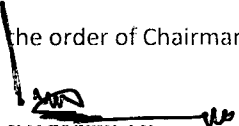


Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 513/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	31.08.2022	<p>The execution petition of Mr. Ihsanullah submitted today by him. 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 KHYBER PAKHTUNKHWA HON'BLE SERVICE TRIBUNAL,PESHAWAR

Execution Petition No. **513** /2022

In

Service Appeal No. 148/2019 dated 14/04/2022.

ihsanullah, Senior Scale Stenographer (Acting Charge),
Office of the Commissioner, Mardan Division, Mardan.... Applicant/Appellant

Versus

The Senior Member Board of Revenue, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar &
others.....Respondents

INDEX

S.No.	Description of documents	Annex	Pages
01	Application alongwith Affidavit		1-2
02	Copy of the Judgement dated 14.04.2022	A	3-6
03	Application to Respondent No. 02 for Implementation	B	7

Applicant/Appellant



Ihsanullah
Senior Scale Stenographer
Commissioner Mardan Division, Mardan

0347-8931 775

0311-673 0003

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL,PESHAWAR

**Khyber Pakhtunkhwa
Service Tribunal**

Execution Petition No.

513 / 2022

Diary No. 1117

In

Service Appeal No. 148/2019 dated 14/04/2022.

Dated 31-8-2022

Ihsanullah, Senior scale Stenographer (Acting Charge),

Office of the Commissioner, Mardan Division, Mardan.....Applicant/Appellant

Versus

1. The Senior Member Board of Revenue, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar
2. The Commissioner, Mardan Division, Mardan
3. Muhammand Ibrahim, Private Secretary (Acting Charge),
Commissioner Office, Mardan..... Respondents

APPLICATION UNDER SECTION 7(d) OF THE KHYBER PAKHTUNKHWA,
SERVICE TRIBUNAL ACT 1974 FOR EXECUTION OF THE DECISION

Respectfully Sheweth:

1. It is submitted very respectfully that this humble applicant/appellant filed the Service Appeal No. 148/2019 dated 14/04/2022 in this Hon'ble Service Tribunal which was allowed on 14.04.2022 vide Judgement copy as Annexure-"A"
2. That the applicant submitted an application to Respondent No. 02 for implementation of the Judgement copy as Annexure-"B", however, the respondents have not obeyed but refused to implement the decree of this Hon'ble Tribunal.
3. In view of the above, the applicant is constrained to file the instant application for the implementation of the decree of this Hon'ble Tribunal annexed as "A" Supra.

4. Therefore, it is requested the Official respondents may ^{kindly} be directed to implement the Judgement/ ^{decre} of this Hon'ble tribunal in the interest of Justice and fair play.

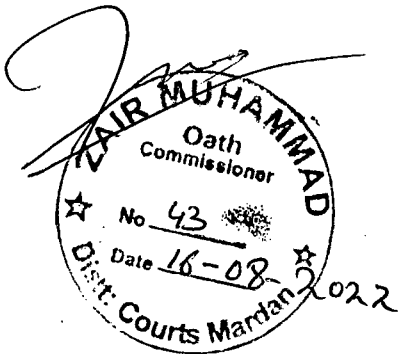
Applicant/Appellant.



Ihsanullah
Senior Scale Stenographer
Commissioner Mardan Division, Mardan

Affidavit:

It is solemnly affirmed and declared on oath that the contents of the instant application are correct and true and nothing has concealed therein from this Hon'ble Tribunal.



Deponent



Ihsanullah
Senior Scale Stenographer
Commissioner Mardan Division, Mardan

F/A

(3)

F/A

BEFORE THE

PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR.

Service Appeal No. 148/2019

Date of Institution ... 31.01.2019

Date of Decision ... 14.04.2022



Ihsanullah, Senior Scale Stenographer (Acting Charge), Office of the Commissioner, Mardan Division, Mardan.
... (Appellant)

VERSUS

The Senior Member Board of Revenue, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and two others.
... (Respondents)

MR. MUHAMMAD AMIN AYUB,
Advocate

For appellant.

MR. ASIF MASOOD ALI SHAH,
Deputy District Attorney

For official respondents No. 1 & 2.

