


Form- A

FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 736/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	
1	06.10.2023	<p>The implementation petition of Mr. Siraj Mehmood and 7 others submitted today by Mr. Abdul Ullah Qazi Advocate. It is fixed for implementation report before Single Bench at Peshawar on _____.</p> <p>Original file be requisitioned. AAG has noted the next date. Parcha peshi is given to the counsel for the petitioner.</p> <p>By the order of Chairman  REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Execution Petition No. 736 /2023

In

Service Appeal No.5795/2020

Siraj Mehmood & others. **PETITIONERS**

VERSUS

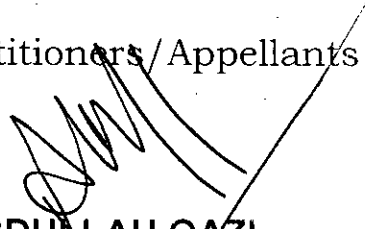
Govt. of Khyber Pakhtunkhwa, etc. **RESPONDENTS**

I N D E X

S.No.	Description of Documents	Annex	Pages
1.	Implementation Petition		1-3
2.	Affidavit		4
3.	Attested Copy of Orders dated 06.07.2023, alongwith Service Appeal No.639/2017 and Service Appeal No.902/2019	A	5-15
4.	Copy of Order dated 31.01.2019 in COC No.465-P/2017	B	16-27
5.	Wakalatnama		28

Through

Petitioners/Appellants


ABDULLAH QAZI
Advocate High Court
Cell: 0333-9038270

Dated: 28.09.2023

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Execution Petition No. 736 /2023

In

Service Appeal No.5795/2020

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 8165

Dated 06.10.23

1. Siraj Mehmood S/o Sultan Mehmood, Muslim Sweeper posted at THQ Lahor, District Swabi.
2. Abdur Rashid Khan S/o Farid Khan, Muslim Sweeper posted at THQ Lahor, District Swabi.
3. Muhammad Asim S/o Muhammad Aslam, Muslim Sweeper posted at THQ Lahor, District Swabi.
4. Noural Amin S/o Abdul Qudoos, Muslim Sweeper posted at THQ Lahor, District Swabi.
- ⑤ Amin Khan S/o Darwish Khan, Muslim Sweeper posted at THQ Lahor, District Swabi.
6. Ikram Ullah Khan S/o Said Wali, Muslim Sweeper posted at THQ Lahor, District Swabi.
7. Muhammad Farooq S/o Samar Khan, Muslim Sweeper posted at Rural Health Centre (RHC) Kunda District Swabi.
8. Manzar Ali S/o Faiz ur Rehman, Muslim Sweeper posted at Basic Health Unit (BHU) Jalbai, District Swabi. **PETITIONERS**

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Secretary Health, Khyber Pakhtunkhwa, Peshawar.
2. Director General Health Services, Khyber Pakhtunkhwa, Warsak Road, Peshawar.
3. District Health Officer/Executive District Officer Health, Swabi near Judicial Complex at Shah Mansoor. **RESPONDENTS**

PETITION FOR IMPLEMENTATION/EXECUTION
OF THE ORDER DATED 06.07.2023 PASSED BY
THIS HON'BLE TRIBUNAL IN THE TITLED
APPEAL.

Respectfully Sheweth:

The petitioners/appellants very humbly submit as under:-

1. That the petitioners/appellants filed their Service Appeal before this Hon'ble Tribunal, which was ordered in light of the Service Appeal No.639/2017, titled "Lutf-e-Hakeem Vs. Health Department & others" and Service Appeal No.902/2019, titled "Inayat Ullah Vs. Director General Health Services, Khyber Pakhtunkhwa & others" vide order dated 06.07.2023. (Attested Copy of Orders dated 06.07.2023, alongwith Service Appeal No.639/2017 and Service Appeal No.902/2019 are attached as annexure "A").
2. That through an application, the petitioners submitted, an attested copy of the above order, in the office of District Health Officer Swabi for its implementation, but till now the respondents are delaying the compliance of the above said orders.
3. That the petitioner also visited the office of respondents, requesting for implementation of the order of this Hon'ble Tribunal, but to no avail.

It seems that the Health Department, has also started acting/adopting on the process of bureaucratic setup of the country, as they have started considering themselves above the law and have been treating their lower-scale-officials as their slaves and thus if the later dare seek interference of the tribunal for their legal rights, the former, invariably respond with applying of dally delaying and chicanery.

