


Form- A

FORM OF ORDER SHEET

Court of _____

Execution Petition No. 28/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
	16.01.2023	<p>The execution petition of Mr. Abdul Hakeem submitted today by him. 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>

**BEFORE THE HON'BLE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA PESHAWAR**

Service Appeal No. _____/2023

Exception Petition NO. 28/2023

Abdul Hakeem Secondary School Teacher Government Middle
School Gunj Gate Peshawar.

Appellant

VERSUS

Government of Khyber Pakhtunkhwa through Secretary
Elementary & Secondary Education K.P Civil Secretariat
Peshawar & others.

Respondents

INDEX

S#	Description of Documents	Annex	Pages
1.	Service Appeal		1
2.	Affidavit		2
3.	Addresses of Parties		3
4.	Appeal	"A"	4-8
5.	Copy of Decided order dated 04/10/2022	"B"	9-12

Dated : 16/01/2023


Petitioner in Person

(1)

BEFORE THE KHYBER PAKHTUNKHWA PESHAWAR
SERVICE TRIBUNAL, PESHAWAR

Execution Petition no. 28/2023

Abdul Hakeem SST (General) Government Middle School Gunj Gate Peshawar.....**Appellant**

Versus

1. Secretary Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar.
2. Director Education Elementary & Secondary Khyber Pakhtunkhwa Peshawar.
3. District Education Officer Male Peshawar

Office of Pakhtunkhwa
Service Tribunal

Cases No. 2979

Dated 16-1-2023

.....**Respondents**

In Appeal No. 9396 Dated: 2020

APPLICATION FOR IMPEMENTATION OF ORDER
/ JUDGMENT DATED 04-10-2022 IN APPEAL NO.
9396/2020

Respectfully Sheweth:

1. That the applicant filed appeal No. 9396 / 2020 before this learned Tribunal (**Annexure-A**).
2. That the appeal was decided in favour of the applicant vide Order / Judgment referred in Para -1 above (**Annexure-B**).
3. That the applicant approached the respondent's time & again for implementation of order / Judgment dated **04-10-2022** of this learned Tribunal but in vain.

It is therefore, requested that the respondents may please be directed to implement order / judgment dated **04-10-2022** of this learned Tribunal.

Abdul Hakeem

Abdul Hakeem
SST (General)

Government Middle School
Gunj Gate Peshawar

**BEFORE THE HONBLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR**

Service Appeal No. _____/2023

Abdul Hakeem Secondary School Teacher Government Middle
School Gunj Gate Peshawar.

Appellant

VERSUS

Government of Khyber Pakhtunkhwa through Secretary
Elementary & Secondary Education K.P Civil Secretariat
Peshawar & others.

Respondents

AFFIDAVIT

I, Abdul Hakeem Secondary School Teacher Government
Middle School Gunj Gate Peshawar, do hereby solemnly
affirm and declare that the contents of the instant **Service
Appeal** are true and correct to the best of my knowledge
and belief and nothing has been concealed from this
honorable Court.


DEPONENT

CNIC#17201-2281218-5

Cell: 0345-9394122



16 JAN 2023

**BEFORE THE HONBLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR**

Service Appeal No _____/2023

Abdul Hakeem Secondary School Teacher Government Middle
School Gunj Gate Peshawar.

Appellant

VERSUS

Government of Khyber Pakhtunkhwa through Secretary
Elementary & Secondary Education K.P Civil Secretariat
Peshawar & others.

Respondents

ADDRESSES OF PARTIES

ADDRESS OF PETITIONER

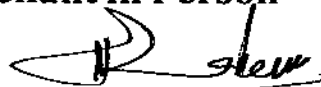
Abdul Hakeem Secondary School Teacher Government Middle
School Gunj Gate Peshawar.

ADDRESSES OF RESPONDENTS

1. Government of Khyber Pakhtunkhwa through Secretary
Elementary & Secondary Education K.P Civil Secretariat
Peshawar.
2. Director Elementary & Secondary Education E&SE Directorate
G.T Road Peshawar.
3. District Education Officer, Elementary and Secondary Education
Peshawar.

Dated : 16/01/2023

Appellant in Person



Abdul Hakeem S/o
Sarfaraz Khan Secondary
School Teacher Government
Middle School Gunj Gate
Peshawar

**BEFORE THE HON'BLE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR**

Service Appeal No. 9396 /2020

Abdul Hakeem Secondary School Teacher Govt,
Higher Secondary School No.1 Peshawar City

...Appellant

Versus

1. Govt of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education K.P Civil Secretariat Peshawar.
2. Director Elementary & Secondary Education E&SE Directorate G.T Road Peshawar.
3. District Education Officer, Elementary and Secondary Education Peshawar

.....Respondents

**APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL
ACT, 1974.**

Prayer in Appeal:-

On acceptance of this appeal, the back benefits from promotion be acceded to the appellant from 28.10.2014 and any other

relief which is not asked for and according the circumstances may kindly be awarded to the appellant.

