


## Form- A

## FORM OF ORDER SHEET

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

Implementation Petition No. 739/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	09.10.2023	<p>The implementation petition of Mr. Shiekh Fareen submitted today by Mr. Manzoor Khan Khalil Advocate. It is fixed for implementation report before Single Bench at Peshawar on _____. 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 HON'BLE KHYBER PAKHTUNKHWA**  
**SERVICE TRIBUNAL PESHAWAR**

*Execution Petition No. 5739/2023*

CM No. \_\_\_\_\_/2023

In S.A No. 572/2022

Shiekh Fareen.....Appellant

**VERSUS**

Chief Secretary Government of KPK & Others

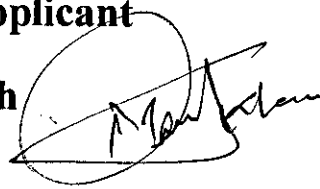
.....Respondents

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**Applicant**

**Through**



**Manzoor Khan Khilil**  
**Advocate Supreme Court**  
**Of Pakistan**

1

**BEFORE THE SERVICE TRIBUNAL KHYBER PUKHTOON**

**KHAWA PESHAWAR**

*Execution Petition no. 739/2023*

C.M# \_\_\_\_\_ 2023 in Ref S. A# 572/22

Sheikh Fareen: S/O Abdul Mateen, Ex-Cock Technical College Buner, R/O Kalpani, Buner

.....Applicant/Petitioner

Khyber Pakhtunkhwa Service Tribunal

**VERSUS**

Diary No. 824

Dated 09/10/23

1. Chief Seceretry Government of Khyber Pakhtunkhwa, Peshawar.
2. Secretary industries Commence & Technical Education Department Government of Khyber Pakhtunkhwa, Peshawar.
3. Secretary Establishment Government of Khyber Pakhtunkhwa, Peshawar.
4. Director General Technical Education & Manpower Training Khyber Pakhtunkhwa, Peshawar.
5. Principle Technical College District Buner.

.....Respondents

**APPLICATION FOR IMPLEMENTATION OF JUDGEMENT DATED 09/07/2023 PASSED IN SERVICT APPEAL NO 572/2022**

**RESPECTFULLY SHWETH:**

1. That the appeal /Petitioner had filed an appeal before this honorable Tribunal, wherein seek reinstatement in service as Cock and respondent was put on notice, who appeared and submitted their written comment, so this honorable Tribunal after hearing both accepted the appeal vide judgment dated 19/07 / 2023.

**(Copy of the judgment is attached)**

2. That coon after getting attested copy of the judgment applicant/Petitioner has submitted the same through written application before the respondent for compliance but firstly given assurance to the Applicant/Petitioner for compliance, however later on adopted zis zag ways on the pre-tax another, finally they totally refused to do.

**(Copy of application is attached)**

2

3. That the Applicant/petitioner has been compelled by the situation to file the instant application / petition for necessary action against the respondent to issue reinstatement order of the Applicant/Petitioner in the light of the judgment of this honorable Tribunal.
4. That the respondents are legally and ethically bound to comply the judgment of this honorable Tribunal and to issue re-instatement office order of Applicant/Petitioner without any fail, but they failed to do, rather with great sorrow, have taken the law at their own hand. Hence, this act of the respondent is amount Contempt and violation of the judgment delivered by this honorable Tribunal.
5. That other legal and factual question will be raised as per fact and circumstances of the case before this hon, able tribunal.

It is therefore, humbly prayed that on acceptance of this application the respondent may please be directed to comply the judgement dated 19/07/2023 passed in the subject appeal without any further delay by issuing office order of Reinstatement of the applicant/Petitioner and may be iniceaitted contempt proceeding also against the respondents and be awarded exemplary punishment according to law.

Any others relief which has been prayed for may also be ordered in favor of applicant / petitioner through out.

Through

Petitioner / Applicant

**Manzoor Khan Khalil**

&

**Ihtesham Manzoor**  
Advocate(s) Peshawar

BEFORE THE SERVICE TRIBUNAL KHYBER PUKHTOON KHAWA PESHAWAR

3

CM, NO,

IN REF, SA#572/22

Sheikh Farheen

VERSUS

Govt of KPK

AFFIDAVIT

I, Sheikh farheen son of Abdul Mateen Ex-cookman resident of Kalpani District Bunner , do hereby solemnly affirm and declare on oath that the contents of the instant application are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable tribunal

