


Form- A

FORM OF ORDER SHEET

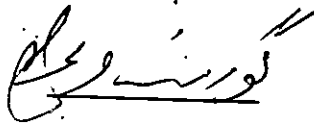
Court of _____

Implementation Petition No. 864/2023


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	23.11.2023	<p>The implementation petition of Mr. Shaheen Iqbal submitted today by Mr. Muhammad Ayub Khan Shinwari Advocate It is fixed for implementation report before Single Bench at Peshawar on _____.</p> <p>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>

KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR

CHECK LIST


..... Appellant

Versus


..... Respondents

S NO	CONTENTS	YES	NO
1.	This petition has been presented by: <u>Advocate</u> <u>Court</u>		
2.	Whether Counsel/Appellant/Respondent/Deponent have signed the requisite documents?	✓	✓
3.	Whether appeal is within time?	✓	
4.	Whether the enactment under which the appeal is filed mentioned?	✓	
5.	Whether the enactment under which the appeal is filed is correct?	✓	
6.	Whether affidavit is appended?	✓	
7.	Whether affidavit is duly attested by competent Oath Commissioner?	✓	
8.	Whether appeal/annexures are properly paged?	✓	
9.	Whether certificate regarding filing any earlier appeal on the subject, furnished?	✓	
10.	Whether annexures are legible?	✓	
11.	Whether annexures are attested?	✓	
12.	Whether copies of annexures are readable/clear?	✓	
13.	Whether copy of appeal is delivered to AG/DAG?	✓	
14.	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	✓	
15.	Whether numbers of referred cases given are correct?	✓	
16.	Whether appeal contains cutting/overwriting?	✓	
17.	Whether list of books has been provided at the end of the appeal?	x	
18.	Whether case relate to this court?	✓	
19.	Whether requisite number of spare copies attached?	✓	
20.	Whether complete spare copy is filed in separate file cover?	✓	
21.	Whether addresses of parties given are complete?	✓	
22.	Whether index filed?	✓	
23.	Whether index is correct?	✓	
24.	Whether Security and Process Fee deposited? On _____	✓	
25.	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On _____	✓	
26.	Whether copies of comments/reply/rejoinder submitted? On _____		
27.	Whether copies of comments/reply/rejoinder provided to opposite party? On _____		

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name: Mr. J. B. Khan

Signature: 

Dated: 21/11/2023

Before The Khyber Pakhtunkhwa Service Tribunal, Peshawar

Execution Petition No 864 /2023
In
Service Appeal No 7856/2021

Shaheen Iqbal Versus Chief Secty to Govt of KP & others

Index

S. No	Description of Document	Dated	Annex	Pg No
1.	Copy of application and affidavit			1-2
2.	Copy of Judgment	04-07-23	A	3-8
3.	Dept. Appeal / W. Nama			9-13

Applicant

Through

Muhammad Ayub Khan Shinwari
Advocate Peshawar.

Chamber:

7-A, Haroon Mansion,
Khyber Bazar, Peshawar
Cell # 03219068514

(1)

Before The Khyber Pakhtunkhwa Service Tribunal, Peshawar

Execution Petition No 864 /2023
In
Service Appeal No 7856/2021

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 9378

Dated 23-11-2023

Shaheen Iqbal,
Water Management Officer,
On Farm Water Management Department, Peshawar

....Applicant

Versus

1. Chief Secretary to Govt of Khyber Pakhtunkhwa, Peshawar
2. Secretary to Govt of Khyber Pakhtunkhwa, Finance Deptt, Peshawar
3. Secretary to Govt of Khyber Pakhtunkhwa, Agriculture Deptt, Peshawar
4. Director General, On Farm Water Management Deptt, KP, Peshawar

.....Respondents

**Application under Section 7(d) of KP Service Tribunal Act, 1974 for
execution of Judgment dated 04-07-2023**

Respectfully Sheweth,

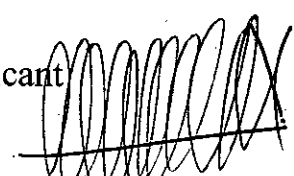
The applicant submits as follows:

1. That the applicant filed the title Appeal before this Learned Tribunal, Which was decided by this learned Tribunal vide Judgment Dated 04-07-2023.
2. That the copy of the Judgment is not only delivered to the respondents by the Office of this learned Tribunal but also the applicant himself submitted the copy of the said Judgment by hand to the respondents with a request to implement the said Judgment and Order in its letter and spirits.
3. That the respondents are deliberately not obeying and implementing the judgment of this learned Tribunal amounting to the naked contempt of court.

