
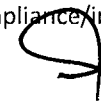
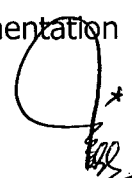


Form- A  
FORM OF ORDER SHEET

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

Execution Petition No. 377/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	29.06.2022	<p>The execution petition of Mr. Taj Muhammad submitted today by Syed Noman Ali Bukhari 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-	5-7-2022	<p>This execution petition be put up before Single Bench at Peshawar on <u>01-09-2022</u>. 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;"> CHAIRMAN</p>
	01.09.2022	<p>Clerk to counsel for the petitioner present.</p> <p>Notice of the present execution petition be issued to the respondents for submission of implementation report. Adjourned. To come up for implementation report on 06.10.2022 before S.B.</p> <p style="text-align: right;"></p>

(Mian Muhammad)  
Member (E)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL, PESHAWAR.

Execution Petition No. 377 /2022  
In Service Appeal No.888/2019


Taj Muhammad

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-	08-10
4.	Vakalat Nama	-----	11-12

  
**PETITIONER**  
Taj Muhammad

THROUGH:

  
**SYED NOMAN ALI BUKHARI**  
ADVOCATE, HIGH COURT

Date: 20/06/2022

Cell No: 0306-5109438

BEFORE THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR.

Execution Petition No. \_\_\_\_\_/2022  
In Service Appeal No.1075/2018

Taj Muhammad, Ex-Qari,  
GHS Esak Khumari, District Karak.

.....(Petitioner)

**VERSUS**

1. The Govt: of KP through Secretary E&SE, KP, Civil Secretariat, Peshawar.
2. The Director Elementary & Secondary Education, Peshawar.
3. The Executive District Officer, Elementary & Secondary Education , Peshawar.

**RESPONDENTS**


.....  
**EXECUTION PETITION FOR DIRECTING THE  
RESPONDENTS TO IMPLEMENT THE  
JUDGMENT DATED: 13/04/2022 OF THIS  
HONOURABLE TRIBUNAL IN LETTER AND  
SPIRIT.**  
.....

**RESPECTFULLY SHEWETH:**

1. That the Petitioner filed Service Appeal No.1075/2018 against the removal order.
2. That the said appeal was finally heard by the Honorable Tribunal on 13.04.2022 and the Honorable Tribunal is kind enough to accept the appeal and the removal of the appellant was converted in to Compulsory retirement from the date of his removal from service. (Copy of judgment is attached as Annexure-A).
3. That appellant also filed application for implementation but the respondents were totally failed in taking any action regarded the Hon'able Tribunal Judgment dated 13.04.2022. 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. (2)
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 13.04.2022 of this august Tribunal in letter and spirit. Any other remedy, which this august Tribunal deems fit and appropriate that, may also be awarded in favor of applicant/appellant.

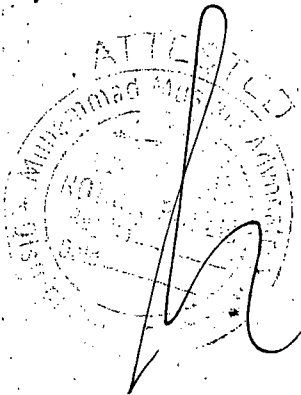
  
**PETITIONER**  
Taj Muhammad

**THROUGH:**

  
**(SYED NOMAN ALI BUKHARI)**  
ADVOCATE HIGH COURT.

**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.



  
**DEPONENT**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL, PESHAWAR

Appeal No: 1075/2018

Khyber Pakhtunkhwa Service Tribunal  
Diary No. 1374  
Dated 03/9/2018

Taj Muhammad, Ex Qari, GHS Esak Khumari, District Karak

Appellant

VERSUS

1. Government of KPK through Secretary Elementary & Secondary Education Peshawar.
2. Director Elementary & Secondary Education Peshawar.
3. Executive District Officer, Elementary & Secondary Education Karak.

