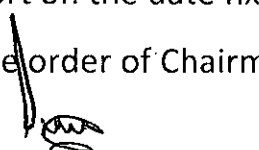


## Form- A

## FORM OF ORDER SHEET

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

Execution Petition No. 714/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	07.12.2022	<p>The execution petition of Mr. Saeedur Rehman 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>

KHYBER PAKHTUNKHWA **MTI** TRIBUNAL, PESHAWAR

CHECK LIST

Case Title: Dr Saeed ul Rehman vs Govt

S#	CONTENTS	YES	NO
1	This Appeal has been presented by: <u>Nasir Mahmood Asst</u>	✓	
2	Whether Counsel/Appellant/Respondent/Deponent have signed the requisite documents?	✓	
3	Whether appeal is within time?	✓	
4	Whether the enactment under which the appeal is filed mentioned?	✓	
5	Whether the enactment under which the appeal is filed is correct?	✓	
6	Whether affidavit is appended?	✓	
7	Whether affidavit is duly attested by competent Oath Commissioner?	✓	
8	Whether appeal/annexures are properly paged?	✓	
9	Whether certificate regarding filing any earlier appeal on the subject, furnished?	✓	
10	Whether annexures are legible?	✓	
11	Whether annexures are attested?	✓	
12	Whether copies of annexures are readable/clear?	✓	
13	Whether copy of appeal is delivered to AG/DAG?	✓	
14	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	✓	
15	Whether numbers of referred cases given are correct?	✓	
16	Whether appeal contains cutting/overwriting?	✓	
17	Whether list of books has been provided at the end of the appeal?	✓	
18	Whether case relate to this court?	✓	
19	Whether requisite number of spare copies attached?	✓	
20	Whether complete spare copy is filed in separate file cover?	✓	
21	Whether addresses of parties given are complete?	✓	
22	Whether index filed?	✓	
23	Whether index is correct?	✓	
24	Whether Security and Process Fee deposited? On	X	
25	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On	✓	
26	Whether copies of comments/reply/rejoinder submitted? On	✓	
27	Whether copies of comments/reply/rejoinder provided to opposite party? On	✓	

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name:

Nasir Mahmood Asst

Signature:

[Signature]

Dated:

**BEFORE THE LEARNED SERVICE TRIBUNAL KHYBER  
PAKHTUNKHWA PESHAWAR**

*E.P. NO. 714/2022*  
CM No. \_\_\_\_\_/2022

In the matter of  
Service Appeal No. 319/2019  
Decided on 16.06.2022

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. *2188*

Dated *7/12/2022*

**Dr Saeedur Rehman ..... Applicant / Petitioner**

**VERSUS**

**The Govt of KPK & others ..... Respondents**

**I N D E X**

S.No	Description of Documents	Annex	Pages
1.	Application for implementation		1-3
2.	Affidavit		4
3.	Copy of the Judgment and Order dated 16.06.2022	A	5-9
4.	Wakalat NAMA		10

*[Signature]*  
Petitioner / Applicant

Through

Dated: 01.12.2022

*[Signature]*  
**NASIR MAHMOOD**  
Advocate, Supreme Court  
Of Pakistan

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**BEFORE THE LEARNED SERVICE TRIBUNAL KHYBER  
PAKHTUNKHWA PESHAWAR**

CM No. \_\_\_\_\_/2022

In the matter of

Service Appeal No. 319/2019

Decided on 16.06.2022

**Dr Saeedur Rehman ..... Applicant / Petitioner**

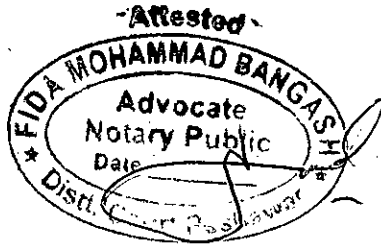
**VERSUS**

**The Govt of KPK & others ..... Respondents**

**AFFIDAVIT**

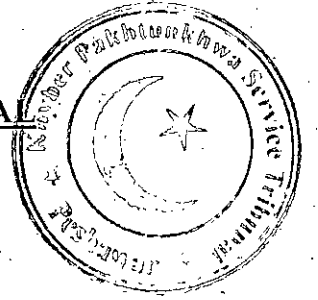
I, Dr Saeedur Rehman S/o Ghulam Rasool Khan Ex Medical Civil Hospital Takht-e-Nasrati District Karak, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

  
**DEPONENT**



Annex A (5)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR



Service Appeal No. 319/2019

BEFORE: SALAH-UD-DIN --- MEMBER(J)  
MIAN MUHAMMAD --- MEMBER(E)

Dr. Saadur Rehman S/o Ghulam Rasool Khan EX Medical Civil  
Hospital Takht-e-Nasrati District Karak..... (Appellant)

VERSUS

1. The Chief Secretary Government of Khyber Pakhtunkhwa, Civil Secretariat Peshawar.
2. The Secretary to Government of Khyber Pakhtunkhwa, Health Department, Civil Secretariat Peshawar.
3. Director General, Government of Khyber Pakhtunkhwa, Health Department, Civil Secretariat, Peshawar.....(Respondents)

Present:

MR. NASIR MAJMOOD,  
Advocate.

