



Form- A

FORM OF ORDER SHEET

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

Implementation Petition No. 237/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	11.04.2023	<p>The execution petition of Mr. Jawad Hussain submitted today by Syed Ghufraan Ullah Shah 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>

**BEFORE THE KHYBER PAKHTUNKHUWA**  
**SERVICE TRIBUNAL PESHAWAR**

Execution Petition No. 237 2023  
In  
Service Appeal No. 1064/2016.

*AS*

Jawad Hussain

**VERSUS**

Government of Khyber Pakhtunkhwa & others

**INDEX**

S.No	Description of Documents	Annexure	Pages
1.	Memo of petition for implementation		1-3
2.	Affidavit		4
3.	Addresses of parties		5
4.	Copy of order/judgment dated 27-10-2022	"A"	6-13
5.	Copy of the applications	"B"	14-16
6.	Wakalatnama		17

*[Signature]*  
Appellant / Petitioner

Through

*[Signature]*  
Syed Ghufuranullah Shah  
(Advocate Supreme Court of Pakistan)  
Office; 22-A Nasir Mansion  
Railway Road, Peshawar  
Cell No.0334-9185580

①

**BEFORE THE KHYBER PAKHTUNKHUWA**  
**SERVICE TRIBUNAL PESHAWAR**

Execution Petition No. 237.....2023

In

Service Appeal No. 1064/ 2016.

Jawad Hussain Rehabilitation Officer, at Rehabilitation Centre for  
Drug Addict Peshawar.

.....Petitioner /Appellant

**VERSUS**

1. Government of Khyber Pakhtunkhwa (KPK) through Chief Secretary at Civil Secretariat Peshawar.
2. Secretary Establishment Department Government of K.P.K at Civil Secretariat Peshawar.
3. Secretary to Government of Khyber Pakhtunkhwa (KPK) Social Welfare and Women Development Department, Peshawar.
4. Director Social Welfare and Women Development Department K.P.K Peshawar.
5. Secretary Finance Government of K.P.K at Civil Secretariat Peshawar.

.....Respondents

**APPLICATION FOR IMPLEMENTATION OF THE**  
**ORDER/JUDGMENT OF THIS HONOURABLE TRIBUNAL**  
**DATED 27/10/2022 PASSED IN SERVICE APPEAL**  
**NO.1064/2016, WHEREBY SERVICE APPEAL OF THE**  
**APPELLANT/PETITIONER HAS PARTIALLY BEEN ALLOWED**

(14)

AND HELD ENTITLED TO ALL FINANCIAL BACK BENIFITS  
FROM 24- 09- 2009 TO 04-03-2016.

**PRAYER:**

ON ACCEPTANCE OF THE INSTANT APPLICATION THE  
SUBJECT ORDER & JUDGEMENT OF THIS HONOURABLE  
TRIBUNAL DATED 27-10-2022 BE IMPLEMENTED /SATISFIED IN  
ITS TRUE SPIRIT . ANY OTHER RELIEF ACCORDING TO THE  
CIRCUMSTANCES OF THE CASE MAY ALSO BE GRANTED  
TO THE PETITIONER AGAINST RESPONDENTS.

**RESPECTFULLY SHEWETH:-**

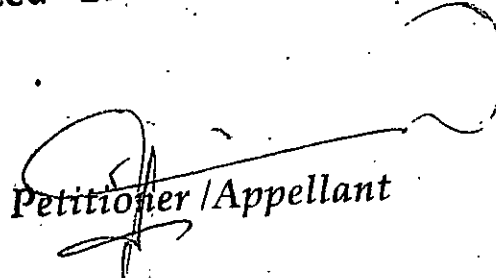
1. That the above titled Service Appeal was decided by this honorable tribunal in favour of the petitioner /appellant vide order/judgment dated 27/10/2022.  
(Copy of order/judgment dated 27/10/2022 is annexure "A")
2. That this Honorable Tribunal has partially allowed the appeal of the petitioner/appellant and held him entitled to all financial back benefits with effect from 24 -09-2009 to 04-03-2016.
3. That the appellant several times approached to the respondents for the implementation of the judgment and order passed by this honorable tribunal, vide order and judgment dated 27-10-2022 but in vain.  
(Copy of the application is annexed as annexure "B")

(3)


4. That since date respondents have been failed to comply with the order/judgment dated 27-10-2022 passed by this honorable tribunal; and the petitioner is suffering from their deliberate delaying tactics.