It is, therefore, prayed that on acceptance of this application the respondents may kindly be directed to implement the judgment and order dated 04-07-2023 passed in the title Service Appeal by this learned Tribunal in its letter and spirits.

Through

Applicant


Muhammad Ayub Khan Shinwari
Advocate Supreme Court

2

Before The Khyber Pakhtunkhwa Service Tribunal, Peshawar

Execution Petition No _____/2023

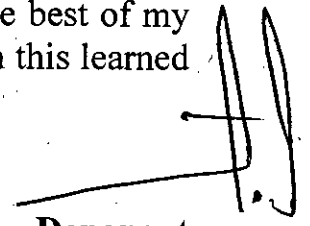
In

Service Appeal No 7856/2021

Shaheen Iqbal Versus Chief Secty to Govt of KP & others

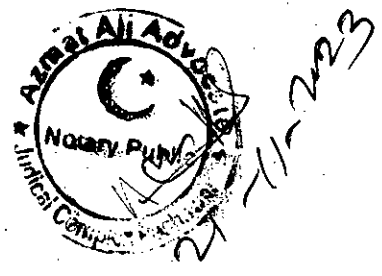
Affidavit

I, Shaheen Iqbal, Water Management Officer, On Farm Water Management Department, Peshawar do hereby solemnly affirm and declare on oath that the contents of the instant application are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this learned Tribunal.



Deponent

ATTESTED

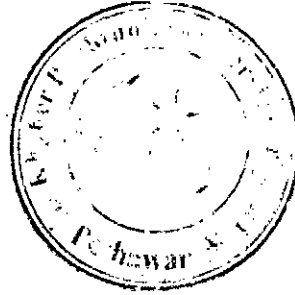


A circular notary seal for Azmat Ali Adyemi, Notary Public, Judicial Commission, Peshawar. The seal contains a crescent moon and star. A handwritten signature is written over the seal, and the date 27/11/2023 is written to the right.

Annex 3

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 7856 /2021



Khyber Pakhtunkhwa
Service Tribunal

Diary No. 7950

Dated 30/11/2021

Shaheen Iqbal,
Water Management Officer,
Officer of District Director,
On Farm Water Management Department, Director, Peshawar.

..... Appellant

Versus

1. Chief Secretary of Govt. of Khyber Pakhtunkhwa, Peshawar
2. Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department, Peshawar.
3. Secretary to Govt. of Khyber Pakhtunkhwa, Agriculture, Livestock and Cooperation Deptt, Govt. of Khyber Pakhtunkhwa, Peshawar.
4. Director General, Agriculture, Livestock and Cooperation Deptt, Govt. of Khyber Pakhtunkhwa, Peshawar.

..... Respondents

Service Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against office order dated 27.07.2020 whereby the Departmental Appeal of the appellant against the Notification dated 19.10.2018 is dismissed.

Filed to-day

Registrar

30/11/2021

Respectfully Sheweth:

Brief but relevant facts of the case are as follows:

1. That the Appellant is duly qualified engineer registered with Pakistan Engineering Council and is serving in the respondent Department against the post mentioned in the title of the petition. (Copy of PEC registration Certificate is filed herewith and annexed as Annex-A).
2. That the provincial cabinet in its meeting held on 24.05.2018 decided and approved the grant of technical allowance @ 1.5 times of the initial basic pay scale to all the engineers working in provincial government Departments

Re-submitted to-day and filed.

REGISTERED

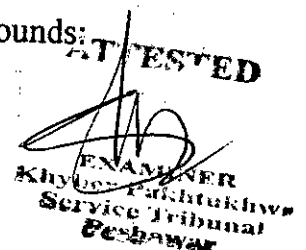
Signature
Khyber Pakhtunkhwa
Service Tribunal

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with effect from 1st July, 2018. (Copy of decision of meeting of the Provincial Cabinet dated 24.05.2018 is filed herewith and annexed as Annex-B).

