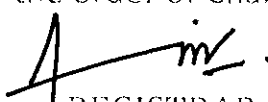


Form- A

FORM OF ORDER SHEET

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

Implementation Petition No. 327/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	23.05.2023	<p>The execution petition of Mr. Aurang Zeb Khan received today by registered Post through Mr. Muhammad Anwar Awan Advocate. It is fixed for implementation report before touring Single Bench at D.I.Khan on _____. Original file be requisitioned. AAG has noted the next date.</p> <p>By the order of Chairman  REGISTRAR</p>

BEFORE THE KHBER PAKHTOON KHAWA SERVICE TRIBUNAL  
PESHAWAR CAMP AT D.I.KHAN.

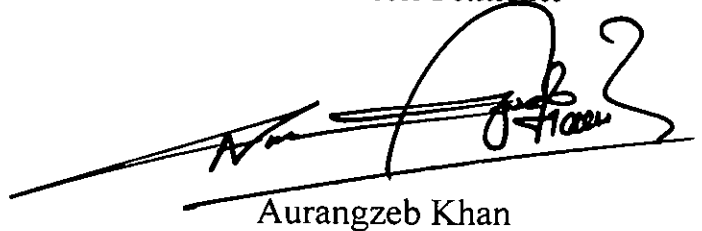
Implementation/Execution Petition No. 327 of 2023

Aurangzeb Khan ...VERSUS... Government of KPK and others

INDEX

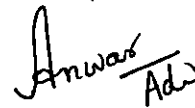
No.	Particulars	Annexure	Pages
1.	Implementation /Execution Petition		1-4
2.	Wakalat Nama	A	5
3.	Service Appeal & Judgment dated; 03.12.2020	B	6-13
4.	Application for implementation to the Director Social Welfare Officer D.I.Khan dated 17-12-2020	C	14-15
5.	Official letter No. 805-08 dated 24-12-2020 to Director Social Welfare Peshawar	D	16

Your humble Petitioner



Aurangzeb Khan

Dated: 16 - 05 - 2023



Mohammad Anwar Awan  
Advocate Supreme Court.

**BEFORE THE KHYBER PAKHTOON KHAWA SERVICE TRIBUNAL**

**PESHAWAR CAMP AT D.I.KHAN.**

Implementation/Execution Petition No. 327 of 2023

**Khyber Pakhtunkhwa  
Service Tribunal**  
Diary No. \_\_\_\_\_  
Dated \_\_\_\_\_

Aurangzeb Khan S/O Muhammad Jan Khan R/O Gali Bagh Wali, Street No. 5 near Jamia Masjid Usman Ghani, District Dera Ismail Khan, Ex – Assistant Oral Master (BPS-09), Institute for Blind, D.I.Khan.

...VERSUS...

**Khyber Pakhtunkhwa  
Service Tribunal**  
Diary No. 5525  
Dated 23/5/2023

1. Government of Khyber Pakhtunkhwa through Secretary, Elementary and Secondary Education, Peshawar.
2. Director General, Social Welfare Department, Peshawar.
3. District Officer, Social Welfare Department, Dera Ismail Khan.
4. Accountant General, Khyber Pakhtunkhwa, Peshawar.
5. District Account Officer, Dera Ismail Khan.

**IMPLEMENTATION PETITION/EXECUTION PETITION  
OF JUDGMENT DATED; 03.12.2020 REGARDING  
GRANT OF ARREARS WITH EFFECT FROM 24.08.2004  
TO 29.12.2006 IN BPS-16 AND FROM 29.12.2006 TO  
28.02.2010 IN BPS-17**

*Amir*

That the brief facts of the case are as under:

1. That petitioner initially appointed as Assistant Oral Master (BPS-09) on regular basis in Govt: School for Deaf and Dumb Children. During course of time, respondents upgraded various posts of teachers to BPS-16 & 17 in compliance of various judgments of various Courts of law and granted benefits of

upgradation in shape of arrears with retrospective effect. The Petitioner was duly qualified for the said benefits at that time along-with his other colleagues but the same benefits were not granted to him. Thereafter, Petitioner had vacated the job on joining new assignment but was legally entitled to get benefits of ante-dated promotion but the request of Petitioner remained unanswered. The Petitioner filed service Appeal with prior permission of the Worthy High Court before Hon'ble Service Tribunal which was allowed and accepted as prayed for i.e. Arrears of Pay Scale with effect from 24.08.2004 to 29.12.2006 in BPS-16 and 29.12.2006 to 28.02.2010 in BPS-17.

