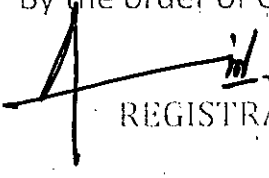


Form- A

FORM OF ORDER SHEET

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

Implementation Petition No. 809/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	06.11.2023	<p>The implementation petition of Mr. Awais Khan Khattak submitted today by him. It is fixed for implementation report before Single Bench at Peshawar on <u>07-11-2023</u>. Original file be requisitioned. AAG has noted the next date. Parcha peshi is given to petitioner.</p> <p>By the order of Chairman  REGISTRAR</p>

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

Execution Petition No 809 /2023

In

Service Appeal No.734/2023

Date of Decision 12.09.2023

Awais Khan Khattak S/O Liaqat Khan R/O Mohallah Qaziyan, Akora  
Khattak, Tehsil and District Nowshera.

.....Petitioner

Versus

Director, Directorate of Higher Education, Khyber Pakhtunkhwa,  
Peshawar & others.....Respondents

**I N D E X**

S.No.	Description of Documents	Annex	Pages
1.	Memo of execution petition		1-5
2.	Address of parties		6
3.	Judgment of this Tribunal dated 12.09.2023	"A"	7
4.	Application for implementation submitted to respondent dated	"B"	8 - 9
5.			

(A) Petitioner

Awais Khan Khattak

Cell No.0331-7455985

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

Execution Petition No 809 /2023

In

Service Appeal No.734/2023

Date of Decision 12.09.2023

Khyber Pakhtunkhwa  
Service Tribunal.

Diary No. 8872

Dated 6-11-2023

Awais Khan Khattak S/O Liaqat Khan R/O Mohallah Qaziyan, Akora  
Khattak, Tehsil and District Nowshera.....**Appellant**

Versus

1. Director, Directorate of Higher Education, Khyber  
Pakhtunkhwa, Peshawar.
2. Principal Government Khuhsal Khan Khattak Degree College,  
Akora-Khattak, District Nowshera.
3. Principal Government Postgraduate College, Nowshera.
4. Government of Khyber Pakhtunkhwa through Secretary Higher  
Education Civil Secretariat Peshawar

.....**Respondents**

**EXECUTION PETITION FOR IMPLEMENTATION OF**  
**JUDGMENT DATED 12-09-2023 OF THIS HONORABLE**  
**TRIBUNAL IN SERVICE APPEAL NO. 734/2023 TITLED**  
**AWAIS KHAN KHATTAK VS DIRECTOR, DIRECTORATE OF**  
**HIGHER EDUCATION, KHYBER PAKHTUNKHWA, PESHAWAR**  
**AND OTHERS.**

**RESPECTFULL YSHEWETH:-**

- 1) That the petitioner has been appointed as chowkidar (BPS-  
03) under 100% medical invalidation quota at Government

Khushal Khan Khattak degree college vide office order dated 05.01.2023 issued by respondent No.2.

- 2) That the petitioner was not dealt in accordance with the provision of Rule-10 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, and the petitioner applied for changing/appointment on the post of Laboratory Attendant (BPS-4)/Naib Qasid to the competent authority, however, the same was not considered and resultantly the petitioner filed Service Appeal No 734/2023 before this Honourable Tribunal which was disposed of vide order/judgment dated 12.09.2023 with direction to consider the case of the petitioner [ **copy of Order dated 12.09.2023 is attached as Annexure - A**].
- 3) That the petitioner submitted order of this Honourable Tribunal dated 12.09.2023 to the respondents No. 1 i.e. Director Higher Education through respondent No.2, for implementation but no implementation has been made and still pending(**copy of application for implementation as Annexure-B**).
- 4) That the petitioner visited to the office of respondents time and again for the purpose of implementation of order/judgment dated 12.09.2023 of this Honourable Tribunal, but no positive response has been made by the respondents for implementation of the judgment dated 12.09.2023.
- 5) That now the petitioner has got no other adequate remedy except to file this execution petition for immediate proceedings in accordance with law, equity and justice on with following grounds:-

**Grounds:-**

- A. That as per judgment of the august Supreme Court of Pakistan reported as 2022 SCMR 1765 that once any judgment in favour of Civil Servant / employee is announced it should be implemented from date of decision and the department if

delayed implementation of the said judgment benefit of that judgment shall be extended to the employee/ civil servant.

