


Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 646/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	28.10.2022	<p>The execution petition of Mr. Zahid Khan submitted today by post through Mr. Yasir Saleem Advocate. It is fixed for implementation report before touring Single Bench at Swat on _____.</p> <p>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>By the order of Chairman</p> <p> REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKWA
SERVICE TRIBUNAL PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

E. P. NO. 646/2022

Diary No. 1786

In the matter of
Appeal No. 553/2015

Dated 28/10/2022

Zahid Khan Vice Principal BPS-18, Government Higher
Secondary School (Now Retired) Ouch Dir.

(Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary Civil Secretariat Khyber Pakhtunkhwa Peshawar.
2. Secretary elementary and secondary education civil secretariat Peshawar.
3. Secretary to Government of Khyber Pakhtunkhwa establishment department civil secretariat Peshawar.
4. Chairman Provincial Selection Board (Chief Secretary) Civil Secretariat Peshawar.

(Respondents)

*Application for the implementation of the
Judgment and Order dated 20.12.2019 of this
Honourable Tribunal.*

Respectfully Submitted:

1. That the above noted service appeal was pending adjudication in this Honourable Tribunal and was decided vide judgment and order dated 20.12.2019.
2. That vide judgment and order dated 20.12.2019 this Honourable Tribunal accepted appeal of the appellant in the following terms:

“8. In view of the above, the respondents are directed to consider the case of the appellant for promotion to BS-19 on notional basis in case the respondent department finds that the vacant posts of BS-19 were already available when the appellant was retired from service but simply due to the delay in taking up the promotion case, the appellant stood retired in BS-18. Parties are left to bear their own costs. File be consigned to the record.”

(Copy of the Judgment and order dated 20.12.2019, is Attached)

3. That the judgment of this Honourable Tribunal was duly communicated to the respondents, however the respondent department has not considered the appellant for notional promotion which is against the spirit of the judgment and order dated 2012.2019 of this Honourable Tribunal.
4. That after judgment and order of this Honourable Tribunal, the applicant is continuously approaching the respondents for the implementation of the judgment, however they are reluctant to implement the judgment.
5. That the respondents are legally bound to implement the judgment of this Honourable Tribunal in its true letter and spirit without any further delay.

It is, therefore, prayed that on acceptance of this application the respondents may please be directed to implement the judgment and order dated 20.12.2019 of this Honorable Tribunal in its true letter and spirit.



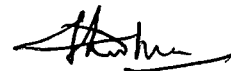
Applicant

Through


YASIR SALEEM
 Advocate High Court

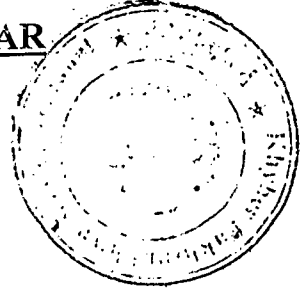
AFFIDAVIT

It is hereby solemnly affirm and declare on oath that the contents of the above implementation petition are true and correct to the best of my knowledge and belief and that nothing has been kept back or concealed from this Honourable Tribunal.



Deponent



IN THE PESHAWAR HIGH COURT PESHAWAR*Service Appeal No. 553/2015*W. P No. 1619 P /2014

Zahid Khan Vice Principal BPS-18 Govt Higher Secondary School Ouch Dir Lower.

(Petitioner)

VERSUS

1. Govt of Khyber Pakhtunkhwa, through Chief Secretary Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. Secretary Elementary & Secondary Education Civil Secretariat Peshawar.
3. Secretary, to the Government of Khyber Pakhtunkhwa Establishment Department Civil Secretariat, Peshawar.
4. Chairman, Provincial Selection Board (Chief Secretary) Civil Secretariat, Peshawar.

