


## Form- A

## FORM OF ORDER SHEET

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

Implementation Petition No. 1069/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	18.09.2024	<p>The implementation petition of Mr. Aqib Khan submitted today by Mr. Muhammad Amjad Abbasi Advocate. It is fixed for implementation report before touring Single Bench at A.Abad on 26.09.2024. 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 HON'BLE SERVICE TRIBUNAL KHYBER  
PAKHUNKHWA PESHAWAR**

S.A No. 5730

1/2024 Execution Petition

No 5 1069 / 2024

Aqib Khan

Appellant

**VERSUS**

Govt of KPK etc


Respondents

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Through

Appellant

  
Muhammad Amjad  
Advocate High Court  
Abbottabad

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**BEFORE THE KHYBER PAKHTUNKHAWA SERVICE TRIBUNAL**  
**PESHAWAR**

Execution Petition No. 1069/2024

IN

Service Appeal No.5730/2021

Aqib Khan son of Faridon Khan resident of Nawanshehr Tehsil and District Abbottabad.

....PETITIONER

~~Khyber Pakhtunkhwa~~  
Service Tribunal

VERSUS

Diary No. 15822

18-09-24  
Secretary Interior Khyber

1. Government of Khyber Pakhtunkhwa, through Secretary Interior Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region Abbottabad.
3. District Police Officer, Abbottabad.

....RESPONDENTS

**EXECUTION PETITION** UNDER SECTION 7 OF KP SERVICE TRIBUNAL ACT 1974 FOR EXECUTION / IMPLEMENTATION OF JUDGMENT AND ORDER DATED 27/05/2024 PASSED IN SERVICE APPEAL NO.5730/2021 BY THIS HONORABLE TRIBUNAL.

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Respectfully Sheweth;-

1. That the petitioner filed service appeal No.5730/2021 before the Khyber Pakhtunkhwa Service Tribunal Peshawar which was allowed vide judgment dated 27/05/2024. (Copy of judgment dated 27/05/2024 is annexed herewith as Annexure "A").
2. That the petitioner approached the respondents regarding implementation of the judgment and for reinstatement of petitioner but to no avail.

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3. That there is no hurdle in implementation of judgment of this court dated 27/05/2024.
4. That the respondents are legally bound to implement the judgment of this Honorable Tribunal in letter & spirit but respondents are reluctant to implement the same.
5. That as per information of petitioner neither the respondents have not impugned the judgment of this Honourable Tribunal before Supreme Court nor the petitioner has received any such notice.

It is therefore, very humbly prayed that on acceptance of instant execution petition judgment and order dated 27/05/2024 passed by this Honorable Tribunal may graciously be implemented in its true letter & spirit, in the best interest of justice and respondents be directed to reinstate the petitioner in service.

Dated: 16/09/2024

Through

.....PETITIONER

(Muhammad Amjad Abbasi)  
Advocate High Court, Abbottabad

**AFFIDAVIT:-**

I, Aqib Khan son of Faridon Khan resident of Nawanshehr Tehsil and District Abbottabad, do hereby solemnly affirm and declare on oath that the contents of foregoing execution petition are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Tribunal.

.....DEPONENT



16/09/24

(3)

ANNEXURE 'A'

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL**  
**AT CAMP COURT ABBOTTABAD**

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

*Service Appeal No. 5730/2021*

Date of presentation of Appeal.....07.05.2021  
Date of Hearing.....27.05.2024  
Date of Decision.....27.05.2024



Aqib Khan S/o Faridon Khan R/o Nawansher Tehsil and District  
Abbottabad.....(Appellant)

**VERSUS**

1. Government of Khyber Pakhtunkhwa through Secretary Interior Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region Abbottabad.
3. District Police Officer, Abbottabad.....(Respondents)

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MUHAMMAD AMJID ABBASI,  
Advocate

--- For appellant.

ASIF MASOOD ALI SHAH,  
Deputy District Attorney

--- For official 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;

*"That on acceptance of instant service appeal the order No. 6071/PA dated 26.03.2021 passed by the respondent No. 2 and order No. 8062-62 dated 29.09.2020 passed by the respondent No. 3 be set aside and appellant be reinstated in service with all back benefits. Any other relief which this Hon'ble Tribunal deem appropriate in the circumstances of the case may also be granted to the*

ATTESTED

  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

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appellant.”