DEPONENT

MISS **AFZAL** Qureshi  
OATH COMMISSIONER  
Khyber Pakhtoonkhwa Peshawar

09 - 10 - 2022

572

4

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR**



Service Appeal No. 572/2022

BEFORE: MRS RASHIDA BANO ... MEMBER (J)  
MISS FAREEHA PAUL ... MEMBER (E)

Sheikh Fareen son of Abdul Mateen, Ex-Cook Technical College Buner, resident of Kalpani, Buner..... (Appellant)

Versus

1. Chief Secretary Government of Khyber Pakhtunkhwa, Peshawar.
2. Secretary Industries Commerce & Technical Education Department, Government of Khyber Pakhtunkhwa, Peshawar.
3. Secretary Establishment, Government of Khyber Pakhtunkhwa, Peshawar.
4. Director General Technical Education & Manpower Training Khyber Pakhtunkhwa, Peshawar.
5. Principal Technical College District Buner. ....(Respondents)

Mr. Manzoor Khan Khalil  
Advocate

For appellant

Mr. Fazal Shah Mohmand  
Additional Advocate General

For respondents

Date of Institution..... 18.04.2022  
 Date of Hearing..... 19.07.2023  
 Date of Decision..... 19.07.2023

**JUDGEMENT**

**FAREEHA PAUL, MEMBER (E):** The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the impugned final order dated 25.03.2022 passed by respondent No. 2 whereby the appeal/representation filed by the appellant against the impugned order dated 20.06.2013 was rejected. It has been prayed that on acceptance of the appeal, both the impugned orders dated 25.03.2022 and 20.06.2013 might be set aside and the appellant might be reinstated in service as cook with all back benefits.

2 Brief facts of the case, as given in the memorandum of appeal, are that the appellant was appointed as cook in the respondent department vide order

ATTESTED

*[Signature]*  
 EXAMINER  
 Khyber Pakhtunkhwa  
 Service Tribunal  
 Peshawar

*[Signature]*

dated 28.07.2007. He was charged by his opponent in a false criminal case vide FIR No. 723, dated 16.08.2012 u/s 302/324/337-D/34 PPC, Police Station Gagra District Buner. The respondent No. 5/Principal Technical College District Buner conveyed the information of the police to respondent No. 4 through office letter dated 12.09.2012 for necessary action. Respondent No. 4 vide order dated 20.06.2013, removed the appellant from service with effect from 17.08.2012 due to his willful absence from duty, while the intervening period from 17.08.2012 onward was treated as un-authorized absence from duty. The appellant surrendered himself before the competent court of law and after conclusion of trial, the learned Additional Sessions Judge-II, Buner acquitted him from the charge vide judgment dated 14.02.2020. The appellant, soon after his acquittal, conveyed the judgment of the learned trial court to respondents through written representation for reinstatement in service on 18.02.2020, which was rejected vide office order dated 25.03.2022; hence the present appeal.

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

4. Learned counsel for the appellant, after presenting the case in detail, argued that the impugned orders were illegal, against the law, facts, natural justice, fundamental rights and record available on the file, hence not tenable in the eyes of law and liable to be set aside. He further argued that no reasonable opportunity of show cause was afforded to the appellant nor opportunity of hearing was given to him and no proper enquiry was conducted to arrive at

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Service Tribunal  
Buner



correct conclusion. He informed that in a case of similar nature, one Gul Naiz Junior Clerk, was reinstated in service with all back benefits by the administrative department vide office order dated 15.01.2018. Similarly the case of one Sher Hassan, who was reinstated through office order dated 01.01.2005, was also highlighted by the learned counsel with the argument that the appellant had been discriminated. He requested that the appeal might be accepted as prayed for.

5. Learned Additional Advocate General, while rebutting the arguments of learned counsel for the appellant, argued that the appellant was supposed to surrender himself before the Police authority forth-with after the incident but he remained absconder for a long time and surrendered himself after lapse of more than 07 years. Though the appellant was acquitted by the competent court of law vide judgment dated 14.02.2020, but the department had already removed him from service because of his willful absence from duty on 20.06.2013, the learned AAG contended. He requested that the appeal might be dismissed.

6. Arguments and record presented before us indicate that the appellant, while serving as Cook in the respondent department, was charged in FIR No. 723 u/s 302/324/337-D/34 PPC dated 16.08.2012 at P.S Gagra, District Buner. The Principal of the Institution came to know about the FIR through S.P Investigation Buner and informed the Director General, Technical Education and Manpower Training through his letter dated 12.09.2012. Through that letter, the Principal informed the D.G that the appellant was absent from his duty since 17.08.2012 and that the District Accounts Office had been requested to stop his salary. The D.G, through the impugned order dated 20.06.2013,

ATTESTED

Secretary  
Service Tribunal  
Islamabad

*[Handwritten signature]*



removed the appellant from service on the ground of willful absence from duty. When asked about the date of arrest, the learned counsel for the appellant informed very frankly that he remained absconder for seven years and presented himself for arrest in 2019.

