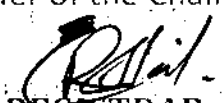


Form- A
FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 1142/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	08.10.2024	<p>The implementation petition of Mr. Inayat Shah submitted today by Naila Jan Advocate. It is fixed for implementation report before Single Bench at Peshawar on 11.10.2024. 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  REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Execution petition No. 1142/2024

In

Service Appeal No:731/2023

Inayat Shah

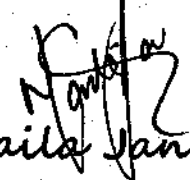
VERSUS

The Inspector General Of police Khyber Pakhtunkhwa
Peshawar and Others

INDEX

S#	Description of Documents	Annex	Pages
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4.	Application	B	11
5.	Wakalat Nama		12

Dated: 08/10/2024

Petitioner
Through

Naila Jan
ASC
Peshawar

①

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Execution petition No. 1142/2024

In

Service Appeal No:731/2023

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 16448

Dated 08-10-2024

Inayat Shah, Ex-IHC No.678, Police Force Kohat.

.....*Petitioner*

Versus

1. The Inspector General Of police Khyber Pakhtunkhwa Peshawar.
2. The Deputy Inspector General, Kohat Region Kohat.
3. District Police Officer, Kohat Region Kohat.

.....*Respondents*

EXECUTION PETITION FOR
IMPLEMENTATION OF THE
JUDGMENT OF THIS HON'BLE
TRIBUNAL IN APPEAL No.
731/2023 DECIDED ON 30.07.2024

Respectfully Sheweth,

1. That the above mention appeal was decided by this Hon'ble Tribunal vide Judgment dated 30/07/2024.


2. That the relevant portion of the judgment is reproduced *"In the light of afore mention reasons the appeal is allowed the no reinstatement of appellant Inayat Shah cannot be justified under legal and constitutional scrutiny, therefore, we order that like others, the appellant Inayat Shah be also reinstated forthwith, insuring parity and adherence to the fundamental rights enshrined in the constitutional. Costs shall follow the event consign.. (Copy of the judgment is annexed as annexure "A")*
3. That the Petitioner after getting of the attested copy of same approached the Respondents several time for implementation of the above mention judgment. However they are using delaying tactics and reluctant to implement the judgment of this Hon'ble Tribunal. **(Copy of the application is attached as annexure "B")**.
4. That the Petitioner has no other option but to file the instant petition implementation of the judgment of this Hon'ble Tribunal.

3

5. That there is nothing which may prevent this Hon'ble Tribunal from implementing of its own judgment.

It is, therefore, requested that on acceptance of this petition the Respondents may directed to implement the judgment of this Hon'ble Tribunal by reinstating the Petitioner with all back benefits.

Dated: 08/10/2024

Petitioner
Through

Naila Jan
ASC

AFFIDAVIT:-

I, Inayat Shah, Ex-IHC No.678, Police Force Kohat, do hereby solemnly affirm and declare on oath that all the contents of above application are true and correct to the best of my knowledge and belief and nothing has been misstated or concealed from this Hon'ble Court.




Deponent

(u)

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Execution petition No. _____/2024

In

Service Appeal No:731/2023

Inayat Shah

VERSUS

The Inspector General Of police Khyber Pakhtunkhwa
Peshawar and Others

ADDRESSES OF PARTIES

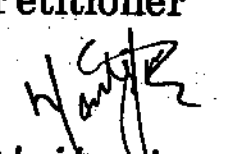
PETITIONER

Inayat Shah, Ex-IHC No.678, Police Force Kohat.

RESPONDENTS

2. The Inspector General Of police Khyber Pakhtunkhwa Peshawar.
3. The Deputy Inspector General, Kohat Region Kohat.
4. District Police Officer, Kohat Region Kohat.

Dated: 08/10/2024

Petitioner
Through

Naira Jan
ASC

Service Appeal No. 731/2023 titled "Inayat Shah versus The Inspector General of Police, Khyber Pakhtunkhwa Peshawar and others" and connected Appeal No.732/2023 titled "Wahid Ullah versus The Inspector General of Police, Khyber Pakhtunkhwa Peshawar and others" and Appeal No. 733/2023 titled "Amir Nawaz versus The Inspector General of Police, Khyber Pakhtunkhwa Peshawar and others" decided on 30.07.2024 by Division Bench comprising Kalim Arshad Khan, Chairman, and Rashida Bano, Member, Judicial Khyber Pakhtunkhwa Service Tribunal, Peshawar.

