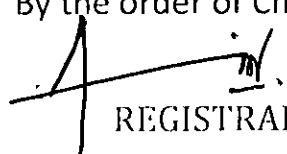


Form- A

FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 837/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	21.11.2023	<p>The implementation petition of Mr. Yousaf Khan submitted today by Mr. Noor Muhammad Khattak 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 counsel for the petitioner.</p> <p>By the order of Chairman  REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Execution NO. 837 /2023

YOUSAF KHAN VS GOVT OF KPK

APPLICATION FOR FIXATION OF THE ABOVE TITLED *Execution* AT
PRINCIPAL SEAT, PESHAWAR

Respectfully Sheweth:

1. That the above mentioned Execution is pending adjudication before this Hon'ble Tribunal in which no date has been fixed so far.
2. That according to Rule 5 of the Khyber Pakhtunkhwa Service Tribunal Rules 1974, a Tribunal may hold its sittings at any place in Khyber Pakhtunkhwa which would be convenient to the parties whose matters are to be heard.
3. That it is worth mentioning that the offices of all the respondents concerned are at Peshawar and Peshawar is also convenient to the appellant/applicant meaning thereby that Principal Seat would be convenient to the parties concerned.
4. That any other ground will be raised at the time of arguments with the permission of this Hon'ble tribunal.

It is therefore prayed that on acceptance of this application, the appeal may please be fixed at Principal Seat, Peshawar for the Convenience of parties and best interest of justice.

Appellant/Applicant

Dated: 21/11/23

Through


NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Execution Petition No. 837 /2023
In
Appeal No. 211/2023

YOUSAF KHAN

VS

GOVT: OF KP & OTHERS

INDEX

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PETITIONER

THROUGH:


NOOR MUHAMMAD KHATTAK
ADVOCATE SUPREME COURT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Execution Petition No. 837 /2023

In

Appeal No. 211/2023

9273
21/11/2023

Mr. Yousaf Khan S/o Amir Zada,
Sepoy/Constable, Dir Levies District Dir Upper

.....PETITIONER

VERSUS

- 1- The Government of Khyber Pakhtunkhwa, through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Home & Tribal Affairs Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
- 4- The Deputy Commissioner/Commandant Dir Levies, District Dir Upper.
- 5- The District Police Officer, Dir Upper.

..... RESPONDENTS

EXECUTION PETITION UNDER SECTION 7(2)(d) OF THE KP SERVICE TRIBUNAL ACT 1974, RULE 27 OF THE KP SERVICE TRIBUNAL RULES 1974 READ WITH SECTIONS 36 AND 51 OF THE CIVIL PROCEDURE CODE AND ALL ENABLING LAWS ON THE SUBJECT FOR THE IMPLEMENTATION OF THE JUDGMENT DATED 24/08/2023 IN LETTER AND SPIRIT.

R/SHEWETH:

- 1- That the petitioner filed service appeal bearing No. 211/2023 before this august Service Tribunal against the impugned notification No SO(Police-II)HD/MKD/Levies/Misc./2020 dated 22/03/2021 & No SO(Police-II) HD/1-3/Federal Levies, 2021 dated 20/10/2021 before this Honourable Tribunal.
- 2- That the appeal of the petitioner was finally heard and decided on 24/08/2023 and as such the ibid appeal was disposed off with the following relief by this august Service Tribunal:

"The matter was heard on more than one dates and could not be decided because of pendency of a CP No. 818/2023 before the august Supreme Court of Pakistan. During the course of arguments on some previous dates, Dr. Adnan Khan learned counsel for some of the appellants had informed the Tribunal that the petitioners, who had approached the august Supreme Court of Pakistan, against the judgment of Hon'ble Peshawar High Court, in Writ Petition No. 363-M of 2021 dated 29.11.2022, had submitted application for withdrawal of the CP from the august Supreme Court of Pakistan. The august Supreme Court was pleased to dismiss the CP as withdrawn on 07.06.2023. Today, Mr. Taimur Haider, Advocate/counsel for the appellant in Service Appeal No. 162/2023, produced copy of an Act of the Provincial Assembly named "The Provincially Administered Tribal Areas Levies Force (Amendment) Act, 2021" in to which a new section, Section-11 was added, which is reproduced as under:-

11. Reinstatement of the levies personnel. All levies personnel, who have been retired from the Force, with effect from 22.03.2021, till the commencement of the Provincially Administered Tribal Areas Levies Force (Amendment) Act, 2021 shall be reinstated in the Force as regular employees, with effect from their respective dates of retirement and they shall be deemed as never retired from the Force."

