


Form- A  
FORM OF ORDER SHEET

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

Implementation Petition No. 1196 /2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	16.10.2024	<p>The implementation petition of Mr. M. Sher Khan submitted today by Mr. Amaad Nasir Kundi Advocate. It is fixed for implementation report before Single Bench at Peshawar on 22.10.2024. 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. 1196 /2024  
In Appeal No. 1100/2022

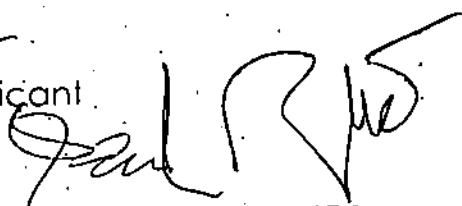
Mr. Muhammad Sher Khan VS IG Police and others

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THROUGH:

Applicant

  
**AMAAD NASIR KUNDI**  
Advocate High Court

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BC-09-0795  
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**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Execution / Implementation Petition No. 1196 /2024

Khyber Pakhtunkhwa  
Service Tribunal

In

Diary No. 16817

Appeal No. 1100/2024

Dated 16-10-24

Mr. MUHAMMAD SHER KHAN, P/1327 Serving as SI (Sub Inspector),  
Office Incharge Investigation OII, Police Station Phandu, Peshawar.

..... PETITIONER / APPELLANT

**V E R S U S**

- 1- The Inspector Genral of Police, Khyber Pakhtunkhwa Peshawar.
- 2- Capital City Police Officer (CCPO), Peshawar.
- 3- Zafar Ali P/973, Inspector Police Line, Peshawar.

.....RESPONDENTS

**EXECUTION PETITION UNDER SECTION 7(2)(d) OF THE KP  
SERVICE TRIBUNAL ACT 1974, RULE 27 OF THE KP  
SERVICE TRIBUNAL RULES 1974 READ WITH SECTIONS 36  
AND 51 OF THE CIVIL PROCEDURE CODE AND ALL  
ENABLING LAWS ON THE SUBJECT FOR THE  
IMPLEMENTATION OF THE JUDGMENT DATED 13.05.2024  
PASSED IN APPEAL NO. 1100/2022 IN LETTER AND SPIRIT.**

**R/SHEWETH:**

- 1- That the appellant filed service appeal bearing No. 1100/2022 before this august Service Tribunal promotion and was accepted the appeal in the following terms as.

**8. Appellant was although considered in meeting held on 10.01.2022 but was not confirmed due to non-completion of mandatory period to other unit. Reason given is beyond the control of the appellant as to select, recommend, for mandatory training and to transfer and post police official for completion of mandatory period is prerogative and exclusive power of the authority, is appellant was not transferred and posted top another unit by the respondent, it is not his fault and is fault of respondent / department for which appellant cannot be held responsible and penalized. Therefore, respondent are directed to confirm appellant as SI along with his batch mates Noor Rehman No. 972 and Zafar Ali.**

**9. for what has been discussed above, we are unison to accept the appeal as above mentioned terms. Costs shall follow the event. Consign."**

Copy of the judgment dated 13/05/2024 is attached as  
annexure "A"

9. That after obtaining copy of the *ibid* judgment dated 13/05/2024 the same was submitted with the respondents for implementation of his grievance coupled with an application but the respondents/ department failed to do so, which is the violation of the judgment *supra*. Copy of application is attached annexure.....B

10. That petitioner having no other remedy but to file this implementation petition.

It is therefore, most humbly prayed that on acceptance of the instant execution petition the respondents may kindly be directed to implement the Judgment dated 13/05/2024 passed in Appeal No. 1100/2022 in letter and spirit. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the petitioner.

Petitioner  
Muhammad Sher Khan


Through:

*[Handwritten Signature]*  
AMAAD NASIR KUNDI  
Advocate High Court

**AFFIDAVIT**

I, Muhammad Sher Khan (petitioner) do hereby solemnly affirm that the contents of this Execution Petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court

*[Handwritten Signature]*  
DEPONENT

*[Handwritten Signature]*  
15-10-2024  




BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1100 /2022

MUHAMMAD SHER KHAN P/1327  
serving as SI Sub Inspector Officer Incharge Investigation (OII),  
Police Station Phandu, Peshawar.

