

Form- A

FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 940/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	01.12.2023	<p>The implementation petition of Mr. Akhtar Sher Bacha submitted today by him. It is fixed for implementation report before Single Bench at Peshawar on <u>6-12-2023</u> Original file be requisitioned. AAG has noted the next date.</p> <p>By the order of Chairman</p> <p>REGISTRAR</p>

BEFORE THE SERVICE TRIBUNAL K.P. PESHAWAR/ CAMP
COURT MINGORA SWAT.

E.P. No. 940/2023
Misc: application No. _____/2023.

1. Akhatar Sher Bacha Class IV G.P.S. Ochar Matta
Swat.....Appellant.

VERSUS.

2. District Education Officer Male Swat and
others.....Respondents.

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اکھتار شہر بچا

Akhatar Sher Bacha.....Appellant

Through

Umar Khitab advocate/High Court/ Mingora

Bench. Cell No. 0345-9524854.

(1)

BEFORE THE SERVICE TRIBUNAL K.P. PESHAWAR CAMP
COURT MINGORA SWAT.

Implementation application No, 940 /2023.

Khyber Pakhtunkhwa
Service Tribunal

Service appeal No. 817/2023.

Diary No. 9655

Dated 1-12-2023

1. Akhatr Sher BACHA Class IV Government Primary school
Ochar Matta Swat.....Petitioner.

VERSUES.

1. District Education officer Male Swat and
others.....Respondents.

APPLICATION FOR IMPLEMENTATION
IN SERVICE APPEAL NO, 817-/2023 FOR
OF JUDGMENT DATED 02/10//2023 PASSED
BY SERVICE TRIBUNAL K.P. PESHAWAR IN
CONNECTION TITLED SERVICE APPEAL.

Respectfully Sheweth,

Briefs facts given to the instant petition are as under.

1. That the appellant / petitioner filed the Service appeal bearing No, 817/2023 titled " Akhat Sher Bacha Versus Secretary Elementary and secondary Education Peshawar and others " and after hearing this Honorable Tribunal disposed of the Service appeal vide judgment dated 02/10/2023 with specific direction to Respondent No, 3 (Copy of judgment as Annex: A)

2. That the appellant / petitioner approached the concerned office (District Education Officer Male Swat) where the judgment was communicated along with application vide diary No, 995 dated 30/10/2023 but till date the respective grievance of the appellant / Petitioner did not decide the matter in the light of judgment passed by this Honorable service Tribunal. (Application dated 30/10/2023 as Annex: B)

2. That the appellant / Petitioner repeatedly visited the concerned office but no head was paid to his request for deciding his case nor the respondents are taking interest to decide the issue.

3. That being aggrieved the petitioner prefer this Petition

GROUNDS.

A) That not implementation of judgment of this Honorable Tribunal by the Respondents is arbitrary, mechanical and with out showing any obedience and respect of the pronouncement of this Honorable service tribunal.

B.)That the applicant/ Petitioner properly handed over the Judgment of this Honorable Tribunal to Respondent No, 3 but the Respondent No,3 has not honor the same judgment..

C) That the Respondents clearly violated the judgment this Honorable Tribunal and the demand of justice is to be proceeded him in accordance with law as no one is above the law and all the citizen be treated and proceeded according to the mandate of Constitution.

D) That any other grounds may be adduced during the course of arguments, with the kind permission of this Honorable Tribunal.

Prayer.

It is therefore, humbly prayed that acceptance of the petition, the Respondent No,3 (District Education officer Male Swat may kindly be directed to implement the order dated 02/10/2023 this Honorable Tribunal judgment passed in connection of Service appeal 817/2023..

✓ اڪھتار شير باچا
Akhtar Sher Bacha.....Petitioner
Through
Umar Khitab advocate High court/
Darulqaza Mingora Bench Swat.
Cell No. 0345-9524854

BEFORE THE SERVICE TRIBUNAL KHYBER
PUKHOONKHWA PESHAWAR CAMP COURT
MINGORA SWAT.

