


Form- A
FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 1141/2024

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. Waheed Ahmad submitted today by Mr. Mehboob Ali Khan Dagai 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>

The execution petition in appeal no. 667/2022 received today i.e. on 03.10.2024 is returned to the counsel for the petitioner with the following remarks.

- 1- A copy of application moved by the petitioners to competent authority for the implementation of judgment is not attached with the petition. If the application has already been preferred and reasonable period of 30 days has been expired be placed on file, if not, the same process be completed and then after approach to this Tribunal for the implementation of Judgment.

No. 876 /Inst./2024 KPST,

Dt. 03/10 /2024.

Amirullah
ADDITIONAL REGISTRAR
KHYBER PAKHTUNKWA
SERVICE TRIBUNAL
PESHAWAR

Mehboob Ali Khan Dagai Adv.
High Court Peshawar.

R/Sir,

Re-submitted after doing the
needful, for further proceedings.

Jel
Advocate.
08/10/2024.

BEFORE THE HONBLE SERVICE TRIBUNAL PESHAWAR

CHECK LIST

A.G. Police *2/10/24*

No.	Description	Yes	No
1.	Case title	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2.	Case is duly signed.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3.	The law under which the case is preferred has been mentioned.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4.	Approved file cover is used.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5.	Affidavit is duly attested and appended.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6.	Case and annexure are properly paged and numbered according to index.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7.	Copies of annexure are legible and attested. If not, then better copies duly attested have annexed.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8.	Certified copies of all requisite documents have been filed.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9.	Certificate specifying that no case on similar grounds was earlier submitted in this court, filed.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10.	Case is within time.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11.	The value for the purpose of court fee and jurisdiction has been mentioned in the relevant column.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
12.	Court fee in shape of stamp papers affixed. For writ Rs. 500, for other as required.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
13.	Power of attorney is in proper form.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
14.	Memo of address filed.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
15.	List of books mentioned in the petition.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
16.	The requisite number of spare copies-attached { Write petition- 3 Civil appeal(SB-2) Civil Revision (SB-1, DB-2)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
17.	Case (Revision /appeal/petition etc) is filled on a prescribed form.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
18.	Power of attorney is attested by jail authority (for jail prisoner only)	<input checked="" type="checkbox"/>	<input type="checkbox"/>

It is certified that formalities /documentations as required in column 2 to 18 above, have been fulfilled.

Name:- *Mahboob Akhshan*
Advocate & C. P.R.
 Signature:- *[Signature]*
 Dated:- *2/10/24*

FOR OFFICE USE ONLY

Case:- _____
 Case received on _____
 Complete in all respect: Yes/No, (If NO, the grounds) _____
 Signature _____
 (Reader)
 Dated:- _____
 Countersigned:- _____
 (Deputy Registrar)

BEFORE THE HONORABLE SERVICE TRIBUNAL
KPK PESHAWAR,

Execution Petition No. 1141 /2024

In Service Appeal No: 667/2022

Waheed Ahmad

VERSUS

The Inspector General of Police and others

I N D E X

S#	Description of Documents	Annexure	Page#
1	Execution petition		1-3
2	Addresses of Parties		4
3	Affidavit		5
4	Copy of Judgment & Copy application	"A" & "B"	6-17 & 17a
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Dated 01/10/2024

Through

Applicant/Petitioner


Mehboob Ali Khan Dagai

Advocate, High Court
Peshawar.

①

BEFORE THE HONORABLE SERVICE TRIBUNAL
KPK PESHAWAR.

Execution Petition No. 114 /2024

In Service Appeal No: 667/2022

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 16302

Dated 03.10.24

Waheed Ahmad S/o Jangrez Khan Ex-Constable
No.156, R/o Mohallah Par Hoti Moli Manki Tehsil
Lahore District Swabi

Applicant/Petitioner

VERSUS

1. The Inspector General of Police, Police Headquarters, Police Lines, Peshawar.
2. Regional Police Officer Mardan
3. The District Police Officer Swabi.

