


Form- A

FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 607/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	31.08.2023	<p>The implementation petition of Mr. Shakir Ullah is submitted today by Miss Naila Jan 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  REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Execution petition No. 607/2023

SCANNED

In

Service Appeal No: 62/2017

Shakir Ullah

Versus

Secretary Elementary and Secondary Education and others

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4.	Wakalat Nama		13

Dated: 31/08/2023

Shakir Ullah
Petitioner
Through
Naila Jan
Naila Jan
Advocate, High Court
Peshawar

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BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Execution petition No. 607/2023

In

Service Appeal No: 62/2017

Khyber Pakhtunkhwa
Service Tribunal

Diary

Date

7293

31/8/2023

Shakir Ullah Ex Chowkidar, GPS Lakki Qamardin,
Tehsil Domel, District Bannu.

.....Petitioner

Versus

1. Secretary Elementary and Secondary Education
Government of Khyber Pakhtunkhwa, Peshawar.
2. Director Elementary and Secondary Education
Government of Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer male Bannu.
4. Assistant Commissioner Bannu.

.....Respondents

EXECUTION PETITION
FOR IMPLEMENTATION OF
THE JUDGMENT OF THIS
HON'BLE TRIBUNAL IN
APPEAL No. 62/2019
DECIDED ON 22/12/2021.

Respectfully Sheweth,

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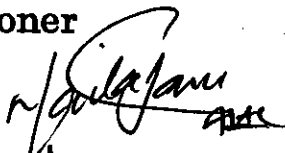
1. That the above mention appeal was decided by this Hon'ble Tribunal vide Judgment dated 22/12/2021. **(Copy of the judgment is annexed as annexure "A")**
2. That the relevant portion of the judgment is reproduced "*For what has gone above, the appeal is accepted as prayed for and appellant is reinstated into service with back benefits. Parties are left to bear their own costs. File be consigned to the record room*".
3. That the Petitioner after getting of the attested copy of same approached the Respondents several time for implementation of the above mention judgment. However they are using delaying tactics and reluctant to implement the judgment of this Hon'ble Tribunal.
4. That at last vide order dated 12.10.2022 the petition was reinstated conditionally till final decision of court however respondents did not pay / allowed the back benefits as directed bt this Hon'ble Tribunal vide judgment dated: 22/12/2021. **(Copy of the reinstatement order dated 12/10/2022 is annexed as "B")**
5. That the Petitioner has no other option but to file the instant petition implementation of the judgment of this Hon'ble Tribunal.
6. That there is nothing which may prevent this Hon'ble Tribunal from implementing of its own judgment.

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It is, therefore, requested that on acceptance of this petition the Respondents may directed to implement the judgment of this Hon'ble Tribunal and all the back benefits of the intervening period may graciously be granted as per judgment of this Hon'ble Tribunal.

Dated: 31/08/2023

Petitioner
Through 
Naila Jan
Advocate, High Court
Peshawar

AFFIDAVIT:-

I, Shakir Ullah Ex Chowkidar, GPS Lakki Qamardin, Tehsil Domel, District Bannu, do hereby solemnly affirm and declare on oath that all the contents of above application are true and correct to the best of my knowledge and belief and nothing has been misstated or concealed from this Hon'ble Court.


Deponent


31/08
2023


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BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Execution petition No. _____/2023

In

Service Appeal No: 62/2017

Shakir Ullah

Versus

Secretary Elementary and Secondary Education and others

ADDRESSES OF PARTIES

PETITIONER

Shakir Ullah Ex Chowkidar, GPS Lakki Qamardin,
Tehsil Domel, District Bannu.

RESPONDENTS

1. Secretary Elementary and Secondary Education
Government of Khyber Pakhtunkhwa, Peshawar.
2. Director Elementary and Secondary Education
Government of Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer male Bannu.
4. Assistant Commissioner Bannu.

Dated: 31/08/2023

Through

Shakir Ullah
Petitioner

Naila Jan
Naila Jan
Advocate, High Court
Peshawar

BEFORE

THE HONBLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

S.A. 22 /2019

Diary No. 18

Dated 4-1-2019

Shakir Ullah Ex Chowkidar, C/PS LAKKI Qarnad Din,
Tehsil Domel, District Bannu.

