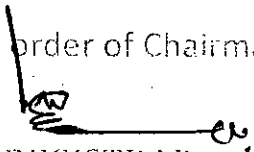


## FORM OF ORDER SHEET

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

Implementation Petition No 272/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	03.05.2023	<p>The execution petition of Mr. Muhammad Arif submitted today by Mr. Muhammad Zafar Khan Tahirkheli Advocate. It is fixed for implementation report before Single Bench at Peshawar on _____</p> <p>Original file be requisitioned. AAG has noted the next date.</p> <p style="text-align: right;">By the order of Chairman    REGISTRAR</p>

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

Service appeal No. 1669/2022

*Execution Petition# 272/2023*

*AAJ*

Muhammad Arif Khan

**V**ersus

Govt of Khyber Pakhtunkhwa etc.

=====  
**INDEX**  
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<b>S.No</b>	<b>Particulars</b>	<b>Date</b>	<b>Pages</b>
1	Memo of Petition		1
2	Execution Form		2
3	Affidavit		3
4	Judgment	07-03-2023	
5	Application	09-03-2023	
6	Vakalatnama		

Date:- 07-04-2023

*Muhammad Zafar Khan*  
**Muhammad Zafar Khan (Tahirkheli)**  
ASC.

87, Alfalah Street, Cantt Colony,  
Peshawar.  
0300-9597670

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

Petition No. \_\_\_\_\_/2023

In

Service appeal No. 1669/2022

Muhammad Arif Khan, DIG Prisons, Regional Prison Office Mardan.

..... petitioner

**V**ersus

1. The Hon'ble Chief Secretary,  
Khyber Pakhtunkhwa, Peshawar.
2. Secretary to Government Khyber Pakhtunkhwa,  
Home Department.
3. Inspector General of Prisons,  
Khyber Pakhtunkhwa, Peshawar.

..... Respondents

=====  
**PETITION FOR IMPLIMENTATION OF DECISION DATED 07-03-2023  
PASSED SERVICE APPEAL NO. 1669 / 2022**  
=====

**Respectfully Sheweth;**

1. The petitioner had filed a service appeal before this Hon'ble Tribunal No. 1669 / 2022 against his pre-mature transfer order dated 12-08-2022 from Superintendent Jail, Central Prison Mardan to the post of DIG Prisons Regional Prison Office Mardan. **(copy annexed)**
2. That the petitioner's service appeal was accepted vide judgment and order of this Hon'ble Tribunal dated 07-03-2023. On acceptance of his service appeal he submitted an application dated 09-03-2023 for implementation of the decision of the Hon'ble Tribunal but was not replied till the filing of instant implementation petition. **(Copy annexed)**
3. The respondent department has been reluctant to implement the decision of the Hon'ble Service Tribunal, in-spite of his repeated requests. Hence the present petition.
4. The matter and parties are within the jurisdiction of this Hon'ble Tribunal.

In view of the above, it is therefore, most humbly requested that by accepting this petition the Respondent Department may kindly be directed to implement the decision of this Hon'ble Tribunal dated 07-03-2023, while posting the petitioner as Superintendent Jail, Central Prison Mardan till the completion of his full tenure of 03 years.

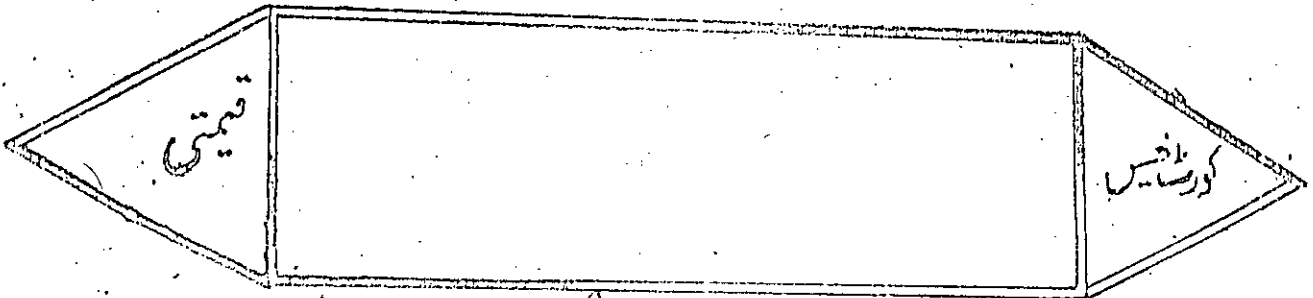
  
Petitioner,

Through,

  
Muhammad Zafar Khan (Tahirkheli)

ASC.

