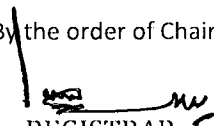


Form- A  
FORM OF ORDER SHEET

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

Execution Petition No. 469/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	16.08.2022	<p>The execution petition of Syed Wajid Ali Shah submitted today by Syed Noman Ali Bukhari Advocate. It is fixed for implementation report before Single Bench at Peshawar on _____. Original file be requisitioned. AAG has noted the next date. The respondents be issued notices to submit compliance/implementation report on the date fixed.</p> <p style="text-align: right;">By the order of Chairman  REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL, PESHAWAR.

Execution Petition No. 469 /2022  
In Service Appeal No.1254/2014

Syed Wajid Ali Shah

VS

Govt of KP

INDEX

S.No.	Documents	Annexure	Page No.
1.	Memo of Execution Petition	-----	01-02
2.	Copy of Judgment	- A -	03-07
3.	Copy of application	-B-	08-09
4.	Vakalat Nama	-----	10

*Wajid Ali Shah*  
**PETITIONER**  
Syed Wajid Ali Shah

THROUGH:

*Noman Ali Bukhari*  
**SYED NOMAN ALI BUKHARI**  
ADVOCATE, HIGH COURT

Cell No: 0306-5109438

①

**BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR.**

Execution Petition No. 469 /2022

In Service Appeal No.1254/2014

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 1006

Dated 16/8/2022

Syed Wajid Ali Shah, Ex-Qari  
GHS Maroba, Nowshera.

**PETITIONER**

**VERSUS**

1. The Secretary Education (E&SE) Department, KPK, Civil Secretariat, Peshawar.
2. The Director, Peshawar. of Education (E&SE), Department, KP, Peshawar.
3. The District Education Officer (Male), Nowshera.

**RESPONDENTS**

.....

**EXECUTION PETITION FOR DIRECTING THE  
RESPONDENTS TO IMPLEMENT THE  
JUDGMENT DATED: 27.01.2022 OF THIS  
HONORABLE TRIBUNAL IN LETTER AND  
SPIRIT.**

.....

**RESPECTFULLY SHEWETH:**

1. That the applicant/appellant filed Service Appeal No.1254/2014 in this august Tribunal against the order dated 20/10/2012 whereby the appellant has been terminated from the service.
2. That the said appeal was finally heard by the Honorable Tribunal on 27.01.2022 and the Honorable Tribunal was kind enough to accept the appeal and penalty of dismissal from service was set aside and the appellant is reinstated into service and intervening period treated as leave without pay. **(Copy of judgment is attached as Annexure-A).**

- 2
3. That the appellant also filed application to respondents for the implementation of judgment. The respondents were totally failed in taking any action regarded the Hon'able Tribunal Judgment dated 27.01.2022. **COPY OF APPLICATION IS ATTACHED AS ANNEXURE-B.**
  4. That in-action and not fulfilling formal requirements by the respondent after passing the judgment of this august Tribunal, is totally illegal amount to disobedience and Contempt of Court.
  5. That the judgment is still in the field and has not been suspended or set aside by the Supreme Court of Pakistan, therefore, the respondents are legally bound to pass formal appropriate order.
  6. That the petitioner has having no other remedy to file this Execution Petition.

It is, therefore, most humbly prayed that the respondents may be directed to obey the judgment dated 27.01.2022 of this august Tribunal in letter and spirit and directed the respondent to reinstate the appellant into service w.e.from the date of judgment 27.01.2022. Any other remedy, which this august Tribunal deems fit and appropriate that, may also be awarded in favor of applicant/petitioner.

*Wajid Ali Shah*  
**APPLICANT/PETITIONER**  
Syed Wajid Ali Shah

**THROUGH:**

*Noman Ali Bukhari*  
**(SYED NOMAN ALI BUKHARI)**

&  
*Uzma Syed*  
Advocate, High Court  
Peshawar.

**AFFIDAVIT:**

It is affirmed and declared that the contents of the above Execution Petition are true and correct to the best of my knowledge and belief and nothing has been concealed from the Hon'able Tribunal.



*Uzma Syed*  
**DEPONENT**

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

A (3)

APPEAL NO. 1254 /2014

Syed Wajid Ali Shah -Ex Qari,  
GHS Maroba, Nowshera.



1254  
dated 10-10-2014

(Appellant)

VERSUS

1. The Secretary Education (E&SE), Peshawar.
2. The Director, Education (E&SE), Peshawar.
3. The DEO(E&SE), Nowshera.
4. The Secretary, Government of Khyber Pakhtunkhwa, Finance Department, Peshawar.