3. That thereafter another meeting of the provincial cabinet was held on 15.10.2018 wherein it clarified the status of earlier cabinet decision regarding authorization of Technical Allowance to the Engineers of Provincial Government Departments and it was decided that the decision of the provincial Cabinet be implemented in letter and spirit. (Copy of the decision of meeting of Provincial Cabinet dated 15.10.2018 is filed herewith and annexed as Annex-C).
4. That in the light of aforesaid developments, the Appellant was under legitimate expectancy that he will be granted the benefits of the aforesaid decision of provincial cabinet but to the utter surprise of the Appellant, the benefit of the aforesaid provincial cabinet decision is given only to the engineers holding Engineering qualification serving in the C & W Department, Irrigation, Public Health Engineering and Local Government Department of Government of Khyber Pakhtunkhwa and the Appellant is deprived from its benefits. (Copy of Notification is filed herewith and annexed as Annex-D).
5. That it is pertinent to mention here that the respondents have extended the benefit of the Notification dated 19.10.2018 to the similarly placed colleagues/engineers of the appellant serving in Local Govt. & Mines & Minerals, vide Notification dated 07.07.2021. Furthermore the respondent No. 4 has requested the respondent No. 3 to extend the benefits of the Notification 19.10.2018 to the appellant vide letter dated 16.07.2021 and 19.11.2021. (Copy of Notification is filed herewith and annexed as Annex. E, F & G).
6. That the Appellant had time and again approached the respondents for redressal of his grievance but in vain. (Copy of the Departmental Appeal is filed herewith and annexed as Annexed as Annex-H).
7. That thereafter the appellant filed writ petition No. 681-P/2018 before the Honourable Peshawar High Court, Peshawar were directed to decide the departmental appeal of the appellant pending with the respondents. Despite the aforesaid judgment, the respondents were reluctant to pass final order on the departmental appeal of the appellant, thus the appellant filed C.o.C no. 448-P/2020 before the Peshawar High Court, wherein on the date of hearing, the respondents produced the impugned order dated 29.07.2020 whereby the departmental Appeal of the appellant is dismissed. The copy of the impugned order was produced in the hearing before the Honourable Peshawar High Court on the date of hearing i.e. 12.10.2021, whereas the attested copy of the said order is obtained by the appellant on 3/11/2021. (Copy of judgment and order passed by Honorable Peshawar High Court, Peshawar and impugned order is filed herewith and annexed as annex-I & J, respectively)

Hence, the title Service Appeal on the following amongst other grounds:

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

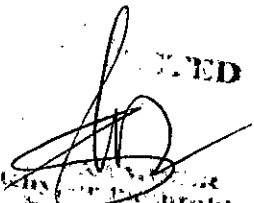
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GROUNDS

- A. That the impugned Notification dated 19.10.2018 and impugned order date 29.07.2020 is against the law, illegal, unlawful and without lawful authority, thus calling int4erfernce of this Honorable Tribunal.
- B. That the extension of benefits of technical allowance to the engineers serving in few departments and leaving the similarly placed employees of other departments, is ex-facie discriminatory and, therefore, violative of Article 3 and 25 of the Constitution of Islamic Republic of Pakistan, 1973 besides offensive to the principle of "equal pay equal work". The respondents cannot treat the similarly placed persons with different yard stick so far as pay and allowances are concerned.
- C. That the impugned Notification and impugned order is against the fundamental rights of the Appellant enshrined and protected under the Constitution of Islamic Republic of Pakistan, 1973.
- D. That the impugned Notification and impugned order is against the spirit of rule 25 of Government Rules of Business.
- E. That the impugned Notification and impugned order is issued in utter disregard of the decision of the Provincial cabinet. The provincial cabinet in its meeting held on 15.10.2018 clarified the status of earlier cabinet decision regarding authorization of Technical Allowance to the Engineers of Provincial Government Departments and it was decided that the decision of the Provincial Cabinet be implemented in letter and spirit.
- F. That the impugned Notification is against the dictums of the apex Supreme Court of Pakistan and also against the judgments of this Honourable Court.
- G. That the Appellant crave permission of this Honorable Tribunal to reply on other grounds at the time of arguments and produce any additional documents if required in support of instant petition.

