


Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 43/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	19.01.2023	<p>The execution petition of Dr. Muhammad Iqbal submitted today by Mr. Inayat Ur Rehman Khattak 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>

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
CHECK LIST**

Case Title: _____

S#	CONTENTS	YES	NO
1	This Appeal has been presented by: <u>Muzat Ullah Jehman Adv.</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 relates to court?	✓	
19	Whether requisite number of spare copies attached?	✓	
20	Whether complete specification 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 _____		
25	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1971, rule 11, notice along with copy of appeal and annexures has been sent to respondent? 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: _____

Signature: _____

Dated: _____

Muzat Ullah Jehman Advocate
18/1/2023

BEFORE THE COURT OF SERVICE TRIBUNAL, KPK**PESHAWAR****Execution Petition # 43/2023**

In Reference Appeal No. 1038-P/2015

Dr. Muhammad Iqbal, Director Livestock Research &
Khyber Pakhtunkhwa, Peshawar....**Applicant/Petitioner****V E R S U S**5. Government of Khyber Pakhtunkhwa through Chief
Secretary, Peshawar & others.....**Respondents****I N D E X**

S.No	Description of Documents	Annex	Pages
1.	Appeal		01-03
2.	Affidavit		04
3.	Judgment order No. 1038/2015 Dated: 14.01.2021	"A"	5-9
4.	Order No. FD/SOSR-I/1-1/2022 through DG Live Stock.	"B"	10-13
5.	Wakalatnama		14

Applicant/Petitioner

Through

Inayat Ur Rehman Khattak
Advocate High Court,

Dated: 13.01.2023

BEFORE THE COURT OF SERVICE TRIBUNAL, KPK

PESHAWAR
Execution Petition # 43/2023
 In Reference Appeal No. 1038-P/2015

L

Dr. Muhammad Iqbal,

Director Livestock Research

& Khyber Pakhtunkhwa,

Peshawar.....**Applicant/Petitioner**

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 3055

Dated 19-1-2023

V E R S U S

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar.
2. Secretary to Government of Khyber Pakhtunkhwa Establishment Department, Peshawar.
3. Secretary to Government of Khyber Pakhtunkhwa, Agriculture, Livestock, Fisheries and Cooperative Department, Peshawar.
4. Director General (Research) Livestock & Dairy Development Department Khyber Pakhtunkhwa, Peshawar.....**Respondents**

APPLICATION FOR IMPLEMENTATION
OF THE ORDER DATED 14.01.2021
REGARDING THE GRANT OF HIGHER
POST BENEFIT I.E THE PERIOD FROM
30.04.2009 TO 14.10.2009.

Respectfully Sheweth:

1. That the applicant filed a service appeal before this Honorable Tribunal which was dismissed vide order dated: 14.01.2021 but, the benefits of his work on the higher post was preserved/kept intact in the following words in para No.9 of the judgment. (Annex-A)

“For what has been discussed above, the appeal in hand is meritless and is accordingly dismissed. Before parting with this judgment we consider it appropriate to note that the right of appellant regarding the receipt of emoluments at a higher rate, if any, for the period he worked on a post in BPS-19 against own pay scale, shall not be affected any of the contents of instant judgment” (Attested Copy is attached).

2. That the appellant submitted the judgment of this Honorable Tribunal for implementation before the respondent No. 3 and response to which the petitioner was provided with a copy of order No. FD/SOSR-1/1-1/2022 issued by the worthy Secretary Finance, Government of KP received on 21.12.2022. (Annex-B)
3. That the in-action of the respondents and non-implementation of the order of this Honorable Tribunal is against the law, rules, regulations

pertaining to the matter, hence not tenable in the eyes of law.

4. That the respondents are legally bound to implement the order of this Honorable Tribunal.
5. That the appellant is entitled to the emoluments/benefits of higher post from 30.04.2009 to 14.10.2009.
6. That the application seeks permission of this Honorable Tribunal to forward further point with a prior permission of this Honorable Tribunal Court.

