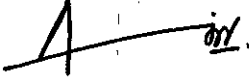


FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 472/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3.
1	11.07.2023	<p>The implementation petition of Mr. Munir Khan submitted today by Mr. Muhammad Maaz Masbu Advocate. It is fixed for implementation report before Single Bench at Peshawar on _____ Original file be requisitioned. AAG has noted the next date.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

EXECUTION PETITION NO. 472 /2023
IN
APPEAL NO. 1743/2022

MUNIR KHAN

V/S

ARCHAEOLOGY DEPTT:

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Memo of Petition	1 - 3
2.	Application & judgment dated 08.05.2023	A	4 - 8
3.	Order dated 04.07.2023	B	9
4.	Wakalat Nama	-----	10

Dated: 10/07/2023

Appellant/Petitioner

Through,



MUHAMMAD MAAZ MADNI,
Advocate, High Court, Peshawar.
0333-9313113, 0345-9090737

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

EXECUTION PETITION NO. 472 /2023

Khyber Pakhtunkhwa
Service Tribunal

IN

APPEAL NO. 1743/2022

Diary No. 6384

Dated 11-07-23

MUNIR KHAN s/o Muhammad Yousaf (Tube Well Operator),
Peshawar Museum, Peshawar
r/o H#204, Sector-5, Mohallah Mushtaq Abad, Nothia Jadeed,
Peshawar Cantt.:

.....APPELLANT

VERSUS

- 1- DIRECTOR, ARCHAEOLOGY & MUSEUMS,
Khyber Pakhtunkhwa, Peshawar Museum, Peshawar.
- 2- RESEARCH OFFICER,
Directorate of Archaeology & Museums,
Peshawar Museum, Peshawar.

.....RESPONDENTS

EXECUTION PETITION FOR DIRECTING THE RESPONDENTS
TO OBEY THE JUDGMENT DATED 15-12-2021 IN ITS TRUE
LETTER AND SPIRIT

R/SHEWETH:

ON FACTS:

Filed to-day
Registrar

Brief facts giving rise to the present execution petition are as under:

- 1- That petitioner/applicant is employee of Archaeology Department and serving as Tube Well Operator for Peshawar Museum Peshawar.
- 2- That petitioner/applicant file a service appeal no. 1743/2022 against converting his frequent transfer order and also not posting the appellant on his original place of posting at Peshawar Museum Peshawar.
- 3- That service appeal of the petitioner/applicant was accepted in favour of the appellant in its detail judgment dated 08-05-2023, the operative part of the judgment is as:

“the appellant was appointed as Tube Well Operator in the Peshawar Museum Peshawar vide order dated 04-02-2010 but had been transferred vide impugned order to Pari Chehra Graveyard on 18-08-2022. Before that he was directed to perform duty at Walled City Peshawar till further order vide order dated 19-04-2022. Not only the appellant is being frequently transferred but also vide the impugned order the appellant has been transferred from his original post of Tube Well Operator to a Graveyard leaving the operation of the Tube Well to another official, which could not be in the fitness of thing as well as in the best public interest, therefore, we allow this appeal and set aside the impugned order, however, the appellant may be assigned any duties in addition to his own actual duty of Tube Well Operator in case there is shortage of staff with the respondents. Cost shall follow the event. Consign.”

- 4- That, the petitioner/applicant after receiving the attested copy of the judgment dated 08-05-2023 file application which was properly stamped with diary No. **5424** dated **29-05-2023** before the respondent, but till date the respondent has not issued proper posting order for Peshawar Museum Peshawar.

Copy of the Application & judgment dated 08.05.2023 is attached as ANNEXURE A.

- 5- That, the petitioner/applicant approached time and again to the respondents and requested for posting but instead of posting order for deduction of 02 days salary without any cogent or plausible reason mentioned therein vide order dated 04-07-2023, just to harass the petitioner/applicant.

Copy of the Order dated 04.07.2023 is attached as ANNEXURE B.

- 6- That feeling aggrieved, petitioner/applicant is left with no other remedy but to approach this Honourable Tribunal by filing the present execution petition.