It is, therefore, prayed that on acceptance of this Appeal, this Honorable Tribunal may kindly:

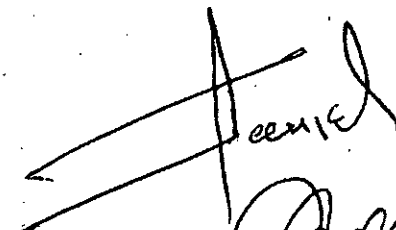
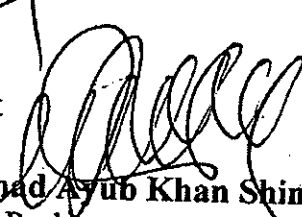
- a. Declare the impugned order 29.07.2020, whereby the appeal of the appellant against the Notification dated 19.10.2018 is dismissed as against the law, illegal, unlawful and without lawful authority; and
- b. Declare the discriminatory implementation of the Provincial Cabinet Decisions dated 24.05.2018 and 15.10.2018 by the respondents as illegal,


JED
Secretary
Service Tribunal
Karachi

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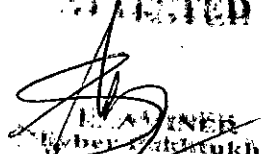
unlawful, without lawful authority and ineffective upon the rights of the Appellant; and

- c. Direct the respondents to extend the benefit of the Notification Dated 19.10.2018 to the Appellant by grant of Technical Allowance with effect from 1st November, 2018 with all back benefits.
- d. Any other relief which has not been superficially prayed for and deemed fit and appropriate by this Honourable Tribunal in the circumstances may graciously be granted.


Appellant 

Through

Muhammad Ayub Khan Shinwari
Advocate Peshawar

ATTESTED

WITNESSES
Muhammad Ayub Khan Shinwari
Advocate Peshawar

2



Service Appeal No.7856/2021


Shaheen Iqbal Vs. Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar & others.

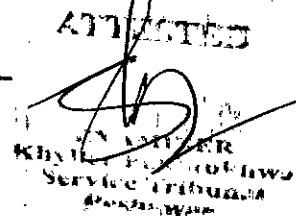
ORDER

24th July 2023

Kalim Arshad Khan, Chairman: Learned counsel for appellant present. Mr. Muhammad Jan, District Attorney for the respondents present.

2. Facts of the case are that appellant was serving as Water Management Officer in the Water Management Department. In the meanwhile, the Provincial Cabinet approved the grant of Technical Allowance to all the engineers serving the Provincial Government Departments w.e.f 01.07.2018. The appellant was under the expectancy that he would also get the same benefits, but to the utter surprise of the appellant, the said relief was granted only to the engineers serving in C&W, Irrigation, PHE and Local Government Department; that the same benefit was also extended to the colleagues of the appellant serving in the Mines & Minerals Department and respondent No.4 vide letter dated 16.07.2021, also requested respondent No.3 for grant of the said benefit to the appellant. The appellant filed departmental appeal to the respondents for redressal of the issue but in vain. Thereafter, he filed writ petition before the Hon'ble Peshawar High Court, which was decided with direction to the respondents to decide the departmental appeal which was later on decided in the shape of rejection, hence, this appeal.




ATTACHED

KHYBER PAKHTUNKHWA
Service Tribunal
Peshawar

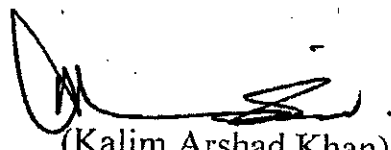
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3. Today, during the pendency of a similar nature appeal No.16227/2020 titled "Engineer Arshad Ali & 56 others Vs. Government of Khyber Pakhtunkhwa" the respondents despite rejection of departmental appeal, had extended grant of Technical Allowance to the appellants of those appeals, but w.e.f 07.07.2021. Those matters were remitted to the department for consideration of their request to give effect to the Notification dated 07.07.2021 from 19.10.2018. As the same Technical Allowance has been sought in this appeal also, therefore, the learned counsel for the appellant says that the appellant would be satisfied if this matter was also sent to the Government for consideration of request of the appellant in line with the similarly placed people.