It is therefore, most humbly prayed that respondents may kindly be directed/ordered to implement the order of the court in its true spirit.

Applicant/Petitioner

Through

Inayat Ur Rehman Khattak
Advocate High Court,

(4)

BEFORE THE COURT OF SERVICE TRIBUNAL, KPK
PESHAWAR

In Reference Appeal No. 1038-P/2015

Dr. Muhammad Iqbal, Director Livestock Research & Khyber
Pakhtunkhwa, Peshawar.....**Applicant/Petitioner**

V E R S U S

Government of Khyber Pakhtunkhwa through Chief Secretary,
Peshawar & others.....**Respondents**

A F F I D A V I T

I, **Dr. Muhammad Iqbal** S/o Lal Sahib Khan R/o Director
Livestock Research & Khyber Pakhtunkhwa, Peshawar do hereby
solemnly affirm and declare on oath that the contents of the
accompanying **Application for Implementation** are true and
correct to the best of knowledge and belief and nothing has been
concealed from this Hon'ble Court.

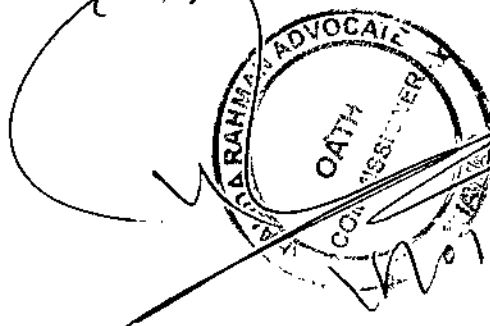
IDENTIFIED BY:

Inayat Ur Rehman
Advocate High Court,
Peshawar

DEPONENT

CNIC: 17301-7217860-1
Cell No: 0300-9001679

TESTED



5

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 1038/2015



Date of Institution ... 21.09.2015

Date of Decision ... 14.01.2021

Dr. Muhammad Iqbal, Director Livestock Research & Development Khyber Pakhtunkhwa, Peshawar. ... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and six others. ... (Respondents)

Present.

- Mr. Naqibullah Khattak, Advocate. ... For appellant
- Mr. Kabiriullah Khattak, Addl. Advocate General ... For official respondents.
- Mr. Khalid Rahman, Advocate ... For respondents No. 5 to 7
- MR. HAMID FAROOQ DURRANI, MR. ATIQ-UR-REHMAN WAZIR, ... CHAIRMAN MEMBER(E)

JUDGMENT

HAMID FAROOQ DURRANI, CHAIRMAN:-

1. On 26.02.2019, this Tribunal had burdened the appellant with costs of Rs. 10000/- (Rs. Ten thousand only), to be paid to private respondents, observing that the appellant had filed the present service appeal in the year 2016. He thereafter dragged the private respondents and it appeared that he was not interested in the decision of the same. A last opportunity was, therefore, granted to the appellant.

Today, learned counsel for respondents No. 5, 6 & 7, Mr. Khalid Rahman, Advocate was magnanimous enough to forego his right of receiving the costs.

ATTESTED

[Signature]
EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal,
 Peshawar

[Handwritten mark]

6


2. The present appeal has been preferred, questioning the seniority of private respondents over the appellant. It is useful to reproduce hereunder the prayer part, as contained in the memorandum of appeal:-

"On acceptance of the instant Service Appeal, the official respondents may graciously be ordered to issue revised seniority list of Principal Research Officer/Director (BPS-19) in the Directorate General (Research) Livestock & Dairy Development Department Khyber Pakhtunkhwa, Peshawar declaring the Appellant as Senior to Private Respondents No. 5 to 7 and the Appellant be declared entitled for all back financial benefits."

The prayer extends the impression that the appellant was aggrieved of some seniority list of Principal Research Officers/Directors. It is important to note that learned counsel failed to lay hands on any such list nor the appellant could place on brief such document.

