

# FORM OF ORDERSHEET

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

**Misc. application No. 531/2022**

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2.	3
1	09/09/2022	<p>The Misc. application for taking notice of noncompliance of order of this Tribunal passed in E.P no. 188/2021 submitted by Mr. Ali Azim Afridi Advocate. It is fixed for hearing before S.B at Peshawar on _____ . Original file be requisitioned. Notices be issued to applicant and his counsel for the date fixed.</p> <p style="text-align: right;">By the order of Chairman</p> <p style="text-align: center;">REGISTRAR</p>

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL**

**Petition No. /2022**

MISC. ~~Petition~~ No. 531/2022

**Execution Petition No. 188/2021**

**In Re:**

**Service Appeal No. 347/2019**

Khyber Pakhtunkhwa  
Service Tribunal

Entry No. 1206

Dated 09/9/2022

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Jawad Ahmad Presently Serving as Junior Clerk (BPS-12)  
Directorate of LG & RDD, Khyber Pakhtunkhwa, Peshawar

**....Petitioner**

**VERSUS**

1. Director General Local Government & Rural Development  
Department Khyber Pakhtunkhwa, Peshawar
2. Director Local Government & Rural Development, Merged Areas  
Secretariat, Warsak Road, Peshawar

**....Respondent**

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**APPLICATION FOR TAKING NOTICE OF DEFIANCE OF  
ORDER(S) OF THE HON'BLE COURT**

**Respectfully Sheweth,**

1. That the titled service appeal No. 347 of 2019 was preferred  
before the Hon'ble Tribunal which after passing through the

course of hearing was ultimately decided on 11.08.2021 in favour of the present petitioner.

2. That the Hon'ble Tribunal vide its judgment had issued certain directions, in the similar terms, *"The afore-named representative states that Eight posts of Senior Clerks are lying vacant and are due for appointment through promotion; the appellant will also be promoted against one of the aforesaid Eight vacant posts under due course; keeping in view the said statement of the representative of respondents made at the bar, we are inclined to dispose of this appeal"*.

In **Zahooruddin Sheikh's Case**<sup>1</sup>, *"it was held that "Once a judgment is issued in favour of a civil servant, his terms and conditions as infringed by an order of the authority in question stands addressed to the extent as ordained in the judgment concerned. There is, therefore, no denying the fact that of the judgment is not implemented and leave to appeal is either not filed or declined, there is no escape route for the Department but to implement the judgment in letter and spirit"*, which appears to be otherwise in the case at hand.

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<sup>1</sup> 2007 Pl.C (C.S) 959

3. That the respondent(s) in response thereto on 06.07.2022 stated at bar that the promotion of the petitioner will be regularized as Senior Clerk within 45 days, with compliance report to be submitted before the Hon'ble Tribunal; but of no avail.
4. That the respondent No. 1 being the competent authority is duty bound to implement the judgment of the Hon'ble Tribunal in its letter and spirit but the same is done away with; leaving the present petitioner nowhere but high and dry and that too aloof.
5. That the Hon'ble Tribunal is empowered by virtue of Sub-Section 2(d) of Section 7 of the KP Services Tribunal Act 1974 read with rule 27 of the KP Services Tribunal Rules, 1974 to execute its judgment/order; passed in favour of the present petitioner and as such against the respondents.

In **Ahmed Nawaz Khan's Case**<sup>2</sup> It was held that, "*The proceedings on application for execution or implementation of the Tribunal's orders are undoubtedly one of the steps in the proceedings of the main appeal. Therefore what follows is that the Tribunal has got the same powers as are vested in the Civil Court under the Code of Civil Procedure, not only for the purpose of deciding an appeal but also for*

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<sup>2</sup> 1989 PLC (C.S) 398; 2017 PLC (C.S) 1102

*consequential purpose of deciding the petition for implementation of its order; which exercise is of essence and that too in a jiffy.*

6. Moreso the record shall also be set-straight as to the plea opted for by the petitioner with regard to undertaking submitted on 06.07.2022.

It is therefore humbly prayed that the respondents may graciously be proceeded against for non-compliance of the judgment/order of the Hon'ble Court.

Any such order be passed which the Hon'ble Tribunal deems fit and appropriate during the course of proceedings; for securing the ends of justice.