Respectfully Sheweth:

Brief Facts:-

1. That the appellant is qualified Secondary School Teacher Serving at Govt Higher Secondary School No.1 Peshawar City.
2. That the Department issued a notification on 23.07.2019 for promotion of the appellant from Senior Certified Teacher to the post of Senior Secondary School Teacher (SST General) (BPS-16) from 28.10.2014 instead of 03.08.2017. **(Copy of notification is attached as Annexure "A").**
3. That through the appellant was promoted from 28.10.2014, but the back benefits of such promotion from 28.10.2014 were not extended.
4. That the appellant feeling aggrieved approached the competent authority for redressal of his grievances through departmental appeal but the request of the appellant was turned down vide order dated 20.07.2020. **(Copy of Departmental Appeal order No.1554/F No.Abdul Hakeem/SST GHSS No.1 Peshawar and rejection order is attached as Annexure "B" & "C" respectively).**

5. That feeling aggrieved from the order dated 20.07.2020 appellant having no other alternate adequate remedy seeks indulgence of the Hon'ble Tribunal hence the instant appeal, on the following grounds inter alia:

GROUND S:

- A. That respondents have not treated the appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan 1973.
- B. That grant of back benefits to the appellant have illegal been denied as per law laid down by the Supreme Court of Pakistan in 1982 SCMR 1394 & 2018 PLC (C.S) 126. **(Copies of orders of Supreme Court of Pakistan is attached as Annexure "D")**.
- C. That the notification order does not show a single valid reason as to why back benefits has been denied, which is against the provision of Section 24-A of the General Clauses Act.
- D. That the reason given in the impugned order is against the law and facts of the appellant case, as the fact which were discussed in the order judgment of August Supreme Court of Pakistan are not applicable to the case of appellant and it has wrongly been applied to appellant.

- B. That for no fault on the part of Appellant he was prevented from rendering service to the Department/public/Government in higher pay scale/post, therefore, the appellant has illegally been denied back benefits without any valid reason as per law laid down by the august Supreme court of Pakistan in 1982 SCMR 1394 and 2018 PLC (C.S) 126 (Annex-"K" and "L")
- C. That the impugned notification/order is against the provision of Section 24-A of the General Causes Act and law laid down by august Supreme Court..
- D. That any other ground will be raised at the time of arguments with the prior permission of the Hon'ble Tribunal.

It is therefore mostly humbly prayed that on acceptance of this appeal the Appellant may be granted back benefits from w.e.f 28/10/2014 and any other relief which is not specifically asked for but made out from facts and circumstances of the case may also be awarded to the appellant.


Abdul Hakeem
(Appellant-in-Person)

Cell # 0313-9394122

0345-9394122

Dated: 03.08.2020

VERIFICATION:-

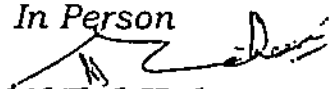
It is to certify that no appeal has been submitted on the subject earlier to the instant appeal.


DEPONENT

- E. That there is no prohibition in the law regarding granted back benefits which is the fundamental rights of every employee.
- F. That any other ground will be raised at the time of arguments with the prior permission of this Hon'ble Tribunal.

It is, therefore, most humbly prayed that on acceptance of this appeal, the back benefits from promotion be acceded to the appellant from 28.10.2014 and any other relief which is not asked for and according the circumstances may kindly be awarded to the appellant.

Appellant
In Person


Abdul Hakeem
S/O Sarfaraz Khan
Secondary School Teacher
Govt High School No.1
Peshawar City
Cell#0345-9394122

Dated: 03.08.2020

VERIFICATION:-

It is to certify that no appeal has been submitted on the subject earlier to the instant appeal.


DEPONENT

Service Appeal No.9396/2020 filed by Abdul Hakeem vs Govt of Khyber Pakhtunkhwa through Secretary, Elementary & Secondary Education, Khyber Pakhtunkhwa Civil Secretariat Peshawar and others, decided on 04.10.2022 by Division Bench comprising Kalim Arshad Khan, Chairman, and Fareeha Paul, Member, Executive, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.**

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**
FAREEHA PAUL ... MEMBER (Executive)

Service Appeal No.9396/2020

**Abdul Hakeem, Secondary School Teacher Govt: Higher
Secondary School No.1 Peshawar City.**

.....(Appellant)

Versus

1. **Govt: of Khyber Pakhtunkhwa** through Secretary (E&SE), Department, Khyber Pakhtunkhwa, Peshawar.
2. **The Director (E&SE)**, Directorate G.T Road Peshawar.
3. **The District Education Officer**, District Peshawar.

