

Form- A

FORM OF ORDER SHEET

Court of \_\_\_\_\_

Execution Petition No. 55/2023

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 Mst. Bilqees 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>

By the order of Chairman

  
REGISTRAR

MPG

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

Implementation Petition No. 55 of 2023

In Service Appeal No. 4760/2021

Decided on 28/10/2022

**Mst. Bilqees**

**Versus**

**Govt. of KPK etc**

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Date: 28/01/2023

Yours Humble Petitioner

*بلقيس بيلقيس*  
**Mst. Bilqees**

Through Counsel

*Sheikh Iftikhar ul Haq*  
**Sheikh Iftikhar ul Haq**  
Advocate Supreme Court

-/-

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

Implementation Petition No. 55 of 2023

In Service Appeal No. 4760/2021

Decided on 28/10/2022

**Mst. Bilqees** daughter of Mashal Khan r/o village Masha Mansoor Tehsil & District Lakki Marwat, Ex-Caller GGCS Masha Mansoor Lakki Marwat.

..... **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 (Female) Lakki Marwat.

..... **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. 4761/2021 DECIDED ON 28/10/2022  
BY THIS HONOURABLE TRIBUNAL.**

**Respectfully Sheweth:-**

The Petitioner most respectfully submits as under:-

1. That the appellant was appointed as Caller in GGCMS Masha Mansoor Lakki Marwat and on 01/04/2004.
2. That the appellant was performing her duties to the entire satisfaction of her high-ups and never absented herself throughout her service career. In this respect attendance register of the school is very much clear.
3. That on 30/12/2020, the appellant was removed from service against which the appellant submitted departmental appeal which was not accepted and after that the service appeal No. 4761/2021 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 vide judgment dated 28/10/2022. Copies of the appeal and judgment are annexed as **Annexure-A & B**.
4. That now the respondents are not implementing the order dated 28/10/2022, hence, the instant implementation petition is being filed before this Honourable Tribunal.

**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 28/10/2022.

Date: 28/01/2023

Yours Humble Petitioner

  
Mst. Bilqees

Through Counsel

  
A.S.C.  
Sheikh Iftikhar ul Haq  
Advocate Supreme Court

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

Implementation Petition No. \_\_\_\_\_ of 2023

In Service Appeal No. 4760/2021

Decided on 28/10/2022

**Mst. Bilqees**

**Versus**

**Govt. of KPK etc**

**AFFIDAVIT**

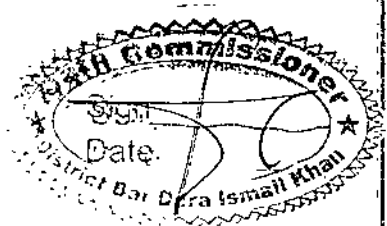
I, **Mst. Bilqees** daughter of Mashal Khan r/o village Masha Mansoor Tehsil & District Lakki Marwat, do hereby solemnly affirm and declare on oath that contents of above Petition are true & correct to the best of my knowledge and that nothing has been concealed from this Honourable Court.

Dated: 28/01/2023

*Bd Bilqees*  
**DEPONENT**

**Identified by:**

*Sheikh Iftikhar ul Haq*  
**Sheikh Iftikhar ul Haq  
Advocate Supreme Court**



-5- Ann:- 1/B

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL**

**PESHAWAR**

Service Appeal No. \_\_\_\_\_/2021

**Mst. Bilqees** daughter of Mashal Khan r/o village Masha Mansoor Tehsil & District Lakki Marwat, Ex-Caller GGCMS Masha Mansoor Lakki Marwat. 03449345312

.....(**APPELLANT**)

**VERSUS**

1. Government of KPK, Through Secretary Elementary & Secondary Education Peshawar.
2. The Director (E&S) Education Khyber Pakhtunkhwa Peshawar.
3. District Education Officer (Female) Lakki Marwat.

