

Form- A  
FORM OF ORDER SHEET

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

Emlementation Petition No. 167/2023

S.No.

Date of order proceedings

Order or other proceedings with signature of judge

3

15.03.2023

The execution petition Mr. Ahmad Jan submitted today by Mr. Noor Muhammad 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.

By the order of Chairman

  
REGISTRAR

AAG

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Implementation Petition No. 167 /2023

In

Appeal No.949/2019

**AHMAD JAN**

**VS**

**GOVT OF KPK & OTHERS**

**INDEX**

| S. NO. | DOCUMENTS                              | ANNEXURE | PAGE  |
|--------|--|----------|-------|
| 1.     | Implementation Petition with Affidavit | .....)   | 1 - 2 |
| 2.     | Judgment/Order dated 05.07.2021        | "A"      | 3 - 7 |
| 3.     | Application                            | "B"      | 8     |
| 4.     | Vakalatnama                            |          | 9     |

**PETITIONER**

**THROUGH:**

  
**NOOR MUHAMMAD KHATTAK  
ADVOCATE SUPREME COURT**

-1-

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

**Implementation Petition No. \_\_\_\_\_/2023**

**In**

**Appeal No.949/2019**

Ahmad Jan P.S.T (BPS-12) GPS Wais Arang District Bajaur

.....**PETITIONER**

**VERSUS**

- 1- The Secretary Education (E&SE) Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar
- 2- The Director Education (E&SE), Government of Khyber Pakhtunkhwa, Peshawar.
- 3- The District Education Officer, District Bajaur.

.....**RESPONDENTS**

**IMPLEMENTATION PETITION FOR DIRECTING THE  
RESPONDENTS TO OBEY THE JUDGMENT DATED 05.07.2021  
IN LETTER AND SPIRIT.**

**R/SHEWETH:**

- 1- That the applicant/petitioner filed Service Appeal bearing No.949/2019 before this August Service Tribunal for re-instatement into service with all back benefit.
- 2- That the appeals of the applicant/petitioner was heard and the appellate authority is directed as follows;  
***"For the reasons recorded herein above, the impugned order dated 21.04.2016 stands set aside. Appellant is reinstated in service with all back benefits. Parties are left to bear their own costs. File be consigned to record room."*** Copy of the judgment dated 05-07-2021 is attached as annexure .....**A.**

- 3- That after obtaining copy of the judgment dated 05-07-2021, the appellant submitted the judgment mentioned above and applications for its implementation to the department concerned but the respondent department is not willing to obey the judgment dated 05-07-2021 in letter and spirit. Copy of the Applications are attached as Annexure .....B.
- 4- That the appellant has no other remedy but to file this implementation petition.

It is therefore, most humbly prayed that the respondents may be directed to implement the order dated 05-07-2021 in letter and spirit. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the petitioner.

Dated: 13/3/2023

THROUGH:

*A Jan*  
**APPLICANT/PETITIONER**  
**AHMAD JAN**

*↑*  
**NOOR MOHAMMAD KHATTAK**  
**ADVOCATE SUPREME COURT**

*W Adnan*  
**WALEED ADNAN**

*K*  
**KAMRAN KHAN**

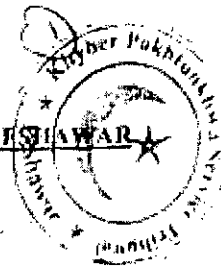
*U Farooq*  
**UMAR FAROOQ MOHMAND**  
 & *A Ghilzai*  
**AYUB KHAN GHILZAI**  
**ADVOCATES HIGH COURT**

**AFFIDAVIT**

I Mr. Ahmad Jan, do hereby solemnly affirm that the contents of this **Implementation Petition** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

*A Jan*  
**DEPONENT**

"A" -3-



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 949 /2019

Ahmad Jan PST BPS 12; Govt Primary School, Wala Arang Tehsil Ummankhel S/O Bakht Jan R/o Ghazi Baba Tehsil Ummankhel -----Appellant

Khyber Pakhtunkhwa Service Tribunal

over the court  
24/11/19

VERSUS

Secretary to Govt. of KP, E & SE Department, Peshawar.

Case No. 1017

1. ~~The Secretary to Govt. of KP, E & SE Department, Peshawar.~~

Dated: 19/7/19

2. The Director Elementary and Secondary Education Kpk Peshawar

3. The Deputy Commissioner/ the then (Political Agent) Tribal District Bajour at Khur

4. ~~The Agencies Education Officer Bajour at Khur~~ ----- Respondents

over the court  
24/11/19

4. District Education Officer Bajour at Khur

**SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ORDER DATED 21/04/2016 WHEREBY THE APPELLANT WAS REMOVED/TERMINATED FROM SERVICE.**

Filed to the  
Registrar  
19/7/19

PRAYER:

ON ACCEPTANCE OF THE INSTANT APPEAL, THE IMPUGNED office ORDER DATED 21/04/2016 MAY GRACIOUSLY BE SET ASIDE AND APPELLANT BE REINSTATE IN SERVICE WITH ALL BACK BENEFITS.