***(Copy of Service Appeal & Judgment dated; 03.12.2020 is Annexure A).***

2. That the petitioner made correspondence with the quarter concerned on compliance of judgment dated 03-12-2020 but after the lapse of considerable time, Department/respondents is hesitating to implement the Judgment of Hon'ble Service Tribunal dated; 03.12.2020 in Service Appeal No. 399/2016, thus, petitioner has no other remedy but to file implementation petition.

*Answer*

***(Copies of correspondence are attached as Annexure-B & C).***

In view of the above, it is, therefore,  
most respectfully prayed that on  
acceptance of this petition,

3

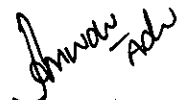
judgment dated; 03.12.2020 issued in  
Service Appeal No 399/2016 may  
kindly be implemented.

YOUR HUMBLE PETITIONER



Aurangzeb Khan  
Through Counsel

Dated: 16-05-2023

  
Mohammad Anwar Awan  
Advocate Supreme Court

BEFORE THE KHBER PAKHTOON KHAWA SERVICE TRIBUNAL

PESHAWAR CAMP AT D.I.KHAN.

Implementation/Execution Petition No..... of 2023

Aurangzeb Khan

VERSUS

Government of KPK and others

AFFIDAVIT

I, **Aurangzeb Khan**, do hereby solemnly affirm and declare on OATH that the contents of the same are true and correct to the best of my knowledge and belief and that nothing has been concealed from this honorable court.

*R. J. Al*  
*Affected*  
*Mirza*

Kalim Ullah Kundi  
Advocate Oath-Commissioner  
District Court Tank

Deponant

*Anwar*  
*16/5/23*

*Anwar*  
*Adv*

Anneure - A (5)

# VAKALATNAMA

BEFORE THE KHYBER PUKHTUNKHAWA SERVICE TRIBUNAL  
CAMP COURT D.I.KHAN

## VERSUS

TITLE Aurangzeb Khan Vs KPK

I/WE Aurangzeb Khan

The Above Named \_\_\_\_\_ hereby appoint

**MUHAMMAD ANWAR AWAN ADVOCATE SUPREME COURT,**

in the above Captioned Cases to all or any of the following Acts Deeds & Things.

- ✓ To Appear, Act & Plead for Me/Us in the above mentioned cases in this Court/Tribunal in which the same may be tried or heard or any other proceedings out of our connected therewith.
- ✓ To Sign, Verify, File OR Withdraw all proceedings, Petitions, Appeals, Affidavits, Applications for Compromise OR Withdrawals OR for the Submission of Arbitration of the said case OR any other Documents may be Deemed Necessary OR Advisable by them by the Conduct, Prosecution OR Defense of the above case at all its stages.
- ✓ To Receive Payments, Issue receipts for all moneys that may be OR become Due & Payable to us during the course on Conclusion of the Proceedings.
- ✓ To do all other Acts & Things, Which may be Deemed Necessary OR Advisable during the course of Proceedings.

AND HEREBY AGREE:

- To Ratify Whatever Advocates may do the Proceedings.
- Not to Hold the Advantages Responsibilities if the said case be proceed Ex-parte OR Dismissed in Default in Consequence of their Absence from the Court when it is called for Hearing.
- That the Advocates shall be entitled to withdraw from the Prosecution of the said case if the Whole or any part of the Agreed Fee Remain Un-Paid.
- That Advocates may be Permitted to argue any other point at the time of Arguments.