Respondents

EXECUTION PETITION FOR ISSUANCE
DIRECTIONS TO THE RESPONDENTS
TO FOLLOW THE DIRECTIONS OF
THIS AUGUST TRIBUNAL VIDE
JUDGMENT AND ORDER DATED
10.10.2023 IN ITS LETTER AND SPIRIT.

Respectfully Sheweth,

1. That the applicant/petitioner had filed Service Appeal No.667/2022 before this August Tribunal, whereby, the appeal of the petitioner /appellant was

partially allowed and the major punishment of dismissal from service of petitioner / appellant was converted into minor punishment of stoppage of appellant 03 increments for a period of 3 years and the petitioner/appellant reinstated in service and the period of his absence as well as the intervening period with effect from the date of his dismissal till his reinstatement shall be treated as extra-ordinary leave without pay. (Copy of the appeal and Judgment of this august tribunal are attached herewith as Annexure "A").

2. That on ~~21.12.2012~~ receipt of the copy of the judgment and order of this august tribunal, referred to above, the petitioner/ appellant submitted the same before the respondents for compliance but till that on one and the other evasive pretext, the respondents have not complied with the judgment of this August Tribunal. *Copy of application is attached herewith as Annexure - "B"*
3. That till date no appeal or revision against the judgment and order of this August Tribunal has been preferred before the competent court of law.
4. That the petitioner/appellant is jobless and has no source of income even to feed his family members for one time in 24 hours.
5. That the respondents were asked time and again to obey / complied with the orders and judgment of this august tribunal in its letter and spirit and to reinstate the services of the petitioner/appellant but to no avail, hence the instant petition.

It is, therefore, most humbly prayed that on acceptance of the instant application the respondents may be directed to fully comply with the judgment and orders of this August Tribunal and to reinstate the services of the petitioner / appellant with all back benefits, without any further loss of time.

Dated 01/10/2024

[Handwritten signature]
Applicant/Petitioner

Through

Mehboob Ali Khan Dagai
Advocate, High Court
Peshawar.

**BEFORE THE HONORABLE SERVICE
TRIBUNAL KPK PESHAWAR.**

Execution Petition No. _____/2024

In Service Appeal No: 667/2022

Waheed Ahmad

VERSUS

The Inspector General of Police and others.

AFFIDAVIT

I, Waheed Ahmad S/o Jangrez Khan Ex-Constable No.156, R/o Mohallah Par Hoti Moli Manki Tehsil Lahore District Swabi, do hereby solemnly affirm and declare on oath that all the contents of the instant application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



Waheed
Deponent

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BEFORE THE HONORABLE SERVICE TRIBUNAL
KPK PESHAWAR.

Execution Petition No. _____/2024

In Service Appeal No: 667/2022

Waheed Ahmad

VERSUS

The Inspector General of Police and others

ADDRESSES OF PARTIES

PETITIONER:


Waheed Ahmad S/o Jangrez Khan Ex-Constable
No.156, R/o Mohallah Par Hoti Moli Manki Tehsil
Lahore District Swabi

RESPONDENTS:

1. The Inspector General of Police, Police Headquarters, Police Lines, Peshawar.
2. Regional Police Officer Mardan
3. The District Police Officer Swabi.

Dated 01/10/2024

Through


Applicant/Petitioner

Mehboob Ali Khan Dagai
Advocate, High Court
Peshawar.



2024
BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. _____/2022

Am - a

Waheed Ahmad S/o Jangrez Khan, Ex-Constable No.
156 R/o Mohallah Par Moli Manki Tehsil Lahore,
District Swabi.

Appellant

VERSUS

- 2024
1. Inspector General of Police KPK Peshawar.
 2. Regional Police Officer Mardan
 3. District Police Officer Swabi

Respondents

2024

APPEAL U/S-4 OF THE KHYBER
PAKHTUNKHWA SERVICES TRIBUNAL
ACT 1974 AGAINST THE ORDER
NO.4709-14/PA DATED 16-11-2021,
WHEREBY THE APPELLANT WAS
AWARDED MAJOR PUNISHMENT OF
DISMISSAL FROM SERVICE AND ALSO
THE ORDER OF THE APPELLATE
AUTHORITY ON THE DEPARTMENTAL
APPEAL VIDE ENDORSEMENT NO.
2771/ES DATED MARDAN THE
05.04.2022.

