


Form- A

FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 359/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	06.06.2023	<p>The execution petition of Mst. Nadia Jabeen received today by registered post through Hamayun Khan Advocate. It is fixed for implementation report before touring Single Bench at A.Abad on _____ . Original file be requisitioned. AAG has noted the next date.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

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

E.P No. 359 /2023
IN
S.A No. 1427/2019

Mst. Nadia Jabeen widow of Ishaq (Late), resident of Notia Qadeem, House No. 110 S Mohallah Akbar Khan, Street Peshawar City, presently LHV BHU Sidra Bilankot, Cum Kooza Banda, Battagram.

...PETITIONER

VERSUS

Govt. of Khyber Pakhtunkhwa through Secretary Health Peshawar & others.

...RESPONDENTS

APPLICATION FOR IMPLEMENTATION


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5.	Copy of restoration application	22-23	"E"
6.	Copy of order	24	"F"

...PETITIONER

Dated: 1-6 /2023

Through


(HAMAYUN KHAN)

&

(FAZLULLAH KHAN)

Advocates High Court, Abbottabad

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

E.P No. 359 /2023

IN

S.A No. 1427/2019

Mst. Nadia Jabeen widow of Ishaq (Late), resident of Notia Qadeem, House No. 110 S Mohallah Akbar Khan, Street Peshawar City, presently LHV BHU Sidra Bilankot, Cum Kooza Banda, Battagram.

...PETITIONER

VERSUS

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 5863

Dated 6/6/2023

1. Govt. of Khyber Pakhtunkhwa through Secretary Health Peshawar.
2. Director General Health Services Khyber Pakhtunkhwa, Peshawar.
3. District Health Officer Battagram.

...RESPONDENTS

**APPLICATION FOR IMPLEMENTATION OF
JUDGMENT DATED 06/01/2022 PASSED BY THIS
HONOURABLE TRIBUNAL IN APPEAL NO.
1427/2019 TITLED "MST. MST. NADIA JABEEN V/S
GOVT. OF KHYBER PAKHTUNKHWA & OTHERS.**

Respectfully Sheweth:-

1. That petitioner filed service appeal No. 1427/2019 against the impugned order dated 10/01/2009 passed by respondent No. 3. Copy of appeal is attached as Annexure "A".
2. That on 06/01/2022 after hearing of arguments this Honourable tribunal accepted appeal of the petitioner and set aside impugned order dated 10/01/2009. Copy of judgment is attached as annexure "B".
3. That thereafter petitioner filed execution petition No. 166/2022 and on 03/08/2022 the respondent submitted reinstatement order of the petitioner, thereafter, this Honourable Tribunal disposed off execution petition of the petitioner. Copies of order and reinstatement order are annexed as Annexure "C" & "D".
4. That, thereafter, petitioner again file restoration application for restoration of execution petition. Copy of restoration application is annexed as Annexure "E".
5. That, on 26/04/2023 after hearing of arguments this Honourable Tribunal disposed off restoration application with direction to the department/

respondents redressed grievances of the petitioner.

Copy of order is annexed as Annexure "F".

6. That respondents instead of complying with the direction of this Honourable Tribunal, straightaway refused to comply with the direction of this Honourable Tribunal and till date not removed grievances of the petitioner and respect of her financial issues, fixation of salary, seniority as well as promotion to next higher scale.
7. That other point would be raised at the time of arguments kind permission of this Honourable Tribunal.

It is therefore, humbly prayed that on acceptance of instant application respondents be kindly be directed forth with comply the judgment dated 06/01/2022 in it true letter and spirit


...PETITIONER

Through

Dated: 1-6/2023


(HAMAYUN KHAN)

&


(FAZLULLAH KHAN)
Advocates High Court, Abbottabad

1
ANNEXURE 'A' 4
BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR



Service Appeal No. 1427 /2019

Mst. Nadia Jabeen widow of Ishaq (Late), resident of Nothia Qadeem, House No. 110-S, Mohallah Akbar Khan Street, Peshawar, presently Baggatram City, Tehsil & District Battagram.

...APPELLANT

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Health Peshawar.
2. Director General Health Services Khyber Pakhtunkhwa, Peshawar.
3. District Health Officer, Battagram.

