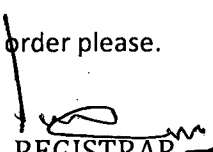





Form- A  
FORM OF ORDER SHEET

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


Execution Petition No. 73/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	26.01.2022	<p>The execution petition of Mr. Rafiq Javed submitted today by Mr. Arshad Khan Tanoli 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 touring S. Bench at Abbottabad on <u>21-04-2022</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	21.04.2022	<p>Learned counsel for the petitioners present. Notice be issued to the respondents and to come up for implementation report on 13.06.2022 before the S.B at Camp Court Abbottabad.</p> <p style="text-align: right;"> (Salah-Ud-Din) Member (J) Camp Court Abbottabad</p>
	13.06.2022	<p>Clerk of learned counsel for the petitioner present. Mr. Riaz Khan Paindakhel, Assistant Advocate General present. None present on behalf of respondents.</p> <p>Notice be issued to the respondents for submission of implementation report. To come up or implementation report on 18.08.2022 before S.B at Camp Court Abbottabad.</p> <p style="text-align: right;"> (Fareeha Paul) Member (E) Camp Court A/Abad</p>

The implementation petition of Mr. Rafiq Javed, ASDEO Circle Baffa, District Mansehra received to-day i.e. on 06.01.2022 which is returned to the counsel for the appellant with the remark to attest the Affidavit by the Oath Commissioner i.e. complete in all respect within 15 days.

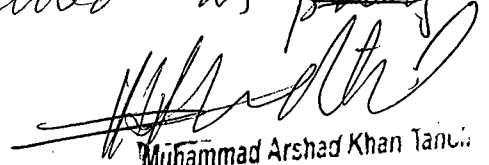
No. 40 /S.T,

Dt. 10/01 /2022

  
Registrar  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

M. Arshad Khan Tanoli Adv. Atd.

Siv, objection has been removed and the case is resubmitted as <sup>required</sup> ~~per~~

  
Muhammad Arshad Khan Tanoli  
Advocate High Court  
Office No: 23 Ad/2022  
Dist: Peshawar

**BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR**

CM No. 73 -A/2022  
IN  
Appeal No.887-A/2019

Rafiq Javed ASDEO, Circle Baffa, District Mansehra.

...APPELLANT

**VERSUS**

The Secretary (E&SE) Education Government of Khyber Pakhtunkhwa,  
Civil Secretariat, Peshawar & Others.

...RESPONDENTS

**APPLICATION**

**INDEX**

<i>S.#</i>	<i>Description</i>	<i>Page No.</i>	<i>Annexure</i>
1.	Implementation Application	1 to 3	
2.	Copy of appeal No.887 /2019	4-7	"A"
3.	Copy of order dated 25/09/2020	8-9	"B"
4.	Wakalatnama	10	

*Rafiq Javed*

...APPLICANTS /PETITIONERS

Through

Dated: \_\_\_\_\_/2022

*(Muhammad Arshad Khan Tanoli)*  
Advocate Supreme Court of Pakistan

**BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR**CM No. 73 -A/202

Rafiq Javed ASDEO, Circle Baffa, District Mansehra.

**...APPELLANT****VERSUS**

1. The Secretary (E&SE) Education Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. The Director (E&SE) Khyber Pakhtunkhwa Peshawar.
3. The Deputy Director Establishment (E&SE) Khyber Pakhtunkhwa Peshawar.
4. The District Education Officer (Male) Mansehra.

**...RESPONDENT****SERVICE APPEAL**

**APPLICATION** FOR PLACING OF THE ORDER  
 DATED 24.09.2020 IN APPEAL NO. 887/2019  
 WHEREIN THE HONORABLE TRIBUNAL  
 DISPOSED-OFF THE CAPTIONED APPEAL WITH  
 THE DIRECTION TO THE RESPONDENT TO  
 DECIDE DEPARTMENTAL APPEAL OF THE  
 APPELLANT BUT THE SAME HAS NOT SO FAR  
 BEEN DECIDED BY THE DEPARTMENT.

Respectfully Sheweth:-

1. That, the appellant filed service appeal No. 887/2019 regarding grant of salary of BPS-

17 as librarian. (Copy of appeal No. 887/19 is attached as Annexure "A").

2. That this Honourable tribunal, at the very outset, disposed-off the appeal of the appellant with the direction to the respondents to decide the departmental appeal of the appellant vide order dated 24.09.2020. (Copy of order dated 24.09.2020 of this Honourable tribunal alongwith departmental appeal dated 02.01.2019 is annexed as Annexure "B").
3. That the respondents, inspite of direction of this Honourable Tribunal did not bother to decide departmental appeal of the appellant which amounts to the contempt of Court.

