


Form- A.

FORM OF ORDER SHEET

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

Implementation Petition No. 1301/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	28.10.2024	<p>The implementation petition of Mr. Sanna Ullah submitted today by Mr. Tariq Karak Advocate. It is fixed for implementation report before Single Bench at Peshawar on 01.11.2024. 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**

Implementation Petition No. 130 /      / 2024

In

Appeal No. 5818/2021

MR. Sana Ullah

VS

DPO & others

**INDEX**

S. NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Implementation Petition with Affidavit	.....	1-2
2.	Copy of the order dated 14/05/2024 With Application	"A"	3-8
3.	Vakalatnama		9

Applicant

THROUGH:

  
TARIQ KAKAR  
ADVOCATE SUPREME COURT

①

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

Implementation Petition No. 1301 /2024

In

**Appeal No. 5818/2021**

Mr. Sana Ullah, Ex-Constable 988  
S/o Bakhtiar Ali R/o Zakhi Khana, Akbar Pura, Nowshera  
..... **APPELLANT**

**VERSUS**

- 1- The District Police Office, Nowshera
- 2- Regional Police Officer, Mardan Division, Mardan

.....**RESPONDENTS**

**IMPLEMENTATION PETITION FOR DIRECTING THE**  
**RESPONDENTS TO OBEY & IMPLEMENT THE**  
**JUDGMENT/ORDER DATED 14/06/2024 IN LETTER AND**  
**SPIRIT.**

**R/SHEWETH:**

- 1- That the applicant/petitioner filed Service Appeal bearing No. 5818/2024 before this August Service Tribunal against the impugned dismissal order dated 30/09/2020 appellate order 31/05/2021.
- 2- That the instant service appeal came up for hearing before this Honourable Tribunal on 14/06/2024 was decided on the even date in favour of the appellant/petitioner, which are as follows:-  
Copy of the order dated 14/06/2024 is attached as annexure.....**A**
- 3- That even this Honourable Tribunal passed the order in the presence of the representative of the respondent and also transmitted the copy of judgment to the official respondent, which is done as a routine matter.
- 4- That the petitioner himself also submitted the copy of the order dated 14/06/2024 mentioned above for implementation and allowing the petitioner/appellant to assume duty, but the respondent give deaf ear to the petitioner submissions, hence instant implementation petition.

- 5- That the petitioner/appellant was told that the judgment/order dated 14/06/2024 has been recommended for filing appeal in the Supreme Court and appeal has been filed and till the decision of the appeal, the judgment could not be implemented.
- 6- That there is no stay order from the Apex Court at the moment nor the judgment of this Honourable Tribunal has been suspended, so the respondents are required to implement the order/judgment of this Honourable Tribunal.
- 7- That the moment Supreme Court passed any other the law will take its own course, but till then the respondents are required to show respect to the judgment passed by this Honourable Tribunal and non implementation of the same is tantamounting to dereliction in duty and also disregard to the judgment.
- 8- That the respondent are expected under the law to give effect to the judgment of this Honourable Tribunal and cannot refuse the implementation
- 9- That any other ground will be raised at the time of arguments with kind permission of this Honourable Tribunal.

It is therefore, most humbly prayed that on acceptance of this application, the respondents may graciously be directed to implement the order /judgment dated 14/06/2024 in letter and spirit with costs. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the petitioner.

Dated: 25-10-2024

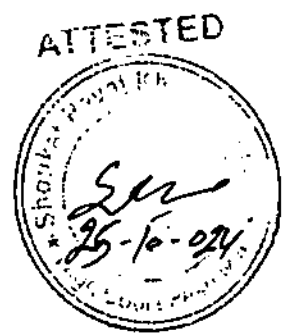
*Sana Ullah*  
**APPLICANT/PETITIONER**

**Mr. Sana Ullah**

**THROUGH:** *[Signature]*  
**TARIQ KAKAR**  
**ADVOCATE SUPREME COURT**

**AFFIDAVIT**

I, Sana Ullah (the applicant/appellant), do hereby solemnly affirm that the contents of this **application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.



