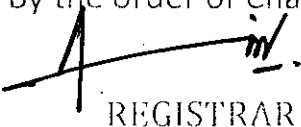


## FORM OF ORDER SHEET

Court of \_\_\_\_\_

Implementation Petition No. 582/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	16.08.2023	<p>The implementation petition of Mr. Muhammad Ishtiaq is submitted today by Mr. Muhammad Arshad Khan Tanoli Advocate. It is fixed for implementation report before Single Bench at Abbottabad on . - _____ . Original file be requisitioned. AAG has noted the next date.</p> <p>By the order of Chairman  REGISTRAR</p>

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

Execution Petition # 582/2023

C.M No. \_\_\_\_\_/2023

IN

Service Appeal No. 574/2019

Muhammad Ishtiaq PST GPS Takhar Maira Circle Phulra District Mansehra.  
...APPELLANT

**VERSUS**

DEO Male District Mansehra & others.

...RESPONDENTS

**APPLICATION FOR IMPLEMENTATION**

**INDEX**

<i>S. #</i>	<i>Description</i>	<i>Page #</i>	<i>Annexures</i>
1.	Application alongwith affidavit	1 to 4	
2.	Copy of service appeal	5-11	"A"
3.	Copy of judgment dated 18.03.2021	12-17	B

M. Ishtiaq

...APPELLANT

Dated: \_\_\_\_\_/2023

Through

(Muhammad Arshad Khan Tanoli)  
Advocate Supreme Court of Pakistan  
at Abbottabad

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

*Execution Petition # 582 / 2023*

C.M No. \_\_\_\_\_/2023

IN

Service Appeal No. 572/2019

Muhammad Ishtiaq PST GPS Takhar Maira Circle Phulra District Mansehra.  
...APPELLANT

**VERSUS**

1. Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education, Khyber Pakhtunkhwa, Peshawar.
2. Director, Elementary & Secondary Education (E&SE), Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (Male) Mansehra.

...RESPONDENTS

**SERVICE APPEAL**

**IMPLEMENTATION PETITION** FOR  
IMPLEMENTATION OF JUDGMENT DATED  
08/03/2021 IN SERVICE APPEAL NO.574/2019. THE  
HONOURABLE TRIBUNAL WHEREIN THE  
APPELLANT WAS ALLOWED COUNTING OF HIS  
PREVIOUS SERVICE FROM THE DATE OF  
PROMULGATION OF THE KP SACKED  
EMPLOYEES (APPOINTMENT) ACT 2012 ONLY  
FOR PAYMENT OF PENSIONARY PLAINTIFFS,  
BUT RESPONDENT DID NOT IMPLEMENT THE  
JUDGMENT 08.03.2021 OF THE HONOURABLE  
TRIBUNAL.

---

Respectfully Sheweth:-

1. That the applicant/appellant filed a service appeal No.574/2019 before this Honourable Tribunal regarding the counting of service towards the payment of pensionary benefits from the date of promulgation of the KP sacked Employees (Appointment) Act 2012. Copy of service appeal No574/2019 is attached as Annexure "A".
2. That this Honourable tribunal allowed the service appeal of the applicant/appellant and directed the respondents to count his service for payment of pensionary benefits from the date of promulgation of KP sacked Employees (Appointment) Act 2012 vide judgment dated 18/03/2021. Copy of judgment dated 18/03/2021 is attached as Annexure "B".
3. That, the applicant/appellant provided judgment dated 18/03/2021 of this Honourable Tribunal to the respondent, but the said respondent did not count service of the appellant as directed by the Honourable Tribunal so far.

4. That willfull non-implementation of the judgment of this Honourable Tribunal amounts to the contempt of court.

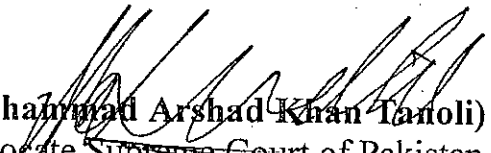
In view of above, it is prayed that respondents may be directed to count service of the petitioner from the date of promulgation of KP sacked Employees (Appointment) Act 2012 forthwith failing which contempt of court proceedings may be initiated against the respondents.