5. That any other ground will be furnished at any stage of the proceeding with the prior permission of this Honorable Tribunal.

It is, therefore, most humbly prayed that on acceptance of this application, the respondents may kindly be directed to implement the order/judgment of this Honourable Tribunal dated 27-10-2022 with all consequential relief.

  
Petitioner / Appellant

Through

  
Syed Ghaffar Ullah Shah  
Advocate Supreme Court of Pakistan

(4)

**BEFORE THE KHYBER PAKHTUNKHUWA**  
**SERVICE TRIBUNAL PESHAWAR**

Execution Petition No.....2023

In

Service Appeal No. 1064/ 2016.

Jawad Hussain

**VERSUS**

Government of Khyber Pakhtunkhwa & others.

**AFFIDAVIT:**

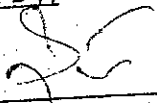
I, Jawad Hussain Rehabilitation Officer, at Rehabilitation Centre for Drug Addict Peshawar/Petitioner; do hereby solemnly verify and declare on oath that all the contents of the subject application; are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

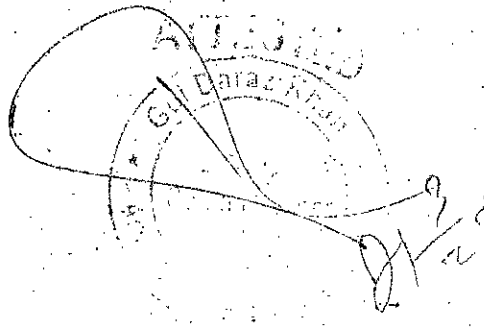
Deponent

C.N.I.C No.

16102-2263333-3

Verified by:

  
Syed Ghufuran Ullah Shah  
Advocate Supreme Court of Pakistan



5

**BEFORE THE KHYBER PAKHTUNKHUWA**  
**SERVICE TRIBUNAL PESHAWAR**

Execution Petition No.....2023

In

Service Appeal No. 1064/ 2016.

Jawad Hussain

**VERSUS**

Government of Khyber Pakhtunkhwa & others

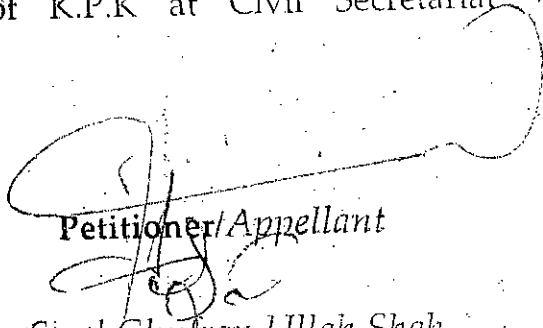
**ADDRESSES OF PARTIES**

**PETITIONER:-**

Jawad Hussain Rehabilitation Officer, at Rehabilitation Centre  
for Drug Addict Peshawar.

**RESPONDENTS;**

1. Government of Khyber Pakhtunkhwa (KPK) through Chief Secretary at Civil Secretariat Peshawar.
2. Secretary Establishment Department Government of K.P.K at Civil Secretariat Peshawar.
3. Secretary to Government of Khyber Pakhtunkhwa (KPK) Social Welfare and Women Development Department, Peshawar.
4. Director Social Welfare and Women Development Department K.P.K Peshawar.
5. Secretary Finance Government of K.P.K at Civil Secretariat Peshawar.