02. Brief facts of the case are that the appellant was serving as Constable in Police Department. During the course of his service, an FIR U/s 362/506/511/ 337-A-I PPC PS Nawanshehr dated 15.07.2020 was registered against the appellant by the respondents, but the appellant was granted bail by the competent court of law. Simultaneously, the appellant was proceeded against departmentally and was ultimately dismissed from service vide order dated 29.09.2020. Feeling aggrieved, the appellant filed departmental appeal which was rejected vide order 26.03.2020, hence preferred the instant service appeal on 27.05.2021

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 contended that the appellant has not been treated in accordance with law, hence his rights secured under the Constitution have badly been violated; that upon registration of FIR against the appellant, the respondents were required to suspend the appellant till the decision of the trial court pending against him, but the respondent did not wait for the decision of the trial court, rather initiated disciplinary proceedings at the back of the appellant; that the appellant was nominated in the FIR but there is no evidence against the appellant with respect to allegations mentioned in FIR dated 15.07.2020; that no regular inquiry was conducted, nor statement of witnesses were recorded in presence of the

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

appellant, thus deprived the appellant of the opportunity to cross-examine such witnesses; that the appellant was condemned unheard and no opportunity of personal hearing was afforded to the appellant; that no show cause notice was served upon the appellant and the appellant was dismissed from service, hence the impugned order have no legal value in the eye of law;

05. Learned Deputy District Attorney on the other hand contended that the appellant while posted at PS Bagnotar was found involved in a criminal case vide FIR No. 454 U/s 362/506/511/ 337-A-I PPC PS Nawanshehr dated 15.07.2020; that on the same charges, the appellant was proceeded against departmentally and proper charge sheet/statement of allegation was served upon the appellant; that final show cause notice was served upon the appellant to which he responded, but his reply was not found satisfactory; that after observing all the codal formalities, the appellant was awarded with major punishment of dismissal from service .

06. Perusal of record reveals that the appellant was dismissed from service on his alleged involvement in FIR No. 454 dated 15.07.2020 U/s 362/506/511/ 337-A-I PPC PS Nawanshehr, District Abbottabad. The allegations in the FIR show that one Muhammad Faisal S/o Taj Muhammad reported to the police that he at about 1230 hours after closing his shop was going to his house at Jharian. When he reached the graveyard near Usmania Masjid around 12:45 am, a motorcycle, on which three people having muffled faces, arrived nearly, one of whom grabbed him, another kept hand at his mouth and the other took out pistol and hit him at different parts of his body and then he was also hit with something made up of iron due to which he felt pain in his body and became unconscious at the spot.

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EXAMINER  
Ayub Pakhtunkhwa  
Service Tribunal  
Peshawar

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07. It is very strange to note that complainant of FIR has not charged anybody in the FIR, however, on the back of the daily diary report No. 4 dated 15.07.2020 in which report was recorded by one Ijaz Khan, ASI had written that in supplementary statement the complainant had charged the appellant and others. Inquiry was conducted which too very astonishingly shows that neither the complainant of the FIR was examined nor ASI, Ijaz was examined during the departmental proceedings. In view of the aforementioned situation the inquiry report has lost its efficacy. Besides, the criminal case is allegedly pending before the competent court of jurisdiction. Before us the important papers which do not prove the allegations against the appellant in the departmental proceedings, atleast the identification documents as aforesaid, nobody i.e. complainant of the FIR or the scribe of the daily diary namely Ijaz, ASI was not examined during the inquiry proceedings. Therefore, on acceptance of the instant appeal we set aside the impugned orders and reinstate the appellant into service. The period which the appellant remained out of service shall be treated as leave of the kind due. Costs shall follow the event. Consign.