In Witness Whereof I/We have signed this Vakalatnama here under the Contents of which have been Read/Explained to Me/Us which is fully understood by Me/Us

Dated: 16/05/23

Accepted By: Muhammad Anwar Awan

[Signature]  
SIGNATURE OF EXECUTANT (S)  
16/05/23

**MUHAMMAD ANWAR AWAN  
ADVOCATE SUPREME COURT  
03339962231**

Annexure - B



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

**S.W.F. Province**  
**Service Tribunal**  
**Diary No. 290**  
**Dated 29-3-2016**

Service Appeal No. 399 /2016

Aurangzeb Khan S/O Muhammad Jan Khan R/O Gali Bagh Wali,  
Street No.5 Neaby Jame Masjid Usman-e-Ghani District Dera Ismail  
Khan (Cell No.0321-9623761, 0342 8458687)

.....Appellant

**VERSUS**

1. Government of Khyber Pakhtunkhwa Through Secretary, Elementary and Secondary Education Peshawar
2. Director General Social Welfare Department Peshawar.
3. District Officer Social Welfare Department Dera Ismail Khan
4. Account General Khyber Pakhtunkhwa Peshawar
5. District Account Officer D.I.Khan
6. Mr. Mumtaz Khan C.T Teacher Govt: Institute for Blind District D.I.Khan
7. Mr. Faisal Haq Religious Teacher Institute for Blind District D.I.Khan..... Respondents

Service Appeal U/S 4 of the KPK Service Tribunal Act 1974 Against Arrears of Pay Scale of BPS-16 With Effect From 24-08-2004 to 29-12-2006 while from 29-12-2006 to 28-02-2010 of BPS-17 Which is Granted to other Employees ( Respondents No.06, 07 and Others) of the Respondents' Department While The Petitioner's Arrears are withheld Till Date without Lawful Authority and the act of the Respondents is Discriminatory, against the Law and Facts.

PRAYER :

On acceptance of instant civil appeal, the respondents No.1 to 5 may graciously be directed to give Arrear of Pay Scale With Effect From 24-08-2004 to 29-12-2006 in BPS-16 while from 29-12-2006 to 28-02-2010 in BPS-17.

Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

re-submitted to-day  
and filed.

14/4/16



Respectfully Sheweth:

- i. That appellant/petitioner was appointed as Assistant Oral Master in BPS-9 on dated 24-08-2004 by the respondents.

(Copy of appointment order is annexed as A).

- ii. That the respondents No.1 to 5 up graded various posts of teachers to BPS-16 and 17 in compliance of various judgments of the various courts of law and implementing finance circular letter No. FD (SR-1)-95/84111 dated 24-07-1986

(Copy of judgments as B, C and D).

- iii. That qualification of the petitioner/appellant at the time of appointment was B.A while he got degree of B.Ed Annual, Session 2005 in 29-12-2006 and had been performing his duty from 24-08-2004 to 28-02-2010, to the satisfaction of the superiors and as such no complaint whatsoever was given at the relevant time to the High ups.

(Copies of professional qualification record are annexed as E1, E2, E3, and E4)

- iv. That the respondents 1 to 5 granted arrears benefits of scale 16 and 17 to other employees as respondents 6, 7 being colleagues of the petitioner and others alongwith **Retrospective Effect** (from date of acquiring prescribed qualification).

(Copies of various letters giving pay benefits to the other employees, are annexed as F).

- v. That the petitioner/appellant also performed his duty from 24-08-2004 having qualification of B.A while got degree of B.Ed, sessions 2005 in 29-12-2006 hence, the petitioner/appellant is entitled for arrears of pay scale of BPS-16 for **two years and four months** ( from 24-08-2004 to 29-12-2006) and of BPS-17 for **three years and 02 months** (from 29-12-2006 to 28-02- 2010)

ATTESTED

ATTESTED  
 Khyber Pakhtunkhwa  
 Service Tribunal  
 Peshawar

vi. That the appellant/petitioner preferred service appeal to the respondents 1 and 2 through respondent No.3 which remained unanswered till date.

(Copy is annexed as G).

vii. That it is well established rule of law that when a question of law is decided by the competent forum, the respondents are under legal obligation to extend the benefits to all those who are also entitled, rather to indulge in litigation but the respondents refused to grant benefits to the petitioner/appellant which is illegal and without lawful authority irrespective of the fact that they had already granted benefits to other employees who are standing on same footings. The appellant assails such action of respondents before this Honorable Tribunal inter alia on the following grounds.

