


FORM OF ORDER SHEET

Court of _____

C.O.C application No. 19/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	11/01/2023	<p>The C.O.C application of Mr. Fazal Karim resubmitted today by Mr. Muhammad Ilyas Orakzai Advocate. Original file be requisitioned. It is fixed for hearing before Single Bench at Peshawar on _____. Parcha Peshi is given to appellant/ counsel.</p> <p style="text-align: right;">By the order of Chairman</p> <p style="text-align: right;"> REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR.

COE Applic No. 19/2023

AA9

C.M. No. ____/2023

In

Service Appeal No. 934/2016

Mr. Fazal Karim.....(Applicant)

VERSUS

Dawood Khan and others.....(Respondents)

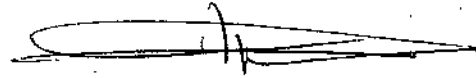
I N D E X

S.No	Description of Documents	Annex	Pages
1.	C.O.C Application		1-4
2.	Affidavit		5
3.	Copy of Order dated 20/10/2021	A	6-10
4.	Copies of letter No. 10-15 dated 04/08/2022 and order dated 29/11/2022	B & C	11-12
5.	Wakalat Nama		13



Applicant

Through



Dated: 11/01/2023

Muhammad Ilyas Orakzai

Advocate High Court,

Peshawar.

Cell No. 0333-9191892

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR.

LOC Appli no - 19/2023

C.M. No. ____/2023

In

Service Appeal No. 934/2016

Mr. Fazal Karim, Driver (BPS-06) Government College Hangu,
District Hangu.....(Applicant)

VERSUS

1. Dawood Khan, Secretary Higher Education Department,
Government of Khyber Pakhtunkhwa, Peshawar.
2. Dr. Subhan Ullah Shah, Director Higher Education
Department, Khyber Pakhtunkhwa, Peshawar.
3. Muhammad Yaseen, Principle, Government College Hangu,
District Hangu.
4. Azmat, District Account Officer, District
Hangu.....(Respondents)

APPLICATION FOR IMPLEMENTATION

OF THE ORDER OF THIS HON'BLE

TRIBUNAL DATED 20/10/2021 IN

SERVICE APPEAL NO. 934/2016

PASSED IN THE LIGHT OF THE ORDER

DATED 29/11/2022 PASSED BY

CHAIRMAN OF THIS HON'BLE

TRIBUNAL IN E.P. NO. 33/2022, AND

②

INITIATING CONTEMPT OF COURT
PROCEEDINGS AGAINST THE
RESPONDENTS.

Respectfully Sheweth:

The applicant humbly submits as under:

1. That the applicant/ appellant has earlier filed a Service Appeal No. 934/2016 which was decided in favour of the applicant on 20/10/2021. (Copy of Order dated 20/10/2021 is attached as annexure "A").
2. That the applicant/ appellant has time and again visited the Office of the respondents for implementation of the order of this Hon'ble Tribunal, but in vain.
3. That thereafter the applicant/ appellant filed E.P. No. 33/2022 for implementation of the order dated 20/10/2021 before this Hon'ble Tribunal in which the respondents produced letter No. 10-15 dated 04/08/2022 whereby the judgment of this Hon'ble

Tribunal partially conditionally implemented to the extent of reinstatement of the applicant/ appellant but the payment of salaries of the intervening period was held for which this Hon'ble Tribunal direct the applicant/ appellant to file the contempt application, hence this application. (Copies of letter No. 10-15 dated 04/08/2022 and order dated 29/11/2022 is attached as annexure "B" & "C").

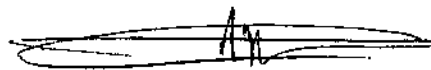
4. That the respondents are intentionally/ deliberately avoiding the compliance of the order of this Hon'ble Tribunal, hence needs strict compliance of the orders of this Hon'ble Tribunal.
5. That the respondents are duty bound to implement the order of this Hon'ble Tribunal in letter and spirit.
6. That the act of respondents by no implementing the order of this Hon'ble Tribunal is against the law and natural justice as well as amounts to contempt of this Hon'ble Tribunal.