M. Shiq

...APPELLANT

Through

Dated: \_\_\_\_\_/2023

  
(Muhammad Arshad Khan Tanoli)  
Advocate Supreme Court of Pakistan  
at Abbottabad

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

C.M No. \_\_\_\_\_/2022  
IN  
Service Appeal No. 574/2019

Muhammad Ishtiaq PST GPS Takhar Maira Circle Phulra District Mansehra.  
...APPELLANT

**VERSUS**

DEO Male District Mansehra & others.

...RESPONDENTS

**APPLICATION FOR IMPLEMENTATION**

**AFFIDAVIT**

I, *Muhammad Ishtiaq PST GPS Takhar Maira Circle Phulra District Mansehra*, do hereby solemnly affirm and declare that the contents of foregoing application are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Tribunal.

*M Ishtiaq*

DEPONENT

THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,  
PESHAWAR

Annex-A

Service Appeal No. \_\_\_\_\_/2018

Ishtiaq Ahmed S/o Said ur Rehman SSTG R/o Village and Post Office  
Sherwan Presently Govt. Middle School Marri Tehsil Havelian District  
Abbottabad.

...APPELLANT

VERSUS

1. Govt. of Khyber Pakhtunkhwa, through Secretary Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
2. Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar
3. District Education Officer (Male) Abbottabad.
4. District Account Officer District Abbottabad.

...RESPONDENTS

*Adil Khan*  
District Bar Abbottabad  
Office # 33 Jinnah Plaza Adjacent to  
District Supreme Court of Peshawar

SERVICE APPEAL UNDER ARTICLE 4 OF KPK  
SERVICE TRIBUNAL ACT, 1974, FOR  
DECLARATION TO THE EFFECT THAT THE

APPELLANT GOT APPOINTMENT AS UNTRAINED PTC (PST) ON 28/10/1987 AND REMAINED UNTRAINED TILL 12/03/1993. AS GOVT. OF KPK FINANCE DEPARTMENT REGULATION WING LETTER DATED 20/10/2009, WHEREIN, BENEFITS OF ANNUAL INCREMENTS OF UNTRAINED PERIOD TILL THE COMPLETION OF REQUISITE TRAINING HAS BEEN ALLOWED WITH EFFECT FROM 30/02/2009 WITHOUT ARREARS. BUT RESPONDENT DEPARTMENT DID NOT ALLOW INCREMENTS OF UNTRAINED PERIOD W.E.F 28/12/1987 TO 12/03/1993, WHICH IS DISCRIMINATORY, AGAINST THE LAW AND NOTIFICATION DATED 30/10/2009.

PRAYER: ON ACCEPTANCE OF THE INSTANT SERVICE APPEAL RESPONDENTS MAY GRACIOUSLY BE DIRECTED TO ALLOW ANNUAL INCREMENT OF UNTRAINED PERIOD WITH EFFECT FROM 28/12/1987 TO 12/03/1993 IN THE LIGHT OF FINANCE DEPARTMENT REPUBLICATION WING LETTER NO. FD (PRC)5-2/2002 DATED 30/10/2009 ALONGWITH ARREARS ACCORDING TO THE LETTER. ANY OTHER RELIEF WHICH THIS HONOURABLE COURT MAY

*Attestad*

Muhammad Arshad Khan Tappi  
 District Judge  
 District Court of Pakistan  
 Office # 33 Jinnah Plaza Adjacent to  
 District Bar Abbottabad



DEEM APPROPRIATE IN THE CIRCUMSTANCES  
OF THE CASE ALSO BE GRANTED.

---

Respectfully Sheweth:-

The facts forming the background of instant service appeal of the appellant are arrayed as under:-

1. That the appellant got appointment as untrained PTC (PST) vide appointment order dated 27/12/1987. Copy of appointment order of appellant is attached as annexure "A".
2. That the appellant served as untrained teacher w.e.f. 28/12/1987 to 12/03/1993 and thereafter the appellant got appointment as Certified Teacher (CT) on 13/03/1993 and got charge of the post on 13/03/1993. Copy of appointment of the appellant as CT Teacher dated 03/03/1993 is attached as Annexure "B".
3. That the appellant served the department with complete devotion and to the entire satisfaction of the superiors. The entire period of service of the

*Attested*

*Muhammad Khan Tanoli*  
State Advocate, Court of Pakistan  
Office # 33, Jinnah Plaza Adjacent to  
Distt. Bar Abbottabad

appellant is unblemished and blotless. But the respondent department did not allow annual increments of untrained period of service w.e.f. 12/03/1987 to 12/03/1993. Copy of service book of the petitioner is attached as Annexure "C".