--- For Appellant.

MR. NASEER-UD-DIN SHAH,  
Assistant Advocate General

--- For respondents.

Date of Institution .... 22.02.2019  
Date of hearing ... 16.06.2022  
Date of Decision ... 16.06.2022

JUDGEMENT

MIAN MUHAMMAD, MEMBER(E):- The service appeal has been filed under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the impugned Notification dated 09.02.2015 whereby the appellant was removed from service and his departmental appeal there against submitted on 16.10.2015 was rejected and conveyed to him on 02.02.2019.

Brief facts leading to the institution of service appeal are that the appellant appointed as Medical Officer on 14.04.1992, was on deputation with the government of Punjab since 16.03.1998. On repatriation by the

MEMBER  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR

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government of Punjab on 25.03.2016, the appellant came to know about the impugned Notification dated 09.02.2015 of his removal from service which was challenged through review petition on 01.04.2016. His review petition was finally decided and copy of its rejection endorsed to the appellant on 07.02.2019 whereafter he filed the service appeal on 22.02.2019.

03. Learned counsel for the appellant contended that the appellant was appointed as Medical Officer (BS-17) on 14.04.1992 and posted at BHU Shahidan Karak. His services were placed at the disposal of government of Punjab on deputation basis for three (03) years vide Notification dated 16.03.1998 which was further extended for two (02) years from 19.03.2001 to 18.03.2003 vide Notification dated 08.02.2001. When he was on deputation with the government of Punjab and his deputation period being extended, he was proceeded against for willful absence w.e.f. 19.03.2014 and removed from service vide impugned Notification dated 09.02.2015 despite the fact that his deputation period had lastly been extended for two (02) years vide order of health department government of Punjab dated 22.05.2014 i.e. w.e.f. 19.03.2014. On his repatriation by the government of Punjab vide order dated 25.03.2016 and arrival in the province, the appellant came to know about the penalty of removal from service. He therefore, submitted review petition in parent department on 01.04.2016 which remained under process till 07.02.2019. It was further contended that the appellant had been on deputation to health department Punjab with the consent and approval of the parent department. The deputation period had been extended from time to time and he was performing duty with mutual consent of the borrowing and lending

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EX-MINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

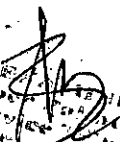
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department of the two governments when penalized vide the impugned Notification. The appellant has been condemned unheard without having afforded him any opportunity of personal hearing which is against the principle of audi alteram partem as well as violation of Article 4 and 25 of the constitution. The appellant has 24 years unblemished service record to his credit and the impugned Notification being unjust, unfair, illegal, passed on the back of appellant, is liable to be graciously set aside and the appellant be reinstated in service with all back benefits, he concluded.

04. Learned Assistant Advocate General, on the handed controverted assertion and arguments of the learned counsel for appellant mainly on the ground that the appellant was initially allowed on deputation for three (03) years vide Notification dated 16.03.1998 which was further extended for two (02) years from 19.03.2001 to 18.03.2003 vide Notification dated 08.02.2001. Thereafter, the government of Punjab granted extension in the deputation period from time to time till 18.03.2016, which was improper because the borrowing department can only grant NOC to the deputationist. He further contended that the appellant had been issued absence notice through registered letter on his home address and duly informed through press but he failed to respond. The impugned Notification of his removal from service is based on law and rules which has been issued after completion of all codal formalities. The service appeal being devoid of merit may therefore be dismissed with costs, he requested.

