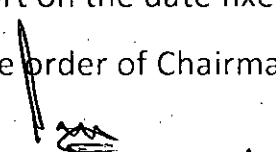


Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 741/2022

| S.No. | Date of order proceedings | Order or other proceedings with signature of judge |
|-------|---------------------------|---|
| 1 | 2 | 3 |
| 1 | 21.12.2022 | <p>The execution petition of Mr. Muhammad Jamil Khan submitted today by Mr. Kamran 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</p> <p> REGISTRAR</p> |

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Implementation Petition No. 741 /2022

In
Appeal No. 23/2018

Muhammad Jamil Khan VS Health Department

INDEX

| S.NO. | DOCUMENTS | ANNEXURE | PAGE NO. |
|-------|------------------|----------|----------|
| 1- | Memo of petition | | 1- 2. |
| 2- | Affidavit | | 3. |
| 3- | Judgment | A | 4- 07. |
| 4- | Vakalat nama | | 08. |

Dated: 21.12.2022.

Petitioner

Muhammad Jamil Khan

Through:


Kamran Khan Advocate
High Court Peshawar

Kamrank60@gmail.com

Cell. 0344-9118844

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Implementation Petition No. 741 /2022

In

Appeal No. 23/2018

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 2403

Dated 21-12-2022

Muhammad Jamil Khan (Ex Chowkider) S/o Ghulam Haider R/o Landi Bala
Tehsil and District Peshawar.

.....Petitioner

VERSUS

- 1- The Director General Health Services Khyber Pakhtunkhwa Peshawar.
- 2- Secretary Health Department Khyber Pakhtunkhwa Peshawar.

..... Respondents

IMPLEMENTATION PETITION FOR DIRECTING
THE RESPONDENTS TO OBEY THE JUDGMENT OF
THIS AUGUST TRIBUNAL DATED 03.10.2019 IN
LETTER AND SPIRIT

Respectfully Sheweth:

- 1- That the petitioner filed Service appeal bearing No. 23/2018 which was decided by this Hon' able Tribunal 03/10/2019..
- 2- That this Hon' able tribunal while deciding the appeal ibid directed the respondents to decide the Departmental Appeal dated 19/04/2017 within the period of ninety days with further directions to provide opportunity of personal hearing to the appellant before disposing of the said Departmental Appeal. (copy of the Judgment dated 03/10/2019 is attached as Annexur-A).

2

- 3- That after obtaining attested copy of the judgment dated 03.10.2019 the petitioner submitted the same before the respondents for implementation but till date the judgment of this Tribunal has not been implemented by the respondents in letter and spirit.
- 4- That the petitioner has no other remedy but to file this implementation petition.

It is therefore, most humbly prayed that on acceptance of this implementation petition the respondents may very kindly be directed to implement the judgment dated 03.10.2019 in letter and spirit.

Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the petitioner.

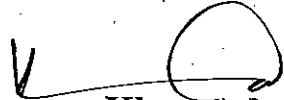
Dated: 21.12.2022.

Petitioner



Muhammad Jamil Khan

Through:



**Kamran Khan Advocate
High Court Peshawar**

(3)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Implementation Petition No. _____/2022

In

Appeal No. 23/2018

Muhammad Jamil Khan VS Health Department

AFFIDAVIT

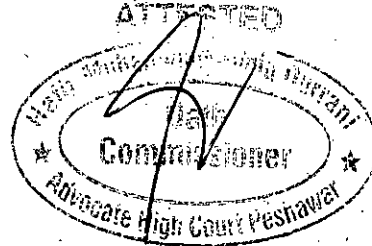
I Muhammad Jamil Khan do hereby solemnly affirm that the contents of this **implementation petition** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.

Deponent



CNIC No. 42401-5243581-5

21 DEC 2022





BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL NO. 23/2018

Date of institution ... 27.12.2017

Date of judgment ... 03.10.2019 ✓

Muhammad Jamil Khan, Ex-Chowkidar son of Ghulam Haider
Resident of Landi Bala Tehsil & District Peshawar.

... (Appellant)

VERSUS

1. Director General Health Services Khyber Pakhtunkhwa Peshawar.
2. Secretary Health Department Khyber Pakhtunkhwa Peshawar.
3. Administrator Lady Reading Hospital Peshawar.

... (Respondents)

ATTENDED

APPEAL UNDER SECTION-4 OF KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED
ORDER DATED 14.06.2017 OF DISMISSAL OF THE APPELLANT
FROM SERVICE AND REPRESENTATION OF THE APPELLANT
IS TILL NOT DECIDED SO FAR.

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Mr. Muhammad Ibrahim Khan Chamkani, Advocate ..

For appellant.

Mr. Riaz Ahmad Paindakheil, Assistant Advocate General ..

For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI ..

MEMBER (JUDICIAL)

MR. AHMAD HASSAN ..

MEMBER (EXECUTIVE)

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - Counsel for the
appellant and Mr. Riaz Ahmad Paindakheil, Assistant Advocate General for the
respondents present. Arguments heard and record perused.

