


04.08.2022

Petitioner present in person. Mr. Kabir Ullah Khattak.  
Additional Advocate General present.

Implementation report not submitted. Let Director General Health Services, Khyber Pakhtunkhwa, Peshawar and District Health Officer, District Dir Lower be put on notice to appear in person alongwith implementation report. To come up for implementation report on 06.09.2022 before S.B.

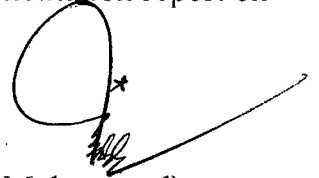
**SCANNED  
KPST  
Peshawar**

  
(Fareeha Paul)  
Member (E)

21.06.2022

Learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Safiullah Focal Person for the respondents present.

It is pathetic to observe that the Service Tribunal delivered judgement on 13.12.2018 in service appeal No. 639/2017, has not been implemented so far. This Bench has no option except to initiate punitive action against the respondents at fault. As a result thereof, salary of the respondents is attached. Registrar of the Tribunal is directed to communicate copy of the order sheet to Accountant General Khyber Pakhtunkhwa, Peshawar as well as District Accounts Officer, District Dir Lower for immediate action thereon. Adjourned. To come up for implementation report on 04.08.2022 before S.B.



(Mian Muhammad)  
Member (E)

31.05.2022

Counsel for the petitioner present. Mr. Muhammad Adeel Butt Addl. AG for the respondents present.

Judgment of this Tribunal has not been implemented so far. The respondents are directed to implement the judgment of this Tribunal and submit implementation report on the next date. To come up for implementation report on 21.06.2022 before S.B.



Chairman

17.02.2021

The learned Member Judicial Mr. Muhammad Jamal Khan is under transfer, therefore, the case is adjourned. To come up for the same before S.B on 30.03.2021.

  
**Reader**

30.03.2021

Counsel for petitioner and Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Implementation report submitted and case for creation of post has already been submitted to the Finance Department. To come up for fully implementation report on 07.07.2021 before S.B.

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

17.11.2020

Counsel for the petitioner and Addl. AG alongwith Saleemur Rahman, DMS for the respondents present.

The D.M.S DHQ Hospital Timergara has provided copy of memo. dated 23.10.2020, whereby, the creation of new posts of 16 Ward Attendants BPS-04 is sought. He states that the matter has been further forwarded to Finance Department and the outcome would take some more time.

It is appropriate in the circumstances to allow more time to the respondents. Adjourned to 05.01.2021 before S.B.

  
Chairman


05.01.2021

Counsel for the petitioner and Mr. Noor Zaman, DDA alongwith Saleem Javed, Litigation Officer for the respondents present.

The representative of respondents states that the case has been completed and sent to the Secretary, Health Department, Government of Khyber Pakhtunkhwa Peshawar for onward proceedings at the Finance Department.

On the previous date request for adjournment was made on similar ground, therefore, learned counsel for the petitioner strongly objects to the request.

It is in the interest of justice to have the judgment under implementation executed in letter & spirit. Another opportunity for the purpose is, therefore, granted to the respondents. Adjourned to 17.02.2021 before S.B. On the adjourned date the needful shall be positively done by the respondents, failing which action in accordance with law will be initiated against the delinquent official(s).

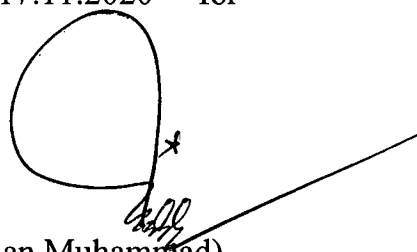
  
Chairman

25.09.2020

Mr. Noor Muhammad Khattak, Advocate, learned counsel for the appellant is present. Mr. Kabirullah Khattak, Addl: Advocate General alongwith Dr. Saleem Ur Rehman, DMS for respondent No.4, Dr. Iqtidar, Medical Officer for respondent No.3 and Mr. Ahmad Jan, Junior Clerk for respondents present as per directions recorded in order sheet dated 20.08.2020.

Representative of respondent No.4 produced letter bearing No. 7219 dated 23.09.2020 indicating therein that their cases are being followed vigorously for creation of the posts through SNEs. On the other hand learned AAG requested for reasonable adjournment so as to have time to implement the judgement of Services Tribunal. Learned counsel for the petitioner did not object. Moreover, DMS Timergara having been posted for the last five years and mainly related to the instant execution petition, would make it sure to get the required Class-IV posts sanctioned from the concerned department/quarter. For that reason he is nominated by name to make the implementation of the instant execution petition and come up with conclusive and final implementation report on next date.

