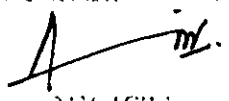


Form-A  
FORM OF ORDER SHEET

Court of  
Implementation Petition No. 375/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of the
1	2	3.
1	13.06.2023	<p>The execution petition of Mr. Muhan submitted today by Mr. Amjad Ali Mardan fixed for implementation report before Single Peshawar on <u>15-06-2023</u>. Original requisitioned. AAG has noted the next date</p> <p>By the order of  REGISTRAR</p>

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

*Execution Petition No. 55/2023*

SCANNED  
KPST  
Peshawar

In Re:

Khyber Pakhtunkhwa  
Service Tribunal

Execution Petition No. 643/2022  
IN Service Appeal No. 1146/2016

Diary No. 59240

Dated 13-06-23

Muhammad Ismail.....Appellant

**VERSUS**

Secretary Finance KPK, & another.....Respondents

**INDEX**

S.No.	Description of documents.	Annexure	Page No
1.	Application for implementation		1-4
2.	Copy of judgment dated 01.02.2022		5-8
3.	Copy of Order dated 03.04.2023		9-10
4.	Copy of Notification dated 31.03.2023		11-12
5.	Wakalatnama		13

Dated: 06.06.2023

*Muhammad Ismail*

Appellant

through

*Amjad Ali (Mardan)*

Advocate

Supreme Court of Pakistan

①

**BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR**

*Execution Petition no. 375/2023*

**SCANNED  
KPST  
Peshawar**

In Re:

Execution Petition No.643/2022

IN Service Appeal No.1146/2016

Muhammad Ismail s/o Gul Muhammad Shah  
R/O Village Luhango Cus, Tehsil and Post Office  
Braval, Bandi District Dir  
PST Teacher GPS Mashango Kass Dir Timergara

.....Appellant

**VERSUS**

- 1) Secretary Finance KPK, Civil Secretariat,  
Peshawar.
- 2) District Accounts Officer, Upper Dir.

...Respondents

**APPLICATION FOR IMPLEMENTATION OF  
JUDGMENT DATED 01.02.2022 OF THIS  
HON'BLE TRIBUNAL PASSED IN SERVICE  
APPEAL NO.1146/2016 AS WELL AS ORDER  
DATED 03.04.2023 PASSED IN EXECUTION  
PETITION NO.643/2022.**

Sir,

Appellant humbly submits as under:-

1. That appellant filed titled Service Appeal No.1146/2016 before this hon'ble Tribunal with the prayer that

(2)

**"On acceptance of this appeal, respondents may please be restrained from recovering amount of actual increment already granted as per judgments of Service Tribunal/ Supreme Court and letter dated 30.03.2009 of Finance Department. Any other relief deemed fit may also be graciously granted."**

2. That appeal of the appellant came up for hearing on 01.02.2022, and this Hon'ble Tribunal was pleased to allow the appeal of the appellant with the following order:-

**"In view of the foregoing discussion, the case is remanded to the respondents to examine the case of the petitioner in light of finance department circular dated 30.03.2009 and pass an appropriate order."**

(Copy of order/ judgment dated 01.02.2022 is Annex "A")

3. That after announcement of judgment dated 01.02.2022, the appellant send the attested copy of the said judgment to the respondents for its implementation, but the same was not implemented despite repeated request of the appellant.
4. That due to non-implementation of the judgment dated 01.02.2023, the appellant approached before this Hon'ble and filed Implmentantation Application/

Execution Petition No.643/2022, which was 3  
disposed-off with the following observations:-

*"Representative of respondents submitted copy of order bearing Endst No.3903/37 dated 31.03.2023, whereby the compliance of the judgment of this Tribunal, the grievance of the petitioner has been redressed. Since the order of the Tribunal has complied with, therefore, the instant execution petition is filed."*

(Copy of order dated 03.04.2023 is Annexure "B")

5. That after announcement of order dated 03.04.2023, copy of notification No.3932-37 dated 31.03.2023 was provided to appellant. (Copy of Notification dated 31.03.2023 is Annexure "C")
6. That thereafter, the appellant time and again approached the respondents, but they refused to accept the notification dated 31.03.2023 issued by District Education Officer (M) Dir Upper.
7. That omission of respondents to act upon the order/judgment of this Hon'ble Tribunal as well as Notification issued by the competent authority speaks of the fact that respondents has undermined the authority of this Hon'ble Tribunal and are not implementing the same will fully for which they are to be dealt with in accordance with law.
8. That this omission/ act of respondents squarely falls within the ambit of contempt of court as respondents have conveniently ignored the time frame provided by this Tribunal Court.