3. The facts, as laid in the memorandum of appeal, are to the effect that on 29.04.2009, the appellant was posted as Principal Research Officer/Director (Planning) BPS-19 in his own pay scale at Directorate of Livestock Research & Development Khyber Pakhtunkhwa Peshawar, against vacant post. Subsequently, he alongwith other officers, was promoted to the said post on 28.07.2009 on regular basis with immediate effect. He took charge as such on 15.10.2009. In essence, his grievance is that by virtue of his posting on 29.04.2009 on his own pay scale, rendered him senior to private respondents. The emoluments/back financial benefits for the period between 30.04.2009 and 28.07.2009 were also payable to him.

4. We have heard learned counsel for the appellant, private respondents No. 5 to 7 and learned Addl. AG on behalf of the official respondents. With their valuable assistance the available record has also been examined.

ATTESTED

EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal,
 Peshawar



5. Learned counsel for the appellant attempted to argue that on the strength of order dated 30.04.2009, the appellant was burdened with higher responsibilities, therefore, he was entitled to the emoluments there-for at the higher rate. Alongside, the appellant became senior to his colleagues who all were promoted to BPS-19 through notification dated 28.07.2009, with immediate effect. Referring to the notification, it was contended that the order being made effective immediately it was not legally correct as far as the appellant was concerned. Learned counsel referred to judgment reported as 1986-SCMR-991, in support of his argument regarding entitlement of appellant receiving better emoluments for the period he performed duty against higher post/grade but in his own pay scale.

Learned counsel for private respondents No. 5 to 7 agitated objections regarding competence and maintainability of appeal in hand. In his view, the appellant had sought directions from this Tribunal, through the appeal, which was not within its jurisdiction. Further, there was no order, original or appellate, which was questioned by the appellant; therefore too, the appeal was not competent in view of provisions contained in Khyber Pakhtunkhwa Service Tribunals Act, 1974. The objection regarding delay in submission of departmental appeal was also pressed into service by the learned counsel. He relied on judgments reported as 2015 PLC(C.S) 151, 2010-SCMR-1301, 2006-SCMR-1630 and 2009-SCMR-1121.

Learned Addl. AG adopted the arguments advanced by learned counsel for private respondents.

6. As stated herein-before, the appellant had failed to question any particular seniority list nor there was any order by the competent authority operating adversely against him. In view of provisions of Section 4 of the Act *ibid*, the

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EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal.

appeal in hand, therefore, appears to be incompetent. It is important to note here that the appeal in hand is with the prayer in the nature of a command to departmental authority. Guidance is sought from 2006-SCMR-1630.

7. It is a matter of record that the order of promotion of appellant and others to BPS-19 was issued on 28.07.2009, mentioning the name of appellant at S. No. 7, thereof. On the other hand, averments in the memo of appeal suggest that the appellant agitated his grievance in the year 2015, after lapse of more than five years. No seniority list, subsequent to the notification dated 28.07.2009, was ever pressed into service nor was claimed to have been issued by the respondents.. The appellant was obligated to have preferred the departmental appeal within the prescribed time. It was, however, done with enormous delay; therefore too, the competence of appeal in hand is under the cloud. 2009 SCMR 1121 and 2006 SCMR 1630 are respectfully followed in the context.

Alongwith the appeal an application for condonation of delay has also been submitted. The application is cursory while the appellant remained at loss in setting forth cogent explanation for the delay.

8. It also requires to be noted that entire claim of appellant was on account of his transfer and posting as Principal Research Officer/Director Planning (BPS-19), on 29.04.2009 against his own pay scale. Such claim appears to be baseless as by now it is well settled to the contrary. It is repeatedly held by the Apex Court that acting charge appointment could neither construed to be an appointment on regular basis for any purpose including seniority, nor it conferred any vested right for regular appointment. Guidance is sought from 2015 PLC(C.S)

151.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

9

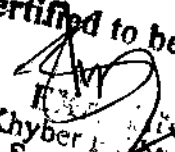
9. For what has been discussed above, the appeal in hand is meritless and is accordingly dismissed. Before parting with this judgment we consider it appropriate to note that the right of appellant regarding the receipt of emoluments at a higher rate, if any, for the period he worked on a post in BPS-19 against own pay scale, shall not be affected by any of the contents of instant judgment.