The case is adjourned to 17.11.2020 for Implementation report before S.B.

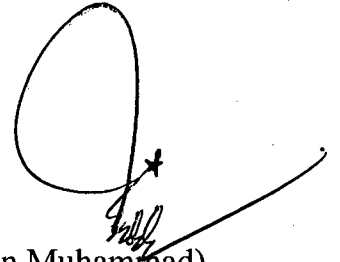
  
(Mian Muhammad)  
Member (E)

20.08.2020

Counsel for the appellant present. Addl: AG alongwith Mr. Saleem, Javaid, Assistant Litigation for respondents present.

Implementation report not submitted. Record reveals that the instant execution petition is pending adjudication since 2019 but till date no implementation report has been submitted by the respondents. Respondents have time and again sought so many adjournments which clearly manifests that they are not interested to implement the judgment of this Tribunal. Respondents No. 2,3 and 4 are directed to attend this Tribunal personally with implementation report positively on the next date failing which the law will take its own course.

Adjourned to 25.09.2020 before S.B.




A handwritten signature in black ink, consisting of a large, stylized loop followed by a horizontal line and a small mark.

(Mian Muhammad)  
Member(E)

Form- A  
FORM OF ORDER SHEET

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

Execution Petition No. 314/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	27.08.2019	<p>The execution petition of Mr. Said Rehman submitted today by Mr. Noor Muhammad Khattak Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-		<p>This execution petition be put up before S. Bench on <u>20/09/19</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	20.09.2019	<p>Petitioner alongwith counsel present.</p> <p>Notices be issued to the respondents for submission of implementation report on 16.10.2019 before S.B.</p> <p style="text-align: right;"> Chairman</p>



16.10.2019

Counsel for the petitioner and Addl. AG alongwith Saleemur Rahman, DMS for the respondents present.

The representative of respondents requests for further time to submit the implementation report. The respondents shall do so on next date of hearing. *positively.*

Adjourned to 18.11.2019 before S.B.

  
Chairman

18.11.2019

Counsel for the petitioner and Addl. AG for the respondents present.

Mr. Saleemur Rahman, DMS present before the Tribunal in connection with other cases states that the implementation in the instant matter is within the competence of respondent No. 3. The District Health Officer, Dir Lower/respondent No. 3 shall be issued notice for submission of implementation report on 18.12.2019.

Adjourned.

  
Chairman

18.12.2019

Counsel for the petitioner and Addl. AG alongwith Dr. Jamal, District Coordinator for the respondents present.

On behalf of DHO Dir Lower an implementation report has been submitted wherein it is noted that at present vacant position of Class-IV (BPS-04) is not available with the office of respondent No. 3. That, the judgment will be implemented as soon as posts are created by the department. Placed on record.

To come up for further proceedings on 04.02.2020 before S.B.

  
Chairman

04.02.2020

Petitioner in person present. Addl: AG alongwith Mr. Saleem ur Rehman, DMS, Timergara and Dr. Sikandar Hayat, Coordinator, DHO, Dir Lower for respondents present. Representative of the respondents submitted reply with is placed on file. Adjourned. To come up for further proceedings on 18.03.2020 before S.B.

  
Member

18.03.2020

Counsel for the petitioner present. Mr. Kabirullah Khattak learned Addl. AG alongwith M/S Ahmed Jan Junior Clerk for respondent No.3 and Saleem DMS for respondent No.4 present. Counsel for the petitioner submitted detail of vacant post at DHO Dir (Lower) office and M.S DHQ Timergara which is placed on file. Respondents are directed to produce the record of appointment made against the vacant post/posts available to adjust the appellant after the judgment. Moreover may also produce before the Tribunal the correspondence made between the district level offices and the higher authority regarding creation of new posts and the outcome of such correspondence. Adjourned. To come up for further proceedings on 16.04.2020 before S.B.

  
(Hussain Shah)  
Member

16.04.2020

Due to COVID19, the case is adjourned to 20.07.2020 for the same as before.

  
Reader

20.07.2020

Mr. Shahzullah, Advocate learned counsel for the appellant is present. Mr. Kabirullah Khattak, Additional AG for the respondents is also present.