2. Brief facts of the case as per present service appeal are that the appellant
was appointed as Chowkidar in Health Department vide order dated 18.02.1986
and was performing his duties regularly. He was involved in case FIR No. 450
dated 08.06.1999 under section 302/324/34 PPC PS Pustakhara. He was
arrested on 16.04.2015 in the aforesaid case. On conclusion of trial, he was
acquitted vide detailed judgment dated 12.01.2017. The appellant filed

5

departmental appeal to the competent authority on 19.04.2017 for joining his duty, the Deputy Medical Superintendent Administration sought opinion from the Director General Health Services Khyber Pakhtunkhwa Peshawar vide letter No. 13222/LRH/E-IV dated 02.05.2017 to the effect that the appellant was appointed in the hospital as Chowkidar on 18.02.1986. About 18 years ago, he was involved in a murder case ⁱⁿ ~~from~~ 08.06.1999 and now he has been acquitted by the trial court. The Assistant Director (P-II) Directorate General Health Services, Khyber Pakhtunkhwa Peshawar directed the Deputy Medical Superintendent (Admin) LRH/MTI Peshawar to submit full background of the case as well as service documents of the appellant vide letter No. 11833/Personnel dated 24.05.2017 but again the Deputy Medical Superintendent (Admin) LRH/MTI Peshawar write a letter No. 17818/LRH/E-IV dated 14.06.2017 that no record of the appellant is available as he remained absent for a long period i.e 08.06.1999 till now. It was also stated ~~that~~ in the said letter that the Budget & Account Officer LRH also reported that service book of the appellant was not found as it is very old. The respondent-department has not decided that departmental appeal dated 19.04.2017 within the stipulated period of 90 days hence, the present service appeal.

3. Respondents were summoned who contested the appeal by filing written reply/comments.

4. Learned counsel for the appellant contended that the appellant was serving as Chowkidar in Health Department. It was further contended that he was falsely involved in the aforesaid criminal case. It was further contended that after criminal trial, the appellant was hon'ble acquitted by the Trial Court vide judgment dated 12.01.2017. It was further contended that neither departmental proceeding was initiated by the respondent-department against the appellant nor he was dismissed or removed from service by the respondent-department and the appellant is still a civil servant. It was further contended that after acquittal,

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27.10.2017

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DIRECTOR GENERAL
HEALTH SERVICES
PESHAWAR

the appellant reported for joining his duty but he was not allowed by the respondent-department to perform duty therefore, the appellant filed departmental appeal dated 19.04.2017 for allowing him to join duty but the same was also not responded therefore, prayed for acceptance of appeal. It was also contended by the learned counsel for the appellant that the appellant was having 13/14 years service in his credit but the respondent-department has not considered the same.

5. On the other hand, learned Assistant Advocate General for the respondents opposed the contention of learned counsel for the appellant and contended that the appellant was appointed as Chowkidar vide order dated 18.02.1986. It was further contended that he was involved in the aforesaid criminal case on 08.06.1999 and was arrested on 16.04.2015. It was further contended that the appellant remained absent for a long period. It was further contended that the appellant was to be retired in the year 2014 as per his National Identity Card his date of birth is 1954 therefore, he is not entitled to be reinstated in service and prayed for dismissal of appeal.

6. Perusal of the record reveals that the appellant was appointed as Chowkidar in Health Department vide order dated 18.02.1986. The record further reveals that he was involved in criminal case vide FIR No. 450 dated 08.06.1999 under section 302/324/34 PPC PS Pustakhara Peshawar. The record further reveals that he was arrested by the local police on 16.04.2015 as revealed from the certificate issued by the Superintendent Central Prison Jail. The record further reveals that the appellant was acquitted by the competent court vide detailed judgment dated 12.01.2017. The record further reveals that neither any departmental proceeding was initiated by the respondent-department against the appellant nor he was imposed any penalty of termination or removal from service. The record further reveals that after acquittal, the appellant filed application/departmental appeal on 19.04.2017 but the same was not decided by

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 3.12.2019
 Peshawar

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the respondent-department therefore, in such circumstances when neither any departmental proceeding has been initiated against the appellant nor he has been imposed penalty of termination/removal by the respondent-department and he also having 13/14 years service in his credit, we deem it appropriate to direct the departmental authority to decide his application/departmental appeal dated 19.04.2017 within a period of 90 days from the date of copy of receiving of this judgment with further direction to also provide opportunity of personal hearing to the appellant before disposing of said application/departmental appeal dated 19.04.2017 and thereafter if the appellant was aggrieved, he is at liberty to file service appeal subject to all legal objections. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
03.10.2019

Muhammad Amin
(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

Ahmad Hassan
(AHMAD HASSAN)
MEMBER

Original to be type copy
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Appeal 29-10-2019
 Number of Pages 1600
 Copying Fee 16
 Marking Fee 4
 Total 20
 Date of Disposal of Appeal 29-10-2019
 Date of Issuance of Order 29-10-2019

| | | | | |
|--|-------|--|---|--|
| قیمت 50 روپے | 56264 |  |  |  |
| ایڈوکیٹ: | | پشاور بار ایسوسی ایشن، خیبر پختونخواہ | | |
| بار کونسل / ایسوسی ایشن نمبر: P2144781 | | | | |
| رابطہ نمبر: 0344-918844 | | | | |

بعدالت جناب: Khyber Pakhtunkhwa Service Tribunal
Peshawar.

| | |
|--------------------------|---------------------|
| دعویٰ: <u>Implementa</u> | مخاطب: <u>مخاطب</u> |
| علت نمبر: | بنام: |
| مورخہ: | |
| جرم: | |
| تھانہ: | |

باعت تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی مقدمہ
آن مقام کے لئے کلمہ در بیان اسد گورنر کے لئے کلمہ در بیان اسد گورنر مقرر
کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز نوکیل صاحب کو
راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف 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
دائرہ کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
کارروائی 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 ساتھ پر داختم منظور و قبول ہوگا
دوران مقدمہ میں جو خرچہ ہر جانب 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

المقوم: 2024/211/2024

واہ شاہ

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

Attestation
