


## Form- A

## FORM OF ORDER SHEET

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

Implementation Petition No. 633/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	13.09.2023	<p>The implementation petition of Mr. Muhammad karim submitted today by Syed Noman Ali Bukhari 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. 633 /2023

In

Service Appeal No.868/2022

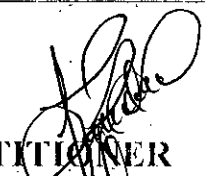
Muhammad Karim

V/S

police Deptt:


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S.No.	Documents	Annexure	Page No.
1.	Memo of Execution Petition	-----	01-02
2.	Copy of Judgment	- A -	03-09
3.	Vakalat Nama	-----	10

  
PETITIONER  
Muhammad Karim

THROUGH:

  
SYED NOMAN ALI BUKHARI  
ADVOCATE, HIGH COURT

&  
  
(UZMA SYED)  
ADVOCATE, PESHAWAR

Cell No: 0306-5109438

BEFORE THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR.

①

Execution Petition No. 633 /2023

In

Service Appeal No.868/2022

Mr. Muhammad Karim Associate Professor (statistics),  
Govt: Post Graduate College Kohat..

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 7503

Dated 13/09/23

PETITIONER

VERSUS

1. The Govt: of Khyber Pakhtunkhwa through chief Secretary, KP Peshawar.
2. The Secretary to govt: of KP, Establishment Department, civil secretariat Peshawar.
3. The Secretary to Govt: KP, Higher Education Deptt:, civil secretariat Peshawar.
4. The Director Higher Education Deptt: Peshawar.

RESPONDENTS

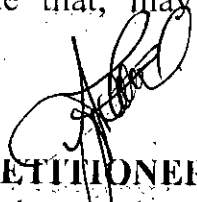
.....  
**EXECUTION PETITION FOR DIRECTING THE  
RESPONDENTS TO IMPLEMENT THE  
JUDGMENT DATED: 16/06/2023 OF THIS  
HONORABLE TRIBUNAL IN LETTER AND  
SPIRIT.**  
.....

**RESPECTFULLY SHEWETH:**

1. That the applicant/Petitioner filed Service Appeal No-868/2022 for antedating of Promotion.

2. That the said appeal was finally heard by the Honorable Tribunal on 16-06-2023. The Honorable Tribunal is kind enough to allow the appeal of appellant and respondents were directed to grant the ante-dated to the appellant from the date deferred for the first time i.e 10/07/2017 with all back benefits. **(Copy of judgment is attached as Annexure-A).**
3. That the appellant also filed application to respondents for the implementation of judgment. The respondents were totally failed in taking any action regarded the Hon'able Tribunal judgment dated 16-06-2023.
4. That the respondents were totally failed in taking any action regarded the Hon'able Tribunal Judgment dated 16-06-2023.
5. That the respondent totally violated the judgment of Hon'able Service Tribunal, is totally illegal amount to disobedience and Contempt of Court.
6. That the judgment is still in the field and has not been suspended or set aside by the Supreme Court of Pakistan, therefore, the respondents are legally bound to implement the same in letter and spirit.
7. That the petitioner has having no other remedy to file this Execution Petition.

It is, therefore, most humbly prayed that the respondents may be directed to obey the judgment dated 16-06-2023 of this august Tribunal in letter and spirit. Any other remedy, which this august Tribunal deems fit and appropriate that, may also be awarded in favor of applicant/appellant.

  
**PETITIONER**  
Muhammad Karim

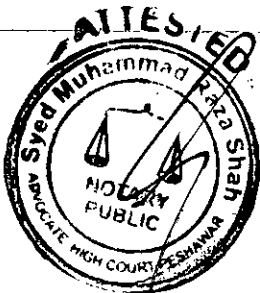
**THROUGH:**

  
**(SYED NOMAN ALI BUKHARI)**  
ADVOCATE HIGH COURT.

**AFFIDAVIT:**

It is affirmed and declared that the contents of the above Execution Petition are true and correct to the best of my knowledge and belief.

