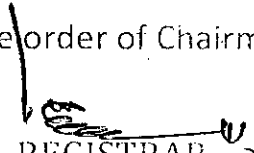


Form-A

FORM OF ORDER SHEET

Court of _____

Emlementation Petition No. 175/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	17.03.2023	<p>The execution petition Mst. Shakeela Naz submitted today by Mr. Riaz Ahmad 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 style="text-align: right;">By the order of Chairman  REGISTRAR</p>

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

CHECK LIST

Case Title: Shakeel Ahmad vs DHO Charsadda

S#	CONTENTS	YES	NO
1	This Appeal has been presented by:		
2	Whether Counsel/Appellant/Respondent/Deponent have signed the requisite documents?		
3	Whether appeal is within time?		
4	Whether the enactment under which the appeal is filed mentioned?		
5	Whether the enactment under which the appeal is filed is correct?		
6	Whether affidavit is appended?	✓	
7	Whether affidavit is duly attested by competent Oath Commissioner?	✓	
8	Whether appeal/annexures are properly paged?	✓	
9	Whether certificate regarding filing any earlier appeal on the subject, furnished?		
10	Whether annexures are legible?	✓	
11	Whether annexures are attested?	✓	
12	Whether copies of annexures are readable/clear?	✓	
13	Whether copy of appeal is delivered to AG/DAG?		
14	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?		
15	Whether numbers of referred cases given are correct?		
16	Whether appeal contains cutting/overwriting?		
17	Whether list of books has been provided at the end of the appeal?		
18	Whether case relate to this court?	✓	
19	Whether requisite number of spare copies attached?	✓	
20	Whether complete spare copy is filed in separate file cover?	✓	
21	Whether addresses of parties given are complete?	✓	
22	Whether index filed?	✓	
23	Whether index is correct?		
24	Whether Security and Process Fee deposited? On	✓	✓
25	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On		
26	Whether copies of comments/reply/rejoinder submitted? On		
27	Whether copies of comments/reply/rejoinder provided to opposite party? On		

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name: Rizwan
 Signature: Rizwan
 Dated: 16/03/2023

BEFORE THE KHYBER PAKHTOONKHWA SERVICE TRIBUNAL
PESHAWAR

Execution Petition No. 175 /2023

In appeal No. 8826/2020

Mst. Shakeela Naz Petitioner

VERSUS

District Health Officer, Charsadda and another..... Respondents

INDEX

S.No.	Description of documents	Annexure	Pages
1	Execution Petition with affidavit		1-3
2.	Memo of Addresses		4
3.	Copy of the judgment / order	A	5-9
4.	Copy of reinstatement and arrival report	B	10-11
5.	Copy of the order for inquiry	C	12
6.	Application for report of inquiry	D	13
7.	Wakalatnama		

Dated ____/03/2023

Applicant

Through

Riaz Ahmad

Riaz Ahmad

(Advocate High Court)

Cell No. 0303 8238839

(1)

BEFORE THE KHYBER PAKHTOONKHWA SERVICE TRIBUNAL
PESHAWAR

Execution Petition No. 175 /2023

In appeal No. 8826/2020

Khyber Pakhtunkhwa
Service Tribunal
Diary No. 4459
Dated 17/3/2023

Mst. Shakeela Naz W/O Saeed Ullah R/O Qazi Khail Jadeed Bela Koroona,
by pass Road, District Charsadda Petitioner

VERSUS

1. District Health Officer, Charsadda.
2. Provincial Coordinator (LHW) Program) Directorate General, Health Services (Integrated Health Project) Secretariat Peshawar.

..... Respondents

Application for execution of judgment in appeal No. 8826
/2020 for the grant of arrears of salary and other fringe
benefits to the applicant.