Parties are, however, left to bear their respective costs. File be consigned to the record room.


(ATIQU-UR-REHMAN WAZIR)
MEMBER(E)


(HAMID FAROOQ DURRANI)
CHAIRMAN

ANNOUNCED
14.01.2021

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 14/01/2021

Number of Words 2400

Copying Fee 26/-

Urgent _____

Total 26/-

Name of Copyist _____

Date of Completion of Copy 20/01/2021

Date of Delivery of Copy 20/01/2021



5 Annex-13(10)

GOVERNMENT OF KHYBER PAKHTUNKHWA FINANCE DEPARTMENT

Finance Department Civil Secretariat Peshawar

<http://www.finance.gkp.pk>

[facebook.com/GoKPDF](https://www.facebook.com/GoKPDF)

twitter.com/GoKPDF

SPEAKING ORDER

No.FD/SOSR-I/1-1/2022: WHEREAS, Mr. Muhammad Iqbal, Senior Research Officer (BS-18), Center of Dairy Technology, Livestock Research & Development Station, Surezai Peshawar was posted as Principal Research Officer/Director Planning (BS-19) (Headquarter) at Directorate of Livestock Research & Development, Peshawar in his own pay and scale w.e.f 29.04.2009 to 27.07.2009 (**Annex-I-II**).

WHEREAS, on 28.07.2009 he was regularly promoted to the post of Principal Research Officer/Director (BS-19) w.e.f 28.07.2009 and he filed appeal to his Department for grant of higher post benefits for the period of OPS basis which was not entertained by his Administrative Department.

WHEREAS, he moved to the Khyber Pakhtunkhwa, Service Tribunal which partially decided the case in his favour and directed for grant of higher post benefits (if any) to the officer concerned for the period from 30.04.2009 to 28.07.2009 prior to the issuance/effectiveness of Finance Department's policy as the same was applicable w.e.f 16.12.2009 (**Annex-III**).

NOW THEREFORE, after thorough examination of the case in light of relevant policy, I Secretary, Finance Department, have come to the conclusion that the petitioner i.e. Muhammad Iqbal is not entitled to the higher post benefits because the policy of higher scale benefits was enacted w.e.f 16.12.2009 (**Annexed**). The case is, therefore, regretted being not covered under the existing policy.

Attested
Iqbal
Advocate


(IKRAMULLAH KHAN)
Secretary Finance



10

**DIRECTORATE GENERAL (EXTENSION),
LIVESTOCK & DAIRY DEVELOPMENT DEPARTMENT,**
Bacha Khan Chowk, Charsadda Road, Peshawar. 091- 9210276, 9210249 FAX: 091-9210285

No. 21470

Dated Peshawar the 20 /12/2022

To

The Director,
Livestock Research & Development,
Khyber Pakhtunkhwa, Peshawar.

Subject: **SERVICE APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AND PAYMENT OF EMOLUMENTS/FINANCIAL BENEFIT W.E.F 01-05-2009 TO 14-10-2009**

With reference to letter No. SO (LFC)/AD/DR/PF-03/1990, dated 9th December 2022, regarding the subject noted above.

Enclosed please find herewith the subject letter along with enclosures is here by submitted for information and further necessary action if any at your end.


DIRECTOR HEADQUARTERS

No. _____

Dated Peshawar the _____ /12/2022

Copy of the above is placed in the personal file of the officer concerned for record please.