4. That Govt. of KPK Finance Department Regulation Wing allowed the benefits of annual increments to the untrained teacher w.e.f the date of their appointment as such but without arrears vide letter No. FD (PRC)5-2/2002 dated 30/10/2003. Copy of letter of Finance Department Regulations Wing dated 30/10/2009 is attached as Annexure "D".
5. That the respondent department did not allow the benefits of annual increments of untrained period to the appellant with malafide intentions and the appellant started shuttling in the respondent office for redressal of his grievances but no avail. Ultimately, the appellant filed departmental appeal to respondent No. 2 to do the needful on 08/02/2018 but the respondent did not bother to reply to the appellant. Copy of departmental appeal dated 08/02/2018 is attached as Annexure "E".

*Attest*

*Muhammad Arshad Khan Tanoli*


Hammed Arshad Khan Tanoli  
State Supreme Court of Pakistan  
Office # 33 Jinnah Plaza Adjacent to  
Distt. Bar Abbottabad

Hence, the instant service appeal is filed inter alia on following grounds.

GROUND:-

- a. That grant of annual increment is bounty of the department but the said increments have been allowed by the grant vide letter dated 30/10/2009 respondent department are duly bound to arrange to allow annual increment of untrained period of PST Service 28/12/1187 to 12/02/1993 and arrears thereof may also be granted to the appellate as per notification of the Govt. dated 30/10/2009.
- b. It is very sorrow state of the affairs that Govt. functionaries/institutions are not abiding by the law and rightful dues are not granted to the aggrieved Employees. In this regard, superior courts time and again issue judgments regarding following the law in letter and spirit but, the purpose has not and so far been achieved.

Attested

  
Khan Tannil  
State Supreme Court of Pakistan  
Office # 33 Jinnah Plaza Adjacent to  
Distt. Bar-Abbottabad

- c. That when law authorizes the appellant to have annual increments for his untrained period of service and if the said benefit is not allowed by the respondent department which amounts to misconduct and they are amenable to disciplinary proceedings.
- d. That respondent department has lead to the place which is utterly unknown to the principle of jurisprudence natural justice and rules in vogue.
- e. That the matter relates to the terms and conditions of the appellant, Therefore the same is maintainable before his Honourable Tribunal under Article 212 of the Constitution.
- f. That the service appeal of the appellant is within the period of limitation.

*Alshad*

*Muhammad Khan Tani*  
 The Supreme Court of Pakistan  
 Office # 33 Jinnah Plaza Adjacent to  
 Distt. Bar Abbottabad

It is therefore, humbly prayed that on acceptance of the instant service appeal respondents may graciously be directed to allow annual increment of untrained period with of from 28/12/1987 to 12/03/1993 in the light of

Finance Department Regulation Wing letter No. FD (PRC) 05/02/2002 dated 30/10/2009 alongwith arrears according to the letter. Any other relief which this Honourable Court may deem appropriate in the circumstances of the case may also be granted.

*[Handwritten signature]*

...APPELLANT

Through

Dated: \_\_\_\_\_/2018

*[Handwritten signature]*  
(Muhammad Arshad Khan Tanoli)  
Advocate High Court, Abbottabad

VERIFICATION:-

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

*[Handwritten signature]*

...APPELLANT

*Attested*

*[Handwritten signature]*  
Muhammad Arshad Khan Tanoli  
Office # 33 Jinnah Plaza Adjacent to  
District Bar, Abbottabad



BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR

Service Appeal No. 572/2019

Muhammad Haroon son of Khalil ur Rehman, GPS Phulra District Mansehra.

...APPELLANT

Khyber Pakhtunkhwa Service Tribunal

Quary No. 641

Dated 28/4/2019

VERSUS

1. Government of KPK through Secretary, Elementary and Secondary Education, Peshawar.
2. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
3. District Education Officer (Male) District Mansehra.

...RESPONDENTS

Re-submitted to Registrar  
3/5/19

SERVICE APPEAL UNDER SECTION 4 OF SERVICE TRIBUNAL ACT 1974 FOR DECLARATION TO THE EFFECT THAT THE APPELLANT WAS REINSTATED IN SERVICE WITH EFFECT FROM 04/12/2017 VIDE APPOINTMENT ORDER ENDST NO. 20672-702 DATED 04/12/2017 UNDER THE KHYBER PAKHTUNKHWA SACKED EMPLOYEES APPOINTMENT ACT 2012, AS WELL AS IN THE LIGHT OF JUDGEMENT OF PESHAWAR HIGH

Re-submitted to Registrar and filed.

