


Form-A

FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 258/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	19.04.2023	<p>The execution petition of Mst. Ruqia Begum submitted today by Mr. Amjad Ali Mardan Advocate. It is fixed for implementation report before Single Bench at Peshawar on _____, Original file be requisitioned. AAG has noted the next date.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

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

Execution Petition NO 259/2023

In Re:

Service Appeal No.409/2020

Ruqia Begum.....Appellant

VERSUS

Govt. of Khyber Pakhtunkhwa through
Secretary (E&S), & others.....Respondents

INDEX

S.No.	Description of documents.	Annexure	Page No
1.	Application for implementation		1-3
2.	Copy of judgment dated 22.11.2022 and order dt 13/2/23		4-10
3.	Wakalatnama		110

Dated: ¹⁹04.04.2023

Ruqia Begum

Appellant *Amjad Ali*
ADVOCATE
through *Amjad Ali* SUPREME COURT
Amjad Ali (Mardan)
Advocate
Supreme Court of Pakistan

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

Execution Petition No 259/2023

In Re:

Service Appeal No.409/2020

Khyber Pakhtunkhwa
Service Tribunal

Diary No.

4929

Dated

19/4/2023

Ruqia Begum

Ex-Primary School Teacher,

Village & PO Bazargai Tehsil Razzar, District Swabi.

.....Appellant

VERSUS

- 1) Govt. of Khyber Pakhtunkhwa through Secretary (E&S),
Civil Secretariat, Peshawar.
- 2) Director of Education, Near Govt. Higher Secondary
School, G.T Road, Peshawar.
- 3) District Education Officer (Male), Swabi
- 4) District Education Officer (Female), Swabi

...Respondents

**APPLICATION FOR IMPLEMENTATION OF
JUDGMENT DATED 22.11.2022 OF THIS
HON'BLE TRIBUNAL PASSED IN SERVICE
APPEAL NO.409/2020.**

Sir,

Appellant humbly submits as under:-

1. That appellant filed titled Service Appeal
No.409/2020 before this hon'ble Tribunal with the
prayer that

(2)

"on acceptance of this appeal, the order dated 28.08.2019 by Director, order dated 02.09.2019 by DEO (F), Swabi to the extent of treating intervening period w.e.f. 22.10.2015 to 01.09.2019 as leave without pay, even ignoring judgment dated 13.12.2017 of KP Service Tribunal may please be modified by reinstating appellant w.e.f. 22.10.2015 (Date of termination) with all back benefits and setting aside treating intervening period as leave without pay."

2. That appeal of the appellant came up for hearing on 22.11.2022, and this Hon'ble Tribunal was pleased to allow the appeal of the appellant with the following order:-

"the appellant was removed from service vide order dated 22.10.2015, which order has already been set-aside by this Tribunal, therefore, she was entitled to have been reinstated in service with effect from 22.10.2015. Nothing is available on record, which could show that the appellant had remained gainfully employed in any service during the intervening period, therefore, she is entitled to all back benefits.

Consequently, the appeal in hand is allowed by modifying the impugned orders dated 28.08.2019 as well as 02.09.2019 and the appellant stands reinstated in service with effect from 22.10.2015 with all back benefits"

(Copy of order/ judgment dated 22.11.2022 is Annex "A")

- (3)
3. That after announcement of judgment dated 22.11.2022, the appellant send the attested copy of the said judgment to the respondents, furthermore, approached the respondents personally time and again for its implementation, but in vain.
 4. That since announcement of judgment/ order dated 22.11.2022 the same has not yet been implemented, nor any steps whatsoever in this respect have been taken by the respondents, despite several request of the appellant, but in vain.
 5. That omission of respondents to act upon the order of this Hon'ble Tribunal speaks of the fact that respondents has undermined the authority of this Hon'ble Tribunal and have not moved even an inch for implementation of the same.
 6. That this omission/ act of respondents squarely falls within the ambit of contempt of court as respondents have conveniently ignored the time frame provided by this Tribunal Court.

It is therefore, humbly requested to please direct respondents to implement the judgment dated 22.11.2022 in its letter and spirit.

Appellant
through

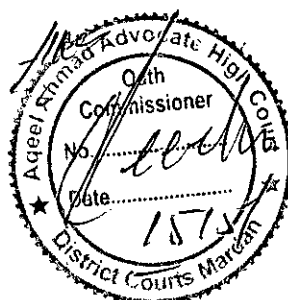
Amjad Ali
ADVOCATE
SUPREME COURT

Amjad Ali (Mardan)
Advocate
Supreme Court of Pakistan

AFFIDAVIT

I, do hereby affirm and declare on oath that the contents of accompanying Application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble court.

Amjad Ali
Deponent



(4)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR

Service Appeal No. 409/2020



Khyber Pakhtunkhwa
Service Tribunal

Diary No. 502

Date 17/01/2020

Ruqia Begum
Ex-Primary School Teacher,
Village & PO Bazargai Tehsil Razzar, District Swabi.