*Sana Ullah*  
**DEPONENT**

(A) (3)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No.5818/2021

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



**Sana Ullah, Ex-Constable 988 S/o Bakhtiar Ali R/o Zakhi Kehna, Akbar Pura, Nowshera;** (Appellant)

**VERSUS**

1. District Police Officer, Nowshera,
2. Regional Police Officer, Mardan

... (Respondents)

Roeeda Khan  
Advocate

... For appellant

Asif Masood Ali Shah  
Deputy District Attorney

... For respondents

Date of Institution.....07.06.2021  
Date of Hearing.....14.06.2024  
Date of Decision.....14.06.2024

**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:

“On acceptance of this service appeal both the impugned orders dated 30.09.2020 & 31.05.2021 may very kindly be set aside and the appellant may kindly be reinstated into his service alongwith all back benefits.”

2. Brief facts of the case are that appellant was appointed as Constable in respondent department and performed his duty upto the entire satisfaction


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

of his superiors. Appellant while posted at District Police Line Nowshera a case FIR No. 246 dated 19.08.2020 was lodge against him. Departmental proceedings were initiated against the him which resulted into dismissal from service vide impugned order dated 30.09.2020 which was communicated to the appellant to the appellant 10.03.2021. Feeling aggrieved, appellant filed departmental on 29.03.2021 which was rejected vide order dated 31.05.2021, hence the present service appeal.

3. Respondents were put on notice who submitted written reply on the appeal. We have heard learned counsel for the appellants and learned Deputy District Attorney for the respondents.

4. The learned counsel for the appellant argued that appellant has not been treated in accordance with law and rules. He further argued that the impugned orders passed by the respondents are against the law, facts and norms of justice hence liable to be set aside. He submitted no regular inquiry has been conducted by the respondents and no opportunity of personal hearing has been provided to the appellant and he was condemned unheard. He submitted that no charge sheet and statement of allegations has been issued or communicated to the appellant. He further submitted that no statement of witness has been recorded by the inquiry office and there is no proof of involvement in the said criminal case against the appellant by the respondents. He requested that instant appeal might be accepted as prayed for.

5. Conversely, learned Deputy District Attorney contended that appellant has been treated in accordance with law and rules. He further

 ATTESTED  
29/08/20  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

contended that appellant while posted at Police Lines Nowshera, was directly charged in a criminal case registered vide FIR No. 246 dated 19.08.2020. After commission of offence, the appellant went into hiding in order to evade his lawful arrest, hence, he was recommended for taking ex-parte action by the enquiry officer. He further contended that before awarding punishment, all legal and codal formalities were fulfilled. He requested for dismissal of the instant service appeal.

6. Perusal of record reveals that appellant was appointed as Constable in respondent department. While posted at District Police Line Nowshera case FIR No.246 dated 19.08.2020 U/S 302/324/148/149 PPC at Police Station Akbarpura has been lodged against the appellant. The appellant has been bail out on 10.03.2021, when he went for joining his duties, he was informed that respondent department without fulfilling codal formalities and without providing opportunity of personal hearing to the appellant, dismissed the appellant from service on 30.09.2020 on the ground of involvement in the said case.

7. Perusal of inquiry report reveals that respondent departments initiated disciplinary proceeding against the appellant very quickly as appellant was nominated in a criminal case bearing FIR No.246 U/S 302/324/148/149 PPC P.S Akbar Pura on 19.08.2020 and order of inquiry along with charge sheet and statement of allegations was issued on 25.08.2020 within one week which show the malafide intention of the respondent/department. Respondents under the rules were required to

suspend service of the appellant after getting information about

ATTESTED  
29/09/20  
EXAMINER  
Muyib Pakhtkhwa  
Service Tribunal

6

involvement of the appellant but they instead of his suspension straight away proceeded against him without waiting for outcome of criminal case.

8. More interestingly entire inquiry proceedings were concluded within one month ex-parte without providing any opportunity to the appellant to defend himself before the inquiry officer or court of law. After submission of inquiry, impugned order was passed on 30.09.2020 on 4<sup>th</sup> day of nomination of the appellant in the criminal case. One cannot understand the compelling circumstance of this haphazardness on the part of respondent/department.


