


Form- A

FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 767/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	16.10.2023	<p>The implementation petition of Mr. Muhammad Ismail submitted today by Mr. Kamran Khan 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 KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Implementation Petition No. 767 /2023

In

Appeal No.619/2017

Mr. Muhammad Ismail, Assistant Research Officer (BPS-16), Directorate of Archives & Libraries Department, Khyber Pakhtunkhwa, Peshawar.

.....PETITIONER

VERSUS

- 1- The Chief Secretary, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
- 2- The Secretary, Government of Khyber Pakhtunkhwa, Higher Education, Archives and Libraries Department, Peshawar.
- 3- The Director, Archives and Libraries Department, Khyber Pakhtunkhwa, Peshawar.
- 4- The Deputy Director, Archives and Libraries Department, Khyber Pakhtunkhwa, Peshawar.

.....RESPONDENTS

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PETITIONER

Muhammad Ismail

THROUGH:



KAMRAN KHAN
ADVOCATE HIGH COURT

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

**Implementation Petition No. 767 /2023
In
Appeal No.619/2017**

Khyber Pakhtunkhwa
Service Tribunal
Case No. 8316
Dated 16-10-23

Mr. Muhammad Ismail, Assistant Research Officer (BPS-16), Directorate of Archives & Libraries Department, Khyber Pakhtunkhwa, Peshawar.

**.....PETITIONER
VERSUS**

- 1- The Chief Secretary, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
- 2- The Secretary, Government of Khyber Pakhtunkhwa, Higher Education, Archives and Libraries Department, Peshawar.
- 3- The Director, Archives and Libraries Department, Khyber Pakhtunkhwa, Peshawar.
- 4- The Deputy Director, Archives and Libraries Department, Khyber Pakhtunkhwa, Peshawar.

.....RESPONDENTS

IMPLEMENTATION PETITION FOR DIRECTING THE RESPONDENTS TO OBEY THE JUDGMENT DATED 03-10-2018 IN LETTER AND SPIRIT.

R/SHEWETH:

- 1- That the petitioner filed service appeal bearing No. 619/2017 before this august Service Tribunal for his reinstatement into service with all back benefits.
- 2- That the appeal of the petitioner was heard and disposed of in the following terms: ***"However, in view of the circumstances of the case, this tribunal is of the considered opinion that the arguments of the learned counsel for the appellant in relation to the harshness of the awarded punishment of removal from service, carries weight. Consequently, for the purpose of safe administration of justice, the impugned penalty of removal from service is modified and converted into major penalty of removal from service is modified and converted into major penalty of reduction to lower***

stage in time scale for a period of five years. The intervening period shall be treated as leave without pay. The present appeal is disposed of in the above terms. Parties are left to bear their own costs. File be consigned to the record room. Copy of the judgment dated 03-10-2018 is attached as annexure**A.**

3- That after obtaining copy of the judgment dated 03-10-2018, the petitioner submitted the judgment mentioned above for its implantation which was implemented by reinstating the appellant and converting the major penalty of removal from service into major penalty of reduction to lower stage in time scale for a period of five years vide office order dated 22.10.2018. Copy of the order is attached as annexure.....**B.**

4- That now after completion of the imposed major penalty of reduction to lower stage in time scale for a period of five years, the appellant filed an appeal/representation before the competent authority for his restoration on his original pay stage w.e.f. 06.03.2022 with all back benefits in light of the judgment of August Service Tribunal dated 03.10.2018 but the respondent department has refused to do so. Copy of appeal/representation is attached as annexure.....**C.**

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 order/ judgment dated 03-10-2018 in letter and spirit. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the petitioner.

PETITIONER

Muhammad Ismail

THROUGH:

KAMRAN KHAN
ADVOCATE HIGH COURT

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**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Implementation Petition No. _____/2023

In

Appeal No.619/2017

Mr. Muhammad Ismail,

.....**PETITIONER**

VERSUS

Government of KPK and others

.....**RESPONDENTS**

Affidavit

I, Mr. Muhammad Ismail, Assistant Research Officer (BPS-16), Directorate of Archives & Libraries Department, Khyber Pakhtunkhwa, Peshawar do hereby by affirm and declare on oath that the contents of this Implementation are true and correct to the best of my knowledge and belief nothing has been concealed from this Hon'ble Service Tribunal.