  
Petitioner/Appellant

Through

Syed Ghufuran Ullah Shah

Advocate Supreme Court of Pakistan

**BEFORE THE KHYBER PAKHTUNKHUWA**  
**SERVICE TRIBUNAL PESHAWAR**

Khyber Pakhtunkhwa  
Service Tribunal

Service Appeal No. 1064 2016.

Diary No. 1097

Dated 18/10/2016

Jawad Hussain Rehabilitation Officer, at Rehabilitation Centre for Drug Addict Peshawar. ....Appellant

**VERSUS**

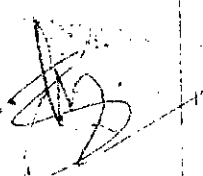
1. Government of Khyber Pakhtunkhwa (KPK) through Chief Secretary at Civil Secretariat Peshawar.
2. Secretary Establishment Department Government of K.P.K at Civil Secretariat Peshawar.
3. Secretary to Government of Khyber Pakhtunkhwa (KPK) Social Welfare and Women Development Department, Peshawar.
4. Director Social Welfare and Women Development Department K.P.K Peshawar.
5. Secretary Finance Government of K.P.K at Civil Secretariat Peshawar.

.....Respondents

Filed to-day

Registrar

Appeal U/S, 4 of KPK, Service Tribunal Act 1974 with effect to consider Seniority of the Appellant from 09-12-2008 instead of 04-03-2016 and to grant all back benefits including pay fixation, increments, arrears and other monetary benefits of the intervening period with effect from 09-12-2008 in compliance of Judgment Passed in Writ Petition No.542/2010 resultantly to set aside the impugned Order bearing No.SO-II (SWD)/II-





198/2015 /PC dated 19-09-2016 whereby Respondents No.3 has rejected departmental Appeal/representation of the appellant . Any other relief which deems Just and proper may also be granted to the appellant keeping in view facts and circumstance of the case.

Respectfully Sheweth:

That brief facts and grounds giving rise to the instant Service Appeal are as under;

1. That the appellant was firstly appointed as Rehabilitation Officer (BPS-17) on 08-12-2007 by Government of Khyber Pakhtunkhwa (KPK) Social Welfare and Women Development Department, Peshawar where he served at Rehabilitation Center Drug Addict, Peshawar when relieved from service vide Letter dated 10-01-2009.  
(Copies of appointment/posting orders along with relieving order are annexed as Annexure-"A" & "B")
2. That in the meanwhile KPK Employees (Regularization of Service) Act, 2009 was promulgated and the appellant was held as regular Government servant.
3. That act and omission of Respondents with effect to deny applicability of the afore mentioned law on the appellant resulted Litigation before Peshawar High Court Peshawar through Writ Petition No. 542/2010 which was allowed on 11-03 -2015.  
(Copy of Order/Judgment is annexed as Annexure-"C")
4. That the matter remained under consideration between the Respondents offices for one year and lastly on 02-03-2016 vide Notification No. SO -11 (SWD)/11-171/2013/PC/798-806 issued by Respondent No.3, the appellant was re-instated in service with effect from 09-12-2008 and his service

(8)

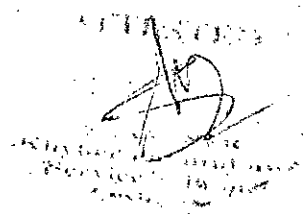
was considered as regular with effect from 24-09-2009. However the intervening period with effect from 09-12-2008 to taking over the charge was considered as Extra Ordinary Leave without pay.