.....(**RESPONDENTS**)

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

**PRAYER**

On acceptance of the instant appeal the impugned office order bearing No. 5079-84 dated 30/12/2020 issued by the respondent#3 may kindly be set aside vide which by imposing the major penalty of removal from service the appellant was removed from services with immediate effect and also against the appellate order qua the departmental appeal wherein the respondent#2 remained silent/not taken any action by not deciding the departmental appeal of the appellant meaning thereby rejection of departmental appeal of the appellant within stipulated period and thus the service of the appellant be restored with all back benefits by setting aside the impugned office orders mentioned above.

\_\_\_\_\_

6-

Respected Sir,

**Appellant humbly submits as under;**

1. That the appellant was appointed as Caller in GGCMS Masha Mansoor Lakki Marwat and on 01/04/2004. Copy of the appointment order is annexed as **Annexure-A**.
2. That the appellant was performing her duties to the entire satisfaction of her high-ups and never absented herself throughout her service career. In this respect attendance register of the school is very much clear. Copies of the attendance register are annexed as **Annexure-B**.
3. That in the month of November 2020, due to crucial and critical conditions of the COVID-19, the school was closed to some extents and conditions, in spite of this the appellant performed her duties and remained punctual and never absented herself as evident from the attendance register.
4. That the appellant was performing duties and on the instructions of political vendetta in spite of on duty, the appellant was marked absent on 18/12/2020 in his presence due to personal grudges and instructions of political vendetta because some of the family members of appellant are having/belonging with political rivals of the ruling party. Thus, the appellant was on duty on the eventful day i.e. 18/12/2020. In spite of this, ironically, the respondent#3 issued the impugned office order No. 5079-84 dated 30/12/2020 vide which the service of the appellant was removed by imposing major penalty. Copy of the impugned order dated 30/12/2020 is annexed as **Annexure-C**.
5. That, the appellant feeling aggrieved, preferred a departmental appeal vide dairy No. 232 dated 06/01/2021 to the respondent#2 being appellate authority, which was not accepted within stipulated period. It is also pertinent to mention that later on 20/01/2021 the respondent#2 called the detailed report/comments from the respondent#3 vide letter No. 2850 dated 20/01/2021. Copies of the



departmental appeal and letter dated 20/01/2021 are annexed as Annexure-D & D/1.

- 6. That appellant feeling aggrieved by the impugned order dated 30/12/2020, hence, the instant appeal on the following grounds.

**GROUND**

- a. That the impugned order is against law, fact and circumstance of the case, hence, is not tenable in the eye of law but liable to be set aside.
- b. That the impugned order has been passed with mala-fide and hasty manner as, no charge sheet, statement of allegations, opportunity of replication, hearing, first show cause notice, final show cause notice, in short no inquiry has been conducted whatsoever, thus the impugned order is against the principle of law, service rules, policy and is not in the commence of EASTA Code.
- c. That the appellant is punctual and was on duty and never remained absent from duty and the alleged proceeding is on the bases of political pressure and victimization.
- d. That this honourable Tribunal has got vast and ample powers to entertain the instant appeal.
- e. That counsel for the appellant may graciously be allowed to raise additional grounds at the time of arguments.

*Handwritten signature*

It is therefore humbly prayed that On acceptance of the instant appeal the impugned office order bearing No. 5079-84 dated 30/12/2020 issued by the respondent#3 may kindly be set aside vide which by imposing the

major penalty of removal from service the appellant was removed from services with immediate effect and also against the appellate order qua the departmental appeal wherein the respondent#2 remained silent/not taken any action by not deciding the departmental appeal of the appellant meaning thereby rejection of departmental appeal of the appellant within stipulated period and thus the service of the appellant be restored with all back benefits by setting aside the impugned office orders mentioned above.

Dated 07/04/2021

Your humble appellant,

*Bilqees Bibi*  
**Bilqees Bibi**

Through counsel:-

*Sheikh Iftikhar ul Haq*  
**Sheikh Iftikhar ul Haq**  
Advocate High Court  
District Bar Dera Ismail Khan

- 9.

