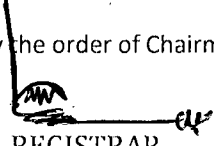


Form- A  
FORM OF ORDER SHEET

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

Execution Petition No. 522/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	06.09.2022	<p>The execution petition of Mr. Muhammad Noor submitted today by him. It is fixed for implementation report before touring Single Bench at A. Abad 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 SERVICE TRIBUNAL K.P.K.**  
**PESHAWAR**

*E.P. no. 522/2022*

Muhammad Noor SPST, GPS Kot Pallas  
Kohistan.....**Petitioner**

**Versus**

Government of Khyber Pakhtunkhwa  
through Chief Secretary Civil Secretariat  
Peshawar etc.....**Respondents**

**SERVICE APPEAL NO. 16410/2020**

**APPLICATION FOR IMPLEMENTATION OF  
ORDER OF THIS HONOURABLE  
TRIBUNAL DATED 25.01.2022 AND ALSO  
INITIATING CONTEMPT OF COURT  
PROCEEDINGS AGAINST THE  
RESPONDENTS.**

**INDEX**

<b>S#</b>	<b>Description of documents</b>	<b>Annexure</b>	<b>Page#</b>
1.	Application for implementation for order and contempt of court proceedings	-	1- 3
2.	Copy of order of this Honourable Tribunal	"A"	4
3.	Copy of application for re-instatement into service to DEO Kohistan	"B"	8
4.	Copy of application for re-instatement into service to Director Elementary & Secondary Education KPK Peshawar	"C"	9

**Dated**     /09/2022

  
**Muhammad Noor**  
(Petitioner)

*03429530095*

①

**BEFORE THE SERVICE TRIBUNAL K.P.K.**  
**PESHAWAR**

Muhammad Noor SPST, GPS Kot Pallas  
Kohistan.....**Petitioner**

**Versus**

- 1) Government of Khyber Pakhtunkhwa through Chief Secretary Civil Secretariat Peshawar.
- 2) Director Elementary & Secondary Education Department, KPK near No. 1 School at Peshawar.
- 3) District Education Officer (Male) Kolai Palas, Kohistan.
- 4) Enquiry Officer/SDEO (Male) Circle Palas Kohistan.....**Respondents**

**SERVICE APPEAL NO. 16410/2020**

**APPLICATION FOR IMPLEMENTATION OF ORDER OF THIS HONOURABLE TRIBUNAL DATED 25.01.2022 AND ALSO INITIATING CONTEMPT OF COURT PROCEEDINGS AGAINST THE RESPONDENTS.**

**Respectfully Sheweth!**

- 1) That, the above titled appeal was filed before this Honourable Tribunal which was decided on 25.01.2022.

(Copy of the judgment is attached herewith as Annexure "A").

- 2) That, on acceptance of the appeal the impugned order dated 25.11.2020 was set aside and the penalty of compulsory retirement was converted into stoppage of increments for three years and the petitioner was re-instated into service.

- 3) That, the petitioner has submitted an application to respondent No. 3 for reinstatement into service on 11.05.2022 but no action has been taken so far.

**(Copy of the application is attached herewith as Annexure "B").**

- 4) That, later-on when no action was taken the petitioner has submitted another application on the subject matter to respondent No. 2 on 16.08.2022, but in vain.

**(Copy of the application is attached herewith as Annexure "C").**

- 5) That, the petitioner is the only bread winner of his family and belongs to a backward area of Kohistan and there is no other source of income to feed his family.

- 6) That, the kids of the petitioners are facing very financial hardships and have not been admitted in the school.

- 7) That, time and again the petitioner requested to respondents for the implementation of the order of this Honourable Tribunal but no action has been taken.

- 8) That, the acts of the respondents falls within the meaning of contempt of court.

It is, therefore, most humbly prayed and requested that on acceptance of the instant application the respondents may kindly be

3


directed to implement the order of this Honourable Court and be proceeded contempt of court proceedings and further requested that respondents be directed to reinstate the petitioner into service with all back benefits.