4. In view of the situation, this appeal is also remitted to the respondents to consider the request of the appellant for similar treatment with the similarly placed civil servants and pass an appropriate speaking order under the law. Disposed of. Consign.

4. Pronounced in open Court at Peshawar under our hands and seal of the Tribunal on this 24th day of July, 2023.


(Fargana Paul)
Member (E)


(Kalim Arshad Khan)
Chairman

Mutazem Shah

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation _____
Number of Words _____
Copying Fee _____
Urgent _____
Total _____
Name of _____
Date of Completion _____
Date of _____

16/11/23

16/11/23
16/11/23

Director General,
On Farm Water Management, KP

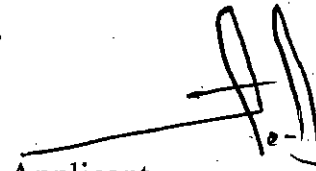
Subject : Application for implementation of Judgment dated 04-07-23 passed in Service Appeal No 7856/21

Sir,

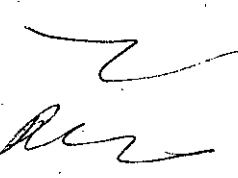
The applicant humbly submits as follows:

1. That the undersigned is working under your kind control as District Officer On Farm Water Management, Distt Mohmand.
2. That I had filed a Service Appeal No 7856/23 before the KP Service Tribunal which has been decided vide judgment dated 04-07-23. A copy of the same is enclosed herewith for your further kind perusal and necessary action.

It is, therefore, requested that the title Judgment may kindly be implemented in favor of the applicant.

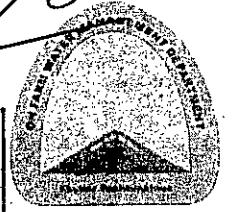

Applicant, 7/8/23
Engr Shaheen Iqbal,
Distt Officer, OFWM, Mohmand

Received
D/no 22/11
7/8/23
B

Attested




**DIRECTORATE GENERAL
ON FARM WATER MANAGEMENT
KHYBER PAKHTUNKHWA, PESHAWAR**



www.ofwm.kp.gov.pk
<https://twitter.com/dgofwmkp>
<https://www.facebook.com/dgofwmkp> 091-9224307-08/Fax 0919224370

No. 1851 /DG/OFWM/Estt: dated Peshawar the, 17/08/2023
To

The Secretary,
Government of Khyber Pakhtunkhwa,
Agriculture department,
Peshawar.

Attention: Section Officer Litigation.

Subject: - **ORDER DATED 24-07-2023 OF HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR IN APPEAL NO. 7856/2021 TITLED
"SHAHEEN IQBAL VS GOVT. OF KHYBER PAKHTUNKHWA"**

Memo,

Please refer to the subject cited above and to state that the subject Service Appeal was fixed before the honourable Khyber Pakhtunkhwa Service Tribunal, Peshawar which has been remanded by the honourable Khyber Pakhtunkhwa Service Tribunal to the respondents.

Therefore, the above noted order of the honourable Khyber Pakhtunkhwa Service Tribunal, Peshawar along with working paper is enclosed herewith for favour of information and further necessary action, please

Encl. As stated

Attested
[Signature]
[Signature]

Director General,
On Farm Water Management,
Khyber Pakhtunkhwa, Peshawar.

[Signature]

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DIRECTORATE GENERAL
ON FARM WATER MANAGEMENT
KHYBER PAKHTUNKHWA, PESHAWAR

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091-9224307-08/Fax 0919224370

WORKING PAPER

Subject: - **ORDER DATED 24-07-2023 OF HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR IN APPEAL NO. 7856/2021 TITLED "SHAHEEN IQBAL VS GOVT. OF KHYBER PAKHTUNKHWA"**

Enclosed please find herewith order dated 24-07-2023 passed by the honourable Khyber Pakhtunkhwa Service Tribunal, Peshawar in the above cited appeal wherein, the honourable court remanded the same to the department with the directions that" "In view of the situation, this appeal is also remitted to the respondents to consider the request of the appellant for similar treatment with the similarly placed civil servants and pass an appropriate speaking order under the law. Disposed of (Annex-A).