(4)

It is therefore, humbly requested to please direct respondents to implement the judgment & order dated 01.02.2022, 03.04.2023 respectively as well as Notification dated 31.03.2023 in its letter and spirit.

*M. Usual*

Appellant

through

*[Signature]*  
**Amjad Ali (Mardan)**

Advocate

Supreme Court of Pakistan

**AFFIDAVIT**

I, do hereby affirm and declare on oath that the contents of accompanying Application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble court.

Deponent

*M. Usual*



5 (4)

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



Service Appeal No. 1146 /2016

Khyber Pakhtunkhwa Service Tribunal

Diary No. 1166

Dated 08-11-2016

Muhammad Ismail s/o Gul Muhammad Shah  
R/O Village Luhang Cus, Tehsil and Post Office Braval,  
Bandi District Dir  
PST Teacher GPS Mashango Kass Dir Timergara  
.....Appellant

**VERSUS**

1. Govt of Khyber Pakhtunkhwa through Secretary Education (E&S) Civil Secretariat, Peshawar.
2. Director of Education KPK, Peshawar.
3. District Education Officer (M) District ~~Dir~~ at Timergara. *District Upper Dir.*
4. District Accounts Officer ~~Dir~~ at Timergara. *District Upper Dir.*
5. District Divisional Education Officer School (M) District Upper Dir at Timergara.
6. Secretary Finance KPK, Civil Secretariat, Peshawar.
7. District Accounts Officer, Upper Dir.

.....Respondent

*vide order sheet dated 15/2/2017*

Filed today  
Khyber Pakhtunkhwa  
87/11/16

Re-submitted today  
Khyber Pakhtunkhwa  
15/11/16

Appeal vs 4 of Service Tribunal Act, 1974 for non-recovery of annual increments granted as per finance department sanction order dated 30.03.2005 under the garb of judgment dated 17.03.2016 of Service Tribunal against the advance increment Act, 2012 and

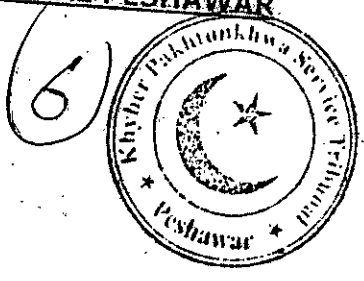
*[Handwritten signature]*

ATTESTED  
Khyber Pakhtunkhwa Service Tribunal  
Peshawar

Service Appeal No. 1146/2016

Date of Institution ... 08.11.2016

Date of Decision ... 01.02.2022



Muhammad Ismail S/o Gul Muhammad Shah R/o Village Luhango Cus, Tehsil and Post Office Braval, Bandi District Dir. PST Teacher GPS Mashango Kass Dir Timgara. (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Education (E&SE) Civil Secretariat, Peshawar and others. (Respondents)

Amjad Khan  
Advocate

For Appellant

Muhammad Adeel Butt,  
Additional Advocate General

For respondents

AHMAD SULTAN TAREEN  
ATIQ-UR-REHMAN WAZIR

CHAIRMAN  
MEMBER (EXECUTIVE)

JUDGMENT

ATIQ-UR-REHMAN WAZIR MEMBER (E):- Brief facts of the case are

that the appellant joined Education Department as un-trained PTC Teacher vide order dated 29-10-1986, who subsequently was trained vide order dated 11-05-1999. As per circular of Finance Department dated 30-03-2009, the appellant was granted running pay scale/increments, but without arrears. The audit party observed that over payment is made to the appellant in respect of increments and ordered for its recovery. The appellant filed departmental appeal followed by Service Appeal No. 292/2014, which was dismissed vide judgment dated 17-03-2015. The appellant again filed departmental appeal dated 13-07-2016 for non-recovery of annual increments already granted, which was not responded, hence the instant service appeal with prayers that the appellant may be given benefits

ATTESTED

EXAMINER  
Hyber Pakhtunkhwa  
Service Tribunal  
Peshawar



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of Finance Department Circular dated 30-03-2009 from the date of his appointment and onwards.

