


Form- A
FORM OF ORDER SHEET.

Court of _____

Implementation Petition No. 328/2023

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. Yahya submitted today by Mr. Hidayat Ali Advocate. It is fixed for implementation report before touring Single Bench at Swat on _____. Original file be requisitioned. AAG has noted the next date.</p> <p>By the order of Chairman  REGISTRAR</p>

①

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

Execution Petition No. 328 of 2023

Yahya S/O Beladar, R/O Pirkilay, Tehsil Matta District Swat
(Ex Veterinary Assistant)

Petitioner
Khyber Pakhtunkhwa
Service Tribunal

Diary No. 5333

Dated 23/5/2023

VERSUS

1. Director General extension livestock and dairy development.
2. Director General Head Quarter livestock and dairy development, near at Bacha Khan Chowk Peshawar.
3. Secretary Agriculture Livestock, Govt of KP at Peshawar, Civil Secretariat.Respondents.

Execution Petition of Judgment/ decision dated: 19/10/2022

R/Sir,

1. That this honorable tribunal has passed a judgment in the service appeal No. 736/2019, in favour of petitioner/ appellant. (Copy attached)
2. That after the judgment the petitioner has submitted an application along with copy of judgment before the respondents for implementation of judgment on 01/02/2023. (Copy attached.)
3. That from the submission of application and judgment before the respondents, no compliance has been made by the respondents till yet. So this execution petition is submitted for implementation/ execution of the judgment dated: 19/10/2022.

Therefore the respondents may kindly be directed to implement the above mentioned judgment without any delay.

PETITIONER

Yahya

Mr. Yahya

S/O Beladar

Affidavit

Stated on oath that all the contents of the above application are true and correct to the best of my knowledge and belief.

Yahya

Mr. Yahya

ATTESTED

m. h. amir
22/05/2023

2

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Service Appeal No. 736.....2019

Yahya S/O Beladar Mian R/O Pir Kilay, Tehsil Matta District Swat,
Ex-veterinary Assistant posted in the office of district Director Live Stock
Hari Pur.

.....{Appellant}

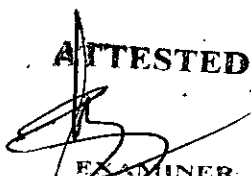
Versus

- 1) Director General extension Live Stock & Dairy development
- 2) Director General Head Quarter Live Stock & Dairy development
Near at Bacha Khan Choke Peshawar.
- 3) Secretary agriculture & Live Stock government of Khyber
Pakhtunkhwa, at Peshawar Civil Sectriate.

.....{Respondents}

Appeal under Section. 4 of the Khyber
Pakhtunkhwa Service tribunal Act 1974,
against the appellant termination order of
respondent No. 1 & 2 dated: 11/03/2019,
which is against law, rules, facts and based
on malafidy and political victimization.
Hence is liable to be set aside, feeling
aggrieved the appellant preferred a
departmental appeal before the respondent
No.3, which was also rejected/ dismissed vide
W.P 723-P, dated: 20/05/2019 in a summery
manner against law, rules, facts and based on

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

(3)

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR

Service Appeal No. 736/2019

Date of Institution ... 17.06.2019

Date of Decision... 19.10.2022

SCANNED
KPST
Peshawar



Yahya S/O Beladar Mian. R/O Pir Kilay, Tehsil Matta District Swat,
Ex-Veterinary Assistant posted in the office of District Director Livestock
Haripur. ... (Appellant)

VERSUS

Director General Extension Livestock & Dairy Development Peshawar and 02
others. ... (Respondents)

MR. JAVED KHAN,
Advocate

For appellant.

MR. MUHAMMAD RIAZ KHAN PAINDAKHEL,
Assistant Advocate General

For respondents.

MR. SALAH-UD-DIN
MS. ROZINA REHMAN

MEMBER (JUDICIAL)
MEMBER (JUDICIAL)

JUDGMENT:

SALAH-UD-DIN, MEMBER:- Briefly stated the facts

giving rise to filing of the instant service appeal are that the
appellant was posted as Veterinary Assistant (BS-09) in the office
of District Director Livestock Swat. He was transferred to office
of the District Director Livestock Haripur vide transfer/posting
order dated 02.08.2018. Vide order dated 11.03.2019, the
appellant was terminated from service on the allegations of his

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Services Tribunal
Peshawar

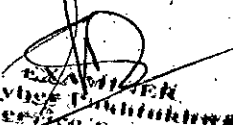
absence from duty as well as unsatisfactory performance. The appellant challenged the order of his termination through filing of departmental appeal, which was rejected vide order dated 20.05.2019, hence the instant service appeal.