(Respondents)

Writ Petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973

Prayer in Writ Petition:

On acceptance of this Writ Petition, an appropriate Writ may please be issued declaring the decision of the Provincial Selection Board for not considering the petitioner to the post of Principal BPS-19 on the ground of being retired from service is illegal, unlawful, without lawful authority, against the Rules and thus liable to be struck down, the Petitioner being fit & eligible for promotion to the post of Principal BPS-19 has every right to be considered as such for the said post and promoted with all consequential pensionary benefits.

Or

Any other remedy deemed proper in the circumstances of the case may also be allowed

FILED TODAY
Deputy Registrar
22 MAY 2014

Certified to be true copy
JUDGE
Khyber Pakhtunkhwa
Service Tribunal
Peshawar



4

Judgment/order

S.A No.553/2015 Zahid Khan

20.12.2019

Learned counsel for the appellant present. Mr. Muhammad Jan
learned Deputy District Attorney present.

Arguments heard. File perused.

Learned counsel for the appellant pleaded that the appellant who was retired from service on 14.11.2013 from the post of Vice Principal (BS-18) Government Higher Secondary School Ouch Dir Lower, seeks promotion to the post of Principal (BS-19); that as per the relevant revised final seniority list of officers of BS-18, the name of the petitioner is at Serial No.86; that soon after retirement of the appellant, 227 officers of teaching cadre were promoted from BS-18 to BS-19 vide order dated 21.04.2014. Learned counsel for the appellant furnished copy of judgment dated 08.08.2019 passed in Service Appeal bearing No.552/2015 filed by Mian Zaman Khan and argued that aforementioned Service Appeal of identical nature has already been accepted by this Tribunal, hence the appellant being similarly placed person, is also entitled to the same relief. Learned DDA could not rebut the plea taken by the learned counsel for the appellant.

In view of above, the respondents are directed to consider the case of appellant for promotion to BS-19 on notional basis, in case the respondent department finds that the vacant posts of BS-19 were already available when the appellant was retired from service but simply due to the delay in taking up the promotion case, the appellant stood retired in BS-18. Parties are left to bear their own costs. File be consigned to the record room.

Disposed of accordingly.

(Handwritten signatures and stamps)
(Ahmad Hassan)
Member
(Muhammad Hamid Mughal)
Member

ANNOUNCED.
20,12.2019

(Vertical handwritten notes on the left margin)
Date of Presentation
Number of pages
10
17-1-2020
10-1-2020



5
**OFFICE OF THE
DISTRICT EDUCATION OFFICER (M)
DISTRICT DIR LOWER**

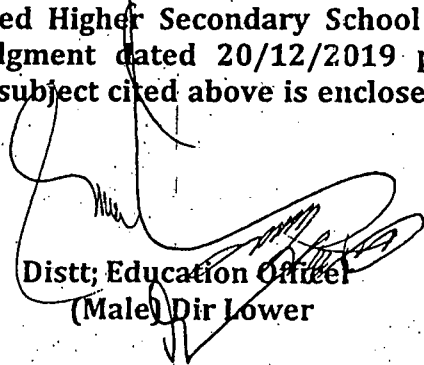
No. 2545 /Dated Timergara the 17 13/2020
To,

The Director(E&SE)
Govt;of Khyber Pakhtunkhwa

Subject;- **APPLICATION FOR THE GRANT OF ALL CONSEQUENTIAL/RETROSPECTIVE
PENSION BENEFITS OF BPS-19**

Memo;-

A self explanatory application in respect of Mr. Zahid Khan Ex Vice Principal BPS-18 Govt; Shahbaz Shaheed Higher Secondary School Ouch Dist;Dir lower alongwith a copy of Court Judgment dated 20/12/2019 passed by the Peshawar High Court Peshawar, on the subject cited above is enclosed herewith for further necessary action please.


Distt; Education Officer
(Male) Dir Lower

DD (E&SE-II)

26/9/2020

AD=11
26/9/2020

1076
16/9

6

Mr. Bahadur Zeb

Mr
15/03/2020

To

The Chief Secretary,
Khyber Pakhtunkhwa, Peshawar.

