

Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 467/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	12.08.2022	The execution petition of Mr. Junaid Akbar submitted today by Roceda Khan Advocate may be entered in the relevant register. This execution petition be put up before Single Bench at Peshawar on _____ Original file be requisitioned.

REGISTRAR

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

Execution Petition No. 467 /2022

In Service Appeal: 750/2020

Mr. Junaid Akbar Ex-Chowkider, Health Department, attached
to EPI Store Pishtakhara, Peshawar.

..... Appellant

VERSUS

- (1) Director General, Health Services, KPK, Peshawar.
- (2) Secretary to Govt of KPK Health Department, Peshawar.
- (3) Deputy Director, EPI DG Health Services Offices at
Peshawar.

..... Respondents

INDEX

S.No.	Description of documents	Annexure	Pages
1.	Copy of Petition		1-2
2.	Copy of Judgment	A	3-7
3.	Wakalat Nama		

Dated 12/08/2022.



Appellant

Through



Rooeda Khan
Advocate High Court,
Peshawar

(16)

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

Execution Petition No. _____/2022

In Service Appeal: 750/2020

Mr. Junaid Akbar Ex-Chowkider, Health Department, attached
to EPI Store Pishtakhara, Peshawar.

..... **Appellant**

VERSUS

- (1) Director General, Health Services, KPK, Peshawar.
- (2) Secretary to Govt of KPK Health Department, Peshawar.
- (3) Deputy Director, EPI DG Health Services Offices at
Peshawar.

..... **Respondents**

.....

**EXECUTION PETITION FOR DIRECTING THE
RESPONDENTS TO IMPLEMENT THE JUDGMENT
DATED: 07/09/2021 OF THIS HONOURABLE
TRIBUNAL IN LETTER AND SPIRIT.**

.....

Respectfully Sheweth:

1. That the appellant/Petitioners filed Service Appeal No. 750/2020 before this Hon' able Tribunal which has been accepted by this Hon' able Tribunal vide Judgment dated 07/09/2021. (Copy of Judgment is annexed as Annexure-A).

- 2
2. That the Petitioner after getting of the attested copy approached the respondents several times for implementation of the above mentioned Judgment however they using delaying and reluctant to implement the Judgment of this Hon' able Tribunal.
 3. That the Petitioner has no other option but to file the instant petition for implementation of the Judgment of this Hon' able Tribunal.
 4. That the respondent Department is bound to obey the order of this Hon' able Tribunal by implementing the said Judgment.

It is therefore requested that on acceptance of this Petition the respondents may kindly be directed to implement the Judgment of this Hon' able Tribunal letter and spirit.

Dated 12/08/2022



Appellant/Petitioner

Through



Rooeda Khan

Advocate High Court Peshawar

AFFIDAVIT

Mr. Junaid Akbar Ex-Chowkider, Health Department, attached to EPI Store Pishtakhara, Peshawar. do here by solemnly affirm and declare on oath that all the contents of the above petition are true and correct to the best of my knowledge and belief and nothing has been misstated or concealed from this Hon' able Tribunal.



DEPONENT



(1) (3)

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

Member Pakhtunkhwa
Service Tribunal

Case No. 920

Dated 30/1/2020

In Re S.A No. 750/2020

Mr. Junaid Akbar, Ex- Chowkidar, Health
Department, attached to EPI Store Pishtakhara,
Peshawar.

Appellant

VERSUS

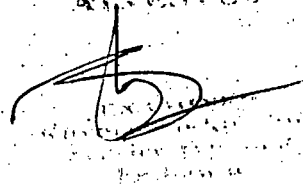
1. Director General, Health Services, KPK,
Peshawar.
2. Secretary to Govt of KPK Health Department,
Peshawar.
3. Deputy Director, EPI DG Health Services Office at
Peshawar.

Respondents

lead to-day
20/11/2020
Registrar

APPEAL U/S-4 OF THE KHYBER
PAKHTUNKHWA SERVICES TRIBUNAL ACT
1974 AGAINST THE APPELLATE ORDER
DATED 15/05/2019, WHEREBY THE
APPELLANT HAS BEEN AWARDED MAJOR
PENALTY OF REMOVAL FROM SERVICE
AGAINST WHICH THE APPELLANT FILED A
DEPARTMENTAL APPEAL ON 10/06/2019
WHICH HAS BEEN REJECTED ON 04/11/2019
COMMUNICATED TO THE APPELLANT ON
30/12/2019.

ATTESTED



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BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR.

Service Appeal No. 750/2020

Date of Institution ... 30.01.2020

Date of Decision ... 07.09.2021



Junaid Akbar, Ex-Chowkidar, Health Department, Attached to EPI
Pishtakhara, Peshawar.

... (Appellant)

VERSUS

Director General, Health Services, Khyber Pakhtunkhwa, Peshawar
and two others.

... (Respondents)

MS ROEEDA KHAN,
Advocate

--- For appellant.

MR. JAVED ULLAH,
Assistant Advocate General

--- For respondents.

MR. SALAH-UD-DIN
MR. ATIQ-UR-REHMAN WAZIR

--- MEMBER (JUDICIAL)
--- MEMBER (EXECUTIVE)

JUDGMENT:

SALAH-UD-DIN, MEMBER:-

Precise facts giving rise to filing of the instant service appeal are that the appellant, who was serving as Chowkidar in Health Department and was attached to EPI Stores Pishakhara, was departmentally proceeded against and was removed from service vide order dated 15.05.2019. The departmental appeal of the appellant was also rejected, therefore, he has now

ATTESTED

Khyber Pakhtunkhwa
Services Tribunal
Peshawar

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approached this Tribunal through filing of the instant service appeal for redressal of his grievance.