  
**DEPONENT**





A (3)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 868/2022

BEFORE: MR. KALIM ARSHAD KHAN ..... CHAIRMAN  
MRS. RASHIDA BANO ..... MEMBER (J)

Muhammad Karim, Associate Professor (Statistics), Government Post Graduate College, Kohat. .... (Appellant)

**VERSUS**

1. Government of Khyber Pakhtunkhwa, Chief Secretary Civil Secretariat Peshawar.
  2. Secretary Establishment Department, Government of Khyber Pakhtunkhwa, Peshawar.
  3. Secretary Higher Education Department, Government of Khyber Pakhtunkhwa Peshawar.
  4. Director Higher Education Peshawar
- ..... (Respondents)

Mr. Syed Noman Ali Bukhari

For Appellant

Mr. Muhammad Jan  
District Attorney

For Respondents

Date of Institution.....25.05.2022  
Date of Hearing.....16.06.2023  
Date of Decision.....16.06.2023

**MEMORANDUM**

**RASHIDA BANO, MEMBER (J):** The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, by the appellant for ante-dating his promotion to BPS-20 (Professor) from the date when he was first deferred by PSB i.e 10.07.2017 with a 1 back benefits and also against not taking action on the departmental appeal of appellant within statutory period of 90 days.

2. Brief facts of the case are that appellant joined the respondent department in the year 1991 and was recruited through Khyber Pakhtunkhwa

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Service Tribunal  
Peshawar

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Public Service Commission in BPS-19 on 01.02.2011. A meeting of Provincial Selection Board (PSB) was convened on 24.03.2017 for considering the appellant's promotion to BPS-20 and the appellant was considered but deferred on the ground of pending inquiry and weak service record. Then again on 28.12.2017, 05.03.2018, 17.09.2018, 26.11.2018, 19.04.2019 and 23.09.2019 the appellant was considered for promotion but not promoted due to above mentioned two reasons and in the last meeting dated 23.09.2019 the appellant was superseded on the basis of censure awarded to the appellant as a result of pending inquiry's decision. The appellant filed review petition against censure and supersession wherein penalty of censure was side aside and the appellant was exonerated but the view of supersession was maintained. Thereafter the appellant filed Writ Petition No. 2670/2020 wherein the supersession of the appellant was converted into deferment by the Hon'ble Peshawar High Court vide order dated 03.11.2021 with direction to consider the petitioner for promotion to Professor (BPS-20) in the forthcoming meeting of the PSB and consider his case for promotion strictly in accordance with law. As a result of said verdict of the Hon'ble Peshawar High Court, Peshawar the appellant was promoted to the BPS-20 vide notification dated 18.01.2022 but with immediate effect. The appellant filed review petition/departamental appeal against the order 18.01.2022 for ante-dating immediate effect from 10.07.2017 and awaiting for 90 days but no response has been received from the respondents till the institution of the instant service appeal.

3. Respondents were put on notice who submitted written replies/comments on the appeal. We have heard the learned counsel for the appellant as well as the learned District Attorney for the respondents and perused the case file with connected documents in detail.

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ACCEPTED  
 EXAMINER  
 Chyber Pakhtunkhwa  
 Service Tribunal  
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4. Syed Noman Ali Bukhari Advocate learned counsel appearing on behalf of appellant argued that the promotion of appellant was deferred for seven times on flimsy grounds by ignoring prevailing rules and law on the subject and impugned order is not accordance with law, rules and principle of natural justice. He further argued that appellant deserved to be promoted from the date when for the first time his promotion was deferred.

5. Conversely, learned District Attorney argued that appellant was deferred six times due to pending inquiry and weak service record. He further contended that the appellant was rightly promoted in accordance with order passed by the Hon'ble Peshawar High Court, Peshawar on 18.01.2022 with immediate effect as per policy and review petition regarding antedate promotion is considered by the competent authority and the same has been regretted by letter dated 02.08.2022, therefore, he requested for dismissal of the instant service appeal.