02. Learned counsel for the appellant has contended that as per provisions contained in advance increment act, 2012, the increments already granted are not to be recovered, as the appellant is entitled to such increments as per circular of finance department dated 30-03-2009; that the appellant has been discriminated as similarly placed employees had already been granted increments for un-trained period.

03. Learned Additional Advocate General for the respondents has contended that the appellant was allowed un-trained period increments with effect from 22-01-1986 vide finance department notification dated 05-02-2002 but the pay fixation party had observed that the appellant is not entitled for such increments as the appellant remained absent for longer time and he was dismissed from service and re-employed in 1996, hence he was not entitled for the un-trained period before 1996; that the appellant was re-instated with the condition that he will not claim back benefits and seniority.

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

05. Record reveals that the appellant was appointed as PTC untrained Teacher in 1986. The appellant went missing for considerable time due to blood feud enmity, hence he was dismissed and was again re-instated upon direction of this tribunal vide judgment dated 26-02-1996. The appellant were allowed increments from 1986 but later on it was pointed out by the audit party that the appellant is not entitled for such increments for the absence period, hence recovery was effected from the appellant against which the appellant filed service appeal No 292/2014, which was dismissed vide judgment dated 17-03-2016. The appellant when confronted with the situation that his earlier appeal under the

ATTESTED

EXAMINER  
Jyoti Khatun  
Service Tribunal  
Peshawar

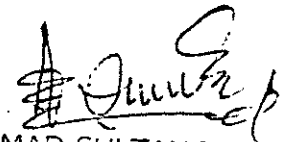
AM  
OP

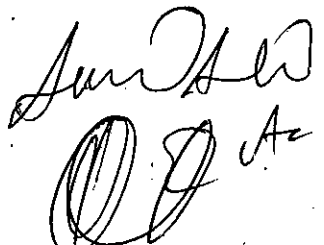

8

same prayers had already been dismissed by this tribunal, has requested that the instant appeal is regarding grant of benefits of finance department circular dated 30-03-2009, which may be granted to the appellant from the date of appointment of the appellant. Learned counsel for the appellant has contended that the appellant would feel satisfied if his appeal is remanded to the respondents to consider his case under circular of finance department dated 30-03-2009, which was acceded to.

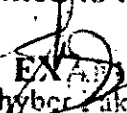
\* 06. In view of the foregoing discussion, the case is remanded to the respondents to examine the case of the appellant in light of finance department circular dated 30-03-2009 and pass an appropriate order. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED  
01.02.2022

  
(AHMAD SULTAN TAREEN)  
CHAIRMAN

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

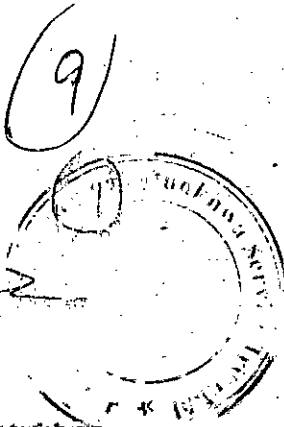
**Certified to be true copy**

  
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Date of Presentation of Application 09-05-22  
Number of Words 1600  
Copying Fee 15/-  
Urgent 4/-  
Total 22/-  
Name of Copyist \_\_\_\_\_  
Date of Completion of Copy 09-05-22  
Date of Delivery of Copy 09-05-22

**BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR**

*Execution petition No. 643/2022*



In Re:

Service Appeal No. 1146/2016

Registration No. 1735  
Date 27-10-2022

Muhammad Ismail s/o Gul Muhammad Shah  
R/O Village Luhango Cus, Tehsil and Post Office  
Braval, Bandi District Dir  
PST Teacher GPS Mashango Kass Dir Timergara


.....Appellant

**VERSUS**

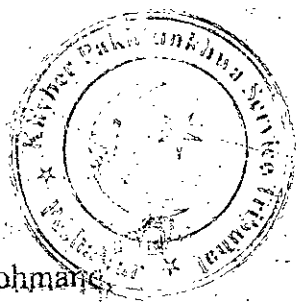
- 1) Govt. of Khyber Pakhtunkhwa through Secretary Education (E&S) Civil Secretariat, Peshawar.
- 2) Director of Education KPK, Peshawar.
- 3) District Education Officer (M) District Dir at Timergara.
- 4) District Accounts Officer Dir at Timergara.
- 5) Sub Divisional Education Officer School (M) District Dir at Timergara
- 6) Secretary Finance KPK, Civil Secretariat, peshawar.
- 7) District Accounts Officer, Upper Dir.

...Respondents

**APPLICATION FOR IMPLEMENTATION OF  
JUDGMENT DATED 01.02.2022 OF THIS  
HON'BLE TRIBUNAL PASSED IN SERVICE  
APPEAL NO. 1146/2016.**

  
Service Tribunal  
Peshawar

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3rd April, 2023

Petitioner in person present, Mr. Fazal Shah Mohmand, Additional Advocate General alongwith Mr. Hashmat Ullah, Supd., Syed Alamzeb Shah, Law Officer and Dr. Hayat Khan, Assistant Director for the respondents present.

2. Representative of the respondents has submitted copy of order bearing Endst: No. 3930/37 dated 31.03.2023, whereby in compliance of the judgment of this Tribunal, the grievance of the petitioner has been redressed. Since the order of the Tribunal has been complied with, therefore, the instant execution petition is filed.

3. An application for release of salary of the respondents No. 2 and 3 have also submitted. In view of the implementation of the judgment, the Accountant General, Khyber Pakhtunkhwa and District Accounts Officer, Dir are directed to release salaries of the respondents No. 2 and 3 forthwith. Consign.

4. Pronounced in open court in Swat and given under my hand and seal of the Tribunal this 3rd day of April, 2023.

(Kalim Arshad Khan)  
Chairman  
Camp Court Swat

Date of P  
Number  
Copies

27  
5/1  
15/1

18/4/23

Corr. Copy  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

18/4/23  
18/4/23



**GOVERNMENT OF KHYBER PAKHTUNKHWA**  
**OFFICE OF THE DISTRICT EDUCATION OFFICER**  
**MALE DIR UPPER.**

PH No. 0944-881400

E-mail: [deomdirupper@gmail.com](mailto:deomdirupper@gmail.com)

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No. 3930-37 /

Dated 31/10/2023.

**NOTIFICATION**

1. Whereas, the appellant namely Muhammad Ismail, <sup>PSHT</sup> SPHST (BPS-15) of GPS Mashango Kass Dir Upper has filed in Service Appeal No: 1146/2016 on 8-11-2016 before Honorable Service Tribunal with the contention of Non Recovery of Annual Increment allowed by the department in view of Notification 30-03-2009 of the Finance Department from the appellant.
2. And whereas, the Respondents No 1-3 were notice for joint reply to the said appeal by the Tribunal which was submitted accordingly by contesting the mentioned appeal on both factual and legal grounds and finally decided on dated 01-02-2022 by the Honorable Service Tribunal Khyber Pakhtunkhwa with direction to the Respondents department in examine the case of appellant under the circular of the Finance Department 30-03-2009 through as speaking order.
3. And whereas per observation made by the Respondents 1-3 the instant case in the light of circular of Finance Department dated 30-03-2009 where the increment is allowed to the dated of their regularization. The appellant was regularized in 29-10-1986 therefore, appeal of the appellant is allowed in the light of circular of Finance Department dated 30-03-2009.