MR. NOOR MUHAMMAD KHATTAK,
Advocate

For private respondent No. 3

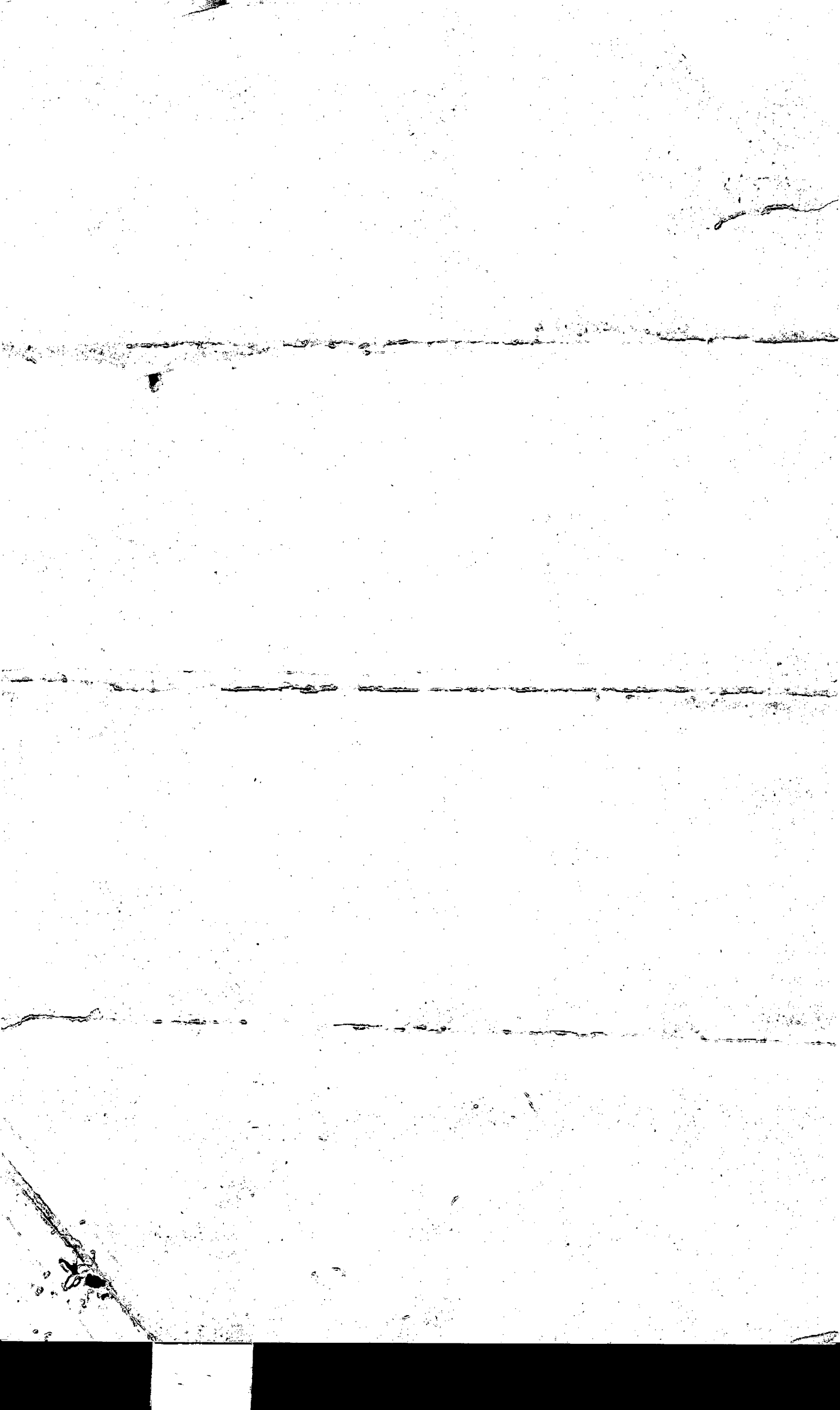
MR. SALAH-UD-DIN
MR. MIAN MUHAMMAD

MEMBER (JUDICIAL)
MEMBER (EXECUTIVE)

JUDGMENT:

SALAH-UD-DIN, MEMBER:- Brief facts as alleged by the appellant in his appeal are that he alongwith private respondent No. 3 namely Muhammad Ibrahim were appointed as Junior Scale Stenographers (BPS-12) vide order dated 29.06.2009, upon recommendations of Departmental Selection Committee. According to the merit list, issued by Departmental Selection Committee, the position of the appellant was higher than the private respondent No. 3, however when the seniority list of the year 2014 was issued, private respondent No. 3 was placed senior to the appellant and on query of the appellant, he

[Handwritten signature]



was being told that private respondent No. 3 has been placed senior for the reason that he was older in age than the appellant. Seniority of civil servant appointed through initial recruitment is based upon merit list, which is prepared on the basis of marks obtained in the initial recruitment. In the seniority list of the year 2015, private respondent No. 3 was again placed senior to the appellant and was thus promoted as Senior Scale Stenographer (BPS-16) vide order dated 22.12.2015. The post of Private Secretary was laying vacant, therefore, the appellant preferred written request to Commissioner Mardan Division Mardan that private respondent No. 3 may be promoted to the post of Private Secretary, while the appellant may be promoted to the post of Senior Scale Stenographer. Consequently, upon recommendations of Departmental Promotion Committee, private respondent No. 3 was promoted to the post of Private Secretary, while the appellant was promoted to the post of Senior Scale Stenographer on acting charge basis vide Notification dated 19.04.2018. While preparing tentative seniority list of Junior Scale Stenographers, one Babar Hayat was placed senior to Sajjad Ahmad on the ground that Babar Hayat was holding higher position in the merit list issued by Departmental Selection Committee. The departmental appeal filed by Junior Scale Stenographer namely Sajjad Ahmad was also declined by Commissioner Mardan Division Mardan vide order dated 31.10.2018. The appellant being senior in merit list, also submitted departmental representation but the same was dismissed vide order dated 21.12.2018, hence the instant service appeal.