2. Respondents contested the appeal by way of submitting para-wise comments, wherein they refuted the assertions as raised by the appellant in his appeal.

3. Learned counsel for the appellant has argued that the appellant did not remain absent from duty and was performing his duty efficiently; that the appellant was even on duty on 25.03.2019, when the termination order was sent to District Director Livestock Haripur through Whatsapp; that due to political interference, the appellant was initially transferred to District Haripur and was then wrongly and illegally terminated from service without providing him an opportunity of personal hearing or self defence; that no proper inquiry was conducted by the competent Authority and fundamental rights of the appellant as provided in Articles 4 & 25 of the constitution of Islamic Republic of Pakistan were flagrantly violated; that the impugned order of termination of the appellant has been made in utter violation of relevant law/rules, therefore, the same is liable to be set-aside and the appellant is entitled to be reinstated in service with all back benefits.

4. On the other hand, learned Assistant Advocate General for the respondents has argued that the appellant was in probation

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

period, therefore, the competent Authority was empowered dispensed with services of the appellant without even assigning any reason; that as the appellant was in probation period, therefore, there was no need of issuing him show-cause notice; that an inquiry was conducted regarding misbehavior of the appellant and the inquiry committee recommended that the appellant may be terminated from service; that performance of the appellant was unsatisfactory and he had also remained absent from duty, therefore, he has rightly been terminated from service.

5. Arguments have already been heard and record perused.

6. A perusal of the record would show that the appellant was transferred from the office of District Director Livestock Swat to the office of District Director Livestock Haripur vide transfer/posting order dated 02.08.2018. The District Director Livestock Swat had filed complaint against the appellant that he had misbehaved with the District Director Livestock Swat. The Director Animals Health Production constituted a committee for probe into complaint filed by the District Director Livestock Swat, which submitted its report to the competent Authority vide letter No. 12173 dated 08.10.2018 and there-after the matter was kept pending. The inquiry report was then linked with absence of the appellant w.e.f 07.03.2019 to 09.03.2019 (03 days) and it was vide the impugned order dated 11.03.2019, that the appellant was terminated from service. The District Director Livestock Haripur had reported absence of the appellant to the Directorate General

ATTESTED

W. K. M. N. E. R.
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

(Extension) Livestock and Dairy Development Khyber Pakhtunkhwa, Peshawar vide letter dated 11.03.2019 and he terminated services of the appellant on the same date. In para-8 of their reply on fact, the respondents have categorically mentioned that the appellant was terminated on account of misconduct and absence from duty. It is thus not a case of "termination simpliciter" as stigma of misconduct was attached to it. In such a case, proper inquiry was required to have been conducted into the allegations against the appellant, but it is an admitted fact that not even a show-cause notice was issued to the appellant regarding the allegations, which resulted in his termination from service. The alleged three days absence from duty was a question of fact requiring an inquiry to ascertain as to whether the appellant was actually absent from duty, particularly when the appellant has alleged that he never remained absent from duty. The appellant was not even afforded an opportunity of personal hearing before passing of order of termination of his service. The principle of natural justice enshrined in the maxim "*audi alteram partem*" is one of the most important principle and its violation is always considered enough to vitiate even most solemn proceedings. Worthy apex court in its judgment reported as 2008 SCMR 934 has held that where adverse action is contemplated to be taken against the person/persons, he/they has/have a right to defend such action, notwithstanding the fact that the statute governing their rights does not contain provision of the principle of natural justice

AFFIRMED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

and even in absence thereof it is to be read/considered as part of such statute in the interest of justice.