(Respondents)

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 08.07.2014, WHERE THE APPELLANT HAS BEEN TERMINATED FROM SERVICE AND NOT TAKING ACTION ON DEPARTMENTAL APPEAL OF THE APPELLANT WITH IN STATUTORY PERIOD.

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 08.07.2014 MAY BE SET ASIDE AND THE APPELLANT MAY BE REINSTATED WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT, MAY ALSO, BE AWARDED IN FAVOUR OF APPELLANT.

R. SHEWETH:

1. That the appellant joined the education department as Chowkidar on 24.10.2005. The appellant having the qualification of Qari post, was appointed as Qari in the year 2007 and performed his duties at various Govt. schools at District Nowshera.

As-submitted to  
and filed.

10/10/14  
21/10/14

ATTESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

u

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 1254/2014

Date of Institution ... 10.10.2014

Date of Decision ... 27.01.2022



Syed Wajid Ali Shah Ex-Qari GHS Maroba, Nowshera.

... (Appellant)

**VERSUS**

The Secretary Education (E&SE), Peshawar and others.

... (Respondents)

Syed Noman Ali Bukhari,  
Advocate

... For Appellant

Noor Zaman Khattak,  
District Attorney

... For respondents

**AHMAD SULTAN TAREEN** ...  
**ATIQU-UR-REHMAN WAZIR** ...

**CHAIRMAN**  
**MEMBER (EXECUTIVE)**

**JUDGMENT**

**ATIQU-UR-REHMAN WAZIR MEMBER (E):-**

Brief facts of the

case are that the appellant joined Education Department as Chowkidar vide order dated 24-10-2005, who later on was appointed as Qari in the year 2007. It was in 2010, when heavy floods damaged official record of the respondents, hence the respondents were unable to ascertain the genuineness of their own employees and for the purpose, a fact finding inquiry was conducted, as a result of which appointment of the appellant was declared to be appointed fraudulently vide order dated 20-10-2012. Feeling aggrieved, the appellant filed departmental appeal followed by Service Appeal No. 1301/2012, which was decided vide judgment dated 21-10-2013. The appellant was re-instated and de-novo inquiry was ordered. As a result of de-novo proceedings, the appellant was

**ATTESTED**

  
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal

(S)

again terminated from service vide order dated 08-07-2014. Feeling aggrieved, the appellant filed departmental appeal dated 18-07-2014, which was not responded; hence the instant service appeal with prayers that the impugned order dated 08-07-2014 may be set aside and the appellant may be re-instated in service with all back benefits.

02. Learned counsel for the appellant has contended that the impugned order is against law, facts and norms of natural justice, therefore, not tenable and liable to be set aside; that the appellant has been condemned unheard and has not been treated in accordance with law; that neither the appellant was associated with proceedings of the inquiry nor statements of the witnesses were recorded in presence of the appellant, thus deprived him of the opportunity to defend his cause; that this Tribunal directed the respondents to conduct regular inquiry in accordance with law by affording appropriate opportunity of defense to the appellant but the respondents did not adhere to the verdict of this Tribunal, hence all such actions are illegal and liable to be set aside; that during the course of inquiry the appellant requested for provision of record, which was not provided to the appellant and which shows malafide on part of the respondents; that the appellant was penalized for no fault of him, as all the record vanished away in floods of 2010, but the appellant could not be blamed for non-availability of record; that the appellant has been discriminated, as similarly placed employees, whose record was damaged/missing, have not been removed from service.

03. Learned District Attorney for the respondents has contended that initially the appellant was appointed as Class-IV/Chowkidar vide order dated 24-10-2005 and performed his duty as Chowkidar in various schools until 31-07-2009, thereafter, he was promoted through a fake order to the post of TT vide order dated 31-07-2009; that the appellant was neither appointed as Qari by the competent authority as per law and rule nor he joined the service as Qari on proper way and manner; that during the course of de-novo proceedings, the

**ATTESTED**

EXAMINER  
 MEMBER  
 SERVICE TRIBUNAL  
 PUNJAB

6

appellant was afforded opportunity of defense, but the appellant failed to prove his innocence; that the appellant was terminated from service after observing all the codal formalities.

