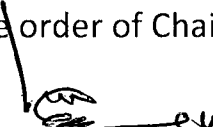


Form- A

FORM OF ORDER SHEET

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

Execution Petition No. 699/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	29.11.2022	<p>The execution petition of Mr. Juma Zar submitted today by Syed Noman Ali Bukhari 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</p> <p> REGISTRAR</p>

(1)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**PESHAWAR.**

Execution Petition No. 699 /2022  
In  
Appeal No. 1019/2019

Juma Zar Ex-TT GPS Yarzamd Kalay Bara District Khyber

Khyber Pakhtunkhwa  
Service Tribunal

Case No. 2069

..... Appellant Dated 29-11-2022

Versus

1. Director Elementary and Secondary Education Office Khyber Pakhtunkhwa Peshawar.
2. District Education Officer Khyber <sup>Tribunal</sup> ~~Tribunal~~ District Jamrud <sup>at</sup>.
3. Secretary Education, Khyber Pakhtunkhwa, Peshawar.

**RESPONDENTS**

.....

**EXECUTION PETITION FOR DIRECTING THE**  
**RESPONDENTS TO IMPLEMENT THE JUDGMENT**  
**DATED: 02.02.2022 OF THIS HONOURABLE TRIBUNAL**  
**IN LETTER AND SPIRIT.**

.....

**Respectfully Sheweth:**

1. That the appellant/Petitioner filed Service Appeal No. 1019 /2019 before this Hon' able Tribunal which has been accepted by this Hon' able Tribunal vide Judgment dated 02/02/2022 with direction to the respondents/Department
2. That the Petitioner after getting of the attested copy approached the respondents several times for implementation of the above mention Judgment and properly moved an application to respondent Department. However they using delaying and reluctant to implement the Judgment of this Hon' able Tribunal.

3. That the Petitioner has no other option but to file the instant petition for implementation of the Judgment of this Hon' able Tribunal.
4. That the respondent Department is bound to obey the order of this Hon' able Tribunal by implementing the said Judgment.

It is therefore requested that on acceptance of this Petition the respondents may kindly be directed to implement the Judgment of this Hon' able Tribunal.

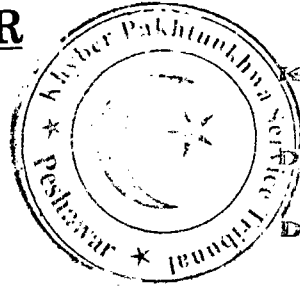
تعمیر دار  
Appellant/Petitioner

Through

UZMA syed

Syed Noman Ali Bukhari  
Advocate High Court Peshawar

**BEFORE THE HON'BLE SERVICE TRIBUNAL**  
**PESHAWAR**



Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 1063

Dated 26/7/19

In Re S.A No. 1019 /2019

Juma Zar Ex-TT GPS Yarzama Kalay Bara District  
Khyber.

**Appellant**

***VERSUS***

1. Director Elementary and Secondary Education  
Officer Khyber Pakhtunkhwa Peshawar.
2. District Education Officer Khyber Tribunal  
District Jamrud.
3. Secretary Education, Khyber Pakhtunkhwa,  
Peshawar.

**Respondents**

APPEAL U/S-4 OF THE KHYBER  
PAKHTUNKHWA SERVICES TRIBUNAL ACT  
1974 AGAINST THE ORDER DATED 08/02/2019  
WHEREBY THE APPELLANT HAS BEEN  
AWARDED MAJOR PUNISHMENT OF  
REMOVAL FROM SERVICE AGAINST WHICH  
THE APPEALANT FILED DEPARTMENT  
APPEAL WITHIN 30 DAYS OF THE  
COMMUNICATION OF THE IMPUGNED  
ORDER DATED 08/02/2019 WHICH HAS NOT  
BEEN RESPONDED BY THE RESPONDANT

TESTED  
  
 DIRECTOR  
 KHYBER PAKHTUNKHWA  
 SERVICE TRIBUNAL  
 PESHAWAR

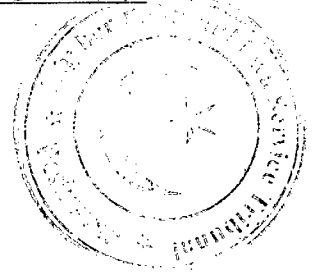
1 day  
 4/7/19  
 19-12

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No.1019/2019

Date of Institution ... 26/07/2019

Date of Decision ... 02/02/2022



Juma Zar Ex-TT GPS Yarzamad Kalay Bara District Khyber.

... (Appellant)

VERSUSDirector Elementary and Secondary Education Officer Khyber Pakhtunkhwa  
Peshawar and two others. ... (Respondents)Present.Mst. Roeeda Khan,  
Advocate

... For appellant.

Mr. Muhammad Adil Butt,  
Addl. Advocate General,

... For respondents.