7. That applicant seeks permission of this Hon'ble Tribunal to raise additional points of law and facts at the time of arguments.

It is, therefore most humbly prayed that on acceptance of this petition, the respondents may please be directed that by implementing the order dated 20/10/2021 passed In Service Appeal No. 934/2016 in the light of the order dated 29/11/2022 passed by Chairman of this Hon'ble Tribunal in E.P. No. 33/2022 in its true spirit and nature and initiate contempt of Court Proceedings against the respondents according to law.


Applicant

Through



Dated: 11/01/2023

Muhammad Ilyas Orakzai
Advocate High Court,
Peshawar.

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

C.M. No. ____/2023

In

Service Appeal No. 934/2016

Mr. Fazal Karim.....(Applicant)

VERSUS

Dawood Khan and others.....(Respondents)

AFFIDAVIT

I, Mr. Fazal Karim, Driver (BPS-06) Government College Hangu, District Hangu, do hereby solemnly affirm and declare that all the contents of the accompanying **Contempt of Court Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

DEPONENT

CNIC No. 14101-3011505-3

Cell No. 0333-9683570



11-01-2023

6 ANNEX A

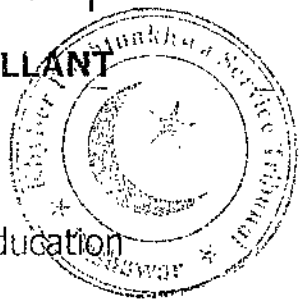
**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

Khyber Pakhtunkhwa
Service Tribunal

APPEAL NO. 934 /2016 Diary No. 941

Dated 01-9-2016

Mr. Fazal Karim, Driver (BPS-6),
Government College Hangu, District Hangu..... **APPELLANT**



VERSUS

- 1- The Govt: of KPK through Secretary Higher Education Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Director Higher Education Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Principal Government College Hangu, District Hangu.
- 4- The District Accounts Officer, District Hangu.

..... **RESPONDENTS**

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 20.6.2016 WHEREBY THE SALARY OF THE APPELLANT WAS STOPPED ALONGWITH RECOVERY OF ALREADY DRAWN SALARIES AND AGAINST THE APPELLATTE ORDER DATED 11.8.2016 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REGRETTEED ON NO GOOD GROUNDS

PRAYER:

That on acceptance of this appeal the impugned orders dated 20.6.2016 and 11.8.2016 may very kindly be set aside and the respondents may be directed that not to retired the appellant pre maturely (not on the basis of CNIC but on the basis of the entry recorded in service book i.e. 10.6.1964 instead of 1955). That the respondents may further please be directed to released the monthly salaries of the appellant w.e.f. 1.5.2016 till date. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

Filed-to-day

[Signature]
Registrar

11/9/16

R/SHEWETH:
ON FACTS:

ATTESTED

[Signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Brief facts giving rise to the present appeal are as under:-

- 1- That appellant is the employee of the respondent Department and is serving the respondent Department as

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.934/2016

Date of Institution ... 01.09.2016
Date of Decision ... 20.10.2021



Mr. Fazal Karim, Driver (BPS-6), Government College, Hangu,
District Hangu. ... (Appellant)

VERSUS

The Government of Khyber Pakhtunkhwa, through Secretary
Higher Education Department Khyber Pakhtunkhwa, Peshawar
and three others.

... (Respondents)

Noor Munammad Khattak,
Advocate: ... For Appellant.

Javid Ullah,
Assistant Advocate General ... For Respondents.