When confronted with the provisions of the newly added Section 11 of the Act of 2021, whereby, all Levies personnel, who had retired from the Force w.e.f. 22.03.2021 till the commencement of the Act Le. 30.11.2021, were reinstated as regular employees w.e.f. respective dates of retirement and were deemed to have never retired from the Force, the learned counsel was very fair to say that there was nothing more to be resolved by this Tribunal in these appeals, so is the agreement of other learned counsel as well as appellants present before the Tribunal, because by promulgation of the above Act especially insertion of new Section-11, whereafter, both the impugned Notifications no more remained effective. They, however, contend that even the provisions of the Act were not be complied with/implemented by the respondents. They say they would approach the proper forum for giving effect to implementation of the provisions of

Section-11 of the Act of 2021 and in case their grievances are not addressed in accordance with the terms of the Act, they would recourse to further legal remedies available to them. Disposed of in the above terms..

Copy of the judgment dated 24/08/2023 is attached as annexure..... **A**

- 3-** That after obtaining copy of the judgment dated 24/08/2023 the same was submitted with the respondents for implementation of his grievance but the respondents/department failed to do so, which is the violation of the judgment supra. Copy of application is attached as Annexure..... **B**
- 4-** That petitioner having no other remedy but to file this implementation petition.

It is therefore, most humbly prayed that on acceptance of the instant execution petition the respondents may kindly be directed to implement the Judgment dated 24/08/2023 passed in appeal No. 211/2023 in letter and spirit. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the petitioner.



**PETITIONER
YOUSAF KHAN**

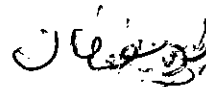
THROUGH:



**NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT**

AFFIDAVIT

I Mr. Yousaf Khan S/o Amir Zada, Sepoy/Constable, Dir Levies District Dir Upper, do hereby solemnly affirm that the contents of this Execution Petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

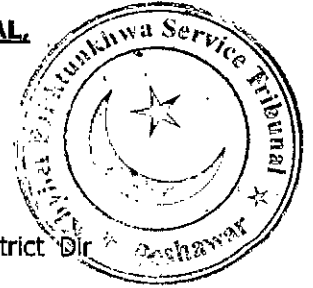


DEPONENT

'A' -4-

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

APPEAL NO. 211 /2023



Mr. Yousaf Khan S/o Amir Zada, Sepoy/Constable, Dir Levies, District Dir Upper.

..... APPELLANT

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Home and Tribal Affairs Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
- 4- The Deputy Commissioner/Commandant Dir Levies, District Dir Upper
- 5- The District Police Officer, Dir Upper.

..... RESPONDENTS

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ISSUANCE OF THE IMPUGNED NOTIFICATIONS DATED 22.03.2021, 21.10.2021 AND AGAINST THE OFFICE ORDER DATED 16.4.2021 WHEREBY THE APPELLANT HAS BEEN PREMATURELY RETIRED FROM SERVICE AND AGAINST THE INACTION OF THE RESPONDENTS BY NOT DECIDING THE DEPARTMNL APPEAL WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

That on acceptance of this service appeal the impugned notifications dated 22.03.2021, 21.10.2021 and impugned office order dated 16.4.2021 may very kindly be declared as illegal, uncpnstitutional, void ab initio and ineffective upon the rights of the appellant. That the respondents may very kindly be directed that not to retire the appellant on the basis age i.e. 42 years of age. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

**R/SHEWETH:
ON FACTS:**

Brief facts giving rise to the present appeal are as under:-

- 1- That the appellant is the bonafide & law abiding citizen of Pakistan. The appellant was initially appointed as Sepoy/Constable in the

ATTENDED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

-5-



Service Appeal No.1916/2022 titled "Muhammad Salim Vs. The Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat at Peshawar and others"