- B. That the respondents are wilfully reluctant not to implement order/judgment dated 12.09.2023 of this Honourable Tribunal and the respondents are wilfully delaying the matters for ulterior motives, which amount to abuse of authority.
- C. That order/judgment of this Honourable Tribunal dated 12.09.2023 is in field and no stay or suspension order has been granted against the same.
- D. That as per Law of Civil Procedure code (CPC) the respondents should have implemented order/judgment dated 12.09.2023 of this Tribunal on priority basis but the respondents have failed to implement judgment of this Honourable Tribunal as mentioned above.
- E. That the respondents have floated order/judgment of this Honourable Tribunal and no appropriate action has been taken in spite of directions of this Honourable Tribunal, which amounts to contempt of this Tribunal.
- F. That the respondents / contemnors are duty bound to implement the judgment of this Honourable Tribunal dated 12.09.2023 and if the respondents not implement judgment of this Honourable Tribunal contempt of Court proceeding under Art. 204 (2) (a) and section 3 and 4 of the Contempt Act may kindly be initiated against the respondents.
- G. Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to petitioners.

It is therefore, most humbly prayed that on acceptance this execution petition the respondents may very kindly be directed to implement order/judgment of this Honourable Tribunal dated 12.09.2023 in letter and spirit with all back benefits as per judgment of this Honourable Tribunal.

Dated: 6-11-2023

Petitioner

(A)

(Awais Khan Khattak)  
Cell No.0331-7455985

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

Execution Petition No \_\_\_\_\_/2023

In

Service Appeal No.734/2023

Date of Decision 12.09.2023

Awais Khan Khattak S/O Liaqat Khan R/O Mohallah Qaziyan, Akora  
Khattak, Tehsil and District Nowshera.

.....Petitioner

Versus

Director, Directorate of Higher Education, Khyber Pakhtunkhwa,  
Peshawar & others.....Respondents

**AFFIDAVIT**

I, Awais Khan Khattak s/o Liaqat Khan, hereby solemnly affirm  
and declare that all the contents of the instant Execution Petition are  
true and correct to the best and belief of my knowledge and nothing  
has been concealed from this Honourable Tribunal.

Dated: 6-10-2023

Deponent



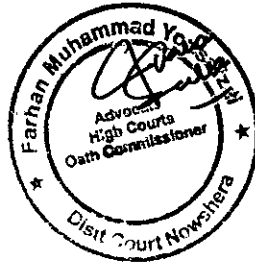
Awais Khan Khattak

CNIC No. 17201-9891986-7

Cell No.0331-7455985

**ATTESTED**

DATE: 01/11/23



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

Execution Petition No \_\_\_\_\_/2023

In

Service Appeal No.734/2023

Date of Decision 12.09.2023

Awais Khan Khattak S/O Liaqat Khan R/O Mohallah Qaziyan, Akora  
Khattak, Tehsil and District Nowshera.

.....Petitioner

Versus

Director, Directorate of Higher Education, Khyber Pakhtunkhwa,  
Peshawar & others.....Respondents

**ADDRESSES OF PARTIES**

**APPELLANT:**

Awais Khan Khattak son of Liaqat Khan  
R/o Mohallah Qaziyan, Akora Khattak,  
District Nowshera. Cell No.0331-7455985

**RESPONDENTS:**

1. Director Higher Education, G.T Road, Peshawar.
2. Principal Government Khuhsal Khan Khattak Degree College,  
Akora Khattak, District Nowshera.
3. Principal Government Postgraduate College, Nowshera.
4. Government of Khyber Pakhtunkhwa Through Secretary Higher  
Education Civil Secretariat Peshawar.

Petitioner



Awais Khan Khattak  
Cell No.0331-7455985



7



Service Appeal No.734/2023 titled "Awais Khan Khattak Vs. Director Higher Education Khyber Pakhtunkhwa, Peshawar, and others".

**ORDER**

12<sup>th</sup> Sept. 2023 **Mr. Kalim Arshad Khan, Chairman:** Learned counsel for the appellant present. Mr. Fazal Shah Mohmand, Additional Advocate General alongwith Mr. Sohrab Khan, Lecturer for the respondents present.