...RESPONDENTS

SERVICE APPEAL UNDER ARTICLE 212 OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN, READ WITH SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 10/01/2009 WHEREBY RESPONDENT NO: 3 TERMINATED SERVICE OF APPELLANT, WHICH IS ILLEGAL, UNLAWFUL, AGAINST THE NATURAL JUSTICE VOID AB-INITIO AND LIABLE TO BE SET-ASIDE.

Medico-day
Registrar
22/10/19

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar



PRAYER:- ON ACCEPTANCE OF THIS SERVICE APPEAL IMPUGNED ORDER DATED 10/01/2009 MAY KINDLY BE DECLARED NULL AND VOID AND APPELLANT BE RE-INSTATED IN SERVICE ALONGWITH ALL BACK BENEFITS, ANY OTHER RELIEF WHICH THIS HONOURABLE TRIBUNAL DEEMED FIT PROPER IN THE INTEREST OF JUSTICE.

Respectfully Sheweth;-

May it please your lordship appellant bet to solicit on the following factual and legal grounds;-

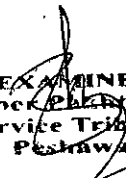
1. That on 18/11/2009 appellant was appointed as LHV in BPS-9 against the vacant post and was posted BHU Sedra Belin Kot Battagram. Copy of appointment order is annexed as Annexure "A"
2. That in consequences of appointment order dated 18/11/2009 appellant took charge and joined duty as LHV.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

3. That thereafter, appellant performed her duty with full devotion and liabilities till September 2013,
4. That in meanwhile respondent No. 3 verbally stopped appellant from performing her lawful duty.
5. That thereafter, appellant filed application against the illegal order of the respondent NO. 3 before the respondent No. 1 and 2 respectively and similarly before the provisional ombudsman. Copy of application is annexed as Annexure "B".
6. That despite application filed by the appellant, respondent Nos. 1, 2 and other executive officer not given any response to the appellant.
7. That on 15/07/2019 appellant unofficially received the impugned order from the office of respondent No. 3 after many requests subject to condition that she will not disclose the name of said official. Copy of impugned order is annexed as Annexure "C".

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

8. That on 22/07/2019 appellant filed departmental appeal before the respondent NO. 2 against the impugned order issued by respondent No. 3 but till date respondent NO. 2 not passed any order on the same. Hence, this appeal on the following grounds. Copy of departmental appeal is annexed as Annexure "D".

GROUND:-

- a. That impugned order dated 10/01/2019 against the law fact and natural justice because till September 2013 appellant performed her duty and now respondent No. 3 issued the same in back date. Hence liable to be set-aside.
- b. That till 15/07/2019 respondent No. 3 not delivered / handed over the impugned order to appellant and issued the so-called order without any reason.
- c. That it is clear malafide of the respondents that first they restrained/ abstained appellant from performing duty without any black and


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Khyber Pakhtunkhwa
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Peshawar

white and later on 15/07/2019 delivered impugned order by the official of respondent No. 3.

- d. That impugned order passed by the respondent No. 3 without lawful justification, authority, hence liable to be set-aside.
- e. That respondent NO. 3 passed impugned order without show cause notice inquiry charge sheet.
- f. That allegation mentioned in impugned order is self made and so-called.
- g. That respondent issued impugned order for adjustment of his persons on the same post.
- h. That appellant applied for copies of her show cause notice, charge sheet, statement of allegation, service book but respondent No. 3 refused the same without any reason, which is shows the malafide of the

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EXAMINER
Khyber Pakhtunkhwa
Services Tribunal
Peshawar



respondents. Copy of application is annexed as Annexure "E".

- i. That impugned order passed without communication and association of appellant, hence, liable to be set-aside.
- j. That other points shall be urged at the time of arguments.

It is, therefore, humbly prayed that, on acceptance of this service appeal impugned order dated 10/01/2009 may kindly be declared null and void and appellant be reinstated in service alongwith all back benefits. Any other relief which this Honourable Tribunal deemed fit proper in the interest of justice.

[Handwritten Signature]
...APPELLANT

Through

Dated: 24/11 /2019

[Handwritten Signature]
(HAMAYUN KHAN)
Advocate High Court, Abbottabad

VERIFICATION:-

Verified on oath that the contents of forgoing appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.