Registrar  
3/5/19

ATTESTED

[Signature]  
Registrar  
Khyber Pakhtunkhwa Service Tribunal  
Peshawar

Attested

State Supreme Court of Pakistan  
Office # 33 Jinnah Plaza Adjacent to  
Distt. Abbottabad

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 572/2019



Date of Institution ... 22.04.2019  
Date of Decision ... 18.03.2021

Muhammad Haroon son of Khalil ur Rehman, G.P.S. Phulra  
District Mansehra.

(Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary  
Elementary & Secondary Education Peshawar and two others.

(Respondents)

Muhammad Arshad Khan Tanoli,  
Advocate

For appellant.

Riaz Khan Paindakheil,  
Assistant Advocate General

For respondents.

ROZINA REHMAN  
ATIQU UR REHMAN WAZIR

MEMBER (J)  
MEMBER (E)

JUDGMENT

*Handwritten signature/initials*

ROZINA REHMAN, MEMBER : This judgment is intended to dispose of  
04 connected service appeals which are:

1. Service Appeal No.572/2019
2. Service Appeal No. 573/2019
3. Service Appeal No. 574/2019
4. Service Appeal No. 575/2019

ATTESTED

*Handwritten signature*  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

*Handwritten signature*  
Muhammad Arshad Khan Tanoli  
Advocate  
Date: 18.03.2021  
Office: 1st Floor, adjacent to  
District Court, Abbottabad


In view of common questions of law and facts, the above captioned appeals are being disposed of by this order.

2. The relevant facts leading to filing of instant appeals are that appellants were appointed as C.Ts in the year 1993-94 and were terminated from service in the year 1997-98. After the announcement of Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012, they were required to be reinstated in service but the appellants were not appointed accordingly, therefore, they filed Writ Petition before the Hon'ble High Court for their appointment under the said Act and it was during the pendency of the Writ Petition when appointment orders were accordingly issued on 04.12.2017. Some of the employees under the said Act were appointed in 2012-13 but the appellants were appointed on 04.12.2017, therefore, they filed departmental appeal which was not responded to, hence the present service appeal.

3. We have heard Muhammad Arshad Khan Tanoli Advocate for appellants and Riaz Khan Paindakheil learned Assistant Advocate General for the respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Muhammad Arshad Khan Tanoli Advocate learned counsel appearing on behalf of appellants, inter-alia, argued that the respondent No.3 was supposed to appoint appellants under the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012 when the said Act was promulgated in the year 2012 but their appointment order was issued on 04.12.2017 which is against law and discriminatory.

*Attested*

ATTESTED  
  
 EXAMINER  
 KHYBER PAKHTUNKHWA  
 SERVICE TRIBUNAL  
 PESHAWAR

*W* Muhammad Arshad Khan Tanoli  
 Advocate Supreme Court of Pakistan  
 Office # 33 Jinnah Plaza Adjacent to  
 Distt. Bar Abbottabad



Learned counsel further argued that some of the employees who were juniors to appellants were appointed, whereas, appellants were reinstated later on which act is against the principle of equality and natural justice. He submitted that appellants are to be treated at par with other employees in the said Department and lastly, he submitted that similar employees were given benefit by the Apex Court by counting of their service for the protected period for payment of pensionary benefits, therefore, request was made for the stated relief.

5. As against that, learned A.A.G submitted that appellants were appointed as P.S.Ts but later on, their appointments were declared illegal and they were terminated. The Government of Khyber Pakhtunkhwa promulgated Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012 and the appellants were appointed as P.S.Ts under Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012 as well as upon the direction of august High Court Abbottabad Bench. He submitted that as per Section-5 of the Sacked Employees (Appointment) Act, 2012, sacked employees shall not be entitled to seniority and other back benefits and that such nature cases were dismissed by the Service Tribunal. He, therefore, requested for dismissal of instant service appeals.