Respectfully Sheweth;

1. That the applicant had been terminated on untenable and conceived grounds by the respondents, and her appeal from the order of her dismissal dated 17/10/2019 for reinstatement and back benefits was allowed by this Hon'ble Tribunal vide the order / judgment dated 13/10/2022, but her back benefits were subject to the outcome of inquiry regarding absence period.
(Copy of the order / judgment is enclosed as Annex-A)
2. That the applicant was reinstated by the respondent No. 1 in compliance with the judgment of this Hon'ble Tribunal vide the order dated 06/12/2022, and the applicant reported arrival for duty on 27/10/2023.
(Copy of the order and arrival are enclosed herewith as Annex-B)
3. That the in the said judgment this Hon'ble Tribunal had directed the respondents to conduct proper inquiry in accordance with the relevant rules within 60 days of the receipt of the judgment as the matter of back benefits was subject to the outcome of inquiry.
4. That the respondent No. 1 vide the order dated 02/11/2022 constituted an inquiry committee to conduct detailed inquiry regarding termination of the applicant from service but as stipulated in the esteemed judgment that the inquiry be conducted within 60

(2)

days of the receipt, no outcome of the inquiry has ensued so far, which is non compliance with and violation of the direction given to them.

(Copy of the order is enclosed herewith as Annex- C)

5. That the applicant has also filed an application dated 18/01/2023 for the report of inquiry but to no avail.

(Copy of the application is enclosed herewith as Annex-D)

6. That the applicant, had never been absent from her duties, is entitled to back benefits as the respondents also have failed to comply with the direction in the judgment.

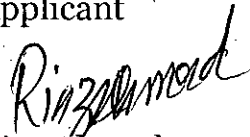
In view of the above submissions it is prayed that the instant application of the applicant for the grant of back benefits by means of execution of the judgment may accepted, please.

Dated ____/03/2023



Applicant

Through



Riaz Ahmad

(Advocate High Court)

(3)

BEFORE THE KHYBER PAKHTOONKHWA SERVICE TRIBUNAL
PESHAWAR

Execution Petition No. _____/2023

In appeal No. 8826/2020

Mst. Shakeela Naz Petitioner

VERSUS

District Health Officer, Charsadda and another..... Respondents

AFFIDAVIT

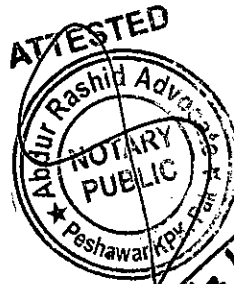
I, Mst. Shakeela Naz W/O Saeed Ullah R/O Qazi Khail Jadeed Bela Koroon, by pass Road, District Charsadda, Petitioner, do hereby solemnly affirm and declare that the contents of the instant application are true and correct, and nothing has been concealed from this Hon'ble Court.

DEPONENT


Shakeela Naz

NIC No. 17101-5857419-6

Identified by
Riaz Ahmad
RIAZ AHMAD



17/3/2023

(4)

BEFORE THE KHYBER PAKHTOONKHWA SERVICE TRIBUNAL
PESHAWAR

Execution Petition No. _____/2023

In appeal No. 8826/2020

Mst. Shakeela Naz Petitioner

VERSUS

District Health Officer, Charsadda and another..... Respondents

MEMO OF ADDRESSES

PETITIONER

Mst. Shakeela Naz W/O Saeed Ullah R/O Qazi Khail Jadeed Bela Koroon, by pass Road, District Charsadda

RESPONDENTS

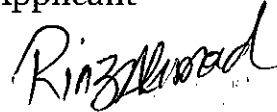
1. District Health Officer, Near District Hospital Charsadda.
2. Provincial Coordinator (LHW) Program) Directorate General, Health Services (Integrated Health Project) Secretariat Peshawar.

Dated _____/03/2023



Applicant

Through



Riaz Ahmad

(Advocate High Court)

(5)

SCANNED
KPST
Peshawar

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



Service Appeal No. 8826/2020

BEFORE: SALAH UD DIN --- MEMBER(J)
MIAN MUHAMMAD --- MEMBER(E)

**Mst. Shakeela Naz W/o Saqad Ullah R/o Landey Bazar,
Prang, District Charsadda, (Ex-LHW B-5 attached to MCH
Charsadda)..... (Appellant)**

VERSUS

1. District Health Officer Charsadda.
2. Provincial Coordinator (LHW Program) Directorate General Health Services (Integrated Health Project), Secretariat Peshawar, Khyber Pakhtunkhwa..... (**Respondents**)

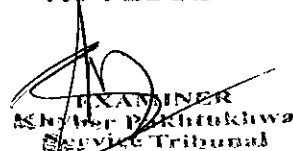
Present:

RIAZ AHMAD,
Advocate --- For Appellant.