Learned counsel for the petitioner invited attention of the Bench to the proceedings recorded in this execution petition in the previous order sheet and submitted that respondents are not taking any serious interest in the implementation and giving effect to the judgment of this hon'ble Tribunal. In this regard he further submitted that the execution petition/proceeding pertains only to Director General Health Services Department, Khyber Pakhtunkhwa, and Medical Superintendent DHQ Hospital, Timergara, to whom notice be issued to appear in person for explaining the real position of the instant execution petition. Learned Additional AG opposed the contention raised by the learned counsel for the petitioner and submitted letter No. SOH(Lit-II)13-4153/2020 dated 14.07.2020 whereby the department concerned has directed all the officials including Director General Health Services, Khyber Pakhtunkhwa, for giving effect to the judgment of this Tribunal and in the last remarked that being a court matter it may be treated as most urgent. Let the respondent-department be provided fair opportunity of giving effect to the judgment of this Service Tribunal, therefore, instead of appearing of the officers at this stage respondents are directed to implement the judgment of this Tribunal in its letter and spirit simultaneously fully complying the directions contained in the previous order sheet. To come up for meaningful execution on 20.08.2020 before S.B.

  
(MUHAMMAD JAMAL KHAN)  
MEMBER

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

Implementation petition No. 314 /2019

In appeal No. 652/2017

SCANNED  
KPST  
Peshawar

**SAID REHMAN**

**VS**

**HEALTH DEPTT:**

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**PETITIONER**

**THROUGH:**

  
**NOOR MOHAMMAD KHATTAK**  
**ADVOCATE**

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

Implementation petition No. 314 / 2019

In appeal No. 652/2017



Mr. Saeed Ur Rehman, Muslim Sweeper (BPS-1),  
DHQ Hospital, Taimergara, District Dir Lower.

.....Petitioner

**VERSUS**

- 1- The Secretary Health Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Director General Health Services Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The District Health Officer, District Dir Lower.
- 4- The Medical Superintendent DHQ Hospital Taimergara, District Dir Lower.

**IMPLEMENTATION PETITION FOR DIRECTING THE RESPONDENT DEPARTMENT TO IMPLEMENT THE JUDGMENT DATED 13.12.2018 IN APPEAL NO.639/2017 IN LETTER AND SPIRIT**

**R/SHEWETH:**

- 1- That the above mentioned appeal has been decided by this august Service Tribunal vide judgment dated 13-12-2018 in favor of the Petitioner. Copy of the judgment is attached as annexure.....A.
- 2- That the Petitioner filed the above mentioned appeal against the impugned Notification dated 16.02.2017 whereby the petitioner has been ignored/excluded from promotion/adjustment against any other class-iv post.
- 3-That after final arguments this august Service Tribunal decided the appeal in favor of the Petitioner with the directions that:-

**"impugned order dated 16.02.2017 has the effect of depriving the appellant from his adjustment against other class-iv post just for the reason that he was appointed as muslim sweeper after 12.7.2006. This Tribunal is therefore, of the opinion that discriminatory treatment was met out to the appellant. Resultantly this Tribunal holds that the cut off date i.e. 12.07.2006 as mentioned in the impugned order dated**

**16.02.2017 shall be treated as expunged. The present service appeal alongwith connected service appeals as mentioned in Para-2 of this judgment are accepted in the above terms".**

4- That Petitioner after obtaining attested copy of the judgment 13.12.2018 submitted before the respondents alongwith application which was properly forwarded vide letter dated 29.03.2019 but the respondents are not willing to implement the judgment passed by this august Service Tribunal. Copy of the application alongwith other record are attached as annexure.....**B.**

It is therefore, most humbly prayed that on acceptance of this implementation petition the respondents may be directed to implement the above mentioned judgment passed by this august Service Tribunal in letter and spirit.

Dated: 25.06.2019.

**PETITIONER**



**SAEED UR REHMAN**

**THROUGH:**



**NOOR MOHAMMAD KHATTAK**

**&**



**MIR ZAMAN SAFI  
ADVOCATES**

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

Implementation petition No. \_\_\_\_\_/2019

In appeal No. 652/2017

**SAEED UR REHMAN**

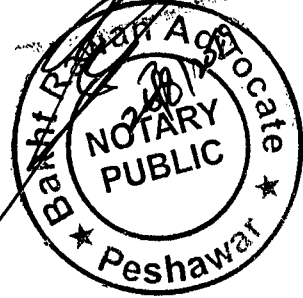
**VS**

**HEALTH DEPTT:**

**AFFIDAVIT**

I Noor Mohammad Khattak Advocate on the instruction and on behalf of my client do hereby solemnly affirm that the contents of this **implementation petition** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

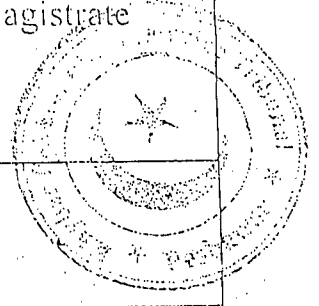
**ATTESTED**



  
**NOOR MOHAMMAD KHATTAK**  
**ADVOCATE**

A - (4)

