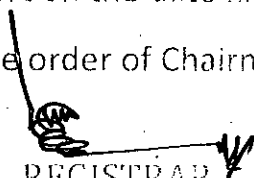


Form- A  
FORM OF ORDER SHEET

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

Implementation Petition No. 203/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge.
1	2	
1	30.03.2023	<p>The execution petition of Syed Shahin Shah 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</p> <p> REGISTRAR</p>

(1)

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

Execution Petition No. 203 /2023

In  
Service Appeal No.1385/2020

Shahin Shah

VS

Edu Deptt

**INDEX**

S.No	Documents	Annexure	Page No.
1.	Memo of Execution Petition	----	01-02#
2.	Copy of Judgment	- A -	03-08
3.	Copy of order	B	09
4.	Copy of order sheet	C	10-11
5.	Vakalat Nama	----	12

*S. Shahin Shah*

**PETITIONER**

Shahin Shah

Through:

*Syed Noman Ali Bukhari*  
**SYED NOMAN ALI BUKHARI**  
Advocate, High Court

Cell No: 0306-5109438

(1)

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

Execution Petition No. 203 /2023

In  
Service Appeal No.1385/2020

Khyber Pakhtunkhwa  
Service Tribunal  
Diary No. 4635  
Dated 30/3/2023

Mr. Syed Shahin Shah Ex-PST  
R/o Gulbahar N0.4 House No, D-17,  
Near Police Chowki Gulbahar Peshawar..

**PETITIONER**

VERSUS

1. The Secretary E&SE Deptt., KP, Civil Secretariat Peshawar.
2. The Director E&SE KPK Peshawar.
3. The District Education Officer Male peshawar.

**RESPONDENTS**

.....

**EXECUTION PETITION FOR DIRECTING THE**  
**RESPONDENTS TO IMPLEMENT THE JUDGMENT**  
**DATED: 11.11.2021 OF THIS HONOURABLE**  
**TRIBUNAL IN LETTER AND SPIRIT.**

.....

**Respectfully Sheweth:**

1. That the applicant/Petitioner filed Service Appeal No.1385/2020 against the dismissal order.
2. That the said appeal was finally heard by the Honorable Tribunal on 11.11.2021. The Honorable Tribunal is kind enough to accept the appeal and the appellant is held entitled to pensionay benifits. **(Copy of judgment is attached as Annexure-A).**
3. That the respondents were totally failed in taking any action

regarded the Hon'able Tribunal Judgment dated 11.11.2021.

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 thereafter the petitioner filed execution petition no 66/2022, during pendency of execution petition deptt: brought the order dated 13/09/2022 and produced before the court but the order was not complied with as per judgment in letter and spirit but the execution petition was consigned on 14/09/2022. **Copy of order and tribunal order is attached as annexure-B & C.**
7. That now the appellant approached to the deptt: for pension but the deptt refused for the reason that appellant have total service of two years which is amount to abuse the judgment of this court dated 11.11.2021. because in judgment it is clearly mentioned that the appellant has 35 yeays of service and entitled to pensionary benefits.
8. That therefore the petitioner constraint to approach the Hon'able tribunal for 2nd time through this execution petition 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 11.11.2021 of this august Tribunal in letter and spirit and the

order dated 13/09/2022 may be modified as per judgment in letter and spirit. Any other remedy, which this august Tribunal deems fit and appropriate that, may also be awarded in favor of applicant/appellant.

Petitioner

*S. Shahin Shah*

Syed Shahin Shah

Through:

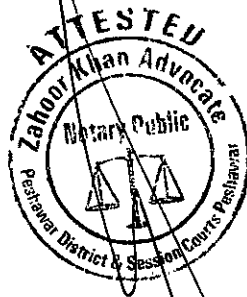
*Noman Ali Bukhari*

**SYED NOMAN ALI BUKHARI)**

Advocate High Court.