In view of the above, it is prayed that respondent may be directed to decide the departmental appeal dated 02.01.2019 of the appellant, failing which, contempt of Court proceedings may be initiated to punish them.

  
...APPLICANTS/PETITIONER(S)

Through

Dated: \_\_\_\_\_/2022

  
(Muhammad Arshad Khan Tanoli)  
Advocate Supreme Court of Pakistan

**BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR**

CM No. \_\_\_\_\_-A/2021

Rafiq Javed ASDEO, Circle Baffa, District Mansehra.

**...PETITIONER**

**VERSUS**

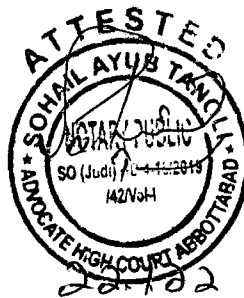
Govt. of KPK & Others.

**...RESPONDENT**

**APPLICATION**

**AFFIDAVIT**

I, *Rafiq Javed ASDEO, Circle Baffa, District Mansehra*, do hereby solemnly affirm and declare that the contents of foregoing application are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.



*Rafiq Javed*  
**DEPONENT**

Annex-A

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR



APPEAL NO. 887 /2019

P-4

Khyber Pakhtunkhwa Service Tribunal

Diary No: 681

Date: 30/4/2019

Rafiq Javed, SCT (BPS-16),  
Presently working against the Post of Incharge Librarian BPS-17,  
Government Higher Secondary School No. 1 Mansehra.

(Appellant)

VERSUS

1. The Secretary (E&SE) Education Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. The Director (E&SE) Khyber Pakhtunkhwa, Peshawar.
3. The Deputy Director Establishment (E&SE) Khyber Pakhtunkhwa, Peshawar.
4. The District Education Officer (Male) Mansehra.

(Respondents)

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 FOR DIRECTING THE RESPONDENT TO GRANT OF PAY AND OTHER EMOLUMENTS OF BPS-17 POST W.E.FROM 01.10.2016 TILL DATE AND THE RESPONDENT DEPARTMENT ARE FURTHER DIRECTED TO ADJUST THE APPELLANT PERMANENTLY AGAINST THE POST OF LIBRARIAN BPS-17 AND AGAINST NOT TAKING ON THE DEPARTMENT APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF 90 DAYS.

Filed to-day  
Registrar  
30/4/19

Re-submitted to-day  
and filed.

Registrar

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE RESPONDENT MAY BE GRACIOUSLY THE DIRECTED TO GRANT OF PAY AND OTHER EMOLUMENTS OF BPS-17 POST TO THE APPELLANT W.E.FROM 01.10.2016 TILL DATE FOR FULLY SHOULDERING RESPONSIBILITY OF

ATTESTED

*[Signature]*  
Registrar  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Muhammad Afzal  
Advocate High Court  
Office No. 33 Adjacent to  
Jail  
Peshawar

P S (9)

**HIGHER POST WITH ALL BACK AND CONSEQUENTIAL BENEFITS. THE RESPONDENT MAY FURTHER PLEASE BE DIRECTED TO ADJUST THE APPELLANT PERMANENTLY AGAINST THE POST OF LIBRARIAN BPS-17 BEING HIGHLY QUALIFIED AND EXPERIENCED. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.**

**RESPECTFULLY SHEWETH:**

**FACTS:**

1. That the appellant was appointed as CT vide order dated 17.06.21993 and promoted to the post of SCT in BPS-16 vide order dated 17.11.2014. Since then performing his duty with great zeal and devotion whatsoever assign to him. **Copy of order is attached as Annexure-A & B.**
2. That the appellant is highly qualified having the degree of M.Sc Librarian Science with the experience of about 10 Year in Management of Libraries At University and Higher Secondary School level. **Copy of MLS Degree & Experience Certificate are attached as Annexure-C & D.**
3. That keeping in view the capability of the appellant the competent authority of Hazra University Mansehra vide order dated 19.08.2008 and requested the worthy Secondary (E&SE) Education Department Peshawar for deputation of the appellant for a period of three Years. The E&SE Department accepted the request and issue NOC vide letter dated 22.02.2008. **Copy of the Request letter is attached as Annexure-E.**
4. That the concerned authority of Hazara University vide letter dated 28.11.2008 the appellant was posted as Office Assistant in the Centre Library then after vide notification dated 18.02.2011 appointed as Incharge Library and 01.06.2011 further 2 year extension in deputation was granted. **Copy of the orders is attached as Annexure-F & G.**
5. That after completion of five years deputation the appellant repatriate the parent department and was adjusted at GHS Shinkari and from their own recommendation / request of Principal GHSS No. 1 Mansehra the appellant was further adjust at GHSS No.1 Mansehra and handed over the charge of Librarian. **Copy of the request & order is attached as Annexure-H & I.**