7. In view of the above discussion, the appeal in hand is allowed by setting aside the impugned orders and the appellant is reinstated in service with all back benefits. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED

19.10.2022

(SALAH-UD-DIN)
MEMBER (JUDICIAL)

(ROZINA REHMAN)
MEMBER (JUDICIAL)

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 21-12-22

Number of Words 2000

Copying Fee 22/-

Urgent _____

Total 22/-

Number of Copies _____

Date of Completion of Copy 22-12-22

Date of Delivery of Copy 22-12-22

616
α/α/23
Lifeline
AS
17/23

خدمت جی۔ DG جی۔ لائوسٹاں (توسیع ۱۹۹۴ میں) پتہ

کسی دہ بلڈریسوں کے لئے پیرکلیٹس کے خلع سوانت

(سٹور V-A)

رد فوائض برآمد بجائی ملازمت Remittance سائل

جو الہ حکم و نیکام حضور عدالت سرورس ٹریبونل ۱۹۹۴ شمار

جس میں شامل کوٹاہٹا will all back benefits کے ساتھ بحال کیا گیا ہے۔

جی جی! یہ نظر دیا ہے

۱۔ یہ سائل ہے جی جی کے ذریعہ ترقیاتی حقہ پتہ میں گنتی V A

ملازم تھا۔ جو کہ بددیوان ملازمت سائل کو غیر قانونی طور پر Terminate کیا

گیا۔ جس کے علاوہ سائل کے تحت ترقیاتی حقہ پتہ سرورس ٹریبونل میں داخل کیا گیا۔

جو کہ حضور عدالت سرورس ٹریبونل کے مورخہ ۱۵-۱۹-۲۰۲۲ کو سائل کے حوالے سے

سائل کو تمام will all back benefits کے ساتھ بحال کیا گیا۔

۲۔ یہ سائل انورڈ کے قانون آف جی جی کے تحت ہے۔ اس سائل کو ملازمت پر بحال کیا گیا ہے اور اس کے

تحتیاً اس کے ساتھ سائل کو تمام will all back benefits کے ساتھ بحال کیا گیا ہے۔



تحتیاً اس کے ساتھ ملازمت پر بحال کیا گیا ہے۔ نوڈ کا ورک ہے۔

عزیز

ایکٹا

پتہ جی۔ بلڈریسوں کے لئے پیرکلیٹس کے خلع سوانت

Ali
Ali
ADU

بار کونسل نمبر: 10* 0263 hidayat@kpi.com بار ایسوسی ایشن کا نمبر: 03139087575 رابطہ نمبر:	 	بریل نمبر 2170
تحصیل بار ایسوسی ایشن مٹہ (اپرسوات)		

بعدالت جناب: جسٹس سرورس ٹریبونل خیر پختون خواہ بلحاظ ایشام

منجانب: سائل / ایڈووکیٹ	دعویٰ اور خواست:
یجی	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے برائے پیروی مقدمہ آن مقام شامور / سوات کیلئے مداخلت علیٰ مشرکیت کو مقرر کر کے اقرار کیا جاتا ہے، کہ صاحب موصوف کو مقدمہ کی کل کارروائی کو کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث کرنے، دعویٰ جواب دعویٰ، اقبال دعویٰ اور درخواست برائے سرسبزگی مقدمہ، منسوخی ڈگری یکطرفہ، اجراء و پیروی کرنے کا مختار ہوگا۔ نیز دائر کرنے اپیل نگرانی، نظر ثانی و پیروی کرنے کا مختار ہوگا۔ اور مقدمہ مذکورہ کیلئے کل وقتی یا جزوی کارروائی کیلئے کسی دیگر وکیل یا مختار قانون کو اپنے ہمراہ یا اپنے بجائے تقریر کا اختیار ہوگا اور صاحب مقرر شدہ کو بھی جملہ مذکورہ اختیارات حاصل ہوں گے، اور اس کا ساختہ و پرداختہ منظور قبول ہوگا، بذوران مقدمہ جو خرچہ و ہر جانہ کسی بھی سبب سے حاصل ہوگا، وہ وکیل موصوف وصول کرنے کا حقدار ہوگا، کوئی تاریخ پیشی مقام مذکورہ بالا سے باہر ہو، تو وکیل صاحب پیروی مقدمہ کرنے کے پابند نہ ہوں گے، مقدمہ کسی عدالت میں بعد پیروی خارج ہونے یا ڈگری یکطرفہ ہونے کے صورت میں وکیل صاحب ذمہ دار نہیں ہوں گے۔

لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

مقام شامور / سوات کے لئے منظور ہے۔

ایڈووکیٹ ادخطا:

Hidayat Ali Adu

الرقوم: 22-05-2023