**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.

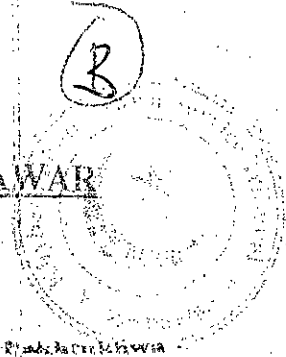


30 MAR 2023

DERONENT  
*Noman Ali Bukhari*

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 1385 /2020



Mr. Syed Shahin Shah Ex. PST.  
R/o Gulbhar No.4 House No, D-17,  
Near Police Chowki Gulbahar, Peshawar

Khyber Pakhtunkhwa  
Service Tribunal  
Entry No. 1326  
Dated 5/2/2020

(Appellant)

**VERSUS**

1. The Secretary E&SE Deptt: KPK, civil secretariat Peshawar.
2. The Director E&SE KPK Peshawar.
3. The District Education officer Male, Peshawar.

.....

APPEAL UNDER SECTION-4 OF THE KP SERVICE TRIBUNAL ACT 1974, AGAINST THE ORDER DATED 30.03.2017, WHEREBY THE PREVIOUS REMOVAL ORDER DATED 17.01.2013 IS KEEP INTACT. AND AGAINST THE DEPARTMENTAL APPEAL WHICH WAS NOT RESPONDED WITHIN STATUTORY PERIOD OF 90 DAYS.

Filed to-day

25/2/2020

PRAYER:

ON ACCEPTANCE OF THIS SERVICE APPEAL THE ORDER DATED 30.3.2017, MAY PLEASE BE SET-ASIDE AND THE APPELLANT MAY BE REINSTATED INTO SERVICE WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT, MAY ALSO, BE AWARDED IN FAVOUR OF APPELLANT.

Not-subscribed to-day and filed.

09/2/2020

ATTESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

4

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 1385/2020

Date of Institution ... 25.02.2020

Date of Decision ... 11.11.2021



Syed Shahin Shah Ex-PST, R/o Gulbahar No. 4 House No. D-17, Near Police Chowki  
Gulbahar, Peshawar.

... (Appellant)

**VERSUS**

The Secretary Elementary & Secondary Education Department Khyber Pakhtunkhwa,  
Civil Secretariat Peshawar and two others.

... (Respondents)

SYED NOMAN ALI BUKHARI,  
Advocate

... For Appellant

MR. RIAZ KHAN PAINDAKHEIL,  
Assistant Advocate General

... For Respondents

SALAH-UD-DIN  
ATIQ-UR-REHMAN WAZIR

... MEMBER (JUDICIAL)  
... MEMBER (EXECUTIVE)

**JUDGMENT**

**ATIQ-UR-REHMAN WAZIR MEMBER (E):-**

Brief facts of the case are that the appellant was initially appointed as Primary School Teacher (PST) in the Commissionarate of Afghan Refugees vide order dated 22-04-1982, who continued such service until 2010. During the course, some posts of PST were advertized by Education Department, wherein the appellant also applied and was appointed as PST vide order dated 10-05-2010, but the appellant was terminated from service vide order dated 17-01-2013 being overage. After exhausting departmental remedies, the appellant filed service appeal No. 928/2013, which was decided vide judgment dated 04-07-2016 and the appellant was re-instated in service with