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

05. Record reveals that this Tribunal in its judgment dated 21-10-2013 in Service Appeal No. 1301/2012 have already accepted stance of the appellant and was re-instated in service, as the appellant had produced evidences that he had actually worked against the post of Qari until 2012 and obtained salary against the post. Moreover, the respondents also admitted that the appellant was on the strength of education department until 2009, as is evident from the modified charge sheet/statement of allegation. The question of damage caused to official record in 2010 floods is vital, as the appellant in the de-novo proceedings has been subjected to prove his appointment as original, whereas the appellant repeatedly requested for provision of his service book and other necessary document from the official record, as such record is supposed to be in the official custody, but the respondents also are unable to produce record to show that his appointment was fake. The assumption that such record is not traceable, hence might be bogus, would not work, rather such doubtful situation goes in favor of the appellant, as the appellant is not responsible for official record, which was completely damaged in 2010 floods, hence employee could not be punished for any act or omission of the department. Reliance is placed on 2004 SCMR 1662 and 2009 SCMR 663. Inquiry report placed on record would suggest that the appellant served as Qari in various schools until 2012 but since his appointment as Qari is fake/not traceable, hence he is liable to be struck down, which however is not a proper way of disposing an issue involving fundamental rights of an individual. It however was the statutory duty of the inquiry officer to dig out the issue and reach to a logical conclusion. The order affecting the rights of a person

TESTED

10/11/2013




(7)

had to be made in accordance with the principle of natural justice, order taking away the rights of a person without complying with the principles of natural justice had been held to be illegal. Government was not vested with the authority to withdraw or rescind an order if the same had taken legal effect and created certain legal rights in favor of the appellant. Reliance is placed on 2017 PLC (CS) 585. Impugned order dated 08-07-2014 would suggest that the appellant was proceeded against under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, but provide for penalty to the appellant in terms of termination from service, which as rightly argued by the learned counsel for the appellant is not included in the list of penalties provided in the rules applied on the appellant. The order, therefore, having been passed in blatant disregard of law can only be termed as void and on this score alone, the impugned order is liable to be set at naught.

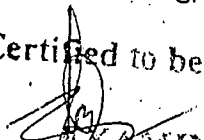
06. In view of the foregoing discussion, the instant appeal is accepted. The impugned order dated 08-07-2014 is set aside and the appellant is re-instated in service. Intervening period is treated as leave without pay. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED  
27.01.2022

  
(AHMAD SULTAN TAREEN)  
CHAIRMAN

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

Certified to be true copy

  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Date of Presentation of Application 26/4/22  
Number of Words 2000  
Copying Fee 2/-  
Urgent 4/5  
Total 26/-  
Name of Copyist -  
Date of Completion of Copy 26/4/22  
Date of Delivery of Copy 26/4/22

Personnel ID: 00309584 کاری فارسی فارسی و انگلیسی

14/7/2022

موضوع: درخواست برای استخدام در بخش آموزش  
محل کار: دبیرستان ...  
تاریخ درخواست: 27-01-22  
محل کار: دبیرستان ...  
موضوع: درخواست برای استخدام در بخش آموزش  
محل کار: دبیرستان ...

موضوع: درخواست برای استخدام در بخش آموزش

موضوع: درخواست برای استخدام در بخش آموزش

ب/ 2

(A)

To

District Education Officer, (M)  
Nowshera

**SUBJECT: REQUEST FOR RE-INSTATEMENT IN SERVICE AGAINST QARI POST**

Memo:

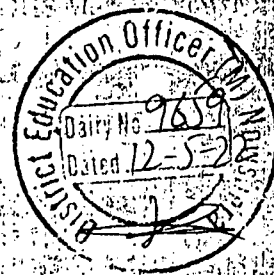
With profound regard, it is stated I have been re-instated in service by the Honorable Khyber Pakhtunkhwa, Service Tribunal, Peshawar vide appeal No. 1254/2014, announced decision on 27-01-2022.  
(Copy Enclosed)

In the light of the court decision, it is therefore requested that I may please be re-instated in service so that I may join my regular service please.

Wajid Ali Shah  
Syed Wajid Ali Shah Ex-Qari  
GHS Maroba Nowshera

Ar No 00309584

*Masawood Qari  
hit bench,  
ADEDT,  
Process as per law, only  
Policy  
12/5/22*



# بعدالت

خبر نمبر ۱۵

۱۵

۲ منجانب  
بنام

مورثہ

مقدمہ

دعویٰ

جرم

بین

الحکمہ راجسٹیشن خیر آباد سندھ

## باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی صاحب کی کارروائی متعلقہ

آن مقام سپرنٹنڈنٹ کیلئے سپریم لیجان کلی (S.V.R) مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی 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 و زرائع پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ 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 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 پرداخت منظور 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 سندر ہے۔

Amir  
Ali  
Appel  
Accepted

20

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المرقوم

Wajid Ali Shah

العبد العبد  
مقام خیر آباد

کے لئے منظور ہے۔