MR AHMAD SULTAN TAREEN  
MR. ATIQ-UR-REHMAN WAZIR,... CHAIRMAN  
... MEMBER(E)JUDGMENT

**AHMAD SULTAN TAREEN, CHAIRMAN:-**The appellant named above has invoked the jurisdiction of this Tribunal through above titled appeal with the prayer as copied below:-

**"On acceptance of this appeal the impugned order dated 08.02.2019 may kindly be set aside and the appellant may kindly be reinstated in service alongwith all back benefit. Any other remedy which this august Tribunal deems fit that may also be granted in favour of appellant."**

2. Brief facts of the case as enumerated in the Memorandum of appeal are that the appellant was initially appointed as T.T. on 23.10.1995 in the

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*Handwritten signature/initials*

Education Department and performed his duty regularly and with full devotion and no complaint whatsoever was made against him; that in the year 2017 due to domestic/personal problems and terrorism situations in the area, the appellant was unable to perform his duty; that on 08.02.2019, the respondent department removed the appellant from service on the ground of absence without providing opportunity of defence to him; that the appellant submitted departmental appeal which was not decided within the statutory period of ninety days, hence the present appeal.


3. After admission of the appeal for regular hearing, the respondents have submitted written reply/comments, refuting the claim of the appellant with several factual and legal objections and asserted for dismissal of appeal with cost.

4. We have heard the arguments and perused the record

5. Learned counsel for the appellant argued that the impugned order is illegal and *void ab-initio*; that no regular enquiry was conducted and no chance of personal hearing was provided to the appellant; that no final show cause notice was served upon the appellant; that absence of the appellant was not deliberate and intentional but due to the reason beyond his control; that no notice was served on home address of the appellant and that the punishment awarded to the appellant was harsh and not commensurate with the charge against the appellant. Learned counsel for the appellant prayed that the appeal may be accepted as prayed for.

6. Learned Addl. Advocate General while rebutting the arguments of learned counsel for the appellant contended that two consecutive absence notices were served upon the appellant vide Endst. No. 2628-32 dated

*[Handwritten signature]*

**ATTESTED**  
  
 ATTESTED  
 Khayal Pakhtunawa  
 Service Tribunal  
 Geshwar

18.10.2017 and Endst. No. 181 dated 20.07.2020 but the appellant did not respond to these notices; that the respondent department published the absence notice in two leading newspapers in Daily "Mashriq" Dated 05.12.2018 and Daily "Express" dated 05.12.2018 but the appellant paid no heed to these notices and that finally after observing all the codal formalities the appellant was removed from service vide order dated 08.02.2019. Learned AAG requested that the appeal may be dismissed with costs.

7. Having perused the comments of the respondents and copies of the record annexed therewith, we are constrained to hold that the appellant was properly proceeded under Rule 9 of the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011 with regard to his willful absence. The cited reason of his absence as domestic/personal problems and terror situation in the area in the year 2017 and thereby his hindrance from performance of his duty with the respondent department is not workable by itself. At the same time it is observed that the appellant was appointed in the respondent department on 23.10.1995 and has got a considerable long period of service at his credit. Obviously, the proceedings under Rule 9 are ex-parte in nature and penalty of removal from service having regard to the long service of the appellant, if kept intact, is too harsh. It would be a sufficient blow for the appellant, if the period of his absence as admitted till the date of this judgment is treated as leave without pay. So, we deem it appropriate to set aside the impugned order of removal from service but reinstatement of the appellant into service will not entitle him for claim of the salary and other financial benefits for the absence period and the same shall be treated as leave without pay. The appeal stands

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TESTED  
 J. A. G.  
 JUDGE  
 Khyber Pakhtunkhwa  
 Service Tribunal  
 Peshawar

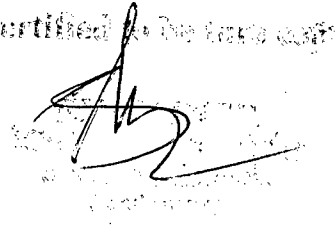


disposed of in the given terms. Parties are left to bear their own costs. File be  
consigned to the record room.

  
(ATIQ-UR-REHMAN WAZIR)  
Member(E)

  
(AHMAD SULTAN TAREEN)  
Chairman

ANNOUNCED  
02.02.2022

Certified to be true copy  


*23-11-22*  
*2000*  
*24/-*  
*24/-*  
*25/11/22*  
*25/11/22*



ICP Service Tribunal, Reshawa

2022ء منجانب

محمد نادر بنام

حکمہ تعلیم

مورخہ

مقدمہ

دعویٰ

جرم

## باعث تحریر آنکہ

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

آن مقام Reshawa کیلئے عظیمی سپر ایڈوکیٹ

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 ق تقرر ثالث و فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور

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

زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یک طرفہ یا اپیل کی برآمدگی

اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا محتاج ہوگا۔ از بصورت ضرورت

مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے چھپانے

تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکور با اختیارات حاصل ہوں گے

اور اس کا ساختہ پر داخنتہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ ہوں گے

سبب ہے وہوگا۔ 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 سند ہے۔

2022ء

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ماہ

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المرقوم

العبد د گ واه العبد د