


Form- A

FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 596/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	
1	24.08.2023	<p>The implementation petition of Mr. Irshad Ullah is submitted today by Mr. Noor Muhammad Khattak Advocate. It is fixed for implementation report before Single Bench at Peshawar on <u>28-08-2023</u>. Original file be requisitioned. AAG has noted the next date.</p> <p>By the order of Chairman  REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

EOP # 596/2023

Implementation Petition No. _____/2023.

In

Appeal No. 1425/2022.

IRSHAD ULLAH

VS

LG & RDD

I N D E X

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Implementation petition with Affidavit	<i>1-2</i>
2.	Judgment dated 05.05.2023	A	<i>3-5</i>
3.	Vakalatnama		<i>6</i>

APPELLANT

Through:

NOOR MOHAMMAD KHATTAK
ADVOCATE, SUPREME COURT OF PAKISTAN.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR
E.o.P # 596 / 2023
Implementation Petition No. /2023.

In
Appeal No. 1425/2022.

Mr. Irshad Ullah, Village Secretary
(BPS-09), Village Council Jandri, District Karak.

.....**PETITIONER**

VERSUS

- 1- The Director General Local Government & Rural Department Khyber Pakhtunkhwa, Peshawar.
- 2- The Assistant Director Local Government & Rural Department District Karak.

.....**RESPONDENTS**

IMPLEMENTATION PETITION FOR DIRECTING THE RESPONDENTS TO OBEY THE ORDER DATED 05-05-2023, IN LETTER AND SPIRIT

R/SHEWETH:

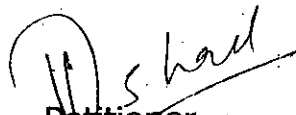
- 1- That the petitioner filed service appeal bearing No. 1425/2022, before this august Service Tribunal against the impugned Order dated 26-09-2022.
- 2- That the appeal of the petitioner was fixed before divisional bench of this Honourable Tribunal and the divisional bench of this Honourable Tribunal very graciously partially allowed the Service appeal of the appellant vide its judgment dated 05-05-2023. The operative part is under ***"we would like to follow the Hon'ble Peshawar High Court, Peshawar and would send the matter to the secretary Local Government and Rural Development to see this order in the above perspective. The secretary Local Government and Rural Development shall decide the matter within 30 days of receipt of the copy of this order under intimation to the Tribunal through its Registrar.*** Copy of the Judgment dated 05-05-2023 is attached as annexure.....**A.**
- 3- That after obtaining copy of the order dated 05-05-2023 the petitioner/appellant applied to the Department for its

implementation but the respondent Department turned a deaf ear to the petitioner.


- 4- That since the passage of more than 03 months of time the department has not implemented or obeyed the judgment dated 05-05-2023 passed by this Hon'ble Tribunal.
- 5- That the petitioner has no any other remedy but to file this implementation petition.

It is therefore, most humbly prayed that the respondents may be directed to implement the judgment dated **05-05-2023** in letter and spirit.

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


Petitioner
Irshad Ullah

Through:


Noor Mohammad Khattak
Advocate Supreme Court of
Pakistan

AFFIDAVIT

I Mr. Irshad Ullah, Village Secretary (BPS-09), Village Council Jandri, District Karak, do hereby solemnly affirm that the contents of this Petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.


DEPONENT

"A" -3-

Service Appeal No.1425/2022 titled "Irshad Ullah-vs- The Director General Local Government & Rural Development Department, Khyber Pakhtunkhwa, Peshawar" decided on 05.05.2023 by Division Bench comprising Kalim Arshad Khan, Chairman, and Salah-ud-Din, Member, Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.**

**BEFORE: KALIM ARSHAD KHAN ... CHAIRMAN
SALAH-UD-DIN ... MEMBER (Judicial)**

Service Appeal No. 1425/2022

Date of presentation of appeal.....03.10.2022
Dates of Hearing.....05.05.2023
Date of Decision.....05.05.2023

Irshad Ullah, Village Secretary (BPS-09), Village Council Jandri,
District Karak.

.....(Appellant)

Versus

1. The Director General Local Government & Rural Development
Department, Khyber Pakhtunkhwa, Peshawar.
2. The Assistant Director, Local Government & Rural Development
Department, District Karak.
3. Mr. Muhammad Atif, Village Secretary, O/O the Assistant Director
LG&RD, District Karak.