----- (Appellant)

Versus

1. Secretary Elementary and Secondary Education Government of Khyber Pakhtunkhwa Peshawar.
2. Director Elementary and Secondary Education Government of Khyber Pakhtunkhwa Peshawar.
3. District Education Officer male Bannu.
4. Assistant Commissioner Bannu.

----- (Respondents).

APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT,
1974 AGAINST THE IMPUGNED ORDER
DATED 19/07/2017 WHEREBY THE
APPELLANT WAS TERMINATED FROM
SERVICE ILLEGALLY AND ORDER DATED
06/12/2018 WHEREBY DEPARTMENT
APPEAL OF THE APPELLANT WAS
REJECTED WITHOUT LEGAL
JUSTIFICATION.

PRAYERS:-

ON ACCEPTANCE OF THE INSTANT APPEAL
THE IMPUGNED ORDERS DATED 14-07-2017
AND ORDER DATED 06/12/2018 MAY KINDLY

HEAD OFFICE
GHS DHERI SAID
BANNU

Filed to-day
Registrar
4/1/19

19/1/19

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No.62 of 2019

Date of Institution ... 04/01/2019

Date of Decision ... 22/12/2021

ShakirUllah Ex-Chowkidar GPS, Lakki Qamar Din Tehsi, Dornel District
Bannu ... (Appellant)

VERSUS

Secretary Elementary and Secondary Education, Government of Khyber
Pakhtunkhwa and others ... (Respondents)

Present.

Mst. Naila Jan, Advocate For appellant.

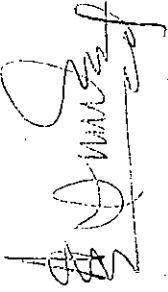
Mr. Kabirullah Khattak,
Addl: Advocate General, For respondents.

MR AHMAD SULTAN TAREEN CHAIRMAN
MR. ATIQ-UR-REHMAN WAZIR, MEMBER(E)

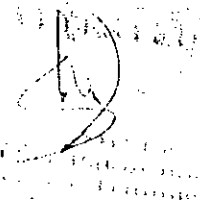
JUDGMENT

AHMAD SULTAN TAREEN, CHAIRMAN:-The appellant named
above invoked the jurisdiction of this Tribunal through service
appeal with the prayer as copied below:-

“On acceptance of instant appeal, the impugned
order dated 14/07/2017 and order dated 06/12/2018
may kindly be set aside and the appellant may kindly
be reinstated into Service with all back benefits”


AHMAD SULTAN TAREEN
GPS DHERY SAIDAN
BANNU

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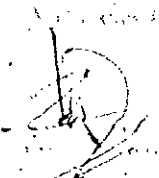


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2. Brief facts of the case are that the appellant was appointed by the respondent department as Chowkidar after fulfilling all codal formalities and after appointment, the appellant performed his duty to the entire satisfaction of respondents. After joining report, the appellant was posted at Government Primary School Qamar Din Tehsil Domel District Bannu. After about 2/3 months of the service, the respondent transferred the appellant from Government Primary School Qamar DIN to the office of Assistant Commissioner Bannu. The respondents stopped the salary of the appellant without any reason and after approaching them, they neither released the salary nor disclosed to him the reason for stoppage of his salary. The appellant filed a civil suit for release of his salary and during pendency of said suit, Government Pleader produced his removal from service order dated 19/07/2017. Feeling aggrieved, appellant filed various applications but the respondents are not ready to provide the relevant documents to him. Thereafter, the appellant filed a writ petition No. 517-B of 2018 which was decided vide judgment dated 03/10/2018 and the petition was converted as departmental appeal with the direction to decide the same within 30 days. The departmental appeal of the appellant was rejected vide order dated 06/12/2018, hence the present appeal on 04.01.2019.

3. The appeal was admitted for regular hearing on 07.03.2019. The respondents have submitted written reply/comments, refuting the claim


 HEAD MASTER
 GHS DHERI SIKHAN
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of the appellant with several factual and legal objections and asserted for dismissal of appeal.