**Petitioner**

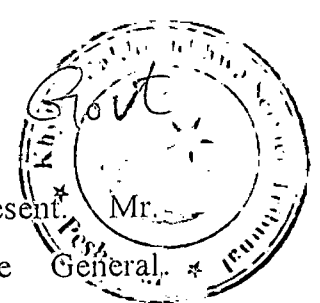
**Through**

Ali Azim Afridi  
Advocate High Court

**Contact # 0333-9555000**

Execution Petition 188/2021

S  
Jawad Ahmad vs



6<sup>th</sup> July, 2022

Petitioner alongwith his counsel present  
Muhammad Adeel Butt, Additional Advocate General.  
alongwith Mr. Muhammad Zain Khan, Asst: Director and Mr.  
Aizaz Ul Hassan, Supdt for respondents present.

Representative of the respondents produced copy of notification of promotion of the petitioner from Junior Clerk (BS-11) to the post of Senior Clerk (BS-14) on acting charge basis to which the petitioner and his counsel objected that it was not the compliance of the judgment in letter and spirit. The Assistant Director (Litigation) present in the court submits that there were eight (8) vacancies of the Senior Clerks to be filled in on promotion basis but those were not so clear vacancies because those had fallen vacant on promotion of eight (8) Senior Clerks as Assistants who were still on probation and seniority of one of them (Ayub Rehman) had been challenged alongwith the seniority of one Muhammad Asif, Senior Clerk and until the seniority issue was settled atleast to the extent of Ayub Rehman, Assistant, the petitioner could not be promoted. When confronted with the situation, the petitioner submitted that he had no grievance with one Muhammad Asif, Assistant, the seniority of which was also challenged by him and as such had no objection on their regularization/confirmation as Assistants so that vacancy of Senior Clerks could be cleared for his promotion. In this respect he made submission in writing. In view of the above the hurdle in the way of promotion of the petitioner does not remain anymore and the Asst: Director assured that after confirmation of the eight (8) Assistants, the petitioner promotion will be regularized as Senior Clerk. The exercise may be done within 45 days. Compliance report shall be submitted under intimation to this Tribunal through its Registrar. The instant execution petition is disposed off in the above terms. Consign.

Handwritten notes and dates in the left margin:  
Number of Presentations: 02/8/22  
Number of Absences: 19/-  
Number of Applications: 4/-  
Number of Notices: 14/-  
Number of Hearings: 02/8/22  
Number of Orders: 02/8/22

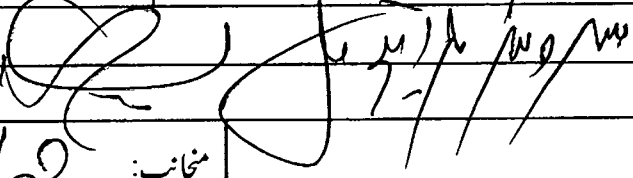
Certified to be true copy  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

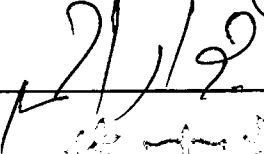


Pronounced in open court in Peshawar and given under my hand and seal of the Tribunal this 6<sup>th</sup> day of July, 2022.

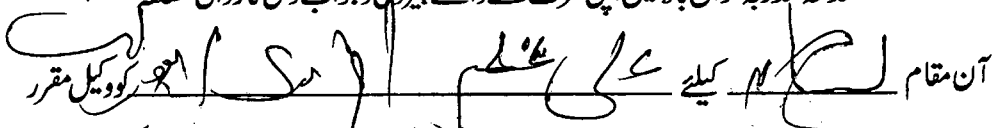
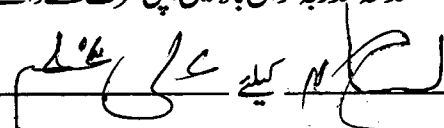
(Kalim Arshad Khan)

50	12284	6			
ایڈویٹ: علی عظیم		پشاور بار ایسوسی ایشن، خیبر پختونخواہ			
بار کونسل ایسوسی ایشن نمبر: 1669/60					
رابطہ نمبر: 5533					

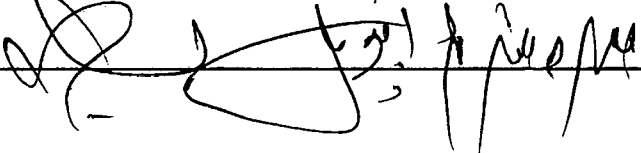
بعدالت جناب: 

منجانب: 	دعویٰ:
<b>جو اولم بنام محل کوٹھڑ</b>	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:

### باعت تحریر آگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ <sup>۱</sup> آن مقام  کیلئے علی عظیم  کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا اہل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ 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 وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم:

المقام  کے لیے منظور ہے

نوٹ: اس وکالت نامہ کی فونو کاپی ناقابل قبول ہوگی۔