4. That previously, too, the respondents had complied/changed the cadre of their employees, but that too only on the interference of court/tribunal. (Copy in this regard is attached as annexure "B").

In view of the above said facts, it is therefore, prayed that on acceptance of this petition, this Hon'ble Tribunal may be pleased to direct the respondents to implement the order of this Hon'ble Tribunal.

Any other relief which this Hon'ble Tribunal deems proper and appropriate in the circumstances may please be granted in favour of the petitioners.

Through

Petitioners/Appellants


ABDULLAH QAZI
Advocate High Court

Dated: 28.09.2023

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

(EP) No. _____/2023

In

Service Appeal No.5795/2020

Siraj Mehmood & others. **PETITIONERS**

VERSUS

Govt. of Khyber Pakhtunkhwa, etc. **RESPONDENTS**

AFFIDAVIT

I, Muhammad Asim S/o Muhammad Aslam, Muslim Sweepers posted at Tehsil Head Quarter (THQ) Hospital Lahor, Tehsil & District Swabi, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Petition** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



[Handwritten Signature]

DEPONENT

Annexed (A)
(5)



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



Amended Service Appeal No. 5795 of 2020

Siraj Mehmood S/o Sultan Mehmood Posted as Muslim
Sweeper at Tehsil Head Quarter Hospital (THQ)
Lahor, Tehsil Lahor District Swabi

..... Appellant

VERSUS

- 1) Govt of Khyber Pakhtunkhwa through Secretary
Health KPK, Civil Secretariat Peshawar.
- 2) Director General Health Khyber Pakhtunkhwa, Civil
Secretariat Peshawar.
- 3) District Health Officer/Executive District Health
Officer Health Lahor, District Swabi

..... Respondents

**APPEAL U/S 4 OF KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL ACT, 1974.**

Prayer:

On acceptance of the instant appeal!

- i- The impugned order dated
17/07/2020 passed by the
respondent No.2, during the
pendency of original appeal may
kindly be set aside.
- ii- The respondents may kindly be
directed to implement the policy
i.e. Health Deptt: Letter No.SOH-
III/1-779/06 (Class-IV) dated 25th
July 2006 to promote the

TESTED

EXAMINED
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

~~Annexure~~ (A)
(6)



BEFORE THE HON'BLE SERVICE TRIBUNAL, KHYBER

PAKHTUNKHWA, PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 5070

Dated 17/6/2020

Service Appeal No. 5196 / 2020

Muhammad Farooq S/O Samar Khan posted as
Muslim Sweeper at Rural Health Centre (RHC) Kunda
Tehsil Lahor, District Swabi

.....**Appellant**

Versus

1. Govt of Khyber Pakhtunkhwa through Secretary Health KPK, Civil Secretariat Peshawar.
2. Director General Health Khyber Pakhtunkhwa, Peshawar.
3. District Health Officer/Executive District Officer Health Tehsil Lahor, District Swabi.

.....**Respondents**

**APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL
ACT, 1974.**

Filed 17/6/20
Registrar

Prayer in Appeal:-

**On acceptance of the instant appeal, the
respondents may kindly be directed to
implement the policy i.e Health**

APPROVED

**EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar**

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BEFORE THE HON'BLE SERVICE TRIBUNAL, KHYBER

PAKHTUNKHWA, PESHAWAR

Service Appeal No. **5797**/2020

Khyber Pakhtunkhwa
Service Tribunal

Diary No. **5068**

Dated **17/6/2020**

Abdur Rashid Khan S/O Farid Khan R/O Lahor,
District Swabi (posted as Muslim Sweeper at Tehsil
Headquarter Hospital (THQ) Lahor, District Swabi)

.....**Appellant**

Versus

1. Govt of Khyber Pakhtunkhwa through Secretary Health KPK, Civil Secretariat Peshawar.
2. Director General Health Khyber Pakhtunkhwa, Peshawar.
3. District Health Officer/Executive District Officer Health Tehsil Lahor, District Swabi.

.....**Respondents**

**APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL
ACT, 1974.**

Filed to-day
17/6/2020
Registrar

Prayer in Appeal:-

**On acceptance of the instant appeal, the
respondents may kindly be directed to
implement the policy i.e Health**

AGREED
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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BEFORE THE HONBLE SERVICE TRIBUNAL, KHYBER

PAKHTUNKHWA, PESHAWAR

Service Appeal No. **5798** / 2020

Khyber Pakhtunkhwa
Service Tribunal

Diary No. **5069**

Dated **17/6/2020**

Noural Amin S/O Abdul Qudoos posted as Muslim
Sweeper at Tehsil Headquarter Hospital (THQ) Lahor,
District Swabi

.....**Appellant**

Versus

1. Govt of Khyber Pakhtunkhwa through Secretary Health KPK, Civil Secretariat Peshawar.
2. Director General Health Khyber Pakhtunkhwa, Peshawar.
3. District Health Officer/Executive District Officer Health Tehsil Lahor, District Swabi.