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.**



**BEFORE: KALIM ARSHAD KHAN ... CHAIRMAN
M. RASHIDA BANO ... MEMBER (Judicial)**

Service Appeal No.731/2023

Date of presentation of appeal01.03.2023
Dates of Hearing.....30.07.2024
Date of Decision.....30.07.2024.

Inayat Shah, EX-IHC NO. 678, Police Force Kohat.....(Appellant)

Versus

1. The Inspector General of Police, Khyber Pakhtunkhwa Peshawar.
2. The Deputy Inspector General, Kohat Region, Kohat.
3. Mr. District Police Officer, Kohat Region, Kohat.....(Respondents)

Present:

Mr. Ashraf Ali Khattak, Advocate.....For appellant.
Mr. Muhammad Jan, District Attorney.....For respondents.

.....
**SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, THE
IMPUGNED FINAL ORDER OF RESPONDENT NO.2 DATED
20.02.2023 PASSED ON THE DEPARTMENTAL APPEAL
REFERRED AGAINST THE IMPUGNED ORDER OF
RESPONDENT NO.3 DATED 22.12.2022 VIDE WHICH THE
APPELLANT WAS DISMISSED FROM SERVICE WITHOUT
ANY LEGAL OR FACTUAL JUSTIFICATION.**
.....


Service Appeal No.732/2023

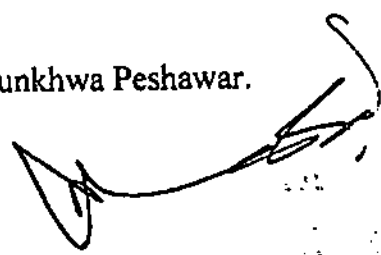
Date of presentation of appeal01.03.2023
Dates of Hearing.....30.07.2024
Date of Decision.....30.07.2024

Wahid Ullah, Ex-IHC No. 622 Police Force Kohat.....(Appellant)

Versus

1. The Inspector General of Police, Khyber Pakhtunkhwa Peshawar.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar
08-10-2024



Service Appeal No. 731/2023 titled "Inayat Shah versus The Inspector General of Police, Khyber Pakhtunkhwa Peshawar and others" and connected Appeal No.732/2023 titled "Wahid Ullah versus The Inspector General of Police, Khyber Pakhtunkhwa Peshawar and others" and Appeal No. 733/2023 titled "Amir Nawaz versus The Inspector General of Police, Khyber Pakhtunkhwa Peshawar and others" decided on 30.07.2024 by Division Bench comprising Kalim Arshad Khan, Chairman, and Rashida Bano, Member, Judicial Khyber Pakhtunkhwa Service Tribunal, Peshawar.

2. The Deputy Inspector General, Kohat Region, Kohat.
3. Mr. District Police Officer, Kohat Region, Kohat.....(Respondents)

Present:

Mr. Ashraf Ali Khattak, Advocate.....For appellant.
Mr. Muhammad Jan, District Attorney.....For respondents.

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, THE IMPUGNED FINAL ORDER OF RESPONDENT NO.2 DATED 20.02.2023 PASSED ON THE DEPARTMENTAL APPEAL REFERRED AGAINST THE IMPUGNED ORDER OF RESPONDENT NO.3 DATED 22.12.2022 VIDE WHICH THE APPELLANT WAS DISMISSED FROM SERVICE WITHOUT ANY LEGAL OR FACTUAL JUSTIFICATION.

Service Appeal No.733/2023

Date of presentation of appeal01.03.2023
Dates of Hearing.....30.07.2024
Date of Decision.....30.07.2024

Ameer Nawaz, Ex-Constable No. 12 Police Force
Kohat.....(Appellant)

Versus

4. The Inspector General of Police, Khyber Pakhtunkhwa Peshawar.
5. The Deputy Inspector General, Kohat Region, Kohat.
6. Mr. District Police Officer, Kohat Region, Kohat.....(Respondents)

Present:

Mr. Ashraf Ali Khattak, Advocate.....For appellant.
Mr. Muhammad Jan, District Attorney.....For respondents.

