


Form- A  
FORM OF ORDER SHEET

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

Implementation Petition No. 891/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	29.11.2023	<p>The implementation petition of Mr. Aziz Ullah Jan submitted today by Mr. Nasir Mehmood 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**

CM No. \_\_\_\_\_/2022  
In  
Service Appeal No. 1118/2016

*E.P. 891/23*

Aziz Ullah Jan ..... Petitioner

Versus

Govt. of Khyber Pakhtunkhwa and others ..... Respondents

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Through

Applicant/Petitioner

*Nasir Mahmood*

Advocate Supreme Court.

Dated: 15.11.2023

①

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

CM No. \_\_\_\_\_/2023  
In  
Service Appeal No. 1118/2016

Aziz Hussain Jan, Additional Assistant (Revenue) Bannu.

.... Petitioner

Versus

1. Govt. of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. Govt. of Khyber Pakhtunkhwa through Secretary Establishment Department, Civil Secretariat, Peshawar.
3. Senior Member Board of Revenue, Civil Secretariat, Peshawar.
4. Provincial Selection Board through its Chairman.

..... Respondents

**APPLICATION FOR EXECUTION / IMPLEMENTATION**  
**OF THE JUDGMENT DATED 20.10.2021 PASSED IN**  
**SERVICE APPEAL NO. 1118/2016 TITLED AS "AZIZ**  
**ULLAH JAN VS GOVERNMENT OF KP AND OTHERS"**

**Respectfully Sheweth:**

1. That the above mentioned Service Appeal, was decided by this Hon'ble Tribunal vide judgment dated 20.10.2021 whereby the Service Appeal filed by the petitioner was

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allowed. (Copy of Order dated 20.10.2021 is attached as annexure "A"). *Petitioner also approached respondents but with no result (copy of the application annexure B)*

2. That the petitioner sought antidation of his promotion from the date when the regular post was available, which was allowed by this Hon'ble Tribunal in the following terms. For ready reference, para-7 of the judgment is reproduced as under:

***"7. In the light of above discussion, we allow this appeal and direct the official respondents to ante-date the promotion of appellant to the respective dated (October 2014) when he completed the required length of service. No order as to costs."***

It is, therefore, humbly prayed that on acceptance of this Application, the respondents may please be directed to implement the order dated 20.10.2021 passed in above titled Service Appeal No. 1118/2016, in the interest of justice.

Through

Applicant/Petitioner

  
**Nasir Mahmood**

Advocate Supreme Court.

Dated: 15.11.2023

**AFFIDAVIT**

I, do hereby solemnly affirm and declare on Oath that the contents of the Application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

  
Deponent

*Amor A* (3)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 1118/2016

Date of Institution ..... 31.10.2016  
Date of Decision ..... 20.10.2016



Aziz Ullah Jan, Additional Assistant Commissioner (Revenue)  
Bannu. .... (Appellant)

**VERSUS**

Government of Khyber Pakhtunkhwa, Chief Secretary Civil  
Secretariat Peshawar and three others. .... (Respondents)

Nasir Mehmood,  
Advocate ..... For Appellant.

Muhammad Rasheed,  
Additional Advocate General ..... For Respondents.

Rozina Rehman ..... Member (J)  
Atiq Ur Rehman Wazir ..... Member (E)

**JUDGMENT**

Rozina Rehman, Member(J) The appellant has invoked the jurisdiction of this Tribunal through the above titled appeal with the prayer as copied below:

"That on acceptance of the appeal, the act of the respondents by regularizing the service of appellant to the post of P.J.A.S Officer (B.P.S-17) w.e 27.05.2016 through impugned notification may be declared as illegal, without lawful authority, without jurisdiction, mala fide, void ab-initio and the respondents be directed to promote the appellant to the post of P.M.S (B.P.S-17) w.e 28.05.2013 with all back benefits."

**APPROVED**  
*[Signature]*  
MEMBER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

4

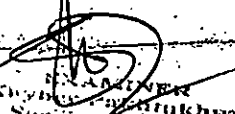
2. Brief facts of the case are that appellant was appointed as Tehsildar on 29.10.2011, where-after, he was promoted to the post of Provincial Management Service (P.M.S BS-17) on Acting Charge Basis vide Notification dated 21.03.2013. Appellant was then promoted to the post of P.M.S on regular basis with immediate effect vide Notification dated 27.05.2016 instead of antedating of his promotion to the date on which the vacancy fell to his turn in the seniority list. His departmental appeal was not responded to, hence, the present service appeal.