ATTESTED

01-10-2024

(7)

(2)

PRAYER:-

ON ACCEPTANCE OF THIS APPEAL THE
IMPUGNED ORDERS NO. 4709/PA,
DATED 16/11/2021 AND ALSO ORDER OF
APPELLATE AUTHORITY ON THE
DEPARTMENTAL APPEAL VIDE ORDER
NO. 2771/ES DATED MARDAN THE
05.04.2022 MAY KINDLY BE SET ASIDE
AND THE APPELLANT MAY KINDLY BE
REINSTATED IN SERVICE WITH ALL
BACK BENEFITS.
ANY OTHER REMEDY WHICH THIS
AUGUST TRIBUNAL DEEMS FIT MAY
ALSO BE GRANTED IN FAVOUR OF
APPELLANT.

Respectfully Sheweth

1. That the Appellant was appointed as Constable on 29.06.2012 with respondent department.
2. That the appellant performed his duty regularly and with full devotion and no complaint whatsoever was made against the appellant.
3. That the father of the appellant ~~of the~~ was seriously ailing on the faithful dates, and on each and every date he was taking to different hospitals and doctors for diagnoses etc but to no avail.
4. That the health of the father of the appellant gradually had become too much weak and despite of request of the appellant for so many times to the

ATTESTED
[Signature]
Khyal Singh
Khyal Singh
Khyal Singh

(8)

(B)

concerned authority, he was not left on leave.

5. That since there was no other male person during those days in the house of the appellant, so due to serious illness of father of the appellant, the appellant was constrained not to go on his duty and to look after his father.
6. That no show cause notice or statement of allegation or any other information with regard to inquiry proceedings against the appellant were received to the appellant.
7. That no formal inquiry was conducted against the appellant and the appellant was proceeded Ex-parte and awarded major punishment of dismissal from service, referred to above. (Copy of dismissal order is attached as annexure "A".
8. That against the impugned order the appellant submitted departmental appeal on 16.11.2021 which was rejected vide order 2771/ES dated Mardan 05.04.2022. (Copy of departmental appeal & rejection order are attached as annexure "B & C").
9. That feeling aggrieved the Appellant prefers the instant service appeal before this Hon'ble Tribunal on the following grounds inter alia:-

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

(19)

(14)

GROUNDS:-

- A. That the impugned order dated 16/11/2021 is void ~~is~~ ab-initio.
- B. That the impugned order dated 16.11.2021 has been passed without fulfilling codal formalities. Reliance is placed on 2007 SCMR Page 834.
- C. That no charge sheet and statement of allegations were issued or served upon the appellant, which is a clear cut violation of Rule-6 (A) (B) of police Rules-1975.
- D. That the impugned order is also void because no regular or departmental inquiry was conducted against the appellant which is mandatory before imposing the major penalty and no opportunity of personal hearing and defense was provided to the appellant. Reliance is placed on a judgment reported on 2003 PLC (CS) Page 365 and 2021 PLC (CS) page 235 as well as judgment of this Tribunal in service appeal No. 1181/2018 decided on 17.09.2021.
- E. That it is a well settled principle of law that no one could be condemned unheard, which

ATTESTED
[Signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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is against the natural justice of law.
Reliance is placed on 2008 SCMR page:678.

F. That no opportunity of cross examination has been provided to the appellant. In this respect the appellant relied upon a judgment reported on 2016 SCMR Page 108.

G. That the absence of the appellant was not intentional but due the serious illness of his father.

H. That under the law on the subject no dismissal ~~or~~ removal from service, in such like cases, can be awarded and that the punishment awarded to appellant is too much harsh which is liable to be set aside.

