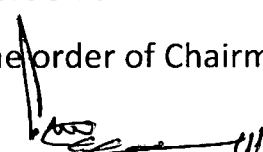


Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 707/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	01.12.2022	<p>The execution petition of Mr. Said Shah submitted today by Mr. Zafar Ali Khan 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>By the order of Chairman  REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL.
PESHAWAR.

E.P. No. 707/2022

Appeal No.722/2018

Said Shah Appellant

Versus

Secretary to Govt. of K.P. E&S, Peshawar & others..... Respondents

INDEX

S.No.	Description of documents.	Annexure	Pages.
1	Implementation application with affidavit.		1-2
2	Attested copy of order/ judgment dated 10.10.2022	A	3-6
3	Copy of application	B	7
4	Wakalatnama.		8

Petitioner

Through



Zafar Ali Khan
Advocate High Court

Dated: 01.12.2022

CC No 22e78

Email: Zafaradv114@gmail.com

0333934442

03139539269

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR.

Appeal No.722/2018

E.P. No. 707/2022

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 2099

Dated 01-12-2022

Said Shah son of Mian Muhammad (Ex-PST)

Govt. Primary School, Shamilat Mardan

R/o Village Bakri Banda, Mardan..... Appellant

Versus

- 1) Secretary to Government of Khyber Pakhtunkhwa, Elementary and Secondary Education, Peshawar.
- 2) District Education Officer, (Male) Mardan
- 3) Director Elementary and Secondary Education, KP, near GHSS No.1, G.T. Road, Peshawar..... Respondents

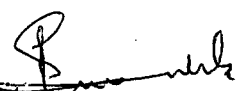
Application for implementation of judgment/
order of service tribunal dated 10.10.2022.


Respectfully Sheweth;

- 1) That this Hon'ble Tribunal vide judgment/ order dated 10.10.2022 accepted appeal of applicant/ petitioner. (Copied copy of judgment/ order dated 10.10.2022 is attached as Annexure "A").
- 2) That petitioner approached the concerned authorities for the implementation of judgment/ order dated 10.10.2022 but they paid no heed.
- 3) That respondents are not implementing the order/ judgment dated 10.10.2022 of this hon'ble Tribunal and have committed clear contempt.

- 4) That according to superior courts judgments every organ of the State as well as subordinate court of the country is bound to implement the judgment and order in its true letter and spirit.
- 5) That justice demands that judgment of this Hon'ble Tribunal may please be implemented in true letter and spirit.

It is, therefore, humbly prayed that respondents may please be directed to implement the order/ judgment dated 10.10.2022 in true letter and spirit and all the benefits be awarded after the decision of the Hon'ble Tribunal.

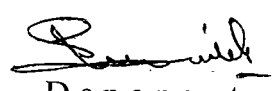

Petitioner

Through 

Zafar Ali Khan
Advocate High Court

AFFIDAVIT

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

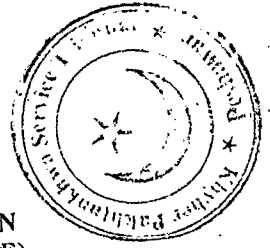

Deponent



Annex A (3)

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 722/2018



BEFORE: MR. KALIM ARSHAD KHAN ... CHAIRMAN
MISS. FAREEHA PAUL ... MEMBER(E)

Said Shah S/O Main Muhammad Shah (Ex-PST), Government Primary School, Shamilat Mardan R/O Village Bakri Banda, District Mardan. (Appellant)

Versus

1. The Secretary to Government of Khyber Pakhtunkhwa, Elementary & Secondary Education, Peshawar.
2. The District Education Officer (Male), Mardan.
3. The Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar. (Respondents)

Mr. Muhammad Adam Khan ... For appellant
Advocate

Mr. Naseer Ud Din Shah ... For respondents
Asstt. Advocate General

Date of Institution.....25.05.2018
Date of Hearing.....10.10.2022
Date of Decision.....10.10.2022

JUDGEMENT

FAREEHA PAUL, MEMBER (E): The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, against impugned order dated 07.05.2015, whereby the appellant is awarded major penalty of removal from service w.e.f 17.12.2014.

2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was appointed as Primary School Teacher (PST) by the District Education Officer (Male), Mardan (Respondent No. 2) on 29.06.2009 and

ATTESTED

Khyber Pakhtunkhwa
Service Tribunal

posted in Government High School, Faqir Killi, Mardan. The appellant alongwith other persons was charged and arrested in a criminal case under Section 489-F PPC vide FIR No.387 dated 20.12.2012, of Police Station Saddar, Mardan. Resultantly he was placed under suspension by DEO (Male), Mardan vide letter dated 31.01.2014. The DEO (Male), Mardan awarded the appellant with punishment of removal from service vide impugned order dated 07.05.2015, which was never communicated to him. While pursuing the fate of disciplinary case, the appellant came across the impugned order on 01.07.2015 and preferred departmental appeal to Director Elementary & Secondary Education Department, Khyber Pakhtunkhwa, Peshawar (Respondent No. 3) on 19.08.2015. His appeal was rejected vide letter dated 03.12.2015, which was not conveyed to the appellant and he learnt about it on 23.04.2018. Aggrieved from that, the appellant submitted service appeal on 25.05.2018.

3. Respondents were put on notice who submitted written replies/comments on the appeal. We have heard the learned counsel for the appellant as well as the learned Assistant Advocate General and perused the case file with connected documents in detail.