(Notification of re-instatement is annexed as Annexure "D")

5. That being aggrieved from the impugned portion of the aforementioned Notification the appellant filed Departmental Appeal/Representation (Annexure "E") before Respondent No.3 on 24-06-2016, which was rejected on 19-09-2016 vide impugned Notification No. SO -II (SWD) /II-198 /2015/PC/5465-68 issued by Respondent No.3 (Annexure "F")
6. That as a matter of right in terms of Government Service of the appellant and having no other remedy; the appellant approaches this honourable Tribunal amongst the following other grounds;

**GROUND:**

- A) The admittedly the appellant was duly entitled for his regular service as per applicability of KPK Employees (Regularization of Service) Act, 2009 soon after its promulgation but respondents deliberately deprived him from the same, therefore the Respondents are bound by law to grant him all the service benefit of the intervening period with effect from 09-12-2008 or 24-09-2009 what may be the case of appellant.
- B) That to consider the intervening period as leave without pay is illegal and ineffective upon the legal rights of the appellant because as per applicable Leave Rules there is no such rule to grant the same for such long duration and that's too without request or application of the appellant.
- C) That the impugned order with effect to reject the departmental appeal of the appellant being time bared is also based on evasive ground because firstly in terms of financial benefit a Government Servant at any time seeks remedy for such financial benefit, secondly the departmental appeal of the appellant was well within time.



D) That the restoration of the service of the appellant is based upon the order/judgment passed by the Peshawar High Court, whereby no such order for considering the intervening period as leave without pay has been mentioned, therefore the same is against the letter and spirit of the subject judgment.

E) That to consider the intervening period as leave without pay is against the vested rights of the appellant as well as having adverse effect upon the seniority, fixation and other financial benefit of the appellant, therefore the appellant is not bound by the same.

F) That the impugned act and omission of the respondents is based on malafide intention, against the well established norms of administration of justice as well as against the fundamental rights of the appellant.

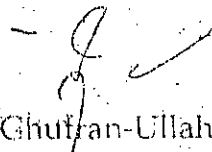
G) That the instant appeal relates to terms and conditions of civil servant and this honorable tribunal has been vested with statutory power to entertain the matter.

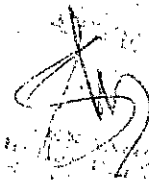
H) That any other grounds will be furnished at the time of final arguments with the prior permission of this honourable court.

Therefore, it is, most humbly prayed that the instant service appeal be accepted as prayed for.

  
Appellant

Through

  
Syed Ghulam-Ullah Shah  
Advocate High Court  
Peshawar.



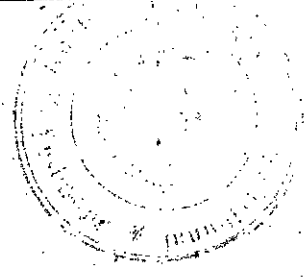
10

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR

Service Appeal No. 1064/2016

Date of Institution ... 18.10.2016

Date of Decision ... 27.10.2022



Jawad Hussain Rehabilitation Officer, at Rehabilitation Centre for Drug Addict Peshawar. (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa (KPK) through Chief Secretary at Civil Secretariat Peshawar and four others. (Respondents)

SYED GHUFRAN ULLAH SHAH  
Advocate

For appellant.

MR. MUHAMMAD RIAZ KHAN PAINDAKHEL,  
Assistant Advocate General

For respondents.

SALAH-UD-DIN  
MIAN MUHAMMAD

MEMBER (JUDICIAL)  
MEMBER (EXECUTIVE)

JUDGMENT:

SALAH-UD-DIN, MEMBER:- Brief facts surrounding the instant appeal are that the appellant was initially appointed as Rehabilitation Officer (BPS-17) on contract basis in Zakat, Ushr, Social Welfare and Women Development Department vide appointment Notification dated 08.12.2007. The services of the appellant were terminated vide order dated 10.01.2009 constraining the appellant to file Writ Petitions before august Peshawar High Court. The writ petition filed by the appellant was allowed vide judgment dated 11.03.2015 and vide order dated 02.03.2016, he was reinstated in service with effect from 09.12.2008. Similarly, his services were regularized with effect from

ATTESTED

MEMBER  
Khyber Pakhtunkhwa  
Services Tribunal  
Peshawar

24.09.2009, however the intervening period with effect from 09.12.2008 till taking over the charge of his post was considered as extra-ordinary leave without pay. The appellant filed departmental appeal claiming that he was entitled to all service benefits with effect from 09.12.2008, but the same was rejected vide order dated 19.09.2016, hence the instant service appeal.