It is therefore, most humbly prayed that on acceptance this execution petition the respondents may be directed to implement the judgment of this Honourable Tribunal dated 08-05-2023 passed in Service Appeal No. 1743/2022 in its true letter & spirit by granting back benefits to the petitioner.

Any other remedy which this Honourable Tribunal deems fit that may also be awarded in favour of the petitioner.

Dated: 10/07/2023

Petitioner/Applicant

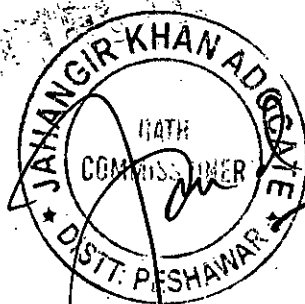

MUNIR KHAN

Through:


MUHAMMAD MAAZ MAQNI
Advocate, High Court, Peshawar.

AFFIDAVIT

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




DEPONENT
17301-5380428-7

ANNEX - A (4)

ظرفیت چٹا۔ ڈاکٹر کبیر صاحب۔ ڈاکٹر سٹورٹس ایف اے این ایچ ایف پی ایچ
ضمیمہ پختہ خواہ

چٹا۔ عمال!
خودمانگ تڑپاں پچر سائنس کونسل
بھگوان ٹیوب ویل ایئرٹیل کوارٹرز میں
موزیم کے علاوہ سائنس نے فنڈنگ سٹیڈی اسٹیٹ
ایئرٹیل ایف اے این ایچ ایف پی ایچ
یہ سائنس کا ایئرٹیل بھگوان ٹیوب ویل ایئرٹیل
صاحب دربار کھنڈر

ایئرٹیل ایف اے این ایچ ایف پی ایچ

ایئرٹیل

24/5/23

ایئرٹیل ایف اے این ایچ ایف پی ایچ

ایئرٹیل ایف اے این ایچ ایف پی ایچ
ایئرٹیل ایف اے این ایچ ایف پی ایچ

ایئرٹیل
24/5/23
D.No, - 5424

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**
FAREEHA PAUL ... MEMBER (Executive)

Service Appeal No.1743/2022

Date of presentation of appeal01.12.2022
Dates of Hearing.....08.05.2023
Date of Decision.....08.05.2023



Munir Khan S/O Muhammad Yousaf (Tube Well Operator), Peshawar Museum, Peshawar R/o H# 204, Sector-5 Mohallah Mushtaq Abad, Nothia Jadeed, Peshawar.

.....(**Appellant**)

Versus

1. **Director, Archaeology & Museums, Khyber Pakhtunkhwa, Peshawar Museum, Peshawar.**
 2. **Research Officer, Directorate of Archaeology & Museums, Peshawar.**
-(**Respondent**)

Present:

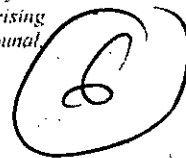
Mr. Muhammad Maaz Madni,
Advocate.....For appellant.

Mr. Fazal Shah Mohmand,
Additional Advocate General.....For respondents.

.....
SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 READ WITH ALL ENABLING LAWS AND RULES AGAINST THE IMPUGNED ORDER DATED 18.08.2022 WHEREBY THE APPELLANT HAS PRE-MATURE & FREQUENTLY BEEN TRANSFERRED FROM ONE PLACE TO ANOTHER AND AGAINST NOT DECIDING THE DEPARTMENTAL APPEAL DATED 19.08.2022 OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar




JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: According to the memo and grounds of appeal the appellant was appointed as Tube Well Operator (BPS-1) vide order dated 24.02.2010; that, while performing his duties as Tube Well Operator at Peshawar Museum Peshawar the respondents department had transferred and posted him as Class-IV at the Western Gate and back store side other than his assign duty of Tube Well Operator vide order dated 01.03.2021; that after working for about ten (10) months, the appellant was transferred from Walled City Peshawar and posted at City Museum Peshawar vide order dated 23.12.2021; that thereafter the appellant was again transferred and posted at Walled City Peshawar vide order dated 19.04.2022; that the appellant was lastly transferred from Walled City Peshawar to Pari Chehra Graveyard vide impugned order dated 18.08.2022; that feeling aggrieved from such frequent and premature transfer orders filed departmental appeal on 19.08.2022 which was not responded within the statutory period of ninety days, and then he filed the instant service appeal.