KABIRULLAH KHATTAK,
Additional Advocate General --- For respondents.

Date of Institution.....23.07.2020
Date of Hearing.....12.10.2022
Date of Decision.....13.10.2022

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

JUDGEMENT.

MIAN MUHAMMAD, MEMBER(E):- The instant service appeal has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 with the prayer that “on acceptance of the instant service appeal the Honourable Tribunal would be pleased to set aside both the impugned orders and reinstate the appellant in her services with all back benefits.”

02. Brief facts, as per memorandum of appeal, are that the appellant was appointed as Lady Health Worker (LHW) in 2002 and later on her services were regularized alongwith others vide Notification dated 24.09.2014. The appellant was imposed the major penalty of dismissed from service vide impugned order dated 17.10.2019. Feeling aggrieved, the appellant preferred department appeal on 05.03.2020 which was rejected on 13.07.2020. Thereafter, the appellant filed the instant service appeal on 23.07.2020.

03. On admission of the service appeal in preliminary hearing on 18.09.2020, the respondents were put on notice to submit written defence through reply/para-wise comments. Reply/Parawise comments were submitted on 05.01.2021. We have heard learned counsel for the appellant as well as learned Additional Advocate General for the respondents and gone through the record with their assistance.

04. Learned counsel for the appellant contended that the appellant was penalized vide impugned order dated 17.10.2019 on the allegation of absence from duty but all of a sudden it was converted in the allegation of poor performance. The charge of absence against the appellant had never been proved and no specific period of absence mentioned by the respondents. It was further argued that being a regular civil servant, the appellant has not been associated with the inquiry proceedings, if any, and she has been condemned unheard. The penalty was imposed on the

ATTESTED

EXAMINER
K. M. P. K. K. K. K. K.
Service Tribunal
Pune

back of appellant because no proper inquiry was ever conducted with issuance of a charge sheet/statement of allegations to be served on the appellant. No Show Cause Notice had been served on the appellant before imposition of the penalty and no opportunity of personal hearing was afforded to the appellant. The major penalty of dismissal from service was imposed against the spirit and principles laid down in plethora of judgments rendered by the august Supreme Court of Pakistan. The golden principles of fair trial and due process have not been followed. He requested that the impugned orders may therefore, be set aside and the appellant may kindly be reinstated in service with all back benefits.

05. Learned Additional Advocate General on the other hand, raised preliminary objection on maintainability of the service appeal on the ground that departmental appeal was filed by the appellant after one year of the impugned order and when departmental appeal is time barred then the subsequent service appeal shall also be considered as time barred. Moreso, no application has been submitted with the service appeal for condonation of the delay. He further contended that the appellant was not performing her duty being non-resident of the catchment area in utter violation of the guidelines contained in the programme policy. This fact has been established when her colleague submitted a report on 03.09.2019 intimating that the appellant was not performing the duty during Polio Vaccination



ATTESTED

EXAMINER
Hyderabad
Service Tribunal
Kashmir

Campaign. It was further argued that the appellant had also been involved in dual job with Chip Training & Consulting (CTC) Pvt Ltd. Despite all these, the appellant had previously been reinstated in service on submission of an affidavit to the effect that she would be punctual in performing her duty in future. The appellant has also been issued explanations on various occasions as per record submitted by the respondent department but she did not even bother to submit reply to the explanations. The appeal being devoid of merits may be dismissed, he concluded.