6. Perusal of record would reveal that for the first time promotion of the appellant was deferred by PSB in its meeting held on 24.03.2017. The said decision was challenged by the appellant in service Appeal No 520/2017 before service Tribunal wherein the appeal of the appellant was accepted vide order dated 16.02.2018 but in the meanwhile pending inquiry was concluded and penalty of censure was awarded to the appellant vide order dated 03.10.2018. Departmental review filed against the said order was rejected on 07.01.2019 by the competent authority. Feeling aggrieved the appellant filed S.A No. 221/2019 in this Tribunal which was decided on 29.11.2019, wherein order of awarding penalty of censure dated 03.10.2018 and order of departmental review petition dated 07.01.2019 were set aside. It is pertinent

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ADJUTANT  
 Khayee Muhammad  
 Service Tribunal  
 Peshawar

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to mention here that for the 7<sup>th</sup> time PSB in its meeting held on 23.09.2019 considered the appellant for promotion and recommended supersession because of penalty of censure awarded to the appellant as a result of conclusion of pending inquiry against the appellant. The appellant filed review petition against decision of FSB which was decided on 07.05.2020 wherein the penalty of censure was set aside and the appellant was exonerated but the view of the supersession was maintained. Said decision of supersession was challenged in writ petition by the appellant wherein supersession was converted into deferment vide order dated 03.11.2019, although the appellant was promoted to BPS-20 on 18.01.2022 but with immediate effect. When the Hon'ble Peshawar High Court, Peshawar vide order dated 03.11.2021 converted supersession into deferment. Then case of the appellant covered under Rule-V(d) of Promotion Policy of Khyber Pakhtunkhwa Laws (Amendment) Act, 2011, which deals with deferment of promotion and determination of seniority of deferred employ/civil servant which read as:

*"If and when an officer, after his seniority has been correctly determined or after he has been exonerated of the charges or his PEP dossier is complete, or his inadvertent omission for promotion come to notice, is considered by the Provincial Selection Board/Departmental Promotion Committee and is declared fit for promotion to the next higher scale, he shall be deemed to have been cleared for promotion alongwith the officers junior to him who were considered in the earlier meeting of the Provincial Selection Board/Departmental Promotion Committee. Such an officer, on his promotion will be allowed seniority in accordance the proviso of Sub-section (4) of Section 8 of the Khyber Pakhtunkhwa Civil Servants Act, 1973, whereby officers selected for promotion to a higher post in one batch on their promotion to the higher post are allowed to retain their inter-seniority in the lower post In case, however, the date of*

*16/6/23*

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 Peshawar



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continuous appointment of the same grade officers in the lower post/grade is the same and there is no specific rule whereby their inter-se-seniority in the lower grade can be determined, the officer older in age shall be treated senior


7. So according to above referred rule of promotion policy, appellant have fit case for antedated promotion. We allow the appeal of the appellant and direct the respondents to consider the appellant for antedated promotion with effect from the date when his promotion was deferred for the first time i.e 10.07 2017 with all back benefits. Parties are left to bear their own costs.

Consign.

6. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 16<sup>th</sup> day of June, 2023.

  
(KALIM ARSHAD KHAN)  
Chairman

Certified to be true copy

  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

  
(RASHIDA BANO)  
Member (A)

Shahidullah

Date of Presentation of Application 03/07/23  
Number of Words Page 5  
Copying Fee 25/-  
Urgent SI  
Total 35/-  
Name of Officer Shahidullah  
Date of Completion 03/07/23  
Date of Delivery of Copy 03/07/23



**BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR.**

C.M NO 556 /2023

**SERVICE APPEAL NO. 868/22**

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 6800

Dated 02/08/23

Muhammad karim Associate Prof. (Statistics) Govt. Post Graduate College.  
Kohat

(APPELLANT)

**VERSUS**

1. THE Government of Khyber Pakhtunkhwa through Chief Secretary Civil Secretariat, Peshawar.
2. The Secretary to Govt: of Khyber Pakhtunkhwa Establishment Department, Civil Secretariat, and Peshawar.
3. Secretary Higher Education Department of Govt of Khyber Pakhtunkhwa Peshawar.
4. The Director Higher Education Khyber Pakhtunkhwa Peshawar.

