


Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 54/2023

S No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	31.01.2023	<p>The execution petition of Mr. Shafiullah received today by registered post through Sheikh Iftikharul Haq Advocate. It is fixed for implementation report before touring Single Bench at D.I.Khan on _____.</p> <p>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 HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL CAMP COURT DERA ISMAIL KHAN**

Implementation Petition No. 654 of 2023

In Service Appeal No. 690/2016

Decided on 28/09/2022

Shafi Ullah

Versus

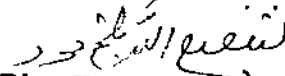
Govt. of KPK etc

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Date: 28/01/2023

Yours Humble Petitioner


Shafi Ullah

Through Counsel


Sheikh Iftikhar ul Haq
Advocate Supreme Court

-/-

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL CAMP COURT DERA ISMAIL KHAN**

Implementation Petition No. 54 of 2023

In Service Appeal No. 690/2016

Decided on 28/09/2022

Shafi Ullah son of Sher Khan r/o Wanda Noorak Tehsil
Paharpur District Dera Ismail Khan. Cell#0345-9808302

..... **Petitioner**

VERSUS

1. Government of KPK, Through Secretary Elementary & Secondary Education Peshawar.
2. The Director (E&S) Education Khyber Pakhtunkhwa Peshawar.
3. District Education Officer (Male) Dera Ismail Khan.

..... **Respondents**

**IMPLEMENTATION PETITION UNDER KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL ACT 1974 READ WITH KPK SERVICE
TRIBUNAL SERVICE TRIBUNAL RULES 1974 AS AMENDED
FOR IMPLEMENTATION OF THE ORDER/JUDGMENT IN
SERVICE APPEAL NO. 690/2016 DECIDED ON 28/09/2022
BY THIS HONOURABLE TRIBUNAL.**

-2-

Respectfully Sheweth:-

The Petitioner most respectfully submits as under:-

1. That the appellant was appointed as Naib Qasid on 01/04/2011 against the vacant post of Class-IV in GMS Jhok Mohana Tehsil Paharpur Dera Ismail Khan.
2. That the appellant was performing his duties to the entire satisfaction of his high-ups and never absented himself throughout his service career.
3. That on 31/12/2011, the appellant was terminated from service against which the appellant submitted departmental appeal which was not accepted and after that lastly the service appeal No. 609/2016 was preferred by the appellant before this Honourable Tribunal and the learned Tribunal was pleased to accept the service appeal by setting aside the impugned order and the appellant was reinstated into service with all back benefits vide judgment dated 28/09/2022. Copies of the appeal and judgment are annexed as **Annexure-A & B.**
4. That now the respondents are not implementing the order dated 28/09/2022, although the appellant submitted application on 31/12/2022 vide dairy No. 10719, hence, the instant implementation petition is being filed before this Honourable Tribunal. Copy of application is annexed as **Annexure-C.**

GROUND

- A. That the acts and omissions of the respondents authorities to not obeyed/implement the order of this honourable tribunal in

its true letter and spirit are clear cut violation of law, statutes and constitution.

B. That lame excuses on behalf of respondents/authorities are not maintainable and respondents are required to implement the judgment of this honourable Tribunal in its true letter and spirit.

C. That the Counsel for the Petitioner may kindly be allowed to raise further legal grounds during the course of arguments.

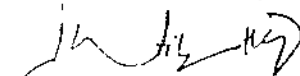
It is therefore, humbly requested that the respondents be directed to fully implement the judgment/order of this honourable tribunal dated 28/09/2022 in its true letter and spirit.

Date: 28/01/2023

Yours Humble Petitioner


Shafi Ullah

Through Counsel


Sheikh Iftikhar ul Haq
Advocate Supreme Court

-4-

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL CAMP COURT DERA ISMAIL KHAN**

Implementation Petition No. _____ of 2023

In Service Appeal No. 690/2016

Decided on 28/09/2022

Shafi Ullah

Versus

Govt. of KPK etc

AFFIDAVIT

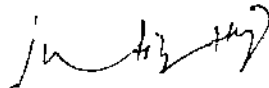
I, **Shafi Ullah** son of Sher Khan r/o Wanda Noorak Tehsil Paharpur District Dera Ismail Khan, do hereby solemnly affirm and declare on oath that contents of above Petition are true & correct to the best of my knowledge and that nothing has been concealed from this Honourable Court.

