


Form- A  
FORM OF ORDER SHEET

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

Implementation Petition No. 1118/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	30.09.2024	<p>The implementation petition of Mr. Shoukat Bahadar submitted today by Mr. Fazal Shah Mohmand Advocate. It is fixed for implementation report before Single Bench at Peshawar on 03.10.2024. 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**

In re:

Execution Petition No. 1118 /2024

Shoukat Bahadar.....Appellant

Versus

RPO and others..... Respondents

**Application for fixation of the above titled  
execution at principle seat, Peshawar**

***Respectfully Sheweth:-***

1. That the above mentioned execution petition is filed today in which no date has been fixed so far.
2. That according to Rule 5 of the Khyber Pakhtunkhwa Service Tribunal Rules, 1974, a Tribunal may hold its sittings at any place in Khyber Pakhtunkhwa, which would be convenient to the parties whose matters are to be heard.
3. That respondent No.3 as well as counsel for the appellant are seated at Peshawar, therefore, the appellant request to fix the tilted execution petition at principal seat of this hon'ble Tribunal at Peshawar.
4. That any other ground will be raised a the time of arguments with the permission of this hon'ble Court.

It is, therefore, prayed that on acceptance of this application the execution petition may please be fixed at principal seat Peshawar for the convenience of parts and best interest of justice.

  
**Appellant**

Through

  
**Fazal Shah Mohmand**

Advocate Supreme Court

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**

**PESHAWAR**

Implementation Petition No 1118 /2024

In

Service Appeal No.2544 /2023

Shaukat Bahadar .....Applicant/Appellant.

**V E R S U S**

RPO and Others. ....Respondents

**I N D E X**

S.No	Description of documents	Annexure	Pages
1.	implementation Petition with Affidavit		1-2
2.	Copy of the Order and Judgment dated 27.06.2024	A	3-7
3.	Copy of Application	B	8
4.	Wakalat Nama		9

Dated:-25.09.2024

  
Applicant/Petitioner

Through

  
Fazal Shah Mohmand ASC

  
Baseer Ahmad Shah

&

  
Ibad Ur Rehman Khalil

Advocates High Court.

**OFFICE:- Cantonment Plaza Flat 3/B Khyber Bazar Peshawar Cell #  
0301-8804841**

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**

①

**PESHAWAR**

Implementation Petition No 1118 /2024

Khyber Pakhtunkhwa  
Service Tribunal

In

Diary No. 16182

Service Appeal No.2544 /2023

Dated 30-09-2024

Shaukat Bahadar, Ex Constable No 480, District Police Swat.

.....Appellant

**V E R S U S**

1. Regional Police Officer, Malakand at Saidu Sharif, Swat.
2. District Police Officer, Swat.
3. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.

.....Respondents

**IMPLEMENTATION PETITION UNDER SECTION 7 OF THE  
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 FOR  
THE IMPLEMENTATION OF ORDER/JUDGMENT DATED 27-06-  
2024 PASSED BY THIS HONORABLE TRIBUNAL IN THE ABOVE  
TITLED SERVICE APPEAL.**

**Respectfully Submitted:-**

1. That the applicant/appellant earlier filed Service Appeal No. 2544/2023 before this honorable Tribunal for his re-instatement in service which was partially allowed and the major penalty of removal from service was converted into minor penalty of stoppage of three annual increments for two years vide order/judgment dated 27-06-2024. **(Copy of the Order/Judgment dated 27.06.2024 is enclosed as Annexure A).**
2. That the appellant time and again approached respondents for the implementation of the order/judgment dated 27-06-2024 of this honorable Tribunal but of no use, Even he submitted application for the purpose but of no avail. **(Copy of Application is enclosed as Annexure B).**
3. That the respondents are not ready to implement the Order/ Judgment of this honorable Tribunal dated 27-06-2024 in its true spirit for no legal and valid reasons, this act of the respondents is

unlawful, unconstitutional and goes against the Orders and Judgment dated 27-06-2024 of this honorable Tribunal.

- 4. That noncompliance of the order of this honorable Tribunal, speaks malafide on part of the respondents and they are bent upon to lower the position of the judiciary in the eyes of the public at large.

It is therefore prayed, that on acceptance of this Application/Petition, respondents may kindly be directed to implement the Order and Judgment of this honorable Tribunal dated 27-06-2024 passed in Service Appeal No 2544/2023 in its true letter and spirit.