ATTORNEY  
KHYBER PAKHTUNKHWA

direction to the respondents to conduct de-novo inquiry in accordance with law within a period of two months, otherwise it shall be deemed that the appellant has been re-instated in service with all back benefits by treating the service w.e.f 13-01-2013 till the date of judgment as leave of the kind due. In pursuance of the judgment, the appellant was re-instated in service vide order dated 08-08-2016, but as a result of de-novo proceedings, the appellant was again terminated vide order dated 30-03-2017 by restoring the previous termination order dated 17-01-2013, but in the meanwhile, the appellant filed an execution petition No. 67/2017 with the contentions that the respondents has not completed de-novo proceedings within the stipulated timeframe, hence he is entitled to be re-instated in service with all back benefits. Stance of the appellant was accepted vide order sheet dated 29-03-2018 and respondents were directed to implement decision of the tribunal and submit implementation report on next date, but on the next date, the respondents had produced order dated 13-09-2018 passed by the august Supreme Court of Pakistan in CP No. 470-P/2018, wherein not only leave to appeal was granted but even operation of the order of this Tribunal dated 29-03-2018 was also suspended. The Supreme Court of Pakistan vide its detail judgment dated 16-09-2019 set aside the impugned order sheet dated 29-03-2018 of this Tribunal but did not touch judgment of this Tribunal dated 04-07-2016, thereafter the appellant filed departmental appeal, which was not decided within the statutory period of 90 days, hence the instant service appeal with prayers that since the appellant has reached his age of superannuation on 11-10-2017, hence he may be granted pensionary benefits under Regulation No 371(A) of Civil Service Regulations (CSR) in light of judgment of Supreme Court of Pakistan reported as 1997 SCMR 1477.

02. Learned counsel for the appellant has contended that during the course of litigation, the appellant reached his age of superannuation on 11-10-2017, thus his total service comes to 35 years, as the appellant was initially appointed as PST on 22-04-1982 in Afghan Commissionarate, where he served until 2010, thereafter he

ATTESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar



(6)

was appointed as PST by respondents vide order dated 10-05-2010; that the appellant was illegally terminated from service vide order dated 17-01-2013 without adopting legal formalities, hence he was re-instated vide judgment dated 04-07-2016 of this Tribunal in Service Appeal No. 928/2013; that the inquiry officer thrice recommended his case for re-instatement but the respondents did not agree with recommendations of the inquiry officers and illegally constituted a committee, upon whose recommendations, the appellant was again terminated from service vide order dated 30-03-2017; that the appellant has now reached his age of superannuation and has served continuously for almost 35 years, hence he may be granted pensionary benefits under regulation No. 371-A of the CSR by counting his portion of service borne on temporary establishment towards pensionary benefits; that similar benefit has already been granted by Supreme Court of Pakistan vide judgment reported as 1997 SCMR 1477.

03. Learned Assistant Advocate General for the respondents has contended that the appellant had served as PST in Afghan Commissionarate from 1982 until 1995 and again served as PST in an NGO working under the supervision of Afghan Commissionarate until 2010; that the appellant was again appointed as PST in respondents department in 2010, but such order was rescind vide order dated 17-01-2013 as the appellant was overage; that upon judgment of this Tribunal, the appellant was re-instated and de-novo proceedings were also conducted, but in the meanwhile, the respondents filed CPLA in the Supreme Court of Pakistan and the Supreme Court of Pakistan vide judgment dated 16-09-2019 set aside the order sheet dated 29-03-2018 of this Tribunal, against which the appellant again filed departmental appeal, which was not acceded to; that the appellant has no cause of action to file this service appeal.

04. We have heard learned counsel for the parties and have perused the record.

TESTED

EXAMINER  
 سید محمد  
 محمد  
 محمد

05. Record reveals that the appellant fought a long legal battle for continuance of his job as PST, but in the meanwhile, he reached his age of superannuation on 11-10-2017. Admittedly, the appellant joined as PST in 1982 in Afghan Commissionarate and served there until 1995 and again until 2010 but after 1995, Afghan Commissionarate handed over such activities to an NGO, but the said NGO was working under supervision of Afghan Commissionarate. Vide order dated 10-05-2010, the appellant was regularly appointed as PST in respondents department after observing codal formalities, but upon objection of Accountant General Office, his appointment order was rescind vide order 17-01-2013. Again he was re-instated in light of judgment dated 04-07-2016 of this tribunal, but the supreme court of Pakistan vide judgment dated 16-09-2018 set aside the order sheet dated 29-03-2018 of this tribunal and the appellant once again filed a departmental appeal to the respondents, which was not responded, hence the appellant again filed the instant service appeal.

