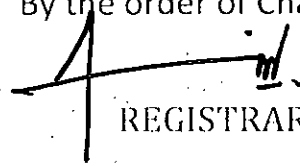


Form- A
FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 939/2023

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. Shafi Ullah received today by registered post through Sheikh Iftikhar ul Haq Advocate. It is fixed for implementation report before touring Single Bench at D.I.Khan on _____ . Original file be requisitioned. AAG has noted the next date.</p> <p>By the order of Chairman  REGISTRAR</p>

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
CHECK LIST

Case Title: Shafi'ullah vs Govt of K.P.K

S.#	Contents	Yes	No
1.	This appeal has been presented by: _____		
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 pagged?		
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 A C D A G?		
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 cuttings/overwriting?		
17.	Whether list of books has been provided at the end of the appeal?		
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: Shafi'ullah

Signature: [Signature]

Dated: 29.11.2025

0345-9808302

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL CAMP COURT DERA ISMAIL KHAN**

Implementation Petition No. 939 of 2023

In Service Appeal No. 690/2016

Decided on 28/09/2022

Shafi Ullah

Versus

Govt. of KPK etc

INDEX

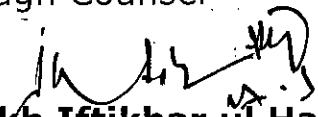
Sr. #	Particulars of Documents	Annexure	Page
1.	Grounds of implementation Petition along with affidavit	--	1-4
2.	Copies of the order dated 28/09/2022	A	5-11
3.	Copies of the order dated 19/10/2023	B	- 12 -
4.	Vakalat Nama	--	13

Date: 29/11/2023

Yours Humble Petitioner


Shafi Ullah

Through Counsel


Sheikh Iftikhar ul Haq
Advocate Supreme Court

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL CAMP COURT DERA ISMAIL KHAN**

Implementation Petition No. 939 of 2023

In Service Appeal No. 690/2016

Decided on 28/09/2022

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 9653

Dated 1-12-2023

Shafi Ullah son of Sher Khan r/o Wanda Noorak Tehsil
Paharpur District Dera Ismail Khan. Cell#0345-9808302

..... **Petitioner**

VERSUS

1. Government of KPK, Through Secretary Elementary & Secondary Education Peshawar.
2. The Director (E&S) Education Khyber Pakhtunkhwa Peshawar.
3. District Education Officer (Male) Dera Ismail Khan.
4. District Accounts Officer Dera Ismail Khan.

..... **Respondents**

**PARTIAL IMPLEMENTATION PETITION UNDER KHYBER
PAKHUNKHWA SERVICE TRIBUNAL ACT 1974 READ WITH
KPK SERVICE TRIBUNAL SERVICE TRIBUNAL RULES 1974 AS
AMENDED FOR PARTIAL IMPLEMENTATION OF THE
ORDER/JUDGMENT IN SERVICE APPEAL NO. 690/2016
DECIDED ON 28/09/2022 BY THIS HONOURABLE TRIBUNAL.**

Respectfully Sheweth:-

The Petitioner most respectfully submits as under:-

1. That the appellant was appointed as Naib Qasid on 01/04/2011 against the vacant post of Class-IV in GMS Jhok Mohana Tehsil Paharpur Dera Ismail Khan.

2. That the appellant was performing his duties to the entire satisfaction of his high-ups and never absented himself throughout his service career.
3. That on 31/12/2011, the appellant was terminated from service against which the appellant submitted departmental appeal which was not accepted and after that lastly the service appeal No. 609/2016 was preferred by the appellant before this Honourable Tribunal and the learned Tribunal was pleased to accept the service appeal by setting aside the impugned order and the appellant was reinstated into service with all back benefits vide judgment dated 28/09/2022. Copies of the judgment are annexed as **Annexure-A**.
4. That at that time the respondents were not implementing the order dated 28/09/2022, although the appellant submitted application on 31/12/2022 vide dairy No. 10719, hence, the petitioner submitted implementation petition at that time wherein the Honourable Tribunal was please to issue order dated 19/10/2023 vide which the execution petition was filed however, the petitioner was directed to file afresh application for revival of the proceedings. Copies of the order dated 19/10/2023 are annexed as **Annexure-B**.
5. That now the respondents especially respondent#3&4 are reluctant to obey the order of this honourable Tribunal in letter and spirit just on the basis of ulterior motives and under table settlement, hence, the instant petition.