(RESPONDENTS)

**APPLICATION UNDER SECTION-151 READ WITH  
152 OF CPC FOR CORRECTION IN THE JUDGMENT  
DATED 16.06.2023 DELIVER IN APPEAL NO 868/22.**

**RESPECTED SHEWETH:**

1. That the above mention appeal was filed for antidation for promotion which was accepted by the honorable tribunal on 06.06.2023. (Copy of the judgment is attached as annexure-A.
2. That after obtaining the copy of the judgment dated 16.16.2023 its come to notice that in *Para 6 line 4 of the judgment inadvertently written as Khyber Pakhtunkhwa Laws Amendment Act 2011 instead of promotion policy 2009 of Khyber Pakhtunkhwa* which needs to be corrected keeping in view actual controversy hence instant application for correction as mention above, because it will affect the whole claim and

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EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of order proceedings

Order or other proceedings with reference to

(a)

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02/08/2023

The Misc. application in Service Appeal No. 868/2022 submitted today by Syed \_\_\_\_\_ Advocate. It is fixed for hearing here in Peshawar on 04-08-2023 requisitioned

04.08.2023

1. Learned counsel for the applicant present
2. Instant application is filed for correction in the judgment dated 16.06.2023 in Service Appeal No. 868/2022 titled "Muhammad Karim Vs. Government of Khyber Pakhtunkhwa through Chief Secretary and others" to substitute "Khyber Pakhtunkhwa Civil Servants Promotion Policy, 2009" instead of "Khyber Pakhtunkhwa Laws (Amendment) Act, 2011".
3. The grounds mentioned in the application seem genuine because it is just clerical mistake and inadvertently written as "Khyber Pakhtunkhwa Laws (Amendment) Act, 2011" instead of "Khyber Pakhtunkhwa Civil Servants Promotion Policy, 2009". Application is allowed and the words "Khyber Pakhtunkhwa Laws (Amendment) Act, 2011" are substituted with the words "Khyber Pakhtunkhwa Civil Servants Promotion Policy, 2009". Office is directed to substitute it with red ink.

Certified to be true copy  
Khyber Pakhtunkhwa Service Tribunal Peshawar

(Fareeha Paul)  
Member (E)

(Rashida Bano)  
Member (J)

\*Kaleem Ullah  
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Khyber Pakhtunkhwa Service Tribunal Peshawar

Khyber Pakhtunkhwa Service Tribunal Peshawar

~~Date of Presentation of Application \_\_\_\_\_  
 Number of Words \_\_\_\_\_  
 Copying Fee \_\_\_\_\_  
 Urgent \_\_\_\_\_  
 Total \_\_\_\_\_  
 Name of Client \_\_\_\_\_  
 Date of Completion \_\_\_\_\_  
 Date of Delivery of Copy \_\_\_\_\_~~

Date of Presentation of Application 04/9/23  
 Number of ~~Words~~ page 3  
 Copying Fee 15/-  
 Urgent 5/-  
 Total 20/-  
 Name of Client Shahzad  
 Date of Completion 04/9/23  
 Date of Delivery of Copy 04/9/23

## بعدالت

KP Service Tribunal, Peshawar

2 منجانب  
بنام

محمد کریم

موزخہ  
مقدمہ  
دعویٰ  
جرم

بنام

لوئیس ڈیسیا ریجنل

باعث تحریر آنکھ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی و کل کارروائی متعلقہ  
آن مقام \_\_\_\_\_ کیلئے سید نصیر علی سہیل کے حکم سے

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کمال اختیار ہوگا۔ نیز  
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثتہ فیصلہ برحلاف دیئے جواب دہی اور اقبال دعویٰ اور

بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق

زر میں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یا کٹرفہ یا اپیل کی برآمدگی اور منسوخی

نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور

کے کل یا جزوی کارروائی کے واسطے اور اکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار

ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ

پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جائد التوائے مقدمہ کے سبب سے ہوگا۔

کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی

مذکور کریں۔ لہذا اوکالت نامہ لکھ دیا کہ سندر ہے۔

المرقوم \_\_\_\_\_ ماہ \_\_\_\_\_ 20

واہ العی

بمقام

کے لئے منظور ہے۔

7/10/11  
Attested  
&  
Accessed  
مصری