ANY OTHER ADQUATE REMEDY WHICH IS NOT SPECIFICALLY ASKED FOR TO WHICH THE APPELLANT IS DEMEED FIT MAY ALSO BE GRANTED

RESPECTFULLY SHEWETH,

Fact giving rise to the present appeal are as under:-

1. That the appellant was appointed as P T C Teacher in Education department on dated 01/09/1999 And during his service the appellant performed his duty with great zeal and punctuality. ( copy of appointment is annex "A")

2. That on 04/02/2015, the Government Agencies taken the appellant into custody and illegally confinement the appellant and later on the appellant was handed over to the Bajour Scout Authorities where the appellant was kept in illegal custody till

ATTESTED

Registrar  
19/7/19

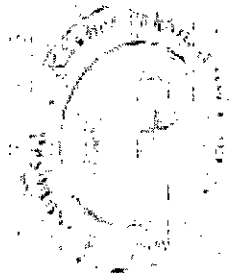
-4-

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 949/2019

Date of Institution ... 19.07.2019

Date of Decision ... 05.07.2021



Ahmad Jan P.S.T (B.P.S-12); Government Primary School, Walai Arang Tehsil Utmankhel S/O Bakhti Jan R/O Ghazi Baba Tehsil Utmankhel.

(Appellant)

VERSUS

Secretary to Government of Khyber Pakhtunkhwa Elementary & Secondary Education Department, Peshawar and three others.

(Respondents)

Hamad Hussain,  
Advocate

For appellant.

Muhammad Adeel Butt,  
Additional Advocate General

For respondents.

AHMAD SULTAN TAREEN  
ROZINA REHMAN

CHAIRMAN  
MEMBER (J)

JUDGMENT

ROZINA REHMAN, MEMBER: Facts gleaned out from the memorandum of appeal are that appellant was appointed as P.T.C in Education Department on 01.09.1999. He was taken into custody by the Government Agencies on 04.02.2015 and was later on handed over to the Bajaur Scout Authorities where he was kept in illegal

8  
25/7/19

ATTESTED

CHIEF CLERK

custody till 03.07.2018. He was removed from service by the Political Agent/Deputy Commissioner, Bajaur vide impugned order dated 21.04.2016 during his illegal confinement. He filed Writ Petition before Hon'ble Peshawar High Court, Peshawar which was allowed and appellant was released by the Jail authorities. After release from the Jail, when reached to Government Primary School, Walai Arang Tehsil Utmankhel in order to resume duty, appellant was informed about the removal/termination from service. He filed departmental appeal which was not responded to within stipulated period, hence, he filed the instant service appeal.

2. Learned counsel for appellant contended that the impugned order is against law and facts as appellant was not provided with fair opportunity of defense. He contended that the removal of appellant from service was on the score of absence and his absence was not willful but due to the compelling circumstances. He submitted that absence does not constitute any misconduct as the same was not willful rather he was kept by the Law Enforcement Agencies in illegal confinement and he was released on the directions of Hon'ble Peshawar High Court, Peshawar and lastly, he submitted that major penalty was awarded to the appellant when he was in illegal confinement which confinement was declared illegal and unlawful by the Hon'ble Peshawar High Court, Peshawar.

05/7/19

3. Conversely, learned A.A.G submitted that appellant was apprehended by the L.E.As on the allegations of directly/indirectly involvement in miscreants activities in Bajaur. That he was

ATTESTED

SECRETARY

interrogated by the L.E.A,s and graded as Black for the subversive activities and was handed over to the then District Administration Bajaur for awarding punishment of 21 years imprisonment under the Action in Aid of Civil Power Regulation, 2011 and F.C.R. He further submitted that since F.C.R was repealed with I.G.R which was suspended by the Hon'ble Peshawar High Court, Peshawar , therefore, the appellant was kept as "Amanat" of L.E.A,s in the lockup. He submitted that proper show cause notice for absence of the appellant was published in daily newspapers and that a reply to show cause notice was received from the son of appellant. He, therefore, requested for dismissal of instant appeal.