4. Learned counsel for the appellant presented the case in detail and contended that impugned order was void as the appellant was not afforded the right of defense and he was condemned unheard. He argued that the appellant was neither issued a charge sheet and statement of allegations, nor any show cause notice and hence the entire proceedings of removal were against law. He contended that even the impugned order was not sent to the appellant on his residential address, rather the same was sent to the Head Master of his school who did not convey the same to the appellant. He

ATTESTED

[Handwritten signature]
 Khyber Pakhtunkhwa
 Service Tribunal

invited the attention to the FIR, through which he was charged malafidely, and latter on acquitted by the Judicial Magistrate Mardan vide order dated 12.06.2015. He contended the as the appellant was in judicial lockup, he could not attend to his official duty. He applied for leave, the fate of which was not communicated to him.

5. The learned Assistant Advocate General, on the other hand, contended that after fulfilling of codal formalities the appellant was removed from service vide order dated 07.05.2015. He admitted that removal order was communicated to the appellant through his Head Master. He informed that absence notices were published in daily Mashriq and Daily Express on 12.04.2015. He further contended that proper notices for resuming the duty were issued but the appellant neither personally appeared nor submitted written justification and did not resume his duty as he was ordered. He further informed that after being acquitted from the charges as laid down in FIR against the appellant, he was reinstated in service with effect from the date of his suspension vide order dated 30.05.2014 but he did not resume his duties. He therefore requested for the dismissal of the appeal.

6. After hearing the arguments and going through the record presented before us, it transpires that respondent department placed the appellant under suspension from government service in the light of FIR filed against him till the decision of the court. It would have been in the fitness of the matter that the respondents should have waited for the outcome of the court case before taking any action against the appellant but instead they proceeded against him without fulfilling the procedure as given in Rule-9 of the Government Servants (Efficiency & Discipline) Rules 1973 and awarded him major penalty of removal from service. Instead of serving the notices at his

ATTESTED

residential address. which was a requirement of the above Rules, the appellant was issued notices on the address of his Head Master/School, which is clear deviation of the provision of Rule-9 of the Rules and thus the impugned action is not sustainable.

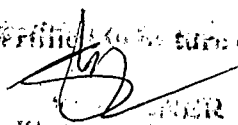
7. In view of the facts narrated above, the appeal in hand is allowed and the impugned order dated 07.05.2015 is set aside. The appellant is reinstated into service w.e.f 17.12.2014 with all back benefits. Parties are left to bear their own costs. Consign.

8. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 10th day of October, 2022.


(KALIM ARSHAD KHAN)
Chairman


(FAREEHA PAUL)
Member (E)

Date of Execution of Copy 19-10-22
Number 1600
..... 18/-
..... 18/-
Date of Delivery of Copy 19-11-22
Date of Delivery of Copy 19-11-22


Secretary
Hyderabad Tankhwa
Service Tribunal,
Peshawar


ATTESTED

خدمت سے جانا۔ ڈسٹرکٹ ایجوکیشن آفیسر، مردان۔

Re-Installation درخواست براد

جناب عالی!

- (1) درخواست حسب ذیل ہے۔
- (1) پتہ سائل سید شاہ P.S.T. جی پی این شاہ میلاد۔ مردان میں ڈیوٹی انجام دے رہا تھا۔
- (2) پتہ سائل بوجہ FIE مورخہ 2015-5-7 کو دفتر ہذا نے Re-Installation کیا تھا۔
- (3) پتہ سائل نے عدالت سے برہہ ہونے کے بعد سروس ٹریبونل سے رجوع کیا۔

(4) پتہ سائل سروس ٹریبونل عدالت نے سائل کو مورخہ 2022-10-10 کو Re-Instat کرنے کا آرڈر جاری کیا۔

(5) پتہ سائل نے درخواست سائل عدالتی فیصلے کا آرڈر لفٹ ہے۔

لہذا آپ۔ صاحبان کی خدمت میں درخواست ہے کہ سائل کو Re-Instat کرنے کے احکامات جاری کر کے مشورہ دو لیٹون فرماو۔

مورخہ: 15/11/2022

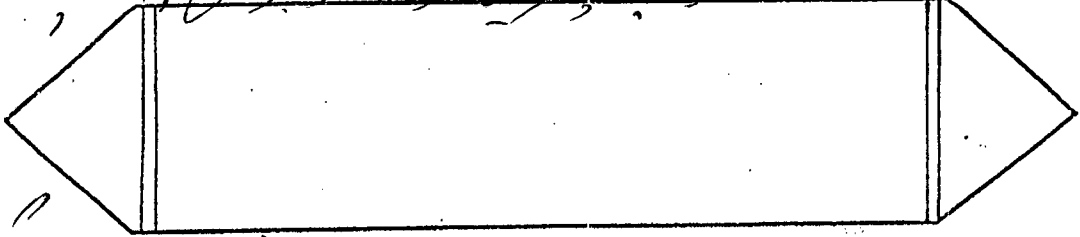
Handwritten signature

ATTESTED

سائل سید شاہ ولد محمد میاں محمد شاہ مکن بکری با نذرہ نندہ بونڈ مردان P.S.T. جی پی این شاہ میلاد مردان۔

Handwritten signature

بعدالت ضابطہ شہر سوات ٹریڈنگ کمپنی پرائیویٹ لمیٹڈ



2022ء منجانب سوات
بنام حکومت

سید شاہ

Service apped

موزخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آئندہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام سوات کیلئے طغی علی خان اور سوات کی طرف سے سوات

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 ثالثہ فیصلہ برحلف 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
پر داختم منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے وہ ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ اپیل ہی
مذکور کریں۔ لہذا وکالت نامہ لکھد یا کہ سندر ہے۔

Acceptor
20

المرقوم

ہاہ _____ 20

کے لئے منظور ہے۔

بمقام

Signature