Ahmad Sultan Tareen ... Chairman
Rozina Rehman ... Member (J)

JUDGMENT

ROZINA REHMAN, MEMBER (J): Brief facts of the case are that
appellant was serving as Driver. His age was recorded by Medical
Superintendent as 10.06.1964 at the time of his appointment and
subsequently, the said entry was recorded in his service book and
payroll. His date of birth was inadvertently recorded in his C.N.I.C as
1955 instead of 10.06.1964. He, therefore, filed a Suit in the Civil
Court but the same was dismissed. He preferred appeal in the Court
of District Judge which was also dismissed. He then filed

AWESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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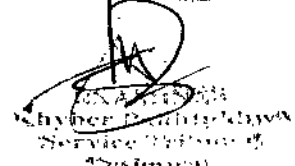
departmental appeal which was rejected, hence, the present service appeal.

2. We have heard Noor Muhammad Khattak Advocate and Javid Ullah, learned Assistant Advocate General for the respondents and have gone through the record and the proceedings of the case in minute particulars.

3. Learned counsel for appellant contended that the impugned orders dated 22.06.2016 and 11.08.2016 are against law, facts and norms of natural justice and material on record. He contended that the appellant was not treated in accordance with law and rules as such, Article-4 & 25 of the Constitution of Islamic Republic of Pakistan, 1973 were violated by the respondents. Lastly, he contended that according to rules and the judgments of the august Supreme Court of Pakistan, a civil servant should be retired on the basis of entry in the service book and not on the basis of C.N.I.C or any other document, therefore, his date of retirement may be considered as 01.06.2024 instead of 15.06.2015.

4. Conversely learned A.A.G submitted that according to Computerized National Identity Card, the date of birth of the appellant is recorded as 1955 and that in the previous record, his name was Gul Karim which was later on changed to Fazal Karim which entry was tempered by the appellant. He further submitted that Civil Suit filed for correction of date of birth in the Civil Court Hangu was dismissed and similarly, his appeal was also dismissed with special cost of Rs.20,000/- and that the appellant was due to retire on

ATTESTED




Cyber Security Division
Service Division 4

superannuation on 15.06.2015 as per his C.N.I.C, Driving License and other relevant documents, therefore, his salary was stopped and in this regard, a bond was also signed by the appellant with Principal.

5. From the record it is evident that the present appellant was appointed as Driver (B.P.S-06) and his date of birth was recorded as 10.06.1964. Admittedly, his name was entered and recorded as Gul Karim. Service book of the appellant was produced by the respondents before this Bench and learned A.A.G pointed out towards a note written on first page of the service book in red ink about change of name of the appellant Gul Karim to Fazal Karim vide office letter No.662-64 dated 27.01.1997. Although, learned A.A.G had raised objection as to veracity of the said note but when asked to produce the copy of the said letter, he failed to produce the same. His medical report is also available on file, wherein, his date of birth has been recorded as 10.06.1964. His payroll also shows his date of birth as 10.06 1964. No doubt, Civil Suit filed for rectification of the record was dismissed by the learned Civil Judge vide judgment dated 18.05.2016. Appeal was also dismissed, where-after, the appellant filed Revision Petition in the august Peshawar High Court, Peshawar and vide judgment dated 18.10.2019, his suit was decreed in his favor and on the strength of the judgment of the august High Court, correct C.N.I.C was issued in his favor, wherein, his date of birth was recorded as 10.06.1964. The correction pertaining to his date of birth in the National Identity Card was declared by the august Court to be his right and accordingly, he was held entitled to the decree. The objection raised by the learned A.A.G in respect of taking benefit of

ATTESTED


The undersigned
Service Officer
Principal

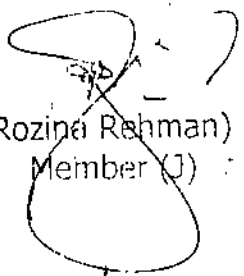
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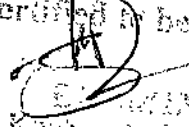
this fresh entry of correction of his date of birth in his service book has no force because service record favors the contention of appellant.