06. We have observed that the appellant served as PST for almost 35 years and the appellant deserve to avail the benefits of such long service. The question before us is as to whether the appellant is entitled to any pensionary benefits under Regulation 371-A of Civil Service Regulations. The supreme court of Pakistan in its judgment reported as 1997 SCMR 1477, while referring to a judgment of the Federal Service-Tribunal in appeal No 123(R) 1991 have declared employees of Afghan Refugees Organization as civil servants within the meaning of Civil Servant Act, 1973, hence the appellant is entitled to pensionary benefits and is covered by Regulation No 371-A of CSR.

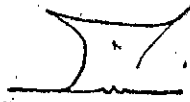
07. Admittedly, the appellant put in almost 35 years of service both in Afghan Commissionarate as well as with respondents department, therefore, entitled to pensionary benefits under Regulation No 371-A of CSR. In view of the situation, the impugned order dated 30-03-2017 is set aside and the appellant is held

ATTESTED

EXAMINED  
Khalid Pakistan  
Secretary (Legal)  
Peshawar

entitled to pensionary benefits. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED  
11.11.2021



(SALAH-UD-DIN)  
MEMBER (J)



(ATIQ-UR-REHMAN WAZIR)  
MEMBER (E)

~~Certified to be true copy~~  
~~EXAMINER~~  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of Decretation of Application 30-11-21  
No. of Courts 2400  
No. of Cases 28-c  
No. of Appeals 4-c  
No. of Copies 32  
No. of Copies of Copy 30-11-21  
Date of Copies of Copy 30-11-21

TO BE SUBSTITUTED WITH EVEN NO & DATED

OFFICE OF THE DISTRICT EDUCATION OFFICER(MALE) PESHAWAR

CONDITIONAL RETIREMENT ORDER

In compliance of execution petition No.66/2022 in service appeal No.1365/2020 Mr. Syed Shahin Shah Ex-PST (BPS-12) GPS No.2 Gulbahar Peshawar, rendered 02 years, 08 months and 07 days service in Elementary & Secondary Education Department is hereby retired at the age of superannuation from Govt: service with effect from 11-10-2017 (A.N)

- ❖ His date of Birth is 10-12-1957.
- ❖ His date of appointment as PTC teacher in E&SE Department Peshawar is 10-05-2010.

Note:

1. This Conditional Retirement Order is subject to the final decision of August Supreme Court of Pakistan.
2. Necessary entry to this effect should be made in his service book.
3. Mr.Syed Shahin Shah Ex-PST (BPS-12) GPS No.2 Gulbahar Peshawar will submit surety Bond to the Department that if the CPLA decided in favor of the Department Mr.Syed Shahin Shah Ex-PST will deposit all the pensioner benefits into the Govt: Treasury through Challan.

District Education Officer  
(Male) Peshawar

Endst No:1848-52/

Dated 13/09/2022.

Copy of the above is forwarded to the:-

1. Accountant General Khyber Pakhtunkhwa Peshawar.
2. Registrar, Khyber Pakhtunkhwa Service Tribunal w/r to execution petition No.66/22 in service appeal No.1385/2020 Titled Mr.Syed Shahin Shah Ex-PST VS Govt: of KPK & others.
3. SDEO(M) Town-I Peshawar.
4. ASDEO (M) Circle Concerned
5. Official Concerned

Dy:District Education Officer  
(Male) Peshawar

*Handwritten signature and stamp*  
Asst. Secy  
Education  
Peshawar

07C

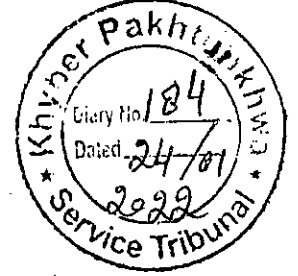
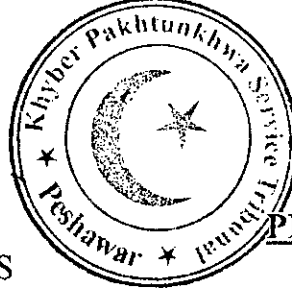
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**BEFORE THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR.**

