


FORM OF ORDER SHEET

Court of _____

Review Petition No. 1367 /2024

No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	11/11/2024	<p>The Review Petition in appeal no. 88/2024 submitted today by Mr. Ashraf Ali Khattak Advocate. It is fixed for hearing before Division Bench at Peshawar on 18.11.2024. Original file be requisitioned. Parcha Peshi is given to the counsel for the petitioner.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Review petition No. 1367 /2024

In

Appeal No. 88/2024

Ghani Ur Rehman, LHC Belt No. 274, Police force karak

(appellant)

VERSUS

Provincial Police Officer KPK Peshawar and others

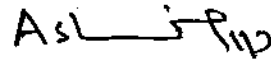
(Respondents)

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1.	Memo of review petition with affidavit		1-5
2.	Copy of order	A	6
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Dated 08.11.2024


Petitioner

Asl 
Ashraf Ali Khattak
Advocate Supreme Court of
Pakistan

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Review petition No. 1367 /2024

In

Appeal No. 88/2024

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 17834

Dated 11-11-24

Ghani Ur Rehman, LHC Belt No. 274, Police Force karak

(appellant)

VERSUS

1. The Provincial Police Officer KPK Peshawar.
2. The Regional Police Officer, Kohat Region, Kohat.
3. The District Police Officer, Karak.

(Respondents)

REVIEW PETITION FOR RECTIFICATION /
APPROPRIATE ORDER IN THE JUDGMENT
OF THE TITLED SERVICE APPEAL
DECIDED ON 30.07.2024.

RESPECTFULLY SHEWETH,

FACTS OF THE CASE

1. That the petitioner filed the titled service appeal before this Hon' able tribunal which was decided vide judgement dated 30.07.2024. (Copy of the order is attached as annexure-A).

2. That with utmost humility in respect, this Hon' able tribunal while arriving at para No. 8 of the Judgment dated 30.07.2024 has inadvertently and mistakenly concluded that petitioner has passed his B-1 Examination in the year 2019 and was Selected for Lower School course accordingly and qualified the same in the year 2019 therefore his seniority was rightfully notified by the respondent accordingly along with his batch mate under Rule 13.8 of the Police rules 1934. The relevant paragraph is hereby reproduce for consideration and perusal

“appellant attempted B-1 examination test who failed for four time and lastly qualified test in the year 2019 and was sent for Lower School Course, which he quaffed in the year 2019 and has seniority in accordance with rule 13. 18 of Police Rules, 1934 was rightfully notified by the Respondents along with his batch mates, who had passed their Lower school Course along with appellant.

3. That the above finding of this Hon' able Tribunal is against the available record on file and more so contradictory with para 7 of the said judgment.

4. That it is evident from the Judgment of the Hon' able Peshawar High court Peshawar in writ petition No 3117-P/2013 that petitioner has passed his B-1 Examination in the year 2012 and got 8th position in the overall merit list

③

of B-1 examination. Respondent deprived the appellant from Selection to the Promotion Lower School Course and selected Junior in merit up to serial No. 12 of the overall merit list B-1 Examination. Therefore the Hon' able Peshawar High court Peshawar while allowing the writ petition of the petitioner directed the respondents to select the petitioner for his respective District, for the forth coming course schedule to be commencement from 01.04.2014 as the current course, which commencement from 04.10.2013 is about to conclude just after one month. (Copy of the judgment is attached as annexure-B).

5. That the respondents were reluctant to honor the Judgment of the Peshawar High Court Peshawar dated 28.01.2014 therefore petitioner was constrained to file COC No. 625-P/2017 and writ petition No 3117-P/2023. During the course of hearing in COC proceeding respondent submitted order No 9015-2022/E-IV dated 22.10.2018 wherein in compliance of the order dated 28.01.2014 passed by Peshawar High Court Peshawar in writ petition No. 3117-P/2013 and subsequent COC No 625 -P/2017 one extra seat for Lower School Course was allotted in favor of petitioner and the petitioner was accordingly sent for undergoing Lower School Course which he qualified in the year 2019. (copy of COC No. 265-P/2017 along with order dated 22.10.2018 are attached as annexure-C).


