


FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 800/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	
1	27.10.2023	<p>The implementation petition of Mr. Farmanullah submitted today by Mr. Muhstaq Ahmad Khan Advocate. It is fixed for implementation report before touring Single Bench at Swat on _____. Original file be requisitioned. AAG has noted the next date.</p> <p>By the order of Chairman  REGISTRAR</p>

Before the service tribunal khyber pukhtoonkhwa Peshawar .

Implementation ^{petition} COC No. ⁸⁰⁰ / 2023 in service appeal
no 1191 of 2019

Farman Alil s/o Feroz khan ,Naib Qasid GMS Rega No 1 Daggar district Buner
.....petitioner

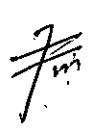

Vs


Iftiharul Ghani District Education officer(M) Buner and others.....Respondents

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Dated: 21.10.2023

 
Petitioners

Through 
Mushtaq Ahmad Khan
Advocate
Office at district
court Daggar Buner
Cell no 03469014199

(1)

Before the service tribunal khyber pukhtoonkhwa Peshawar .

Implementation/^{Petitioner} EOC No... 800 /2023 in service appeal
no 1191 of 2019

Farman Alil s/o Feroz khan ,Naib Qasid GMS Rega No 1 Daggar district Buner
.....petitioner

Vs

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 8649

Dated. 27-10-2023

1. Iftiharul Ghani District Education officer(M) Buner .
2. Director E & SE khyber pukhtoonkhwa at Peshawar.
3. Govt of K.P.K through secretary E & SE Khyber pukhtoonkhwa at Peshawar.

Petition for implementation of order and judgement dated 9/2/2023 passed by this worthy tribunal in appeal No 1191 of 2019 and initiation of contempt proceedings against the respondents for not honoring the judgment/order ibid .

Respectfully sheweth:



1. That the captioned service appeal was decided by this honorable tribunal in favor of the petitioner and the impugned order of removal of appellant from service set aside and he was restored in service with all back benefits. (appeal no 1191 of 2019 and judgment/order dated 9.2.2023 attached as annexure A and B).
2. That after the aforesaid Judgment the petitioner several time visited the office of the respondents for the implementation of the judgment/order of this honorable tribunal but the respondent No 1 was very much annoyed and had got contemptuous attitude towards the aforesaid order of this worthy tribunal ,hence no proper heed was paid to the request of the petitioner .(copy of the applications for implementation of the judgment/order of this worthy tribunal along with post office receipt attached attached as annexure C and D).
3. That the petitioner time and again met with the respondent No 1 for the last 8 months but he was not going to reinstate the petitioner and told the petitioner that he will not allow at any cost the petitioner in service.
4. That about one week ago the petitioner met the respondent No 1 for implementation of the order of this worthy tribunal and told him that he will approach the worthy tribunal if the order was not implemented and requested him to ventilate his grievances by implementing the order as he was a poor person and only class 4 civil servant and was not able to involve himself in litigation but the response of the respondent No 1 was very harsh and told

him in a contemptuous style that let see how he would serve in the department during his tenure.

5. That respondents are willfully disobeying the order/ judgment of this honorable tribunal and despite the passage of about 9 months they have not implemented the aforesaid order and are not paying the salary of the petitioner which amounts to contempt of court and the respondents needs to be prosecuted under the contempt laws.
6. That since the impugned order of removal the petitioner has not been paid a single penny due to which he is in dismal economic situation.
7. That the respondents are constitutionally bound to give respect to and implement the judgments'/orders of this worthy tribunal and their refusal in this regard is unlawful and contemptuous.
8. That the petitioner seeks the permission of this honorable tribunal to rely on additional ground at the time of arguments.

It is therefore kindly prayed that on acceptance of this petition the judgment and order dated 9/2/2023 of this worthy tribunal may kindly be implemented in its letter and spirit and contempt of court proceedings be initiated against the respondents.

Dated: 21.10.2023

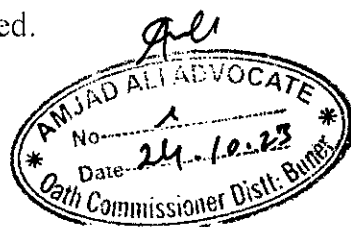

 petitioners
 Through 
 Mushtaq ahmad khan
 Advocate
 Office at district
 court daggar buner
 Cell no
 03469014199

Certificate: As per instruction of my client it is certified that no such like Implementation/COC application have earlier been filled in the matter.


 Advocate

List of books:

1. C.P.C
2. Any other law book as per need.




 Advocate

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Before the **service tribunal khyber pukhtoonkhwa Peshawar .**

Implementation/COC No...../2023 in service appeal
no 1191 of 2019

Farman Alil s/o Feroz khan ,Naib Qasid GMS Rega No 1 Daggar district Buner
.....petitioner

Vs

Iftiharul Ghani District Education officer(M) Buner and others.....Respondents

Addresses of parties:

Addresses of petitioner:

Farman Alil s/o Feroz khan ,Naib Qasid GMS Rega No 1 Daggar district Buner

Adresses of the respondents

1. Iftiharul Ghani District Education officer(M) Buner .
2. Director E & SE khyber pukhtoonkhwa at Peshawar.
3. Govt of -K.P.K through secretary E & SE Khyber pukhtoonkhwa at Peshawar..



Petitioners
through
Mushtaq ahmad khan
Advocate
Office at district
court Buner.

4

Before the **service tribunal khyber pukhtoonkhwa Peshawar .**

Implementation/COC No...../2023 in service appeal
no 1191 of 2019

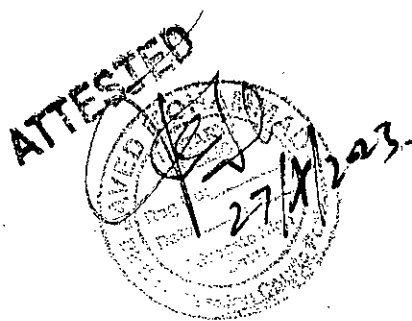
Farman Alil s/o Feroz khan ,Naib Qasid GMS Rega No 1 Daggard district Buner
.....petitioner

Vs

Iftiharul Ghani District Education officer(M) Buner and others.....Respondents

Affidavit

I, Farman ali, petitioner, do hereby solemnly affirm and declare on oath that the contents of the instant c.o.c is correct to the best of my knowledge and belief and nothing has been concealed from this honorable court.



Deponent.....

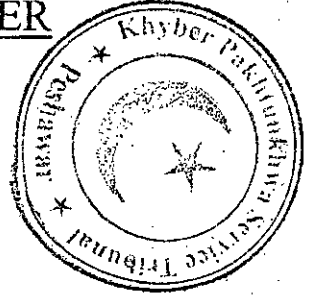
Farman Ali

CNIC - 15101-7216910-9
Mob: 0346-9693555

Annexure "A"

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



Appeal No 1191 of 2019

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 1244

Dated 12/9/2019

Farman Ali son of Firoz Khan
Naib Qasid at Department of Education,
Presently duty on GMS No. 1 Rega,
District Buner.

.....Appellant

VERSUS

1. District Education Officer (Male) Buner.
2. Director Elementary & Secondary Education Khyber Pakhtunkhwa at Peshawar.
3. Secretary Elementary & Secondary Education Khyber Pakhtunkhwa at Peshawar.

.....Respondents

File to-day

Registrar

SERVICE APPEAL UNDER SECTION 4, OF

THE KPK SERVICE TRIBUNAL ACT, 1974,

AGAINST THE ORDER DATED 21-12-2018,

File submitted to day
and filed.

Registrar

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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(6)

WHEREBY THE APPELLANT WAS
REMOVED FROM SERVICE.

PRAYER IN APPEAL

On acceptance of this appeal the order passed by Respondent No. 1 be declared as illegal, discriminatory, against law, void ab-initio and may graciously be set aside the same and the appellant may be reinstated on service with all back benefits.

Any other relief which are proper in the instant circumstances of the may also be granted though not specifically asked for.

Respectfully Sheweth,

- 1) That the appellant was appointed in the respondents department in year 2011, and working on the post of Naib Qasid in Government Middle School No. 1 Rega, District Buner since then.

ATTESTED
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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- 2) That the appellant was performing his duties honestly, devotedly up to the entire satisfaction of the higher throughout his career. (Copy of certificate is attached)
- 3) That the appellant was removed from service by the concerned department vide removal order dated 21-12-2018 (Copy of removal order dated 21-12-2018 & other relevant record are attached)
- 4) That the appellant moved departmental appeal before the authority, but the same remains undecided, and the statutory period has elapsed, hence, the instant appeal is filed before the Hon'ble court.
- 5) That the appellant have no other proper remedy, except to file the appeal this Honorable Tribunal Court, on the following grounds.

GROUND:-

- a. That the order of respondent No. 1 is illegal, against the rules & regulation and exercised their power not vested to them.
- b. That in case of imposing major penalty principle of natural justice requires that a regular inquiry was to be conducted in the matter and opportunity of defense of personal hearing was to be provided to the

ATTESTED
EXAMINER
KINJIF BUKTUKHWA
Service Tribunal
Peshawar


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(1)

civil servant proceeded against him otherwise the procedure against him without following the rules would be amount to condemned unheard. So, on this ground to the impugned order regarding dismissal / removal is liable to be struck down on this score alone.

- c. That issuance of show cause notice and holding of inquiry was necessary under section 3 removal from service ordinance 2000 amended 2001 but Respondents fails to issue show cause notice nor any inquiry was conducted and major penalty of dismissal / removal was imposed upon him without adopting mandatory procedure resulting in manifest injustice so, the impugned orders are liable to be set at naught.
- d. That the penalty of dismissal / removal from service imposed upon appellant for absence from service is illegal being violative of section 7 (a).
- e. That the appellant was illegally treated & dismissal / removal from service is too harsh so, the impugned order is not maintainable in the eye of law.
- f. That in service law concept of penalty was to make an attempt to reform the individual wrong doer (if any) but such penalty deprived the appellant from the right of earning, which defeat the reformatory

ATTESTED


Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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B

concept of punishment in administration of justice so, the order passed by the Respondent No. 1 is not sustainable on this ground too.

- g. That further grounds, with leave of this Honorable Court, would be raised at the time of arguments before this Honorable Court.

Therefore in view of the above submissions, it is most humbly prayed that on acceptance of this appeal the order passed by Respondent No. 1 be declared as illegal, discriminatory, against law, void ab-initio and may graciously be set aside the same and the appellant may be reinstated on service with all back benefits. Any other relief which are proper in the instant circumstances of the may also be granted though not specifically asked for.

Appellant

Farman Ali
Through Counsel

MOHSIN ALI KHAN
Advocate, High Court

12-09-019

CERTIFICATE:

(As per directions of my client) No such like Appeal earlier has been filed by the appellants on the subject matter before this Honorable Court.

Certified to be true copy
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

ADVOCATE

12-09-019

10

Ann B²

Service Appeal No.11
decided on 09.02.2023
Member, Judicial, Khy

Farman Ali vs District Education Officer (Male) Buner and others
which comprising Kalim Arshad Khan, Chairman, and Salah Ud Din,
Service Tribunal at Camp Court Swat.

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
AT CAMP COURT SWAT.**



BEFORE: **KALIM ARSHAD KHAN ...CHAIRMAN**
SALAH UD DIN ...MEMBER (Judicial)

Service Appeal No.1191/2019

Date of presentation of appeal.....12.09.2019
Dates of Hearing.....09.02.2023
Date of Decision.....09.02.2023

SCANNED
KPST
Peshawar

Farman Ai Son of Feroz Khan, Naib Qasid at Department of Education, presently duty on GMS No. 1 Rega, District Buner.

.....**Appellant)**

Versus

1. **District Education Officer(Male) Buner.**
2. **Director Elementary & Secondary Education, Khyber Pakhtunkhwa at Peshawar.**
3. **Secretary Elementary & Secondary Education, Khyber Pakhtunkhwa at Peshawar.**

.....**(Respondents)**

Present:

Mr. Mushtaq Ahmad,
Advocate.....For appellant.

Mr. Asif Masood Ali Shah,
Deputy District Attorney.....For respondents.

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 21.12.2018, WHEREBY THE APPELLANT WAS REMOVED FROM SERVICE.

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: According to the memorandum and grounds of appeal, the appellant was appointed as Naib Qasid in 2011 and he had been serving as such in Government Middle School No.1, Rega District Buner; that the appellant was removed from service vide order dated 21.12.2018; that the

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Farman

appellant filed departmental appeal and awaiting ninety days' waiting period, when no response was received from the respondents, he filed this appeal.

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

3. We have heard learned counsel for the appellant and learned Deputy District Attorney for the respondents.

4. The Learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned Assistant Advocate General controverted the same by supporting the impugned order(s).

5. In the reply the respondents stated details of absence from time to time and actions taken against his such absence warding him punishments from time to time. Before the impugned removal order on 21.12.2018, he was proceeded against and was awarded minor penalty of withholding of three annual increments with cumulative effect vide No.3636—40 dated 27.05.2017. It is alleged that the appellant was found absent time and again by the IMU and resultantly, in Educational Steering Committee Meeting under the Chairmanship of Deputy Commissioner Buner, the District Education Officer was directed vide meeting minutes No.6459-70/AG-III/DC/B dated 30.10.2017 to proceed against the appellant under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 for the charges of impersonation, proxy, misconduct, inefficiency and absence. It was then a show cause notice was issued to the appellant vide No.5698-5700 dated 06.10.2017 and reply was found unsatisfactory and he was removed from service vide No.6433-36 dated 21.12.2018. While keeping in view the above situation we enquired about the legal status of the

7/8/23
ATTESTED
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Service Appeal No.1191/2019 titled "Farman Ali-vs-District Education Officer (Male) Buner and others",
decided on 09.02.2023 by Division Bench comprising Kalim Arshad Khan, Chairman, and Salah Ud Din,
Member, Judicial, Khyber Pakhtunkhwa Service Tribunal at Camp Court Swat.

Educational Steering Committee on whose direction the appellant was proceeded but no reply was given by the respondents and the learned law officer. We also enquired about the minutes of the meeting of the Committee or the direction given for initiation of departmental proceedings against the appellant as no such minutes or direction is found placed on the file. Copies of minutes of the meetings of 10.03.2017, 30.10.2017 and 16.11.2018 were produced during the course of arguments. The minutes of 10.03.2017 the Deputy Commissioner Buner directed the District Education Officer (Male) Buner to terminate the appellant till next week. In the minutes of 30.10.2017, the Deputy Commissioner showed concern why the appellant had not been terminated and further directed that the appellant should be terminated within a week. Similarly, in the minutes of 16.11.2018, the Deputy Commissioner Buner directed the District Education Officer (Male) Buner to immediately issue termination order of the appellant. In the show cause notice of 06.10.2017 no period of absence was given nor any incident of negligence was stated. In reply to show cause notice the appellant urged that no date of his absence was mentioned in the show cause notice. He alleged that he was found present on 12.10.2017 when the District Education Officer (Male) visited the School. He also annexed the attendance register showing his attendance in the school. It appears that obeying the direction of the Deputy Commissioner Buner given in the meeting held on 16.11.2018 and after more than a year of issuance of show cause notice, the appellant was removed from service on 21.12.2018 saying that the Competent Authority (District Education Officer Buner) was satisfied that the appellant was not interested in government duty and that the charges mentioned in the charge sheet and statement of allegations had been proved against the appellant. Although it is alleged in the reply that the appellant was provided an opportunity of personal hearing but the record does not support the same as there is no document attached with the reply to show that any date for personal hearing was fixed and

Handwritten initials and a checkmark.

ATTESTED
Khyber Pakhtunkhwa
Service Tribunal
Swat


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Service Appeal No.1191/2019 titled "Farman Ali-vs-District Education Officer (Male) Buner and others",
decided on 09.07.2023 by Division Bench comprising Kalim Arshad Khan, Chairman, and Salah Ud Din,
Member, Judicial, Khyber Pakhtunkhwa Service Tribunal at Camp Court Swat.

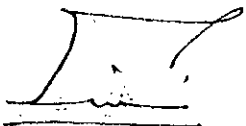
communicated to the appellant. The impugned order too is silent that any opportunity of personal hearing was provided to the appellant, which he had not availed. It is nowhere explained or justified as to why the action/impugned order was delayed for over a year. It seems that the Competent Authority has acted under the influence and direction of the Deputy Commissioner Buner and not according to its own wisdom or independently. Before passage of the impugned order no enquiry was conducted nor was it anywhere stated that the enquiry was dispensed with. Procedure as provided under rules 7 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 was not followed if at all the Competent Authority intended to dispense with the enquiry and to proceed against the appellant for his alleged absence. The entire proceedings conducted by the District Education Officer (Male) Buner are thus unwarranted, unjustified and not sustainable.