7. In the instant case, it is clear beyond any shadow of doubt that the office of the appellant was aware of the fact that he was nominated in FIR and was an absconder. It is further clear from the record that when the appellant surrendered and the trial was concluded, he was acquitted from the charges leveled against him in the FIR. It is a well established principle that every acquittal is certainly honourable. As the appellant was removed from service on the ground of willful absence, knowing the fact that he was absconder after being involved in FIR, and after his acquittal the very basis on which he was removed from service no longer existed; therefore, his competent authority should have considered his appeal for reinstatement.

8. In view of the above discussion, the instant service appeal is allowed as prayed for with the directions to the respondents to consider the period from 16.08.2012, the date when FIR was registered till the date he surrendered before law as leave without pay and the period from his surrender to his acquittal on 14.02.2020 as under suspension in the light of CSR 194. Costs shall follow the event. Cosign.

9. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 19<sup>th</sup> day of July, 2023.

(FAREEHA PAUL)

Member (I)

\*Fazle Subhan, P.S\*

(RASHIDA BANO)

Member (J)

Certified to be true copy

MEMBER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

سب سے زیادہ سروسز RP-TEVTA سے حاصل کیا جا رہا ہے اور

عنوان :- کالی سروسز کے حوالہ سروسز ٹرانسپورٹیشن سروسز کے حوالہ  
سروسز اپریل 2022/572 المرقوم 19 جولائی 2023

حاصل کیا :-

شامل کی سروسز اپریل کو سروسز ٹرانسپورٹیشن  
میں منظور کرتے ہوئے دوبارہ سروسز کالی کے احکامات  
ہاری کے لئے ہیں جسکی کالی لف ہے۔  
حاصل کیا

آپ سے گزارش ہے کہ سروسز ٹرانسپورٹیشن سروسز  
کے مطابق شامل کو دوبارہ سروسز پہ مورم 16-08-2012  
سے کالی کے احکامات ہاری فرمائیں نیز تمام دورانہ احکامات  
Regularize کر کے سروسز فرمائیں  
میں توازن ہوگی

الفرحان  
مستحق

کوٹہ - جی بی آئی ٹی سروسز

مورم 16-08-2023

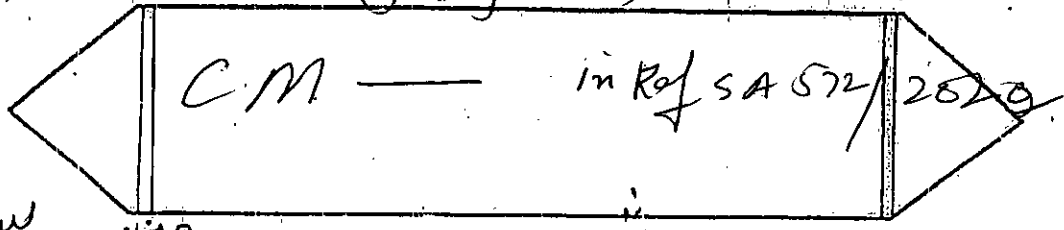
Received  
16/8/23

BC - 10-7450

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بعدالت سرس لبرینوں KPR بشار



سائل  
 2 منجانب  
 بنام حکومت  
 شایع خبریں  
 موزخہ  
 مقدمہ  
 دعویٰ  
 بزم

### باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ  
 آج کے مقام بشار کیلئے منظور خان شایع احمد علی منظور انصاف اللہ اور دیگر

مقررہ 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 و تقرر حالت و فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور  
 بلا ضرورت ڈگری کرنے اجراء اور صولی 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 برادگی اور منسوخی  
 نیز دائر کرنے اپیل غمرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور  
 کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ لیا اپنے بجائے تقرر کا اختیار  
 ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا سائٹ

بواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانشینوں کے مقدمہ کے سبب ہوگا  
 کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب یا بندہ ہونے کے پیروی وکل  
 مذکور کریں۔ لہذا وکالت نامہ لکھنا یا کہ سند ہے۔

المرقوم 090 ماہ 10 2023

واہ العی  
 بشار  
 کے لئے منظور ہے۔

1501-0967237-3