Dated:-25.09.2024

*Shaukat*  
Applicant/Petitioner

Through

*ee*  
Fazal Shah Mohmand ASC

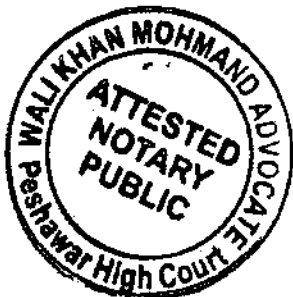
Baseer Ahmad Shah  
&

Ibad Ur Rehman Khalil  
Advocates High Court

**AFFIDAVIT**

I, Shaukat Bahadar, Ex Constable No 480, District Police Swat, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Implementation Petition** are true and correct to the best of my knowledge and believe.

*Shaukat*  
DEPONENT



"A" (3)

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

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 9496

Dated 27-11-2023

Service Appeal No 2544/2023

Shaukat Bahadar, Ex Constable No 480, District Police Swat.

...Appellant

**V E R S U S**

1. Regional Police Officer, Malakand at Saidu Sharif, Swat.
2. District Police Officer, Swat.
3. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.

....Respondents

**APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA SERVICE**  
**TRIBUNAL ACT 1974 AGAINST THE ORDER DATED**  
**03.10.2023 (RECEIVED BY THE APPELLANT ON**  
**02.11.2023) WHEREBY DEPARTMENTAL APPEAL OF THE**  
**APPELLANT FILED AGAINST THE ORDER DATED**  
**22.03.2023 HAS BEEN FILED.**

**PRAYER:-**

On acceptance of this appeal the impugned Order dated 03.10.2023 and order dated 22.03.2023, may kindly be set aside and the appellant may kindly be ordered to be reinstated in service with all back benefits.

**Respectfully Submitted:-**

1. That the appellant was enlisted in District Police Swat in the year 2008 and since enlistment, the appellant performed his duties with honesty and full devotion and to the entire satisfaction of his high ups.
2. That in the year 2022, the appellant while lastly posted to Police Lines Kabal Swat, his brother namely Liaqat Bahadar fell

ATTACHED

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**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL**  
**PESHAWAR**

BEFORE: RASHIDA BANO ... MEMBER (J)  
MUHAMMAD AKBAR KHAN ... MEMBER (E)

*Service Appeal No. 2544/2023*

Date of presentation of Appeal.....21.11.2023  
Date of Hearing.....27.06.2024  
Date of Decision.....27.06.2024

Shaukat Bahadar, Ex-Constable No. 480, District Police Swat.  
.....(Appellant)

**VERSUS**

1. The Regional Police Officer, Malakand at Saidu Sharif, Swat.
2. District Police Officer, Swat.
3. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.  
.....(Respondents)

FAZAL SHAH MOHMAND,  
Advocate

--- For appellant.

MUHAMMAD JAN,  
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 this appeal the impugned order dated 03.10.2023 and order dated 22.03.2023, may kindly be set aside and the appellant may kindly be ordered to be reinstated in service with all back benefits."*

ATTESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar-02.

Brief facts of the case are that the appellant was appointed as Constable in the year 2008. Departmental proceedings were initiated against the appellant and vide impugned order 22.03.2023 he was dismissed from service

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on the allegation of absence from his lawful duty without prior permission or leave from the competent authority. Feeling aggrieved from the impugned order dated 22.03.2023, the appellant filed departmental appeal on 03.07.2023 which was filed vide order dated 03.10.2023, hence preferred the instant service appeal on 27.11.2023.

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 District Attorney and have gone through the record with their valuable assistance.

04. Learned counsel for the appellant contended that the impugned orders dated 22.03.2023 and 03.10.2023 are against the law, illegal, unlawful, without lawful authority and void ab-initio; that the mandatory provisions of law and rules have been badly violated by the respondents and the appellant has not been treated in accordance with law, rules and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan; that the appellant has been dismissed from service on the basis of absence from duty while the appellant duly informed his incharge regarding illness of his brother and with permission to his incharge he was proceeded to his home; that no charge sheet and statement of allegation has been issued to the appellant before issuing the impugned order; that neither Show Cause Notice has been issued to the appellant nor opportunity of personal hearing was afforded to the appellant; that the entire proceedings were carried out at the back of the appellant and he has been condemned unheard. He submitted that no regular inquiry has been conducted in the matter which is mandatory obligation on the part of competent authority.

ATTESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar



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05. On the other hand, learned District Attorney contended that the impugned orders dated 22.03.2023 and 03.10.2023 are legal, lawful and have been passed in accordance with law, rules and justice, therefore, appeal of the appellant is liable to be dismissed; that all the codal formalities were fulfilled before issuing the impugned order. He further contended that opportunities of personal hearing and self-defense were provided to the appellant during departmental probe and after proper departmental inquiry he was awarded major penalty of dismissal from service as per law/rules.