2. Respondents contested the appeal by way of submitting written reply, wherein they refuted the assertions raised by the appellant in his appeal.

3. It is pertinent to mention here that at the very outset of the arguments, learned counsel for the appellant stated at the bar that as no seniority list regarding the post of the appellant has been issued by the department, therefore, as per instructions of the appellant, he does not want to press the appeal to the extent of prayer regarding seniority. In this respect, he submitted written application, which is placed on file.

4. Learned counsel for the appellant has argued that the appellant was entitled for regularization of his services in light of Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2009 but the respondents deliberately deprived him of the same, therefore, he filed Writ Petition, which was allowed and the appellant was reinstated in service as regular employee with effect from 24.09.2009; that the appellant was entitled to all service benefits for the period with effect from 24.09.2009, however the same were not granted to him and the intervening period with effect from 09.12.2008 till the taking over the charge by the appellant was wrongly and illegally treated as extra-ordinary leave without pay; that nothing was mentioned by

12

honourable Peshawar High Court, Peshawar in its judgment dated 11.03.2015 for treating the intervening period as leave without pay, therefore, competent Authority was not justified in treating the intervening period with effect from 09.12.2008 till assumption of the charge as leave without pay; that as the matter pertains to financial benefits, therefore, no limitation would run against the same, however departmental appeal of the appellant was regretted on the ground that the same was barred by time.

5. On the other hand, learned Assistant Advocate General for the respondents has argued that the judgment of Honourable Peshawar High Court, Peshawar has been implemented in letter and spirit; that the request of the appellant for granting him service benefits of intervening period is wrong and baseless; that the departmental appeal of the appellant was time barred, therefore, the appeal in hand is not maintainable and is liable to be dismissed.

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

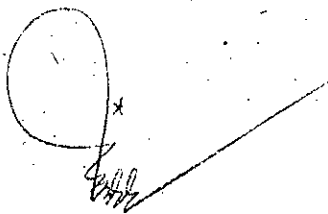
7. A perusal of the record would show that the appellant was serving as Rehabilitation Officer (BPS-17) on contract basis in Zakat, Ushr, Social Welfare and Women Development Department, when Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2009 was promulgated. The services of the appellant were, however not regularized, therefore, he approached the honourable Peshawar High Court, Peshawar through filing of Writ Petition No. 542/2010, which was allowed vide judgment dated 11.03.2015.

The competent Authority issued Notification dated

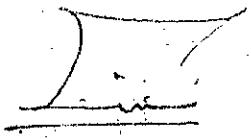
02.03.2016, whereby the appellant was reinstated in service with effect from 09.12.2008, while his services were regularized with effect from 24.09.2009 by treating the intervening period with effect from 09.12.2008 till the assumption of the charge as extra-ordinary leave without pay. During the period with effect from 24.09.2009 till the assumption of the charge by the appellant, he was kept out of service on account of fault of the respondents. Furthermore, when the competent Authority had itself regularized the services of the appellant with effect from 24.09.2009 then the appellant was entitled to all financial back benefits from the said date. So far as the question of limitation is concerned, the matter being one of financial benefits, is not hit by the bar of limitation.

8. In view of the above discussion, the appeal in hand is partially allowed and the appellant is held entitled to all financial back benefits with effect from 24.09.2009 till the date of charge assumption i.e 04.03.2016 (F.N). The claim of the appellant regarding seniority stands dismissed being not pressed, however the same shall not preclude the appellant from seeking this remedy afresh, if he feels aggrieved of tentative seniority list upon its issuance and circulation. Parties are left to bear their own costs. File be consigned to the record room.