3. We have heard Nasir Mehmood Advocate learned counsel for appellant and Muhammad Rasheed learned Deputy District Attorney for the respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Nasir Mehmood Advocate learned counsel appearing on behalf of appellant, in support of appeal contended that the impugned order is against law, rules and material available on record, therefore, the impugned order maybe modified and the appellant may be promoted as P.M.S (B.P.S-17) from the date the appellant was eligible and vacancies were available in his quota. He contended that if a post is available in promotion quota, the civil servant should be promoted on regular basis from the date he becomes eligible and vacancies were available in his quota. He submitted that the Department delayed promotion case of the appellant for no good reason and he was promoted vide impugned order with a delay of almost two years.

5. Conversely, learned Deputy District Attorney argued that appellant was appointed as Tehsildar (B.P.S-16) on 29.10.2011 and he completed the required length of service on 28.10.2014 while he was

TESTED

  
JUDGE  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

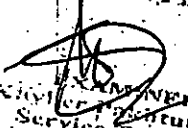
3

(5)

appointed on Acting Charge Basis on 21.03.2013 and that at the time of appointment on Acting Charge of the appellant, there were eleven regular posts falling in the share quota of Tehsildar while appellant was at Serial No.10 of the panel. He argued that promotion is always with immediate effect under the rules, therefore, appellant was not entitled for regular promotion to the post of P.M.S (B.P.S-17) w.e.f 21.03.2013 under the rules.

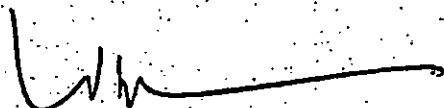
6. Perusal of record would reveal that appellant was appointed as Tehsildar on 29.10.2011. The prescribed length of service for promotion is three years. Meeting of P.S.B was held on 15.05.2013, wherein, the board observed that appellant had not completed prescribed length of service required for promotion, therefore, he was not recommended for regular promotion. He completed the required length of service on 28.10.2014 but was promoted to the post of P.M.S (B.P.S-17) on regular basis vide notification dated 27.05.2016 with immediate effect. The appellant is mainly aggrieved of his promotion with immediate effect and not from the date when he became eligible for promotion in October, 2014 and post was available in his quota. The promotion of appellant was delayed by the respondents for no fault of the appellant and he/appellant must not suffer for the fault of the respondents. Reliance is placed on Government of Punjab through Secretary Education & one another Vs. Rana Ghulam Sarwar reported in 1997 S.C.M.R and Muhammad Amjad Vs. Dr. Iqbal Ahmad reported in 2010 P.L.C (C.S) 760, wherein, it was held by the apex Court that civil servant is eligible for promotion from the date, when he becomes eligible for such promotion and substantive vacancy in promotion quota is also available.

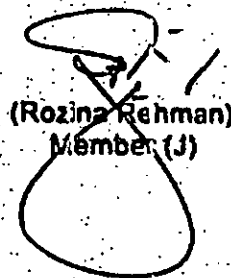
ATTESTED

  
KIVIL KAMINER  
Service Tribunal  
Peshawar

7. In the light of above discussion, we allow this appeal and direct the official respondents to ante-date the promotion of appellant to the respective date (October, 2014) when the appellant completed the required length of service. No order as to costs, file be consigned to the record room.

**ANNOUNCED**  
20.10.2021

  
(Atiq Ur Rehman Wazir)  
Member (E)

  
(Rozina Rehman)  
Member (J)

Certified to be true copy

  
Atiq Ur Rehman Wazir  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

22-10-21  
Date of Presentation of Application: \_\_\_\_\_  
Number of Words: 2000  
Copying Fee: 22/-  
Urgent: \_\_\_\_\_  
Total: 22/-  
Name of Copyist: \_\_\_\_\_  
Date of Completion of Copy: 11/11/21  
Date of Delivery of Copy: 11/11/21



To, .....

The Honorable Chief Secretary,  
Govt of Khyber Pakhtunkhwa,  
Civil Secretariate Peshawar.

Annex B

Subject:- EXECUTION APPLICATION FOR IMPLEMENTATION OF JUDGEMENT DATED 20-10-2021 IN SERVICE APEAL NO.1120/2016 TITLED TARIQ HUSSAIN VS CHIEF SECRETARY KHYBER PAKHTUNKHWA & OTHERS.

Respected Sir,

With due respect, it is submitted that the undersigned preferred Service Appeal dated 31-10-2016 (Annex-A) before the Service Tribunal, Khyber Pakhtunkhwa, against Impugned notification No.SO E-II (ED) & (192/104) dated 27-05-2016 whereby the applicant was promoted to the post of PMS BPS-17 with immediate effect instead of 28-05-2013.