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, THE IMPUGNED FINAL ORDER OF RESPONDENT NO.2 DATED 20.02.2023 PASSED ON THE DEPARTMENTAL APPEAL REFERRED AGAINST THE IMPUGNED ORDER OF RESPONDENT NO.3 DATED 22.12.2022 VIDE WHICH THE APPELLANT WAS DISMISSED FROM SERVICE WITHOUT ANY LEGAL OR FACTUAL JUSTIFICATION.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Service Appeal No. 731/2023 titled "Inayat Shah versus The Inspector General of Police, Khyber Pakhtunkhwa Peshawar and others" and connected Appeal No.732/2023 titled "Wahid Ullah versus The Inspector General of Police, Khyber Pakhtunkhwa Peshawar and others" and Appeal No. 733/2023 titled "Amir Nawaz versus The Inspector General of Police, Khyber Pakhtunkhwa Peshawar and others" decided on 30.07.2024 by Division Bench comprising Kalim Arshad Khan, Chairman, and Rashida Bano, Member, Judicial Khyber Pakhtunkhwa Service Tribunal, Peshawar.

CONSOLIDATED JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Through this single judgment this appeal and the connected service appeal No.732/2023 titled "Wahid Ullah versus The Inspector General of Police, Khyber Pakhtunkhwa Peshawar and others" and Appeal No. 733/2023 titled "Amir Nawaz versus The Inspector General of Police, Khyber Pakhtunkhwa Peshawar and others" are decided as all the three are regarding the same subject matter and can conveniently be decided together.

2. Brief facts gathered from the memo and grounds of appeals are that the appellants were appointed as Constable in the respondent department; that the appellants while posted in Police Line, Kohat, were charged sheet on the ground that while deputed on challan duty and to produce hardened criminal including accused Najeeb Ullah S/O Taj Ali Khan R/O Civil Lines, District Tank involved in case FIR No. 35 dated 30.03.2022 u/s 302/324/353/120-B PPC, 4/5/ESA/15AA/7ATA P.S CTD D.I.Khan at ATC Kohat and during police custody the said accused made good his escape from the police party due to his alleged negligence and carelessness as such case had been registered against the above officials vide FIR No. 729 dated 23.11.2022 u/s 223-224 PPC P.S Cantt Kohat; that the appellants replied to the charges leveled against them but their replies were ignored and they were dismissed from service vide impugned order dated 22.12.2022; that the appellants, being aggrieved, filed departmental appeals

ATTESTED

KALIM ARSHAD KHAN
Chairman
Judicial Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Service Appeal No. 731/2023 titled "Inayat Shah versus The Inspector General of Police, Khyber Pakhtunkhwa Peshawar and others" and connected Appeal No.732/2023 titled "Wahid Ullah versus The Inspector General of Police, Khyber Pakhtunkhwa Peshawar and others" and Appeal No. 733/2023 titled "Amir Nawaz versus The Inspector General of Police, Khyber Pakhtunkhwa Peshawar and others" decided on 30.07.2024 by Division Bench comprising Kalim Arshad Khan, Chairman, and Rashida Bano, Member, Judicial Khyber Pakhtunkhwa Service Tribunal, Peshawar.

on 12.01.2023 to respondent No.2 which were rejected on 20.02.2023, hence the instant service appeal on 01.03.2023.

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

4. We have heard learned counsel for the appellants and learned District Attorney for the respondents.

5. Learned counsel for the appellant asserts that the disciplinary process violated fundamental rights of the appellant, lacking transparency and fairness, as enshrined in Article 10-A of the Constitution of Pakistan. That he was not issued a final show cause notice, nor was he aware of any inquiry proceedings. The charge sheet was deficient, lacking details on specific dates and duties that directly implicated him in the escape. The charges did not clearly establish his responsibility for the custody of the escaped accused. The appellant was not granted the chance to participate actively in the inquiry, denying him the right to cross-examine witnesses, thus questioning the reliability of the inquiry outcome. Only a select few out of 28 officers were dismissed without a clear basis for this selective disciplinary measure, raising concerns about inequality and fairness in the disciplinary process. The disciplinary action proceeded while criminal proceedings for the same incident were still ongoing. The appellant cited