Execution Petition No. 66 /2022

In Service Appeal No.1385/2020

Mr. Syed Shahin Shah Ex-PST  
R/o Gulbahar N0.4 House No, D-17,  
Near Police Chowki Gulbahar Peshawar..



**PETITIONER**

VERSUS

1. The Secretary E&SE Deptt., KP, Civil Secretariat Peshawar.
2. The Director E&SE KPK Peshawar.
3. The District Education Officer Male peshawar.

**RESPONDENTS**


.....

**EXECUTION PETITION FOR DIRECTING THE  
RESPONDENTS TO IMPLEMENT THE  
JUDGMENT DATED: 11.11.2021 OF THIS  
HONOURABLE TRIBUNAL IN LETTER AND  
SPIRIT.**

.....

**Respectfully Sheweth:**

1. That the applicant/Petitioner filed Service Appeal No.1385/2020 against the dismissal order.
2. That the said appeal was finally heard by the Honorable Tribunal on 11.11.2021. The Honorable Tribunal is kind enough to accept the appeal and the appellant is held entitled to pensionary benefits. (Copy of judgment is attached as Annexure-A).
3. That the respondents were totally failed in taking any action regarded the Hon'able Tribunal Judgment dated 11.11.2021.

**ATTESTED**  
  
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

14<sup>th</sup> Sept, 2022

Petitioner alongwith his counsel present  
Muhammad Adeel Butt, Addl: AG alongwith Mr. Arshad  
ADEO for respondents present.



Representative of the respondents produced copy of order endorsement No. 1848-52 dated 13.09.2022 whereby in compliance of the judgment of the Tribunal, the grievance of the petitioner has been redressed. Since the order of the Tribunal has been complied with, therefore, the instant execution petition is disposed off in the above terms. Consign.

*Pronounced in open court in Peshawar and given under my hand and seal of the Tribunal on this 14<sup>th</sup> day of September, 2022.*



(Kalim Arshad Khan)  
Chairman

**Certified to be true copy**

**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of Presentation of Application 20/3/23  
 Number of Pages 3  
 Copying Fee \_\_\_\_\_  
 Urgent \_\_\_\_\_  
 Total 30/-  
 Name of Copying \_\_\_\_\_  
 Date of Completion 20/3/23  
 Date of Delivery of Copy 20/3/23

**VAKALAT NAMA**

NO. \_\_\_\_\_/20

IN THE COURT OF HP Service Tribunal, Patna

Syed Shahin Sheh

Appellant  
Petitioner  
Plaintiff

**VERSUS**

Edu Depts

Respondent (s)  
Defendants (s)

I Syed Shahin Sheh do hereby appoint and constitute the **SYED NOMAN ALI BUKHARI Advocate High Court** for the aforesaid Appellant(s), Petitioner(S), Plaintiff(s) / Respondent(s), Defendant(s), Opposite Party to commence and prosecute / to appear and defend this action / appeal / petition / reference on my / our behalf and all proceedings that may be taken in respect of any application connected with the same including proceeding in taxation and application for review, to draw and deposit money, to file and take documents, to accept the process of the court, to appoint and instruct council, to represent the aforesaid Appellant, Petitioner(S), Plaintiff(s) / Respondent(s), Defendant(s), Opposite Party agree(s) ratify all the acts done by the aforesaid.

DATE \_\_\_\_\_/20

S. Shah Sheh

(CLIENT)

ACCEPTED

NA  
**SYED NOMAN ALI BUKHARI**  
ADVOCATE HIGH COURT  
BC-15-5643