06. Perusal of the record reveals that the services of appellant have been regularized as LHW (District Charsadda) with effect from 15.03.2002 under the Khyber Pakhtunkhwa Regulation of Lady Health Workers Programme and Employees (Regularization and Standardization) Act 2014, vide order dated 24.09.2014. It is evident as an allegation from the impugned order of respondent No. 1 dated 17.10.2019 that two colleagues of the appellant reported that she was absent from duty since her reinstatement i.e. 01.07.2019 without information/permission from the competent authority. But she was dismissed from service on account of "poor performance". It is also a matter of the record that explanations of the appellant on account of absence from duty, had been called on 13.08.2018, 30.01.2019 and 28.03.2019 whereafter the department was obligated to have initiated disciplinary proceedings against the appellant. We also enquired about the charge sheet to have been served on the



ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

appellant and proceedings of the enquiry as well as enquiry report to have been conducted against the appellant but no such documentary evidence was available with the respondent department to be produced in support of the impugned order.

07. As a sequel to the above, we have arrived at the conclusion that the appellant has not been treated in accordance with law, rules and norms of natural justice. She has been condemned unheard without providing opportunity of self defence. The Tribunal is constrained to interfere with the impugned orders. The appellant is reinstated in service and the case is remitted to the respondent department with the direction to conduct proper inquiry strictly in accordance with the relevant rules within 60 days of receipt of the copy of judgement. The matter of back benefits shall be subject to the outcome of enquiry. Parties are left to bear their own costs. File be consigned to record room.

08. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal this 13th day of October, 2022.*

(MIAN MUHAMMAD)
MEMBER (E)

(SALAH UD DIN)
MEMBER (J)

Date of Presentation of Application 17-10-22
Number of Words 2000
Copying Fee 22/-
Urgent ✓
Total 22/-
Name of Copytext ✓
Date of Completion of Copy 26-10-22
Date of Delivery of Copy 26-10-22

Certified to be true copy
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar



10

OFFICE OF THE
DISTRICT HEALTH OFFICER
CHARSADDA

OFFICE ORDER

In pursuance of Khyber Pakhtunkhwa Service Tribunal decision in service appeal No. 8826/2020 Dated 13/10/2022, Mst. Shakeela Naz LHW is hereby reinstated with immediate effect.


Furthermore, in the light of enquiry report she is not entitled to get back benefits.

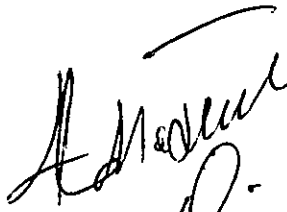
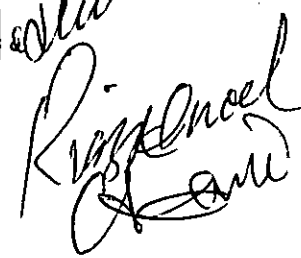
District Health Officer
Charsadda

No. 10952-58 DHO.
Copy to:

Dated Charsadda the 6/12/2022

1. Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar
 2. Secretary Health Govt of Khyber Pakhtunkhwa Peshawar
 3. Director General Health Services Khyber Pakhtunkhwa Peshawar
 4. Coordinator LHW Program Charsadda
 5. DAO Charsadda
 6. Accounts section this office
 - ✓ 7. Shakeela Naz LHW
- For information and compliance.


District Health Officer
Charsadda



OFFICE OF THE
DISTRICT HEALTH OFFICER
CHARSADDA

OFFICE ORDER

In pursuance of Khyber Pakhtunkhwa Service Tribunal Judgement Dated 13/10/2022 in service appeal No. 8826/2020 titled Mrs. Shakeela Naz vs District Health Officer Charsadda & others, the following officers of this office are hereby nominated as enquiry officers to conduct detail enquiry regarding her termination from service and submit fact finding enquiry within 14 days to proceed further in the matter.

1. Dr. Masood Khan LHW Coordinator
2. Dr. Jalal ud Din Public Health Coordinator

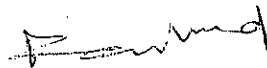
District Health Officer
Charsadda

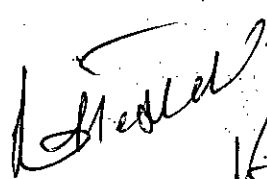
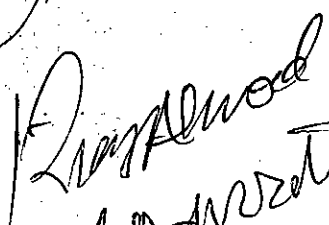
Dated 2/11/2022

NO 9753-64/DHO Charsadda

Copy to:

1. Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar
2. Secretary Health Govt of Khyber Pakhtunkhwa Peshawar
3. Director General Health Services Khyber Pakhtunkhwa Peshawar
4. Enquiry Officer
5. Litigation Officer this office
6. Mrs. Shakeela Naz Ex LHW
For information and compliance.