.....Appellant

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Secretary (E&S), Civil Secretariat, Peshawar.
2. Director of Education, Near Govt. Higher Secondary School, G.T Road, Peshawar.
3. District Education Officer (Male), Swabi
4. District Education Officer (Female), Swabi

.....Respondents

**SERVICE APPEAL U/S 4 OF SERVICE
TRIBUNAL ACT, 1974 FOR AGAINST THE
ORDERS DATED 28.08.2019 AND
02.09.2019, WHEREIN THE INTERVENING
PERIOD HAS BEEN TREATED AS LEAVE
WITHOUT PAY, WHICH IS ILLEGAL
AGAINST LAW AND FACTS**

Filed to-day

Registrar

17/1/2020

Respectfully Sheweth:-

1. That appellant is a bonafide and peaceful citizen of District Swabi.
2. That the respondents advertised some posts of PSTs in the District Kohistan for one of which the appellant also applied.

ATTESTED

REGISTRAR
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR.

Service Appeal No. 409/2020

Date of Institution ... 17.01.2020

Date of Decision... 22.11.2022



Mst. Ruqia Begum, Ex-Primary School Teacher, Village & P.O Bazargai
Tehsil Razzar, District Swabi.

... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary (E&S), Civil
Secretariat, Peshawar and 03 others.

... (Respondents)

MR. AMJAD ALI,
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:- Precisely stated the facts surrounding the instant appeal are that the appellant was appointed as PST (BPS-07) vide appointment order dated 31.07.2009. The appellant took the charge of her post and performed her duty with zeal and zest. During the course of her service, the appellant was transferred from District Kohistan to District Swabi and she then performed her duty in District Swabi. Vide order dated 22.10.2015, the transfer order of the appellant from District Kohistan to District Swabi was withdrawn and vide office order dated

ATTESTED

SECRETARY
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

22.10.2015, the appellant was removed from service, however her service appeal No. 253/2016 was accepted by this Tribunal vide judgment dated 13.12.2017 and the department was directed to hold regular inquiry against the appellant within a period of 90 days from receipt of the judgment, failing which the appellant was ordered to be reinstated in service. Vide order dated 28.08.2019 passed by Director Elementary & Secondary Education Khyber Pakhtunkhwa, the order of cancellation of transfer of the appellant from District Kohistan to District Swabi was cancelled, however the intervening period was ordered to be treated as leave without pay. Similarly, vide order dated 02.09.2019 passed by District Education Officer (Female) Swabi, the appellant was reinstated in service, however the intervening period with effect from 22.10.2015 to 01.09.2019 was ordered to be treated as extra ordinary leave without pay. The appellant filed departmental appeal, challenging the aforementioned order to the extent of treating the intervening period as leave without pay, however the same was not responded within the statutory period, hence the instant service appeal.

2. Notices were issued to the respondents, who submitted their comments, wherein they denied the assertions raised by the appellant in her appeal.

3. Learned counsel for the appellant has argued that the appellant was wrongly and illegally removed from service and upon her reinstatement vide order dated 02.09.2019 she was entitled to her reinstatement in service with effect from 22.10.2015 instated of

ATTESTED
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

(7)

immediate effect. He next contended that the appellant remained out of service on account of her wrong and illegal removal from service vide order dated 22.10.2015, which has already been set-aside by this Tribunal vide judgment dated 13.12.2017. He further argued that as no fault existed on the part of the appellant in non-performing of her duty during the intervening period, therefore, competent Authority was not justified in treating the same as extra ordinary leave without pay. He also argued that during the intervening period, the appellant had not remained gainfully employed in any service. Reliance was placed on 2021 SCMR 962, 2015 SCMR 77 and 2007 SCMR 855.

4. On the other hand, learned Assistant Advocate General for the respondents has argued that the very order of appointment of the appellant was fake and as she has been reinstated on technical ground, therefore, she is not entitled to any back benefits. He next contended that the appellant did not perform any duty during the intervening period, therefore, competent Authority has rightly treated the same as extra ordinary leave without pay. Reliance was placed on 2017 PLC (C.S) 177, judgment dated 18.02.2020 passed by this Tribunal in Service Appeal No. 803/2018 and judgment dated 18.01.2021 passed by this Tribunal in Service Appeal No. 603/2018.

