Form- A

FORM OF ORDER SHEET

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Court of	:		

Implementation Petition No. 345/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge			
1	2	3			
1	30.05.2023	The execution petition of Mr. Imran Ali			
,		submitted today by Mr. Tariq Kamal Advocate. It is fixed			
		for implementation report before Single Bench at			
		Peshawar on 02-06-2023. Original file be			
		requisitioned. AAG has noted the next date.			
		By the order of Chairman			
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BEFORE THE HON'BLE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR

Execution petition no.	Service Tribunal
Service Appeal No/2023	Diary No. 5687
	Dated 30/5/2023
Imran Ali, Ex-Director Sugar Crops	Research Institute,

- 1. Chief Secretary, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
- Secretary Agriculture & Livestock, Civil Secretariat, Peshawar. 2.
- Director General Agriculture Research, IDS Building Khyber 3. Pakhtunkhwa Agriculture University, Peshawar.
- 4. Director Sugar Corps Research Institute, Mardan

.....Respondents

PETITION FOR IMPLEMENTATION ORDER DATED:27.02.2023 PASSED IN SERVICE APPEAL NO.13/2022 BY THIS HON'BLE TRIBUNAL.

Respectfully Sheweth:

That the petitioner humbly submits as under;

- That the applicant instituted Service Appeal for the 1. grant/release of pension etc before the Hon'ble Tribunal which has been allowed vide order dated:27.02.2023. (Copy of the Service Appeal & order dated 27.02.2023 is attached as annexure "A" & "B").
- 2. That the respondents were directed to process the pension case and make payment within 30 days from the date of judgment but till date no progress has been

(3)

made in this regard, hence, the instant petition on the following grounds:-

GROUNDS:

- A. That non-compliance of the aforesaid judgment dt 27.02.2023 of the Honourable Tribunal by the respondents are illegal, without lawful authority, without jurisdiction, based on maiafide and void ab-initio.
 - B. That the respondent No.04 in particular is intentionally and deliberately tried to defeat the ends of justice by non compliance of the judgment passed by the Hon'ble Tribunal.
 - C. That non-compliance of the order of the Honourable Tribunal, speaks malafide on the part of respondents and to lower the position of the judiciary in the eyes of general public.
 - D. That from the facts and grounds taken the said petition, the respondents are bound to implement judgment of this Hon'ble Tribunal in its true letter and spirit.

It is, therefore, most humbly prayed that on acceptance of this application, the respondents may please be directed to implement judgment of this Hon'ble Tribunal dated:27.02.2023 in its true letter and spirit.

Any other relief not specifically asked for may also

be granted in circumstances of the case.

Applicant

Through

Tariq Kamal

Advocate, High Court

Peshawar

Cell#0301-5932818

<u>AFFIDAVIT</u>

Dated: 26.05.2023

I, Imran Ali Ex-Director Sugar Crops Research Institute, Mardan (Petitioner), do hereby solemnly affirm and declare on oath that the contents of the accompanying Application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

Identified by

Tariq Kamal Advocate High Court Peshawar

CNIC#17301-Cell#0336-198

BEFORE THE HON'BLE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR

Serv	ice Appeal No/2023
	Imran Ali, Ex-Director Sugar Crops Research Institute,
	Mardan
	Versus
1.	Chief Secretary, Government of Khyber Pakhtunkhwa
	Civil Secretariat, Peshawar.
2.	Secretary Agriculture & Livestock, Civil Secretariat
	Peshawar.
<i>3.</i>	Director General Agriculture Research, IDS Building
	Khyber Pakhtunkhwa Agriculture University, Peshawar.
4	Director Sugar Corps Research Institute, Mardan
	Respondents

APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL
ACT, 1974 TO THE EFFECT THAT THE
RESPONDENTS MAY PLEASE BE
DIRECTED TO PAY ALL THE
PENSIONARY BENEFITS TO THE
APPELLANT ALONGWITH ALL
EMOLUMENTS ADMISSIBLE UNDER THE
RULES.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.13/2022

Date of Institution ...

28.12.2021

Date of Decision

27.02.2023

Imran Ali, Ex-Director Sugar Crops Research Institute, Mardan.

(Appellant)

VERSUS

Government of Khyber Pakhtunkhwa, through Chief Secretary, Civil Secretariat, Peshawar and three others.

(Respondents)

Tariq Kamal

Advocate

For appellant.