4. We have heard the arguments and perused the record

5. Learned counsel for the appellant argued that the impugned orders are against the law, rules and principle of Natural justice and not tenable in the eye of law; that no charge sheet etc has been issued to the appellant; that no fact finding or regular inquiry was conducted nor did any opportunity of defense has been provided to the appellant; that the appellant was not absent and had performed his duties regularly; that the appellant was not provided an opportunity of fair trial and was not treated in accordance on law on the subject and that the impugned order is not sustainable and is liable to be set aside.

6. Learned Additional Advocate General while rebutting the arguments of learned counsel for the appellant stated that the appellant has not performed his duties after his appointment and remained himself absent from duty; that a proper inquiry has been conducted against the appellant and in view of inquiry report dated 29/06/2017 he was dismissed from service vide order dated 19/07/2017; that the appellant has not moved any departmental appeal before the competent authority. While concluding his arguments, learned AAG requested for dismissal of appeal with cost.

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 HEAD
 GHS DHEKI SAKHAI
 DHEKI

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 CLERK

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7. It is an admitted position that the appellant was appointed as Chowkidar vide order dated 26.12.2016. The appellant has annexed with the service appeal salary slips for the months of February, 2017 to June, 2017. Accordingly, he was paid the salary for the said period which fact gives rise to a presumption that the appellant was on duty during the said period. The appellant submitted in his appeal that nearly about after two or three months of his service, the respondents transferred him from GPS Qamar Deen to the office of Assistant Commissioner, Bannu. The said order as annexed with the appeal was issued by the Assistant Commissioner, Bannu (respondent No. 4) and not by the departmental authority of the appellant. However, copies of said orders were endorsed to respondent No. 3 i.e. District Education Officer (Male) Bannu and HPST, GPS Lakki Qamar Din, Tehsil Dornel, District, Bannu. The said order was issued on 14.02.2017 and according to Diary Number and date available on the copy of said order, the same was received in office of respondent No. 3 on 15.02.2017. As already mentioned, the appellant received salary for the month of February, 2017 and onwards despite knowledge of the respondent No. 3 about his detailment to the office of Assistant Commissioner Bannu till further order. It can be safely presumed that the appellant had to perform the duty in office of the Assistant Commissioner Bannu due to silence of respondent No. 3 on order of respondent No. 4 regarding detailment of appellant to his office. The respondent No. 3 in his parawise reply to

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para-3 of the appeal asserted that this para is vague as the appellant has not cleared in his appeal that which respondent and why he was transferred from his posted school to the office of Assistant Commissioner Bannu. It was also added by him that the appellant has not cleared that he had taken over charge in the office of Assistant Commissioner Bannu. To this effect the appellant had not informed his superior concerned. Consequently, absentee notice as well as final show cause notices were served upon the appellant with the direction to resume his duty within stipulated period of time but in vain. Then on direction of DEO (M) Bannu enquiry was conducted against the appellant and a major penalty was recommended to be imposed upon him under E&D Rules, 2011. It was also asserted by respondent No. 3 that the appellant was appointed on 27.12.2016 on the post of Chowkidar and since then he remained absent from government duty as per enquiry report. The said reply of respondent No. 3 is highly random and misleading. According to annexures with the reply, the SDEO (M) Bannu admitted the fact of taking over of charge by the appellant as evident from the contents of notice of absence given to the latter. One of the annexures with the reply pertains to the minutes of meeting of P.T.A in which the issue of absence of the Chowkidar Shakirullah (appellant) from duty in the school was discussed with particular reference to in-action of respondent No. 3. It appears that the appellant was made a scapegoat when issue of his absence from proper

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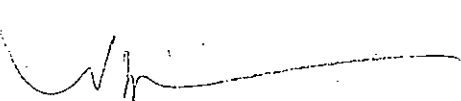
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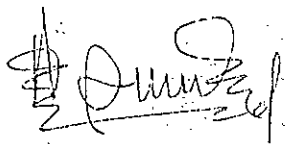
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place of duty stood highlighted. The disciplinary proceedings on their face seem to be a cover up of the silence of respondent No. 3 as then he was at the time of detailment of the appellant for duty in office of the Assistant Commissioner Bannu. Additionally, the appellant has also furnished an affidavit on Stamp Paper duly attested by Oath Commissioner that he after receiving his appointment order started duty in the school where after he was told by the DEO namely Imtiazul Haq for duty with Assistant Commissioner, Bannu. So, he started his duty in the office of Assistant Commissioner, Bannu since 15.02.2017 on the direction of DEO(M) Bannu and he was removed from service during his duty which he was performing honestly on direction of DEO Imtiazul Haq. Affidavit is available on the file.