.....**Respondents**

**APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL
ACT, 1974.**

Filed to-day
[Signature]
Registrar
17/6/2020

Prayer in Appeal:-

**On acceptance of the instant appeal, the
respondents may kindly be directed to
implement the policy i.e Health**

APPEALED
[Signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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BEFORE THE HON'BLE SERVICE TRIBUNAL, KHYBER

PAKHTUNKHWA, PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 5072

Dated 17/6/2020

Service Appeal No. 5799/2020

Manzar Ali S/O Faiz Ur Rehman posted as Muslim
Sweeper at Basic Health Unit (BHU) Jalbai, Tehsil
Lahor, District Swabi

.....**Appellant**

Versus

1. Govt of Khyber Pakhtunkhwa through Secretary Health KPK, Civil Secretariat Peshawar.
2. Director General Health Khyber Pakhtunkhwa, Peshawar.
3. District Health Officer/Executive District Officer Health Tehsil Lahor, District Swabi.

.....**Respondents**

Filed to day
Registrar
17/6/2020

**APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL
ACT, 1974.**

Prayer in Appeal:-

**On acceptance of the instant appeal, the
respondents may kindly be directed to
implement the policy i.e. Health**

ATTESTED
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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BEFORE THE HON'BLE SERVICE TRIBUNAL, KHYBER

PAKHTUNKHWA, PESHAWAR

Service Appeal No. **5800**/2020

Khyber Pakhtunkhwa
Service Tribunal

Diary No. **5071**

Dated **17/6/2020**

Muhammad Asim S/O Muhammad Aslam posted as
Muslim Sweeper at Tehsil Headquarter Hospital
(THQ) Lahor, District Swabi

.....**Appellant**

Versus

1. Govt of Khyber Pakhtunkhwa through Secretary Health KPK, Civil Secretariat Peshawar.
2. Director General Health Khyber Pakhtunkhwa, Peshawar.
3. District Health Officer/Executive District Officer Health Tehsil Lahor, District Swabi.

.....**Respondents**

**APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL
ACT, 1974.**

Filed to day
17/6/2020
Registrar

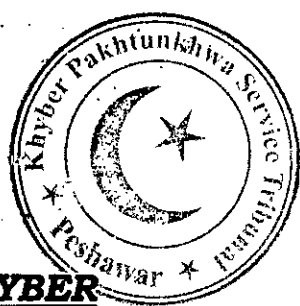
Prayer in Appeal:-

**On acceptance of the instant appeal, the
respondents may kindly be directed to
implement the policy i.e Health**

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

10A



BEFORE THE HON'BLE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR

Service Appeal No. **5807**/2020

Khyber Pakhtunkhwa
Service Tribunal
Diary No. **5067**
Dated **17/6/2020**

Amin Khan S/O Darwish Khan posted as Muslim
Sweeper at Tehsil Headquarter Hospital (THQ) Lahor,
District Swabi.

.....**Appellant**

Versus

1. Govt of Khyber Pakhtunkhwa through Secretary Health KPK, Civil Secretariat Peshawar.
2. Director General Health Khyber Pakhtunkhwa, Peshawar.
3. District Health Officer/Executive District Officer Health Tehsil Lahor, District Swabi.

.....**Respondents**

Filed to-day
[Signature]
Registrar
17/6/20

**APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL
ACT, 1974.**

Prayer in Appeal:-

**On acceptance of the instant appeal, the
respondents may kindly be directed to
implement the policy i.e Health**

ATTESTED
[Signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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**BEFORE THE HON'BLE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR**

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 5073

Dated 17/6/2020

Service Appeal No. **5802** / 2020

*Ikram Ullah S/O Said Wali posted as Muslim
Sweeper at Tehsil Headquarter Hospital (THQ) Lahor,
District Swabi*

.....**Appellant**

Versus

1. *Govt of Khyber Pakhtunkhwa through Secretary Health KPK, Civil Secretariat Peshawar.*
2. *Director General Health Khyber Pakhtunkhwa, Peshawar.*
3. *District Health Officer/Executive District Officer Health Tehsil Lahor, District Swabi.*

.....**Respondents**

**APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL**

ACT, 1974.