ATTACHED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Service Appeal No. 731/2023 titled "Inayat Shah versus The Inspector General of Police, Khyber Pakhtunkhwa Peshawar and others" and connected Appeal No. 732/2023 titled "Wahid Ullah versus The Inspector General of Police, Khyber Pakhtunkhwa Peshawar and others" and Appeal No. 733/2023 titled "Amir Nawaz versus The Inspector General of Police, Khyber Pakhtunkhwa Peshawar and others" decided on 30.07.2024 by Division Bench comprising Kalim Arshad Khan, Chairman, and Rashida Bano, Member, Judicial Khyber Pakhtunkhwa Service Tribunal, Peshawar.

precedents suggesting such actions should be deferred until criminal matters are resolved. The learned counsel for the appellant contended that the inquiry report was not furnished to him as mandated by legal protocols, and his dismissal did not adhere to the procedural requirements of the Khyber Pakhtunkhwa Civil Servant Act, 1973.

6. Learned District Attorney argued that there was no violation of the Constitution of Pakistan in taking disciplinary action. The processes followed were in accordance with the law and relevant departmental rules. Learned District Attorney emphasizes that criminal and departmental proceedings are distinct and can proceed simultaneously. The pendency of a criminal trial did not preclude the department from conducting its own inquiry and taking action. The appellant was given an opportunity to be heard in person during an orderly room hearing. However, he failed to present any substantial justification that could mitigate his responsibility for the incident. Due to the significant negligence displayed by the appellant, which resulted in a serious breach of duty, the dismissal was deemed appropriate. The respondents maintain that all necessary procedures were adhered to before imposing the punishment. Given the severity of the misconduct and negligence, the appellant is argued to be ineligible for reinstatement into service. The respondents assert that reinstatement would undermine the disciplinary standards expected within the police force.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar



Service Appeal No. 731/2023 titled "Inayat Shah versus The Inspector General of Police, Khyber Pakhtunkhwa Peshawar and others" and connected Appeal No. 732/2023 titled "Wahid Ullah versus The Inspector General of Police, Khyber Pakhtunkhwa Peshawar and others" and Appeal No. 733/2023 titled "Amir Nawaz versus The Inspector General of Police, Khyber Pakhtunkhwa Peshawar and others" decided on 30.07.2024 by Division Bench comprising Kalim Arshad Khan, Chairman, and Rashida Bano, Member, Judicial Khyber Pakhtunkhwa Service Tribunal, Peshawar.

7. A total of 28 officers were implicated in an alleged misconduct case, resulting in their suspension. It was reported that out of these officers, 25 were subsequently reinstated. However, the appellants, were not initially reinstated. During the pendency of this appeal, appellant Amir Ullah was reinstated, and Wahid Ullah's status was rectified, leaving only one appellant, named, Inayat Shah without reinstatement, therefore, appeals of Amir Ullah and Wahid Ullah have rendered fruitless. The central issue in the appeal Inayat Shah was the lack of a clear distinction between the roles of the appellant who was not reinstated and those of their colleagues who were. There was no cogent explanation provided to justify the differential treatment of the appellants vis-a-vis the other officials. The inconsistency in handling similar cases runs contrary to the principles of equality and fairness enshrined in the Constitution of the Islamic Republic of Pakistan. Equal treatment must be afforded to individuals in congruent situations unless a substantive and lawful rationale is presented. The defense has failed to present any distinguishing factor or specific allegations that set the appellant apart from their reinstated colleagues. In the absence of such differentiation, the unequal treatment is arbitrary. With the majority of the involved officers being reinstated, including appellant Amir Ullah during the pendency of this appeal, a precedent has been set that supports the reinstatement of all involved officers. Without evidence proving additional misconduct or different circumstances for appellant Inayat Shah, denying his reinstatement goes against the fairness principle.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Service Appeal No. 731/2023 titled "Inayat Shah versus The Inspector General of Police, Khyber Pakhtunkhwa Peshawar and others" and connected Appeal No. 732/2023 titled "Wahid Ullah versus The Inspector General of Police, Khyber Pakhtunkhwa Peshawar and others" and Appeal No. 733/2023 titled "Amir Nawaz versus The Inspector General of Police, Khyber Pakhtunkhwa Peshawar and others" decided on 30.07.2024 by Division Bench comprising Kalim Arshad Khan, Chairman, and Rashida Bano, Member, Judicial Khyber Pakhtunkhwa Service Tribunal, Peshawar.