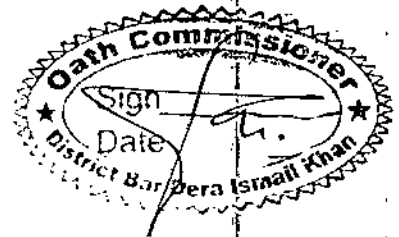
Dated: 28/01/2023

شہزاد شافی
28/01/2023

DEPONENT

Identified by:


Sheikh Iftikhar ul Haq
Advocate Supreme Court



-5- Ann: A/B



BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR.

Service Appeal No. 690 /2016

Khyber Pakhtunkhwa Service Tribunal

Diary No. 673

Dated 27-6-2016

Shafi Ullah S/o Sher Khan R/o Wanda Noorak Tehsil Paharpur District Dera Ismail Khan (KPK).

.....(Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa, through the secretary Education Peshawar.
2. Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (Male), Elementary & Secondary Education Dera Ismail Khan.

.....(Respondents)

SERVICE APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE ORDER DATED 31/12/2011, ISSUED / PASSED BY RESPONDENT NO. 3 WHEREBY THE SERVICE OF THE APPELLANT WAS TERMINATED DUE TO ALLEGED ABSENCE FROM SERVICE FROM 02/04/2011 VIDE ORDER NO. 17876-80, IN VIOLATION OF LAW, RULES AND NOTHING BUT MALAFIDES.

PRAYER:-

ON ACCEPTANCE OF THE INSTANT APPEAL THE IMPUGNED ORDER RESPONDENT NO. 3 MAY BE SET-ASIDE AND APPELLANT MAY BE ALLOWED TO CONTINUE HIS SERVICES IN YOUR INCUMBENCY AS NAIB QASID BPS-1 WITH ALL BACK BENEFITS.

Respectfully Sheweth:-

ATTESTED

Registrar
Khyber Pakhtunkhwa Service Tribunal Peshawar

Filed to-day

Registrar

27/6/16 1-

The appellant very humbly submits as under:-

That the appellant was appointed as Naib Qasid BPS-1 (Class-IV) vide appointment order Endst No. 4573-76 dated DIKhan the 01/04/2011 at G.M.S

Jhok Mohana Dera Ismail Khan. Copy of appointment order is enclosed as Annexure "A".

2- That on 02/04/2011 the appellant in pursuance of said appointment letter reported to the said G.M.S Jhok Mohana Dera Ismail Khan after clearing the medical fitness. Charge report along with medical certificate of the appellant are enclosed as Annexure "B & C".

3- That the appellant since day first has been punctual, dedicated committed performing his duties regularly and honestly and no complaint was ever made or heard against him during the course of his services.

4- That the appellant from the date of appointment i.e 01/04/2011 till 31/01/2012 drew his monthly salaries from National Bank of Pakistan Lar Branch the Paharpur Dera Ismail Khan.

5- That when the appellant came into the knowledge that the service of appellant has been terminated vide Endst No. 17876-80 dated 31/12/2011 of impugned order the appellant submitted departmental appeal on 27/06/2012 along condonation of delay which was not accepted with stipulated period. Copy of impugned order dated 31/12/2011 & Departmental appeal along with application for condonation of delay are enclosed as Annexure "D, E & F" respectively.

6- That the appellant approached Service Tribunal wherein the Honourable Service Tribunal were pleased to remit the same to the authority. Copy of order of Service Tribunal dated 22/02/2016 is enclosed as Annexure "G".