6. From the record, it is evident that appellants and others who were appointed back in 1994-95 were terminated in 1996-97. Sacked Employees (Appointment) Act, 2012 was specifically promulgated to extend relief to such sacked employees. Appellants were not


*Attested*  
State Supreme Court of Pakistan  
Side # 33 Jinnah Plaza Adjacent to  
District Abbottabad

ATTESTED  
*[Signature]*  
DIRECTOR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR

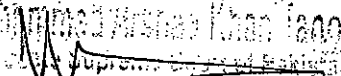
considered for the reason best known to the respondents. The respondents however, considered other similar cases just after promulgation of the Act <sup>ibid</sup> which was discriminatory on the part of respondents. It was upon the intervention of the Hon'ble Peshawar High Court that appellants were reinstated at a belated stage in 2017 but with immediate effect. The main concern of the appellants is that such employees would reach the age of superannuation before earning qualifying service for pensionary benefits. We have observed that appellants had possessed all the qualifications as prescribed in the Act like others. It is also on record that co-employees tried their level best for back benefits and their cases were dismissed by this Tribunal as their earlier stance <sup>was</sup> to get all service benefits. Feeling aggrieved from the judgment of this Tribunal CPLAs were filed in the Apex Court and relief of back benefits to co-employees was refused by the Apex Court too. However, Apex Court allowed counting of their service for the protected period for payment of pensionary benefits. The present appellants have a strong case as they had every right to be reinstated just after promulgation of the Act as they were having requisite qualification as prescribed in the Act. Their claim was accepted by the august High Court and reinstatement was ordered.

7. The present appellants have also prayed for all service back benefits with a request for counting of their service for the protected period in the light of judgment of the Apex Court which was passed in the case of co-employees. So, from the record, it is crystal clear that

ATTESTED

  
 MEMBER  
 MEMBER PESHAWAR  
 SERVICE TRIBUNAL  
 PESHAWAR

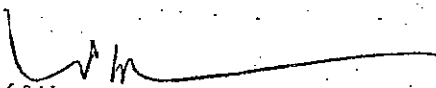
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 File # 33 Jinnah Plaza Adjacent to  
 Distt. Ferozshahabad


P-11

despite promulgation of an Act in the year 2012, appointment order of the appellants were issued in the year 2017 and that too, on the directions of the august High Court. No doubt, similar appeals of the sacked employees were dismissed regarding the back benefits but the Apex Court allowed the co-employees counting of their service for the protected period for payment of pensionary benefits only. Case of the present appellants is at par with those sacked employees who were granted this benefit by the Apex Court, therefore, these appeals are accepted to the extent that appellants are allowed counting of their services from the date of promulgation of the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012 only for payment of pensionary benefits. No order as to costs. File be consigned to the record room.

ANNOUNCED.  
18.03.2021

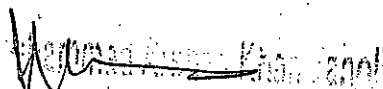
  
(Atiq ur Rehman Wazir)  
Member (E)  
Camp Court, Abbottabad

  
(Rozina Rehman)  
Member (J)  
Camp Court, Abbottabad

Certified to be true copy  
  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of Presentation of Application 06/4/21  
Number of Words 2000  
Copying Fee 25/-  
Urgent     
Total 25/-  
Name of Applicant     
Date of Completion of Copy 06/4/21  
Date of Delivery of Copy 06/4/21

Attested

  
Justice Supreme Court of Pakistan  
Office # 23 Jinnah Road Adjacent to  
Dist: Bar Abbottabad

کورٹ فیس

# وکالت نامہ

M. Before Service Tribunal of Peshawar بعدالت

M. Ishlaq DEO etc عنوان:

Appellant

مجاناب:

App-laction

نوعیت مقدمہ:

## باعث تحریر آنکہ

مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی و جواب دہی کل کاروائی متعلقہ آں مقام

Atd. M. Aashed Khan Tanoli Asc Atd

کو وکیل مقرر کر کے اقرار کرتا ہوں کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا نیز وکیل

صاحب موصوف کو کرنے راضی نامہ و تقرر ثالث و فیصلہ برحلف و 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 کاروائی 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 برادر

استجارت نالاش بصیغہ مفلسی کے دائرہ کرنے اور اس کی پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔

لہذا وکالت نامہ تحریر کیا تاکہ سند رہے۔

المقوم:

Abbottabad

M. Aashed Khan Tanoli  
Asc of Peshawar

M. Aashed Khan Tanoli  
Asc of Peshawar

Atd