Application. _____/2023.

1. Akhatar Sher Bacha Class IV Government Primary
school Ochar Matta Swat.....Appellant.

VERSUES.

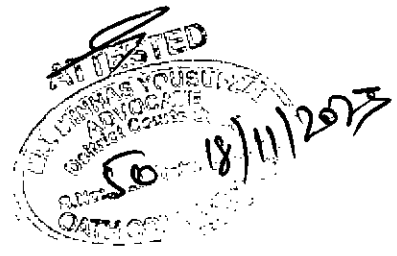
1.The District Education officer Male & others...Respondents.

AFFADAVIT.

It is stated on oath that the contents of this application
are true and correct to the best knowledge and belief.
Moreover, no such like ~~Implementation~~ Implementation application
is pending before this Honorable Service Tribunal K.P.
Peshawar camp court Swat.

اکھتار شہر بابا

Akhatar Sher Bacha.....Appellant..



(1)

BEFORE THE SERVICE TRIBUNAL KHYBER PUKTOONKHWA
PESHAWAR.

Service appeal No 817 /2023.

**Akhar Sher Bacha class Iv Government Primary
School Ochar Matta Swat.....Appellant.**

Versues.

- 1. The Secretary Elementary and Secondary Education
Khyber Pukhtoonkhawa Peshawar.**
- 2. The Director Elementary and Secondary Education
Khyber Pukhtonkhawa Peshawar.**
- 3. The District Education Officer Male Elementary and
Secondary Education Swat.....Respondents.**

**APPEAL UNDER SECTION 4 OF SERVICE
TRIBUNAL Act,1974 AGAINST THE IMPUGNED PARA
"THAT THE INTERVENING PERIOD IS TREATED WITH
OUT PAY" VIDE REINSTATMENT ORDER NO,3865-68
DATED 12/12/2022 ISSUED BY RESPONDENT NO.3.
THE DEPARTMENTAL APPEAL SUBMITTED TO
RESPONDENT NO.2 DATED 6/01/2023 WHICH IS NOT
YET BEEN DECIDED.**

PRAY IN APPEAL.

**On the acceptance of instant appeal the
Respondent No.3 order No,3865-68 dated
1/12/2022 in respect of reinstatement Para "
that the intervening period is treated with out
Pay may kindly be declare/consider null and
void and the Respondent No.3 may kindly be
directed to declare the mentioned Para is
consider/declare " is on full pay/ on duty" and
issue the corrigendum in the re instatement
order of the appellant with all back benefits.**

Respectfully Sheweth,

Annex: A

4

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR.
AT CAMP COURT SWAT.

Service Appeal No. 817/2023

Date of Institution ... 22.02.2023

Date of Decision... 02.10.2023



Akhtar Sher Bacha Class-IV Government Primary School Ochal Matta Swat.
... (Appellant)

VERSUS

The Secretary Elementary & Secondary Education, Khyber Pakhtunkhwa,
Peshawar and-02 others. ... (Respondents)

MR. UMAR KHITAB,
Advocate

--- For appellant.

MR. INAYATULLAH KHAN,
Assistant Advocate General

--- For respondents.

MR. SALAH-UD-DIN
MRS. RASHIDA BANO

--- MEMBER (JUDICIAL)
--- MEMBER (JUDICIAL)

JUDGMENT:

SALAH-UD-DIN, MEMBER:- Precise facts giving rise to filing of the instant appeal are that the appellant was appointed as Class-IV employee vide appointment order dated 26.11.2003. He was charged in case FIR No. 547 dated 29.10.2007 under sections 324/353/120-b/124-A, 436/427 PPC read with 3/4E.S.A/ 7ATA Police Station Kabal District Swat. The appellant was taken into custody by Pak-Army on 16.09.2009 and was released on 16.10.2018. Vide order dated 21.02.2019, he was also discharged by Judge Anti-Terrorism Court-I Malakand Division Swat in the criminal case registered against him. On 06.05.2019, the appellant submitted an application to the District Education Officer (Male) Swat for his adjustment, however an inquiry committee was constituted, which