6. That it is worth mentioning that the Hon' able Peshawar High court Peshawar left the question of seniority of the petitioner for determination to this Hon' able Tribunal being part in parcel of terms and conditions.
7. That from the perusal of the above documentary evidence it is crystal clear that petitioner was Selected / sent for Promotion course "Lower School Course" on the strength of the order of Peshawar High Court Peshawar in COC No. 265-P/2017 in Writ Petition No 3117-P/2013 and not on the strength of his passing B-1 examination in the year 2019.
8. That it has been repeatedly held by the Hon' able Supreme Court of Pakistan, High Court of Pakistan and even by this Hon' able Tribunal in numerous of its reported Judgment that no one should be penalized for the act of other / respondents.
9. That petitioner has been penalized for the act and omission of the respondents and due to their lethargic and inadvertent attitude he was belatedly selected / sent for his promotion course i.e "Lower School Course" in the year 2019.

(5)

10. That the error is flouting on the very surface of the Judgment of this Hon' able Tribunal dated 30.07.2024 in service appeal No. 88/2024 and need urgent rectification / appropriate order from this Hon' able Tribunal.
11. That any other grounds adduced at the time of arguments with the prior permission of this Hon' able Tribunal.

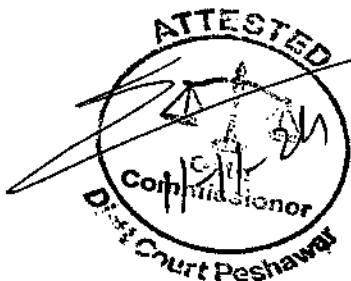
In view of the above humble submission It is, very humbly prayed that on acceptance of this review petition this Hon' able Tribunal may graciously be please to rectify the error highlighted above through appropriate order.

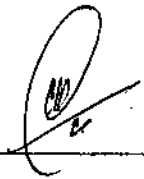
Dated 08.11.2024


Petitioner As L Tip
Ashraf Ali Khattak
Advocate Supreme Court of
Pakistan

AFFIDAVIT

I, Ghani Ur Rehman, LHC Belt No. 274, Police force karak do hereby affirm and declare on oath that the contents of this review petition is true and correct to the best of my knowledge and belief nothing has been concealed from this Hon'ble Service Tribunal.



Deponent 

Annex 6


ORDER
30.07.20241

Learned counsel for the appellant present. Mr. Muhammad Jan, learned Deputy District Attorney alongwith Muhammad Usman, DSP for respondents present.

2. For what has been discussed above, we are unison to dismiss the service appeal in hand. Costs shall follow the event. Consign.

3. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 30th day of July, 2024.*


(KALIM ARSHAD KHAN)
Chairman


(RASHIDA BANO)
Member (J)

*M.Khan

~~REGISTERED~~

AWAB 7

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.88/2023

BEFORE: MR. KALIM ARSHAD KHAN ... CHAIRMAN
MRS. RASHIDA BANO ... MEMBER (J)

Mr. Ghani Ur Rehman, LHC, Belt No. 274, Police Force, Karak.

.... (Appellant)



VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer, Kohat Region, Kohat.
3. District Police Officer, Karak.

.... (Respondents)

Mr. Ashraf Ali Khattak
Advocate

... For appellant

Mr. Muhammad Jan
District Attorney

... For respondents

Date of Institution.....01.01.2024
Date of Hearing.....30.07.2024
Date of Decision.....30.07.2024

JUDGMENT

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

“On acceptance of this appeal, this Hon’ble Tribunal may graciously be pleased to declare the impugned final seniority list of LHC/HC on promotion list “C-1”, wherein appellant has been at Serial No.339 vide term ending 10.03.2019 is

[Handwritten signature]

ATTESTED

MR. MEMBER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

14-10-21

ATTESTED



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illegal, unlawful and without lawful authority against fair play, discriminatory and norms justice and direct the respondents to place the appellant with his colleagues, who has passed their Lower School Course in 2nd term of 2012 in accordance with his merit position (Lower School passing result) as per Rule, 13.8 of the Police Rules, 1934, promote him to the post HC according, with his batch mate and send him to Intermediate College Course forth with accordingly. Any other relief as deemed appropriate under the circumstances of the case may also graciously be allowed to the appellant."