GROUND:

- That petitioner is not treated according to Law, Rules and Regulations.
- That the respondent 1 to 5 have given arrears of pay to the respondents 6 to 7 and other employees while withheld the petitioner which is clear cut violation of Article 25 of the Constitution of Pakistan 1973.
- That withholding the arrears of BPS-16 and 17 of the petitioner is amount to force labour which is forbidden by the law of the land.
- That it is established principle of law and good governance that no person should be prejudiced due to the act of the functionaries.
- That petitioner performed his duty from 2004 to 2010 hence, vested right to recover his arrears of pay.

ATTESTED  
  
 MEMBER  
 Tribunal  
 Service

A. It is therefore, most humbly requested that by accepting this instant petition/appeal the Honourable Tribunal may be pleased to grant arrear of pay scale with effect from 24-08-2004 to 29-12-2006 in BPS-16 while from 29-12-2006 to 28-02-2010 in BPS-17.

B. It is also requested to pass any such other orders as this Honourable Tribunal thinks fit and proper in view of the circumstances of the case.

Dated: 28-03-2016

yours humble petitioner

*[Signature]*  
Aurangzeb Khan

Through counsel

Mr. Masoodur Rehman Adovcate

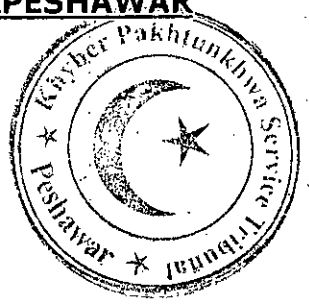
*[Signature]*

Certified to be true copy  
*[Signature]*  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of Presentation of Application 05/05/23  
 Number of Page 4  
 Copying Fee 20/-  
 Urgent ✓  
 Total 20/-  
 Name of \_\_\_\_\_  
 Date of Completion 05/5/23  
 Date of Delivery of Copy 05/5/23

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

**Service Appeal No.399/2016**



Date of Institution: 29.03.2016  
Date of Decision: 04.12.2020

Aurangzeb Khan S/O Muhammad Jan Khan R/O Gali Bagh Wali, Street No. 5  
Nearby Jame Masjid District Dera Ismail Khan.

... (Appellant)

**VERSUS**

The Government of Khyber Pakhtunkhwa through Secretary Elementary &  
Secondary Education and Six others.

... (Respondents)

Tanveer Ahmad Baloch,  
Advocate

... For Appellant

Mr. Muhammad Jan,  
Deputy District Attorney

... For Respondents

Mrs. Rozina Rehman  
Mr. Atiq Ur Rehman Wazir

... **MEMBER (J)**  
... **MEMBER (E)** **ATTESTED**


**JUDGMENT: -**

**Mr. ATIQ UR REHMAN WAZIR:** - Brief facts of the case are that the appellant Mr. Aurangzeb Khan, was initially appointed as Oral Master in BPS-9 dated 24-08-2004 by the respondents; that post of teachers were upgraded by the respondents to BPS-16 & 17 in compliance of various judgments of various courts of law and implementing Finance Department circular dated 24-07-1986; that the appellant also performed duty as oral master w.e.f. 24-08-2004 to 28-02-2010 and was qualified as well as entitled for the benefits of up-gradation; that respondent granted arrears benefits of scale 16 and 17 to other employees

ie. respondents No. 6 & 7 being colleagues of the appellant and others from the dates of acquiring prescribed qualifications, but the appellant was not granted the said benefits. The appellant preferred departmental appeal, which remained unanswered, hence the instant service appeal with prayers that respondents may be directed to give arrears of pay scale with effect from 24-08-2004 to 29-12-2006 in BPS-16 while from 29-12-2006 to 28-02-2010 in BPS-17.