I. That since his dismissal, the appellant is jobless and that this service is the only source of livelihood of the appellant and his large family including his decrepit, ailing and octogenarian parents.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

J. That since the period from Saturday i.e 01.05.2022 till Sunday i.e 08.05.2022 was declared as holidays for Eid-ul-Fittar, therefore, on 1st opening date, i.e on

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09.05.2022, the instant appeal was filed by the appellant.

K. That any other ground not raised here may graciously be allowed to be raised at the time of full arguments.

It is therefore, most humbly prayed that on acceptance of this appeal the impugned orders No. 4709/PA, Dated 16/11/2021 and also order of appellate Authority on the Departmental Appeal vide order No. 2771/ES dated Mardan the 05.04.2022 may kindly be set aside and the appellant may kindly be reinstated in service with all back benefits.

APPROVED
EXAMINER
MINISTER OF EDUCATION
PESHAWAR

Through

Mehboob
APPELLANT
dis

Mehboob Ali Khan Dagai
Advocate, High Court
Peshawar.

Dated: 30/04/2022

NOTE:-

No such like appeal is either pending or decided earlier, as per instruction of my client.

[Signature]
Advocate.

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BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. _____/2022

Waheed Ahmad

VERSUS

Inspector General of Police KPK Peshawar & Others

AFFIDAVIT

I, Waheed Ahmad S/o Jangrez Khan Ex-Constable No. 156 R/o Mohallah Par Moli Manki Tehsil Lahore, District Swabi, do hereby solemnly affirm and declare that all the contents of the instant appeal are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Hon'ble Tribunal.

Waheed
DEPONENT

IDENTIFIED BY:

Mehboob Ali Khan Dagai
Advocate High Court
Peshawar.

9/5/2022

Date of Presentation of Application	01-10-2024
Number of Words	7-P
Copying Fee	35/-
Urgent	5/-
Total	40/-
Name of	
Date of	01-10-2024
Date of Delivery of Copy	01-10-2024

ATTESTED
Am
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar
01-10-2024

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BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR.

Service Appeal No. 667/2022

Date of Institution... 09.05.2022
Date of Decision... 10.10.2023

SCANNED
KPST
Peshawar

Waheed Ahmad S/o Jangrez Khan Ex-Constable No. 156, R/o Mohallah Par
Moli Manki Tehsil Lahore, District Swabi. ... (Appellant)

ANN-A

VERSUS

Inspector General of Police Khyber Pakhtunkhwa Peshawar and 02 others.
... (Respondents)

MR. MEHBOOB ALI KHAN DAGAI,
Advocate

--- For appellant.

MR. ASAD ALI KHAN,
Assistant Advocate General

--- For respondents.

SALAH-UD-DIN
FAREEHA PAUL

--- MEMBER (JUDICIAL)
--- MEMBER (EXECUTIVE)

JUDGMENT:

SALAH-UD-DIN, MEMBER:- Precise facts forming the background of the instant appeal are that departmental action was taken against the appellant on the allegations that he had willfully remained absent from duty with effect from 11.08.2021 to 23.08.2021 and 06.10.2021 till the date of his dismissal from service i.e 16.11.2021. The appellant challenged the punishment of his dismissal from service through filing of departmental appeal before the Regional Police Officer Mardan, which was rejected vide order dated 05.04 2022, hence the instant appeal.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar
01-10-24

On receipt of the appeal and its admission to regular hearing, respondents were summoned, who put appearance through

their representative and contested the appeal by way of filing written reply raising therein numerous legal as well as factual objections.

3. Learned counsel for the appellant contended that whole of the inquiry proceedings were conducted at the back of the appellant and he was not provided any opportunity of personal hearing as well as self defence. He next contended that the appellant was to attend his ailing father, therefore, his absence could not be considered as willful. He further argued that the inquiry proceedings were conducted in derogation of mandatory provisions of Police Rules, 1975, therefore, the impugned orders are liable to be set-aside. He also argued that absence of the appellant was not misconduct of such grave nature to entail major punishment of dismissal from service. Reliance was placed on 2008 SCMR 214 as well as judgment dated 13.10.2020 passed by this Tribunal in Service Appeal No. 627/2017 titled "*Shujahat Ali Versus Provincial Police Officer Khyber Pakhtunkhwa Peshawar and 03 others*".