*Filed to-day
17/6/20
Registrar*

Prayer in Appeal:-

**On acceptance of the instant appeal, the
respondents may kindly be directed to
implement the policy i.e Health**

TESTED
[Signature]
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

~~ANNEX~~
12

Service Appeal No. 5795/2020



Titled "Siraj Mehmood versus Government of Khyber Pakhtunkhwa through Secretary Health, Khyber Pakhtunkhwa and others".

ORDER

6th July, 2023

KALIM ARSHAD KHAN, CHAIRMAN: Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

02. The point involved in this and the connected Appeals No. 5796 to 5802/2020 is quite simple that the appellants seek similar treatment as was meted out to the other similarly placed people, who had filed appeals before this Tribunal. Learned counsel for the appellants submitted that the appellants would be satisfied if the matter was sent to the department for consideration of the prayer of the appellants in the light of various judgments of this Tribunal in Service Appeal No. 639/2017 titled "Lutf-e-Hakeem vs Health Department and others" and Service Appeal No 902/2019 titled "Inayat Ullah vs Director General Health Services, Khyber Pakhtunkhwa and others", if they were otherwise found eligibility/fitness for the desired relief in accordance with law/rules. Order accordingly but only in case the appellants are found similarly placed with those to whom relief was granted by the Tribunal. Copy of this order be also placed in all the connected appeals mentioned above. Consign.

03. *Pronounced in open court in Peshawar and given under my hand and seal of the Tribunal on this 6th day of July, 2023.*

(Rashida Bano)
Member(Judicial)

(Kalim Arshad Khan)
Chairman

certified to be true copy

CHIEF CLERK
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Adnan Shah

SCANNED
K.P.S.T
Peshawar

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 902/2019

Date of Institution ... 05.07.2019

Date of Decision ... 26.06.2019



Mr. Inayat Ullah, Muslim Sweeper (BPS-01) DHQ Hospital, Battagram.
... (Appellant)

VERSUS

The Director General Health Services, Khyber Pakhtunkhwa Peshawar and
others.
... (Respondents)

Mr. Mir Zaman Safi,
Advocate. ... For appellant

MR. HAMID FAROOQ DURRANI, ... CHAIRMAN

JUDGMENT

HAMID FAROOQ DURRANI, CHAIRMAN:-

1. The prayer of instant appeal is essentially to the effect that the respondents shall consider the appellant for promotion/adjustment against any other Class-IV post while at present the appellant is serving as Sweeper (Muslim) in BPS-01. The appellant has relied on the minutes of meeting dated 12.07.2006 regarding problems of Class-IV Paramedic employees. Inter-alia, the decision was taken in the meeting to promote the Muslim Sweepers against the existing vacancies of Ward Orderly, Chowkidar, Mali, Dai, Aya and other Class-IV posts on seniority basis and not to appoint the Muslim Sweepers against the posts of Sweeper in future. Reliance is also placed on order issued by the Secretary to Government of Khyber Pakhtunkhwa Health Department on 16.02.2017. In the order it is noted that those who were

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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appointed as Muslim Sweepers before 12.07.2006 were entitled for adjustment against the aforementioned posts without disturbing the quota reserved under the rules for appointment of Class-IV Government Servants etc. It was, however, provided in the order that those who were appointed as Muslim Sweepers after 12.07.2006 were not covered under the policy.

2. This Tribunal decided a number of appeals through judgment dated 13.12.2018 handed down in Appeal No. 639/2017 (Lutf-E- Hakeem Vs. the Secretary Government of Khyber Pakhtunkhwa Health Department and others) in terms that the cut-off date mentioned in the order dated 16.02.2017 and 12.07.2006 shall be treated as expunged. In the said manner the benefit of decision made on 12.07.2006 as well as order dated 16.02.2017 was to be extended to the Muslim Sweepers appointed after 12.07.2006. The issue having been settled once by this Tribunal entails the extension of benefits to employees placed similar to those whose appeals were decided, in affirmative, on 13.12.2018.

3. Learned counsel after arguing the case at some length stated that the appellant would be satisfied at present in case he is considered for promotion to a Class-IV post other than that of Sweeper by the respondents in accordance with law.

4. As the issue of promotion of Muslim Sweeper having been appointed before and after 12.07.2006 has been repeatedly settled by this Tribunal as well as the Honourable Peshawar High Court, the respondents shall consider the appellant for requisite promotion in the order of seniority and his otherwise eligibility under the rules.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Services Commission
Peshawar

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5. The appeal is accordingly disposed of. File be consigned to the record room.