2. Written reply/comments were submitted by respondents.

3. Arguments heard and record perused.

**ATTESTED**  
  
 EXAMINER  
 Khyber Pakhtunkhwa  
 Service Tribunal  
 Peshawar

4. Learned counsel for the appellant, while narrating the story of up-gradation, referred to Finance Department Circular dated 24-07-1986, upgrading the posts of teachers in various grades, including the grade of appellant to BPS-16 & 17, based on upgraded qualifications, which were offered to certain teachers by way of personal scales on political basis. Considering the same discriminatory, one of the employees, Wahid Nawaz struggled on individual basis fighting a long legal battle and finally succeeded and Supreme Court of Pakistan dated 03-02-2010 vide its Judgment passed in review petition No. 10-P/2009 r/w 2009 SCMR-1, whereby Up-gradation and back benefits were allowed to him retrospectively. Learned counsel for the appellant contended that the said Wahid Nawaz was followed by rest of the employees of the same category and they obtained individual reliefs either through Writ Petitions or through appeals from this worthy Tribunal. Likewise the appellant also served as Assistant Oral Master (BPS-9) in special education at Deaf & Dumb Institute at D.I. Khan, being supervised by Social Welfare Department. Learned counsel for the appellant further contended that the appellant remained in the same capacity since the year 2004 up-to the year 2010 and quit the same job on appointment as Civil

Judge; that during the course, the posts were finally up-graded from BPS-9 to BPS-16 & 17 on the basis of upgraded qualifications, in light of Finance Department Circular dated 24-07-1986. It was further contended that the appellant was duly qualified for the said benefits at that time along-with his other colleagues, that respondents granted ante dated promotions to other co-employees of the appellant, but the appellant has been ignored. It was further contended that at the time of grant of arrears and ante dated promotion to other co-employees, the appellant had vacated the job on joining the new assignment, but was legally entitled to get benefits of ante dated promotion on the same analogy, which was granted to other colleagues of the appellant. It was further contended that the appellant sought the same relief from the respondents, but the same was kept unanswered, hence the instant service appeal with prior permission of the worthy High Court, Peshawar and with prayers of condonation of delay. Learned counsel for the appellant further contended that the same benefit has already been awarded to the then co-employees of the appellant. Reliance was placed on 1991 SCMR 1041, 1993 SCMR 2104, 2016 PLR 1603 (Peshawar), unreported case law in WP No. 216-P- 2013 and WP No 54-P-2012. Learned counsel for the appellant pointed out that the case of appellant is also having synonymous facts with the case laws relied upon, hence the same benefit may also be allowed to the appellant.

5. The learned Deputy District Attorney appeared on behalf of the respondents agreed to the extent that colleagues of appellant through court judgments were awarded higher pay scale in light of Finance Department Circular Dated 24-07-1986. The Learned Deputy District Attorney contended that for the purpose a committee has been constituted and the appellant is required

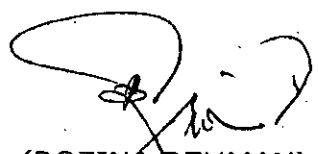
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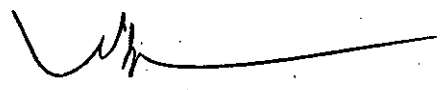
EX. A  
 MEMBER  
 Kinshah Pakt  
 Service Tribunal  
 Peshawar

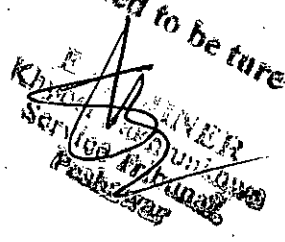
attend to that committee for adequate knowledge certificate and if found eligible, would give him his due rights.

6. We have heard learned counsel for the parties and perused the record. We have observed that Finance Department Circular dated 24-07-1986 regarding up-gradation of posts of teachers of Deaf & Dumb Institutions to BPS-16 & 17 is very clear and it was obligatory upon the respondents to up-grade such positions without intervention of the Court. It was also observed that in various courts judgments referred to above by counsel of the appellant, the same benefits have already been extended to co-employees of the appellants on the directions of Courts. The respondents at a belated stage also realized and constituted a Committee to deal with such cases. Record reveals that total 53 employees including respondent No. 6 & 7 have been awarded higher pay scales with retrospective effect i.e. from the date of acquiring the prescribed qualification. We are also conscious of the fact that the appellant was qualified in every respect for the said benefit, which have already been granted to his other colleagues. In view of the situation, the instant appeal is accepted as prayed for. No orders as to costs. File be consigned to record room.

