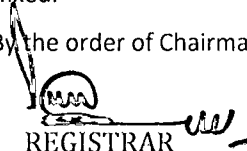


Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 565/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	22.09.2022 SCANNED KPST Peshawar,	<p style="text-align: center;">The execution petition of Mr. Tariq Hussain submitted today by Mr. Nasir Mehmood 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**

E.P. 565/2022

AAG

CM No. _____/2022

In

Service Appeal No. 1120/2016

SCANNED
BEST
PESHAWAR

Tariq Hussain

.... Petitioner

Versus

Govt. of Khyber Pakhtunkhwa and others Respondents

INDEX

S.No	Description of Documents	Annexure	Pages
1.	Application for implementation of order with affidavit		1-2
2.	Copy of Order dated 20.10.2021	A	3-6
3.	Wakalat Nama		7

Through

Nasir Mehmood
Applicant/Petitioner
Nasir Mehmood
Nasir Mehmood
Advocate Supreme Court.

Dated: 21.09.2022

1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

CM No. _____/2022
In
Service Appeal No. 1120/2016

Tariq Hussain Section Officer, Sports Department, Govt. of Khyber
Pakhtunkhwa, Peshawar

.... Petitioner

Versus

1. Govt. of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. Govt. of Khyber Pakhtunkhwa through Secretary Establishment Department, Civil Secretariat, Peshawar.
3. Senior Member Board of Revenue, Civil Secretariat, Peshawar.
4. Provincial Selection Board through its Chairman.

..... Respondents

APPLICATION FOR EXECUTION / IMPLEMENTATION
OF THE JUDGMENT DATED 20.10.2021 PASSED IN
SERVICE APPEAL NO. 1120/2016 TITLED AS "TARIQ
HUSSAIN VS GOVERNMENT OF KP AND OTHERS"

Respectfully Sheweth:

1. That the above mentioned Service Appeal, was decided by this Hon'ble Tribunal vide judgment dated 20.10.2021 whereby the Service Appeal filed by the petitioner was

2

allowed. (Copy of Order dated 20.10.2021 is attached as annexure "A").

2. That the petitioner sought antedation of his promotion from the date when the regular post was available, which was allowed by this Hon'ble Tribunal in the following terms. For ready reference, para-7 of the judgment is reproduced as under:

"7. In the light of above discussion, we allow this appeal and direct the official respondents to ante-date the promotion of appellant to the respective dated (October 2014) when he completed the required length of service. No order as to costs."

It is, therefore, humbly prayed that on acceptance of this Application, the respondents may please be directed to implement the order dated 20.10.2021 passed in above titled Service Appeal No. 1120/2016, in the interest of justice.

Through

Applicant/Petitioner

Nasir Mehmood

Advocate Supreme Court.

Dated: 21.09.2022

AFFIDAVIT

I, do hereby solemnly affirm and declare on Oath that the contents of the Application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.


Deponent

(3)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1120/2016

Date of Institution ... 31.10.2016
Date of Decision ... 20.10.2021



Tariq Hussain Section Officer, Governor Secretariat Peshawar.
... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa, Chief Secretary Civil
Secretariat Peshawar and three others.

... (Respondents)

Nasir Mehmood,
Advocate ... For Appellant.

Muhammad Rasheed,
Additional Advocate General ... For Respondents.

Rozina Rehman ... Member (J)

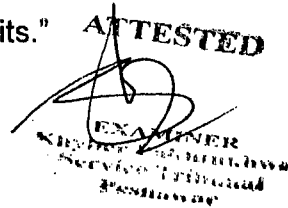
Atiq Ur Rehman Wazir ... Member (E)

JUDGMENT

Rozina Rehman, Member(J): The appellant has invoked the jurisdiction of this Tribunal through the above titled appeal with the prayer as copied below:

“That on acceptance of the appeal, the act of the respondents by regularizing the service of appellant to the post of P.M.S Officer (B.P.S-17) w.e.f 27.05.2016 through impugned notification may be declared as illegal, without lawful authority, without jurisdiction, malafide, void ab-initio and the respondents be directed to promote the appellant to the post of P.M.S (B.P.S-17) w.e.f 21.03.2013 with all back benefits.”

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

(4)

2. Brief facts of the case are that appellant was appointed as Tehsildar on 29.10.2011, where-after, he was promoted to the post of Provincial Management Service (PMS BS-17) on Acting Charge Basis vide Notification dated 21.03.2013. Appellant was then promoted to the post of P.M.S on regular basis with immediate effect vide Notification dated 27.05.2016 instead of antedating of his promotion to the date on which the vacancy fell to his turn in the seniority list. His departmental appeal was not responded to, hence, the present service appeal.

3. We have heard Nasir Mehmood Advocate learned counsel for appellant and Muhammad Rasheed learned Deputy District Attorney for the respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Nasir Mehmood Advocate learned counsel appearing on behalf of appellant, in support of appeal contended that the impugned order is against law, rules and material available on record, therefore, the impugned order may be modified and the appellant may be promoted as P.M.S (B.P.S-17) from the date the appellant was eligible and vacancies were available in his quota i.e. October, 2014. He contended that if a post is available in promotion quota, the civil servant should be promoted on regular basis from the date he becomes eligible and vacancies were available in his quota. He submitted that the Department delayed promotion case of the appellant for no good reason and he was promoted vide impugned order with a delay of almost two years.