Deponent



Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	03.10.2018	<p style="text-align: center;"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u></p> <p style="text-align: center;">Service Appeal No. 619/2017</p> <p>Date of Institution ... 16.05.2017 Date of Decision ... 03.10.2018</p> <p style="text-align: center;">Muhammad Ismail, Ex-Assistant Research Officer (BPS-16) Achieves & Libraries Department, Khyber Pakhtunkhwa Peshawar. ----- Appellant</p> <ol style="list-style-type: none"> 1. The Chief Secretary, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar. 2. The Secretary, Government of Khyber Pakhtunkhwa, Higher Education, Archives and Libraries, Department, Peshawar. 3. The Director, Archives and Libraries Department, Khyber Pakhtunkhwa, Peshawar. 4. The Deputy Director, Archives and Libraries Department, Khyber Pakhtunkhwa, Peshawar. <p style="text-align: right;">----- Respondents</p> <p>MUHAMMAD HAMID MUGHAL MEMBER (JUDICIAL) MUHAMMAD AMIN KHAN KUNDI MEMBER (JUDICIAL)</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p><u>MUHAMMAD HAMID MUGHAL, MEMBER (J):</u> Learned counsel for the appellant and Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.</p> <p>2. That the appellant (Ex-Assistant Research Officer BPS-16) has filed the present appeal under section- 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 06.03.2017 whereby he was awarded major penalty of removal from service on the charge regarding his habitually late coming, not signing attendance register, forwarding no progress report regarding duties assigned to</p>

TESTED

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him and using of abuse language.

3. Learned counsel for the appellant argued that the impugned order is against the law and facts. Further argued that there is no charge of corruption against the appellant and it was for the first time the appellant was awarded departmental punishment vide impugned order. Further argued that in view of the allegations leveled against the appellant, the major penalty of removal from service is extremely harsh and excessive.

4. As against that learned Additional Advocate General contended that the appellant has shown no interest towards his duties and his attitude was unbecoming of a gentleman and the competent authority was at last constrained to conduct proper departmental action against the appellant and that the inquiry committee also found the appellant guilty of misconduct. Further argued that the appellant in his reply dated 25.11.2016 admitted that he remained late comer. Further argued that impugned order was issued after observing all codal formalities and legal requirements. Further argued that departmental appeal of the appellant against the impugned order was also rejected.

5. Arguments heard and file perused.

6. There is no dispute that the charge sheet/ statement of allegation was served upon the appellant and he also replied the same. The appellant joined the inquiry and the inquiry committee found the appellant guilty of charges. Show-cause notice was issued upon the appellant which he also responded. Learned counsel for the appellant could not demonstrate that findings of the inquiry committee against

ATTESTED

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the appellant are arbitrary or based on malafide. However, in view of the circumstances of the case, this Tribunal is of the considered opinion that the arguments of learned counsel for the appellant in relation to the harshness of the awarded punishment of removal from service, carries weight. Consequently, for the purpose of safe administration of justice, the impugned major penalty of removal from service is modified and converted into major penalty of reduction to lower stage in time scale for a period of five years. The intervening period shall be treated as leave without pay. The present appeal is disposed of in the above terms. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
03.10.2018

Sd/- M. Harish Verghal
Member

Sd/- M. Anand (for Kurl)
Member

[Signature]

1200
04-10-18
[Signature]

[Signature]
04-11-18
11-10-18

ATTESTED

(3/1)

"B"

(7) ✓

TO BE SUBSTITUTED BEARING SAME NUMBER & DATE.

DIRECTORATE OF ARCHIVES & LIBRARIES,
KHYBER PAKHTUNKHWA, PESHAWAR.

No. 3041/3/1/DA Dated 22nd Oct., 2018.

OFFICE ORDER.

In pursuance of Khyber Pakhtunkhwa Service Tribunal Judgment dated 03-10-2018 in Service Appeal No. 619/2017, the competent authority is pleased to reinstate Mr. Muhammad Ismail, Assistant Research Officer(BPS-16) in Directorate of Archives & Libraries, Peshawar in service with immediate effect. The major penalty of removal from service imposed upon him vide order No. 983/3/10/DA dated 06-03-2017 is modified and converted into major penalty of reduction to lower stage in time scale for a period of five years. The intervening period is treated as leave without pay.

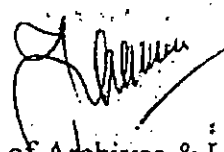
02- He is directed to resume duties in the Weeding Section in the public interest.

(Zahir Ullah Khan)
Director of Archives & Libraries,
Khyber Pakhtunkhwa, Peshawar.

Endst: No. & Date Even.

Copy forwarded for information & necessary action to:-

- 01- The Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 02- The Deputy Director, Directorate of Archives & Libraries, Peshawar.
- 03- The Research Officer-II, Directorate of Archives & Libraries, Peshawar.
- 04- Mr. Muhammad Ismail, Assistant Research Officer.
- 05- Office Orders File.