6. For what has been discussed above, instant service appeal is accepted as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.
20.10.2021


(Ahmad Sultan Tareen)
Chairman


(Rozina Rehman)
Member (J)

Certified to be true copy

MEMBER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 08/11/21

Number of Words 2000

Copying Fee 22/-

Deposit 4/-

Total 26/-

Name of Applicant

Date of Completion of Copy 08/11/21

Date of Delivery of Copy 08/11/21



GOVERNMENT DEGREE COLLEGE HANGU

Thall Road, Hangu 26190, KPK, Pakistan, Phone No: 0925-621517
Email address: mis.gdchangu@gmail.com, www.facebook.com/gdchangu



(X) (11) Annex 'B'

No. 10-15

Dated Hangu the 04/03/2022

To:

Mr. Fazal Karim Driver (BPS-06)
Govt. Degree College Hangu

Subject: IMPLEMENTATION PETITION FOR DIRECTING THE RESPONDENTS TO
OBEY THE JUDGEMENT DATED 20-10-2021 IN LETTER AND SPIRIT.

Memo:

I am directed vide letter No.13637/CA-VII/Estt.Branch/A-167/GDC Hangu dated 18/06/2022 to refer to the subject noted above and to implement the judgement dated 20/10/2021 in your service appeal No. 934116 conditionally subjected to the final outcome of CPLA No. 781-P/2021 filed in the instant case and also obtain surety bond on Judicial stamp paper from yourself. You are therefore directed to produce the required surety bond in original and submit it to the undersigned along your arrival report for rejoining your post so that I proceed further into the matter.

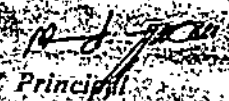

Principal

Govt. Degree College Hangu

Encl. No. 1 Dated Hangu the 04/03/2022

Copy to:

1. Deputy Director (Estt) Higher Education Khyber Pakhtunkhwa, Peshawar
2. PS to Secretary Higher Education Khyber Pakhtunkhwa, Peshawar
3. Director Higher Education Khyber Pakhtunkhwa, Peshawar
4. Office Record.


Principal

Govt. Degree College Hangu

19 Annex 'a'

E.P. No. 33/2022

Fazal Karim is Govt



29th Nov, 2022

1. Learned counsel for the petitioner present. Mr. Muhammad Adeel Butt, Addl: AG for respondents present.




02. According to letter No. 10-15 dated 04.08.2022, the judgment of the Tribunal has been conditionally implemented subject to the final outcome of the CPLA No. 781-P/2021. After going through the letter, learned counsel submits that the respondents were not making payment of salaries of the intervening period for which he intends to file a contempt application. As regard this petition, he does not press it for the time being. Disposed of accordingly. Consign.

03. Pronounced in open court in Peshawar and given under my hand and seal of the Tribunal on this 29th day of November, 2022.


(Kalim Arshad Khan)
Chairman

Certified to be true copy
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of application 09-01-23
Number of Page 1 Page
Copying Fee 5/-
Urgent 5/-
Total 10/-
Name
Date of 09-01-23
Date of Delivery of 09-01-23

قیمت 50 روپے	57548			
ایڈوکیٹ: محمد اسحاق اورنگزی محمد شہزاد علی		پشاور بار ایسوسی ایشن، خیبر پختونخواہ		
بار کونسل ایسوسی ایشن نمبر: 10-3471-BCNU				
رابطہ نمبر: 0333-9191892				

بعدالت جناب: سرورسز محمد سرفراز خیبر پختونخواہ

مخاطب: سائل / اپیلر	دعویٰ: لٹو حسین عدالت پیشین
مخاطب: فضل کریم ولد امیر محمد خان	علت نمبر: _____
	مورخہ: _____
	جرم: _____
	تھانہ: _____

باعث تحریر آنگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دی کارروائی متعلقہ آن مقام میں کیے محمد اسحاق اورنگزی محمد شہزاد علی کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز وکیل 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 مستثنیٰ، نیز دائر 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 یا اختیارات حاصل ہوں گے اور اس کا ساختہ برداشتہ 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 سندر ہے

المقوم: 09-01-2023
PESHAWAR BAR ASSOCIATION
KHYBER PAKHTUNKHWA

مقام: پشاور
کے لیے منظور ہے

فضل کریم ولد امیر محمد خان

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