.....(Respondent)

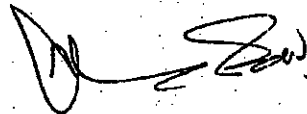
Present:

Mr. Noor Muhammad Khattak, Advocate.....For appellant.

Mr. Asif Masood Ali Shah,
Deputy District AttorneyFor official respondents.

.....
**APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST
THE IMPUGNED TRANSFER ORDER DATED 26.09.2022
WHEREBY THE APPELLANT HAS BEEN TRANSFERRED
FROM VC JANDRI AND AGAINST THE APPELLATE ORDER
DATED 28.09.2022 WHEREBY THE DEPARTMENTAL APPEAL
OF THE APPELLANT HAS BEEN REJECTED ON NO GOOD
GROUNDS.**

ORDER



KALIM ARSHAD KHAN CHAIRMAN: This appeal is against
the transfer order dated 26.09.2022 whereby the appellant Irshad Ullah
was transferred from V.C Jandri Karak to AD Office Karak. It is also

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Service Appeal No.1425/2022 titled "Irshad Ullah-vs- The Director General Local Government & Rural Development Department, Khyber Pakhtunkhwa, Peshawar" decided on 05.05.2023 by Division Bench comprising Kalim Arshad Khan, Chairman, and Salah-ud-Din, Member, Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

against the appellate order dated 28.09.2022 whereby the departmental appeal of the appellant was rejected.

2. The appellant was appointed as Village Secretary Village Council Jandri (BPS-07) vide order dated 23.12.2015 and had been serving there when he was transferred vide impugned order dated 26.09.2022 to the office of the Assistant Director Local Government and Rural Development Department Karak. Feeling aggrieved from the said order, he filed departmental appeal, which was dismissed on 28.09.2022 and, hence, this appeal on the ground that the impugned order was against law, facts and record as well as against Clauses I, VI & XI of the posting/transfer policy of the Provincial Government.

3. On receipt of appeal, the respondents were summoned but they did not put appearance and were placed ex-parte.

4. Ex-parte arguments heard.

5. During the course of arguments, learned counsel for the appellant produced copy of order dated 03.08.2022 passed by the Hon'ble Peshawar High Court, Abbottabad Bench in Writ Petition No. 930-A/2022 whereby almost a similar matter was taken up by the Hon'ble Peshawar High Court and was decided in the following manner:-

"After arguing the case for a while, learned counsel for the petitioner agreed that let the matter be sent to respondent No. 1 (Secretary Local Government and Rural Development Department, Peshawar), for consideration of grievances of the petitioner. He shall see whether the transfer and posting of Village Secretary of village council from place of posting to other village council was legal and justified. He shall also see that when appointments of persons are made on the basis of locality i.e from same village council then making said posting transferrable would not carry any potential to prejudice rights of some localities; whether such powers are not open to misuse and

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Service Appeal No.1425/2022 titled "Irshad Ullah-vs- The Director General Local Government & Rural Development Department, Khyber Pakhtunkhwa, Peshawar" decided on 03.05.2023 by Division Bench comprising Kalim Arshad Khan, Chairman, and Salah-ud-Din, Member, Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

abuse. He shall also see the regular duration with which petitioner has constantly been transferred from one place to another.

2. In view of the above, the instant petition is disposed of accordingly. Learned Additional AG, present in court, is directed to convey order of this Court to Secretary Local Government for consideration and necessary action."

6. We would like to follow the Hon'ble Peshawar High Court and would send the matter to the Secretary Local Government and Rural Development to see this order in the above perspective. The Secretary Local Government and Rural Development shall decide the matter within 30 days of receipt of copy of this order under intimation to the Tribunal through its Registrar. 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 05th day of May, 2023.*



KALIM ARSHAD KHAN
Chairman



SALAH UD DIN
Member (Judicial)

Naeem Amin

VAKALATNAMA
BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

_____ No _____/2023

Wahed Ullah

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

L.G & RDD & others

(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. _____/_____/202

Wahed Ullah
Shad
CLIENT

ACCEPTED

NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT

WALEED ADNAN

KAMRAN KHAN

UMAR FAROOQ MOHMAND

MUHAMMAD AYUB

&

MAHMOOD JAN
ADVOCATES