Muhammad Arshad  
Advocate High Court  
Office No 33 Adjacent to  
Distt Court  
*[Signature]*



P-6

3

6. That vide order dated 12.06.2014 the Principal directed the appellant to functionalize the appellant to close the library of the school for its proper utilization. After retirement of the said Principal GHS No. 1 Mansehra the another Principal Muhammad Saeed taking over the charge GHSS No. 1 Mansehra he also issue the direction to hold the charge of Librarian BPS-17 vide order/direction dated 01.10.2016. **copy of direction dated 12.06.2014 and direction/order dated 01.10.2016 is attached as annexure-J & J1**
7. That thereafter the appellant being eligible and working against the higher post filed department for the purpose of pay and allowances of the higher post BPS-17 and for adjustment against the post of Librarian BPS-17 on regular basis. The appeal of the appellant has not been responded within the statutory period of 90 days hence the present appeal on the following amongst the others. **Copy of the Departmental Appeal is attached as Annexure-K..**

**GROUND:**

- A) That the not granting of pay and other emolument of BPS-17 and deciding the appeal of the appellant within statutory period of 90 days is against the law, rules and constitution.
- B) That since 24.06.2014 the appellant has been working as Librarian at GHSS No. 1 Mansehra to the entire satisfaction of the concerned office/ staff and students as well. In this regard an experience certificate issued by the concerned authority. **Copy of certificate is attached as annexure-L.**
- C) That appellant deserve to be appointed against the post of Librarian being qualified, experience, and working against the same post for a long period.
- D) That Mr. Riaz Ahmad Ex-SET GHSS New Darband having nearly same facts and circumstances was appointed against the post of SS Pak Study.
- E) That in an another similar nature case Mr. Muhammd Fayyaz Junior Clerk was promoted to Senior Clerk.
- F) That not granting the pay benefits of BPS-17 post w.e.from 01.10.2016 till date and not taking action on the Departmental Appeal of the appellant within statutory period is against the law, fact, norms of justice and material on record, therefore, not tenable.


*Handwritten signature and notes:*  
Ahsan  
High School  
Mansehra  
District  
Mardan

P-7


(4)

- G) That the appellant has been shouldering the responsibilities of Higher Post of BPS-17 since 2014, therefore, he is legally entitled to all monetary benefits of BPS-17 post from the date he is performing his duty in BPS-17.
- H) That the August Supreme Court of Pakistan has allowed as similar appeal on 30.09.2015 while deciding CP No. 1763/2015. Therefore, the appellant is also entitled under the principles of equality and equity.
- I) That even this august tribunal has also allowed as similar appeal of Muhammad Khan Vs Education Appeal No. 59/2006 on 15.06.2006 wherein the pay benefits of higher post were allowed to that appellant. Therefore, being a similarly placed person, the appellant is also entitled to the same relief.
- J) That the Khyber Pakhtunkhwa Finance Department has also issued a circular dated 17.08.2012 and 1.1.2013, wherein pay of higher post has been allowed to this incumbents who hold higher post. **Copy of circular is attached as annexure-M**
- K) That the appellant, legally, cannot be deprived from the pay benefits of higher post, against which he has been performing his duties since 2016.
- L) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

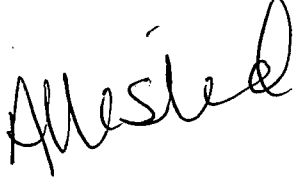
It is, therefore most humbly prayed that the appeal of the appellant may be accepted as prayed for.

  
APPELLANT  
Rafiq Javed

THROUGH:

  
(M.ASIF YOUSAFZAD)  
ADVOCATE SUPREME COURT,  
OF PAKISTAN.

  
(SYED NOMAN ALI BUKHARI)  
ADVOCATE HIGH COURT,



Muhammad Asif Yousafzad  
Advocate High Court  
Office No. 33 Adjacent  
Bar Association

Annex-B Annex - c

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR



APPEAL NO. 887 /2019

P-8

Khyber Pakhtunkhwa Service Tribunal

Date: No. 681

Date: 30/4/2019

Rafiq Javed, SCT (BPS-16),  
Presently working against the Post of Incharge Librarian BPS-17,  
Government Higher Secondary School No. 1 Mansehra.