7- That the appellant submitted application to the Department along with judgment / order of this Honourable Tribunal for decision in the light of letter inspirit of the judgment of this Honourable Tribunal on 08/03/2016 which was not responded within stipulated period (Copy of Application enclosed as Annexure "H"), hence the instant appeal amongst other on the following grounds:-

GROUNDS:-

- a) That impugned order dated 31/12/2011 of respondent No. 3 is against law, admitted realities and is violative of the principle of justice.
- b) That the appellant is a regular government servant and without fulfillment of legal and codal formalities the services of appellant were terminated by the E.D.O (Education) D.I.Khan.
- c) That during service the appellant, no charge sheet show cause notice and enquiry regarding the termination of appellant issued by the respondents.
- d) That the appellant has been subjected to injustice in the matter of his termination from service and as the said discrimination smacks of malafides, the impugned order merit annulment.
- e) That the Counsel of the Appellant may very graciously be allowed to add further grounds during the course of arguments.

It is, therefore, humbly prayed that the instant appeal may be accepted as prayed for.

Your Humble Appellant

شعیب اللہ بقم

Shafi Ullah

Through Counsel

Dated: 22/06/2016

Shahid Iftikhar Ul Haq
 Shaikh Iftikhar Ul Haq
 Advocate High Court,
 Dera Ismail Khan.

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

Service Appeal No. _____/2016

Shafi Ullah

VERSUS

Govt; of KPK etc

AFFIDAVIT

I,
Shafi Ullah S/o Sher Khan R/o Wanda Noorak Tehsil
Paharpur District Dera Ismail Khan (KPK), the appellant do
hereby solemnly affirm declared on oath that contents of the
above Appeal are true and correct to the best of my
knowledge and nothing has been concealed from this
Honourable Tribunal.

شہ شافی اللہ بھٹو

DEPONENT

ABDUL QADIR LAGARI

Oath Commissioner D I Khan

Date: 22/8/2016

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR.
AT CAMP COURT D.I.KHAN



Service Appeal No. 690/2016

Date of Institution ... 27.06.2016

Date of Decision ... 28.09.2022

Shafi Ullah S/O Sher Khan. R/O Wanda Noorak Tehsil Paharpur District Dera Ismail Khan (KPK),

... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa, through the Secretary Education Peshawar and 02 others.

... (Respondents)

MR. SHAIKH IFTIKHAR-UL-HAQ,
Advocate

For appellant.

MR. ASIF MASOOD ALI SHAH,
Deputy District Attorney

For respondents.


KALIM ARSHAD KHAN
MR. SALAH-UD-DIN

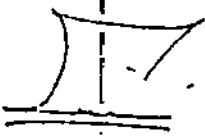
CHAIRMAN
MEMBER (JUDICIAL)

JUDGMENT:

SALAH-UD-DIN, MEMBER:- Precisely stated the facts as narrated in the instant appeal are that the appellant was appointed as Naib Qasid vide appointment order bearing Endst. No. 4573-76 dated 01.04.2011 against the vacant post of Class-IV at GMS Jhoke Mohana. The appellant submitted charge report and started performing his duty in the concerned school. The appellant also drew his salary with effect from 01.04.2011 till 31.01.2012 from National

ATTESTED


Khyber Pakhtunkhwa Service Tribunal
Peshawar



Bank of Pakistan Lear Branch Paharpur Dera Ismail Khan. The services of the appellant were terminated vide order dated 31.12.2011, which was challenged by the appellant through filing of departmental appeal. However the same was not responded. therefore, the appellant filed Service Appeal No. 1290/2012 before this Tribunal. The same was disposed of vide order dated 22.02.2016 with the observations that the case is remitted to the respondent-department with the direction to decide the departmental appeal of the appellant within a period of one month. The departmental appeal of the appellant was, however not decided within the time specified in the judgment dated 22.02.2016 of this Tribunal. therefore the appellant submitted the instant service appeal. It was during the pendency of the instant service appeal, that the departmental appeal of the appellant was decided vide order dated 23.01.2017 constraining the appellant to file amended appeal, wherein the order dated 23.01.2017 regarding dismissal of departmental appeal of the appellant was also challenged.