BEFORE THE KPK SERVICES TRIBUNAL PESHAWAR

In Service Appeal No. \_\_\_\_\_/2021

Bilqees Bibi  
(Appellant)

Versus

Govt Of KPK, etc  
(Respondents)

AFFIDAVIT

I, Bilqees, appellant herein, do hereby solemnly affirm on oath that all parawise contents of the accompanying appeal are true and correct to the best of my knowledge, belief and information; that nothing has been concealed or kept secret from this worthy Tribunal, nor anything contained therein is based on exaggeration or distortion of facts.

Dated 07/04/2021

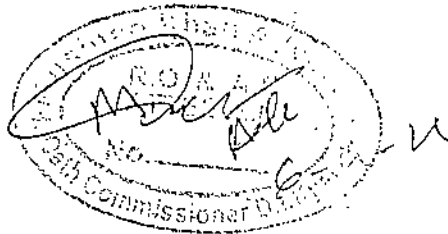
*Bilqees*  
Deponent

VERIFICATION

Verified on oath at DIKhan, this 07 day of April, 2021, that all contents of the above appeal are true and correct.

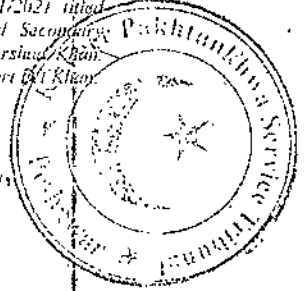
Dated 07/04/2021

*Bilqees*  
Appellant



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*Service Appeal No.4760/2021 titled 'Mst. Bilqees vs Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Peshawar and others' and connected Appeal No. 4761/2021 titled 'Farhad Ullah vs Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Peshawar and others' decided on 28.10.2022 by Division Bench comprising Kalim Arshad Khan Chairman and Rozina Rehman Member, Judicial, Khyber Pakhtunkhwa Service Tribunal, Camp Court D.I.Khan.*



**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR CAMP COURT D.I.KHAN.**

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**  
**ROZINA REHMAN ... MEMBER (Judicial)**

*Service Appeal No.4760/2021*

Mst. **Bilqees** daughter of Mashal Khan r/o Village Masha Mansoor  
Tehsil & District Lakki Marwat, Ex-Caller GGCMS Masha Mansoor  
Lakki Marwat.

.....(Appellant)

Versus

1. Government of Khyber Pakhtunkhwa through Secretary, Elementary &  
Secondary Education, Peshawar.
2. Director (E&SE), Education Department Khyber Pakhtunkhwa,  
Peshawar.
3. District Education Officer(F), Lakki Marwat.

.....(Respondents)

Present:

Sheikh Hukhar Ul Haq,  
Advocate..... For appellant..

Kabirullah Khattak,  
Additional Advocate General..... For respondents.

Date of Institution.....09.04.2021

Dates of Hearing.....28.10.2022

Date of Decision.....28.10.2022

*Service Appeal No.4761/2021*

Farhad Ullah son of Mashal Khan caste Marwat r/o Village Masha  
Mansoor Tehsil & District Lakki Marwat, Ex-Chowkidar GGCMS,  
Masha Mansoor Lakki Marwat.

.....(Appellant)

RECEIVED  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR

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*Service Appeal No. 4761/2021 titled "Mst. Bilqees vs-Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education, Peshawar and others" and connected Appeal No. 4761/2021 titled "Farhad Ullah vs. Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education, Peshawar and others" decided on 28.10.2022 by Division Bench comprising Kalim Arshad Khan, Chairman, and Rozina Noonan, Member, Judicial, Khyber Pakhtunkhwa Service Tribunal, Camp Court D I Khan.*

Versus

1. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Peshawar.
  2. Director (E&SE), Education Department Khyber Pakhtunkhwa, Peshawar.
  3. District Education Officer(F), Lakki Marwat.
- .....(Respondents)

Present:

Sheikh Fikhar Ul Haq  
Advocate..... For appellant.