Dated 6/09/2022

  
Muhammad Noor  
(Petitioner)

**AFFIDAVIT**

I, MUHAMMAD NOOR, SPST, GPS KOT PALLAS DISTRICT KOHISTAN DO HEREBY SOLEMNLY AFFIRM AND DECLARE ON OATH THAT THE CONTENTS OF FORE-GOING APPLICATION ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AND NOTHING HAS BEEN CONCEALED OR SUPPRESSED FROM THIS HONOURABLE TRIBUNAL

  
MUHAMMAD NOOR  
(DEPONENT)



(4)

An 'A'

1



BEFORE THE SERVICE TRIBUNAL K.P.K. PESHAWAR.

S. Appeal No. of 2020.

16610/20

1. Muhammad Noor SPST GPS Kot Pallas Kohistan.

.....Appellant

Kyber Pakhtunkhwa Service Tribunal  
Diary No. 16288

VERSUS

Dated 08/12/20.

1. Govt of K.P.K Through Chief Secretary Civil Secretariat Peshawar.

2. Director Elementary and Secondary Education Department K.P.K Near No. 1 School at , Peshawar.

3. District Education Officer male Kolai Palas Kohistan.

4. Enquiry officer / S.D.E.O Male Circle Palas, Kohistan.

.....Respondents.

Appeal under section -4 of the N.W.F.P service tribunal Act 1974 against the order dated 25.11.2020, through which appellant Major penalty removal from Govt service convert into compulsory retirement from the Govt service with immediate effect.

Prayer:

On acceptance of this appeal the order dated 25.11.20 of the respondent no.2 may please be set aside and may please restore the service of the appellant with all back benefit.

RESPECTFULLY SUBMITTED,

Filed to-day

Registrar

2/12/2020

1. That appellant was appointed as PST Teacher in education department on 12.8.1992. Copy of the appointment order as annexure A.

Re-submitted to-day and filed.

Registrar  
23/12/2020

ATTENDED

BY WINER  
Kyber Pakhtunkhwa  
Service Tribunal  
Peshawar

(5)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 16410/2020

Date of Institution ... 08.12.2020

Date of Decision ... 25.01.2022



Muhammad Noor SPST GPS Kot Pallas Kohistan.

... (Appellant)

**VERSUS**

Government of Khyber Pakhtunkhwa, through Chief Secretary Civil Secretariat Peshawar and others. ... (Respondents)

L. Nawab Ali Noor  
Advocate

... For Appellant

Muhammad Adeel Butt,  
Additional Advocate General

... 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, while serving as a Teacher in Education Department, was proceeded against on the charges of absence from duty and was ultimately dismissed from service vide order dated 27-06-2019. Feeling aggrieved, the appellant filed departmental appeal, which was accepted and penalty of dismissal was converted into compulsory retirement from service vide order dated 25-11-2020, hence the instant service appeal with prayers that the impugned orders dated 25-11-2020 may be set aside and the appellant may be re-instated in service with all back benefits.

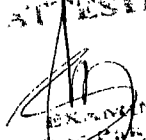
02. Learned counsel for the appellant has contended that the impugned order is against law, facts and norms of natural justice, therefore not tenable and liable

**TESTED**  
  
CHAIRMAN  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

to be set aside; that the appellant has not been treated in accordance with law, hence his rights secured under the Constitution has badly been violated; that no proper inquiry was conducted nor the appellant was afforded opportunity to defend his cause; that the appellant was found absent for only one day and imposition of major penalty on one day absence is harsh, which does not commensurate with gravity of the guilt.