ATTESTED

5. Conversely, learned D.D.A submitted that the appellant was appointed to the post of Tehsildar (B.P.S-16) on 29.10.2011 and he

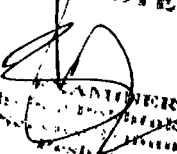
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completed the required length of service on 28.10.2014 while he was appointed on Acting Charge Basis on 21.03.2013 and that at the time of appointment on Acting Charge of the appellant there were eleven regular posts falling in the share quota of Tehsildar while appellant was at Serial No.12 of the panel. He argued that promotion is always with immediate effect under the rules, therefore, appellant is not entitled for regular promotion to the post of P.M.S (B.P.S-17) w.e.f 21.03.2013 under the rules.

6. Perusal of record would reveal that appellant was appointed as Tehsildar on 29.10.2011. The prescribed length of service for promotion is three years. Meeting of P.S.B was held on 15.05.2013, wherein, the board observed that appellant had not completed prescribed length of service required for promotion, therefore, he was not recommended for regular promotion to PMS (BS-17). He completed the required length of service on 28.10.2014 but was promoted to the post of P.MS (B.P.S-17) on regular basis vide notification dated 27.05.2016 with immediate effect. The appellant is mainly aggrieved of his promotion with immediate effect and not from the date, when he became eligible for promotion in October, 2014 and post was available in his quota. The promotion of appellant was delayed by the respondents for no fault of the appellant and he/appellant must not suffer for the fault of the respondents. Reliance is placed on Government of Punjab through Secretary Education & one another Vs. Rana Ghulam Sarwar reported in 1997 S.C.M.R and Muhammad Amjad Vs. Dr. Israr Ahmad reported in 2010 P.L.C (C.S) 760, wherein, it was held by the apex Court that civil servant is eligible for promotion from the date, when he becomes eligible for such



ATTESTED



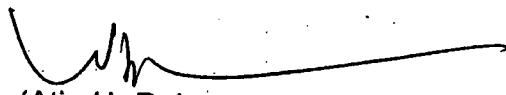
ATTESTED
K. H. ...
...

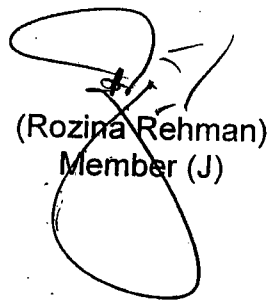
6

promotion and substantive vacancy in promotion quota is also available.


7. In the light of above discussion, we allow this appeal and direct the official respondents to ante-date the promotion of appellant to the respective date (October, 2014) when he completed the required length of service. No order as to costs. File be consigned to the record room.

ANNOUNCED.
20.10.2021


(Atiq Ur Rehman Wazir)
Member (E)


(Rozina Rehman)
Member (J)

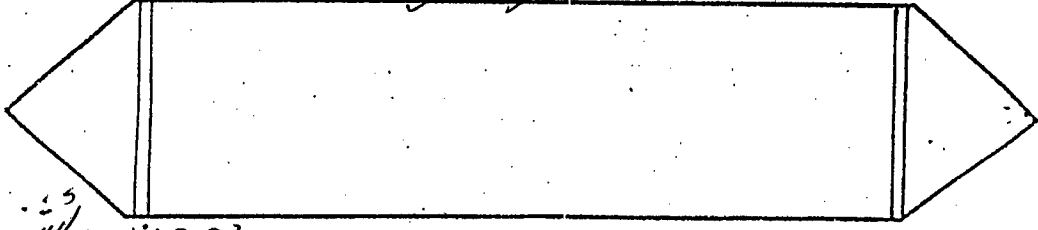
Certified to be true copy


ATIQ UR REHMAN WAZIR
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 22/10/21
Number of 2000
Cases 24
List 21
To 22/11
Date of Copy 14/11/21
Date of Delivery of Copy 11/11/21

(7)

بعدالت لیسٹرز ٹریڈنگ اینڈ سٹور



2022ء پنجاب ہائی کورٹ
بنام گورنمنٹ

طارق حسین

موزخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکھ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ

آن مقام ~~پشاور~~ کیلئے ~~نیا کالکچر ایڈووکیٹ~~

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز

وکیل صاحب کو راضی نامہ کرنے و تقرر رسالت ہ فیصلہ بر حلف دیئے جواب دہی اور اقبال دعویٰ اور

بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق

زرائیں 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 اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور

کے کل یا جزوی کاروائی 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

پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سبب سے ہوگا۔

کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب یا جلد ہوں گے۔

مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

المرقوم 21 ماہ 09 2022

Shamir
Ahsan

کے لئے منظور ہے۔

پشاور

بمقام