Kabirullah Khattak,  
Additional Advocate General..... For respondents.

Date of Institution.....09.04.2021  
Dates of Hearing.....28.10.2022  
Date of Decision.....28.10.2022

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

CONSOLIDATED JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Through this single judgment this appeal and the connected Service Appeal No. 4761/2021 titled "Farhad Ullah-vs-Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Peshawar and others", are decided as both are against the same allegations.

2. These appeals are against order dated 30.12.2020, whereby the appellants were removed from service on the allegations that during

TESTED

  
Kalim Arshad Khan  
Chairman  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar



Service No. of No. 198/2021 filed 'Mst. Bilqees vs Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education, Peshawar and others' and connected Appeal No. 4161/2021 filed 'Farhat Ullah vs Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education, Peshawar and others' decided on 28.10.2022 by Division Bench comprising Kalin Arshad Khan, Chairman, and Rozan Rehman Member, Judicial Khyber Pakhtunkhwa Service Tribunal, Camp Court D.I. Khan

surprise visit of GGCMS Masha Mansoor by the DEO(F) accompanied by SDEO (F), Lakki Marwat, the school was found closed and the Caller was also found absent who was stated to be leaving in Peshawar as per report of SDEO (F) Lakki Marwat vide No. 857/SDEOF/LM dated 13.11.2020. Against the impugned order the appellants filed appeals but awaiting ninety waiting period when no reply was received the appellants filed this appeal.

3. It is alleged in the appeal that the appellants were performing duties and in the month of November 2020, due to crucial and critical conditions of Covid-19 the school was closed but even then the appellants performed her duties and remained punctual; that on 18.12.2020, the appellants were present but were marked absent by the respondents because of personal grudges and on political grounds.

4. On receipt of the appeals and admission to full hearing, the respondents were summoned, who, on putting appearance, contested the appeals by filing written reply and while supporting the impugned order submitted that the appellants remained absent that is why they were proceeded against.

5. We have heard learned counsel for the appellants and learned Additional Advocate General for the respondents.

ATTESTED

SECRETARY  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Caller

*Service Appeal No 4761/2021 filed "Mst. Bilquees vs-Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Peshawar and others" and connected Appeal No 4761/2021 filed "Arshad Lillah vs. Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education, Peshawar and others" decided on 28.10.2022 by Division Bench comprising Kalan Arshad Khan, Chairman and Rozina Behman, Member, Judicial, Khyber Pakhtunkhwa Service Tribunal, Camp Court D.I. Khan.*

6. The learned counsel for the appellants reiterated the facts and grounds detailed in the memo and grounds of the appeals while the learned Additional Advocate General controverted the same by supporting the impugned order.

7. In case of absence of a civil servant from the duty, the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 provide a specific provision and procedure for proceeding against such a civil servant and that is Rule-9 of the above rules. Rule-9 is reproduced as under:-

"Notwithstanding anything to the contrary contained in these rules, in case of willful absence from duty by a Government servant for seven or more days, a notice shall be issued by the competent authority through registered acknowledgement on his home address directing him to resume duty within fifteen days of issuance of the notice. If the same is received back as undelivered or no response is received from the absentee within stipulated time, a notice shall be published in at least two leading newspapers directing him to resume duty within fifteen days of the publication of that notice, failing which an ex-parte decision shall be taken against the absentee. On expiry of the stipulated period given in the notice, major penalty of removal from service may be imposed upon such Government servant.

8. The respondents were bound to follow the procedure prescribed and provided in Rule-9 of the rules ibid but it appears that they have not proceeded in accordance with the provisions of the above rules, therefore, the impugned action is not in accordance with the provisions of the above rules and, hence, not sustainable. While allowing these appeals we set

ATTESTED  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar