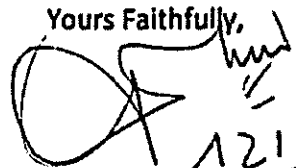
Consequently, Khyber Pakhtunkhwa Services Tribunal announced its judgment dated 20-10-2021 (Annex-B) vide which the Hon'ble Tribunal allowed the appeal of the applicant. The operative part of the judgment is reproduce as under.

" In the light of discussion , we allow this appeal and direct the official respondents to ante-date the promotion of applicant to the respective date (October, 2014) when the applicant completed the required length of service. No order as to costs. File be consigned to the record room".

Keeping in view the above, it is requested that the judgment dated 20-10-2021 of the Khyber Pakhtunkhwa Service Tribunal may very kindly be implemented, well in time as per judgment of competent forum.

I shall be very grateful.

Yours Faithfully,

  
19/11/2021  
1212

Azizullah Jan (PMS BPS-17)

Presently working as Assistant Commissioner Kulachi  
District Dikhan.

Copy forwarded to:

The Secretary to Government of Khyber Pakhtunkhwa, Establishment Department for information & accordingly necessary action accordingly, please.

Azizullah Jan (PMS BPS-17)  
Assistant Commissioner Kulachi.

# وکالت نامہ

(3)

قیمتی ایک روپیہ		کورٹ فیس
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سرور ایشیا سولہ کراچی پشاور

منجانب یوسف

نام گوند غنیمت آف کراچی

دعوی یا جرم \_\_\_\_\_

تفصیل دعوی یا جرم \_\_\_\_\_

## باعث تحریر آنکہ

مقدمہ مندرجہ بالا عنوان میں اپنی طرف واسطے بروری و جواب دہی برائے پیشی یا تصفیہ مقدمہ بنام غریب انجمان

کو حسب ذیل شرائط پر وکیل مقرر کیا ہے کہ میں پیشی پر خود یا بڑا بذریعہ رو برو عدالت حاضر ہوتا رہوں گا اور ہر وقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا اگر پیشی پر منظر حاضر نہ ہو اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے نیز وکیل صاحب موصوف صدر مقام پکھری کے علاوہ یا پکھری کے اوقات سے پہلے یا پیچھے یا بروز تعطیل بروری کرنے کے ذمہ دار نہ ہوں گے اور مقدمہ صدر پکھری کے علاوہ اور جگہ ساعت ہونے یا بروز تعطیل یا پکھری کے اوقات کے آگے یا پیچھے پیش ہونے پر منظر کوئی نقصان پہنچے تو اس کے ذمہ دار یا اسکے واسطے کسی معاوضہ کے ادا کرنے یا محنت نہ دہاؤں کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے مجھ کو کل ساختہ پر واختم و اجابت موصوف مشل کردہ ذات خود منظور قبول ہو گا اور صاحب موصوف کو عرض دعوی یا جواب دعوی یا درخواست اجراء اسلئے ڈگری نظر ثانی اپیل گمرانی و ہر قسم درخواست ہر قسم کے بیان دینے اور پر پاشی یا راضی نامہ و فیصلہ برصاف کرنے اقبال دعوی کا بھی اختیار ہو گا اور بصورت مقرر ہونے تاریخ پیشی مقدمہ مقرر ہر روز از پکھری صدر بروری مقدمہ مقرر نظر ثانی اپیل و گمرانی و برآمدگی مقدمہ یا مستوفی ڈگری یک طرفہ یا درخواست حکم اتمامی یا قرتی یا گرفتاری قبل از فیصلہ اجراء ڈگری بھی صاحب موصوف کو بشرط ادا سنگی علیحدہ مختصم بروری کا اختیار ہو گا اور تمام ساختہ پرداخت صاحب موصوف مشل کردہ از خود منظور و قبول ہو گا اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہو گا کہ مقدمہ مقررہ یا اس کے کسی جزو کی کارروائی یا بصورت درخواست نظر ثانی اپیل گمرانی یا دیگر معاملہ و قدمہ مذکورہ کسی دوسرے وکیل یا بیرٹر کو اپنے بجائے یا اپنے ہمراہ مقرر کریں اور ایسے مشیر قانون کو بھی ہر امر میں وہی اور ویسے اختیارات حاصل ہوں گے جیسے صاحب موصوف کو حاصل ہیں اور دوران مقدمہ میں جو کچھ ہر جگہ التواہ پڑے گا وہ صاحب موصوف کا حق ہو گا مگر صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہو گا کہ مقدمہ کی پروڈی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا

Accepted By

*[Handwritten Signature]*

مورثہ \_\_\_\_\_ ماہ \_\_\_\_\_

مضمون وکالت نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے

*[Handwritten Signature]*