**16.3. Action following on a judicial acquittal.-**

**(1) When a Police Officer has been tried and acquitted by a criminal Court he shall not be punished departmentally on the charge or on a different charge based upon the evidence cited in the criminal case we actually led or not, unless-**

- (a) the criminal charge has failed on technical grounds; or**
- (b) in the opinion of the Court or of the Superintendent of Police the prosecution witnesses have been won over; or**
- (c) the court has held in its judgment that an offence was actually committed and that suspicion rests upon the Police officer concerned; or**
- (d) the evidence cited in the criminal case discloses facts unconnected with the charge before the Court which justify departmental proceedings on a different charge; or**
- (e) additional evidence admissible under Rule 16.25 (1) in departmental proceedings is available.**

**(2) Departmental proceedings admissible under sub-rule (1) may be instituted against lower subordinates by the order of the Superintendent of Police but may be taken against Upper Subordinates only with the sanction of the Deputy Inspector-General of Police; and a police officer against whom such**

*R*


**ATTESTED**  
  
**EXAMINER**  
 Khyber Pakhtunkhwa  
 Service Commission  
 Peshawar



*action is admissible shall not be deemed to have been honorably acquitted for the purpose of Rule 7.3 of the Civil Services Rules (Punjab), Volume I, Part I.*

9. For what has been discussed above, we are unison to accept instant service appeal in above mentioned terms. The intervening period of dismissal till this judgment is treated as leave of the kind due and absence period be treated as leave without pay. 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 14<sup>th</sup> day of June, 2024.*

  
(FAREEHA PAUL)  
Member (E)

  
(RASHIDA BANO)  
Member (J)

\*M.Khan

  
**ATTESTED**  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of Presentation of Application 09-9-24  
Number of Words \_\_\_\_\_  
Copying Fee 25/-  
Urgent \_\_\_\_\_  
Total 30/-  
Name of Copyist \_\_\_\_\_  
Date of Completion of Copy 09-9-24  
Date of Delivery of Copy 09-9-24

حضرت عالی

تذریعاً جسٹس صاحبہ سیدہ سجادہ ۲۰۲۰ء میں محکمہ پولیس لاہور  
کو تحریر کیا گیا کہ برصغیر میں پولیس

اب سائنس کی سروس ٹریننگ کے بارے میں  
پتہ چل گیا ہے۔

اس کے علاوہ سیدہ سجادہ کو عدالت کی طرف سے  
سائنس کی سروس کے بارے میں جاننے کا حکم ملا ہے  
فائدہ مند رہے گا۔

No. 1695/PA  
dt 10/9/24




سیدہ سجادہ کی تادیب کے لیے 988 کے ذریعے  
0811-9074743  
0814-0893268

SP Legal/PA  
For u. action.

10/9/24

ATC

9

50	62678	پشاور بار ایسوسی ایشن، خیبر پختونخواہ
ایڈریس: طارق عاظمیٰ ASC	بار کونسل ایسوسی ایشن نمبر: BC-10-8916	  
رابطہ نمبر: 03149111011		

بعدالت جناب: سروس ٹریڈ یونیورسٹی صاحب، پشاور

مخانب: اسپیکر ایسوسی ایشن	دعوی:
شہداء اللہ	علت نمبر:
بنام	موضوع:
DPO وغیرہ	جرم:
	تھانہ:

**بابت تحریر آنگہ**

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ آن مقام پشاور کیلئے طارق عاظمیٰ کو دیکل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کالغ 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 ایک طرف یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظریاتی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کارروائی کے واسطے اڈر وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ برخواستہ منظور و قبول ہوگا دوران مقدمہ میں جو فرچہر جانہ التوائے مقدمہ کے سبب سے ہوگا کو کوئی تازگی پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب یا بندہ نہیں ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: 25/10/2024

شہداء اللہ ولد جنجیار علی سکندر زئی کسینہ آکسپریس پشاور

مقام پشاور گواہ شد العبد کے لیے منظور ہے۔

Attested  
Accepted

نوٹ: اس وکالت نامہ کی فوٹو کاپی ناقابل قبول ہوگی۔