ATTESTED

[Handwritten Signature]
...APPELLANT

[Handwritten Signature]
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

 10

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Service Appeal No. _____ /2019

Mst. Nadia Jabeen widow of Ishfaq (Late), resident of Nothia Qadeem, House No. 110-S, Mohallah Akbar Khan Street, Peshawar, presently Baggatram City, Tehsil & District Battagram.

... APPELLANT

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Health Peshawar & others.


...RESPONDENTS

APPLICATION FOR CONDONATION OF DELAY IF
ANY.

Respectfully Sheweth:-

1. That the above titled appeal is being filed before this Honourable Tribunal and contents of the same may kindly be treated as integral part of this application.
2. That the appellant has brought a good prima facie case and balance of convenience also lies in favour of the appellant.
3. That valuable rights of appellant are involved.

ATTESTED


Khyber Pakhtunkhwa
Service Tribunal
Peshawar



4. That the impugned order received on 15/07/2019 from the office of respondent No.3 and respondent No. 3 intentionally did not deliver and inform the appellant from actual situation.

5. That delay in filing of service appeal is not willful.

It is therefore, humbly requested that the delay if any may kindly be condone in the interest of justice.

Na die
...APPELLANT

Through

Dated: 24/8 /2019

H. Khan
(HAMAYUN KHAN)
Advocate High Court, Abbottabad

VERIFICATION:-

Verified on oath that the contents of forgoing application are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.

Na die
...APPELLANT

Certified to be true copy

[Signature]
K. H. KHAN
K. H. KHAN
K. H. KHAN
K. H. KHAN

Date of Presentation of Application 02/03/22
Number of Words 3200
Copying Fee 34/-
Urgent 5/-
Total 38/-
Name of Copyist _____
Date of Completion of Copy 02/03/22
Date of Delivery of Copy 02/03/22

ANNEXURE 'B'

12

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1427/2019

Date of Institution ... 28.10.2019

Date of Decision ... 06.01.2022



Mst. Nadia Jabeen widow of Ishaq (Late), resident of Nothia Qadeem, House No. 110-S, Mohallah Akbar Khan Street, Peshawar, Presently Baggatram City, Tehsil & District Battagram. ... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Health Peshawar and two others. ... (Respondents)

Taimur Ali Khan,
Advocate ... For Appellant

Kabirullah Khattak,
Additional Advocate General ... For respondents

AHMAD SULTAN TAREEN ... **CHAIRMAN**
ATIQU-UR-REHMAN WAZIR ... **MEMBER (EXECUTIVE)**

JUDGMENT

ATIQU-UR-REHMAN WAZIR MEMBER (E):- Brief facts of the

case are that the appellant while serving as Lady Health Visitor (LHV) in health department, was proceeded against on the charges of absence from duty and was ultimately terminated from service vide order dated 29-01-2009. The appellant filed departmental appeal, which was not responded within the statutory period; hence, the instant service appeal with prayers that the impugned order dated 29-01-2009 may be set aside and the appellant may be re-instated in service with all back benefits.

02. Learned counsel for the appellant has contended that the impugned order is against law, facts and norms of natural justice, as the appellant performed her

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
PESHAWAR



duty till September, 2013 and respondent No. 3 issued such order in back date, hence liable to be set aside; that termination order of the appellant was never delivered to the appellant, inspite of the fact that she repeatedly visited offices of the respondents and submitted applications to every forum including Minister Health of the province; that finally the impugned order was handed over to the appellant by one of the official on the promise of anonymity; that the appellant was proceeded against under Removal from Service (Special Powers) Ordinance, 2000, but the word termination is nowhere mentioned in the list of penalties contained in the relevant clause, hence the impugned order is void; that the appellant has not been treated in accordance with law, as no disciplinary proceedings were undertaken and the appellant was simply terminated without affording her opportunity of defense; that no charge sheet/statement of allegations nor any show cause served upon the appellant; that no regular inquiry was conducted in case of the appellant and it is a well settled legal proposition that regular inquiry is must before imposition of major penalty.