08. *Pronounced in open court at camp court Abbottabad and given under our hands and seal of the Tribunal on this 27<sup>th</sup> of May, 2024.*

**ATTESTED**




EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar



(Kalim Arshad Khan)  
Chairman  
Camp Court Abbottabad

Date of Presentation of Application 12/6/24  
 Number of Words 48  
 Copying Fee 20  
 Urgent 5/2  
 Total 25  
 Name of Copy Koutranullah  
 Date of Completion of Copy 12/6/24  
 Date of Delivery of Copy 12/6/24



(Muhammad Akbar Khan)  
Member (E)  
Camp Court Abbottabad



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27-26

Attested  
[Signature]

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S.No. 234879

Mob: \_\_\_\_\_

Name of Advocate \_\_\_\_\_

DBA NO. 851

TBA NO. \_\_\_\_\_

BC No. 18-1583

R.s.200/=



وکالت نامہ

SAIRA JAVED  
Finance Secretary  
District Bar Association  
Abbottabad

بعدالت ضا۔ سروں سروسز پرائیویٹ لمیٹڈ کورہ اسلام آباد کراچی

عنوان: عاقب خان نام سرکار

منجانب: میڈیشن نوعیت مقدمہ اصرار

باعث تحریر آنکھ Anjad Address 1513@gmail.com

مقدمہ مندرجہ بالا عنوان میں اپنی طرف سے واسطے بیرونی وجوہات پر پیشی یا تصدیق مقدمہ بمقام

محمد انجیر علیا (س) آرگنڈوسٹ لٹمی کورہ

کو حسب ذیل شرائط پر وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص رو برو عدالت حاضر ہوں گا اور بروقت پکارے

جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا۔ اگر پیشی پر مظہر حاضر نہ ہو اور مقدمہ میری غیر حاضری کی وجہ

سے کسی طور پر میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طور پر ذمہ دار نہ ہوں گے نیز وکیل صاحب موصوف صدر مقام کچہری کے

علاوہ کسی جگہ یا کچہری کے اوقات سے پہلے یا پچھے یا بروز تعطیل بیرونی کرنے کے ذمہ دار نہ ہوں گے اور مقدمہ کچہری کے علاوہ کسی اور جگہ

سامعت ہونے پر یا بروز تعطیل یا کچہری کے اوقات کے آگے پچھے پیش ہونے پر مظہر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے

کسی معاوضہ کے ادا کرنے یا مختار کے واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل ساختہ پر داختم صاحب موصوف

مثل کردہ ذات منظور و مقبول ہوگا اور صاحب موصوف کو عرض و دعویٰ یا جواب و دعویٰ اور درخواست ایزرائے ڈگری و نظر ثانی اپیل نگرانی و ہر قسم

درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کرنے اور ہر قسم کارروائی وصول کرنے اور رسید دینے اور داخل کرنے

اور ہر قسم کے بیان دینے اور اس پر ثالثی و رائے نامہ فیصلہ برحلف کرتے اقبال و دعویٰ دینے کا بھی اختیار ہوگا اور بصورت جانے بیرونجات

از کچہری صدر اپیل و برآمدگی مقدمہ یا منسوقی ڈگری یکطرفہ درخواست حکم امتناعی یا ترقی یا گرفتاری یا گرفتاری و اجزائے ڈگری بھی صاحب

موصوف کو بشرط ادا جسکی علیحدہ و مختار بیرونی کا اختیار ہوگا۔ اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہوگا کہ مقدمہ مذکور یا اس کے

کسی جزوی کارروائی کے یا بصورت اپیل کسی دوسرے وکیل کو اپنے جوائے یا اپنے ہمزاد مقرر کریں اور ایسے وکیل کو بھی ہر امر میں

وہی اور ویسے اختیارات حاصل ہوں گے جیسے صاحب موصوف کو حاصل ہیں اور دوران مقدمہ جو کچھ ہر جات التوا پڑے گا وہ صاحب موصوف

کا حق ہوگا۔ اگر وکیل صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ وہ مقدمہ

کی بیرونی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔

2024/09/16 مورخہ:

لہذا وکالت نامہ لکھ دیا ہے کہ سند ہے۔

مضمون وکالت نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔ دن ماہ سال

نوٹ: وکالت نامہ کی فوٹو کاپی قابل قبول نہ ہوگی

Accepted [Signature]

دالبلہ نمبر 03105263880

عاقب خان اور سرکار