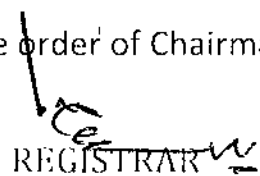


Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 95/2023

S No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	23.02.2023	<p>The execution petition of Mr. Awal Badshah Khattak submitted today by Syed Noman Ali Bukhari 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>

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR.

Execution Petition No. 95 /2023

In

Service Appeal No.1685/2020

Awal Badshah Khattak

V/S

Health Department.


INDEX

S.No.	Documents	Annexure	Page No.
1.	Memo of Execution Petition	-----	01-02
2.	Copy of Judgment dt: 2020-02-22	-A-	03-07
3.	Copy of application dt: 05.01.2023	--B--	08
4.	Vakalat Nama	-----	09

APPLICANT/PETITIONER


Awal Badshah Khattak

THROUGH:


(SYED NOMAN ALI BUKHARI)

Advocate, High Court
Peshawar.

Room No.FR-08, 4th Floor,
Bilour Plaza Peshawar Cantt:
Cell # 03339103

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR.

Execution Petition No. 95 /2023

In

Service Appeal No.1685/2020

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 3790

Dated 23/2/2023

Awal Badshah Khattak, Clinical Technologist BPS-17,
Health Department, Khyber Pakhtunkhwa, Peshawar.

PETITIONER

VERSUS

1. The Chief Secretary to Govt: of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. The Secretary Health Department Govt: of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
3. The Dean Khyber Medical College, Peshawar.
4. The Secretary Finance Department, Govt: of KP Civil Secretariat, Peshawar.

RESPONDENTS

.....
**EXECUTION PETITION FOR DIRECTING THE
RESPONDENTS TO IMPLEMENT THE
JUDGMENT DATED: 19.10.2022 OF THIS
HONORABLE TRIBUNAL IN LETTER AND
SPIRIT.**
.....

RESPECTFULLY SHEWETH:

1. That the applicant/appellant filed Service Appeal No.1685/2020 in this august Tribunal against the order dated 19.10.2022 whereby the appellant was removed from Service.
2. That the said appeal was finally heard by the Honorable Tribunal on 19.10.2022 and the Honorable Tribunal was kind enough to accept the appeal and the appellant is held entitled to his salaries with effect from 01.06.2018 till 17.01.2020 i.e the date of his compulsory retirement. **(Cop y of judgment is attached as Annexure-A).**

3. That the appellant has also filed an application on 05.01.2023 for implementation of judgment but the respondent has not taken any action on the judgment dated 19.10.2022 till date. Copy of application is attached as Annexure-B

4. That in-action and not fulfilling formal requirements by the respondent after passing the judgment of this august Tribunal, is totally illegal amount to disobedience and Contempt of Court.

5. That the judgment is still in the field and has not been suspended or set aside by the Supreme Court of Pakistan, therefore, the respondents are legally bound to pass formal appropriate order.

6. That the petitioner has having no other remedy to file this Execution Petition.

It is, therefore, most humbly prayed that the respondents may be directed to obey the judgment dated 19.10.2022 of this august Tribunal in letter and spirit. Any other remedy, which this august Tribunal deems fit and appropriate that, may also be awarded in favor of applicant/petitioner.

APPLICANT/PETITIONER

Awal Badsah Khattak

THROUGH:

(SYED NOMAN ALI BUKHARI)
Advocate, High Court
Peshawar.

AFFIDAVIT:

It is affirmed and declared that the contents of the above Execution Petition are true and correct to the best of my knowledge and belief and nothing has been concealed from the Hon'able Tribunal.

DEPONENT



A 3



BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 1685/2020

Mr. Awaf Badshah Khattak, Clinical Technologist (BPS-17),
Health Department, Khyber Pakhtunkhwa, Peshawar.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1862

Dated 13/3/2020

(Appellant)

VERSUS

1. The Chief Secretary to Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. The Secretary Health Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
3. The Dean Khyber Medical College, Peshawar.
4. The Secretary Finance, Govt: of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.

(Respondents)

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 26.06.2018 & AGAINST NOT TAKING ANY ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDER DATED 26.06.2018 MAY BE SET-ASIDE BEING ILLEGAL AND PASSED BY INCOMPETENT AUTHORITY THE RESPONDENTS MAY FURTHER BE DIRECTED TO PAY MONTHLY SALARIES TO THE APPELLANT WITH EFFECT FROM 1/06/2018 TILL DATE BEING ON THE STRENGTH OF DEPARTMENT AND PERFORMED DUTY. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.


RESPECTFULLY SHEWETH:

FACTS:

filed-to-day

Registrar
13/03/2020

ATTESTED


Registrar
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR.

Service Appeal No: 1685/2020

Date of Institution ... 13.03.2020

Date of Decision ... 19.10.2022



Awal Badshah Khattak, Clinical Technologist (BPS-17), Health Department,
Khyber Pakhtunkhwa, Peshawar.

(Appellant)

VERSUS

The Chief Secretary to Government of Khyber Pakhtunkhwa, Civil
Secretariat, Peshawar and 03 others.

(Respondents)

SYED NOMAN ALI BUKHARI,
Advocate

For appellant.

MR. ASIF MASOOD ALI SHAH,
Deputy District Attorney

For respondents.