2. Notices were issued to the respondents, who submitted their comments, wherein they refuted the assertions made by the appellant in his appeal.

3. Arguments heard and record perused.

4. During the course of arguments, learned counsel for the appellant submitted an application that appellant would

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be satisfied, if his promotion as Senior Scale Stenographer (BPS-16) is regularized with effect from 19.04.2018 i.e the date on which the appellant was promoted as Senior Scale Stenographer on acting charge basis. Learned counsel for private respondent No. 3 endorsed no objection on the application so submitted by learned counsel for the appellant.

5. In view of the application so submitted by the appellant, we would refrain from giving any findings regarding the controversy of inter-se seniority of the appellant and private respondent No. 3. While analyzing the record in context of the request so made by the appellant through the application submitted by him, it is evident that vide Notification dated 23.01.2015, issued by Government of Khyber Pakhtunkhwa Board of Revenue/Revenue and Estate Department, various amendments were made in the relevant rules. In view of the said rules, private respondent No. 3 namely Muhammad Ibrahim and three other employees were promoted as Senior Scale Stenographers (BPS-16) on regular basis, vide Notification dated 22.12.2015. The appellant as well as private respondent No. 3 were appointed as Junior Scale Stenographers through same appointment order, however vide Notification dated 19.04.2018, the appellant was promoted as Senior Scale Stenographer (BPS-16) on acting charge basis instead of regular basis. The appellant was appointed as Junior Scale Stenographer in the year 2009. According to the relevant rules in field, 60% quota has been prescribed for promotion of the Stenographers to the post of Senior Scale Stenographer, subject to the condition that they possess at least 05 years service as such in the offices of Commissioners concerned. The appellant was thus possessing the prescribed length of service, therefore, he was required to have been promoted on regular basis instead of promoting him on acting charge basis vide Notification dated 19.04.2018. During the pendency of the instant appeal, the appellant has been promoted to the post

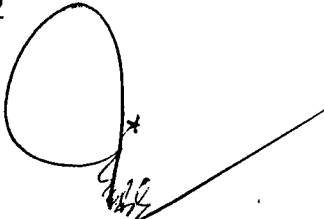
ATTESTED

COMMISSIONER
Khyber Pakhtunkhwa
Revenue Tribunal

of Senior Scale Stenographer on regular basis with immediate effect, vide Notification dated 30.06.2021.

6. In view of the above discussion, we have come to the conclusion that as the appellant was entitled for his promotion as Senior Scale Stenographer on regular basis on 19.04.2018, therefore, respondents are directed to issue corrigendum of notification dated 30.06.2021 considering the appellant as regularly promoted to the concerned post with effect from 19.04.2018 with all consequential benefits. The appeal in hand is disposed of accordingly. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
14.04.2022



(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)

(SALAH-UD-DIN)
MEMBER (JUDICIAL)



1600 30/5/22
18/6/22
15/6/22
14/6/22

F/B

7

F/B

To

The Worthy Commissioner,
Mardan Division, Mardan.

**Subject: REQUEST FOR IMPLEMENTATION OF JUDGEMENT C
TRIBUNAL DELIVERED IN SERVICE APPEAL NO. 148/2019 DATED
14/04/2022.**

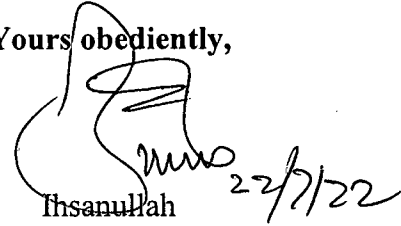
Respected Sir,

It is submitted very respectfully that the honourable Service Tribunal vide the said judgement held the appellant entitled for promotion as senior scale stenographer on regular basis with effect from 19/04/2018 therefore, necessary corrigendum in this office notification dated 30/06/2021, considering the appellant as regularly promoted to the concerned post with all consequential benefits may be made in the interest of justice and fair play and the judgement of the honourable service tribunal Ibid may kindly be implemented in letter and spirit, please.

(Judgement is enclosed).

Dated: 22.07.2022

Yours obediently,



Ihsanullah
Senior Scale Stenographer
Commissioner Office Mardan
Division, Mardan

D. No
2845
22-7-2022