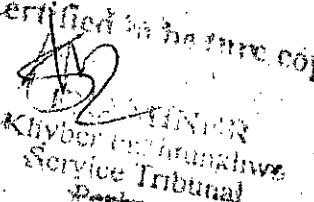
ANNOUNCED  
27.10.2022



(MIAN MUHAMMAD)  
MEMBER (EXECUTIVE)



(SALIM-UD-DIN)  
MEMBER (JUDICIAL)

Certified to be true copy  
  
 Khyber Pakhtunkhwa  
 Service Tribunal  
 Peshawar

(14)

Ammed-B

to

The District Officer  
Social Welfare Department  
District Peshawar

**SUBJECT :- IMPLEMENTATION OF JUDGEMENT PASSED ON DATED 27-10-2022  
BY KHYBER PAKHTUNKHWA SERVICE TRIBUNAL.**

Dear Sir,

With due veneration it is stated that the undersigned has filed a departmental appeal vide dated 24/06/2016 which was rejected, resultantly a service appeal No 1064/2016 was filed before the Honorable Khyber Pakhtunkhwa Service Tribunal which was decided in favor of the undersigned on dated 27.10.2022. The operative Para of the judgment is reproduced as following: (Copy enclosed)

"In view of the above discussion, the appeal in hand is partially allowed and the appellant is held entitled to all financial back benefits with effect from 24.09.2009 till the date of charge assumption i.e. 04.03.2016(F.N). The claim of the appellant regarding seniority stands dismissed being not pressed, however the same shall not preclude the appellant from seeking this remedy afresh, if he feels aggrieved of the tentative seniority list upon its issuance and circulation. ....

It is therefore most humbly requested that the undersigned may be granted all back benefits including pay fixation, increment, arrears and other monetary benefits etc in light of the judgment passed by the Honorable Khyber Pakhtunkhwa Service Tribunal on dated 27.10.2022 please.

Ali Hassan

Yours Sincerely

Jawad Hussain  
REHABILITATION OFFICER  
Rehab: Centre for Drug Addicts  
Peshawar





(15)

OFFICE OF THE DISTRICT OFFICER  
SOCIAL WELFARE DEPARTMENT  
BASHIR ABAD, PAJAGAI KOAL,  
NEAR SARKARI MILI MAI KHAN,  
DISTRICT GOVERNMENT, PESHAWAR,  
Ph # 9331700, E-mail: Add: w/peshawar@gmail.com

No. DO/SW/Accts/ 173-74

Dated Peshawar the 23-11-2019

To

The Director  
Social Welfare, Special Education &  
Women Empowerment, Khyber Pakhtunkhwa.

SUBJECT: - IMPLEMENTATION OF JUDGEMENT PASSED ON DATED 27-10-2022  
BY KHYNER PAKHTUNKHWA SERVICE TRIBUNAL.

R/Sir,

Please find enclosed herewith an application received from Mr. Jawad Hussain, Rehabilitation Officer, Rehabilitation Centre for Drug Addicts, Peshawar with the request that the Officer concerned may please be granted all back benefits including pay fixation, increment, arrears and other monetary benefits etc in light of the judgment passed on dated 27-10-2022 by Khyber Pakhtunkhwa Service Tribunal, Peshawar (Copy attached).

Forwarded for further necessary action, please.

Enclose: As Above.

DISTRICT OFFICER,  
SOCIAL WELFARE DEPARTMENT,  
PESHAWAR

Copy to: -

1. Mr. Jawad Hussain, Rehabilitation Officer, Rehabilitation Centre for Drug Addicts, Peshawar w/r to application as quoted above.

*Alto*

*[Signature]*  
DISTRICT OFFICER,  
SOCIAL WELFARE DEPARTMENT,  
PESHAWAR



Government of Khyber Pakhtunkhwa  
Directorate of Social Welfare, Special Education  
& Women Empowerment, Jinnah Road, Peshawar.

(16)  
No. E-2/134/DSW/1984-58  
Dated Peshawar the 3/12/2023.