Brief history and facts of the case are submitted as under

- That the appellant Mr. Shaheen Iqbal was working as Water Management Officer (BS-17) in On Farm Water Management wing of Agriculture department since 24-11-2004 (now promoted to BS-18).
- That in pursuance to decisions of Provincial Cabinet in the meetings held on 24.05.2018 and 15.10.2018 regarding approval / authorization of Technical Allowance (@ rate of 1.5 times of the initial Basic Pay Scale) the Government of Khyber Pakhtunkhwa Finance Department (Regulation Wing) vide notification dated 19.10.2018 sanctioned technical allowance to the Engineers holding Engineering qualification from the accredited engineering program of Higher Education Institutions (HEI) / Universities duly recognized by Higher Education Commission (HEC) and registered with Pakistan Engineering Council (PEC), serving against the sanctioned posts in the C&W, Irrigation, Public Health Engineering and Local Government Department (copy of Finance Department notification dated 19-10-2018 attached **Annex-B**).
- That thereafter, the appellant filed writ petition before the honourable Peshawar High Court Peshawar to extend the benefit of the notification dated 19-10-2018 to the petitioner by grant of Technical Allowance. The honourable Peshawar High Court Peshawar vide order dated 12-02-2020 disposed of the petition by directing the respondents to decide the appeals

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of petitioners pending over there, within a shortest possible time in accordance with relevant law (**Annex-C**). The concerned competent authority vide order dated 29-07-2020 regret the appeal of the petitioners (copy of order dated 29-07-2020 attached **Annex-D**).

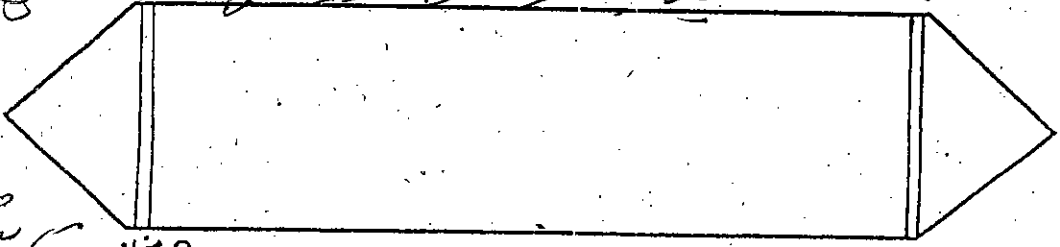
- That the appellant Mr. Shaheen Iqbal then filed the instant appeal in the honourable Khyber Pakhtunkhwa Service Tribunal for grant of technical allowance in which all the facts and grounds were provided to the honourable Tribunal, Para-wise comments duly vetted was filed (copy of comments attached **Annex-E**).
- The honourable Khyber Pakhtunkhwa Service Tribunal Peshawar on 24-07-2023 remanded the pending appeal of Mr. Shaheen Iqbal to the respondents, therefore, the above noted factual position and decision of honourable Khyber Pakhtunkhwa Service Tribunal (**Annex-A**) submitted for favour of information and submission to the competent authority for passing an appropriate speaking order in the matter.

Director General
On Farm Water Management
Khyber Pakhtunkhwa, Peshawar

Attested

[Handwritten signature]

بعد التماس رسالہ نمبر ۱۲۲۰۱۲



۲۰ بجانب سے لکھو

جے ایس ایس اے بنام گورنمنٹ

موزخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکھ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ

آن مقام کے لئے ~~مقرر~~ کیے

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 ثالثہ فیصلہ بر حلقہ دیئے جواب دہی اور اقبال دعویٰ اور

بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق

ذرا میں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی

نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور

کے کل یا جزوی 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 باختیارات حاصل ہوں گے اور اس کا ساختہ

پر داختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔

کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی

مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ مندر ہے۔

المرقوم ۲۱/ ۱۰/ ۲۰۲۸

واہ الع

مقام کے لئے منظور ہے۔

تتمین احوال