4. On the other hand, learned Assistant Advocate General for the respondents contended that proper charge sheet and summery of allegations were issued to the appellant, however he did not bother to associate himself in the inquiry proceedings. He next contended that the appellant was issued final show-cause notice but even then he remained absent from duty, therefore, he was rightly dismissed from service. He further contended that the allegations of

absence from duty against the appellant stood proved in a proper

ATTESTED
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

inquiry, therefore, the impugned orders may be kept intact and the appeal in hand may be dismissed with costs.

5. We have heard the arguments of learned counsel for the parties and have perused the record.

6. The appellant was issued charge sheet as well as statement of allegations on 20.10.2021 and Mr. Noor-ul-Amin the then DSP H.Qrs Swabi was appointed as inquiry officer. Vide letter No. 457/HQrs dated 21.10.2021 and letter No. 467/HQrs dated 28.10.2021, the appellant was summoned by the inquiry officer, however he failed to appear and associate himself in the inquiry proceedings, therefore, ex-parte action was taken against him. Even otherwise too, the appellant has admitted his absence from duty, however his plea is that he was attending his ailing father. The same plea was also taken by the appellant in his departmental appeal, however the appellant did not annex any documentary proof alongwith his departmental appeal as well as service appeal in support of his afore-mentioned plea. Supreme Court of Pakistan in its judgment reported as 2008 SCMR 214 has held as below:-

"The civil servant can avail earned leave in his own right but for grant of such right he must follow the proper procedure provided under the rules and is not supposed to avail any kind of leave entirely in his discretion and choice in departure to the rules and service discipline. The conduct of appellant was thus, unbecoming of a good officer and in the given circumstances, the absence of appellant from duty without leave even if was not willful,



ATTESTED
EXAMINER
Ayub Khan
Service Tribunal
Peshawar

it being an act of disorder in the service, would certainly constitute misconduct and consequently, no exception can be taken to the opinion expressed by the Tribunal. However, in service matters, the penalty is always imposed in the light of nature of charge and in the present case the charge against the appellant was not so grave to propose major penalty of removal from service or compulsory retirement.

7. While seeking wisdom from the judgment referred to above, we are of the view that the punishment awarded to the appellant was too harsh and requires modification.

8. In view of the above discussion, the appeal in hand is partially allowed and the major punishment of dismissal from service is converted into minor punishment of stoppage of three increments for a period of three years. The appellant stands reinstated in service and the period of his absence as well as the intervening period with effect from the date of his dismissal till his reinstatement shall be treated as extra-ordinary leave without pay. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
10.10.2023


(SALAH-UD-DIN)
MEMBER (JUDICIAL)


(FAREEHA PAUL)
MEMBER (EXECUTIVE)

Certified to be true copy
E. AMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application	01-10-2024
Number of Words	4-P
Copying Fee	20/-
Urgent	51/-
Total	251/-
Name	
Date	01-10-2024
Date of	01-10-2024




ORDER
10.10.2023


Appellant alongwith his counsel present. Mr. Asad Ali Khan, Assistant Advocate General for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the appeal in hand is partially allowed and the major punishment of dismissal from service is converted into minor punishment of stoppage of three increments for a period of three years. The appellant stands reinstated in service and the period of his absence as well as the intervening period with effect from the date of his dismissal till his reinstatement shall be treated as extraordinary leave without pay. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
10.10.2023

SIGNATURE
10/10/23
Fareeha Paul


(Fareeha Paul)
Member (Executive)


(Salah-Ud-Din)
Member (Judicial)

Handwritten signature and date: 08/10/24

Handwritten text: 0311-6985149, 1156, 31/01/2024

Main handwritten text block containing various phrases and dates, including '10-10-2023', 'Convert', 'Dismissal', and 'Minor Punishment'.

Admission
2/10/2014

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