


Form- A
FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 788/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	18.10.2023	<p>The implementation petition of Mst. Kalsoom submitted today by Mr. Muhammad Asif Yousafzai 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.

Execution Petition No. 788 /2023
In
Service Appeal No.1080/2015

Kalsoom

V/S

Govt: of KP etc.

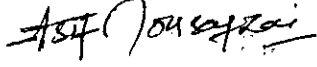
INDEX

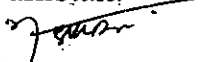
S.No.	Documents	Annexure	Page No.
1.	Memo of Execution Petition	-----	01-02
2.	Copy of Judgment dated 16.06.2023	- A-	03-07
3.	Copy of application dt: 5.7.2023	--A1--	08
4.	Vakalat Nama	-----	09


APPLICANT/PETITIONER

Kalsoom

THROUGH:


(M. ASIF YOUSAFZAI)
Advocate Supreme Court
Of Pakistan.


(SYED NOMAN ALI BUKHARI)
Advocate, High Court
Peshawar.


(HILAL ZUBAIR)
Advocate Peshawar.

Room No.FR-08, 4th Floor,
Bilour Plaza Peshawar Cantt:
Cell # 0312-9103240

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

Execution Petition No. 788 /2023
In Service Appeal No.1080/2015

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 8406

Dated 19-10-2023

Kalsoom, SPST, GGPS, Risalpur,
Cantt Nowshera.

PETITIONER

VERSUS

1. The Secretary to Govt: of Khyber Pakhtunkhwa, Education (E&SE)
Department Civil Secretariat, Peshawar.
2. The Director Education (E&SE), Khyber Pakhtunkhwa, Peshawar.
3. The District Education (Female), Nowshera.
4. The Appellate Committee, through District Education Officer (Female)
Nowshera.

RESPONDENTS

.....
**EXECUTION PETITION FOR DIRECTING THE
RESPONDENTS TO IMPLEMENT THE JUDGMENT
DATED: 16.06.2023 OF THIS HONOURABLE
TRIBUNAL IN LETTER AND SPIRIT.**
.....

RESPECTFULLY SHEWETH:

1. That the applicant/petitioner filed Service Appeal No.1080/2015 in this august Tribunal against the order dated 26.08.2015 whereby for consideration of promotion to the post of PSHT of the petitioner.
2. That the said appeal was finally heard by the Honorable Tribunal on 16.06.2023 and the Honorable Tribunal was kind enough to allow the appeal with the direction that; *"The representative of the respondents present before this Court dated stated that the respondents would re-consider the case of the appellant if it is remitted to the respondents and in case her was otherwise fit, she would be granted relief in accordance with law and rules in view of the above development, let this matter be sent to the respondents for reconsideration of the prayer of appellant in accordance with law"*. (Copy of judgment is attached as Annexure-A).

3. That the appellant filed application dated 05.07.2023 to the respondent department for consideration of Judgment of Honorable Tribunal dated 16.06.2023 but despite fact that the respondents were totally failed in taking any action regarded the Hon'able Tribunals Judgment dated 16.06.2023 despite consented in the Tribunal. **(Copy of application is attached as Annex-A1)**
4. That in-action and not fulfilling formal requirements by the respondents, after passing the judgment of this august Tribunal, is totally illegal amount to disobedience and Contempt of Court.
5. 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 pass formal appropriate order.
6. 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 comply with the directions given in the judgment dated 16.06.2023 in letter and spirit. Any other remedy, which this august Tribunal deems fit and appropriate that, may also be awarded in favor of applicant/petitioner.

APPLICANT/PETITIONER

[Signature]
Kalsoom

THROUGH:

[Signature]
(M. ASIF YOUSAFZAI)
Advocate Supreme Court
Of Pakistan.

[Signature]
(SYED NOMAN ALI BUKHARI)
Advocate, High Court
Peshawar.

[Signature]
&
(HILAL ZUBAIR)
Advocate Peshawar.

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 and nothing has been concealed from the Hon'able Tribunal.

ATTESTED

[Signature]
DEPONENT



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KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

BEFORE: **KALIM ARSHAD KHAN** ... CHAIRMAN
RASHIDA BANO ... MEMBER (Judicial)

Service Appeal No.1080/2015

Date of presentation of Appeal.....29.09.2015
Date of Hearing.....16.06.2023
Date of Decision.....16.06.2023

Mst. Kalsoom, SPST, Government Girls Primary School, Risalpur Cantt.....*Appellant*

Versus

1. The Secretary to Government of Khyber Pakhtunkhwa, Education Department, Civil Secretariat, Khyber Pakhtunkhwa.
2. The Director Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar.
3. The District Education Officer (Female), Nowshera.
4. The Appellate Committee, through District Education Officer (Female), Nowshera.....*Respondents*

Present:

Mr. Muhammad Asif Yousafzai, Advocate.....For appellant
Mr. Fazal Shah Mohmand, Additional Advocate GeneralFor respondents

APPEAL UNDER SECTION-4 OF THE Khyber PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 26.08.2015 COMMUNICATED TO THE APPELLANT ON 15.09.2015 WHEREBY THE APPEAL OF THE APPELLANT FOR CONSIDERATION OF PROMOTION TO THE POST OF PSHT HAS BEEN REJECTED FOR NO GOOD GROUNDS.