To

The Secretary,  
Social Welfare, Special Education &  
Women Empowerment, Khyber Pakhtunkhwa

Subject:

IMPLEMENTATION OF JUDGMENT DATED 27-10-2022 IN  
SERVICE APPEAL NO. 1064/2016 TITLED "JAWAD HUSSAIN,  
REHABILITATION OFFICER, RCDA, PESHAWAR VS  
GOVERNMENT OF KHYBER PAKHTUNKHWA" PASSED BY  
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL.

Dear Sir,

I am directed to enclose herewith a letter bearing No. DO/SW/Accts/173-74 dated 23-12-2022 along with its enclosures received from District Officer, Social Welfare, Peshawar on the subject noted above.

2. It is stated that following the advice of Law Department, Khyber Pakhtunkhwa, CPLA in the instant case was filed in the August Supreme Court of Pakistan, however, record of Directorate of Social Welfare, Khyber Pakhtunkhwa with regard to stay in the operation of the judgment ibid is silent.

3. The Administrative Department is therefore requested to take appropriate action accordingly, please.

Encl: As above.

Yours faithfully,

Assistant Director  
(Establishment-I)

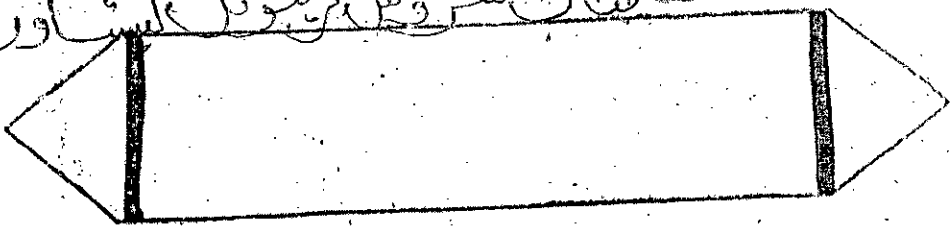
Copy to:

1. The Section Officer (Litigation), Social Welfare, Khyber Pakhtunkhwa.
2. The Assistant Director (Litigation), Social Welfare, Khyber Pakhtunkhwa.
3. The District Officer, Social Welfare, Peshawar w/r to his letter under reference.
4. The Rehabilitation Officer, RCDA, Peshawar.
5. P.A to Director, Social Welfare, Khyber Pakhtunkhwa, Peshawar.

Attested

Assistant Director  
(Establishment-I)

بعد التنازل سے وصول ہونے پر سہولت اور



Execution Petition

گواد گین

2 مہینے کا بیٹا

کوٹھک و غیر

دوئی  
ج

باعث تخریب آنکھ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی دہل کاروائی متعلقہ  
آن مقام پستہ ہے۔ کیلئے سید عسکراں اللہ شاہ اینڈ بھائی صاحب

تقرر کر کے اتر کر کیا جاتا ہے۔ کہ صاحب دوسوف کو مقدمہ کی کل کاروائی کا مکمل اختیار ہوگا۔ نیز  
دیکھل صاحب کو راضی نامہ کرنے و تقریر حالت فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور  
اس وقت ڈگری کرنے اجراء اور وصولی چیک و روپیہ اور مرضی دعویٰ اور درخواست ہر قسم کی تصدیق  
زرائع پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یا کیلٹرفہ یا اپیل کی بڑائی اور منسوخی  
نیز دائر کرنے اپیل تکرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور  
کے کل یا جزوی کاروائی کے واسطے اور دیکھل یا اختیار قانونی کو اپنے ہمراہ یا اپنے بجائے تقریر کا اختیار  
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ  
پر و اختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جات التنازلے مقدمہ کے سبب سے ہوگا۔  
کوئی تاریخ پیشی مقام دورہ پر ہو یا طلب سے باہر ہو تو دیکھل صاحب پابند ہوں گے۔ کہ پیروی  
مذکور کریں۔ لہذا اذکالت نامہ لکھ دیا کہ سند ہے۔

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وادی الب

کے لئے منظور ہے۔

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