GROUND

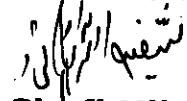
- A. That the acts and omissions of the respondents authorities to not obeyed/implement the order of this honourable tribunal in its true letter and spirit are clear cut violation of law, statutes and constitution.
- B. That lame excuses on behalf of respondents/authorities are not maintainable and respondents are required to implement the judgment of this honourable Tribunal in its true letter and spirit.

C. That the Counsel for the Petitioner may kindly be allowed to raise further legal grounds during the course of arguments.

It is therefore, humbly requested that the respondents be directed to partially implement the judgment/order of this honourable tribunal dated 28/09/2022 in its true letter and spirit.

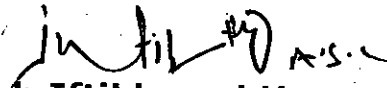
Date: 29 /11/2023

Yours Humble Petitioner



Shafi Ullah

Through Counsel



Sheikh Iftikhar ul Haq
Advocate Supreme Court

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL CAMP COURT DERA ISMAIL KHAN**

Implementation Petition No. 939 of 2023

In Service Appeal No. 690/2016

Decided on 28/09/2022

Shafi Ullah

Versus

Govt. of KPK etc

AFFIDAVIT

I, **Shafi Ullah** son of Sher Khan r/o Wanda Noorak Tehsil Paharpur District Dera Ismail Khan, do hereby solemnly affirm and declare on oath that contents of above Petition are true & correct to the best of my knowledge and that nothing has been concealed from this Honourable Court.

Dated: 29/11/2023


DEPONENT

Identified by:


Sheikh Iftikhar ul Haq
Advocate Supreme Court

5
①



BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR.

Service Appeal No. 690/2016

Khyber Pakhtunkhwa Service Tribunal

Diary No. 673

Dated 27-6-2016

Shafi Ullah S/o Sher Khan R/o Wanda Noorak Tehsil Paharpur District Dera Ismail Khan (KPK).

.....(Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa, through the secretary Education Peshawar.
2. Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (Male), Elementary & Secondary Education Dera Ismail Khan.

.....(Respondents)

SERVICE APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE ORDER DATED 31/12/2011, ISSUED / PASSED BY RESPONDENT NO. 3 WHEREBY THE SERVICE OF THE APPELLANT WAS TERMINATED DUE TO ALLEGED ABSENCE FROM SERVICE FROM 02/04/2011. VIDE ORDER NO. 17876-80, IN VIOLATION OF LAW, RULES AND NOTHING BUT MALAFIDES.

PRAYER:-

ON ACCEPTANCE OF THE INSTANT APPEAL THE IMPUGNED ORDER RESPONDENT NO. 3 MAY BE SET-ASIDE AND APPELLANT MAY BE ALLOWED TO CONTINUE HIS SERVICES IN YOUR INCUMBENCY AS NAIB QASID BPS-1 WITH ALL BACK BENEFITS.

[Handwritten signature]
A.W.

ATTESTED
[Handwritten signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Respectfully Sheweth:-

day
16/16

The appellant very humbly submits as under:-

That the appellant was appointed as Naib Qasid BPS-1 (Class-IV) vide appointment order Endst No. 4573-76 dated DIKhan the 01/04/2011 at G.M.S

6

Ann - 'A'

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR
AT CAMP COURT D.I. KHAN

Service Appeal No. 690/2016
Date of Institution... 27.06.2016
Date of Decision... 28.09.2022



Shafi Ullah S/O Sher Khan. R/O Wanda Noorak Tehsil Paharpur District Dera Ismail Khan (KPK).
... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa, through the Secretary Education Peshawar and 02 others.
... (Respondents)

MR. SHAIKH IFTIKHAR-UL-HAQ, Advocate	---	For appellant.
MR. ASIF MASOOD ALI SHAH, Deputy District Attorney	---	For respondents.
KALIM ARSHAD KHAN MR. SALAH-UD-DIN	---	CHAIRMAN MEMBER (JUDICIAL)

JUDGMENT:

SALAH-UD-DIN, MEMBER: Precisely stated the facts as narrated in the instant appeal are that the appellant was appointed as Naib Qasid vide appointment order bearing Endst. No. 4573-76 dated 01.04.2011 against the vacant post of Class-IV at GMS Jhoke Mohana. The appellant submitted charge report and started performing his duty in the concerned school. The appellant also drew his salary with effect from 01.04.2011 till 31.01.2012 from National