SALAH-UD-DIN
MIAN MUHAMMAD

MEMBER (JUDICIAL)
MEMBER (EXECUTIVE)

JUDGMENT:

SALAH-UD-DIN, MEMBER:- Briefly stated the
averments as raised by the appellant in his appeal are that he
was performing his duty as Clinical Technologist (BPS-17) in
the department of Pharmacology in Khyber Medical College
Peshawar; that vide order dated 26.06.2018 issued by Dean
Khyber Medical College Peshawar, the salary of the appellant
was stopped with immediate effect; that vide order dated

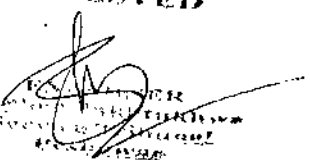
ATTESTED

Member (Executive)
Services Tribunal
Peshawar

15.08.2018 issued by Dean Khyber Medical College Peshawar, the appellant was relieved from his duty and was directed to report to the Health Department Government of Khyber Pakhtunkhwa Peshawar for further posting; that the appellant thus submitted his arrival report to the Director General Health Services Khyber Pakhtunkhwa Peshawar on 27.08.2018; that vide letter dated 24.09.2018, communicated to the appellant on 08.10.2018, he was directed to submit arrival report to the Health Department Government of Khyber Pakhtunkhwa Peshawar, therefore, the appellant submitted his arrival report to Secretary to Government of Khyber Pakhtunkhwa Health Department on 15.10.2018; that the appellant was on the strength of the department and was performing his duty till 06.03.2019 but no salary was paid to the appellant; that vide order dated 06.03.2019, the appellant was suspended for a period of 90 days on account of misconduct, however no salary was still being paid to the appellant, therefore, he filed departmental appeal but the same was not responded within the statutory period, constraining the appellant to file the instant service appeal.

2. Notices were issued to the respondents, who submitted their comments, wherein they refuted the assertions raised by the appellant in his appeal.
3. Learned counsel for the appellant has addressed his arguments supporting the grounds agitated by the appellant in

ATTESTED


 Director General Health Services
 Khyber Pakhtunkhwa Peshawar


his service appeal. On the other hand, learned Deputy District Attorney has controverted the arguments of learned counsel for the appellant and has supported the comments submitted by the respondents.

4. We have heard the arguments of learned counsel for the parties and have perused the record.

5. A perusal of the record would show that vide order dated 26.06.2018, the pay of the appellant was stopped with immediate effect on account of production of fake findings/order of the Provincial Ombudsman, whereby Dean Khyber Medical College Peshawar was advised to release salaries of the appellant. It is pertinent to mention herein that disciplinary action was taken against the appellant on the allegations of willful absence as well as production of forged findings/order of the Provincial Ombudsman, which resulted in his removal from service vide order dated 17.01.2020, however his Service Appeal No. 8817/2020 has been partially allowed by this Tribunal and the penalty of removal from service has been converted into compulsory retirement from service.

6. While passing the removal order of the appellant from service on 17.01.2020, the competent Authority did not mention anything regarding the period with effect from 26.06.2018 till 17.01.2020 i.e the period during which no pay has been paid to the appellant. Admittedly, the appellant was an employee of the

ATTESTED

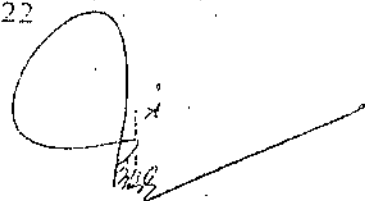

CHIEF CLERK
Service Tribunal
Peshawar


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health department till his removal from service on 17.01.2020 and would be entitled to his salary for the said period..

7. Consequently, the appeal in hand is allowed and the appellent is held entitled to his salaries with effect from 01.06.2018 till 17.01.2020 i.e the date of his compulsory retirement. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
19.10.2022


(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

Certified to be true copy
E.A. KHAN
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of presentation of App'ntion 21/12/22
Number of Words 2000
Copies 2/0
Charges 5/-
Total 26/-
Date of Delivery of Copy 21-12-22
Date of Delivery of Copy 21-12-22

B 8

Dairy No. 4988
Date. 5-1-23
Health Department

To

The Secretary to Government,
Health Deptt, KP

10
9/1/2023

Subject: **APPEAL / APPLICATION REGARDING PAYMENT OF SALARIES.**

Respected Sir,

With humble approach I have the honor to submit my appeal as cited in the subject above on following ground of facts.

1. That as per the acceptance of my appeal No. 1685/2020 dated 13/03/2020 I have the arrears of my salaries for the period of w.e.f 01/06/2018 to 17/01/2020 (copy attached an annexure A).
2. That I have also not received my salaries for the period of 02/01/2015 to 01/07/2015 as I was on medical leaves (indoor / outdoor treatment at HMC). The Khyber Medical College has not paid me salaries for the period of my medical leaves.
3. That I also request for fixation of my pay for 2018, 2019 and 2020.

Keeping in view the above mentioned facts and figures. It is requested that kindly consider my appeal sympathetically.

Dated 9/1/2023

Your Obedient
Awal Bad Shah
ex. medical Technologist
BP-17 KMC Health Department KPK
Cell No 0332-1920408

بجذالت

کے پی سروس ٹریڈنگ سول سول

امل بار شاہ شنگد 2ء منجانب

بنام

گورنمنٹ آف کے سی

موزخ

مقدمہ

دعویٰ

جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے بیروی و جواب دہی وکل کاروائی متعلقہ

آن مقام سپریمور کیلئے سپریمور میں اعلیٰ ساری

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز

وکیل صاحب کو راضی نامہ کرنے ق تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور

بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق

زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم بیروی یا ڈگری کی طرف یا اپیل کی برآمدگی

اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و بیروی کرنے کا محتاج ہوگا۔ از بصورت ضرورت

مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے

تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکور با اختیارات حاصل ہوں گے

اور اس کا ساختہ پر داخہ منظور قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ ہوں گے

سبب سے دہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔

کہ بیروی مذکور کریں۔ لہذا کالات نامہ لکھ دیا کہ سند ہے۔

ماہ

المرقوم

العبد العواہ العبد

Mestel
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