Respondents

APPEAL UNDER SECTION 4 OF KPK SERVICE

TRIBUNAL ACT 1974 AGAINST THE IMPUGND ORDER

DATED 25-10-2012 VIDE ANNEXURE B WHEREBY THE  
APPELLANT HAS BEEN REMOVED FROM SERVICE W.E.F

11-05-2011 AND ALSO AGAINST THE FINAL IMPUGND

ORDER DATED 20-08-2018 VIDE ANNEXURE 'E' WHEREBY

THE APPELLANT'S DEPARTMENTAL APPEAL HAS BEEN

REJECTED FOR COMPULSORY RETIREMENT W.E.F 11-05-

2011 WITH ALL BACK BENEFITS OR HE MAY BE ALLOWED

COMPASSIONATE ALLOWANCE FROM 11-05-2011 WHICH

IS EQUAL TO TWO THIRD OF HIS PENSION WITH ALL BACK

BENEFITS

ATTESTED

EXAMINER  
Khyber Pakhtunkhwa Service Tribunal

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

9

Service Appeal No. 1075/2018

Date of Institution ... 03.09.2018  
Date of Decision ... 13.04.2022



Taj Muhammad, Ex-Qari, GHS Esak Khumari, District Karak.

(Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary  
Elementary & Secondary Education Peshawar and two others.  
(Respondents)

Aslam Khan Khattak, Advocate ... For appellant.

Kabir Ullah Khattak, Additional Advocate General ... For respondents.

Kalim Arshad Khan, Rozina Rehman ... Chairman Member (J)

JUDGMENT

ROZINA REHMAN, MEMBER (J): The appellant has invoked the jurisdiction of this Tribunal through above titled appeal with the prayer as copied below:

"On acceptance of appeal, both the impugned orders dated 15.10.2012 and 20.08.2018 may be set aside and the appellant may be compulsory retired from service from the date of his removal from service which is 11.05.2011 with all back benefits or he may be allowed compassionate allowance which

**ATTESTED**

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

is equal to two third of his pension from 11.05.2011 which is the date of his removal from service with all back benefits."

2. The relevant facts leading to filing of instant appeal are that appellant was inducted in service as Qari on 22.10.1986. During service, he was implicated in criminal case vide FIR No.257 on 21.08.2010 registered under 13-AO/14-AO at Police Station Karak. He was convicted by a competent court of Law. His conviction was confirmed by Peshawar High Court and consequently he was removed from service. He filed departmental appeal which was rejected, hence, the present service appeal.

3. We have heard Aslam Khan Khattak Advocate for appellant and Kabir Ullah Khattak, learned Additional Advocate General for the respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Aslam Khan Khattak Advocate, learned counsel appearing on behalf of appellant, inter-alia, submitted that the impugned orders are illegal, unlawful and not maintainable in the eye of law. He contended that appellant was not treated in accordance with law and rules and the respondents acted in violation of Articles-4 & 25 of the Constitution of Islamic Republic of Pakistan, 1973. It was further argued that no show cause notice was ever served upon appellant before issuance of the impugned order and lastly he submitted that the appellant has put in considerable pensionable service and that he would have no objection if major penalty in shape of removal from

ATTESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

service is converted into major penalty in shape of compulsory retirement.

5. Conversely learned AAG submitted that the appeal is correct to the extent of 25 years of service, however, he was charged in case FIR No.257 dated 21.08.2010 and was convicted by the Hon'ble Sessions Judge, Karak. He submitted that he was rightly removed from service according to law, after observing all codal formalities.

6. From the record, it is evident that appellant was inducted in service as Qari on 22.10.1986. During service, he was implicated in case FIR No.257 dated 21.08.2010. He was tried in the court of learned Sessions Judge, Karak and was convicted and sentenced under 13-AO to undergo three years RI with fine of Rs.20000/- or in default to undergo SI for six months vide judgment dated 11.05.2011. His sentence was confirmed from august Peshawar High Court, Peshawar vide judgment dated 15.05.2012. Consequently, he was awarded major punishment of removal from service vide order dated 15.10.2012. He preferred departmental appeal which was not responded to he, therefore, filed Service Appeal No.25/2017 and vide judgment of this Tribunal, case was remitted to the departmental authority with direction to examine his case and decide his departmental appeal with speaking order within a period of three months from the date of receipt of judgment. The competent authority after having considered the charges and evidence on record, rejected his appeal vide order dated 20.08.2018, where-after, the instant service appeal was filed on 03.09.2018. Admittedly, he served

ATTESTED

EXAMINER  
Khyber Peshawar  
Service Tribunal  
Peshawar



7

the Department for almost 25 years which fact is not disputed. It is also not disputed that he was convicted by a competent court of Law, therefore, keeping in view the last request of learned counsel for appellant, and without touching other merits of the case, we are of the view that since the appellant has put in considerable regular service for almost 25 years, it would be appropriate keeping in view the circumstances of case to convert major penalty awarded in shape of removal from service into that of compulsory retirement.

7. We, therefore, allow this appeal, set aside the impugned orders of the authority and convert his removal from service into compulsory retirement from the date of his removal from service. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.  
13.04.2022

*(Signature)*  
(Kalim Arshad Khan)  
Chairman

*(Signature)*  
(Rozina Rehman)  
Member (J)

Certified to be true copy  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of Presentation of Application 16-5-22  
 Number of Words 2000  
 Copying Fee 22/-  
 Rent 4/-  
 Total 26/-  
 Name of Applicant —  
 Date of Completion of Copy 16-5-22  
 Date of Delivery of Copy 16-5-22

VAKALATNAMA

902

NO. \_\_\_\_\_ /20

IN THE COURT OF KP. Service Tribunal Peshawar

Taj Muhammad

Appellant  
Petitioner  
Plaintiff

VERSUS

Croftokp

Respondent (s)  
Defendants (s)

I/WE Taj Muhammad

do hereby appoint and constitute the **SYED NOMAN ALI BUKHARI Advocate High Court** for the aforesaid Appellant(s), Petitioner(S), Plaintiff(s) / Respondent(s), Defendant(s), Opposite Party to commence and prosecute / to appear and defend this action / appeal / petition / reference on my / our behalf and all proceedings that may be taken in respect of any application connected with the same including proceeding in taxation and application for review, to draw and deposit money, to file and take documents, to accept the process of the court, to appoint and instruct council, to represent the aforesaid Appellant, Petitioner(S), Plaintiff(s) / Respondent(s), Defendant(s), Opposite Party agree(s) ratify all the acts done by the aforesaid.

DATE \_\_\_\_\_ /20

[Signature]  
(CLIENT)

ACCEPTED

[Signature]  
**SYED NOMAN ALI BUKHARI**  
ADVOCATE HIGH COURT

**"A"**

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

SB

No. \_\_\_\_\_ EP No. 377 22

APPEAL No. .... of 20 .

Taj Muhammad

Appellant/Petitioner

Versus

Govt of KPIC through Secy ESSE Peshawar.

RESPONDENT(S)

Respondent (1) Govt of KP through Secy ESSE

Notice to Appellant/Petitioner  
Peshawar.

[Signature]  
12/12

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 01/09/2022 at .....

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

For Impl-men-  
Report

[Signature]

Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

Copy of EP  
is Attached

**"A"**

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

No.

APPEAL No. EP No. 377 of 20 <sup>SD</sup> 22.

Taj Muhammad

Appellant/Petitioner

Versus

Govt of KPK through Secy ESSE Peshawar.

RESPONDENT(S)

Respondent (2)

Director ESSE Peshawar.

Notice to Appellant/Petitioner

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 01/09/2022 at 9:00am

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

For Impl-ment-ation Report

[Signature]  
12/8/22

[Signature]

Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

Copy of EP is Attached

"A"

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

No.

SB  
APPEAL No. EP No. 377 ..... of 2022.

Taj Muhammad

Appellant/Petitioner

Versus

Govt of KPK through Secy ESSE Peshawar.

RESPONDENT(S)

Respondent (3)

Notice to Appellant/Petitioner

Executive District Officer

ESSE Peshawar.

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 01/09/2022 at 9:00AM

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

For Implementation Report

*[Signature]*  
12/8/22

*[Signature]*

Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

Copy of EP is Attached