ATTESTED

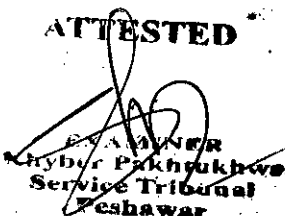
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Bank of Pakistan Bar Branch Baharpur Dera Ismail Khan. The services of the appellant were terminated vide order dated 31.12.2011, which was challenged by the appellant through filing of departmental appeal, however the same was not responded, therefore, the appellant filed Service Appeal No. 1290/2012 before this Tribunal. The same was disposed of vide order dated 22.02.2016 with the observations that the case is remitted to the respondent-department with the direction to decide the departmental appeal of the appellant within a period of one month. The departmental appeal of the appellant was, however not decided within the time specified in the judgment dated 22.02.2016 of this Tribunal, therefore the appellant submitted the instant service appeal. It was during the pendency of the instant service appeal, that the departmental appeal of the appellant was decided vide order dated 23.01.2017 constraining the appellant to file amended appeal, wherein the order dated 23.01.2017 regarding dismissal of departmental appeal of the appellant was also challenged.

2. Notices were issued to the respondents, who submitted their comments, wherein they denied the assertions made by the appellant in his appeal.

3. Learned counsel for the appellant has contended that the appellant was appointed as Naib Qasid on regular basis vide appointment order dated 01.04.2011 and he assumed the charge of his post at Government Middle School Jhoke Mohana on the same date; that after fulfillment of all legal and codal formalities, the pay

ATTESTED


 P. A. B. KHAN
 Member
 Service Tribunal
 Peshawar

of the appellant was activated and he received his salary even after his termination from service vide order dated 31.12.2011; that the order of termination of service of the appellant was never communicated to him and it was after gaining knowledge of the same, that he submitted departmental appeal; that the appellant had never remained absent from duty but he was wrongly and illegally terminated from service on the ground of his absence from duty; that the procedure as prescribed in Rule-9 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 was not complied with and the appellant was condemned unheard; that the appellant was though appointed as Naib Qasid, however he was deputed for performing his duty, as Driver with the then EDO (Elementary & Secondary) Education D.I.Khan; that the appellant was wrongly and illegally terminated from service due to mala-fide intention as he had asked the then EDO (Elementary & Secondary) Education D.I.Khan that he may be relieved to perform his duty in the school; that fundamental rights of the appellant as enshrined in Articles 4 & 25 of the Constitution of Islamic Republic of Pakistan, 1973 have been violated.

4. On the other hand, learned Deputy District Attorney for the respondents has argued that after taking of the charge of his post, the appellant remained absent from duty, therefore, disciplinary action was taken against him; that the appellant did not attend his duty despite being summoned through show-cause notice as well as publication of absence notice in the newspaper, therefore, ex-parte

ATTESTED

 EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

action was taken against him in accordance with the relevant rule; that as the appellant had failed to complete his probation period satisfactorily, therefore, he has rightly been terminated from service.

5. Arguments have already been heard and record perused.

6. It is an admitted fact that the appellant was appointed as Naib Qasid vide appointment order dated 01.04.2011 and he assumed the charge of his post in Government Middle School Jhoke Mohana on the same date. The appellant was terminated from service vide order dated 31.12.2011 on the allegations that he remained absent from duty with effect from 02.04.2011. According to the available record, show-cause notice No. 16002 dated 18.11.2011 was issued to the appellant by the then Executive District Education Officer Dera Ismail Khan, which was followed by publication in newspaper "Daily Dardar" but the appellant did not attend his duty. According to Rule-9 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, competent Authority was required to have issued notice to the appellant through registered acknowledgement on his home address but the competent Authority has failed to adopt such procedure. Moreover, as per the *ibid* Rule-9, publication of notice was required to have been made in at least two leading newspapers but in the instant case, publication has been made only in one local newspaper. The competent Authority has failed to comply with provision of Rule-9 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline)

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Rules, 2011, which fact has created material dent in the departmental proceedings taken against the appellant.