DIRECTOR HEADQUARTERS

OS

21/12/2022

Attested

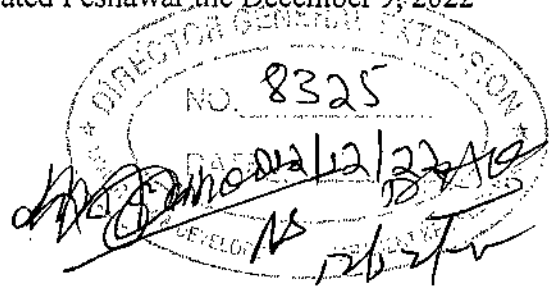
Muzaffar Ahmad
21/12/2022



**GOVERNMENT OF KHYBER PAKHTUNKHWA
AGRICULTURE, LIVESTOCK, FISHERIES &
COOPERATIVE DEPARTMENT**

12

No. SO (LFC)/AD / DR / PF-03 /1990
Dated Peshawar the December 9, 2022



To

The Director General (Extension),
Livestock & Dairy Development Department,
Khyber Pakhtunkhwa.

Subject: SERVICE APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AND PAYMENT OF EMOLUMENTS/FINANCIAL BENEFIT W.E.F 01-05-2009 TO 14-10-2009.

I am directed to refer to your letter No.14869 dated 06-09-2022 on the subject noted above and to enclose herewith a copy of letter No.FD/SOSR-I/1-1/2022/M. Iqbal dated 01-12-2022 received from Finance Department for information and further necessary action.

Encl: As Above.

Endst: No. & date even:

Copy forward to:

1. PS to Secretary Agriculture, Livestock, Fisheries & Cooperatives Department.
2. Master File.

SECTION OFFICER (LFC)

SECTION OFFICER (LFC)

Attested
Sony of ur khalid
Advocate



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

Finance Department Civil Secretariat Peshawar

<http://www.finance.gkp.pk>

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twitter.com/GoKPFD

NO. FD (SOSR-1) 1-1/ 2022/Muhammad Iqbal

Dated Peshawar the: 01-12-2022

To

The Section Officer (LFC),
Agriculture, Livestock, Fisheries &
Cooperative Department,
Peshawar .

Subject: - SERVICE APPEAL UNDER SECTION-4 OF THE
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT,
1974 AND PAYMENT OF EMOLUMENTS/FINANCIAL
BENEFIT W.E.F 01.05.2009 TO 14.10.2009.

I am directed to refer to your letter No.SO(LFC)AD/DR/PF-
3/1990 dated 04.10.2022 on the subject noted above and to enclose herewith
a self-explanatory Speaking Order (duly signed by Secretary Finance) in
respect of Dr. Muhammad Iqbal, Divisional Level Director of Directorate
General Livestock (BPS-19), for information, please.

Encls-(As above)

[Signature]
01/12/22
SECTION OFFICER (SR-1)

Copy forwarded for information to PA to Deputy Secretary (Reg-I),
Finance Department, Peshawar.

[Signature]
SECTION OFFICER (SR-1)

[Signature]
35/3
7/12/22
SA - put up

[Signature]
Muzaffar
Adnan

قیمت
50 روپے

4994




ایڈوکیٹ: غلام الرحمن ملک

بار کونسل / ایسوسی ایشن نمبر: 10-4632

رابطہ نمبر: 0311-9539934

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: سرور ٹریبونل خیبر پختونخواہ پشاور

منجانب: <u>سائل</u>	دعویٰ: <u>Implementation application</u>
 عموماً اقبال بنام صوبائی حکومت	علت نمبر: _____
	مورخہ: _____
	جرم: _____
	تھانہ: _____

باعث تحریر آگے

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

آن مقام پشاور کے لیے غلام الرحمن ملک کے طور پر کوڈ ویل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز کوڈ ویل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زیریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت 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 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 اختیارات حاصل ہوں گے اور اس کا ساختہ پر داخستہ 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، بلکہ ان کے ساتھ ساتھ اس کے ساتھ غلام الرحمن ملک

المقوم: 13-1-2023

PESHAWAR BAR ASSOCIATION
PESHAWAR

پشاور کے لیے منظور ہے

نوٹ: اس وکالت نامہ کی کوئی کاپی قابل قبول ہوگی۔