(Appellant)

VERSUS

1. The Secretary (E&SE) Education Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. The Director (E&SE) Khyber Pakhtunkhwa, Peshawar.
3. The Deputy Director Establishment (E&SE) Khyber Pakhtunkhwa, Peshawar.
4. The District Education Officer (Male) Mansehra.

*Allesha*

Muhammad Arshad Khan  
Advocate High Court  
Office 33 Adjacent

(Respondents)

Filed to-day

Registrar

30/4/19

Re-submitted to-day and filed.

Registrar

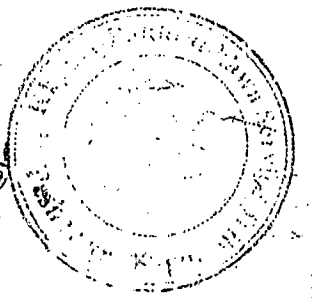
27/1/19

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 FOR DIRECTING THE RESPONDENT TO GRANT OF PAY AND OTHER EMOLUMENTS OF BPS-17 POST W.E.FROM 01.10.2016 TILL DATE AND THE RESPONDENT DEPARTMENT ARE FURTHER DIRECTED TO ADJUST THE APPELLANT PERMANENTLY AGAINST THE POST OF LIBRARIAN BPS-17 AND AGAINST NOT TAKING ON THE DEPARTMENT APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF 90 DAYS.

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE RESPONDENT MAY BE GRACIOUSLY THE DIRECTED TO GRANT OF PAY AND OTHER EMOLUMENTS OF BPS-17 POST TO THE APPELLANT W.E.FROM 01.10.2016 TILL DATE FOR FULLY SHOULDERING RESPONSIBILITY OF

Appeal No. 887/2019  
Rafiq Javed vs Govt



P-9

24.09.2020

Appellant along with counsel present.

Learned counsel argued the matter at some length and then stated that the appellant would be satisfied in case the respondent No. 1 is required to decide the departmental appeal of the appellant on its merits and at an early occasion.

The request of appellant is ~~is~~ <sup>is</sup> ~~worth~~ <sup>worth</sup> appeared to be reasonable. The concerned respondent shall do the needful in accordance with the request of appellant. The appeal in hand is disposed of accordingly.

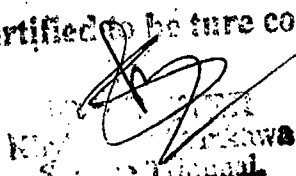
Needless to note that the appellant shall be at liberty to pursue his remedy in accordance with law in case he is unsatisfied with the outcome of departmental appeal. File be consigned to the record.

  
Chairman

ANNOUNCED

24.09.2020

Certified to be true copy

  
Section In-charge  
Secretary

11-12-2020  
800  
10-00  
4-00  
14-00  
11-12-2020  
11-12-2020

Attested

Attested by  
Justice High Court  
File No. 311/2019  
Distt. Barakhottabad

کورٹ فیس

# وکالت نامہ

Peshawar Service Tribunal KPK Peshawar  
بعدالت

Rafiq Tameel نام: Govt of KPK

Petitioner منجانب:

Service نوعیت مقدمہ:

## باعث تحریر آنکے

مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی و جواب دہی کل کاروائی متعلقہ آں مقام

ATD Muhammad Ashraf Khan Tameel Advocate

کو وکیل مقرر کر کے اقرار کرتا ہوں کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا نیز وکیل

صاحب موصوف کو کرنے راضی نامہ و تقرر ثالث و فیصلہ بر حلف و دینے اقبال دعویٰ اور بصورت دیگر ڈگری

کرانے اجراء وصولی چیک روپیہ و عرضی دعویٰ کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا اور بصورت

ضرورت مقدمہ مذکور کی کل یا کسی جزوی کاروائی کے لئے کسی اور وکیل یا مختار صاحب قانونی کو اپنے ہمراہ اپنی

بجائے تقرر کا اختیار بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا

ساختہ پرداختہ مجھ کو منظور و قبول ہوگا۔ دوران مقدمہ جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب ہوگا اس کے

مستحق وکیل صاحب ہوں گے۔ نیز بقایا رقم وصول کرنے کا بھی اختیار ہوگا۔ اگر کوئی پیشی مقام دورہ پر ہو یا

حد سے باہر ہو تو وکیل صاحب موصوف پابند ہوں گے کہ پیروی مقدمہ مذکورہ کریں اور اگر مختار مقرر کردہ میں

کوئی جزو بقایا ہو تو وکیل صاحب موصوف مقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواست بمراد

استجارت نالاش بصیغہ مفلسی کے دائر کرنے اور اس کی پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔

لہذا وکالت نامہ تحریر کیا تاکہ سند رہے۔

المرقوم:

بمقام:

العبد العبد