..... APPELLANT

VERSUS

- 1- Inspector General of Police, Khyber Pakhtunkhwa Peshawar.
- 2- Capital City Police Officer, (CCPO) Peshawar.
- 3- Zafar Ali P/973, Inspector, Police Line, Peshawar.


.....RESPONDENTS

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED OFFICE ORDER / NOTIFICATION DATED 17.02.2022 (ANNEX-A) PASSED BY RESPONDENT NO. 02 HEREIN CCPO PESHAWAR WHEREBY THE APPELLANT HAS NOT BEEN CONSIDERED FOR CONFIRMATION IN THE RANK OF SI, BEING AGGRIEVED WITH THIS OFFICE ORDER / NOTIFICATION, THE APPELLANT HAS BEEN PREFERRED THE DEPARTMENTAL APPEAL / REPRESENTATION DATED 02.03.2022 VIDE (ANNEX-B) WHICH WAS RECEIVED BY THE OFFICE OF THE RESPONDENTS VIDE C.R NO. 3871/ DATED 03.03.2022 FOR REDRESSAL OF GRIEVANCES BUT THE SAME HAS BEEN REMAINED UN-RESPONDED TILL THE EXPIRY OF STATUTORY PERIOD OF 90 DAYS, AND THE AUTHORITY IS RELUCTANT TO PASS ANY APPROPRIATE ORDER ON HIS PENDING APPEAL, HENCE, THIS APPEAL, INTER ALIA ON THE FOLLOWING FACTS AND CIRCUMSTANTIAL GROUNDS,

R/SHEWETH:

ON FACTS:

Brief facts giving rise to the present appeal are as under:-

ATTESTED  
  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar  
15-10-24

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No.1100/2022

**BEFORE: MRS. RASHIDA BANO** ... **MEMBER (J)**  
**MISS FAREEHA PAUL** ... **MEMBER (E)**



**Muhammad Sher Khan P/1327 serving as SI (Sub Inspector) Office Incharge Investigation (OII), Police Station, Phandu.**

.... **(Appellant)**

**VERSUS**

1. The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police, Officer, (CCPO), Peshawar.
3. Zafar Ali P/973, Inspector, Police Line, Peshawar.

..... **(Respondents)**

Mr. Amaad Nasir Kundi  
Advocate ... For appellant

Mr. Muhammad Jan  
District Attorney ... For respondents

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Date of Institution.....01.07.2022  
Date of Hearing.....13.05.2024  
Date of Decision.....13.05.2024

**JUDGMENT**

**RASHIDA BANO, MEMBER (J):** The instant service appeal has been instituted under section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as below:

“it is therefore, most humbly prayed that on acceptance of this appeal, the impugned office order dated 17.02.2022 may graciously be set aside declared illegal and without lawful authority and the appellant may kindly be granted promotion/confirmation in their ranks at par as was granted to the above said colleagues from the back and due

**ATTESTED**  
  
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar  
15-10-24

date along-with all the back benefits, arrears, and consequential relief etc.

It is further added that the appellant may also be granted anti dated seniority and directed the respondent to issue revise seniority list wherein the appellant was placed after Noor Rehman and above Zafar Ali/respondent No.03 in the interest of justice.”

2. Brief facts of the case are that appellant was appointed as Constable in Police Department vide order dated 26.03.1988. Since then he performed his duty with devotion and to the entire satisfaction of his superiors. He was promoted to the rank of ASI 16.06.2008. He was further promoted to rank of S.I vide notification dated 17.02.2022. During service, he was departmentally proceeded on the charges of misusing his official authority. On the basis of which he was awarded major penalty of time scale for a period three years. Appellant filed department appeal, which was accepted vide order dated 11.03.2013. Thereafter, respondent department issued revised seniority list for confirmation to the rank of ASI and promotion to list E wherein colleagues and juniors to the appellant were promoted and appellant ignored. He filed departmental appeal, which was rejected, hence the instant service appeal.