06. Perusal of record reveal that the appellant was proceeded against on the ground of absence for the mentioned period, however the authority has treated the mentioned period as leave without pay. The stance taken by the appellant in his departmental appeal that his brother was ill and with permission <sup>from</sup> to his incharge he proceeded to his home, but the respondents proceeded the appellant in absentia and did not take into consideration his contention. Moreover, regular inquiry is must before imposition of major penalty of dismissal from service. The appellant was not treated as per law, as in case of willful absence, the appellant was required to be proceeded against under Rule-9 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, but the respondents acted in arbitrary manner and dismissed the appellant. Record further reveals that the appellant was proceeded against in absentia and nothing is available on record to suggest that charge sheet/statement of allegation was served upon the appellant. Similarly, no regular inquiry was conducted against the appellant; hence, the appellant was kept deprived of the opportunity to defend his cause. Moreover, the regular inquiry is required before imposition of major

TESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

penalty of dismissal from service, which however was not done in case of the appellant.

07. We also observe that charge against the appellant was not so grave as to impose the penalty of dismissal from service, such penalty appears to be harsh, which does not commensurate with nature of the charge. The appellant has served the respondent department for 14 years. He admitted his absence but such absence was not willful, which does not constitute gross misconduct entailing major penalty of dismissal from service. The appellant was not guilty of charges of gross misconduct or corruption, therefore extreme penalty of dismissal from service for the charge of absence is on higher side, hence, quantum of the punishment needs to be reduced. The competent authority had jurisdiction to award any of the punishments mentioned in law to the government employee but for the purpose of safe administration of justice such punishment should be awarded which commensurate with the magnitude of the guilt otherwise the law dealing with the subject would lose its efficacy.

08. In view of the foregoing discussion, the instant appeal is partially accepted. The penalty of removal from service is converted into minor penalty of stoppage of three annual increments for two years and the intervening period is treated as leave without pay.

09. Pronounced in open court at Peshawar and given under our hands and

ATTESTED seal of the Tribunal on this 27<sup>th</sup> day of June, 2024.

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

(RASHIDA BANO)  
Member (J)

Certified to be true copy

(MUHAMMAD AKBAR KHAN)  
Member (E)

\*Kamranullah\*

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of Presentation of Application 23-09-2024  
4-P  
Number of Words 20/-  
Copying Fee 5/-  
Urgent 25/-  
No of Copies 23-09-2024  
Date of Completion 23-09-2024  
Date of Delivery of Copy

To,

The District Police Officer, Swat

8 "B"

Subject: **Application for implementation of Judgment**  
**dated 27-06-2024.**

Respected Sir,

With due respect it is stated that the applicant filed service appeal No. 2544/2023 before the Honorable Service Tribunal Khyber Pakhtunkhwa Peshawar for his re-instatement in service which was partially allowed and the penalty of removal from service was converted into minor penalty of stoppage of three annual increments for two years vide judgment dated 27-06-2024.

It is therefore requested that the judgment dated 27-06-2024 of Honourable Service Tribunal Khyber Pakhtunkhwa Peshawar may kindly be implement in its true letter and spirit.

  
Applicant

Shaukat Bahadar, Ex Constable No 480,  
District Police Swat.

Dated :12-08-2024

  
**ATTESTED**

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**POWER OF ATTORNEY**

**IN THE PESHAWAR HIGH COURT PESHAWAR**

Shoukat Behar Das

.....Petitioner/Appellant

**VERSUS**

RPO & others

.....Respondents/Defendants

I, Shoukat Behar Das do hereby appoint and constitute,

**Fazal Shah Mohmand, Ibad Ur Rehman Khalil & Baseer Shah** Advocates High Court To act, appear and plead in the above-mentioned matter and to withdraw or compromise the said matter or submit to arbitration any differences or dispute that shall arise touching or in any manner relating to the said matter and to receive money and grant receipts therefore and to do all other acts and things which may be necessary to be done for the progress and the course of the prosecution of the said matter.

1. To draft and sign files at necessary pleadings, applications, objections, affidavits or other documents as shall be deemed necessary and advisable for the prosecution of the said matter at all its stages.
2. To employ any other Legal Practitioner, authorizing him to exercise the power as conferred on the undersigned advocate, wherever he may think fit to do so.

AND I hereby agree to ratify whatever the Advocate or his substitute shall do in the above matter. I also hereby agree not to hold the advocate or his substitute responsible for the result of the said matter in consequence of his absence from the court when the said matter is called up for hearing. I further hereby agree that in the event for the whole or any part of the fee to be paid to the advocate remaining unpaid, he shall be entitled to withdraw from the above matter. Received by me on 26/9/2024.

Shoukat Behar Das  
Client (s)

ACCEPTED BY:  
**Fazal Shah Mohmand ASC,**  
**Ibad Ur Rehman Khalil**  
**Baseer Shah**  
Advocates, High Court.

Shoukat Behar Das