2. Brief facts of the case are that the appellant is serving as L.H.C in the Police Department; that as per standing order No.1 of 2004, a police constable having three years of service shall be eligible to participate in A-1 examination; that likewise a constable who completes two years of service as a constable on list A-1 becomes eligible for participation in B-1 examination and after qualifying the same, he becomes eligible for his selection to the Lower School Course; that as per Police Rules 13.7, a constable on list B-1 could only be selected for Lower School Course at PTC Hangu, if his age is not beyond the prescribe age limit of 33 years; that appellant has passed B-1 examination but he was not selected for Lower School Course. Feeling aggrieved, he filed writ petition No. 3117-P/2013 before the Worthy Peshawar High Court, Peshawar which was allowed vide judgment dated 28.01.2024 with direction to the respondents to include name of the appellant in the list of candidates for the

~~ATTESTED~~

ATTESTED

 [Illegible text]

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forin-coming course scheduled to be commencing w.e.f. 01.04.2014. When respondents failed to comply the orders of Worthy Peshawar High Court, appellant filed COC No. 825-P/2017 in writ petition. The worthy Peshawar High Court, Peshawar vide order dated 23.10.2018 disposed of the COC on the grounds that seniority of the appellant would be reckoned with his colleagues, who will be undergoing the lower school course with him. The timing of seniority shall not violate seniority of others. Then he joined the lower school course and passed the same. He was promoted to the post of LHC and was brought on promotion list C-1, but was placed at serial No. 338 of the seniority list. The appellant then filed departmental appeal seeking his seniority with his batch mates from the year 2012, which was not responded. He filed Service Appeal No. 7240/2020, which was disposed of vide order dated 22.11.2022 on the following terms;

"The departmental representation/appeal is thus, remitted to the concerned appellate authority with the directions to decide the same through a speaking order strictly in accordance with relevant rules/law within a period of 60 days of receipt of copy of this judgment."

The appellant was ignored till 2023, therefore, he filed Execution Petition No. 494/2023 before this Tribunal. During proceedings, respondents submitted compliance report in shape of rejection order of departmental appeal of the appellant dated 07.11.2023. The execution petition was disposed of as follows.

"Vide the judgment dated 22.11.2022, the departmental representation was remitted to the appellate authority to decide the same through a speaking order, strictly in accordance with law and rules, within 60 days. Although, the decision, on appeal, was taken,

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[Stamp: Director, Peshawar High Court, Peshawar]

[Handwritten signature]
[Stamp: Director, Peshawar High Court, Peshawar]

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with considerable delay but the representation of the petitioner was dismissed vide order dated 06.11.2023. The petitioner says that the copy of the order has not been communicated to him. Today, copy of the said order was handed over to the petitioner, who is at liberty to avail further remedy, if he so desires. Consign."

Hence the instant service appeal.

3. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents put appearance and contested the appeal by filing written reply raising therein numerous legal and factual objections. The defense setup was a total denial of the claim of the appellant.

4. We have heard learned counsel for the appellants and learned Deputy District Attorney for the respondents.

5. The learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned Deputy District Attorney controverted the same by supporting the impugned order(s).

6. Perusal of record reveals that appellant seeks his seniority with those Police official with whom he had passed B.1 examination condition prerequisite for promotion course i.e. Lower course at PTC Hangu and had secured 8th position in merit list of B1 and he also seeks his promotion to HC alongwith his batchmate of B1 examination of year 2012, with whom direction was to respondent to send him to Intermediate College Course.

7. Appellant approached worthy Peshawar High Court for his non selection to lower course in year 2012 by filing writ petition No.3117-P/2013, which was allowed vide order dated 28.01.2014 with direction to include his name in the

~~ATTACHED~~

Gm
District Attorney
Peshawar

(17)

(11)

upcoming course scheduled to be commenced with effect from 01.04.2014, which order of Peshawar High Court was not complied with, therefore, appellant filed COC Petition No.625-P/2017, which was disposed of upon production of office order No.9015-2023/IV dated 22.10.2018, whereby appellant was allotted one extra seat for Lower School Course with the remarks that the timing of the course shall not violate seniority of others. These words were deleted by the worthy High Court in its order dated 23.10.2018, because same is the job of this Tribunal being falls within terms & conditions of service.