- *Sd* -

DISTRICT EDUCATION OFFICER (M)  
DIR UPPER

**Even No and dated**

**Copy Forwarded for information to the:-**

1. Registrar Service Tribunal Peshawar.
2. Additional Advocate General Service Tribunal Peshawar.
3. PS to Secretary Finance Department, Peshawar.
4. Section Officer (Litigation-II) E&SE Peshawar
5. Assistant Director (Litigation-II) E&SE Peshawar
6. PA to Director Elementary & Secondary Education, Peshawar.
7. District Account Officer, Dir Upper.

  
DISTRICT EDUCATION OFFICER (M)  
DIR UPPER



GOVERNMENT OF N.W.F.P.  
FINANCE DEPARTMENT  
(REGULATION WING)

19

NO.FD (PRC) 5-2/2002  
Dated Peshawar the: 30-03-2009

To:  
The Secretary to Govt. of NWFP,  
Elementary & Secondary Education,  
Peshawar.

Subject: GRANT OF ANNUAL INCREMENT / RUNNING  
PAY TO UNTRAINED TEACHERS IN THE LIGHT  
OF SUPREME COURT JUDGEMENT.

Dear Sir,

عزیر اللہ صدر ایف اے ڈسٹرکٹ ایجوکیشن  
0301-5928367

I am directed to refer to your letter NO.SO (B&A) 1-16/08/  
Advance Increment dated February 27, 2009 on the subject noted above and  
to state that the Provincial Government is pleased to allow the benefit of  
annual increments to the untrained teachers from the date of their regular  
appointment.

⇒ No arrears shall however be admissible / payable prior to the  
date of issuance of this circular.

(ABDUL JABBAR)  
SECTION OFFICER (SR-1)

Handwritten signature

Endst: of even No & date.

Copy for information & necessary action to the:

1. Accountant General NWFP.
2. All District Coordination Officers.
3. All District / Agency Accounts Officers NWFP / BATA.

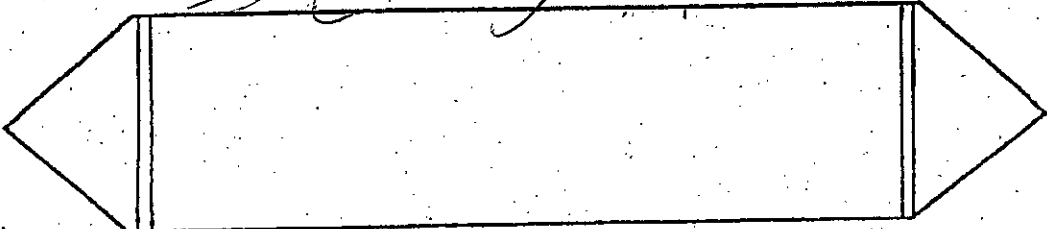
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SECTION OFFICER (SR-1)

Handwritten signature

ٹریبونل

بعدالت حاجی سہیل



2023ء پنجاب اسلام آباد  
بنام

موزخہ 23-18/6-13  
مقدمہ

محمد اسماعیل سع حکومت

دعویٰ  
جرم  
ٹہراء

باعث تحریر آنک

ہم کو

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کیل کارروائی متعلقہ  
 آن مقام ~~سہیل~~ ~~محمد اسماعیل سع~~ ~~حکومت~~ کے کارروائی کا مکمل اختیار ہوگا۔ نیز  
 مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا مکمل اختیار ہوگا۔ نیز  
 وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثتہ فیصلہ بر حلف دیئے جواب دہی اور اقبال دعویٰ اور  
 بصورت ڈگری کرنے اجراء اور صولی چیک دروپ یہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق  
 زرایں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخ  
 نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور  
 کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار  
 ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا ساختہ  
 پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سبب سے ہوگا۔  
 کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی  
 مذکور کریں۔ لہذا وکالت نامہ لکھد یا کہ سندر ہے۔

المرقوم 13 ماہ 2023

سہیل کے لئے منظور ہے۔  
 Allesh  
 Anwar Ali Mordani  
 Anwar Ali Mordani  
 03219870175