District Health Officer
Charsadda



Charsadda

خلیفہ عالی

7/10/2022 کے لئے، کارڈ برائے ریٹائرمنٹ کے لئے BACK BENEFIT

گزارش پیش کی ہے۔ کہ سائل ایک زیر سپاؤسڈ

خیل جی بی بی کے لئے، لیڈ سیکرٹری (L.H.W) کے پاس، یہ نشان ہے۔

سائل کو اب صحت میں معزز عدالت کے دروس ٹریبلون کے طور پر

13¹⁰ 2022 کے لئے، روٹھ میں دوبارہ شروع کر کے، یہ حال کر رہا ہے۔ جس کے

کے آرڈر کے حوالے سے رقم 10952-58/2410 کے لئے، 06¹² 2022 کے لئے، جس کے

Back Benefit نہ دینے کے متعلق ہے۔ جو سائل سیکرٹری کے

زیادہ ہے۔

خلیفہ عالی، گزارش پیش کی ہے۔ کہ سائل کے اوپر جو بنیاد الزامات لگائے

و معزز عدالت میں قیام ثابت ہوگا۔ اس لئے سائل کو معزز عدالت کے

کر رہا۔ اور اس وقت کے سائل کو زیادہ کر کے کہ مجھے اب صحت کے

ظاہر نامہ لیکچر شو کاز (Show course) لیکچر سپینشن (Suspension) کے

Report کے لئے، نہ دینے کے لئے، جس کو سائل کے دروس سے ختم کر دیا گیا ہے۔

سے صوبہ کے دروس کے تین سال قبل لگائے۔ جبکہ صوبہ کے زیادہ نہیں

خلیفہ عالی، سائل ایک دفعہ 17 ستمبر کے لئے سیکرٹری کے

پر تعلق رکھتا ہے۔ سائل کے پتے پر ہیں۔ جو کہ پورٹو

سکول کے طالب علم ہیں۔ اس لئے ان کے لئے درخواست کے

تعلق کے درخواست پر درج شدہ کرنا کتنا مشکل ہیں۔ اس لئے

اور کوئی پتہ کے درخواست پر درج شدہ کرنا کے لئے سائل کے

سائل کے لئے ہیں۔ جو کہ سائل کے لئے زیادہ ہے۔

Signature
D. S. D.
C. S.

P.T.O

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17 = 30 ¹² / 2022



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Handwritten text in Arabic script, possibly a list or notes.

Handwritten text in Arabic script, possibly a date or signature.

قیمت 50 روپے	60347			
ایڈویکیٹ: <i>ریاضی</i>		پشاور بار ایسوسی ایشن، خیبر پختونخواہ		
بار کونسل/ ایسوسی ایشن نمبر: <i>BC11-440</i>				
رابطہ نمبر: <i>0303 8238839</i>				

Honble Service Tribunal Peshawar: بعد االت جناب

Petitioner مخانب:	Execution دعوی:
Shakeel Naz بنام D.H. Chaudhry Jadda and another	Partition علت نمبر:
	مورخہ:
	جرم:
	تھانہ:

باعث تحریر آتکہ

Accepted &
 Rizwan Ahmad
 RIZWAN AHMAD

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ آن مقام *Peshawar High Court* کے *Rizwan Ahmad* کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو رضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ 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 وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پر داخستہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے



الم بـ الم بـ
 مقام *Peshawar* کے لیے منظور ہے

نوٹ: اس وکالت نامہ کی فونو کالی ناقابل قبول ہوگی۔

شکیلہ ناز

9-614585-101419-6