Peshawar, dated  
7<sup>th</sup> April, 2023



بھارت سرور کے لیے درخواستیں

میں ڈگری دار ڈگری مندرجہ ذیل کی اجراء کے واسطے درخواستیں جمع کروانے کا مطالبہ کیا جاتا ہے۔

1	نمبر	1669/2022
2	تاریخ	1-07-2023
3	موضوع	1-07-2023
4	موضوع	1-07-2023
5	موضوع	1-07-2023
6	موضوع	1-07-2023
7	موضوع	1-07-2023
8	موضوع	1-07-2023
9	موضوع	1-07-2023
10	موضوع	1-07-2023

جناب عالی

Mohammad Raja  
 Faizullah  
 Aze

تفصیلات کے لیے



(2)

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

Service appeal No. 1669/2022

Muhammad Arif Khan

Versus

Govt of Khyber Pakhtunkhwa etc.

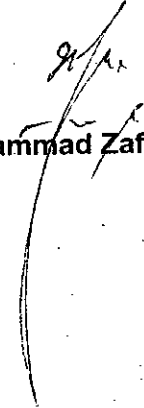
=====  
**Affidavit**  
—

I, the Petitioner, Muhammad Arif Khan s/o Muhammad Ashraf Khan, DIG Prisons, Regional Prison Office Mardan, do hereby state on Oath that the contents of the petition are true and correct to the best of my knowledge and belief, and nothing has been concealed from this Hon'ble Tribunal.

  
DEPONENT

CNIC No. 17301-4839385-3  
Cell No. 0300-9013535

Identified by;

  
Muhammad Zafar Khan (Tahirkheli)  
A.S.C.

(D)

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

Service Appeal No. 1669 /2022

Muhammad Arif Khan, DIG Prisons, Regional Prison Office Mardan,  
..... Appellant

Versus

1. The Hon'ble Chief Secretary,  
Khyber Pakhtunkhwa, Peshawar.
2. Secretary to Government Khyber Pakhtunkhwa,  
Home Department.
3. Inspector General of Prisons,  
Khyber Pakhtunkhwa, Peshawar.



.... Respondents

=====

**APPEAL U/S 4 OF SERVICE TRIBUNAL ACT 1974, AGAINST THE  
IMPUGNED ORDER DATED 12-08-2022 (COPY ANNEXED MARKED  
"A"), WHEREIN THE APPELLANT WAS TRANSFERRED  
PREMATURELY AND HIS DEPARTMENTAL APPEAL DATED  
17-08-2022 (COPY ANNEXED MARKED "B"), WAS NOT DECIDED  
WITHIN THE STATUTORY PERIOD OF LIMITATION.**

=====

**Prayer:**

By accepting this appeal and setting aside the impugned pre-mature transfer order dated 12-08-2022 and allowing the appellant to continue with his service as Superintendent Jail at Central Prison Mardan for a full tenure of 03 years.

**RESPECTFULLY SHEWETH**

1. That the appellant being qualified and eligible was selected and appointed as Assistant Superintendent Jail (BPS-14) vide order dated 22-03-1993. He was promoted in the year 2018 as Deputy Superintendent Jail (BPS-17) and was then ultimately promoted as Superintendent Jail (BPS-18) in April, 2022.
2. The appellant has been serving the department honestly and diligently at various places of postings to the utmost satisfaction of his superiors. He was neither served with any adverse remarks nor was he ever penalized by any departmental proceedings till date.
3. That after his promotion as Superintendent Jail (BPS-18) the appellant was transferred and posted as Superintendent Jail (BPS-18), Central Prison Mardan in his own pay scale vide notification dated 26-05-2022. He assumed the charge of his duties on 13-06-2022. (Copy annexed "C" & "C1")

Muhammad Arif Khan  
DIG Prisons, Regional Prison Office Mardan

(5)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR.**

Service Appeal No. 1669/2022

Date of Institution ... 24.11.2022

Date of Decision... 07.03.2023



Muhammad Arif Khan, DIG Prisons, Regional Prison Office Mardan.