05. Perusal of the record reveals that services of the appellant were initially placed at the disposal of health department, government of Punjab for three years vide Notification of the health department, government of Khyber Pakhtunkhwa dated 16.03.1998 which was further extended for two

UNTESTED

  
 Khyber Pakhtunkhwa  
 Service Tribunal  
 Peshawar

⑧

(02) years w.e.f 19.03.2001 to 18.03.2003. In the meanwhile, the health department government of Khyber Pakhtunkhwa forwarded application of the appellant with NOC of the Provincial government for absorption of the appellant in the health department government of Punjab, on 27.02.2003 which does not seem to have been decided because his deputation period was lastly extended for further period of two (02) years w.e.f. 19.03.2014 vide order of the health department government of Punjab dated 22.05.2014. The respondent department, in Para 05 of reply/parawise comments has admitted extension in deputation period till 18.03.2016 meaning thereby that the parent department was very well in the loop and knowledge of the appellant being performing duty on deputation in Punjab. However, the appellant was removed from service for willful absence w.e.f. 19.03.2014 vide impugned Notification dated 09.02.2015 which is beyond comprehension. The health department government of Punjab repatriated the appellant on 25.03.2016 and in pursuance of that order, the appellant relinquished the charge in Punjab on 26.03.2016. He was also issued LPC by DAO Khaniwal on 02.04.2016. The appellant, on arrival in parent department, submitted review Petition to the Chief Minister Khyber Pakhtunkhwa through proper channel which took abnormal delay of 02 years, 10 months and 06 days between the Chief Minister Secretariat and health department despite the fact that the appellant had submitted his reply on 19.02.2018 in response to letter of Chief Minister Secretariat dated 14.02.2018. The department is therefore under obligation to take legal action against the delinquents.

It is also a matter of record that the maximum period of deputation is five (05) years and on expiry of the said period on 18.03.2003,

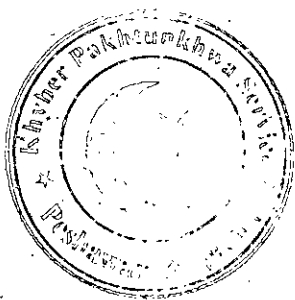



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the services of appellant on deputation to government of Punjab, should not have been left for indefinite period but recalled and repatriated to the parent department. So, being parent department of the appellant who was on the strength and establishment of the health department, it was very well in the knowledge of the department that the appellant was admittedly on deputation to the government of Punjab and the question of proceedings for willful absence against the appellant not only becomes irrelevant but illegal and untenable.

07. We have arrived at the conclusion that the proceedings against the appellant were conducted on his back and he was deprived of the fundamental right of personal hearing and the self defence to prove himself innocence. Having condemned unheard is against the cordinal principle of natural justice and audi alteram partem. The impugned order dated 09.02.2015 and order on his review petition dated 07.02.2019 are set aside. The appellant is reinstated in service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

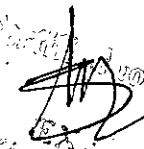
08. Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal this 16<sup>th</sup> of June, 2022.



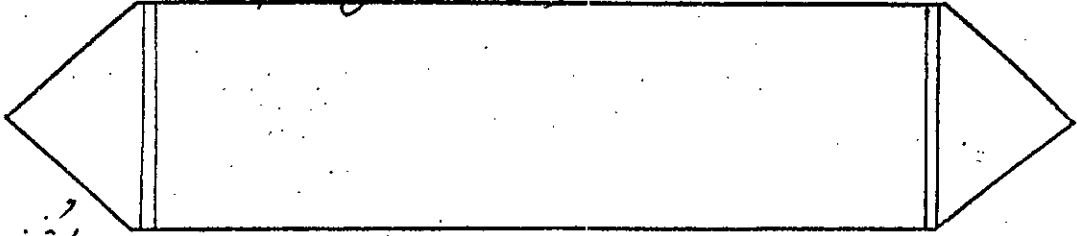
  
(SALAH-UD-DIN)  
MEMBER (J)

  
(MIAN MUHAMMAD)  
MEMBER (E)

17-6-22  
Number of Words 2000  
Copying Fee 22/-  
Stamp 22/-  
05/7/22  
05/7/22

  
Khyber Pakhtunkhwa Service Tribunal  
Peshawar

# بعدالت جہا سرورس ترا بھول ۱۴۲۱



۲۰۲۲ء منجانب پشاور  
بنام گورنمنٹ ۱۴۲۱

ڈاکٹر سعید الرحمن

مورخہ	-----
مقدمہ	-----
دعویٰ	-----
جرم	-----

## باعث تحریر آنکے

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

آن مقام پشاور کیلئے ناظم محکمہ ایجوکیشن

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 ثالثتہ فیصلہ بر حلف دینے جواب دہی اور اقبال دعویٰ اور

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

زرائس پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یا ایک طرفہ 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 دہر 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 پیروی

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

Accepted By

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\_\_\_\_\_ ماہ \_\_\_\_\_

المرقوم

کے لئے منظور ہے۔

پشاور

بمقام

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