(HAMID FAROOQ DURRANI)
CHAIRMAN

ANNOUNCED
11.07.2019

~~Certified to be true copy~~


~~EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar~~

Date of Presentation of Application	28/8/23
Number of Words	3-P
Copying Fee	18/-
Urgent	
Total	20/-
Name of Copy	
Date of Completion	28/8/23
Date of Delivery of Copy	28/8/23

Annex (B)
(16)

Sr. No.	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	13.12.2018	<p style="text-align: center;">BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL Service Appeal No. 639/2017</p> <p>Date of Institution 16.06.2017 Date of Decision 13.12.2018</p> <p>Mr. Luft-E-Hakeem, Muslim Sweeper (BPS-01) DHQ Hospital timer Garra, District Dir Lower. Appellant</p> <p style="text-align: center;">Versus</p> <ol style="list-style-type: none"> 1. The Secretary Government of Khyber Pakhtunkhwa through Secretary Health Department Khyber Pakhtunkhwa Peshawar. 2. Director General Health Department Khyber Pakhtunkhwa Peshawar. 3. The District Health Officer, District Dir Lower. 4. The Medical Superintendent DHQ Hospital Timergara, District Dir-Lower. <p style="text-align: right;">Respondents</p> <p>Mr. Muhammad Hamid Mughal-----Member (J) Mr. Ahmad Hassan-----Member (E)</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p><u>MUHAMMAD HAMID MUGHAL, MEMBER:</u> - Mr. Noor Muhammad, learned counsel for appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General for the respondents present.</p> <p>2. This single judgment in the above captioned appeal, shall also dispose of appeals (1). bearing No.640/2017 filed by Rab Nawaz</p>



ATTESTED

 EXAMINED
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

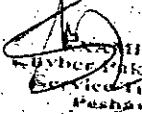
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(2). bearing No.641/2017 filed by Sahib Ullah (3). bearing No. 642/2017 filed by Akhtar Rasool (4). bearing No.643/2017 filed by Dilawar Khan (5). bearing No. 644/2017 filed by Hamid ur Rehman (6). bearing No.645/2017 filed by Khyal Muhammad (7). bearing No.646/2017 filed by Siraj ud Din (8). bearing No.647/2017 filed by Bakht Shah Zeb (9). bearing No. 648/2017 filed by Bakhtiar Khan (10). bearing No.649/2017 filed by Gul Saeed Khan (11). bearing No.650/2017 filed by Kifayat Ullah (12). bearing No.651/2017 filed by Sadiq Muhammad (13). bearing No. 652/2017 filed by Said Rehman (14). bearing No.653/2017 filed by Shams ul Islam. (15). bearing No.654/2017 filed by Aftab ud Din (16). bearing No. 655/2017 filed by Muhammad Haq (17). bearing No.656/2017 filed by Abdur Rehman (18). bearing No. 724/2017 filed by Ismail Shah (19). bearing No.725/2017 filed by Rehmat Ali Shah (20). bearing No. 726/2017 filed by Gohar Rehman (21). bearing No.727/2017 filed by Miraj ud Din (22). bearing No. 728/2017 filed by Habib Ullah (23). bearing No.729/2017 filed by Umar Hakim (24). bearing No.730/2017 filed by Shahid Hussain (25). bearing No.731/2017 filed by Shah Khalid being identical in nature, having arisen from the same law, facts and circumstances.

3. The appellant, who was appointed as Sweeper (Muslim) at DHQ Hospital Timergra District Dir Lower in the year 2009 has filed the present service appeal u/s 4 of Khyber Pakhtunkhwa Service Tribunal Act 1974, against the order dated 16.02.2017 of the respondent No.1 whereby the respondent department accepted the

ATTESTED


 EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

right of Muslim Sweepers appointed before 12.07.2006 for their adjustment against the post of Ward Orderly, Chowkidar, Mali, Dai, Aya and other Class-IV posts on seniority basis and thereby deprived the Muslim Sweepers appointed after 12.07.2006 to be adjusted as such. Learned counsel for the appellant mainly argued that the impugned order is a sheer example of discriminatory treatment to Muslim Sweepers appointed as such after 12.07.2006.

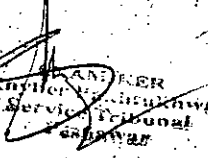
4. On the other hand learned Additional Advocate General defended the impugned order on the ground that the appellant himself was appointed as Muslim Sweeper in violation of policy decision dated 12.07.2006.