Through: Proper Channel

Subject: Application for the Grant of all Consequential/Retrospective Pensionary Benefits of BPS-19.

Respected Sir,

It is stated with honor that I was retired from active service after reaching superannuation pension on 14/11/2013 as Vice Principal (BPS-18) from GHSS Ouch Dir Lower. At that time my seniority No. was 86 in the seniority list of BPS-18 of Principals/Vice Principals. I was entitled for promotion at that time and had submitted the requirement documents for Provincial Selection Board (PSB) for the upcoming promotions from BPS-18 to 19. At the same time sufficient vacant posts of BPS-19 were available to be filled by promotions. On 21/4/2014, 227 officers of teaching cadre were promoted from BPS-18 to BPS-19, but I was left out by the PSB from the said promotions due to my retirement.

But now the honorable Peshawar High Court (PHC) has delivered its decision in my favor vide Service Appeal No. 553/215 filed on 22/6/2014 and decision announced on 20/12/2019 with the directives to the department to grant me all the consequential/retrospective pensionary benefits.

It is therefore requested in your honor that please issue orders of granting all consequential pensionary benefits to me at the earliest.

Thanking you.

Enclosed please find here with Peshawar High Court decision copy.

Your Sincerely

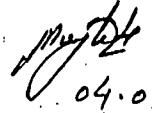


Zahid Khan
Vice Principal BPS-18 (Retd.)
GHSS Ouch Dir Lower
Cell No. 03469850099

Dated: 02/03/2020

No 3502 . Date 04.03.2020

Forwarded & recommended to DEO (M)
Dir (L) at Timergara for favourable consideration pl.


04.03.2020

PRINCIPAL
Govt. Shahbaz Shaheed
Higher Secondary School
Ouch Dir Lower

The Secretary
Elementary & Secondary Education Department
Khyber Pakhtunkhwa
Peshawar

Subject: PROMOTION CASE OF ZAHID KHAN

Sir,

My promotion case from BPS 18 to BPS 19 was due during my job tenure and with the passage of time; I was retired from the job. I requested for due promotion by following department procedure but it was not done.

I approached honorable court and case remained under trial and in pursuance of judgment of the Honorable Peshawar High Court the competent authorities approved my promotion from BPS 18 to BPS 19 on 20th December, 2019 but unfortunately, I have never been facilitated for the same. (*Judgment Decision copy attached*)

In pursuance of my case, I submitted an application on 16th Sept. 2020 and waited for a response for a long period but it remained pending. Then I submitted 2nd applications on 10th November 2021 vide Dairy No. 186 and so far no action has been taken. (*Copy attached*)

Then I submitted an application to your kind office on 11th May, 2022 dairy No. 259.

For your kind information, one of my colleagues; Mian Zaman was under same circumstances to be promoted from BPS 18 to BPS 19. Now with reference to a Notification No. SO(S/M)E&SED/2-1/2020/Notional Promotion issued from your office on 24th January 2022, his case has been approved and proceeded accordingly. (*Copy attached*)

I would like to draw your kind attention; while keeping in view the above mentioned judgment, documentary evidences in form of applications and notification to one of my colleagues; Mian Zaman; it will be highly appreciated if you please pursue my case.

Z

ZAHID KHAN
Vice Principal (Retd.)
Govt. Shahbaz Shaheed Higher Secondary School
OUCH - Lower Dir
03469850099

*Dairy No. 259 dated
11-5-2022.*

*474
27/5*

3



8
GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Dated Peshawar the January 24, 2022.

NOTIFICATION

NO.SO(S/M)E&SED/2-1/2020/Notional Promotion of Mian Zaman : In pursuance of judgment of the Khyber Pakhtunkhwa, Service Tribunal Peshawar dated 08.08.2019 in Service Appeal No.552/2015, the Competent Authority on the recommendation of Provincial Selection Board (PSB) in its meeting held on 02.12.2021, is pleased to promote Mr. Mian Zaman, Ex-Principal (BS-18) to (BS-19) on Notional basis w.e.f 10.12.2013 (one day before his retirement).