03. Learned Additional Advocate General for the respondents has contended that the appellant was proceeded against on the charges of absence from duty; that the appellant was posted in a far flung area in district Batagram and reportedly she was absent from duty most of the time and only visited Batagram to collect her salary; that the appellant was subsequently transferred to a near station, where again she did not prove her worth; that the appellant was repatriated to the office of DG Health Services vide relieving order dated 23-01-2009; but the DG Health sent her back to district Batagram and directed respondent No. 3 to withdraw the relieving order dated 23-01-2009 and proceed the appellant under Removal from Service (Special Powers) Ordinance, 2000 being competent authority; that in light of instructions of DG Health, the appellant was terminated from service vide order dated 29-01-2009; that the appellant did not file any application before respondent No 3, rather submitted

TESTED

Attested
[Signature]

her applications to DG Health, Secretary Health and even Minister Health and all such applications were communicated by the high ups to respondent No 3; that respondent No. 3 apprised the high ups of the situation leading to termination of the appellant; that the appellant filed proper departmental appeal with considerable delay and when departmental appeal is barred by time, the service appeal before this tribunal is not competent.

04. We have heard learned counsel for the parties and have perused the record.

05. Record reveals that the appellant alongwith ten other, were appointed as LHV vide order dated 19-01-2007, whose services were subsequently regularized vide Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2009. Record would suggest that other colleagues of the appellant, who were appointed as LHV alongwith the appellant in the same notification, are still working in their respective places; hence, it is undisputed that the appellant was a regular civil servant. The appellant was posted in a far-flung area in district Batagram, where she was serving in a hospital jointly run by government and a private NGO. On the complaint of the said NGO, she was repatriated to the office of DG Health services, but the DG Health services sent her back to district Batagram with direction to the respondent No. 3 to proceed against her under RSO 2000 being the competent authority, but respondent No. 3 without observing the codal formalities prescribed in law, terminated her services vide order dated 29-01-2009. The impugned order provided for penalty to the appellant in terms of termination from service, which as rightly argued by the learned counsel for the appellant is not included in the list of penalties provided in the rules applied on the appellant. The order, therefore, having been passed in blatant disregard of law can only be termed as void and on this score alone, the impugned order is liable to be set at naught.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal

Attested
H. J. Khan

06. We are of the considered opinion that the appellant has not been treated in accordance with law and was kept deprived of her lawful duty in an illegal and mechanical manner, which is evident from record. Placed on record is an application dated 15-02-2014 submitted by the appellant to DG Health Services, requesting that DHO Batagram may be advised to allow the appellant to perform her duty as he has developed grudge with the appellant, hence is not allowing her to resume her duty. Another application dated 30-12-2013 to Secretary Health and still another application to Provincial Ombudsman asking for the same relief. Submission of such applications to the respondents strengthen the contention of the appellant to the effect that she served until September 2013 and her termination order was issued in back date, as the appellant never mentioned of her termination in such applications. It also strengthens contention of the appellant that her termination order was not delivered to her and was kept restricted to the office of respondent No. 3.

07. We have observed that the appellant was removed from service in an arbitrary manner without adhering to the method prescribed in law. It otherwise is a well settled legal proposition that regular inquiry is must before imposition of major penalty of removal from service, which however was not done in case of the appellant and the appellant was condemned unheard. Reliance is placed on 2009 PLC (CS) 650. The Supreme Court of Pakistan in another judgment reported as 2008 SCMR 1369 has held that in case of imposing major penalty, the principles of natural justice required that a regular inquiry was to be conducted in the matter and opportunity of defense and personal hearing was to be provided to the civil servant proceeded against, otherwise civil servant would be condemned unheard and major penalty would be imposed upon him without adopting the required mandatory procedure, resulting in manifest injustice.