... (Appellant)

**VERSUS**

The Hon'ble Chief Secretary, Khyber Pakhtunkhwa, Peshawar and 03 others.

... (Respondents)

-----  
MR. MUHAMMAD ZAFAR TAHIRKHELI,  
Advocate

--- For appellant.

MR. MUHAMMAD ADEEL BUTT,  
Additional Advocate General

--- For official respondents.

MR. SADIQ ALI MOHMAND,  
Advocate

--- For Private respondent No. 4.

MR. KALIM ARSHAD KHAN  
MR. SALAH-UD-DIN

--- CHAIRMAN  
--- MEMBER (JUDICIAL)

**JUDGMENT:**

SALAH-UD-DIN, MEMBER:- Precise facts surrounding the instant service appeal are that the appellant joined the Prison Department as Assistant Superintendent Jail (BPS-14) vide order dated 22.03.1993; that the appellant was promoted in the year 2018 as Deputy Superintendent Jail (BPS-17) and was then ultimately promoted as Superintendent Jail (BPS-18) in the month of April, 2022; that after promotion as Superintendent Jail (BPS-18) the appellant was transferred and posted as Superintendent Jail (BPS-18), Central Prison

SALAH-UD-DIN  
MEMBER (JUDICIAL)

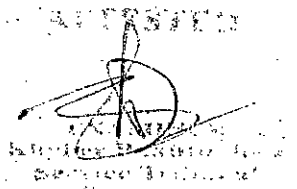
Mardan in his own pay scale vide Notification dated 26.05.2022; that the appellant was once again transferred and posted as DIG Regional Prison Office Mardan in his own pay scale vide impugned order dated 12.08.2022; that the appellant was pre-maturely transferred just after two and a half months of his assumption of charge as Superintendent Jail, Mardan; that feeling aggrieved from the impugned transfer order, the appellant preferred departmental appeal on 17.08.2022 which was not responded within the statutory period, hence the instant service appeal.

2. On admission of the appeal for regular hearing, respondents were summoned. Official respondents put appearance through their representative and contested the appeal by filing written reply raising therein certain legal as well as factual objections. Private respondent No.4 failed to submit reply despite several opportunities being given to him.

3. Learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while learned Additional Advocate General and learned counsel for private respondent No.4 controverted the same by supporting the impugned order.

4. We have heard the arguments of learned counsel for the appellant as well as learned Additional Advocate General for official respondents and learned counsel for private respondent No.4.

5. A perusal of the record would show that the appellant was transferred to the post of Superintendent Jail (BPS-18), Central Prison

  
Additional Advocate General  
Mardan



Mardan on 26.05.2022 but within a period of two months and few days, he was prematurely transferred there-from and posted against the post of DIG Regional Prison Office Mardan vide Notification dated 12.08.2022, in violation of the posting/transfer policy of the Government of Khyber Pakhtunkhwa without allowing the appellant to complete his normal tenure. In their reply, the official respondents have not stated any exigency nor explained any public interest of transfer of the appellant within two months and few days of his posting. While going through the record, we have observed that vide order dated 26.05.2022, private respondent No.4, was transferred from Central Prison Mardan, on his promotion from the post of Deputy Superintendent Jail (BPS-17) to the post of Superintendent Jail (BPS-18) and within two months and few days, he was transferred back to the said prison through the impugned order. The afore-mentioned fact prima facie negates the stance of the respondents that the impugned transfer of the appellant was made in the public interest. During the course of arguments, learned counsel for private respondent No.4 produced copy of a letter No. 277 dated 18.01.2023 showing willingness of the appellant to be posted as DIG/AIG, submitted in response to letter No. 2359-73 dated 17.01.2023 of Inspector General of Prisons, Khyber Pakhtunkhwa, Peshawar. It seems strange as to what was the need to seek willingness especially from the appellant when he was already posted as DIG (BPS-19) Regional Prison Office Mardan in his own pay and scale. The explanation of the official respondents as contained in para-4 of their reply that the post of DIG was more prestigious than that of the Superintendent Jail being high in

ATTESTED  
 Khyber Pakhtunkhwa  
 Service Tribunal  
 Peshawar

must be respected and cannot be varied, except for compelling reasons to be recorded in writing and are judicially reviewable.