ORDER

24th Aug. 2023

Kalim Arshad Khan, Chairman: Through this single order this appeal and all the following connected appeals are being decided as all are against the same impugned Notifications No.SO(Police-II)HD/MKD/Levies/Misc./2020 dated 22.03.2021 and No.SO(Police-II)HD/1-3/FEDERAL LEVIES 2021 dated 20. 10.2021. Appeal Nos:1916/2022, 1917/2022, 1918/2022, 1919/2022, 1920/2022, 1921/2022, 1922/2022, 1923/2022, 1924/2022, 1925/2022, 1926/2022, 1927/2022, 1928/2022, 1929/2022, 1930/2022, 1931/2022, 1932/2022, 1933/2022, 1934/2022, 1935/2022, 1936/2022, 1937/2022, 1938/2022, 1939/2022, 1940/2022, 1941/2022, 1942/2022, 1943/2022, 1944/2022, 1945/2022, 1946/2022, 1947/2022, 1948/2022, 1949/2022, 1950/2022, 1951/2022, 1952/2022, 1953/2022, 1954/2022, 1955/2022, 1956/2022, 1957/2022, 1958/2022, 1959/2022, 1960/2022, 1961/2022, 1962/2022, 1963/2022, 1964/2022, 1965/2022, 1966/2022, 1967/2022, 1968/2022, 1969/2022, 1970/2022, 1971/2022, 1972/2022, 1973/2022, 1974/2022, 1975/2022, 1976/2022, 1977/2022, 1978/2022, 1979/2022, 1980/2022, 1981/2022, 1982/2022, 1983/2022, 1984/2022, 1985/2022, 1986/2022, 1987/2022, 1988/2022, 1989/2022, 1990/2022, 1991/2022, 1992/2022, 1993/2022, 1994/2022, 1995/2022, 1996/2022, 1997/2022, 1998/2022, 1999/2022, 2000/2022, 2001/2022, 2002/2022, 2003/2022, 2006/2022, 34/2023, 35/2023, 36/2023, 37/2023, 38/2023, 39/2023, 40/2023, 41/2023, 42/2023, 43/2023, 44/2023, 45/2023, 46/2023, 47/2023,

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

20/8/23

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48/2023, 49/2023, 50/2023, 51/2023, 52/2023, 53/2023, 54/2023,
55/2023, 56/2023, 57/2023, 58/2023, 59/2023, 60/2023, 61/2023,
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69/2023, 70/2023, 71/2023, 72/2023, 73/2023, 162/2023, 168/2023,
169/2023, 170/2023, 171/2023, 172/2023, 173/2023, 174/2023,
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410/2023, 411/2023, 412/2023, 413/2023, 414/2023, 415/2023,
418/2023, 419/2023, 601/2023, 602/2023, 603/2023, 604/2023,
605/2023, 625/2023, 626/2023, 629/2023, 630/2023, 631/2023,
632/2023, 633/2023, 634/2023, 635/2023, 636/2023, 637/2023,
638/2023, 639/2023, 640/2023, 641/2023, 642/2023, 643/2023,
644/2023, 645/2023, 646/2023, 659/2023, 660/2023, 661/2023,
682/2023, 793/2023, 870/2023, 1175/2023, 1258/2023, 1259/2023,
1288/2023, 1289/2023, 1300/2023, 1372/2023 and Service Appeal No.
1538/2023,

2. In some of the appeals learned counsel for the appellants are present while some appellants are in person present. Mr. Muhammad Jan, District Attorney alongwith M/S Liaqat Ali DSP, Hakim Zada

[Handwritten Signature]
29/08/23

ATTESTED
[Handwritten Signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

-7-

Superintendent, Muhammad Asim Khan Assistant, Parvez Khan Assistant and Sharif Ullah Assistant for respondents present.

3. It is noted with serious concern that nobody from the Home Department put appearance. Copy of this order be thus sent to the Worthy Chief Secretary Khyber Pakhtunkhwa and Worthy Secretary, Home and Tribal Affairs Department, Khyber Pakhtunkhwa for information.

4. The matter was heard on more than one dates and could not be decided because of pendency of a CP No.818/2023 before the august Supreme Court of Pakistan. During the course of arguments on some previous dates, Dr. Adnan Khan learned counsel for some of the appellants had informed the Tribunal that the petitioners, who had approached the august Supreme Court of Pakistan, against the judgment of Hon'ble Peshawar High Court, in Writ Petition No.363-M of 2021 dated 29.11.2022, had submitted application for withdrawal of the CP from the august Supreme Court of Pakistan. The august Supreme Court was pleased to dismiss the CP as withdrawn on 07.06.2023. Today, Mr. Taimur Haider, Advocate/counsel for the appellant in Service Appeal No. 162/2023, produced copy of an Act of the Provincial Assembly named "The Provincially Administered Tribal Areas Levies Force (Amendment) Act, 2021" in to which a new section, Section-11 was added, which is reproduced as under:

"11. Reinstatement of the levies personnel. --- All levies personnel, who have been retired from the Force, with effect from 22.03.2021, till the commencement of the Provincially Administered Tribal Areas Levies Force (Amendment) Act, 2021 shall be reinstated in the Force as regular employees, with effect from their respective dates of retirement and they shall be deemed as never retired from the Force."