08. We are also mindful of the question of limitation, as the appellant filed departmental appeal after obtaining her termination order, but in case of the

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DEPARTMENT
Under Public Health
Services Tribunal
Peshawar

Attested
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appellant, major penalty was awarded in violation of mandatory provisions of law, hence no limitation would run for challenging such order. Reliance is placed on 2007 SCMR 834. Moreover, the impugned order is void in terms of the penalty so awarded and no limitation runs against void order. It is a well-settled legal proposition that decision of cases on merit is always encouraged instead of non-suiting litigants on technical reason including ground of limitation. Reliance is placed on 2004 PLC (CS) 1014 and 1999 SCMR 880. The Apex Court vide judgment in PLD 2002 SC 84 has held that where on merit the respondent had no case, then limitation would not be a hurdle in the way of appellant for getting justice, further observed that the court should not be reluctant in condoning the delay depending upon facts of the case under consideration. Moreover the Apex Court vide judgment reported as 1999 SCMR 880 has held that condonation of delay being in the discretion of the Tribunal, the findings cannot be set aside on technical grounds alone, where nothing contrary to the contention for condonation of delay was produced before the Tribunal, Supreme Court refrained from disturbing the findings of the Tribunal on the question of limitation as well. Since case of the appellant on merit is on strong footings with reasonable justifications for delay in submission of departmental appeal and the respondents had no case on merit except limitation.

09. In view of the foregoing discussion, the instant appeal is accepted. The impugned order dated 29-01-2009 is set aside and the appellant is re-instated in service. The intervening period is treated as leave of the kind due. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
06.01.2022


(AHMAD SULTAN TAREEN)
CHAIRMAN

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Khyber Pakhtunkhwa
Service Tribunal
Peshawar


(ATIQ-UR-REHMAN WAZIR)
MEMBER (E)

ANNEXURE 'C'

17

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.



Execution Petition No. 166 /2022
In Service Appeal No.1427/2019

456
30/3/22

Mst. Nadia Jabeen widow of Ishaq (late), resident of Nothia Qadeem,
House No.110-S, Mohallah Akbar Khan Street, Peshawar, presently
Baggagram City, Tehsil & District Battagram.

PETITIONER

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Health Peshawar.
2. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
3. District Health Officer, Battagram.

RESPONDENTS

3rd August 2022

Learned Counsel for the petitioner present. Mr. Kabirullah Khattak. Addl: AG alongwith Mr. Safiullah, Focal Person for respondents present.

Representative of the respondents produced copy of order No. 2513-21/Lit dated 04.07.2022 whereby in compliance of the judgment of the Tribunal, the petitioner has been reinstated in service subject to outcome of CPLA filed by the respondents in the august Supreme Court of Pakistan. Since the order of the Tribunal has been complied with, therefore, the instant execution petition is disposed off in the above terms. Consign.

Pronounced in open court in Peshawar and given under my hand and seal of the Tribunal on this 3rd day of August, 2022.

Attested
H. Khan


(Kalim Arshad Khan)

Certified to be true copy
KHALIM ARSHAD KHAN
Khyber Pakhtunkhwa
Service Tribunal
Peshawar



ANNEXURE "D" 18

OFFICE OF THE DISTRICT HEALTH OFFICER

Battagram (Khyber Pakhtunkhwa)

Phone & Fax: # (0997) 310507

OFFICE ORDER

In compliance to the Judgment of Honourable Service Tribunal Peshawar in Service Appeal No 1427/2019 (Mst: Nadia Jabeen Vs Government of Khyber Pakhtunkhwa) and subsequent to Health Department, notification No SOH (lit-III)/HD/E.P 166/2022, dated 23.06.2022, Mst: Nadia Jabeen PHCT (MCH) BPS-12, is hereby re-instated in service, subject to the final decision on CPLA, filed in the Honourable Supreme Court of Pakistan, dated 08.03.2022, against the judgment of Honourable Service Tribunal Peshawar.

District Health Officer
Battagram

No 2513-21 / Lit Date 04 / 07/2022

Copy forwarded to the:-

1. Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar for information
2. Director General Health Services Khyber Pakhtunkhwa Peshawar for information
3. PS to the Secretary Health Department Peshawar for information
4. PA to Deputy Secretary (Litigation) Health Department Peshawar for information
5. Litigation Officer office of the undersigned for information
6. District Accounts Officer Battagram for information
7. Account Section office of the undersigned for information
- ✓ 8. Official for information and compliance
9. Office copy

District Health Officer
Battagram

Attested
H. D. S.



