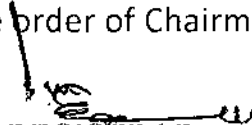


Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 83/2023


S No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	20.02.2023	<p>The execution petition of Mr. Ihtisham ul Haq resubmitted today by Mr. Noor Muhammad Khattak Advocate. It is fixed for implementation report before touring Single Bench at A.Abad on _____.</p> <p>Original file be requisitioned. AAG has noted the next date. The respondents be issued notices to submit compliance/implementation report on the date fixed.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

The execution petition of Mr. Ihtisham ul Haq PSHT GPS Sing Still Kayal Kohistan Lower received today by post i.e. on 10.02.2023 is incomplete on the following scores which is returned to the counsel for the petitioners for completion and resubmission within 15 days.

Copy of Judgment attached with the petition is illegible which may be replaced by legible/better one.

No. 562 /S.T,


Dt. 13/2 /2023


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Noor Muhammad Khattak Adv.
High Court Peshawar.

R/sir,

Resubmitted after necessary
completion.


20/2/23

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Implementation Petition No. 83 /2022 2023

In

Appeal No.950/2015

IHTISHAM UL HAQ VS EDUCATION DEPTT:

INDEX

S. NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Implementation Petition with Affidavit	1-2
2.	Judgment/Order dated 26.06.2018	"A"	3-7
3.	Vakalatnama		8

PETITIONER

THROUGH:


NOOR MUHAMMAD KHATTAK
ADVOCATE SUPREME COURT

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Implementation Petition No. 83 /2022
In
Appeal No.950/2015

Mr. Ihtisham ul Haq, PSHT,
GPS, Sing still Kayal, District Kohistan Lower.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 3511

Dated 10/2/2023

.....PETITIONER

VERSUS

- 1- The Secretary Education (E&SE) Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar
- 2- The Director Education (E&SE), Government of Khyber Pakhtunkhwa, Peshawar.
- 3- The District Education Officer (M), Kohistan Lower.

..... RESPONDENTS

IMPLEMENTATION PETITION FOR DIRECTING THE
RESPONDENTS TO OBEY THE JUDGMENT DATED
20.06.2018 IN LETTER AND SPIRIT.

R/SHEWETH:

1- That the applicant/petitioner filed Service Appeal bearing No.950/2015 before this August Service Tribunal for release of pay and re-instatement into service with all back benefit.

2- That the appeals of the applicant/petitioner was heard and the appellate authority is directed as follows;

"As such on acceptance of this appeal, the impugned order dated 14.4.2015 stands set aside and the case is remanded back to the authority to conduct proceedings strictly in accordance with law against the appellants within a period of four months. In the circumstances of the case, parties shall bear their own costs." Copy of the judgment dated 20-06-2018 is attached as annexure**A.**

3- That after obtaining copy of the judgment dated 20-06-2018, the appellant submitted the judgment mentioned above and applications for its implementation to the department concerned but the respondent department is

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not willing to obey the judgment dated 20-06-2018 in letter and spirit.

- 4- That the appellant has no other remedy but to file this implementation petition.

It is therefore, most humbly prayed that the respondents may be directed to implement the order dated 20-06-2018 in letter and spirit. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the petitioner.

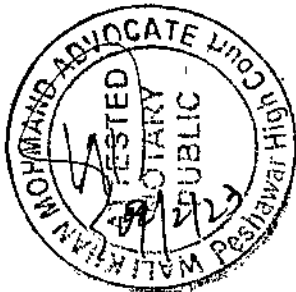

**APPLICANT/PETITIONER
IHTISHAM UL HAQ**

THROUGH:


**NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT**

AFFIDAVIT

I Mr. Ihtisham ul Haq, do hereby solemnly affirm that the contents of this **Implementation Petition** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.




DEPONENT

1 A" (3)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 950 /2015

Khyber Pakhtunkhwa
Service Tribunal
Diary No. 988
dated 21-8-2015

Mr. Ihtisham Ul Haq , Ex: PSHT (BPS-15),
GPS Sing still Kayal, District Kohistan **APPELLANT**

VERSUS



- 1- The Government of Khyber Pakhtunkhwa through Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
 - 2- The Director (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
 - 3- The District Education Officer (M), District Kohistan.
- **RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974, AGAINST THE IMPUGNED ORDER DATED 14.4.2015 WHEREBY MAJOR PENALTY OF REMOVAL FROM SERVICE WAS IMPOSED ON THE APPELLANT AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS

PRAYER:

That on acceptance of this appeal the impugned order dated 14.4.2015 may very kindly be set aside and the respondents may kindly be directed to reinstate the appellant with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of appellant.