Muhammad Jan

District Attorney

For respondents.

Mr. Kalim Arshid Khan

Chairman

Mrs. Rozina Rehman

... Member (J)

JUDGMENT

ROZINA REHMAN, MEMBER: The appellant has invoked the jurisdiction of this Tribunal through above titled appeal with the prayer as copied below:

"That on acceptance of the instant appeal the respondents may please be directed to pay pension amount with all ancillary financial benefits along with 15 percent interest per annum, till realization to the appellant admissible under the rules."



Charles Tell

- 2. Brief facts of the case are that appellant retired from service as Director Sugar Crops Research Institute, Mardan on attaining the age of superauunation on 08.04.2021 vide notification dated 30.07.2021. He filed an application in respect of payment of compensation allowance equal to 365 days pay in lieu of LPR. The administration of Sugar Crops Research Institute, Mardan issued no demand certificate in respect of appellant and recommended further processing of his pension papers. Due to unwarranted attitude and delaying tactics of the respondents the appellant preferred departmental appeal for redressal of his grievance but to no avail;
- 3. We have heard Tariq Kamal, Advocate learned counsel for the appellant and Muhammad Jan, learned District Attorney for respondents and have gone through the record and the proceedings of the case in minute particulars.

hence the present service appeal.

4. Tariq Kamal Advocate, learned counsel for the appellant submitted that inaction of the respondents is against law and facts hence not tenable in the eyes of law. It was further submitted by learned counsel for appellant that the respondents deliberately delayed the pension case of the appellant and that his children suffered a lot as it was difficult for the appellant to meet their expenses besides daily expenses. He contended that the appellant was not dealt with in accordance with Article-4 of the Constitution of Islamic Republic of Pakistan as the payment of pension alongwith other emoluments to a civil servant on his retirement can be claimed as a right. He, therefore, requested for acceptance of the instant service appeal.





- Conversely, learned District Attorney submitted that one Hasham Khan S/O Zafar Ali Khan filed a complaint against the appellant who was Director Sugar Crops Research Institute, Mardan on 08.09.2021 after his retirement. He leveled serious allegations against appellant regarding financial embezzlement which was the main cause of delay in processing his pension case. He contended that vide office order dated 23.09.2021 a committee was constituted to conduct physical verification of stock register, stock items/assets of ADP Funded Project Chip Bud Technology in the light of complaint mentioned above, and that as per finding of the committee Cultivator and Rotavator were found missing from the store. The committee visited the Hujra of the complainant and both the items were found in his Hujra as the same were sold by the appellant to him at a price of Rs.400000/- and that the appellant was asked time and again to return the government assets but he failed to return. Hence the processing of his pension case was subject to return of assets.
- Research Institute, Mardan in (BS-19). He got retired from government service w.c.f 08.04.2021(A.N) on attaining the 60 years of age vide notification dated 30.07.2021. Sanction was also accorded to leave encashment preparatory to retirement equal to 365 days in his favour. He submitted different applications for grant of cash compensation allowance and all other allowances after retirement but the respondents were reluctant to process his pension case. The comments submitted on behalf of respondents are available on file, wherein the respondents admitted the





appellant to be their employee who served the department for long period and retired from service by attaining the age of superauunation. His pension case was not processed due to alleged involvement of the appellant in embezzlement case as after physical verification by the committee a Cultivator and Rotavator were found missing from the store. In this regard no demand certificate is available on file at page 15 & 16 of the appeal, which clearly shows that certificates was granted as per record of Agriculture Institute Tarnab, as there was nothing outstanding against the appellant. Store Officer SCRI, Store Keeper SCRI, Section Head (Breeding Section), Section Head (Entomology/Pathology), Farm Manager SCRI and

As sequel to the above discussion, this appeal is allowed and the respondents are strictly directed to process the pension case of the appellant and make payment well within 30 days of the receipt of this judgment. Parties are left to bear their own costs. File be consigned to the record room.

Soil Chemistry Section signed the no demand certificate which means that

nothing was outstanding against the appellant and despite this clear

certificate his pension case was not processed.

ANNOUNCED 27.02.2023 (Kalim Arshad Khan) Chairman Member (J) Date of Presentation of Application_2 Number of Word/ Copying Fee _ Urgent. Total... Name of Copp. 36 Date of Complection of Copy Date of Delivery of Copy