3. Respondents were put on notice who submitted their joint parawise comments on the appeal. We heard the learned counsel for the appellant as well as learned District Attorney for the respondents and perused the case file with connected documents in detail.

4. Learned counsel for the appellant, after presenting the case in detail, argued that by not including the name of the appellant in the seniority list at par with his colleagues is illegal, against the law and facts and norms of

ATTESTED

  
Kashmir Sahitua  
Service Tribunal  
Srinagar

R

natural justice; that appellant has not been treated in accordance with law and rules and respondents violated Article 4, 25 & 38 of the Constitution of Islamic Republic of Pakistan, 1973; that appellant was penalized for the offence twice which is violation of Article 13 (a) of the Constitution of Islamic Republic of Pakistan. He requested that instant appeal might be accepted as prayed for.

5. Conversely, learned District Attorney contended that appellant has been treated in accordance with law and rules on the subject. He further contended that appellant has been given promotion/confirmation in list D" with his colleagues vide notification dated 16.06.2008; that seniority of confirmation to the rank of ASI and promotion to list E has been correctly ante-dated and there is no hard and fast rules that a police official will be placed with his batch mates because often promotion leads to earlier confirmation. Promotion of officiating S.I from list E is also made on the available vacancy. As the appellant was deferred from confirmation in the rank of ASI due to imposition of major penalty as well as non-availability of ACRs which were mandatory for confirmation/promotion. He requested that instant appeal might be dismissed.

6. Perusal of record reveals that appellant was enlisted in respondent department on 26.03.1988 as constable. He was promoted as officiating ASI on 16.06.2008 along with others including IHC Noor Rehman. Due to false and baseless complaint he was awarded punishment of time scale for a period of three years under RSO 2000 by SSP(OPS), Peshawar vide order dated 24.02.2011 and resultantly was deprived from his due promotion. Appellant challenged the said penalty in a departmental appeal, which was accepted vide

ATTSTED

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order dated 11.03.2013. Ultimately after about passing of two years respondent/department issued revised seniority list to the rank of ASI and promoted to List E, wherein date of confirmation in the rank of ASI was shown as 27.09.2011 by placing his name below the name of SI Noor Rehman, No.972 and above the name of SI Zafar Ali, No.973/P vide order dated 10.12.2014 because SI Noor Rehman was enlisted as officiating ASI along with appellant on 16.06.2008 while SI Zafar Ali was enlisted in the next officiating ASI list as appellant was last in serial of the list order dated 16.06.2008, when name of the appellant was placed in the seniority at its due and proper place after getting innocence/clearance certificate from his high ups and setting aside of punishment.

7. Appellant was promoted to the rank of officiating SI vide order dated 03.03.2017 upon which he filed departmental appeal which was partially accepted and his date of officiating SI was revised from 03.03.2017 to 10.03.2012 vide order dated 05.07.2021. It is pertinent to mention here that colleagues of the appellant SI Noor Rehman, No.972 and Zafar Ali, No.973 junior to appellant was confirmed to the rank of SI on 13.07.2015.

8. Appellant was although considered in meeting held on 10.01.2022 but was not confirmed due to non-completion of mandatory period to other unit. Reason given is beyond the control of the appellant as to select, recommend, for mandatory training and to transfer and post police official for completion of mandatory period is prerogative and exclusive power of the authority, if appellant was not transferred and posted to another unit by the respondent, it is not his fault and is fault of the respondent/department for which appellant cannot be held responsible and penalized. Therefore, respondent are directed to confirm appellant as SI along with his batch mates Noor Rehman No.972 and

ATTESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Zafar Ali No.973.