19/11
R.SHEWETH:
ON FACTS:

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Certified to be true copy
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

- 1- That appellant was appointed in the respondents Department as PST (BPS-9) on the proper recommendation of the Departmental selection committee. That in response the appellant submitted his charge report and started performing his duty quite efficiently and up to the entire satisfaction of his superiors. Copy of the medical certificate is attached as annexure **A.**

950/2015

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26.06.2018

Counsel for the appellant Mr. Noor Muhammad

Khattak, Advocate present. Mr. Shah Waliullah, Computer Operator on behalf of the respondents alongwith Mr. Ziaullah, Deputy District Attorney present.

Arguments heard and file perused.

Vide our detailed judgment of today placed in connected service appeal No. 949/2015, titled "Aziz Ahmad Versus Government of Khyber Pakhtunkhwa through Secretary (E&SE) Department, Peshawar and others", on acceptance of this appeal, the impugned order dated 14.4.2015 stands set aside, and the case is remanded back to the authority to conduct proceedings strictly in accordance with law against the appellant within a period of four months. In the circumstances of the case, parties shall bear their own costs. No order as to costs. File be consigned to the record room.

[Signature]
Member

[Signature] 26.6.2018
Chairman
Camp court, A/Abad

ANNOUNCED
26.06.2018

Date of Presentation of Application 08/02/23
Number of Page 2
Copying Fee 10/-
Urgent 5/-
Total 15/-
Name _____
Date of _____ 08/2/23
Date of Delivery of Copy 08/2/23

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

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5

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
CAMP COURT, ABBOTTABAD.



Service appeal No. 949/2015

Date of institution ... 21.08.2015
Date of decision ... 26.06.2018

Aziz Ahmad, Ex: Certified Teacher (BPS-15),
GMS Raja Abad Singa, District Kohistan. (Appellant)

Versus

The government of Khyber Pakhtunkhwa through Secretary (E&SE)
Department, Khyber Pakhtunkhwa, Peshawar and 2 others.
(Respondents)


Mr. Noor Muhammad Khattak,
Advocate
Mr. Ziaullah,
Deputy District Attorney

For appellant.
For respondents.

MR SUBHAN SHER,
MR AHMAD HASSAN,

CHAIRMAN
MEMBER.

ATTESTED


CHAIRMAN
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

JUDGMENT

SUBHAN SHER, CHAIRMAN:-

Besides the appeal in hand, two other appeals bearing No. 950/2015 and 951/2015 filed by two other appellants namely Ihtishamul Haq and Ikramul Hadi respectively, who are also aggrieved of the impugned order, they too have assailed the same impugned order before this Tribunal. Since facts and circumstances of the impugned order are one and the same, so it is proposed that all the three appeals will be decided through this single order.

2. Stated here the short facts making the background of these appeals are, that the appellants were appointed as C.T Teachers and Chowkidar on different dates and later on, they assumed the charge of their respective posts, however, subsequently, the

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
CAMP COURT, ABBOTTABAD

Service Appeal No. 949/2015

Date of institution 21.08.2015

Date of Decision 26.06.2018

Aziz Ahmad, Ex-Certified Teacher (BPS-15)

GMC Raja Abad Singa, District Kohistan Appellant

VERSUS

The government of Khyber Pakhtunkhwa through secretary (E&SE)
Department, Khyber Pakhtunkhwa, Peshawar and 2 others
..... Respondents

Mr. Noor Muhammad Khattak

Advocate For appellant

Mr Ziaullah

Deputy District Attorney For respondents

Mr Subhan Sher Chairman

Mr Ahmad Hassan Member

Judgment

Subhan Sher Chairman:-

Besides the appeal in hand, two other appeals bearing No. 950/2015 and 951/2015 filed by two other appellants namely Ihtishamul Haq and Ikramul Hadi respectively, who are also aggrieved of the Impugned Order, they too have assailed the same impugned order before this Tribunal. Since facts and circumstances of the impugned order are one and the same. So it is proposed that all the three appeals will be decided through this single order.

2. stated here that short facts making the background of these appeals are that the appellants were appointed as CT Teachers and Chowkidar on different dates and later on they assumed the charge of their respective posts, however, subsequently, the

⑥

respondents came to know that the appellant had personated by appearing through fake persons and further that they remained absent for long time. In short, on 14.4.2015, all the three appellants were removed from their service with retrospective effect. This order was impugned by appellants before the appellate authority but it was not responded/decided, so within due time, the appellants preferred the instant appeals before this Tribunal.