2. Notices were issued to the respondents, who submitted their comments, wherein they denied the assertions made by the appellant in his appeal.

3. Learned counsel for the appellant has contended that the appellant was appointed as Naib Qasid on regular basis vide appointment order dated 01.04.2011 and he assumed the charge of his post at Government Middle School Jhoze Mohana on the same date; that after fulfillment of all legal and social formalities, the pay

ATTESTED




MINER

of the appellant was activated and, he received his salary even after his termination from service vide order dated 31.12.2011; that the order of termination of service of the appellant was never communicated to him and it was after gaining knowledge of the same, that he submitted departmental appeal; that the appellant had never remained absent from duty but he was wrongly and illegally terminated from service on the ground of his absence from duty; that the procedure as prescribed in Rule-9 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 was not complied with and the appellant was condemned unheard; that the appellant was though appointed as Naib Qasid, however he was deputed for performing his duty as Driver with the then EDO (Elementary & Secondary) Education D.I.Khan; that the appellant was wrongly and illegally terminated from service due to mala-fide intention as he had asked the then EDO (Elementary & Secondary) Education D.I.Khan that he may be relieved to perform his duty in the school; that fundamental rights of the appellant as enshrined in Articles 4 & 25 of the Constitution of Islamic Republic of Pakistan, 1973 have been violated.

4. On the other hand, learned Deputy District Attorney for the respondents has argued that after taking of the charge of his post, the appellant remained absent from duty, therefore, disciplinary action was taken against him; that the appellant did not attend his duty despite being summoned through show-cause notice as well as publication of absence notice in the newspaper, therefore, ex-parte

ATTESTED


 EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal

action was taken against him in accordance with the relevant rule; that as the appellant had failed to complete his probation period satisfactorily, therefore, he has rightly been terminated from service.

5. Arguments have already been heard and record perused.

6. It is an admitted fact that the appellant was appointed as Naib Qasid vide appointment order dated 01.04.2011 and he assumed the charge of his post in Government Middle School Jhoke Mohana on the same date. The appellant was terminated from service vide order dated 31.12.2011 on the allegations that he remained absent from duty with effect from 02.04.2011. According to the available record, show-cause notice No. 16002 dated 18.11.2011 was issued to the appellant by the then Executive District Education Officer Dera Ismail Khan, which was followed by publication in newspaper "Daily Darpan" but the appellant did not attend his duty. According to Rule-9 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, competent Authority was required to have issued notice to the appellant through registered acknowledgement on his home address but the competent Authority has failed to adopt such procedure. Moreover, as per the *ibid* Rule-9, publication of notice was required to have been made in at least two leading newspapers but in the instant case, publication has been made only in one local newspaper. The competent Authority has failed to comply with provision of Rule-9 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline)

ATTESTED


Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Rules, 2011, which fact has created material dent in the departmental proceedings taken against the appellant.

7. The appellant had previously challenged the order of his termination through filing of Service Appeal No. 1290/2012 before this Tribunal, which was disposed of vide order dated 22.02.2016 with the directions that the respondent-department shall decide the departmental appeal of the appellant within a period of one month of receipt of the order. The departmental appeal of the appellant was not decided, therefore, he filed an application dated 08.03.2016 to the District Education Officer D.I.Khan requesting therein for decision of his departmental appeal in light of directions of this Tribunal passed vide order dated 22.02.2016. The departmental appeal of the appellant was to be decided by Director Elementary and Secondary Education Khyber Pakhtunkhwa, Peshawar being an appellate Authority, however it is strange enough that the same was decided by District Education Officer (Male) Dera Ismail Khan. Moreover, the appellant had filed departmental appeal before the Director Elementary and Secondary Education Khyber Pakhtunkhwa, Peshawar, however the impugned order dated 23.01.2017 would show that the application submitted by the appellant on 08.03.2016 for decision of his departmental appeal has been considered as departmental appeal by the District Education Officer (Male) Dera Ismail Khan. Similarly, in his order dated 23.01.2017, District Education Officer (Male) Dera Ismail Khan has mentioned that while deciding Service Appeal bearing