8. Criteria for enlistment of constable to list B1 is given in the standing order 03/2011 in accordance with which total 100% marks were distributed out of which 75% are of written test, professional courses 10 marks, professional abilities 10 marks and 5 marks for interview and as per respondents only 10 seats were allocated to District Karak in year 2010 and appellant secured 12th position in merit list of B1 examination, that is why, his name was not included in list of selected candidates/constables for Lower College Course in year 2012. Later on after relaxation of upper age limit after decision of apex court in CPLA filed against order of Peshawar High Court decision given in writ petition No.3117-P/2012 alongwith other connected writ petitions, appellant was attempted B1 examination test who failed four times and lastly qualified it in the year 2019 and was sent for Lower School Course, which he qualified in year 2019 and his seniority in accordance with Rule 13.18 of Police Rules, 1934 was rightly fixed by the respondents alongwith his batch mates, who had passed their Lower School Course alongwith appellant.

TESTED
Jm
KARAK DISTRICT POLICE HEADQUARTERS
KARAK

~~ATTACHED~~

9. Appellant seeks his enlistment on list "C" alongwith constables with whom he had passed his B1 examination for the first time in year 2012, but was not selected for lower school course. Criteria for bringing name of any constable on list "C" is the passing of Lower School Course from PTC Hangu in the order of merit assigned by PTC, Hangu in Lower School Course.

10. Therefore, in our view a constable will not be enlisted to list "C" until and unless he had passed Lower School Course from PTC, Hangu, which the appellant passed in year 2019 and his name is rightly enlisted at list "C" in accordance with rules and police order No.3/2011 and he was not entitled to be enlisted with his B1 examination colleagues with whom he had qualified the same in year 2012, because B1 examination is valid just for one year specific period and that is why appellant when qualified B1 examination again in year 2019, he was sent for Lower School Course. So, it is just for selection to the Lower School Course at PTC Hangu and was not determination and fixation of seniority and enlists to list "C".


11. For what has been discussed above, we are unison to dismiss the service appeal in hand. Costs shall follow the event. Consign.

12. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 30th day of July, 2024.*


(KALIM ARSHAD KHAN)
Chairman

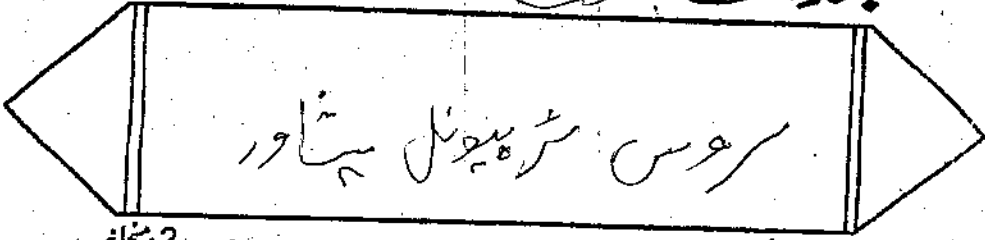

(RASHIDA BANO)
Member (J)

*M.Khan

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal
Peshawar
14-10-24



بعدالت جملہ



2 جناب
محکمہ اعلیٰ تعلیم نام حکومت

۱۱/۱۱/۲۰۲۴

موزعہ

مقدمہ

دعویٰ

جزم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ

آن مقام سٹار کیلئے سٹریٹیجی

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز

دیکل صاحب کو راضی نامہ کرنے و تقررات ہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور

بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق

زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی

نیز دائر کرنے اپیل مگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور

کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار

ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ

پرواخذہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جاتہ التوائے مقدمہ کے سبب سے ہوگا۔

کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی

مذکور کریں۔ لہذا عدالت نامہ لکھ دیا کہ سند ہے۔

Accepted by _____
Asl. _____ ۱۱ _____
2024 _____

_____ واہ العب _____

کے لئے منظور ہے۔

بمقام سٹار

عینی اہل حقان