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

6. A perusal of the record would show that vide order dated 22.10.2015, the appellant was removed from service on the allegations that her appointment was illegal and irregular. The

ATTESTED


EXAMINER
 Advocate (P) for the
 Service Tribunal
 Islamabad

appellant approached this Tribunal through filing of Service Appeal No. 253/2016 against the order of her removal, which was allowed vide judgment dated 13.12.2017 and the department was directed to hold regular inquiry against the appellant within a period of 90 days from the date of receipt of the judgment, failing which the appellant shall be reinstated in service. It appears from the record that the departmental Authority did not take any step for implementation of the judgment dated 13.12.2017 passed by this Tribunal, constraining the appellant to file Execution Petition No. 100/2018 before this Tribunal. It was during the proceedings on execution petition on 27.12.2018 that the respondents submitted order dated 18.09.2018, whereby the appellant was reinstated for the purpose of de-novo inquiry. Vide order dated 27.12.2018, the execution petition was disposed of in the terms reproduced as below:-

"In view of above, when the petitioner has been reinstated though for the purpose of de-novo inquiry, the present execution petition be consigned to the record room. In case of grievance of the petitioner against the outcome of de-novo inquiry, she may approach proper forum in accordance with law and rules on the subject."

7. It is thus evident that while disposing of the execution petition of the appellant vide order dated 27.12.2018, respondent-department was afforded an opportunity of conducting de-novo inquiry against the appellant despite lapse of 90 days as mentioned in the judgment dated 13.12.2017 but even then no de-novo inquiry was conducted in the matter for reasons best known to the departmental Authority. It is an admitted fact that the order of transfer of the appellant from

ATTESTED
 [Signature]
 JUDGE
 Service Tribunal
 Bhopal

9

District Kohistan to District Swabi has been cancelled and she has been reinstated in service by the competent Authority. In these circumstances, the assertion of the respondents that the appointment of the appellant was fake, appears to be quite intriguing.

8. The appellant was removed from service vide order dated 22.10.2015, which order has already been set-aside by this Tribunal, therefore, she was entitled to have been reinstated in service with effect from 22.10.2015. Nothing is available on the record, which could show that the appellant had remained gainfully employed in any service during the intervening period, therefore, she is entitled to all back benefits.

9. Consequently, the appeal in hand is allowed by modifying the impugned orders dated 28.08.2019 as well as 02.09.2019 and the appellant stands reinstated in service with effect from 22.10.2015 with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
22.11.2022

(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)

(SALAH-UD-DIN)
MEMBER (JUDICIAL)

Guaranteed to be true copy

Date of Presentation of Application 04-04-23

Number of Words Page 5

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Date of Completion of Copy 04-04-23

Date of Delivery of Copy 04-04-23

OWNER
Service Tribunal
Kohistan



DISTRICT EDUCATION OFFICE (FEMALE) SWABI
(Office phone & Fax No 0938280339, emisfswabi@yahoo.com)

OFFICE ORDER

In compliance of Service Tribunal Peshawar judgment in Service Appeal No.409/2020, titled Mst. Ruqia Begum PST, GGPS Fazal Rahim Banda Tehsil Razar (Swabi), wherein the appeal is allowed, the impugned order dated 02/09/2019 is modified and the appellant stands re-instated in service with effect from 22.10.2015 with all back benefits.

I, Sofia Tabassum District Education Officer (Female) Swabi, being a competent authority is pleased to modify the impugned order dated 02/09/2019 and the appellant stands re-instated in service with effect from 22/10/2015 with all back benefits.

(SOFIA TABASSUM)
DISTRICT EDUCATION OFFICER
(FEMALE) SWABI

Endst: No. 391-95 /Dated Swabi the 13/02/2023.

Copy forwarded for information to the:-

1. Registrar Service Tribunal Peshawar.
- 3 P.S Secretary Elementary & Secondary Education Department, Khyber Pakhtunkhwa, Peshawar.
3. P.A to Director Elementary & Secondary Education, KP, Peshawar.
4. District Accounts Officer, Swabi.
5. Sub-Divisional Education officer (Female) Razzar, Swabi.


DISTRICT EDUCATION OFFICER
(FEMALE) SWABI


ADVOCATE
SUPREME COURT

بعد التمسک سے وکیل کی طرف سے
11

دعویٰ منجانب امجد علی

19/11/23

مورخہ:
مقدمہ:
دعویٰ:
جرم:

بنام:
مقدمہ منجانب

الہ آباد
باجت نہر بر آفد

مقدمہ مندرجہ عنوان بالا اپنی طرف سے واسطے بیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کمال اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کمال اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ
برحلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء وصولی چیک و روپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق زاریں 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
اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختیار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پرواختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ و جانہ
التوائے مقدمہ کے سبب سے ہوگا کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ بیروی مذکور کریں۔
لہذا وکالت نامہ لکھ دیا کہ سنڈ رہے۔

لکھ دیا

اسکیل

گواہ

المرقوم:

العبد

مقام کے لیے منظور ہے۔

Amjad Ali
ADVOCATE
SUPREME COURT

Rozia Begum

Adv
amjaduse@com

BC 105506 امجد علی ایڈووکیٹ سپریم کورٹ آف پاکستان، ڈسٹرکٹ کورٹس، مردان
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