2. Notice was issued to the respondents, who submitted their comments.

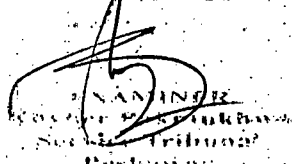
3. Learned counsel for the appellant has contended that the inquiry proceedings were not conducted in accordance with the relevant provisions of Efficiency & Disciplinary Rules, 2011; that neither the appellant was associated with the inquiry proceedings nor an opportunity of personal hearing was afforded to the appellant; that one of the allegation as mentioned in the impugned order was willful absence of the appellant, however neither specification of any period of absence has been mentioned nor the procedure as provided in rule-9 of Efficiency and Disciplinary Rules, 2011 was adopted; that the impugned orders are bereft of an legal sanctity, therefore, the same are liable to be set-aside. Reliance was placed on 2021 PLC (C.S) 221, 2020 PLC (C.S) 1291, 2008 PLC (C.S) 1302, 2008 SCMR 634, 2013 SCMR 1053 and PLJ 2018 Tr.C (Services) 6.

4. On the other hand, learned Assistant Advocate General for the respondents has contended that the appellant was proceeded against on the allegations of habitual absence and irresponsible attitude and after fulfillment of all codal formalities, the appellant has rightly been removed from service; that show-cause notice was issued to the appellant and an opportunity of personal hearing was also provided to him; that the allegations against the appellant stood proved during the inquiry, therefore, the appeal of the appellant was rightly dismissed by the appellate Authority. Reliance was placed on 2020 SCMR 1154.

5. We have heard the learned counsel for the parties and have perused the record.

6. Available on the record is copy of show-cause notice issued to the appellant by the competent Authority vide order dated

ATTESTED


Assistant Advocate General
Service Tribunal
Peshawar

06.02.2019. Para-2 of the said show-cause notice is reproduced as below:-

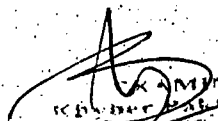
"2. In terms of Rules-5 of Khyber Pakhtunkhwa Govt; Servant (Efficiency and Discipline) Rules, 2011, I, as Competent Authority dispense with the inquiry and serve you with a show-cause notice under Rule-7 of the ibid rules."

The above mentioned reproduced para-2 of the show-cause notice would show that the holding of regular inquiry was dispensed with by the competent Authority but on the other hand para-1 of the same show-cause notice would show that an inquiry was already conducted and the show-cause notice was issued to the appellant in consequence of the inquiry conducted against him. For ready reference, relevant portion of para-1 of the said show-cause notice is reproduced as below:-

"As per charge sheet and statement of allegation served upon you and findings of the inquiry report submitted by Director MCH DGHS Peshawar vide letter No. 670/MCH dated 27.12.2018 finding that inspite of repeated calls you did not come and failed to submit your statement before the inquiry officer. The statement of Store Keeper as well as Deputy Director EPI showed upon their displeasure and labeled as irresponsible, unpunctual, careless and unwilling employee, and also show that your personal file is full of explanations, absent reports, inquiry reports, warning and charge sheets. And also issued minor penalty of censure three time at difference occasion."

7. It is thus evident that the show-cause notice issued to the appellant was in itself a vague document and has created material dent in the inquiry proceedings against the appellant. Moreover, the appellant has denied the service of show-cause notice upon him, however the respondents could not produce any documentary proof to show that the same was served upon the appellant. The respondents have not produced any documentary evidence to show that the appellant was associated with the

ATTESTED

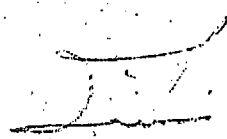

 EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

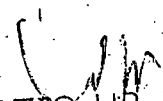
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alleged inquiry proceedings. Moreover, one of the allegation as mentioned in the impugned order was willful absence of the appellant, however neither specification of any period of absence has been mentioned nor the procedure as provided in rule-9 of Efficiency and Disciplinary Rules, 2011 was adopted. The impugned orders are thus not sustainable in the eye of law and are liable to be set-aside.

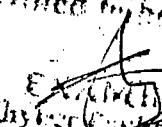
8. In view of the above discussion, the appeal in hand is accepted by setting-aside the impugned orders and the appellant is reinstated in service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
07.09.2021


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

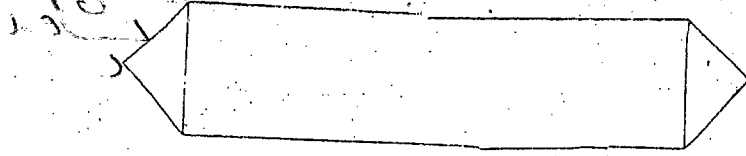

(ATIQU-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)

Certified to be true copy


Khayr-ud-Din
Service Tribunal
Peshawar

Date of Presentation of Application 13/9/21
Number of Words 1600
Copying Fee 18/-
Budget 4/-
Total 22/-
Name of Applicant _____
Date of Copying of Copy 13/9/21
Date of Delivery of Copy 13/9/21

بعدالت غائب اللہ



2022ء مخب

بنام
وہود اللہ

مورخہ

مقدمہ

دعویٰ

جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی صاحب سے کابکارہ الام متعلقہ

آن مقام دادہ کیلئے روئے حاکم اور

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زر میں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری کی طرفہ یا اپیل کی برآمدگی
اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت
مقدمہ مذکور کے کل یا جزوی کاروائی 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 پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ 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 وکالت نامہ لکھ دیا کہ سند ہے۔

الرقوم 12 ماہ اگست 2022ء

کے لئے منظور ہے۔

مقام
Accepted
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