19

OFFICE OF THE DISTRICT HEALTH OFFICER

Battagram (Khyber Pakhtunkhwa)

Phone & Fax: # (0997) 310507

OFFICE ORDER

In compliance to the Judgment of Honourable Service Tribunal Peshawar in Service Appeal No 1427/2019 (Mst: Nadia Jabeen Vs Government of Khyber Pakhtunkhwa) and subsequent to Health Department, notification No SOH (lit-III)/HD/E.P 166/2022, dated 23.06.2022, Mst: Nadia Jabeen PHCT (MCH) BPS-12, is hereby re-instated in service and posted at BHU Kanai against the vacant post in the best interest of public service.

District Health Officer
Battagram

No 2600-07/ Date 07/07/2022

Copy forwarded to the:-

1. PS to the Secretary Health Department Peshawar for information
2. PA to Deputy Secretary (Litigation) Health Department Peshawar for information
3. Litigation Officer office of the undersigned for information
4. District Accounts Officer Battagram for information
5. Account Section office of the undersigned for information
6. Incharge Medical Officer BHU Kanai for information
- ✓ 7. Official for information and compliance
8. Office copy

District Health Officer
Battagram

Attested
H
[Signature]

خدمت خانہ - DHO سب سٹرا

عنوان # Arrival Report

District Health Officer
Battagram
Diary No: 567
Date: 07-07-2022

خانہ عالی #

گزارش خدمت سیکہ ایک دفتر سے جاری کردہ آفس آرڈر 2-3513

تاریخ 04/07/2022 کے تحت آج مورخہ 07/07/2022 کو اینی حافی رپورٹ

میں جمع کر رہی ہو۔ لہذا اجازت کے تحت میں گزارش کی جاتی ہے کہ سائٹ کی Arrival Report کو منظور کیا جائے۔

حافی رپورٹ پیش خدمت ہے

Handwritten signature
LHV نادری حسین
ESTB

Arrival report accepted

Posting

Attested
Handwritten signature

To,

The Incharge BHU Kanai.

Sub: -

Arrival Report

Sir :-

with due respect according to

your office order Number No ~~2513-21/Lit~~
2600-07

Date. 7/7/22, I L.H.V Nadia Jabeen.

arrive at B.H.U Kanai to at 7⁷/₂₂

at 9.15am.

So kindly accepted my arrival report

Accept - P.A.
forwarded to
DHO office
for further
NA
7/7/22

Name Nadia Jabeen

L.H.V

BHU Kanai

Date 7.7.22.

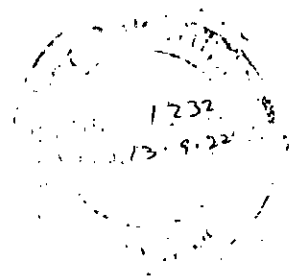
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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Restoration Appli. No. 538/2022

Execution petition No. 166/2022
In Service Appeal No. 1427/2019



Nadia Jabeen

V/S

Health Department



.....
APPLICATION FOR RESTORATION OF INSTANT
EXECUTION PETITION WHICH WAS DISPOSED
OF AND CONSIGNED BY THE HONORABLE
TRIBUNAL ON 03.08.2022.

.....
RESPECTFULLY SHEWETH:

1. That the appeal of the petitioner/applicant was decided by the Honorable Tribunal on 06.01.2022. The Honorable Tribunal accepted the appeal of the petitioner set aside impugned order dated 29.01.2009 and reinstated her into service and intervening period was as leave of kind due.
2. That the petitioner/applicant has filed the execution petition for directing the respondent to implement the judgment dated 06.01.2022 in letter and spirit.
3. That the execution petition of the petitioner/applicant was fixed on 03.08.2022 before this Honorable Tribunal and the respondent department provided the copy of order dated 04.07.2022, wherein the petitioner was reinstated into service, subject to the final decision of CPLA filed in the Honorable Supreme Court of Pakistan on which the execution petition of the petitioner/applicant was disposed of and was consigned on the date fixed i.e 03.05.2022. (Copies of order dated 04.07.2022 and order sheet dated 03.08.2022 are attached as Annexure-A&B)
4. That the Honorable Tribunal in its judgment dated 06.01.2022 set aside the impugned order dated 29.01.2009 and intervening was treated as leave of kind due meaning by the petitioner/applicant is entitled to be reinstated from the date of 29.01.2009 and entitled for salary from the date of passing of

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar



judgment dated 06.01.2022 and also entitle for arrears which is to be calculated on the basis of kind due, but the respondent department passed the order dated 04.07.2022 without mentioning the date of reinstatement of the petitioner/applicant and now department is reluctant to pay the salaries from the date of passing of judgment dated 06.01.2022 and arrears on the basis of treating intervening period as kind due.