8. For what has gone above, the appeal is accepted as prayed for and appellant is reinstated into service with back benefits. Parties are left to bear their own costs. File be consigned to the record room.

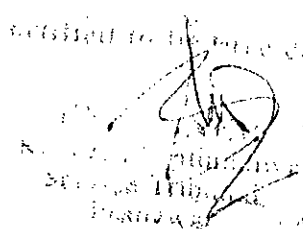

 (ATIQU-UR-REHMAN WAZIR)
 Member(E)


 (AHMAD SULTAN TAREEN)
 Chairman

ANNOUNCED
 22.12.2021

07/03/2022





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 30/-
 47/-

07/03/2022
 07/03/2022

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OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) BANNU

Phone No: 0928-660005 Fax No: 0928-660346

Email Id: bannuedo@yahoo.com

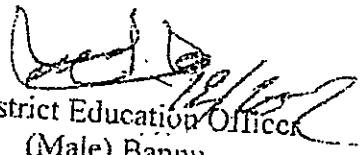
CONDITIONAL REINSTATEMENT ORDER

In light of Honorable Service Tribunal KPK decision dated; 22-12-2021 No.196/2022, order sheet Dated; 16-08-2022 in case titled Shakirullah Versus Education I Bannu, the undersigned is pleased to reinstate into service conditionally subject to CPLA, mentioned candidate against vacant N/Qasid post subject to the terms & conditions given below

S.No	Name	Father's Name	Place of Posting	Remarks
1	Shakir ullah	Jamshad Khan	GHS Dheri Saidan Mamash Khel Bannu	Reinstated in service in light of Tribunal Decision Dated: 22-12-2021

TERMS & CONDITIONS

- 1- The incumbent is reinstated in service conditionally subject to final decision of CPIA.
- 2- He will join the duty station within 15 days and submit charge report to all concerned otherwise this order will be treated as cancelled.
- 3- He will provide duty certificate for the period spent by him at AC Office Bannu.


District Education Officer
(Male) Bannu

Endst: NO. 13337-41 /AE-I/Class-IV Court Case
Copy for information & necessary action to the:-

Dated Bannu the 12-10-2022.

- 1- Director Elem: & Secy: Edu: Khyber Pakhtunkhwa.
- 2- Registrar Service Tribunal Khyber Pakhtunkhwa Peshawar.
- 3- SDEO (M) Bannu.
- 4- District Accounts Officer Bannu.
- 5- ~~Principal~~ Head Teacher concerned school.
- 6- Candidate concerned.


HEAD MASTER
GHS DHERI SAIDAN
BANNU

District Education Officer
Male Bannu



قیمت 50 روپے

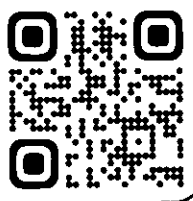
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پشاور بار ایسوسی ایشن، خیبر پختونخوا

ایڈوکیٹ: Naila Jan

بار کونسل ایسوسی ایشن نمبر: BC-13 417

رابطہ نمبر: 0312 921500



بعدالت جناب: پشاور بار ایسوسی ایشن

دعویٰ: Exemption	منجانب: Petitioner
علت نمبر:	شاکیہ
مورخہ:	بنام
جرم:	دلیر
تھانہ:	

باعت تحریر آگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ

آن مقام پشاور کیلئے نیل جان کو وکیل مقرر

کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کال اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقررات و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زیریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یا طرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ 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 وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پر داخلہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جائز التوائے مقدمہ کے سبب سے ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے



المرقوم: 08/2023

العبد گواہ العبد

مقام پشاور کے لیے منظور ہے۔

Attested

Accepted

صاحب مقدمہ (Petitioner) Naila Jan

نوٹ: اس وکالت نامہ کی فونو کاپی ناقابل قبول ہوگی۔