9. As a sequel to the above, the appeal in hand is allowed by setting-aside the impugned transfer order dated 12.08.2022 to the extent of appellant and private respondent with the directions to the respondent-department to allow the appellant to continue with his service as Superintendent Jail at Central Prison Mardan till completion of his normal tenure. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
07.03.2023

(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

(KALIM ARSHAD KHAN)  
CHAIRMAN

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

Date of Presentation of Application 09-3-2023  
Number of ~~Pages~~ Page 7  
Copying Fee 37/-  
Urgent 37/-  
Total 140/-  
Name of ...  
Date of ... 09-3-2023  
Date of ... 09-3-2023

To,

The Worthy Inspector General of Prisons,  
Khyber Pakhtunkhwa Peshawar.

Subject: APPEAL NO (1669/22) IMPLEMENTATION OF JUDGEMENT OF  
KP SERVICE TRIBUNAL PESHAWAR

R/sir,

It is submitted that the subject Appeal filed in KP Service Tribunal Peshawar against my premature transfer from the post of Superintendent Jail Central Prison Mardan after two months of assumption of my charge on 12-06-2022. I was transferred and posted on 12-08-2022 as DIG, RPO Mardan.

On 07-03-2022, learned bench decided the case and accepted service appeal in my favor and restored me as Superintendent Central Prison Mardan.

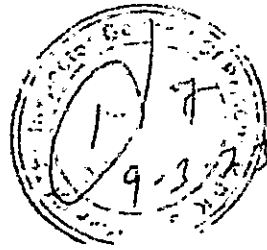
It is therefore, requested that the order/directions contained in the detailed judgement dated 07-03-2022 may kindly be implemented accordingly please.

Attested copy of the Judgement is enclosed for information and further necessary action as deemed appropriate please.

Muhammad Arif Khan

DIG Regional Prison Office

Mardan



A handwritten signature in black ink, appearing to be "M. Arif Khan".

12

# VAKALATNAMA

In the Court of **Khyber Pakhtunkhwa Service Tribunal, Peshawar**

Service Appeal No. \_\_\_/2023

ID No.	<b>B.C- 10-7764</b>
Advocate	<b>M. Zafar</b>
Cell No.	<b>0300-9597670</b>
CNIC	<b>17301-1639615-3</b>

In the Court of

Petitioner  
Plaintiff  
Applicant  
Appellant  
Complainant

Service Appeal of **Muhammad Arif Khan** Decree-Holder

**V**ERSUS

Respondent  
Defendant  
Opponent  
Accused

**Govt. of Khyber Pakhtunkhwa etc.** Judgment-Debtor


In the Court of

I / We **Muhammad Arif Khan**, the above noted petitioner do hereby appointed and constitute, **Muhammad Zafar Khan Tahirkheli Advocate Supreme Court of Pakistan**, to appear, plead, act, compromise, withdraw or refer to arbitration for me / us as my / our counsels / advocates in the above noted matter, without any liability for his default and with the authority to engage any other Advocate / Counsel at my / our cost.

The Client / Litigant will ensure his presence before the Court on each and every date of hearing and the counsel would not be responsible if the case is proceeded ex-parte or is dismissed in default of appearance. All cost awarded in favour shall be the right of Counsel or his nominee, and if awarded against shall be payable by me/us.

I / We authorize the said Advocates to withdraw and receive on my / our behalf all sums and amounts payable or deposited on my / our account in the above noted matter.

The  
filed  
by  
the  
advocate



Client

**M. Zafar Khan Khan Tahirkheli**

Attested & Accepted (Advocates)

Dated 07/04/2023

Office **ATIQU LAW ASSOCIATES,**  
87, Al-Falah Street, Besides State Life Building,  
Peshawar Cantt, Phone: 091-5279529  
E-mail : [zafark.advocate@gmail.com](mailto:zafark.advocate@gmail.com)