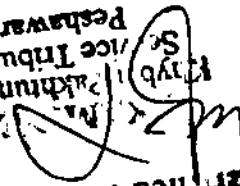
9. For what has been discussed above, we are unison to accept the appeal as above mentioned terms. Costs shall follow the event. Consign.


10. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 13<sup>th</sup> day May, 2024.

  
(FAREEHA PAUL)  
Member (E)

  
(RASHIDA BANO)  
Member (J)

\*ALKIAN

  
Certified to be true copy  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

  
Certified to be true copy  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal.  
Peshawar  
15-10-24

Khyber Pakhtunkhwa S (96) Tribunal, Peshawar  
Application No. \_\_\_\_\_ Date 14-10-24  
Name of Applicant Junaid Shehzad  
Number of Pages 5-P  
Copying Fee 25/-  
Urgent/Ordinary \_\_\_\_\_  
Fees 25/-  
Name & Signature of Applicant Recshan P  
Date of Completion 19-07-2024  
15-10-24

گزارت خطاب - 96 آف بولیس جرنل خزانہ لکھنؤ

صاحب عالی  
عنوانی در شراکت میراے  
Implement کے  
صفحہ حدود 13-S-24 بروئے اسل 11/50/22

تذاریت قبیلہ ساہی نے اسل خزانہ سرواں شریوٹل  
میں تیراے دارواں سرووٹل گراہی ٹیم لکھنؤ  
تعمیر 13/5/22 کو سچا سچ منظور قبول گراہی

2 یہ کہ سچا سچ خزانہ قبیلہ ساہی گراہی  
سے تاکہ سچا سچ کا کسے تیراے DPC لکھا  
چار سرواں شریوٹل قبیلہ ساہی میں  
منظور گراہی کا حکم صادر فرماتا

8

محمد شیر خان 51

Attested to be True  
Copy

○

# VAKALATNAMA

IN THE HONORABLE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL, PESHAWAR

Mr. Sher Khan

VS

Police

Case: Execution

On Behalf Of: Petitioner

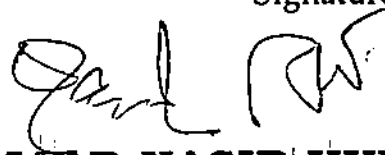
I/WE undersigned do hereby nominate and appoint below mentioned lawyers as counsel in the above matter for me/us and on my/our behalf to appear, plead, act and answer in the above Court or any appellate Court or any other court to which the business is transferred in the above matter; and to sign and file petitions, written statements, exhibits, compromise or other documents whatsoever, in connection with the said matter or any matter arising therefrom, and also to apply for and receive all documents, disposition etc, and to apply for and issue summons and other writs or sub-poena and to apply for and get issued any arrest, attachment or other execution, warrant or order and to conduct any proceeding that may arise there out and to apply for and receive payment of any or all sums or submit for the above matter to arbitration, and to employ any other legal petitioner authorizing him exercise the Power and authorities hereby conferred on the Advocate whenever he may think fit to do so.

AND to do all acts legally necessary to manage and conduct the said case in all respect, whether herein specified or not as may be proper and expedient.

AND I/We hereby agreed to ratify and confirm all acts done on my/our behalf under or by virtue of these presents or of the usual practice in such matter.

WHEREOF I/We have hereto signed at Peshawar the 14 day of October in the year 2024

Accepted:



**AMAAD NASIR KUNDI**

Advocate High Court  
**KUNDI LAW CHAMBER,**

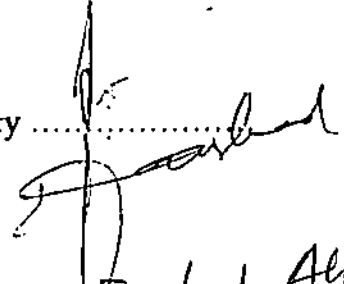
Office No. 4, 2<sup>ND</sup> Floor, Juma Khan Plaza,  
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Near FAT Secretariat,  
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BC-09-0795  
1220139921957

Signature of the Party .....



Farhad Ali  
Advocate High  
Court Pesh.