6 - (10)



Sr. No	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
<p style="text-align: center;"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u> Service Appeal No. 639/2017</p> <p>Date of Institution ..... 16.06.2017 Date of Decision ..... 13.12.2018</p> <p>Mr. Luft-E-Hakeem, Muslim Sweeper (BPS-01) DHQ Hospital timer Garra, District Dir Lower. <span style="float: right;">Appellant</span></p> <p style="text-align: center;">Versus</p> <ol style="list-style-type: none"><li>1. The Secretary Government of Khyber Pakhtunkhwa through Secretary Health Department Khyber Pakhtunkhwa Peshawar.</li><li>2. Director General Health Department Khyber Pakhtunkhwa Peshawar.</li><li>3. The District Health Officer, District Dir Lower.</li><li>4. The Medical Superintendent DHQ Hospital Timergara, District Dir Lower. <span style="float: right;">Respondents</span></li></ol> <p>13.12.2018 Mr. Muhammad Hamid Mughal-----Member (J) Mr. Ahmad Hassan-----Member (E)</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p><u>MUHAMMAD HAMID MUGHAL, MEMBER:</u> - Mr. Noor Muhammad, learned counsel for appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General for the respondents present.</p> <p>2. This single judgment in the above captioned appeal, shall also dispose of appeals (1). bearing No.640/2017 filed by Rab Nawaz</p>		

11

RECEIVED

Khyber Pakhtunkhwa Service Tribunal, Peshawar



(2). bearing No.641/2017 filed by Sahib Ullah (3). bearing No. 642/2017 filed by Akhtar Rasool (4). bearing No.643/2017 filed by Dilawar Khan (5). bearing No. 644/2017 filed by Hamid ur Rehman (6). bearing No.645/2017 filed by Khyal Muhammad (7). bearing No.646/2017 filed by Siraj ud Din (8). bearing No.647/2017 filed by Bakht Shah Zeb (9). bearing No. 648/2017 filed by Bakhtiar Khan (10). bearing No.649/2017 filed by Gul Saeed Khan (11). bearing No.650/2017 filed by Kifayat Ullah (12). bearing No.651/2017 filed by Sadiq Muhammad (13). bearing No. 652/2017 filed by Said Rehman (14). bearing No.653/2017 filed by Shams ul Islam (15). bearing No.654/2017 filed by Aftab ud Din (16). bearing No. 655/2017 filed by Muhammad Haq (17). bearing No.656/2017 filed by Abdur Rehman (18). bearing No. 724/2017 filed by Ismail Shah (19). bearing No.725/2017 filed by Rehmat Ali Shah (20). bearing No. 726/2017 filed by Gohar Rehman (21). bearing No.727/2017 filed by Miraj ud Din (22). bearing No. 728/2017 filed by Habib Ullah (23). bearing No.729/2017 filed by Umar Hakim (24). bearing No.730/2017 filed by Shahid Hussain (25). bearing No.731/2017 filed by Shah Khalid being identical in nature, having arisen from the same law, facts and circumstances.

3. The appellant, who was appointed as Sweeper (Muslim) at DHQ Hospital Timergra District Dir Lower in the year 2009 has filed the present service appeal u/s 4 of Khyber Pakhtunkhwa Service Tribunal Act 1974, against the order dated 16.02.2017 of the respondent No.1 whereby the respondent department accepted the

Khyber Pakhtunkhwa  
 Service Tribunal,  
 Peshawar



right of Muslim Sweepers appointed before 12.07.2006 for their adjustment against the post of Ward Orderly, Chowkidar, Mali, Dai, Aya and other Class-IV posts on seniority basis and thereby deprived the Muslim Sweepers appointed after 12.07.2006 to be adjusted as such. Learned counsel for the appellant mainly argued that the impugned order is a sheer example of discriminatory treatment to Muslim Sweepers appointed as such after 12.07.2006.

4. On the other hand learned Additional Advocate General defended the impugned order on the ground that the appellant himself was appointed as Muslim Sweeper in violation of policy decision dated 12.07.2006.

5. Arguments heard. File perused.

6. The respondent department vide its policy decision dated 12.07.2006 decided that all the Health Institutions should promote the Muslim Sweepers against the existing vacancies of Ward Orderly, Chowkidar, Mali, Dai, Aya and other Class-IV posts, on seniority basis and not to appoint Muslim Sweeper against the post of Sweeper in future.