.....(Respondents)

Present:

Abdul Hakeem,
AppellantIn person.

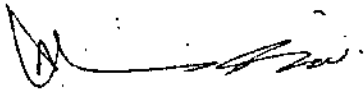
Syed Naseer Ud Din Shah,
Assistant Advocate General.....For respondents.

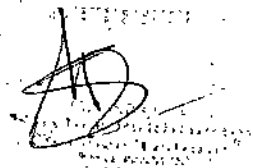
Date of Institution.....13.08.2020
Dates of Hearing.....04.10.2022
Date of Decision.....04.10.2022

**APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974.**

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Brief facts, as per memorandum of appeal, are that the appellant was appointed as PTC Teacher vide appointment order dated 01.01.1985; that the appellant was later on appointed as CT (General) vide appointment order dated


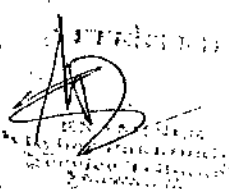




20.10.1993; that thereafter the appellant was considered for up-gradation/promotion to the post of Sr. CT but due to deficiency of documents was deferred on 21.02.2013; that on completion of documents the appellant was granted up-gradation w.e.f. 28.05.2013 vide notification dated 28.05.2013; that the appellant filed departmental appeal on 15.06.2013 to respondent No.2 for antedated up-gradation w.e.f. 01.07.2012 instead of 28.05.2013 which was rejected vide order dated 17.06.2013; that the appellant then filed writ petition No. 2019-P/2013 before the Hon'ble Peshawar High Court, Peshawar which was accepted in favour of the appellant; that the appellant then filed departmental appeal for antedate promotion to the post of SST (G) w.e.f 28.10.2014 instead of 03.08.2017 which was accepted vide notification dated 23.07.2019 but without arrears/back benefits; that the appellant filed departmental appeal for arrears/back benefits which was rejected vide order dated 20.07.2020, hence the instant service appeal.

2. On receipt of the appeal and its admission to full hearing, the respondents were summoned, who, on putting appearance, contested the appeal by filing written reply raising therein numerous legal and factual objections. The defence setup was a total denial of the claim of the appellant.

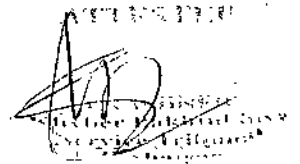
3. We have heard the appellant and learned Assistant Advocate General for the respondents.

4. Appellant contended that he had not been treated in accordance with law and rules. He further submitted that for no fault on the his part was prevented from rendering service to the department in higher pay scale/post, therefore, he had been illegally denied back benefits without any valid reason as per law. He therefore requested that the appeal might be allowed and the impugned order might be set aside.

5. Learned Assistant Advocate General on the other side contended that the appellant has been treated in accordance with law. He further contended that the appellant was awarded increments and benefits for the said period. Lastly he requested that the appeal might be dismissed with cost.

6. Admittedly vide notification No. 5100-05/P/File Abdul H. Kim SST/Peshawar dated 23.07.2019, the appellant was granted ante-dated promotion w.e.f 28.10.2014 but without arrears, while referring to some letter of the Establishment department of 13.04.1987. In the reply the respondents did not utter a single word as to why the arrears were withheld especially when promotion of the appellant was antedated. The point involved in this appeal is quite simple and short, and that is, while considering the promotion of the appellant from 28.10.2014 instead of 03.08.2017 the arrears of the antedated promotion were withheld. There is no justification stated anywhere in the reply to withhold arrears when once promotion was antedated.



Service Appeal No 9396/2020 filed "Abdul Hakeem vs Govt of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Khyber Pakhtunkhwa Civil Secretariat Peshawar and others", decided on 02.10.2022 by Division Bench comprising Kalim Arshad Khan, Chairman and Fareeha Paul, Member, Executive, Khyber Pakhtunkhwa Service Tribunal, Peshawar

7. Therefore, we allow this appeal and hold the appellant entitled for the arrears of the period from which the promotion was antedated. Costs shall follow the event. Consign.

8. Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 4th day of October, 2022.

KALIM ARSHAD KHAN
Chairman

FAREEHA PAUL
Member (Executive)

Certificate of the Tribunal
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 09-10-22
Number of Wards 1600
Expanding Post 187
..... 187
.....
Date of Delivery of copy 08/11/22
..... 08/11/22