7. The appellant had previously challenged the order of his termination through filing of Service Appeal No. 1290/2012 before this Tribunal, which was disposed of vide order dated 22.02.2016 with the directions that the respondent-department shall decide the departmental appeal of the appellant within a period of one month of receipt of the order. The departmental appeal of the appellant was not decided, therefore, he filed an application dated 08.03.2016 to the District Education Officer D.I.Khan requesting therein for decision of his departmental appeal in light of directions of this Tribunal passed vide order dated 22.02.2016. The departmental appeal of the appellant was to be decided by Director Elementary and Secondary Education Khyber Pakhtunkhwa, Peshawar being an appellate Authority, however it is strange enough that the same was decided by District Education Officer (Male) Dera Ismail Khan. Moreover, the appellant had filed departmental appeal before the Director Elementary and Secondary Education Khyber Pakhtunkhwa, Peshawar, however the impugned order dated 23.01.2017 would show that the application submitted by the appellant on 08.03.2016 for decision of his departmental appeal has been considered as departmental appeal by the District Education Officer (Male) Dera Ismail Khan. Similarly, in his order dated 23.01.2017, District Education Officer (Male) Dera Ismail Khan has mentioned that while deciding Service Appeal bearing



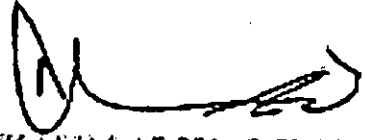
ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar


No. 1290/2012 vide order dated 22.02.2016 this Tribunal had issued directions that the appellant shall file departmental appeal before District Education Officer (Male) Dera Ismail Khan. We have minutely gone through the order dated 22.02.2016 passed by this Tribunal in Service Appeal No. 1290/2012 and have observed that no directions for filing of departmental appeal before the District Education Officer (Male) Dera Ismail Khan were given in the said order. All this would show the casual attitude of the concerned District Education Officer (Male) Dera Ismail Khan in discharging of his official duties. The impugned orders are thus not sustainable in the eye of law and are liable to be set-aside.

8. In view of the above discussion, the appeal in hand is accepted by setting-aside the impugned orders and the appellant is reinstated in service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
28.09.2022


(KALIM ARSHAD KHAN)
CHAIRMAN
CAMP COURT D.I.KHAN

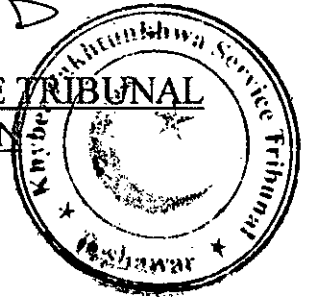

(SALAH-UD-DIN)
MEMBER (JUDICIAL)
CAMP COURT D.I.KHAN

Certified to be true copy

Rajiv Singh
Service Tribunal
Peshawar

Date of Presentation of 28-11-23
Number of Words 6-P
Copying Fee 30/-
Urgent 37
Total 357
Name of Copyist _____
Date of Completion 28-11-23
Date of Delivery of C. 28-11-23

12 Ann B

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR AT CAMP COURT D.I.KHAN



Execution Petition No. 358/2023

Date of institution 06.06.2023

Shafi Ullah S/O Sher Khan R/O Wanda Norak Tehsil Paharpur District
D.I.Khan.

VERSUS

District Education Officer (Male), District Dera Ismail Khan and 01 other.

ORDER

19.10.2023

Petitioner alongwith clerk of his counsel present. Mr. Mussarat Hussain Khan, District Education Officer (Male) D.I.Khan alongwith Mr. Farhaj Sikandar, District Attorney for the respondents present and produced office order bearing Endorsement No. 17799-17805 dated 26.09.2023, whereby the judgment under execution has been implemented. The Execution Petition in hand is, therefore, filed, however the petitioner would be at liberty to file a fresh application for revival of proceedings in the instant petition within a period of 30 days, if he is of the view that any part of the judgment has remained un-implemented. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

19.10.2023

(SALAH-UD-DIN)
MEMBER (JUDICIAL)
CAMP COURT D.I.KHAN

Certified to be true copy

Naqem Amin
Member
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation

28-11-23

Number of Words

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Copying Fee

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Date of Delivery of

28-11-23



LIFE MEMBER

IFTIKHAR - UL - HAQ

Advocate Supreme Court of Pakistan

12201-0316740-9

M. AHSAN IKHSON

President

WASEEM MUMTAZ MALIK

Secretary



کونسل قیس

Befora the K.P.B S.F.A Corp cont D.I. Khan

Petitioner

Shafiqullah vs Govt of K. P. & C

Implementation Petition

D.I.K

پیشنہاری

Sheikh Iftikhar ul Haq v.s.c

Handwritten notes and conditions regarding the implementation of the court order. The text describes the process of execution, including the role of the court-appointed officer and the petitioner's responsibilities. It mentions that the officer will be responsible for the execution of the order, and the petitioner must provide the necessary funds and documents for the same. The notes also mention that the court order is final and binding on all parties involved.

2023 29
مضمون دکالت سندھ میں لیا چھ اور مشاوریہ

Attached

Accepted
Iftikhar

Signature