5. Arguments heard. File perused.

6. The respondent department vide its policy decision dated 12.07.2006 decided that all the Health Institutions should promote the Muslim Sweepers against the existing vacancies of Ward Orderly, Chowkidar, Mali, Dai, Aya and other Class-IV posts, on seniority basis and not to appoint Muslim Sweeper against the post of Sweeper in future.

7. It was due to the violation of policy decision dated 12.07.2006 that many Muslim Sweepers had to knock the door of Hon'ble Peshawar High Court. The violation of policy decision led the respondent department to the issuance of fresh order dated 16.02.2017 made partially impugned in the present service appeal.

8. Upon the examination of the impugned order dated 16.02.2017, this Tribunal came to the conclusion that the same is


ATTESTED

 Attestor
 Service Tribunal
 Peshawar

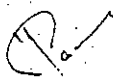
12 19

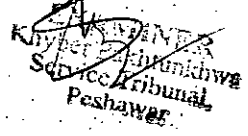
also in violation of policy decision dated 12.07.2006 in as much as according to the policy decision dated 12.07.2006 gradually all the Muslim Sweepers would have to be adjusted against other Class-IV posts.

9. Impugned order dated 16.02.2017 has the effect of depriving the appellant from his adjustment against other Class-IV post just for the reason that he was appointed as Muslim Sweeper after 12.07.2006. This Tribunal is therefore of the considered opinion that discriminatory treatment was met out to the appellant.

10. Resultantly this Tribunal holds that the cut off date i.e. 12.07.2006 as mentioned in the impugned order dated 16.02.2017 shall be treated as expunged. The present service appeal alongwith connected service appeals as mentioned in para-2 of this judgment are accepted in the above terms. The respondent department is directed to take strict disciplinary action against those responsible for inducting Muslim Sweepers in violation of the policy decision dated 12.07.2006. Parties are left to bear their own costs. File be consigned to the record room.


(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

Certified to be true copy


Date of Presentation of Application 15/8/23
Number of Pages 4
Copying Fee 20/-
Urgent 5/-
Total 25/-
Name of Copyist _____
Date of Completion 15/8/23
Date of Delivery of Copy 15/8/23

~~Annex B~~ (20)
13

BEFORE THE HONOURABLE
PESHAWAR HIGH COURT PESHAWAR

Contempt of Court Petition No. 459/P /2017

in

Writ Petition No. _____

- 1) Muhammad Islam S/o Masahib Shah
- 2) Tahir Ali S/o Umbara Khan
- 3) Zamarood Khan S/o Said Mir
- 4) Muhammad Saleem S/o Abdul Mateen
- 5) Muhammad Ismail S/o Muslim Khan
- 6) Shehzad Ali S/o Salim Khan
- 7) Rajid Khan S/o Gul Rehman
- 8) Wajid Ali S/o Said Rehman
- 9) Faqir Zada S/o Saidan Shah
- 10) Liaqat Ali S/o Sharbat Khan
- 11) Asad Ullah Khan S/o Farman Ullah
R/o Lahore, District Swabi

(Petitioners)

VERSUS

- 1) The STATE through Advocate General Mr. Abdul Latif Yousafzai,
Khyber Pakhtunkhwa, Peshawar
- 2) Mr. Abid Majeed, Secretary to Government of Khyber
Pakhtunkhwa, Peshawar
- 3) Dr. Shabeela, Director General, Health Services, Khyber
Pakhtunkhwa, Peshawar
- 4) Mr. Niaz Muhammad, District Health Officer / Executive District
Officer-Health, District BKMC Swabi
- 5) ~~Mr. Adil Hussain, Medical Superintendent Swabi~~
- 6) Dr. Muhammad Usman, Deputy medical Superintendent Swabi

(Accused / Respondents)

(H) (21)

Petition for initiation of Contempt of Court
proceeding against the respondents specifically
respondent No. 5 & 6 under Article 204 of the
Constitution of Islamic Republic of Pakistan
1973 read with other enabling provision of law.

Respectfully Sheweth,

The petitioners submit as under:

- 1) That a writ petition bearing No. 293 dated 27.09.2013 has been decided in this August Court against the respondents to the effect that in the Health Department the job of Sweeper to be given to Christian Community instead of Muslim..(Copy of judgment and order of writ petition is attached as Annexure A).
- 2) That the petitioners are serving under respondents in BKMC District Swabi on the post of sweeper as they have been appointed as such. (Appointment letters of the petitioners are attached as Annexure B to L respectively)
- 3) That the respondents do not honoring the judgment / order of this honourable court with letter and spirit and avoiding the direction of this August High Court, Peshawar.
- 4) That the petitioners have time and again reminded to implement / execute the judgment / order of this honourable / august court but of no effect.

