-24

ORDER

- 29th May, 2024
1. Learned counsel for the appellant present. Mr. Asif Masood Ali Shah Deputy District Attorney for the respondents present. Arguments heard and record perused.
 2. Vide our detailed judgment of today, separately placed on file, we set aside the impugned orders dated 23.08.2022 & 22.11.2022 by reinstating the appellant into service and remit the case back to the respondents to get the medical documents verified and if the same were found valid/correct the department may consider his leave on medical grounds. Costs shall follow the event. Consign.
 3. *Pronounced in open court at camp court Abbottabad and given under our hands and seal of the Tribunal on this 29th day of May, 2024.*


(KALIM ARSHAD KHAN)
CHAIRMAN
Camp Court Abbottabad


(MUHAMMAD AKBAR KHAN)
MEMBER (E)
Camp Court Abbottabad



**DISTRICT POLICE OFFICER
HARIPUR**

Ph: 0995-928100/01, Fax: 0995614714, Email: dhaharipur1@gmail.com

**MINUTES OF THE SCRUTINY COMMITTEE MEETING ON JUDGMENT OF HONORABLE
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR CAMP COURT
ABBOTTABAD ON SERVICE APPEAL NO.1721/2022.**

In compliance with the AIG, Legal, CPO, Peshawar office letter No.371/Legal dated 25.01.2024.

The meeting of the Scrutiny Committee was convened at the office of undersigned on 29.07.2024 at 09:00 hours. The following participants attended the meeting:-

- 1) Mr. Muhammad Gulzar, DSP, Legal, Haripur.
- 2) Mr. Shah Jahan, DSP HQs: Haripur.
- 3) Mr. Yousaf Khan, DSP Investigation Haripur.
- 4) Mr. Ashraf Khan, Office Superintendent DPO Office Haripur.
- 5) Mr. KashiFur-Rehman, Incharge Establishment Branch, DPO Office Haripur.

Judgment of honorable Khyber Pakhtunkhwa Service Tribunal Peshawar Camp Court Abbottabad on Service Appeal No.1721/2022 titled "Jashmat Khan (Ex-Constable No. 795, District Police Haripur) v/o Village & P.O Kundi, Tehsil Ghazi, District Haripur VS Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others" was gone through in detail and relevant record was perused. It was observed that honorable Khyber Pakhtunkhwa Service Tribunal Peshawar Camp Court Abbottabad vide its judgment dated 29.05.2024 set aside the departmental punishment by reinstating the appellant in service and directed the department to get the medical documents verified and if the same were found valid/correct the department may consider his leave on medical grounds. This office vide letter No.4134 dated 02.07.2024 approached District Health Officer, Haripur for verification of medical documents, the reply from concerned is still awaited. Furthermore, the appellant was awarded major punishment and proper departmental enquiry was conducted in which the charges stand proved.

Therefore, the Scrutiny Committee unanimously decided that the judgment of honorable KPK Service Tribunal Peshawar, Camp Court, Abbottabad dated 29.05.2024 on above cited Service Appeal is fit for filing of CPA in the Apex Court and recommends for doing the needful in the matter.

District Police Officer
Haripur
(Chairman)

DSP Legal, Haripur
(Member)

DSP Investigation, Haripur
(Member)

DSP HQs: Haripur
(Member)

Office Superintendent
DPO Office Haripur
(Member)

Incharge Establishment
DPO Office Haripur
(Member)

2/3

**DISTRICT POLICE OFFICER
HAMPUR**



1/c

Amir

MINUTES OF THE SCOTINY COMMITTEE MEETING ON JUDGMENT OF HONORABLE MEMBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR CAMP COURT
ABROTAYABD ON SERVICE APPEAL NO.1721/2022

In compliance with the AIG, Legal, CPO, Peshawar office letter No.5711 legal dated 25.01.2024, the meeting of the Scotiny Committee was convened in the office of undersigned on 29.07.2024 in 09:00 hours. The following participants attended the meeting-