ATTESTED


**EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar**

[Signature]
24.08.2023

When confronted with the provisions of the newly added Section-11 of the Act of 2021, whereby, all Levies personnel, who had retired from the Force w.e.f 22.03.2021 till the commencement of the Act i.e. 30.11.2021, were reinstated as regular employees w.e.f respective dates of retirement and were deemed to have never retired from the Force, the learned counsel was very fair to say that there was nothing more to be resolved by this Tribunal in these appeals, so is the agreement of other learned counsel as well as appellants present before the Tribunal, because by promulgation of the above Act especially insertion of new Section-11, whereafter, both the impugned Notifications no more remained effective. They, however, contend that even the provisions of the Act were not be complied with/implemented by the respondents. They say they would approach the proper forum for giving effect to/implementation of the provisions of Section-11 of the Act of 2021 and in case their grievances are not addressed in accordance with the terms of the Act, they would recourse to further legal remedies available to them. Disposed of in the above terms. (Copies of this order be placed in all connected appeals).
Consign.

5. *Pronounced in open Court at Peshawar and given under our hands and seal of the Tribunal on this 24th day of August, 2023.*


(Salah-Ud-Din)
Member (J)


(Kalim Arshad Khan)
Chairman

Muazzem Shah*

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 20/8/23
 Number of Words 5 P
 Copying Fee 20/-
 Urgent S/P
 Total 30/-
 Name of C... _____
 Date of Co... 20/8/23
 Date of Delivery 20/8/23

9-B

خدمت جناب ڈپٹی سیکریٹری صاحب ہوم ڈیپارٹمنٹ خیبرختون خزانہ (پشاور)

درخواست پیرا 3 صدر حکم عالی ریٹائرمنٹ ڈیپارٹمنٹ

برویہ حکم 24/08/2023

(سروس ٹریبونل پشاور)

Issue Branch, Home Dept.

Diary No. 25567 Dated. 30-10-23

Spt Secy.....

Addl Secy.....

Deputy Secy.....

صہب عالی

گزارش حسب ذیل ہے

1) یہ کہ جو لیونیز اہلکاران جبر ریٹائرمنٹ کر دیئے تھے متاثرہ اہلکاران نے پشاور عالی کورٹ سے رجوع کر کے عالی کورٹ نے اہلکاران کو 23/11/2023 کو لادجریز فقررہ کر کے (سول سرونٹ) فروری اور سروس ٹریبونل سے رجوع کرنے کا احکام صادر فرمایا۔

2) یہ کہ لیونیز اہلکاران نے سروس ٹریبونل سے رجوع کر کے برویہ حکم 24/8/23 پر لیونیز فورس کورٹ (واپس) برقرار تصنیات کرنے کا حکم صادر فرمایا۔ لادجریز سینیئر/ہائی کورٹ اور سروس ٹریبونل کے فیصلہ تک ہے۔

نیز یہ کہ AN/ACT صوبائی اسمبلی اور رائل بحالی 2021

AN/ACT

یہ کہ 14/07/2020 کارپوریٹیشن (حکومتی رولز کے تحت واپس) ہے۔

30/10/2023

فقط اردو
فون 2023

لوسی فان

لوسی فان وکلاء میڈر زارہ سابقہ سائبر ڈیپارٹمنٹ

VAKALATNAMA
BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Execution No /20 23

Yousaf Khan

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Govt of KPK

(RESPONDENT)
(DEFENDANT)

I/We Yousaf Khan

Do hereby appoint and constitute **Noor Mohammad Khattak Advocate Supreme 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. / /202


CLIENT

ACCEPTED


NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT


WALEED ADNAN


UMAR FAROOQ MOHMAND


MUHAMMAD AYUB

&


MAHMOOD JAN
ADVOCATES

OFFICE:

Flat No. (TF) 291-292 3rd Floor,
Deans Trade Centre, Peshawar Cantt.
(0311-9314232)