That the respondents are showing disobedience to the order of this August Court and by doing so have obstructed the administration of justice which comes with in the definition of Contempt of Court.

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Deputy Registrar

07 AUG 2017

- 6) That the state of affairs clearly suggest that the respondents are committing the illegality and are bent upon to cause serious damages to applicants / petitioners and are acting in clear disregard contumacious and willful disobedience and criminal negligence to the order and judgment of this August court.
- 7) That the petitioners have also remanded, about the decision of writ petition but of no away ^{avail} / in-vain.
- 8) That the respondents are severely and jointly liable to be prosecuted and punished for the willful defiance and disobedience of the court order.
- 9) That notices to all respondents have been issued which are annexed herewith to respondent No. 1 to 6.

It is, therefore, most humbly prayed that on acceptance of this petition, the respondents may very kindly be prosecuted and punished for the contempt of court's order and judgment dated 27.09.2013 and be directed provide applicants their rights.

Any other relief which may deem appropriate in the circumstances not specifically prayed for may please also be granted.

*It is certified that no such like petition has been filed before this application
Muhammad Ayub*

Through

Petitioners

Muhammad Ayub

Muhammad Ayub Khattak &

By Amir M. Aliak

FILED TODAY


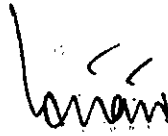
Deputy Registrar

Wakeel-Zaman Khattak
Advocates High Court
Peshawar

Dated: 20.07.2017

07 AUG 2017



16 23

PESHAWAR HIGH COURT, PESHAWAR		
FROM 'A'		
FORM OF ORDER SHEET		
COURT OF _____ CASE NO. _____		
SERIAL NO OF ORDER OR PROCEEDINGS	DATE OF ORDER OR PROCEEDINGS	ORDER OR OTHER PROCEEDINGS WITH SIGNATURE OF JUDGE OR MAGISTRATE AND THAT OF PARTIES OR COUNSEL WHERE NECESSARY.
1	2	
01.11.2018.		<p>COC No. 459-P/2017 in W.P. No. 293-P/2013.</p> <p>Present: -</p> <p>Mr. Muhammad Ayub Khattak, advocate for the petitioner.</p> <p>Mr. Wiqar Ahmad Khan, AAG for the official respondents.</p> <p>*****</p> <p>Latter produced copy of office order No. 5071/G.Sweeper/BMC dated 04.07.2018, duly issued by Medical Superintendent, BMC, Swabi, whereby they have converted the services of 08 petitioners out of 11 and for the rest of 03 they seeks time. Learned counsel for the petitioners is advised to produce any order of appointment of Class-IV against the post of Sweeper for the last three years on the next date of hearing.</p> <p>Adjourned to 08.11.2018.</p> <p style="text-align: right;">  CHIEF JUSTICE </p> <p style="text-align: right;">  JUDGE </p>

17 24

IN THE PESHAWAR HIGH COURT, PESHAWAR

FORM OF ORDER SHEET

Date of order or proceedings.	Order or other proceedings with signature (s) of Judge(s)
(1)	(2)
08.11.2018.	<p><u>COC No. 459-P/2017 in W.P.No. 293-P/2013</u></p> <p><u>Present:</u> Mr. Muhammad Ayub Khattak, Advocate for petitioner.</p> <p>Mr. Muhammad Riaz, AAG for the respondents alongwith Dr. Rehmanullah MS BKMC, and Dr. Niaz Muhammad, DHO.</p> <p>***</p> <p>MS Bacha Khan Medical University has stated at the bar that in light of the judgment of this court 08 petitioners have been converted, while for remaining three SNE have been send to Finance Department and as and when approval granted by the Finance Department, they would also be converted. Seeks time in this regard. Allowed. Adjourned.</p> <p>Since Dr. Niaz Muhammad, DHO, BKMC, Swabi has no concerned in the instant case, therefore, he may not attend the court henceforth, if not specifically summoned.</p> <p style="text-align: right;">  JUDGE  JUDGE </p>

Shahid Ali, PS

(DB) Hon'ble Mr. Justice Syed Afsar Shah
Hon'ble Mr. Justice Abdul Shakoor

18 25

PESHAWAR HIGH COURT, PESHAWAR
FORM "A"
FORM OF ORDER SHEET.