- 1) Mr. Muhammad Ijaz, DSP, Legal, Hampur
- 2) Mr. Shah Jahan, DSP (IG), Hampur
- 3) Mr. Yousaf Khan, DSP Investigation, Hampur
- 4) Mr. Ashraf Khan, Office Superintendent, DPO Office, Hampur
- 5) Mr. Kashi-ur-Rahman, Incharge, Exchange Establishment, Bernali, DPO Office, Hampur

Judgment of honorable Khyber Pakhtunkhwa Service Tribunal Peshawar Camp Court Abrotayab on Service Appeal No.1721/2022 filed Hashim Khan (Ex-Constable No. 295, District Police Hampur) vs Peshawar and others was gone through in detail and relevant record was perused. It was observed that honorable Khyber Pakhtunkhwa Service Tribunal Peshawar Camp Court Abrotayab vide his judgment dated 29.05.2024 set aside the departmental punishment by reinstating the appellant in service and directed the department to get the medical documents verified and if the same were found valid/true, the department may consider his leave on medical grounds. This office vide letter No.4134 dated 02.07.2024 approached District Health Officer, Hampur for verification of medical documents, the reply from concerned is still awaited. Furthermore, the appellant was awarded major punishment and proper departmental enquiry was conducted in which the charges stand proved.

Therefore, the Scotiny Committee unanimously decided that the judgment of honorable Khyber Pakhtunkhwa Service Tribunal Peshawar Camp Court, Abrotayab dated 29.05.2024 on above cited Service Appeal is in violation of CPA in the Apex Court and recommendations for doing the needful in the matter.

**District Police Officer
Hampur
(Chairman)**

**DSP Investigation, Hampur
(Member)**

**DSP (IG), Hampur
(Member)**

**DPO Office, Hampur
(Member)**

**Office Superintendent
DPO Office, Hampur
(Member)**

**Exchange Establishment
DPO Office, Hampur
(Member)**

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(11)

Annex-D

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

CPLA No. _____/2024

Provincial Police Officer Khyber Pakhtunkhwa,
Peshawar & others

-----PETITIONERS

VERSUS

Hashmat Khan

-----RESPONDENT

NOTICE

To:

Hashmat Khan Ex-Constable No.795 District Police Haripur R/o
Village & Post Office Kundi Tehsil Ghazi District Haripur



Please take notice Registered A/D post to the effect that I am filing
CPLA with stay application in the above titled case against the impugned
judgment and order of the Khyber Pakhtunkhwa Service Tribunal, Camp
Court, Abbottabad, dated 29/05/2024 passed in Service Appeal
No.1956/2023 before the Supreme Court of Pakistan in its Branch Registry
at Peshawar.

(Muhammad Ajmal Khan)
Advocate-on-Record
Supreme Court of Pakistan
For Government



**OFFICE OF INCHARGE TYPE-D HOSPITAL
TEHSIL GHAZI**

No. 198

H.Nab/D/Misc:

Dated TDH (G) the 22/07/2024.

To,


The DHO

Subject: Verification of Medical Documents

Sir,

Kindly refer to your office letter No. 7747-48 dated: 30/07/2024 on the above cited subject.

I have reviewed and verified the medical documents as requested.


Medical Superintendent
Tehsil Headquarter Hospital
Ghazi (Haripur)

Medical Superintendent
Tehsil Headquarter Hospital
Ghat (District)

I have reviewed and verified the medical documents as requested
above cited subject.

Kindly refer to your office letter No. 7747-48 dated: 30/07/2024.

Sir,

Subject: Verification of Medical Documents

The DHO



Office of Incharge Typist Hospital
Tehsil Ghat
Dated TDH (Ghat) 30/07/24

(12)

Annex - E

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Accepted by
Date: 15/3/24

2024/19/19

Main body of handwritten text, likely a letter or report, enclosed in a decorative border. The text is written in Urdu and discusses various matters, possibly related to a business or administrative process.

Handwritten text at the bottom of the main body, possibly a signature or a specific note.

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