2. It is the prayer of the appellant that despite availability of the post in BPS-04 i.e. Lab Attendant lying vacant and advertised vide advertisement "Annexure-F", the appellant was not dealt with in accordance with provisions of Rule-10, especially, the proviso thereto reproduced below:

*'Provided also that appointment under this sub-rule is subject to availability of a vacancy and if more than one vacancies, in different pay scales, are available at a time and the child or the widow or wife, as the case may be, possesses the qualifications eligible for appointment in more than one post, such child or the widow or wife, as the case may be, shall ordinarily be appointed to the post carrying higher pay scale'*

to which the representative of the respondents has submitted that let the matter be sent back to the department for consideration of the request of the appellant in accordance with the rule referred to above. Disposed of accordingly. Consign.

3. *Pronounced in open Court at Peshawar and given under our hands and seal of the Tribunal on this 12<sup>th</sup> day of September, 2023.*

(Muhammad Akbar Khan)  
Member (E)

(Kalim Arshad Khan)  
Chairman

Certified to be true copy  
\*Mutazem Shah\*

EXAMINED  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

18/9/23

~~—~~ Date of Presentation of Application 18/8/25  
Number of Words 150  
Copying Fee 5/-  
Urgent 5/-  
Total 10/-  
Name of Clerk \_\_\_\_\_  
Date of Completion 18/8/25  
Date of Delivery of Copy 18/8/25

8

OFFICE OF THE PRINCIPAL

G.K.K.K.D.C. AKORA KHATTAK (NSR)

E-mail: [gc\\_akora@yahoo.com](mailto:gc_akora@yahoo.com) Phone: (0923)633263

NO 772 Dated 02/10/2023.

To

The Director  
Higher Education Department,  
Khyber Pakhtunkhwa, Peshawar

SUBJECT: - COMPLIANCE OF ORDER DATED 12.09.2023 PASSED BY KHYBER  
PAKHTUNKHWA SERVICE TRIBUNAL IN SERVICE APPEAL NO.734/2023.

Sir,

Refer to the subject noted above and a self-explanatory letter in r/o of Mr. Awais Khan Khattak, Chowkidar of this college is attached for further necessary action at your end please.

It is further stated that there is no vacant post of Naib Qasid/ Lab Attendant (BPS-04) available in this college.

CA-7

13430

1058

O/C

Principal  
Govt. KKK Degree College  
Akora Khattak

Principal  
Govt. KKK D.C.  
Akora Khattak

ATTESTED

To

The Hon'ble Director,  
Directorate of Higher Education,  
Khyber Pakhtunkhwa,  
Peshawar.

**Through Proper Channel**

**SUBJECT: COMPLIANCE OF ORDER DATED 12.09.2023 PASSED BY KHYBER PAKHTUNKHWA SERVICE TRIBUNAL IN SERVICE APPEAL NO.734/2023.**

Respected Sir,

It is respectfully submitted as under,

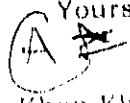
1. That I have been appointed as Chowkidar (BPS-03) at Govt. Khushal Khan Khattak Degree College, Akora Khattak (copy of appointment order is attached).
2. That thereafter I approached the competent authority to appoint me as Naib Qasid/Lab. Attendant (BPS-04), however, my request was not considered. Resultantly, I approached the Khyber Pakhtunkhwa Service Tribunal, Peshawar and the Hon'ble Court has been pleased to pass Order dated 12.09.2023 for consideration of request of the applicant/appellant (Copy of Order dated 12.09.2023 is attached).
3. That the post of Laboratory Attendant (BPS-04) may be lying vacant in some colleges at District Nowshera.

It is therefore, requested that the post of applicant may kindly be changed and the applicant may kindly be appointed on the post of **Laboratory Attendant (BPS-04)** at any nearby college at District Nowshera in light of order dated 12.09.2023 and necessary directions in this regard may kindly be issued to concerned colleges at District Nowshera.

I shall be thankful.

Dated: 23/10/2023

Yours truly,

  
Awais Khan Khattak,  
Chowkidar,  
Govt. Khushal Khan Khattak Degree College,  
Akora Khattak,  
District Nowshera.  
Cell No.0331-7455985

**ATTESTED**