Director of Archives & Libraries,
Khyber Pakhtunkhwa, Peshawar.

ATTESTED

= C "

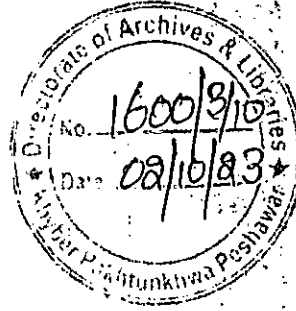
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DIRECTORATE OF ARCHIVES & LIBRARIES,
KHYBER PAKHTUNKHWA, PESHAWAR.
Phone: - 091-9210100 Website: - www.kpdal.gov.pk,
www.facebook.com/KParchivesandlibraries

To

The Director,
Directorate of Archives and Libraries,
Khyber Pakhtunkhwa, Peshawar.

Through: Proper Channel

Subject: APPEAL FOR IMPLEMETATION OF THE JUDGMENT DATED 03/10/2018 BY RESTORING THE APPLICANT ON HIS ORIGINAL PAY STAGE W.E.F. 6TH MARCH 2022 WITH ALL BACK BENEFITS

R/Madam,

With due respect, it is submitted that I was appointed as Assistant Research Officer (BPS-16) on the recommendation of Khyber Pakhtunkhwa Public Service Commission on 26-10-2010, as such; I have more than 12-years' service to my credit.

02- In 2017, a major penalty, i.e., removal from service was imposed upon me Vide Order No. 983/3/10 DA dated 06-03-2017. (Copy attached as annex-A)

03- I filed service appeal No. 619/2017 against the said penalty in Khyber Pakhtunkhwa Service Tribunal which was admitted to the effect of modification and the conversion of the said penalty into reduction to lower stage in time scale for a period of five years and treatment of 01-year, 07-months and 18-days intervening period (from 06-03-2017 to 22-10-2018) into leave without pay. (Copy attached as annex-B).

04- However, my case was decided by Khyber Pakhtunkhwa Service Tribunal on 03-10-2018. So, I was reinstated by the competent authority vide Office Order No. 3041/3/1 DA dated 22-10-2018 and ever since I have been performing duties to the entire satisfaction of my seniors. Since the five years of reduced time scale had been completed on 06/3/2022. Therefore, I am entitled to be restored on original pay scale w.e.f. 06/03/2022 along with arrears. (Copy attached as annex-C).

05- In view of the above, it is, therefore, most humbly requested that on acceptance of this application, I may be restored on original pay scale w.e.f. 06/03/2022 along with all back benefits.

(F.R. 29 is also attached herewith).

Dated: 05-10-2023

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DY-DIV
for
E

Yours Faithfully,

(Signature)
(Muhammad Ismail), 05/10/2023

Research Officer,
Directorate of Archives and Libraries,
Khyber Pakhtunkhwa, Peshawar.

Copy for information forwarded to:

- 1). PS to Secretary Higher Education, Archives and Libraries Department. Khyber Pakhtunkhwa, Peshawar.
- 2). Deputy Director, Archives and Libraries, Khyber Pakhtunkhwa, Peshawar.

(Signature)
Research Officer,

Directorate of Archives and Libraries,



DIRECTORATE OF ARCHIVES & LIBRARIES,
KHYBER PAKHTUNKHWA, PESHAWAR.
Phone: -091- 9210100 Website: www.kpdal.gov.pk,
www.facebook.com/KParchivesandlibraries

No. 1099 /3/10/DA Dated 18th October, 2023

To,

Muhammad Ismail,
Research Officer-III
Directorate of Archives & Libraries Peshawar.

Subject: **APPEAL FOR IMPLEMENTATION OF THE JUDGEMENT DATED 03-10-2018 BY RESTORING THE APPLICANT ON HIS ORIGINAL PAY STAGE W.E.F 6TH MARCH 2022 WITH ALL BACK BENEFITS**

Reference your application dated 05-10-2023 containing request for restoration of original pay scale w.e.f 06-03-3022 with payments of back benefits.

Your subject request is regretted being not covered in the rules.

Raheela Hafeez
Director of Archives & Libraries
Khyber Pakhtunkhwa. Peshawar.

VAKALATNAMA
BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Exhibitor No /2023

M. Ismael (APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS



Court of KPSC (RESPONDENT)
(DEFENDANT)

I/we Appellant

Do hereby appoint and constitute **Kamran Khan Advocate High 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. / /2023


CLIENT

ACCEPTED

KAMRAN KHAN

WALEED ADNAN
ADVOCATES