4. Admittedly, appellant was taken into custody by the Government Agencies on 04.02.2015. His relatives moved several applications before different fora to know his whereabouts but to no avail. The respondents in their parawise comments have categorically admitted that appellant was apprehended by H.Q Scouts on 06.02.2.2015 and declared "Black" by J.I.T due to his involvement in terrorist activities. It is also on record that appellant was recommended 21 years imprisonment under multiple charges action in Aid of Civil War and he alongwith other detenues ere handed over to the Deputy Commissioner Bajaur for awarding recommended punishment. A Writ Petition was filed in the august Peshawar High Court, Peshawar, wherein, the recommended punishment was requested to be declared as illegal and vide order dated 27.02.2019 of the Hon'ble Peshawar High Court, Peshawar, Writ Petition was

*[Handwritten signature]*  
05/7/19


TESTED  
*[Handwritten signature]*



allowed and respondents were directed to release appellant/detainee forthwith. Admittedly, he remained in illegal confinement from 04.02.2015 till 27.02.2019, whereas, the impugned order was passed on 21.04.2016 by the then Political Agent Bajaur vide which major penalty of removal from service was imposed upon the appellant. It merits to mention here that show cause notice was issued by the Political Agent on 03.02.2016. Appellant's son submitted reply of show cause notice and informed the authority regarding illegal confinement of the appellant which fact has been admitted by the Political Agent Bajaur in his letter addressed to the Commandant Bajaur Scouts at Khar dated 24.03.2016. In response to the above-mentioned letter of the Political Agent, a letter was sent by the Commandant Scouts Bajaur to the Political Agent regarding verification of Ahmad Jan and his apprehension by the Headquarter Bajaur Scouts, was admitted on 6<sup>th</sup> February, 2015. Despite knowledge regarding the illegal confinement of the appellant by the competent authority i.e. Political Agent, Bajaur, impugned order was passed.

5. For the reasons recorded herein above, the impugned order dated 21.04.2016 stands set aside. 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  
05.07.2021

  
A25 (Bin Tareen)  
Member (E)  
MERA  
Certified to be true copy

  
(Rozina Rehman)  
Member (J)

**BEFORE THE HON'BLE DISTRICT EDUCATION OFFICER**  
**DISTRICT BAJAUR AT KHAR COLONY.**

"B" -8-

Sub:-

**Application for swiftly Constituting DPC for the promotion of the Applicant From BPS-12 to BPS-14, 15, etc., Preparing Service-Book, starting the running salary of January and preparing the Bills of former salaries w.e.f May, 2013 till date as early as possible.**

The applicant respectfully submits as under:-

- 1) That the apex Court Khyber Pukhtun Khwa Service Tribunal has re-instated the applicant through his Appeal No. 949/2018 on his post w.e.f. the date of termination with all back benefits on 05-7-2021.
  - 2) That this worthy DEO has re-instated the applicant on dated 28-8-2021 in the pursuance of the court verdict as mentioned above in Para No.1. and the applicant has taken charge of his duty and has resumed his duty since 30-8-2021.
  - 3) That the applicant during performing his duty cannot attend this office daily for the said purpose because the precious time of the children of the nation may not be wasted.
  - 4) That this worthy office is law-bound and has full and complete jurisdiction to entertain upon this application in the best interest of public and justice.
  - 5) That this worthy office has vast powers to accept this instant application and there is no legal bar on the acceptance of this instant application and it is the legal and fundamental right of the applicant.
- (Copies of Service-Book and CV are annexed)**

**PRAYER:-**

It is therefore humbly prayed that on the acceptance of this instant application, this Hon'ble office may be please to issue his kind orders in this regard without wasting any time more in the best interest of public, law and justice.

*Nawabzade*  
*Dr. do the needful*  
*[Signature]*  
*3/1/2022*

Applicant:-  
Ahmad Jan PST, GPS Wais Arang  
District Bajawar.  
(Cell No.03469807352)

Dated:- 13/12/2021.



*DEO [Signature]*  
*File per rule for D.O.*  
*[Signature]*

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

*Implementation*

APPEAL NO: 2023 OF 2023

Ahmad Jan

(APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

**VERSUS**

Govt Deptt:

(RESPONDENT)  
(DEFENDANT)

I/We Appellant

Do hereby appoint and constitute **Noor Mohammad Khattak Advocate Supreme Court** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated.      /      / 2023

*[Signature]*  
**CLIENT**

**ACCEPTED**

**NOOR MOHAMMAD KHATTAK**  
**ADVOCATE SUPREME COURT**  
(BC-10-0853)  
(15401-0705985-5)

*[Signature]*  
**KAMRAN KHAN**

*[Signature]*  
**UMAR FAROOQ MOHMAND**

*[Signature]*  
**WALEED ADNAN**

**&**

*[Signature]*  
**MUHAMMAD AYUB**  
**ADVOCATES**

**OFFICE:**  
Flat No. (TF) 291-292 3<sup>rd</sup> Floor,  
Deans Trade Centre, Peshawar Cantt.  
(0311-9314232)