ANNOUNCED  
04.12.2020

  
(ROZINA REHMAN)  
MEMBER(J)

  
(ATIQ UR REHMAN WAZIR)  
MEMBER (E)

*Certified to be true copy*  
  
MEMBER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Annexure - C (14)

The District Social Welfare Officer,  
Dera Ismail Khan.

Subject:

**IMPLEMENTATION PETITION OF THE  
JUDGMENT /ORDER OF KHYBER  
PAKHTUNKHWA SERVICE TRIBUNAL PASSED  
IN SERVICE APPEAL NO.389/2016 DECIDED ON  
04/12/2020**

Respected Sir,

With profound regards, the applicant submits as  
under: -

1. That the applicant was initially appointed as oral master (BPS-09) on 24/8/2004 in your department.
2. That the post of oral master was upgraded to BPS-16 in compliance of various judgments of various courts of law.
3. That the applicant also performed duties as oral master with effect from 24/8/2004 to 28/2/2010 in your department. The applicant was also qualified as well entitled for the benefits of upgradation which were granted to the other employees of BPS-16 & 17 in the shape of arrears but the same benefits were not granted to the applicant.
4. That the applicant preferred departmental appeal in this regard which remained unanswered, therefore, the applicant




preferred subject civil appeal with prayers that he may also be granted arrears of pay scale w.e.f 24/8/2004 to 29/12/2006 in BPS-16 while from 29/12/2006 to 28/2/2010 in BPS-17.

5. That after hearing of the appeal, the Khyber Pakhtunkhwa Service Tribunal Peshawar vide judgement dated: 04/12/2020 in service appeal 399 of 2016, accepted the prayer of applicant and granted the subject relief to the applicant in toto.

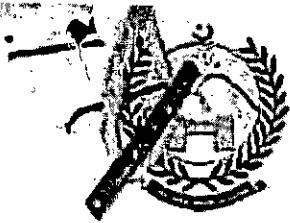
It is, therefore, requested that by accepting the implantation petition of applicant the arrears may kindly be granted w.e.f 24/8/2004 to 29/12/2006 in BPS-16 while from 29/12/2006 to 28/2/2010 in BPS-17, please.

Dated: 17/12/2020

Yours obediently,

  
Aurangzeb Khan s/o  
Muhammad Jan Khan

Annexure - D (16)



**OFFICE OF THE DISTRICT OFFICER**  
**SOCIAL WELFARE, S.P.L; EDU; & W.E DEPARTMENT**  
**NEAR DEGREE COLLEGE NO. 1 FOR BOYS CHAH SYED MUNAWAR SHAH ROAD, DIKHAAN.**

No.DO/SWD/DIK/2020/805-06 Dated, DIKhan the 24/12/2020

To

The Director,  
Social Welfare, S.E & W.E.D  
Peshawar, Khyber Pakhtunkhwa.

Subject: - **REQUEST FOR GUIDANCE ABOUT THE SERVICE APPEAL NO. 399/2016**

Kindly refer to the above noted subject please find enclosed here with judgment/ order of Service Tribunal Khyber Pakhtunkhwa Peshawar in r/o Aurangzeb Khan S/O Muhammad Jan Khan Ex-Assistant Oral Master, BPS-09 of Govt. School for Deaf & Dumb Children (Social Welfare, SE & WED) D.I.Khan.

In this regard, your kind self is requested for further necessary action, please.

  
**SAHIBZADA MUHAMMAD NAEEM**  
**DISTRICT OFFICER**  
**SOCIAL WELFARE, S.E & W.E.D**  
**DERA ISMAIL KHAN**

Endst: Even No. & date.

Copy for information to

1. PS to Secretary Social Welfare SE & WED Peshawar Khyber Pakhtunkhwa.
2. The Principal, School for Deaf & Dumb Children D.I.Khan.
3. Mr. Aurangzeb Khan Ex-Assistant Oral Master of School for Deaf & Dumb Children, D.I.Khan.

  
**DISTRICT OFFICER**  
**SOCIAL WELFARE, S.E & W.E.D**  
**DERA ISMAIL KHAN**

9/2