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

conducted inquiry in the matter and submitted its recommendations to the District Education Officer (Male) Swat. On receipt of the recommendations, District Education Officer (Male) Swat issued show-cause notice to the appellant, however no order was passed on the inquiry report. The appellant was not adjusted against his post, therefore, he approached this Tribunal by way of filing Service Appeal No. 5790/2021, which was disposed of vide order dated 08.11.2022 in the following terms:-

"During the course of arguments, a consensus was developed that the appellant might make a fresh application to the District Education Officer (Male) Swat for redressal of his grievances, which if moved would be sympathetically considered and decided within next fifteen days in accordance with law. The appeal is disposed of in the above terms. The appellant is, however, at liberty to approach the court again if after considering his matter by the department, he still feels aggrieved of the same but in accordance with law. Consign.

2. Vide order bearing Endorsement No. 3865-68/P.F/891/M/DEO/ Swat dated 12.12.2022, the appellant was adjusted against his post, however the intervening period was treated as leave without pay. The appellant preferred departmental appeal against the same, however the same was not responded within the statutory period of 90 days, hence the instant service appeal.

3. On receipt of the appeal and its admission to regular hearing, respondents were summoned, who put appearance through

ATTESTED

EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

their representative and contested the appeal by way of filing written reply raising therein numerous legal as well as factual objections.

4. Learned counsel for the appellant has addressed his arguments supporting the grounds agitated by the appellant in his service appeal. On the other hand, learned Assistant Advocate General for the respondents has controverted the arguments of learned counsel for the appellant and has supported the comments submitted by the respondents.

5. We have heard the arguments of learned counsel for the parties and have perused the record.

6. A perusal of the record would show that upon submission of an application by the appellant for his adjustment on 06.05.2019, an inquiry committee was constituted for probe into the matter of absence of the appellant from duty. The report of the inquiry committee is available on the record, which would show that it has been affirmed during the inquiry that the appellant was in custody of Pak-Army with effect from 16.09.2009 to 16.10.2018. This fact has also been affirmed in the inquiry that the appellant has been discharged in the criminal case registered against him vide case FIR No. 547 dated 29.10.2007 under sections 324/353/120-b/124-A, 436/427 PPC read with 3/4E.S.A/7ATA Police Station Kabal District Swat. In such circumstances, the absence of the appellant from duty could not be considered as willful as he was unable to perform his duty being in custody of Pak-Army. Moreover, the available record does not show that any departmental action was taken against the appellant prior to

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

moving of an application by him for his adjustment. The District Education Officer (Male) Swat was thus not justified in treating the intervening period as leave with pay.

7. In view of the above discussion, the appeal in hand is allowed and the appellant is held entitled to all the salaries as well as other consequential benefits for the period with effect from 16.09.2009 till the date of passing of order of his reinstatement i.e 12.12.2022. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
02.10.2023

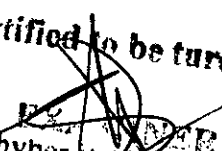


(SALAH-UD-DIN)
MEMBER (JUDICIAL)
CAMP COURT SWAT



(RASHIDA BANO)
MEMBER (JUDICIAL)
CAMP COURT SWAT

Naeem Amin

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of 25/10/23
Number of Pages Page = 4
Copying Fee 20/-
Urgent 5/-
Total 25/-
Name of Copy _____
Date of Copying 25/10/23
Date of Delivery of Copy 25/10/23

Amred 13 جناب ڈسٹرکٹ ایجوکیشن آفسر مردانہ ضلع سوات

درخواست بریں مردانہ سائل کے تعلقاً اور دیگر
مرامعات و نیم اکتوبر 2009 تا 11 دسمبر 2022 کو
حکم معزز سروسی ٹریبونل کے فی لٹیا اور رے
ادائیگی کیا گئے۔