3. Arguments heard and record perused.

4. Mr. Noor Muhammad Khattak, Advocate, counsel for the appellants contended that besides the serious omissions committed by the respondents before passing the impugned order, even the impugned order itself is defective in the eyes of law. Further contended that the impugned order has been given effect retrospectively which is against the law as held by the august Supreme Court of Pakistan in various judgments. At the end, he requested to set aside the impugned order and reinstate the appellants with all back benefits.

5. Mr. Ziaullah, Deputy District Attorney though strongly opposed the contentions of the learned counsel for the appellant but he could not explain/controvert the above mentioned submissions of the learned counsel for the appellant.

6. In the light of arguments addressed by the learned counsel for the parties and going through the record, this Tribunal reached to the conclusion that the appellants have succeeded in making out a case of interference by this Tribunal under its appellate jurisdiction. For instance, in the impugned order, charges against the appellants are of fake persons and long absence but no specific date has been mentioned so as to exactly find or rebut their alleged absence from duty. Similarly, no enquiry in respect of fake persons has been conducted to prove that who were the persons who not only assumed

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K. J. J. J.

Respondents came to know that the appellant had personated by appearing through fake persons and further that they remained absent for long time. In short on 14.04.2015, all the three appellants were removed from their service with retrospective effect. This order was impugned by appellants before the appellate authority but it was not responded/ decided, so within due time, the appellants preferred the instant appeals before this tribunal.

3. Arguments heard and record perused.

4. Mr Noor Muhammad Khattak, Advocate, counsel for the appellants contended that besides the serious omissions committed by the respondents before passing the impugned Order, even the impugned Order itself is defective in the eyes of law. Further contended that the impugned order has been given effect retrospectively which is against the law as held by the August Supreme Court of Pakistan in various judgments. At the end, he requested to set aside the impugned order and reinstate the appellants with all back benefits.

5. Mr Ziaullah, Deputy District attorney through strongly opposed the contentions of the learned counsel for the appellant but he could not explain / controvert the above mentioned submissions of the learned counsel for the appellant.

6. In the light of arguments addressed by the learned counsel for the parties and going through the record, this Tribunal reached to the conclusion that the appellants have succeeded in making out a case of interference by this Tribunal under its appellate jurisdiction. For instance, in the impugned Order, charges against the appellants are of fake persons and long absence but no specific date has been mentioned so as to exactly find or rebut their alleged absence from duty. Similarly, no enquiry in respect of fake persons has been conducted to prove that who were the persons who not only assumed

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the charges of their posts but even they were medically examined by the doctor. So all these allegations need to be proved which is possible if a detailed enquiry is conducted strictly in accordance with the law. As such, on acceptance of this appeal, the impugned order dated 14.4.2015 stands set aside, and the case is remanded back to the authority to conduct proceedings strictly in accordance with law against the appellants within a period of four months. In the circumstances of the case, parties shall bear their own costs. No order as to costs. File be consigned to the record room.

Announced
26.06.2018

Sd/- Imbham Sheer,
Chairman
Appellate Tribunal

Sd/- Ahmad Hassan,
Member

Certified copy
100
Secretary
Appellate Tribunal
Patna

Date of Presentation of Petition	03-07-18
Number of Petitions	1200
Copying	800
Urgent	200
Total	1000
Name of Officer	[Signature]
Date of Issue	03-07-18
Date of Delivery of Copy	03-07-18

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The charges of their posts but even they were medically examined by the doctor. So all these allegations need to be proved which is possible if a detailed enquiry is conducted strictly in accordance with the law. As such on acceptance of this Appeal, the impugned order dated 14.04.20156 stands set aside, and the case is remanded back to the authority to conduct proceedings strictly in accordance with law against the appellants within a period of four months. In the circumstances of the case, parties shall bear their own costs. No order as to costs. File be consigned to the record room.

ANNOUNCED
26.06.2018

Sd/- Mr Subhan Sher
Chairman
Camp Court Abbottabad

Sd/- Mr Ahmad Hassan
Member

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VAKALATNAMA
BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Exemption
APPEAL NO: _____ OF 2021

Mafizan ul Haq

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Edna

(RESPONDENT)
(DEFENDANT)

I/We Appellant

Do hereby appoint and constitute **Noor Mohammad Khattak Advocate Supreme Court** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. ____/____/2022

Handwritten Signature
CLIENT

ACCEPTED

Handwritten Signature
NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT
(BC-10-0853)
(15401-0705985-5)

Handwritten Signature
UMAR FAROOQ MOHMAND

Handwritten Signature
WALEED ADNAN

Handwritten Signature
MUHAMMAD AYUB
ADVOCATES

OFFICE:

Flat No. (TF) 291*-292 3rd Floor,
Deans Trade Centre, Peshawar Cantt.
(0311-9314232)

Handwritten Signature
Kamran Khan Adn.