Court of
Case No.....

Serial No of order or proceeding	Date of Order or Proceeding	Order or other proceedings with Signature of judge or Magistrate and that of parties or counsel where necessary
1	2	3
	05.12.2018.	<p><u>COC No.459-P/2017 in WP No.293-P/2013.</u></p> <p><u>Present:-</u></p> <p>Mr. Muhammad Ayub Khattak Advocate, for the petitioners.</p> <p>Mr. Kamran Hayat AAG, for the official respondents.</p> <p>=====</p> <p>Learned AAG stated at the bar that as far as conversion of categories of three of the petitioners are concerned, the respondents have already sent SNE to the Finance Department, however, approval of the same is still awaited. The respondents are directed to expedite the matter in respect of compliance of the order of this Court but it should not be later than 60 days positively.</p> <p>Adjourned to a date in office.</p> <p style="text-align: right;">M JUDGE</p> <p style="text-align: right;">JUDGE</p>

"A.Qayum PA"

(DB)

Hon'ble Mr. Justice Ikramullah Khan & Hon'ble Mr. Justice Ishtiaq Ibrahim

(19) (26)

1

PESHAWAR HIGH COURT, PESHAWAR.

FORM 'A'
FORM OF ORDER SHEET

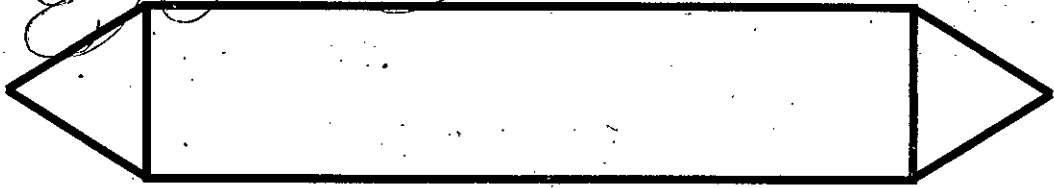
Date of order.	Order or other proceedings with the order of Judge
31.01.2019	<p style="text-align: center;"><u>COC No.459-P/2017 in WP No.293-kP/2013</u></p> <p><u>Present:-</u> Mr. Muhammad Ayub Khattak, Advocate, for the petitioners.</p> <p>Syed Qaisar Ali Shah, AAG for the respondents.</p> <p style="text-align: center;">*****</p> <p><u>ROOH-UL-AMIN KHAN, J.-</u> Through the instant petition under the law of contempt, petitioners seek initiation of contempt proceedings against the respondents on the ground of their alleged refusal to comply with the judgment of this Court rendered in the aforesaid writ petition.</p> <p>2. At the very outset learned AAG produced Office Order dated 04.07.2018, issued by Medical Superintendent BMC Swabi, and stated at the bar that in compliance with the judgment of this Court, through the said office order, out of total eleven petitioners, services of eight, have been converted against the post of Ward Orderly/Ward Attendants/Dhobi, whereas, the remaining three petitioners shall be treated in the like manner on priority basis on occurring of the posts of class-IV.</p>

We have gone through the aforesaid letter and the same substantiates the submission of learned AAG. In this view of the matter, the respondents have not refused to comply with the judgment of this Court, rather, they in compliance thereof are adjusting the petitioners turn by turn. Resultantly, this petition is hereby dismissed. However, it is expected that the respondents shall adjust/convert the services of the remaining three petitioners on priority basis on occurring of the vacant vacancies of class-IV.

Announced:
31.01.2019.

[Signature]
JUDGE

[Signature]
JUDGE



ضد کتب خواہ اس کے لئے

مورخہ
مقدمہ
دعویٰ
جرم

29023 منجانب

راج محمد علی خان حکومت

باعث تحریر آنکے

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

آن مقام کے لئے اور کیلئے عہدہ اکتہ خاص اور دیگر

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز

وکیل صاحب کو راضی نامہ کرنے ق تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور

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

زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی بزمادگی

اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا محتاج ہوگا۔ از بصورت ضرورت

مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے

تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکور با اختیارات حاصل ہوں گے

اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ ہوں گے

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

کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

المرقوم 28 ماہ 9 2023ء

العبد د گ واہ العبد

لوزال امین مقام کے لئے منظور ہے۔

مختار قانونی
عالمہ امین خان
13 جولائی 2023ء

المسلم اللہ
منظر علی