8. In light of the aforementioned reasons, the appeal is allowed. The non-reinstatement of appellant Inayat Shah cannot be justified under legal and constitutional scrutiny. Therefore, we order that like others, the appellant Inayat Shah be also reinstated forthwith, ensuring parity and adherence to the fundamental rights enshrined in the Constitution. Costs shall follow the event. Consign.

09. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 30th day of July, 2024.*

KALIM ARSHAD KHAN
Chairman

RASHIDA BANO
Member (Judicial)

Adnan Shah, PA

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

08-10-2024

Date of Presentation of Application	08-10-2024
Number of Words	7-P
Number of Pages	35/-
Number of Exhibits	5/-
Number of Witnesses	40/-
Date of Judgment	08-10-2024
Date of Filing of Appeal	08-10-2024

(11) (B)

جناب عالی!

گزارش ہے کہ سائل 1993 کا بھرتی شدہ ہے۔ سائل اور دیگر 04 پولیس اہلکاران کو 2022 میں برخاست کیا گیا تھا۔ جن کو دوبارہ بحال کر کے اپنی ڈیوٹی پر تعینات کیا گیا ہے۔ اب چونکہ سائل سروس ٹریبونل سے بحوالہ سروس اپیل نمبر 731/2023 بحال ہو چکا ہے۔ نوٹو کاپی فیصلہ عدالت لف ہے۔

استدعا ہے کہ سائل کو بحال کیا جا کر حاضری کرنے کا حکم صادر فرما کر مشکور فرمائیں۔ سائل تاحیات دعا گور ہے گا۔

العارض

عنایت شاہ سابقہ IHC/678 ولد سرور خان سکنہ ضلع ہنگو

0333-3293297

DSP/L
21/9/23

On
District Police Officer
Kohat





PAKISTAN

ISLAMIC REPUBLIC OF PAKISTAN

National Identity Card



Name
Anayat Shah

Father Name
Sarwar

Gender
M

Country of Stay
Pakistan

Identity Number
14101-4816499-3

Date of Birth
01.06.1973

Date of Issue
11.07.2024

Date of Expiry
11.07.2034



Holder's Signature

پتہ: ذاک خان مل، میانہ ٹیل شریف، تحصیل مل، ضلع

14101-4816499



50262
144-73




پتہ: ذاک خان مل، میانہ ٹیل شریف، تحصیل مل، ضلع

(Handwritten signature)

Registrar General of Pakistan

گمشدہ کارڈ ملنے پر قریبی ایئر بس میں ڈال دیں

14101-4816499

58572 12201-2024-303-2	پشاور بار ایسوسی ایشن، خیبر پختونخواہ
ایڈوکیٹ: Naila Jan	PESHAWAR BAR ASSOCIATION
بار کونسل ایسوسی ایشن نمبر: BL-13-472	
رابطہ نمبر: 03129215471	
	

بعدالت جناب: KP سر میں پٹیشنل شیڈول

مخاطب: petitioner	دعویٰ: Exemption petition
عنايت شاہ	علت نمبر:
بنام	مورخہ:
لوکیٹ	جرم:
	تھانہ:

باعت تحریر آئکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ آن مقام مستیور کیلئے علی نگر جان ایڈووکیٹس کے نام سے درخواست کی گئی ہے۔

قر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کالہ اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقریرات و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری ٹیکسٹ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظریاتی و پیروی کے لئے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے تفریق کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا سائنچر پر واضح منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جائزہ التوائے مقدمہ کے سبب سے ہوگا اس کی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب یا بندہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

مباح مندرجہ (مستحق)

المرقوم: 01/10/2024

مقام سفید - واہ شد - العبد

Accepted by Naila Jan ABC