2. On receipt of the appeal and admission to full hearing, the respondents were summoned, who, on putting appearance, contested the appeal by filing written reply raising therein numerous legal and factual objections. The defence setup was a total denial of the claim of the appellant.

3. We have heard learned counsel for the appellant, learned Additional Advocate General for the respondents.



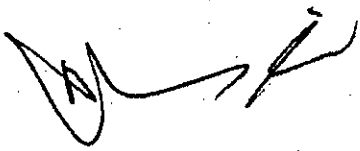
ATTESTED

EX-AMINEE
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

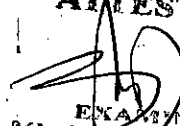
7

4. Learned counsel for the appellant argued that the appellant has not been treated in accordance with law and rules. The impugned premature/frequent transfer order dated 18.08.2022 passed by the respondents against the appellant is against the law, rules and norms of natural justice. The learned counsel requested for setting aside the impugned transfer order.

5. Learned Additional Advocate General refuted the arguments advanced by the learned counsel for the appellant and stated that the appellant was not transferred to any other district although he was deputed for duty in the Sub-Offices of this Directorate within the District Peshawar on staff gap arrangement basis. He further submitted that the appellant was posted at Pari Chehra Graveyard which falls within the premises of Walled City, Peshawar. He requested that the appeal might be dismissed.

6. The appellant was appointed as Tube Well Operator in the Peshawar museum vide order dated 04.02.2010 but had been transferred vide impugned order to Pari Chehra Graveyard on 18.08.2022. Before that he was directed to perform duty at Walled City Peshawar till further order vide order dated 19.04.2022. Not only the appellant is being frequently transferred but also vide the impugned order the appellant has been transferred from his original post of Tube Well Operator to a Graveyard leaving the operation of the Tube Well to another official, which could not





ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar
18/3

8

be in the fitness of things as well as in the best public interest, therefore, we allow this appeal and set aside the impugned order, however, the appellant may be assigned any duties in addition to his own actual duty of Tube Well Operator in case there is shortage of staff with the respondents. Costs shall follow the event. Consign.

7. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 8th day of May, 2023.*


KALIM ARSHAD KHAN
Chairman


FAREEHA PAUL
Member (Executive)

Adnan Shah, PA

Certified to be true copy


Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 10-7-23
Number of Words Page 4
Copying Fee 20/-
Urgent 5/
Total 25/-
Name of Copyist Shahjad
Date of Completion of Copy 10-7-23
Date of Delivery of Copy 10-7-23



GOVERNMENT OF KHYBER PAKHTUNKHWA
DIRECTORATE OF ARCHAEOLOGY & MUSEUMS

TELE: 091-9211194, 9211483 FAX # 091-9210690 EMAIL: info@archaeology.kp.gov.pk

No.A-57/Archymus/3385-97
Dated: 04th July, 2023

ORDER:-

ANNEX - B

Consequent upon biometric and attendance register reports of the Directorate, Subordinate Museums and Archaeological Sites for the month of June, 2023, the following employees were found absent/ disappeared. Therefore, the Competent Authority hereby ordered to mark them without pay for the below mentioned dates/ days.