03. Respondents were repeatedly ordered to submit its written comments but inspite of repeated chances, the respondents failed to submit written comments; hence, their right of defense was struck off. Record would suggest that the appellant was dismissed from service on account of willful absence but was not proceeded against as per law, as in case of willful absence the respondents were required to proceed him under Rule-9 of E&D Rules, 2011, which however was not done in case of the appellant. No regular inquiry was conducted in his case and the appellant was kept deprived of the opportunity of defense and the appellant was dismissed from service only on a show cause notice, which is not enough for imposition of major punishment. The Supreme Court of Pakistan in its judgment reported as 2008 SCMR 1369 has held that in case of imposing major penalty, the principles of natural justice required that a regular inquiry was to be conducted in the matter and opportunity of defense and personal hearing was to be provided to the civil servant proceeded against, otherwise civil servant would be condemned unheard and major penalty of dismissal from service would be imposed upon him without adopting the required mandatory procedure, resulting in manifest injustice.

04. Upon submission of departmental appeal, the penalty of dismissal from service was converted into compulsory retirement due to the reason that the appellant was not proceeded against as per provisions of law. It was also interesting to note that the inquiry officer in his so called inquiry has recommended that the appellant may be afforded opportunity of personal hearing

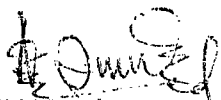
**ATTESTED**  
  
 EXAMINER  
 Service Tribunal  
 Islamabad





and he may be transferred to a nearest school, but the competent authority ignored recommendations of the inquiry officer and acted in an arbitrary manner. We are mindful of the fact that absence does constitute misconduct but imposition of major penalty on the charges of absence appears to be harsh, which needs to be reduced.

05. We are of the considered opinion that the appellant has not been treated in accordance with law and was condemned unheard. The penalty so awarded is harsh, which does not commensurate with gravity of the guilt, hence we are constrained to partially accept the instant appeal. The impugned order dated 25-11-2020 is set aside and the penalty of compulsory retirement is converted into stoppage of increments for three years. The intervening period is treated as leave without pay. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED  
25.01.2022

  
(AHMAD SULTAN TAREEN)  
CHAIRMAN

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

Certified to be true copy  
  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of presentation of Application 17-2-22  
Number of Words 1600  
Copying Fee 18/-  
Bygone  
Total 18/-  
Name of Copyist  
Date of completion of copy 27-4-22  
Date of delivery of copy 27-4-22

(8)

An "B"

حضرت جناب -  $PKR$  (درمان) ضلع کوئی بائس کوشپان  
 درخواست بابت بحالی نوکری سائل حسب منقلہ سرور ٹریبونل  
 صدر کا  $\frac{1}{22}$  28

جناب عالی! درخواست ذیل ہے

۱۔ منقلہ سرور ٹریبونل لف ہے  
 ۲۔ مذکورہ منقلہ کی رو سے میری نوکری بحال کرنے کا  
 حکم صادر ہے جبکہ Intervening Period اور جھپٹ بنیہ متخوار  
 کے سلسلے میں اور تین عدد Increment کے Stopage کے  
 سلسلے میں سائل اپنی حقوں کی داد میں لائق حضور لکھا ہے  
 اور حسب سیر قانونی چارہ جوئی کرے گا۔

لہذا گزارش ہے کہ دست سائل کو  
 نوکری پر بحال فرمایا جائے۔ نقل منقلہ لف ہے

التم (5)  
 $\frac{5}{22}$  10

محمد نور ولد جولوئی محمد  
 SPST - G.P.S پنج کوٹ ضلع کوئی بائس کوشپان

(9)

An "C"

To  
The Director,  
L. & Secondary Education  
Peshawar

Subject: Request for re-instatement of Service in the light of  
H. Service Tribunal's judgment passed in Service appeal  
No 16410/2020 dated 25.01.2022

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Sir,

With due veneration it is please stated that  
the above captioned judgement's attested copy along with  
an application filed before DEO (M), Palar Kohistan  
for the purpose in question on 10-05-2022. I paid  
several visits to DEO's office but in vain.

Therefore it is requested in your excellency  
that you may very kindly issue Order for implementation  
of the subjected purpose with in the bounds of  
pure justice and Compassionate grounds. I  
shall be extremely grateful to you

with profound regards!

---

Date 16/8/22

your Brother in Islam  
Muhammad Noor  
870 Maulvi Mehmood  
SPST G.P.S Najam Kot  
Distt: Kotai Palar Kohistan