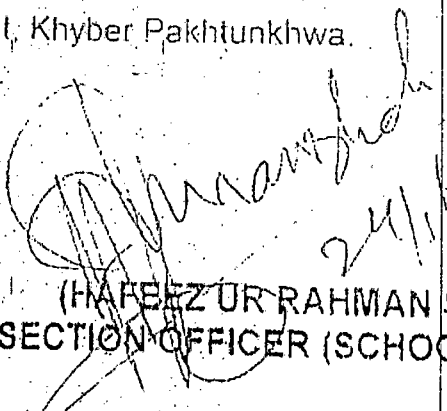
2. Consequently, he is adjusted/transferred from the post of Principal (BS-18) and posted as Principal (BS-19) GHS Gandaf Swabi against the vacant post w.e.f. 10.12.2013 (for the purpose of pension only). His promotion as well as assumption of charge in BS-19 shall be on (Proforma) notional basis.

SECRETARY TO GOVT OF KHYBER PAKHTUNKHWA
E&SE DEPARTMENT

Endst: of even No. & Date:-

Copy forwarded to the:

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Registrar, KP Service Tribunal Peshawar w.r.to his judgment quoted above.
3. Director, E&SE Khyber Pakhtunkhwa, Peshawar.
4. District Education Officers Male, Swabi.
5. District Accounts Officers Swabi.
6. Section Officer (Lit-II), E&SE Department.
7. PS to Chief Secretary Khyber Pakhtunkhwa Peshawar.
8. PS to Secretary E&SE Department, Khyber Pakhtunkhwa.
9. Incharge EMIS E&SE Department.
10. Officers concerned.
11. Office order file.


24/1/2022
(HAFEEZ UR RAHMAN SHAH)
SECTION OFFICER (SCHOOLS MALE)

WAKALAT NAMABEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Zahid Khan
....Appellant

VERSUS

Govt of KPK & others
....Respondent/

Yasir Saleem Advocate High Court, Peshawar (herein after called the advocate) to be the Advocate for the **Zahid Khan (The Appellant)** in the above mentioned case, to do all the following acts; deeds and things or any of them ,that is to say ;

- 1) To act and plead in the above mentioned case in this court or any other Court in which the same may be tried or heard in the first instance or in appeal or review or execution or in any other stage of its progress until its final decision.
 - 2) To sign, verify and present pleadings, appeals, cross- objections ,petitions for execution, review , revision, withdrawal, compromise or other petition or affidavits or other documents as shall be deemed necessary or advisable for the prosecution of said case in all its stages.
 - 3) To withdraw or compromise in the said case or submit to arbitration any difference or dispute that shall arise touching or in any manner relating to the said case.
 - 4) To receive money and grant receipts therefore and to do all other acts and things which may be necessary to be done for the progress and the course of the prosecution of the said case.
 - 5) To engage any other Legal practitioner authorizing him to exercise the power and authorities hereby conferred on the Advocate whenever he may think fit to do so.
- AND I hereby agree to ratify whatever the Advocate or his substitute shall do in the promises.

AND I hereby agree not to hold the Advocate or its substitute responsible for the result of the said case and in consequence of his absence from the court when the said case is called up for hearing

AND I hereby that in the event of the whole or any part of the fee agreed by me to be paid to the Advocate remaining unpaid., He shall be entitled to withdraw from the prosecution of the said case until the same is paid.

In witnesses whereof I / we have hereto signed at _____ the
_____ day to _____ the year _____

Executant / Executants _____

Accepted subject to the terms regarding fee _____

YASIR SALEEM

Advocate High Court Peshawar

FR-4, 4th Floor, Bilour Plaza, Peshawar Saddar.
Bar Council: 10-6580, Cell No. 0331-8892589
Email: yasirsaleemadvocate@gmail.com