جناب عالی! صبا ذیل ہے۔

1. برقم سائل گورنمنٹ پرائمری سکول اور چارمہ
سید ذبیر علی سرانجام دے رہا ہے

2. برقم سائل کے نیم اکتوبر 2009 تا 11 دسمبر 2022
تک تعلقاً اور دیگر مرامعات کے ادائیگی کے لئے
معزز سروسی ٹریبونل کے فی لٹیا اور میں ایک
سرکہ اپیل بی ی 817/2023 دائر کیا تھا۔

3. برقم معزز سروسی ٹریبونل کے فی لٹیا اور نے جس
10
2023 کو سائل کے حق میں حقیقہ صادر فرمایا ہے۔ اور

سائل کو نیم اکتوبر 2009 تا 11 دسمبر 2022 تک تمام تعلقاً
اور دیگر مرامعات دینے کے بھی احکامات جاری کیا ہے۔ حقیقہ لقمہ

(اور دیگر مرامعات دینے کے بھی احکامات جاری کیا ہے۔ حقیقہ لقمہ)

بہذا استہ عامہ۔ کہ حسب عنوان

راؤنسٹ کو فنڈز رومار مشور فرمایا جائے

attested

[Signature]

Umar Khitab
Advocate High Court.

التعمیر
الکثیر

آختر بیگم باجی جو کیدور

گورنمنٹ پرائمری سکول اور چارمہ سوات

نمبر 30
10
2023

995
30/10/23

بار کونسل نمبر 4519-22-5C	64143
بار ایسوسی ایشن نمبر: 585	یریل نمبر:
0341-8277077	
رابطہ نمبر:	
	ڈسٹرکٹ بار ایسوسی ایشن سوات

بعدالت جناب سرورس سٹریٹ ہسٹری لینڈ اور کمپن کورٹ سوات

مخانب: آپیلنٹ	دعویٰ اور خواست: اجرا
آختر شہر باجا	علت نمبر:
بنام ڈی۔ ای۔ او سردان	مورخ:
ملکوتہ وغینہ	جرم:
	تھانہ:

باعت تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے برائے پیروی مقدمہ

آن مقام **گلہ** کیلئے **فیسیم اذدر** کو مقرر کر کے اقرار کیا جاتا ہے، کہ صاحب موصوف کو مقدمہ کی کل کاروائی کو کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث کرنے دعویٰ، جواب دعویٰ، اقبال دعویٰ، اور درخواست برائے سرسبزی مقدمہ، منسوخی ڈگری یکطرفہ، اجراء و پیروی کرنے کا مختار ہوگا۔ نیز دائر کرنے اپیل نگرانی، نظر ثانی و پیروی کرنے کا مختار ہوگا۔ اور مقدمہ مذکورہ کیلئے کل وقتی یا جزوی کاروائی کیلئے کسی دیگر وکیل یا مختار قانون کو اپنے ہمراہ یا اپنے بجائے تقریر کا اختیار ہوگا اور صاحب مقرر شدہ کو بھی جملہ مذکورہ اختیارات حاصل ہوں گے، اور اس کا ساختہ و پرداختہ منظور قبول ہوگا، بدوران مقدمہ جو خرچہ و ہرجانہ کسی بھی سبب سے حاصل ہوگا، وہ وکیل موصوف وصول کرنے کا حقدار ہوگا، کوئی تاریخ پیشی مقام مذکورہ بالا سے باہر ہو، تو وکیل صاحب پیروی مقدمہ کرنے کے پابند نہ ہوں گے، مقدمہ کسی عدالت میں بعدم پیروی خارج ہونے یا ڈگری یکطرفہ ہونے کے صورت میں وکیل صاحب ذمہ دار نہیں ہوں گے، لہذا وکالت نامہ لکھ دیا کہ سندر ہے

مقام **گلہ** سرورس سٹریٹ سوات

مکے لئے منظور ہے۔
Accepted
S. Asad

ایڈوکیٹ دستخط:

المقوم:

آختر شہر باجا