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Brief facts of the case, as

detailed in the memo and grounds of appeal, are that the appellant was

appointed as PTC on 05.02.1987 and was performing her duty. That

Notification dated 13th November 2012 was issued whereby the

method of recruitment, qualification and other conditions were

ATTESTED
CHAIRMAN
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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framed. According to the notification, Primary School Teachers in BPS-12 were to be promoted to BPS-14 as Senior Primary School Teacher on the basis of seniority cum fitness from amongst the PTC teachers with at least five years service as such and similarly the post of Primary School Head Teacher (PSHT BPS-15) was to be filled in by promotion on the basis of seniority cum fitness with at least 10 years service and having qualification for Primary School Teacher. The appellant was promoted as Senior Primary School Teacher (BPS-14) vide order dated 23.05.2015. On the same day, junior colleagues of the appellant were granted promotion as PSHT (BPS-15) and the appellant was ignored. Feeling aggrieved, she filed departmental appeal, which was rejected vide order dated 26.08.2015, hence, the instant service appeal.

2. On receipt of the appeal and its admission to full hearing, the respondents were summoned, they put appearance and contested the appeal by filing written reply raising therein numerous legal and factual objections. The defense setup was a total denial of the claim of the appellant.

3. We have heard learned counsel for the appellant and learned Additional Advocate General for the respondents.

4. Learned counsel for the appellant argued that the impugned order, dated 26.08.2015, was against the law, facts, norms of justice and material on record, hence, liable to be set aside as the appellant had been deprived from right of promotion as Primary School Head Teacher in an arbitrary manner, which was not permissible in law. He

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Signature
Name

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6. Perusal of record reveals that the respondents had issued notification dated 28.02.2013, whereby, 276 Primary School Teachers (BPS-12) were promoted to the post of Senior Primary School Teacher (BPS-14) and the appellant was ignored from promotion but the appellant had not filed any departmental appeal/representation. The very reason of the appellant being mum over depriving from promotion was her lack of qualification as she had not passed Intermediate Examination, which was mandatory. Later on, the respondents issued Notification dated 23.05.2015, vide which the appellant was promoted to the post of SPST (BPS-14) and on the same day, another Notification bearing Enst. No.989-95/DEO(F)/Estt.(Pry)Pro:PSHT/Dated Nsr the 23/05/2015 was issued vide which SPSTs were promoted to PSHT but the appellant was not considered for promotion in the notification and the same has been impugned by the appellant in this appeal. The claim of the appellant faces two bars i.e. when she was a PST (BPS-12) and her colleagues were getting promotion in the year 2013, she being matriculate, lost her seniority at that time because the criteria for promotion was Intermediate, while the second hurdle in her promotion to PSHT (BPS-15) on 23.05.2015 was being on probation because she had been promoted to SPST (BPS-14) on the same very day i.e. 23.05.2015. The representative of the respondents present before the Court stated that the respondents would re-consider the case of the appellant if it is remitted to the respondents and in case her case was otherwise fit, she would be granted relief in accordance with law and rules. In view of

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ATTESTED
By the Public Works
Service Tribunal
... ..

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the above development, let this matter be sent back to the respondents for reconsideration of the prayer of the appellant in accordance with law. Consign.

9. Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 16th day of June, 2023. ✓

KALIM ARSHAD KHAN
Chairman

RASHIDA BANO
Member (Judicial)

Certified to be true copy
05/7/23
KALIM ARSHAD KHAN
Chairman
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Ministerial Stamp

Date of Presentation of Application 16-6-2023
Number of Pages page 5
Copying Fee 25/-
Urgent _____
Total 25/-
Name of Applicant Shahzad
Date of Application 05/7/23
Date of Delivery of Copy 05/7/23

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حکومت جناب اعلیٰ حضرت کے لیے سیکورٹی ایجنٹس کی حیرتوں کو

جناب عالی :-

موردہ کرائس ہے کہ سیکورٹی ایجنٹس 2023-24-25 کو سروس
کے دوران میں کرائس کے ساتھ ساتھ جو کہ سروس کے
آفس کے میں ڈیپارٹمنٹ کو ملے گا کہ اس کے لئے
سکا کو دیکھا جائے اور اس کے لئے اس کے لئے

لہذا اس کے لئے اس کے لئے اس کے لئے اس کے لئے
کے لئے اس کے لئے اس کے لئے اس کے لئے
کے لئے اس کے لئے اس کے لئے اس کے لئے

کے لئے اس کے لئے

SPST, GGS, Rishikesh 5-7-2023
Cantt. Nowshera.

کے لئے اس کے لئے

VAKALAT NAMA

NO. _____/2023

IN THE COURT OF Service Tribunal Peshawar

Kalsoom

(Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Govt: of KP.

(Respondent)
(Defendant)

I/We, Kalsoom

Do hereby appoint and constitute **M. Asif Yousafzai, Advocate Supreme Court of Pakistan & Syed Noman Ali Bukhari, Advocate High Court & Hilal Zubair Advocate** 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 costs.

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. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

AND to all acts legally necessary to manage and conduct the said case in all respects, whether herein specified or not, as may be proper and expedient.


AND I/we hereby agree to ratify and confirm all lawful acts done on my/our behalf under or by virtue of this power or of the usual practice in such matter.

PROVIDED always, that I/we undertake at time of calling of the case by the Court/my authorized agent shall inform the Advocate and make him appear in Court, if the case may be dismissed in default, if it be proceeded ex-parte the said counsel shall not be held responsible for the same. All costs awarded in favour shall be the right of the counsel or his nominee, and if awarded against shall be payable by me/us.


Dated _____/2023


(CLIENT)

ACCEPTED


(M. ASIF YOUSAFZAI)
ADVOCATE SUPREME COURT,
OF PAKISTAN.
(BC No. 10-7327)


(S. NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT,


&
HILAL ZUBAIR
Advocate

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