6. Therefore, we allow this appeal and set aside the impugned order dated 21.12.2018 removing the appellant from service. As a resultant consequence the appellant stands reinstated in service with all back benefits. Costs shall follow the events. Consign.

7. *Pronounced in open Court at Swat and given under our hands and the seal of the Tribunal on this 09th day of February, 2023.*



KALIM ARSHAD KHAN
Chairman
Camp Court Swat



SALAH UD DIN
Member (Judicial)
Camp Court Swat

Certified to be true copy
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application	15/2/2023
Number of Pages	9
Copying Fee	5/-
Urgent	
Total	5/-
Name of Copyist	
Date of Completion of Copy	24/3/23
Date of Delivery of Copy	24/3/23

10, 2
The DEO Buncar

AMW "2"

(14)

Application For The Implementation
of order/Judgment Dated 9-2-2023
Whereby The appeal No 1191 of 2019
preferred by The applicant was
accepted as he was re-instated
with all back benefits.

The applicant Submits as follows:

- 1- That The applicant/appellant was
Removed From Service vide order
dated 21-12-2018.
- 2- That The applicant preferred an
appeal against The aforesaid order
before The Worthy Service Tribunal
d.c.p.k which was accepted vide
order/Judgment Dated 9-2-2023.
(Copy attached)
- 3- That The honorable Tribunal has
Directed To Reinstated The applicant
with all back benefits.

S.T.C
M

It is therefore kindly prayed that
The applicant be allowed to perform
his duties as The aforesaid order/
Judgment may kindly be implemented
in its letter of spirit.

27-3-23

For Applicant
Gaurav GMS Rana

Ann 5th

15

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No. 42

For Insurance Notices see reverse.
Stamps affixed except in case of
uninsured letters of not more than
the initial weight prescribed in the
Post Office Guide or on which no
acknowledgement is due.

Rs. Ps.

12

Received a registered*
addressed to

EDD

Date-Stamp

Initials of Receiving Officer

*Write here "letter", "postcard", "packet" or "parcel"
with the word "insured" before it when necessary.

Insured for Rs. (in figures)

(in words)

Insurance fee Rs. Ps. (in words)

Weight

Kilo Grams

Name and
address
of sender

28/3/22

12

No. 42

15

For Insurance Notices see reverse.
Stamps affixed except in case of
uninsured letters of not more than
the initial weight prescribed in the
Post Office Guide or on which no
acknowledgement is due.

Rs. Ps.

Received a registered*
addressed to

EDD

Date-Stamp

Initials of Receiving Officer **Write here "letter" "postcard" "packet" or "parcel" with the word "insured" before it when necessary.*

Insured for Rs. (in figures)

(in words)

Insurance fee Rs.

P.

(in words)

Weight

Kilo

Grams

Name and

address

of sender

28 3/4

15

وکالت نامہ

ایڈووکیٹ دستخط: _____	ڈسٹرکٹ بار ایسوسی ایشن بونیر خیبر پختونخوا
بار کونسل / بار ایسوسی ایشن نمبر: <u>BC-10-0116</u>	
رابطہ نمبر: <u>0346-9014188</u>	

بعد الت جناب: سرور سردار مسعود علی KPK

دعویٰ: _____	منجانب: <u>سرور سردار مسعود علی</u> نام: <u>DEO</u> <u>بونیر ولسوالی</u>
علت نمبر: _____	
مورخہ: _____	
جرم: _____	
تھانہ: _____	

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ
 آن مقام سرور سردار مسعود علی کیلئے مشتاق احمد خان ایڈووکیٹ کو وکیل 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 و تقرر ثالث و فیصلہ بر خلف دینے جو اب دعویٰ، اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا
 اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی
 کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکور کے کل یا ہزوی 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 مذکورہ اختیار حاصل ہونگے اور اس کا ساختہ پر داختم قبول و منظور ہوگا
 دوران مقدمہ ہر جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہو گا وہ وکیل موصوف وصول کرنے کا حقدار ہوگا۔ کوئی تاریخ پیشی
 مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مقدمہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سندر ہے۔

23/10/27

المرقوم: _____ بد _____ الع : گواہ شد _____ الع بد

کے لئے قبول و منظور ہے۔

مقام: سرور سردار مسعود علی

نوٹ اس وکالت نامہ کی فوٹو کاپی ناقابل قبول ہوگی۔