S.No.	Name of the official	Designation	Station	Date/ Days
1.	Mr. Ijaz Ali	Assistant Curator	Walled City	01 st , 03 rd , 10 th & 17 th June, 2023 (04 days)
2.	Mr. Saqib Raza	Field Officer	Peshawar Museum	08 th , 19 th , & 22 nd June, 2023 (03 days)
3.	Mr. Muhammed Ilyas	Junior Clerk	Directorate	07 th -09 th , 12 th -15 th , 20 th -23 rd June, 2023 (12 Days)
4.	Mr. Munir Khan	Tube well Operator	Walled City	01 st & 07 th June, 2023 (02 days)
5.	Mr. Muhammed Ashiq	Museum Attendant	Walled City	01 st , 05 th , 06 th & 07 th June, 2023 (04 days)
6.	Mr. Muhammed Ibrahim	Mah	Walled City	05 th & 12 th June 2023 (02 days)
7.	Mr. Shah Hassan	Naib Qasid	Peshawar Museum	15 th & 21 st June, 2023 (02 days)
8.	Mr. Sabir Khan	Daftrari	Peshawar Museum	03 rd & 10 th June, 2023 (02 days)
9.	Mr. Usama	Project Employee	Peshawar Museum	01 st & 21 st June, 2023 (02 days)
10.	Mr. Khalid Khan	Project Employee	Peshawar Museum	05 th & 06 th June, 2023 (02 days)
11.	Mr. Muhammad Kashif	Naib Qasid	Pushkalavati Museum	08 th , 1 st & 20 th June, 2023 (03 days)

ATTESTED

(BAKHT MUHAMMAD)
RESEARCH OFFICER

ENDST: NO. & DATE EVEN.

Copy to:-

1. Accountant General Government of Khyber Pakhtunkhwa, Peshawar.
2. District Accounts Office, Charsadda, Mardan & Dir Lower.
3. Accounts Section, Directorate of Archaeology & Museums, Peshawar.
4. ADP Section, Directorate of Archaeology & Museums, Peshawar.
5. Incharge, Peshawar Museum, Walled City & Pushkalavati Museum, Charsadda.
6. DDO, Peshawar Museum, Dir Museum Chakdara, City Museum, Pushkalavati Museum & Mardan Museum, Mardan.
7. PA to Director, Archaeology and Museums, Govt. of Khyber Pakhtunkhwa.
8. Officials concerned.
9. Personal files of the concerned.

RESEARCH OFFICER

(POWER OF ATTORNEY)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Execution Petition no. _____/2023

In

Appeal no. 1743/2022

MUNIR KHAN

VS

GOVT. OF KP& OTHERS

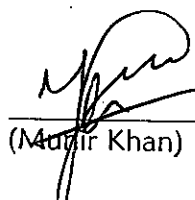
I, Munir Khan (Petitioner/Applicant) do hereby nominated and appointed **MUHAMMADMAAZMADNI**, Advocate High Court, Peshawar, to be counsel in the above matter for me/us and on my/our behalf as agreed to appear, plead, act and answer in the above court or any appellate court or any court to which the business is transferred in the above matter as and is agreed to sign and file petition, appeals, statements, accounts, exhibits, compromises or other documents whatsoever, in connection with the said matter arising there from and also to apply for and receive all documents or copies of documents, depositions etc and to apply for and issue summons and other writs or subpoena and to apply for and get issued any arrest, attachment or other execution, warrants or order and to conduct any proceedings that may arise there out; and to apply for and receive payment of any or all sums or submit the above matter to arbitration, and to employ an other legal practitioner authorizing him to exercise the power and authorities hereby conferred on the advocate whenever he may think fit to do so.

AND to do all acts legally necessary to manage and conduct the said case in all respects whether herein specified or not, as may be proper and expedient.

AND I/WE hereby agree to ratify and confirm all lawful acts done on my/our behalf; under or by virtue of these present or of the usual practice in such matter. PROVIDED always that I/WE undertake at the time of calling of the case by the court I/MY authorized agent shall inform the advocate and make him appear in the court, if the case, may be dismissed in default, it be proceeded ex-parte the said counsel shall not be held responsible for the same. All costs awarded in favour shall be the right of the counsel or his nominee, and if awarded against shall be payable by me/us.

IN WITNESS WHERE OF I/We hereunto set MY/OUR hand to these presents, the contests of which have been explained to and understood by ME/US this 10th day of July 2023.

EXECUTANT


(Munir Khan)

Accepted subject to the terms regarding fees:


MUHAMMAD MAAZ MADNI,

ADVOCATE HIGH COURT, PESHAWAR

BC No.(BC-11-1460)

CNIC No. 17101-9263898-1

OFFICE: **TF-291, 292**, Deans Trade Centre, Peshawar Cantt.:
0333-9313113, 0345-9090737