7. It was due to the violation of policy decision dated 12.07.2006 that many Muslim Sweepers had to knock the door of Hon'ble Peshawar High Court. The violation of policy decision led the respondent department to the issuance of fresh order dated 16.02.2017 made partially impugned in the present service appeal.


8. Upon the examination of the impugned order dated 16.02.2017, this Tribunal came to the conclusion that the same is

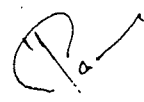
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also in violation of policy decision dated 12.07.2006 in as much as according to the policy decision dated 12.07.2006 gradually all the Muslim Sweepers would have to be adjusted against other Class-IV posts.

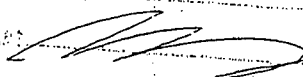
9. Impugned order dated 16.02.2017 has the effect of depriving the appellant from his adjustment against other Class-IV post just for the reason that he was appointed as Muslim Sweeper after 12.07.2006. This Tribunal is therefore of the considered opinion that discriminatory treatment was met out to the appellant.

10. Resultantly this Tribunal holds that the cut off date i.e. 12.07.2006 as mentioned in the impugned order dated 16.02.2017 shall be treated as expunged. The present service appeal alongwith connected service appeals as mentioned in para-2 of this judgment are accepted in the above terms. The respondent department is directed to take strict disciplinary action against those responsible for inducting Muslim Sweepers in violation of the policy decision dated 12.07.2006. Parties are left to bear their own costs. File be consigned to the record room.

  
(Ahmad Hassan)  
Member

  
(Muhammad Hamid Mughal)  
Member

ANNOUNCED  
13.12.2018

Date of Presentation of	31-1-19
Number of Pages	1600
Copying Fee	10/-
Urgent	2/-
Total	12/-
Name of Copyist	
Date of Completion of Copy	31-1-19
Date of Delivery of Copy	31-1-19

Copy of the file sent to  
13.12.2018





(10) (9)

# DIRECTORATE GENERAL HEALTH SERVICES KHYBER PAKHTUN KHWA PESHAWAR

E-Mail Address: [nwfdgsh@yahoo.com](mailto:nwfdgsh@yahoo.com) office Ph# 091-9210269 Exchange# 091-9210187, 9210196 Fax # 091-9210230

## OFFICE ORDER

Dr. Shoukat DHO Dir Lower is hereby nominated as Enquiry Officer to conduct the enquiry and submit the detailed report as mentioned in the joint application of Muslim Sweepers attached to DHQ Hospital Timergara.

The enquiry report must be submitted within 07-days positively.

Sd/xxxxxxxx  
DIRECTOR GENERAL HEALTH  
SERVICES, Khyber Pakhtunkhwa,  
PESHAWAR.

No. 3151-52 /Personnel

Dated 29 /03/2019.

Copy forwarded to the:-

1. Dr. Shoukat DHO Dir Lower.
2. P.A to DGHS KP Peshawar.

For information and necessary action.

**DIRECTOR (HRM)**  
DIRECTORATE GENERAL HEALTH SERVICES  
KHYBER PAKHTUNKHWA PESHAWAR

(-) for S.No.01

*[Handwritten initials]*  
29/03/19

**VAKALATNAMA**

Before the KP Service Tribunal, Peshawar

OF 2019

Saïd Rehman

(APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

**VERSUS**

Health Department

(RESPONDENT)  
(DEFENDANT)

I/We Saïd Rehman

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. \_\_\_/\_\_\_/2019

Saïd Rehman  
**CLIENT**

Noor Mohammad Khattak  
**ACCEPTED**  
**NOOR MOHAMMAD KHATTAK**

**SHAHZULLAH YOUSAFZAI**

Mir Zaman Safi  
**MIR ZAMAN SAFI**  
**ADVOCATES**

OFFICE:  
Flat No.3, Upper Floor,  
Islamia Club Building, Khyber Bazar,  
Peshawar City.  
Mobile No.0345-9383141

“B”

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.  
JUDICIAL COMPLEX (OLD), KHYBER ROAD,  
PESHAWAR.

S.B

No.

Implementation Petition 314 of 20 19  
Appeal No.....

Md. Saeed ul Rehman..... Appellant/Petitioner

Versus

The Secy Health Peshawar..... Respondent  
Respondent No..... 3.....

Regd

Notice to: —

The Distt. Health Officer  
Distt. Dir Lower.

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on.....18/12/2019.....at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Implementation ✓

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this.....20th.....

Day of.....Nov.....2019.

(for Implementation Report)

Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
2. Always quote Case No. While making any correspondence.