TESTED
Khyber Pakhtunkhwa
Secondary Education

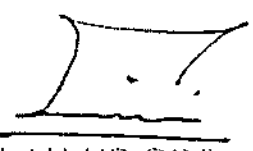
No. 1290/2012 vide order dated 22.02.2016 this Tribunal had issued directions that the appellant shall file departmental appeal before District Education Officer (Male) Dera Ismail Khan. We have minutely gone through the order dated 22.02.2016 passed by this Tribunal in Service Appeal No. 1290/2012 and have observed that no directions for filing of departmental appeal before the District Education Officer (Male) Dera Ismail Khan were given in the said order. All this would show the casual attitude of the concerned District Education Officer (Male) Dera Ismail Khan in discharging of his official duties. The impugned orders are thus not sustainable in the eye of law and are liable to be set-aside.

8. In view of the above discussion, the appeal in hand is accepted by setting-aside the impugned orders and the appellant is reinstated in service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
28.09.2022



(KALIM ARSHAD KHAN)
CHAIRMAN
CAMP COURT D.I.KHAN



(SALAH-UD-DIN)
MEMBER (JUDICIAL)
CAMP COURT D.I.KHAN

Certified to be true copy
ETIMAD ULLAH
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application	13/12/2022
Number of Words	2800
Copying Fee	30/-
Urgent	<input checked="" type="checkbox"/>
Total	30/-
Name of Copy	-
Date of Copy	16/12/22
Date of Delivery of Copy	16/12/22

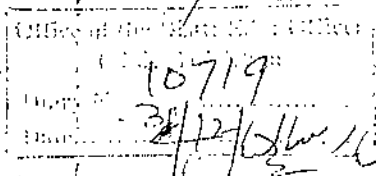
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حکومت خیابا - ڈسٹرکٹ ایجوکیشن آفیسر صاحب (مردانہ) ضلع کوٹلی

عنوان درخواست برآمد عالی سرویس میں شامل بہ ادنیٰ منظم حکم

تاریخ 2012-09-08 سے بذریعہ سرویس ایپل 2016/690 ازل

سروس ٹرینمنٹ اعلیٰ تعلیم پاکستان



10719

2012/09/08

خدا - عالی اساتذہ صاحب ذیل

- 1- میرے مندرجہ ذیل آگے کے زیر سایہ بطور ثابت فائدہ دینے
- 2- میرے آپ سے اجازت نے تاریخ 2012 "31 کو حتمی طور پر کوٹلی

کسی وجہ سے کوٹلی سے Terminate کر دیا

- 3- میرے مندرجہ ذیل حکم سے ایپل کے لئے سرویس ایپل کی - ایپل ازل ایپل کو سروس ٹرینمنٹ نے تاریخ 2016/09/08 کو ڈسٹریکٹ ایپل میں Convert کر کے ایک عہدے کے لئے ایپل

حکم دے دیا ہے میرے مندرجہ ذیل وجہ سے مندرجہ ذیل ایپل

ڈائری - دوران ایپل DEO ایجوکیشن آفیسر صاحب نے حکم سے ایپل

از تاریخ 2017-01-23 کو مندرجہ ذیل آگے کے لئے مندرجہ ذیل

ایپل کے ذریعے حکم 2017/01/23 کو کوٹلی سروس ٹرینمنٹ میں زیر

عہدہ کیا گیا ہے تاریخ 2017/01/23 کو سروس ٹرینمنٹ میں مندرجہ ذیل

ایپل کے ذریعے مندرجہ ذیل آگے کے لئے مندرجہ ذیل ایپل کے لئے

میرے مندرجہ ذیل آگے کے لئے مندرجہ ذیل ایپل کے لئے

ایپل کے ذریعے مندرجہ ذیل آگے کے لئے مندرجہ ذیل ایپل کے لئے

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