5. That as the respondent department is reluctant to pay the salaries from the date of passing of judgment dated 06.01.2022 and arrears on the basis of treating intervening period as kind due in order to implement the judgment dated 06.01.2022 in its letter and spirit, therefore the petitioner/applicant wants to restore the execution petition for its complete implementation.

It is, therefore, most humbly prayed that on acceptance of this application, the instant execution petition may kindly be restored for its complete implementation.

THROUGH:

PETITIONER/APPELLANT

TAIMUR ALI KHAN
ADVOCATE HIGH COURT

AFFIDAVIT

It is affirmed and declared that the contents of the Application are true and correct to the best of my knowledge and belief.

DEPONENT

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar



ANNEXURE 'F'

24

Execution Petition No. 538/2022

R D R
April, 2023

KALIM ARSHAD KHAN, CHAIRMAN: Petitioner alongwith her counsel present. Mr Asif Masood Ali Shah, Deputy District Attorney alongwith Mr. Ziaullah, Deputy Secretary and Mr. Safiullah Jan, Focal Person for the respondents present.

2. While not pressing the application for restoration of the execution petition consigned on 03.08.2022 as there is no provision in the law for restoring the execution petition once consigned after the terms of judgment were satisfied, the learned counsel for the petitioner submitted that the petitioner would be satisfied if a direction is given to the representative of the respondents, present in the court, to provide the petitioner latest seniority list containing the name of the petitioner and details of the leave of the kind(s) due as found in the judgment and other emoluments permissible under the law, within one month of the receipt of this order. Order accordingly. On receipt of the above documents, the petitioner will be at liberty to seek redressal of the grievances, if any, but under the law. Consign.

3. *Pronounced in open court in Camp Court Abbottabad and given under my hand and seal of the Tribunal on this 26th day of April, 2023.*

Attested
H. [Signature]

[Signature]
(Kalim Arshad Khan)

Chairman
Camp Court Abbottabad

کورٹ فیس

وکالت نامہ

BEFORE THE K.P.K SERVICE TRIBUNAL بعدالت

Mst NADIA Jabbar نام: Court of K.P.K. عنوان

Petitioner منجانب:

Execution Petition نوعیت مقدمہ:

باعت تحریر آنکہ

مقدمہ مندرجہ میں اپنی طرف سے اسے پیروی و جواب دہی کل کارروائی متعلقہ آں مقام

Hamayun Khan, Fazlulok Khan. A.D.

کو وکیل مقرر کر کے اقرار کرتا ہوں کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا نیز وکیل صاحب موصوف کو کرنے راضی نامہ و تقرر ثالث و فیصلہ برحلف دینے اقبال دعویٰ اور بصورت دیگر ڈگری کرانے اجراء وصولی چیک روپیہ و عرضی دعویٰ کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور کی کل یا کسی جزوی کارروائی کے لئے کسی اور وکیل یا مختار صاحب قانونی کو اپنے ہمراہ اپنی بجائے تقرر کا اختیار بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا ساختہ پرداختہ مجھ کو منظور و قبول ہوگا۔ دوران مقدمہ جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب ہوگا اس کے مستحق وکیل صاحب ہوں گے۔ نیز بقایا رقم وصول کرنے کا بھی اختیار ہوگا۔ اگر کوئی پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب موصوف پابند ہوں گے کہ پیروی مقدمہ مذکورہ کریں اور اگر مختار مقرر کردہ میں کوئی جزو بقایا ہو تو وکیل صاحب موصوف مقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواست بمراد استجارت ناش بصرہ مفلسی کے دائرہ کرنے اور اس کے پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔

لہذا وکالت نامہ تحریر کر دیا تاکہ سند رہے۔

المقوم:

بمقام:

Accepted by

Handwritten signature

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